

AGENDA FOR THE KERRVILLE CITY COUNCIL MEETING

TUESDAY, JANUARY 11, 2022, 6:00 P.M.

CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

The Community Vision

Kerrville will be a vibrant, welcoming and inclusive community that:

- *Respects and protects the natural environment that surrounds it;*
- *Seeks to attract economic growth and development;*
- *Provides opportunities for prosperity, personal enrichment and intellectual growth for people of all ages; and*
- *Does so while preserving the small-town charm, heritage, arts and culture of the community.*



Kerrville2050



CITY COUNCIL MEETING AGENDA

JANUARY 11, 2022, 6:00 PM

CITY HALL COUNCIL CHAMBERS, 701 MAIN STREET



Council Meeting Procedures and Citizen Public Participation including a Zoom Component

COVID-19 (Coronavirus) provides a unique concern in that gathering members of the public, City Council, and City staff within a physical setting constitutes a public health risk. In an effort to avoid and mitigate health risks and limited occupancy levels in Council Chambers, City Council will convene the January 11, 2022 meeting in person and will also provide the public with a Zoom component.

Standard safety protocol will be observed by City Council, City staff, and citizens/visitors attending the City Council meeting. Wearing a mask in the City Hall Council Chambers is highly encouraged. If speaking at the podium, the mask can be removed.

In Council Chambers, six-foot distance seating is observed and due to limited seating capacity, open seating will be designated to citizens who have submitted a completed "speaker request form" to speak on an agenda item. It is advantageous for anyone wishing to speak, to submit a completed "speaker request form" to the City Secretary before City Council meeting is called to order, definitely before the item is called or read into record. Citizens not registered to speak on agenda items are welcome to view the City Council meeting in the City Hall lobby from the lobby monitors. Standard safety protocols will be observed in the City Hall lobby. When agenda items are called, and if anyone has submitted a completed "speaker request form", the speaker(s) will be rotated into Council Chambers to speak. It is beneficial for citizens wishing to speak, to submit a completed "speaker request form" to the City Secretary before City Council meeting is called to order. Each speaker is limited to four minutes.

Public Hearing items: submitting a completed "speaker request form" in advance would be beneficial to the public hearing process. However, public hearings will be announced as well.

Zoom component: As an additional option for citizens to participate in the meeting, the Zoom program will also be active during the January 11, 2022 meeting.

Instructions for Zoom callers: Dial a toll free number: **1-877-853-5247 or 1-888-788-0099**. When your call is answered you will hear **"Welcome to Zoom, enter the Meeting ID followed by pound"**. Enter in the Meeting ID below followed by the pound sign (#), when prompted enter the passcode.

The Meeting ID is **837 1156 5848#**. Passcode is **018642**

Once you have called into the meeting, your microphone will be placed on mute and your call will be placed in the call queue. At this point, you will hear silence on the phone. Do not hang up. The moderator will unmute your microphone as he/she is going down the list. Once the meeting has started, you will be able to listen to proceedings even if your microphone is muted.

The Zoom moderator will be accepting calls starting at 5:30 p.m. Place your call before 5:45 p.m. in order to register with the Zoom moderator and participate. You will be queued to speak. Any calls made after the 5:45 p.m. deadline will not be answered, and microphones will be kept muted. Each speaker is limited to four minutes.

Public Hearing Items: Public Hearing items callers may use the "raise your hand" feature on Zoom, in order to be called upon. If a caller is using the Zoom app on a computer, tablet, or mobile phone click **Participants** and click the **"Raise Hand"** button. If a caller is using a landline telephone press *9 to "raise your hand". Each speaker is limited to four minutes.

Note: Zoom is a third party vendor which provides the ability for remote participation. Software changes may be beyond what the City can control. If the City is notified of any issues from the third party vendor, the City will notify citizens and provide alternative(s) for engagement and participation.

Citizens may view and hear the City Council meetings on Spectrum Channel 2 or by live-streaming via the City's website (www.kerrvilletx.gov). City Council meetings are recorded and the recordings are posted on the City's website.

Thank you for your participation!



CITY COUNCIL AGENDA
JANUARY 11, 2022, 6:00 PM
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS



CALL TO ORDER:

By Mayor Bill Blackburn.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Led by Councilmember Kim Clarkson.

1 ANNOUNCEMENTS OF COMMUNITY INTEREST:

Announcement of items of community interest, including expressions of thanks, congratulations, or condolences; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by city officials or employees; and announcements involving imminent threats to the public health and safety of the city. No action will be taken.

2 PRESENTATIONS:

2.A. City's ongoing preparedness and response to COVID-19 (Coronavirus).

3 VISITORS/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. The speaker request form must be submitted to the City Secretary before the item is called or read into record. City Council may not discuss or take any action on an item but may place the issue on a future agenda. Each speaker is limited to four minutes.

4 CONSENT AGENDA:

These items are considered routine and can be approved in one motion unless a Councilmember asks for separate consideration of an item. It is recommended that the City Council approve the following items which will grant the Mayor or City Manager the authority to take all actions necessary for each approval:

4.A. Construction Agreement with S&S Controls and Motors for generator improvements in the amount of \$70,111.00.

Attachment:

[20220111_Quotes Generator auto start components.pdf](#)

4.B. Minutes for the City Council workshop held December 14, 2021.

Attachment:

[20220111_Minutes_workshop 12-14-21 4pm.pdf](#)

4.C. Minutes for the City Council meeting held December 14, 2021.

Attachment:

[20220111_Minutes_meeting 12-14-21 6pm.pdf](#)

END OF CONSENT AGENDA.

5 PUBLIC HEARINGS AND RESOLUTIONS:

5.A. Resolution No. 01-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising Lot 16 and part of Lot 15, Block 7, Hillcrest Addition; and more commonly known as 960 Prescott St. N.; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Attachments:

[20220111_Reso 01-2022 CUP 960 Prescott STR.pdf](#)

[20220111_Appeal Request PZ 960 Prescott.pdf](#)

[20220111_Applicant's Letter_960PrescottAppeal.pdf](#)

5.B. Resolution No. 02-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property consisting of two tracts of land, comprising approximately 1.587 acres, being part of Survey No. 123, Abstract No. 225; and more commonly known as 1796 Arcadia Loop; said property is located within a Medium Density Residential Zoning District (R-2); and making said permit subject to conditions and restrictions.

Attachment:

[20220111_Reso 02-2022 CUP 1796 Arcadia Loop STR.pdf](#)

5.C. Resolution No. 03-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising a part of Lots 21 and 22, Block 8, Lowry Addition; and more commonly known as 400 Lowry Street S.; said property is located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A); and making said permit subject to conditions and restrictions.

Attachment:

[20220111_Reso 03-2022 CUP 400 Lowry STR.pdf](#)

5.D. Resolution No. 04-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising part of Lot 31, Block 106; Westminster Addition; and more commonly known as 1807 E. Main St. N.; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Attachment:

[20220111_Reso 04-2022 CUP 1807 East Main STR.pdf](#)

5.E. Resolution No. 05-2022. A Resolution granting a Conditional Use Permit to authorize a Short Term Rental Unit on the property comprising Lot 35, part of Lot 34, Block 106, Westminster Annex Addition; and more commonly known as 205 Westminster; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Attachment:

[20220111_Reso 05-2022 CUP 205 Westminster STR.pdf](#)

5.F. Resolution No. 06-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising Lot 5, Block 42, Westland Place Addition; and more commonly known as 600 Woodlawn Avenue N.; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Attachment:

[20220111_Reso 06-2022 CUP 600 Woodlawn STR.pdf](#)

5.G. Resolution No. 07-2022. A Resolution granting a Conditional Use Permit to authorize a Convenience Store with Fuel Sales on this property consisting of Lots 6, 7, 8, 9, 11, 12, 13, 14, 15, Block 2, of the G Street South Addition; and more commonly known as 1001 Sidney Baker Street S.; said property is located within a Mixed Use Zoning District (MU); and making said permit subject to certain conditions and restrictions.

Attachment:

[20220111_Reso 07-2022 CUP 1001 Sidney Baker S - Convenience Store with Fuel Sales.pdf](#)

PUBLIC HEARING AND ORDINANCE(S), FIRST READING:

Ordinance No. 2022-03. An Ordinance annexing two tracts of land plus an adjacent public right-of-way that exists as part of Coronado Drive, into the Corporate Limits of the City of Kerrville, Texas; such property making up approximately 16.85 acres and generally located north and west of the 700 block of Coronado Drive; each property more specifically described in the Ordinance and being located within the extraterritorial jurisdiction of the City; adopting a Service Agreement; establishing the zoning for the annexed property as a Single-Family Residential Zoning District (R-1); rezoning an adjacent tract of land currently located within the City, by changing its zoning to an R-1 Zoning District; and providing other matters relating to this subject.

Attachment:

[20220111_Ord 2022-03 Annex and Zone Change 700 Coronado.pdf](#)

Ordinance No. 2022-04. An Ordinance annexing a tract of land into the Corporate Limits of the City of Kerrville, Texas; such property making up approximately 6.0 acres and generally located southeast of and adjacent to Holdsworth Drive, and a portion of which connects to Paschal Avenue N.; more commonly known 253 Holdsworth Dr.; such property more specifically described in the Ordinance and being located within the extraterritorial jurisdiction of and adjacent to the City Limits; adopting a Service Agreement; establishing the zoning for the annexed property as a Multi-Family Residential (R-3) Zoning District; and providing other matters relating to this subject.

Attachment:

[20220111_Ord 2022-04 Annex Zone change 253 Holdsworth.pdf](#)

6.C. Ordinance No. 2022-05. An Ordinance annexing two tracts of land plus an adjacent public right-of-way that exists as part of Lehmann Drive, into the Corporate Limits of the City of Kerrville, Texas; such property making up approximately 168.84 acres and generally located along the west and southwest borders of Peterson Regional Medical Center; such property more specifically described in this Ordinance and being located within the extraterritorial jurisdiction of the City and adjacent to the City Limits; adopting a Service Agreement; establishing the zoning for the annexed property as Agriculture (AG) and Public and Institutional (PI) Zoning Districts; and providing other matters relating to this subject.

Attachment:

[20220111_Ord 2022-05 Annex and Zone Change 195 Lehmann PRMC.pdf](#)

6.D. Ordinance No. 2022-06. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, such Chapter more commonly known as the City's Zoning Code; by changing the zoning of multiple lots along Washington St. and between Barnett St. and North St., said lots more commonly known as 500, 504, 508, 512, 602, 604, 608, 616, 624, and 625 Washington St.; and 817 Barnett Street; within the City of Kerrville, Kerr County, Texas; from a Residential Transition Zoning District (RT) to a Public and Institutional Zoning District (PI); and providing other matters relating to the subject.

Attachment:

[20220111_Ord 2022-06 Zone change 500-625 Washington 817 Barnett.pdf](#)

Ordinance No. 2022-02. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, such chapter more commonly known as the City's Zoning Code; by amending said Code to include adding new definitions, revising the requirement for variances, requiring signs for notification, and other amendments as provided herein; providing a cumulative clause; providing for severability; providing an effective date; ordering publication; and providing other matters relating to the subject.

Attachment:

[20220111_Ord 2022-02 Zoning Code Amendments.pdf](#)

ORDINANCE(S), SECOND READING:

Ordinance No. 2022-01. Second reading. An Ordinance amending Chapter 74 of the Code of Ordinances, City of Kerrville, Texas, titled "Parks and Recreation", by adding a new Article III "Parkland Dedication", to include parkland dedication requirements for new residential development within the City and its extraterritorial jurisdiction; providing an effective date; and providing other matters relating to the subject.

Attachments:

[20220111_Ord 2022-01 Parkland Dedication second reading.pdf](#)

[20220111_UGRA Parkland Dedication Ordinance Comments.pdf](#)

CONSIDERATION AND POSSIBLE ACTION:

Economic Development Grant Agreement between Sid Peterson Memorial Hospital, Inc. and the City of Kerrville, Texas Economic Improvement Corporation for infrastructure necessary to promote or develop new or expanded business enterprises that create primary jobs.

Attachments:

[20220111_EIC Agreement Funding Grant Agreement SPMH.pdf](#)

[20220111_EIC Application - Peterson_Health 11-11-2021.pdf](#)

9 BOARD APPOINTMENTS:

9.A. Appointment of chair and vice-chair for the Tax Increment Reinvestment Zone (TIRZ) Board of Directors. (This item is eligible for Executive Session 551.074).

10 ITEMS FOR FUTURE AGENDAS:

City Council may suggest items or topics for future agendas.

11 EXECUTIVE SESSION:

City Council may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above if they meet the qualifications in Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel/officers), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code.

12 ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:

ADJOURN.



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: City's ongoing preparedness and response to COVID-19 (Coronavirus).

AGENDA DATE OF: January 11, 2022 **DATE SUBMITTED:** Jan 04, 2022

SUBMITTED BY: Eric Maloney

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
N/A	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

This is a updated briefing on the responsiveness to changing conditions and situations related to Covid 19.

RECOMMENDED ACTION:

Report, no action.



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Construction Agreement with S&S Controls and Motors for generator improvements in the amount of \$70,111.00.

AGENDA DATE OF: January 11, 2022 **DATE SUBMITTED:** Dec 27, 2021

SUBMITTED BY: Kyle Burow

EXHIBITS: [20220111_Quotes Generator auto start components.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$70,111.00	\$75,000.00	\$75,000.00	

PAYMENT TO BE MADE TO: S&S Controls and Motors

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

In February of 2021, Winter Storm Uri caused widespread power outages across the state and limited the City's ability to generate adequate water pressure to supply citizens with constant water. As a result, over 40% of Texas community public water systems lost water pressure and were required to issue boil water notices. In response, the Texas Legislators passed Senate Bill 3 (SB-3) outlining specific requirements for water purveyors regarding emergency preparedness for power outage scenarios.

Among other things, SB-3 requires all water system generators to have "auto-starts" installed. Auto-starts sense when the site loses grid-power and will automatically turn on the generators. The City's existing generators operate on a manual starting system, requiring staff to be on site to control the operation of the generator during an outage.

July 01, 2022 is the State mandated deadline for these installations for compliance with SB-3 regulations. Due to the risk of non-compliance associated with missing the deadlines set forth in SB-3, and the possibility of another catastrophic event, staff believes an

emergency exists such that the City can utilize an exception to the City's purchasing policy and state law, and immediately proceed with securing a contractor to perform the work. Entering into such a contract will also entail the immediate order of the necessary parts and equipment, thereby minimizing further delay. Pursuant to Section 252.002, of the Texas Local Government Code, cities are authorized to forego the bidding process where it is necessary to protect the public health or safety or is necessary because of unforeseen damage to public machinery, equipment, or other property. City staff believes that this exception absolutely applies here. As an alternative procurement process, City staff acquired quotes from electrical companies in order to ensure best use of City funds and taxpayer resources.

Staff recommends contracting with S & S Controls and Motors, a locally owned and operated company with a history of servicing the electrical portion of the City's water system. The contract amount to perform the work described is \$70,111.00. Since the possibility of another winter storm exists in the near-term, staff recommends completing this contract as soon as possible in order to complete the necessary installation of the generator auto-start systems to reduce the probability of widespread loss of water pressure in the City's water system. If authorized, such work will begin as soon as possible.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute a construction contract.

Quotes for Auto Start Components
(existing 5 generators)

Altermann	\$	69,000.00
Fred Clark Electrical Contractor	\$	164,500.00
S & S Controls	\$	70,110.00

Staff recommends contracting with S & S Controls for the installation of auto start components for 5 existing generators. S & S Controls is a local contractor who has a history of servicing electrical components of the City's water system. S & S is familiar with the City's systems, has proven dependable, and produces high quality work.



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Minutes for the City Council workshop held December 14, 2021.

AGENDA DATE OF: January 11, 2022 **DATE SUBMITTED:** Dec 17, 2021

SUBMITTED BY: Shelley McElhannon

EXHIBITS: [20220111_Minutes_workshop 12-14-21 4pm.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
0	0	0	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Minutes for the City Council workshop held December 14, 2021 at 4:00 p.m. in the City Hall Council Chambers.

RECOMMENDED ACTION:

Approve minutes as presented.

**CITY COUNCIL WORKSHOP MINUTES
CITY HALL COUNCIL CHAMBERS, 701 MAIN STREET**

**DECEMBER 14, 2021 4:00 PM
KERRVILLE, TEXAS**

CALL TO ORDER: On December 14, 2021 at 4:00 p.m., the City Council workshop was called to order by Mayor Bill Blackburn at the City Hall Council Chambers, 701 Main Street.

COUNCILMEMBERS PRESENT:

Bill Blackburn, Mayor
Kim Clarkson, Mayor Pro Tem, Councilmember Place 2
Roman Garcia, Councilmember Place 1
Judy Eychner, Councilmember Place 3
Brenda Hughes, Councilmember Place 4

COUNCILMEMBER ABSENT: None

CITY STAFF PRESENT:

E.A. Hoppe, City Manager	Ashlea Boyle, Director Parks & Recreation
Mike Hayes, City Attorney	Kyle Burow, Director of Engineering
Shelley McElhannon, City Secretary	Guillermo Garcia, Executive Director Innovation
Stuart Barron, Exec Dir PW & Eng	Kim Meismer, Executive Director General Ops

VISITORS PRESENT: Louis Amestoy

1. PUBLIC COMMENT: None

2. INFORMATION AND DISCUSSION:

2A. Community Improvements Projects update.

E.A. Hoppe introduced item 2A, and Kyle Burow distributed project handout. Stuart Barron and Kyle Burow provided information and Stuart Barron, Kyle Burow, and E.A. Hoppe responded to questions.

2B. Employee Empowerment initiatives.

Guillermo Garcia provided information and Guillermo Garcia and E.A. Hoppe responded to questions.

Councilmember Judy Eychner made a motion that the City Council adjourn into closed executive session under 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.074 (personnel/officers), and 551.087 (deliberation regarding economic development negotiations) and Councilmember Brenda Hughes seconded. The motion passed 5-0.

Mayor Blackburn recessed the workshop at 4:56 p.m. and convened closed executive session at 5:05 p.m. in the Upstairs Conference Room.

3. EXECUTIVE SESSION:

3A. Workforce Housing development projects (551.071, 551.072, 551.087).

3B. Discussion of nominations to the Kerr Central Appraisal District Board of Directors, appointments to the Planning and Zoning Commission, appointment of chair for the Tax Increment Reinvestment Zone Board of Directors (551.074).

The closed executive session adjourned, and Council returned to open session at 6:00 p.m. No action was taken during executive session.

4. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION IF ANY: N/A

ADJOURN. The workshop adjourned at 6:00 p.m.

APPROVED BY COUNCIL: _____ ATTEST:

Bill Blackburn, Mayor

Shelley McElhannon, City Secretary



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Minutes for the City Council meeting held December 14, 2021.

AGENDA DATE OF: January 11, 2022 **DATE SUBMITTED:** Dec 17, 2021

SUBMITTED BY: Shelley McElhannon

EXHIBITS: [20220111_Minutes_meeting 12-14-21 6pm.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
0	0	0	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Minutes for the City Council meeting held December 14, 2021 at 6:00 p.m. in the City Hall Council Chambers.

RECOMMENDED ACTION:

Approve minutes as presented.

**CITY COUNCIL MINUTES
REGULAR MEETING**

**KERRVILLE, TEXAS
DECEMBER 14, 2021 6:00 PM**

On November 09, 2021 at 6:00 p.m., the City Council meeting was called to order by Mayor Bill Blackburn at the City Hall Council Chamber, 701 Main Street. Councilmember Roman Garcia provided the invocation and led the Pledge of Allegiance.

COUNCILMEMBERS PRESENT:

Bill Blackburn	Mayor
Kim Clarkson	Mayor Pro Tem, Councilmember Place 2
Roman Garcia	Councilmember Place 1
Judy Eychner	Councilmember Place 3
Brenda Hughes	Councilmember Place 4

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF:

E.A. Hoppe, City Manager	Eric Maloney, Fire Chief
Mike Hayes, City Attorney	Chris McCall, Chief of Police
Shelley McElhannon, City Secretary	Kim Meismer, Exec Director General Ops
Stuart Barron, Director of Public Works	Drew Paxton, Chief Planner
Julie Behrens, Director of Finance	Charvy Tork, Director Info Technology
Stuart Cunyus, Public Info Officer	

VISITORS PRESENT:

Mary Rohrer, Airport Manager

A list of the citizen speakers present during the meeting is on file in the City Secretary's Office for the required retention period.

Mayor Blackburn provided meeting protocols.

1. ANNOUNCEMENTS OF COMMUNITY INTEREST: Items of interest to the community were presented by Stuart Cunyus.

2. PRESENTATIONS:

2A. Kerrville Kindness Award presented to the Salvation Army Kroc Center.

Mayor Blackburn presented the Kerrville Kindness Award to the Salvation Army Kroc Center, represented by Molly Putnam.

2B. Proclamation recognizing the "Christmas in Kerrville" poem author.

Mayor Blackburn proclaimed Pam Bresler as the "2021 Christmas in Kerrville" poetry contest winner. Citizens of Kerrville recognized Ms. Bresler as capturing the best "Christmas in Kerrville" poem, who accepted the proclamation and read her poem.

3. VISITORS FORUM:

The following persons spoke:

- Marvin Willis
- Nikki Caines

4. CONSENT AGENDA:

Councilmember Garcia requested to pull item 4E. Councilmember Judy Eychner made a motion to accept the consent agenda items 4A, 4B, 4C, 4D, and 4F as presented, and Councilmember Brenda Hughes seconded. The motion passed 5-0.

4A. Construction Agreement with Klecka Electric Co., Inc. for the Butt-Holdsworth Memorial Library Electrical Upgrade Project in the amount of \$332,749.00.

4B. Purchase of Holt Caterpillar AP600F Paver from Buy Board in an amount not to exceed \$423,520.00.

4C. Amendment to the Fiscal Year 2021-2022 Kerrville/Kerr County Airport Budget as proposed by the Joint Airport Board.

4D. Minutes for the City Council workshop held November 09, 2021.

4F. Minutes for the City Council workshop held November 16, 2021.

END OF CONSENT AGENDA.

4E. Minutes for the City Council meeting held November 09, 2021.

Councilmember Garcia requested to amend the minutes as:

Amend page 3, line 19, by striking "Eychner" and inserting "Hughes".

To read as "*Councilmember Hughes moved to reappoint Marcus Willis, and appoint Anthony Howard and Larry Wray as regular members, seconded by Councilmember Garcia. The motion was approved 5-0.*"

Amend page 4 by inserting "*Mayor Blackburn recessed the meeting at 7:23 p.m., and reconvened the meeting at 7:27 p.m.*" below line 7C. Amendments to *Procedural Rules for Meetings – Kerrville City Council*.

Councilmember Garcia made a motion to approve the minutes as amended, seconded by Councilmember Eychner. The motion was passed 5-0.

5. PUBLIC HEARINGS AND RESOLUTIONS:

5A. Resolution No. 53-2021. A Resolution granting a Conditional Use Permit to authorize a Short Term Rental Unit on the property comprising Lot 8, Block C, Cage Addition and more commonly known as 820 Robinson Avenue; said property is located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 53-2021 caption into record.

Drew Paxton presented information and responded to questions.

Mayor Blackburn opened the public hearing at 6:24 p.m.

No one spoke.

Mayor Blackburn closed the public hearing at 6:28 p.m.

Councilmember Hughes made a motion to approve Resolution No. 53-2021, seconded by Councilmember Eychner. The motion passed 5-0.

6. PUBLIC HEARINGS AND ORDINANCES, FIRST READING:

6A. Ordinance No. 2022-01. An Ordinance amending Chapter 74 of the Code of Ordinances, City of Kerrville, Texas, titled "Parks and Recreation", by adding a new Article III "Parkland Dedication", to include parkland dedication requirements for new residential development within the City and its extraterritorial jurisdiction; providing an effective date; and providing other matters relating to the subject.

Shelley McElhannon read Ordinance No. 2022-01 caption into record.

Ashlea Boyle and Drew Paxton presented information and responded to questions.

Mayor Blackburn opened the public hearing at 6:44 p.m.

No one spoke.

Mayor Blackburn closed the public hearing at 6:44 p.m.

Councilmember Eychner made a motion to approve Ordinance No. 2022-01 on first reading, seconded by Councilmember Hughes. The motion was passed 5-0.

7. INFORMATION AND DISCUSSION:

7A. Financial Report.

Julie Behrens provided information and responded to questions.

8. CONSIDERATION AND POSSIBLE ACTION:

8A. City's ongoing preparedness and response to COVID-19 (Coronavirus), and review of Declaration of local state of disaster due to a public health emergency, March 20, 2020.

Shelley McElhannon read item 8A caption into record.

Chief Eric Maloney provided information and responded to questions.

8B. Authorize the City Manager to enter into a service area agreement with Aqua Texas, and to file the appropriate application to amend the City's certificate of convenience and necessity with the Public Utility Commission of Texas. (This item is eligible for Executive Session 551.071).

Shelley McElhannon read item 8B caption into record.

Stuart Barron provided information and responded to questions.

Councilmember Eychner moved to authorize the City Manager to finalize and execute the agreement with Aqua Texas, seconded by Councilmember Hughes. The motion passed 5-0.

8C. Reappointment of Municipal Court Judges Mark Prislovsky and M. Patrick Maguire for two year terms to expire December 31, 2023. (This item is eligible for Executive Session 551.074).

Mayor Blackburn announced this item will be discussed during Executive Session.

8D. Resolution No. 52-2021. A Resolution casting votes of the City of Kerrville, Texas, for Kerr Central Appraisal District Board of Directors. (This item is eligible for Executive Session 551.074).

Shelley McElhannon read Resolution No. 52-2021 caption into record.

Councilmember Eychner made a motion to spread the City of Kerrville's 661 votes evenly to Bruce Cartwright = 94 votes, Carter Crain = 95 votes, Patrick Freedle = 95 votes, Eric Lantz = 94 votes, Larry Priour = 94 votes, Jeff Talarico = 95 votes, and Judy Webb-Smith = 94 votes, which was seconded by Councilmember Hughes. The motion passed 5-0.

9. BOARD APPOINTMENTS:

9A. Appointments to the Library Advisory Board.

Shelley McElhannon read item 9A caption into record.

Councilmember Hughes made a motion to reappoint Megan Bean and appoint Melinda Stewart to the Library Advisory Board, seconded by Councilmember Kim Clarkson. The motion passed 5-0.

9B. Appointments to the Recovery Community Coalition.

Shelley McElhannon read item 9B caption into record.

Councilmember Eychner stated no Recovery Community Coalition appointments will be made at this time and to keep the two candidate applications on file. No action.

9C. Appointments to the Planning and Zoning Commission. (This item is eligible for Executive Session).

Shelley McElhannon read item 9C caption into record.

Mayor Blackburn announced this item will be discussed during Executive Session.

9D. Appointment of chair to the Tax Increment Reinvestment Zone Board of Directors. (This item is eligible for Executive Session).

Mayor Blackburn announced this item will be discussed during Executive Session.

Councilmember Garcia moved to convene into closed Executive Session under 551.074 of Chapter 551 of the Texas Government Code for the Municipal Judges, Planning P&Z, and TIRZ Board, seconded by Councilmember Eychner. The motion was approved 5-0. Mayor Blackburn convened closed Executive Session at 7:23 p.m.

10. EXECUTIVE SESSION:

10A. Reappointment of Municipal Court Judges Mark Prislovsky and M. Patrick Maguire for two year terms to expire December 31, 2023. (551.074)

10B. Nominations for the Kerr Central Appraisal District Board of Directors. (551.074)
This item was not discussed.

10C. Appointments to the Planning and Zoning Commission. (551.074)

10D. Appointment of chair for the Tax Increment Reinvestment Zone (TIRZ) Board of Directors. (551.074)

Mayor Blackburn closed the executive session and reconvened in open session at 7:39 p.m. No action was taken during Executive Session.

11. ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION:

11A. Reappointment of Municipal Court Judges Mark Prislovsky and M. Patrick Maguire for two year terms to expire December 31, 2023.

Councilmember Eychner moved not to reappoint Mark Prislovsky as Municipal Court Judge for the City, pursuant to his notice of resignation, such action to take effect as of January 1, 2022; and to reappoint Judge Patrick Maguire as the Presiding Judge for the City's Municipal Court, seconded by Councilmember Garcia. The motion passed 5-0.

11B. Appointments to the Planning and Zoning Commission.

Councilmember Clarkson moved to appoint Kevin Bernhard, Abram Bueche, and Jeff Harris to the Planning and Zoning Commission, seconded by Councilmember Hughes. The motion passed 5-0.

11D. Appointment of chair to the Tax Increment Reinvestment Zone Board of Directors.

Councilmember Garcia advised the appointment of the chair and the vice-chair of the Tax Increment Reinvestment Zone Board of Directors will push to the January 11, 2022 Council meeting. No action.

12. ITEMS FOR FUTURE AGENDAS: None

ADJOURN. The meeting adjourned at 7:41 p.m.

APPROVED BY COUNCIL: _____

APPROVED:

ATTEST:

Bill Blackburn, Mayor

Shelley McElhannon, City Secretary



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 01-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising Lot 16 and part of Lot 15, Block 7, Hillcrest Addition; and more commonly known as 960 Prescott St. N.; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: January 11, 2022 **DATE SUBMITTED:** Dec 14, 2021

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Reso 01-2022 CUP 960 Prescott STR.pdf](#)
[20220111_Appeal Request PZ 960 Prescott.pdf](#)
[20220111_Applicant's Letter_960PrescottAppeal.pdf](#)

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Proposal

A resolution to allow a Conditional Use Permit for a Short Term Rental on Lot 16 and part of 15, Block 7, Hillcrest Addition; and more commonly known as 960 Prescott St N, Kerrville, TX 78028.

Procedural Requirements

The City, in accordance with state law, mailed 27 letters on 11/18/2021 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 11/11/2021. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1 Single Family Residential

Existing Land Use: Single Family Residence

Direction: North, South, West, East

Current Zoning: R-1 Single Family Residential

Existing Land Uses: Single Family Residences

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property and surrounding residential areas are designated as Neighborhood Residential. To the north is Schreiner Golf Course, designated as Preservation Residential. Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan:

The subject property is located on a residential street.

Traffic Impact:

No traffic impact is anticipated.

Parking:

A Short Term Rental requires one off street parking space per bedroom and one additional off street parking space for a manager, if the manager does not live onsite. This property has two bedrooms and no onsite manager so three off-street parking spaces are required. The applicant has identified four available off-street parking spaces, meeting the off-street parking requirement.

Case Summary:

The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-1 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has identified the following amenities as in close proximity to the proposed Short Term Rental: This location is within walking distance to Schreiner Golf Course with a short drive to the downtown district for shopping, dining, and entertainment.

Proposed CUP Conditions for Short Term Rental

A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.

B. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of

Ordinances.

C. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

D. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

E. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

F. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

Recommendation:

Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are numerous amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the attached Proposed CUP Conditions.

The Planning and Zoning Commission discussed the request and voiced concern that the location was in the middle of a single-family neighborhood. The P&Z recommended denial of the resolution, and that City Council not grant the CUP applied for and referenced herein.

The applicant has requested an appeal to City Council.

RECOMMENDED ACTION:

Approve Resolution No. 01-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 01-2022**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO
AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE
PROPERTY COMPRISING LOT 16 AND PART OF LOT 15,
BLOCK 7, HILLCREST ADDITION; AND MORE COMMONLY
KNOWN AS 960 PRESCOTT ST. N.; SAID PROPERTY IS
LOCATED WITHIN A SINGLE-FAMILY RESIDENTIAL ZONING
DISTRICT (R-1); AND MAKING SAID PERMIT SUBJECT TO
CONDITIONS AND RESTRICTIONS**

WHEREAS, the owner of the property known as 960 Prescott St. N. and graphically depicted on the location map and site plan found at **Exhibit A** (the "Property"), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit ("CUP") to authorize a short-term rental unit on the Property, which is located within a Single-Family Residential Zoning District (R-1); and

WHEREAS, the City Planning and Zoning Commission (the "Commission"), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) ("Zoning Code"), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, recommended that City Council not grant the CUP applied for and referenced herein; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on January 11, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as referenced herein on the Property;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Single-Family Residential Zoning District (R-1), to be developed and used for a Short-Term Rental Unit ("STRU") as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: comprising Lot 16 and Part of Lot 15, Block 7, Hillcrest Addition, a subdivision of Kerr County and the city of Kerrville, and being depicted on the location map and site plan found at **Exhibit A**.

General Description: 960 Prescott St. N., Kerrville,

TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the rental unit on the Property, said notification attached as **Exhibit B**.
- B. Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- C. Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- D. Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- E. Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- F. Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City’s police powers.

SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2022.

Bill Blackburn, Mayor

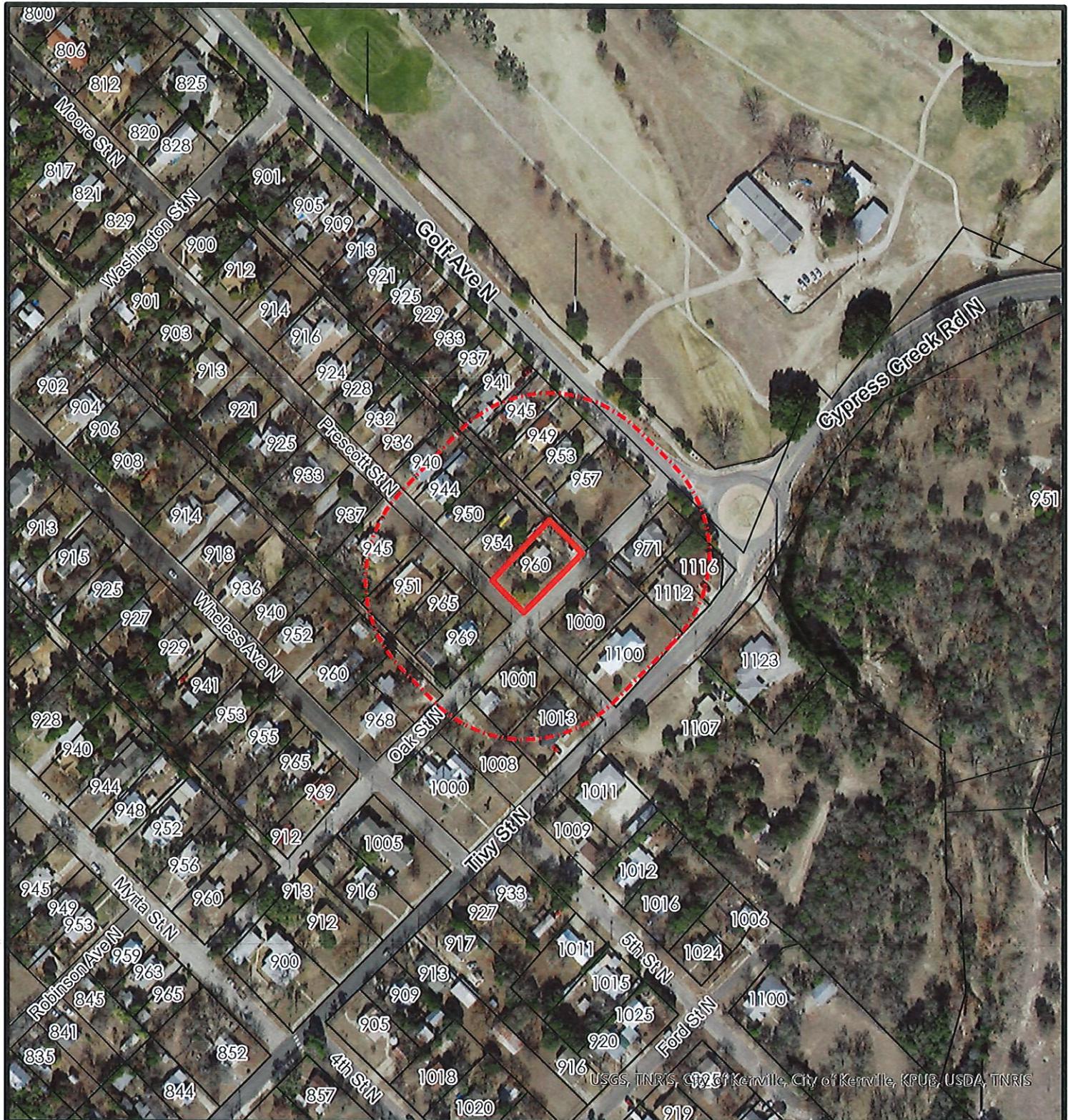
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2021-31

Location:
960 Prescott St

Legend

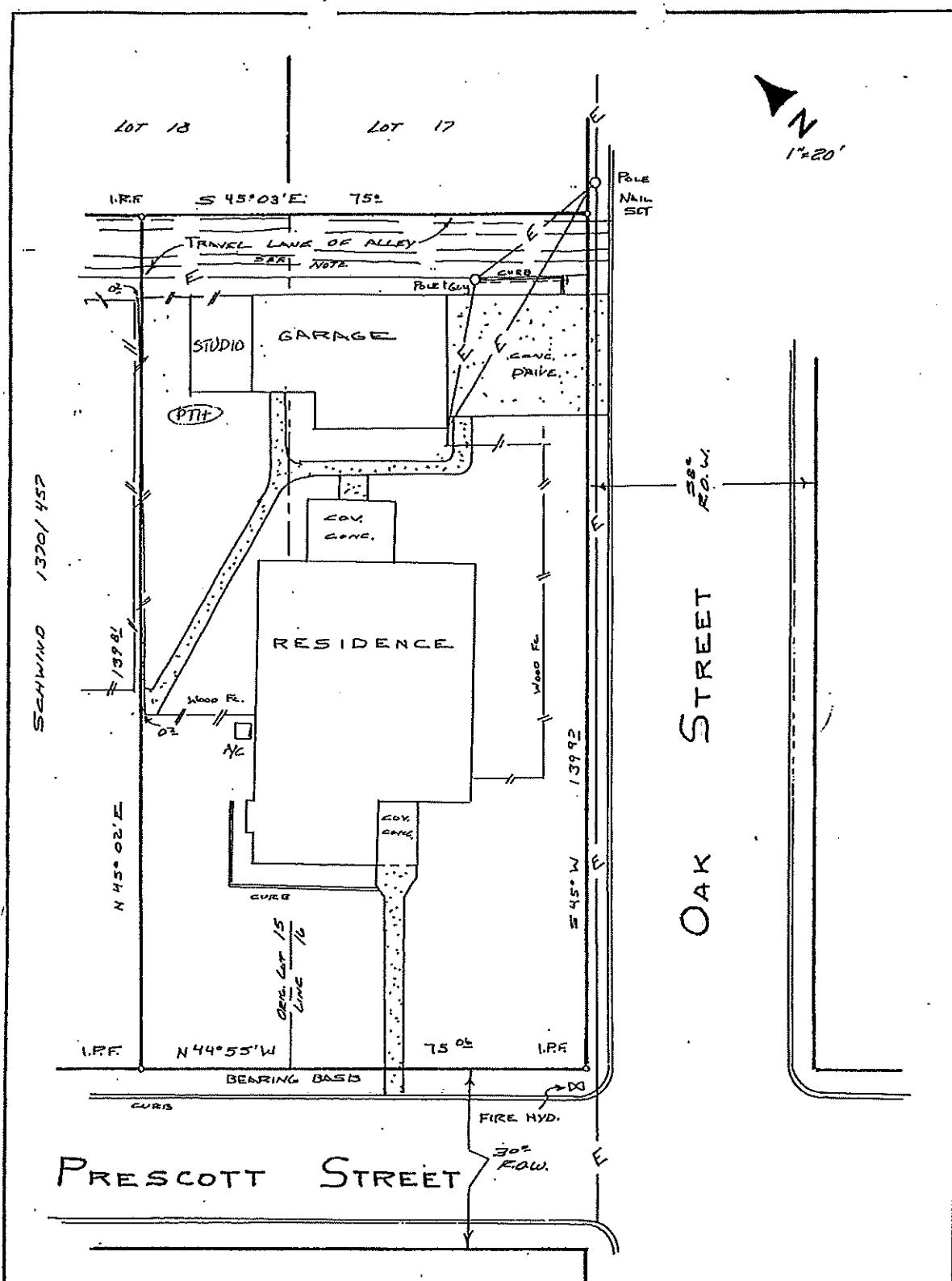
200' Notification Area Subject Properties



0 75 150 300

Scale In Feet

EXHIBIT A



Lot 16 & SE/2 of Lot 15, Block 7, Hillcrest Addition, subdivision recorded in Vol. 41, Pg. 624, Deed Records of Kerr County, Texas.
 Street Address: 060 Prescott Street
 Buyer: William B. Houston and Patsy T. Houston

Survey for Kerr County Abstract & Title Co., reference GF#25507
 The above referenced property, as plotted on my map, is located in Zone X according to the National Flood Insurance Program
 as defined by F.E.M.A.; Kerr County, Texas; Flood Hazard Boundary Map Number 48265C0170E, dated July 19, 2000.
 Zone A = 100 year flood zone Zone X = determined to be outside 500 year flood Zone X-shaded=area of 500 year flood

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND, THAT THIS
 PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THIS SURVEY
 AND THAT THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS OF BUILDINGS
 ON ADJOINING PROPERTY AND THAT ALL BUILDINGS ARE WHOLLY LOCATED ON THIS
 PROPERTY EXCEPT AS SHOWN ABOVE, AND CERTIFIES ONLY TO THE MATTERS AS
 SHOWN ON THE REFERENCED TITLE COMMITMENT.

RESTRICTIONS:
 V45/P368 D.R.

June 2005
 Thomas Caffal A.C.P.L.S. #4667
 Box 291566 Kerrville Texas
 1-800-405-1360

See accompanying metes
 and bounds description
 Scale 1" = 20'
 Copyright T Caffal 2005
 All Rights Reserved

Patsy T. Houston
 William B. Houston



SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 01-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!

From: [Erin S](#)
To: [Steve Melander](#)
Cc: ; [Drew Paxton](#)
Subject: Re: Case PZ-2021-31 - P&Z Decision Letter - 960 Prescott St
Date: Monday, December 6, 2021 10:26:07 AM
Attachments: [960PrescottP&Zrequest.pages](#)

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Melander and Mr. Paxton,

I appreciate the consideration given to my application for a Conditional Use Permit for a Short-Term Rental at 960 Prescott St. as well as the timely response of the initial denial. The legal description for this property is Lot 16 and part of Lot 15, Block 7, Hillcrest Addition.

Pursuant to Section 60-83 of the City of Kerrville Zoning Code I nearby request an appeal of the decision of the Planning and Zoning Commission to the City Council. I understand the initial application was denied due to my inability to attend the Planning and Zoning Commission meeting to answer questions. Please schedule a hearing with the City Council as per this written request.

I feel this is an ideal location for the use of the property as a short term rental. There are other properties used as short-term rentals in the area. There are no restrictive covenants that would prevent such use. It is walking distance to downtown amenities, the Kerrville River Trail, the municipal golf course as well as the youth athletic complex on Holdsworth Drive. The property will be jointly managed by a local management company, Arden Hills Property Management, who has been in business over 20 years in the City of Kerrville as well as by myself personally as a local resident.

I regret that I was unable to attend the initial meeting of the Planning and Zoning Commission on December 3, 2021 as I unexpectedly had to go Central Texas to assist my grandmother in caring for my ailing grandfather. I will be more than happy to attend the City Council meeting to answer questions the City Council and/or the Planning and Zoning commission have. I will also make sure to have a contingency plan for a representative from Arden Hills Property Management to be there as a back-up on the off chance another emergency arises.

I have attached a letter stating the above as well.

Respectfully,

Erin Spillers

Kerrville, TX 78028

On Fri, Dec 3, 2021 at 5:33 PM Steve Melander <> wrote:

Good evening Ms. Spillers,

Please find attached the P&Z Decision Letter for the above referenced case. The Planning & Zoning Commission denied your request, however, you do have the opportunity to appeal to the City Council within the next ten days. Please forward to us a letter requesting the appeal. The Planning & Zoning Commission had questions regarding your case, however, nobody representing the case was in attendance to answer the questions. If you plan to appeal, please be sure that someone attends the City Council meeting to answer any questions.

Please let us know if you have questions or require additional information. You must appeal within the next ten days in order to be placed on the City Council agenda. If you do not appeal within the next ten days, you will not be able to reapply for a Conditional Use Permit for Short Term Rental for this property within one year of the denial date.

Sincerely,

Steve Melander

Planning Division

City of Kerrville

830-258-1184

DISCLAIMER: This email (plus any attachments) is a public record of the City of Kerrville and is subject to public disclosure under the Texas Public Information Act. This email is also subject to the State Retention Schedule.

January 11, 2022

To: Kerrville City Council
Mayor Bill Blackburn
Place 1 Roman Garcia
Place 2 Kim Clarkson
Place 3 Judy Eychner
Place 4 Brenda Hughes

RE: PZ-2021-31
960 Prescott St
Conditional Use Permit for Short Term Rental

Esteemed Council:

I firmly believe the Kerrville Planning and Zoning Committee unjustly denied my application for a Conditional Use Permit for Short Term Rental for the property located at 960 Prescott St primarily based on the fact that I was unable to attend the Planning and Zoning meeting on December 2, 2021. I had fully intended to attend said meeting but was called upon to assist my grandmother in caring for my 87 year old grandfather who had fallen the night before. So I drove the 4 hours to assist in his care and I did not think to contact Mr. Paxton or Mr. Melander to notify them that I would be unable to attend the meeting in person. I understand it is ideal to attend the meeting in person so as to be able to answer any questions the committee may have, but I also understand attendance is not mandatory and that the CUP should be determined on the merits of the property. The merits of the property abundantly favor approval and align with the ideals that have been expressed by the Planning and Zoning committee in the December meeting and prior meetings.

I have watched the previous 8 meetings of the Planning and Zoning Committee from May through December 2021. The questions the committee has for the property owners and/or City Staff regarding applications for Short Term Rentals generally fall into 4 categories.

1. Do you live locally, have a local contact or have management services?
2. Is there adequate parking for guests and an off-site manager?
3. Have you talked to the neighbors/received any responses from neighbors stating concern over the STR use?
4. Is the property suitable for STR/close to local amenities?

In regards to the questions typically posed by the committee I can answer positively in all faucets.

I live here in Kerrville and will be closely involved in the responsibilities that come with managing a short term rental. In addition I am also retaining a local, established management company to assist in the management of the property. They have an emergency line that is available 24/7/365 as well as over 20 years experience and abundant local contacts and resources should any emergency arise.

There is off-street parking for 4 vehicles that guests and the off-site manager may use; 2 in the garage and 2 in the driveway. This is a 2 bedroom home which, if approved, will have a 6 person maximum occupancy. The city requires 3 spaces for a 2 bedroom home and has a maximum occupancy limit of 10 guests.

The city did send the required notices to the neighbors. Not a single person noted any objection to the use of this property as a short term rental, nor did any neighbor attend

the December 2 meeting to voice an objection. I have personally spoken to my most immediate neighbors to explain our plan without any conflict. Additionally this property only shares a boundary fence with one other home on its NW side. The NE side is primarily a large lot buffered by the detached garage and an alleyway with the nearest home offset from this house. All the other neighbors are buffered by the house and either Oak St. or Prescott St. So even when guests are on the back patio there is little chance of them disturbing any neighbor other than Mr. Will Menke and even that is unlikely due to the privacy fence and shrubbery on that boundary. Mr. Menke has been a very good and supportive neighbor in this endeavor.

Location-wise this is an ideal spot for out-of-town guests. It is within a mile of downtown Kerrville and City Hall. There are 3 different River Trail access points within a mile and half or less. Antler stadium is less than half a mile. The home is a nine iron away from the golf course and less than a half mile to the clubhouse. The Kerrville Sports Complex and Peterson Regional Medical Center are within 2 miles as well. Besides the abundance of local amenities that are within walking distance, if a guest needed to drive anywhere they would most likely drive by ZERO neighborhood properties that are not already on Collector Roads as the garage and driveway along Oak St takes you immediately to the collector roads of Golf Ave and Cypress Creek Rd, both aka FM 1341.

During the December 2nd meeting the committee stated when it comes to Short Term Rentals the first thing they look at is location and they then posited 2 test questions of "does it have access away from the neighborhood" and "does it seem suitable for a Short Term Rental?" Both of those qualifying questions have been answered affirmatively above. The property also meets or will meet all the "standard" requirements required by the city such as parking spaces, max occupancy, payment of occupancy taxes, guest notification, sign ordinances. etc.

During the committees discussion relating to this particular property there was little discussion had by the committee and the little that was had prior to the vote I feel was disingenuous and potentially dangerous. Three quotes from the discussion will be noted and discussed here.

"It is not a conducive neighborhood." (Implying for STRs) This neighborhood has 6 existing Short Term Rentals. Additionally, this neighborhood, which I define as being bounded by Golf Ave, Tivy St., Jefferson St. and Earl Garrett, is a neighborhood of transition. Based upon the City's existing Land Use Map it is approximately 75% residential, 10% office/commercial, 10%Public/Institutional and 5% Mixed Use or Multi-Family. It is walking distance to many local amenities and is unencumbered by restrictive covenants preventing any such use. I argue that this is a prime neighborhood for such use and is exactly the type of location tourists are searching for.

"It is just a house in the middle of a neighborhood." Virtually every house used and approved for a Short Term Rental is "just a house in the middle of a neighborhood." If that is a reason to deny the CUP than nearly every home should be denied. Additionally we have already demonstrated that the local neighborhood will have virtually zero impact from any increased traffic as access to this "just a house in the middle of a neighborhood" is directly adjacent to collector roads that will take guests North, South, East and West.

"I think we vote it down, especially with the owner's not being here." This statement was made prior to any motion and leads to the idea that the property was not considered on it's merits but rather that it was denied due to my unexpected inability to

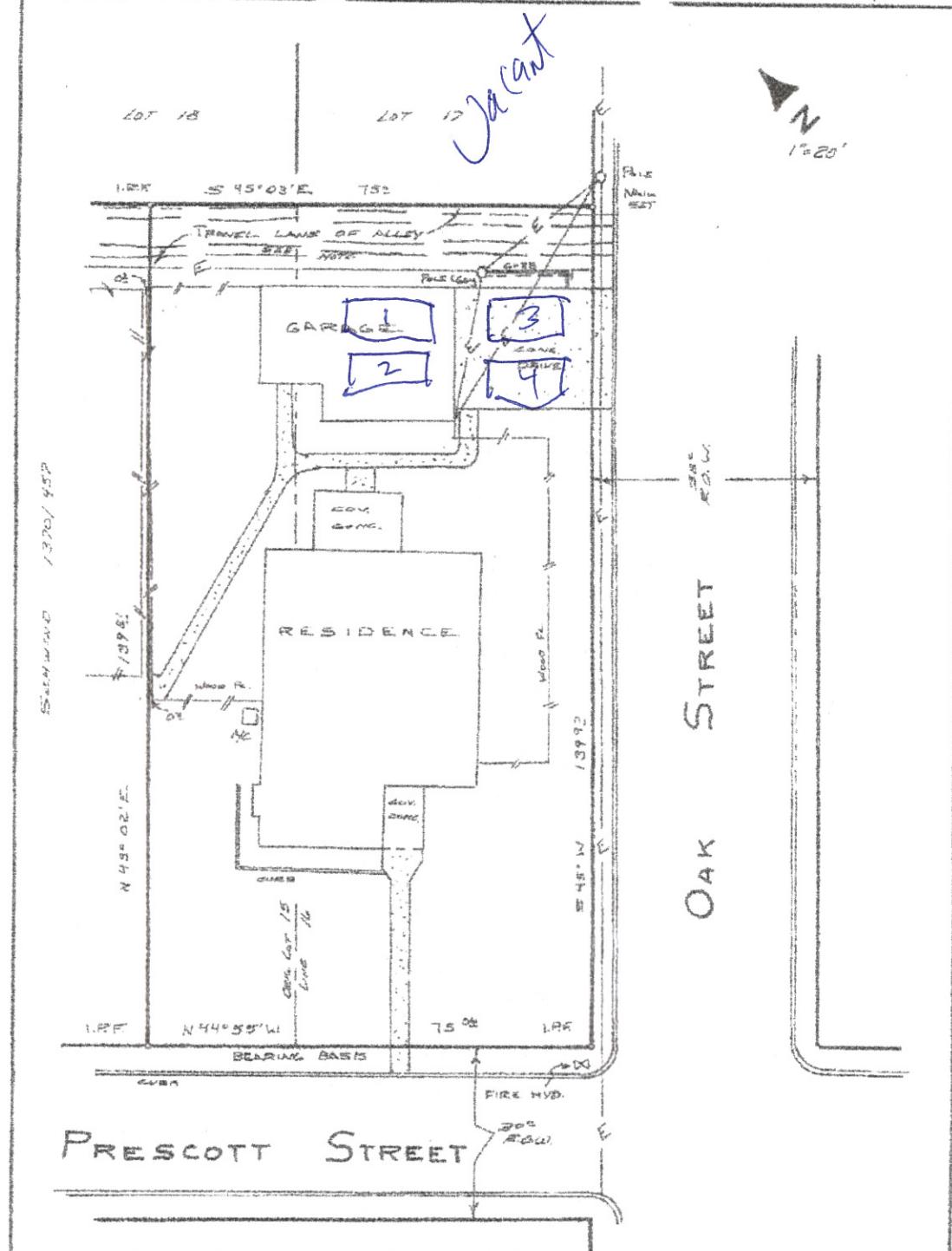
attend the that meeting, which is not a requirement of approval. I am also very concerned about the ethics of committee members discussing which way a committee should collectively vote prior to any motion being made. I will not be bringing up this point when speaking at the meeting on Tuesday, but do feel it is very important the Council is aware of this discussion and it's implications. I am very discouraged that it is quite evident this denial was based upon attendance and that the committee did not engage in any true discussion as to the actual facts and details related to this particular property and location.

The property at 960 Prescott Street meets all City requirements for Short Term Rentals and when you couple that with it's ease of access and proximity to local amenities, lack of any demonstrated concern from the neighbors and the hands-on, two pronged approach to it's management there is no reasonable reason to deny it's use as a Short Term Rental. I trust and hope that you will examine this appeal based upon the merits of the property. When you look at all the facts in totality, this property is ideally suited to be used as a Short Term Rental and the Conditional Use Permit should be granted.

Sincerely,



Erin Spillers
Owner
960 Prescott St
Kerrville, TX 78028



Lot 16 & SE/2 of Lot 15, Block 7, Hillcrest Addition, subdivision recorded in Vol. 41, Pg. 524, Deed Records of Kerr County, Texas.
 Street Address: 980 Prescott Street
 Buyer: William B. Houston and Patsy T. Houston

Survey for Kerr County Abstract & Title Co., reference GF425507
 The above referenced property, as plotted on my map, is located in Zone X according to the National Flood Insurance Program as defined by F.E.M.A.; Kerr County, Texas; Flood Hazard Boundary Map Number 48265C0170E, dated July 19, 2000.
 Zone A = 100 year flood zone. Zone X = determined to be outside 500 year flood. Zone X-shaded=area of 500 year flood

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND, THAT THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THIS SURVEY AND THAT THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS OF BUILDINGS OR ADJACENT PROPERTY AND THAT ALL BUILDINGS ARE WHOLLY LOCATED ON THIS PROPERTY. I CERTIFY AS SHOWN ABOVE, AND CERTIFIES ONLY TO THE MATTERS AS SHOWN ON THE REFERENCED TITLE COMMITMENT.

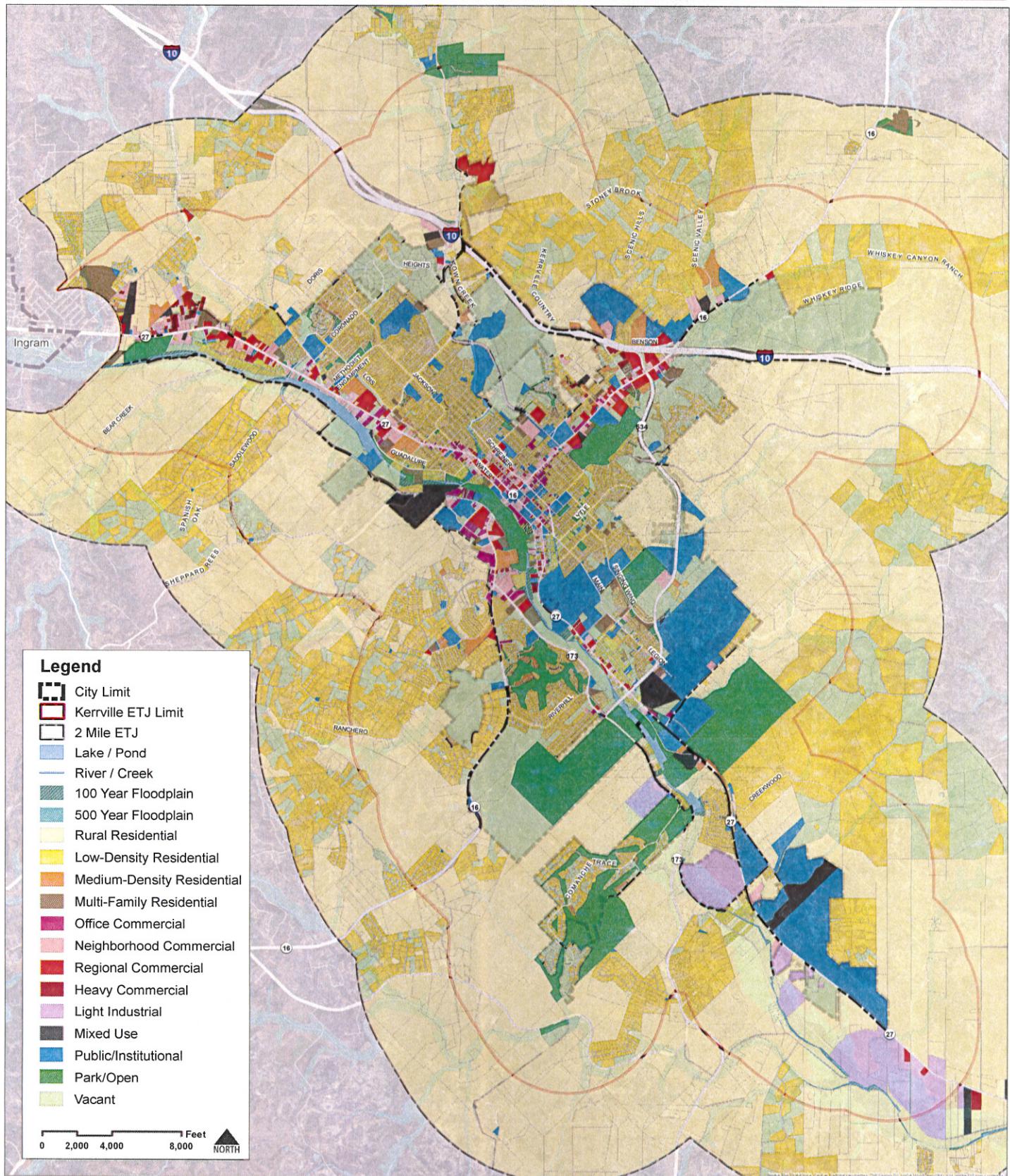
Thomas Caffell, J.P.L.S. #4667
 Box 291566 Kerrville, Texas
 1-800-435-1380

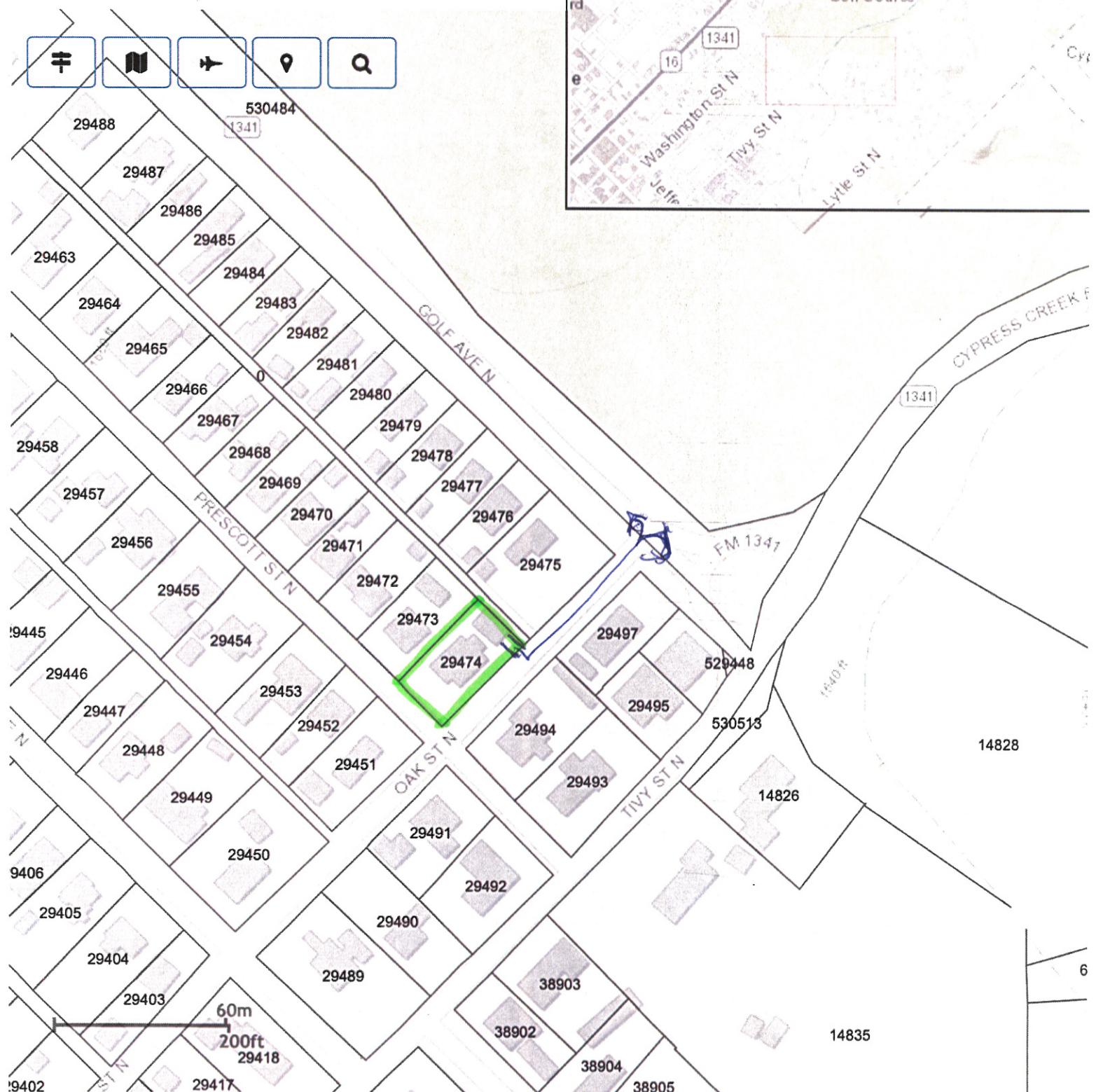
RESTRICTIONS:
 V45/P368 D.R.

See accompanying metes and bounds description
 Scale 1" = 20'
 Copyright T Caffell 2005
 All Rights Reserved

Patsy T. Houston
 William B. Houston

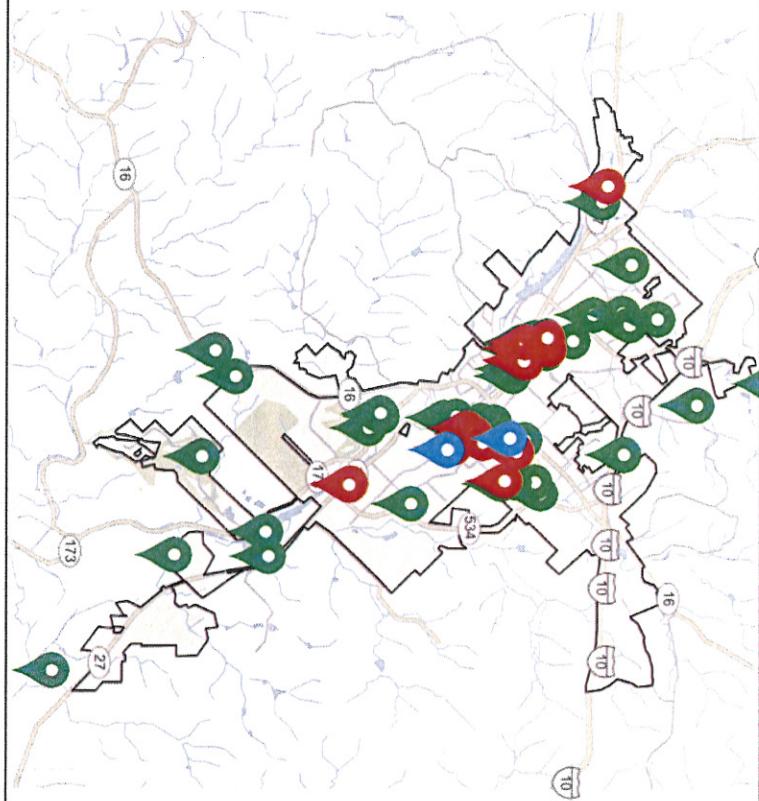
EXISTING LAND USE 2017







Short Term Rentals in Kerrville



New STR Coming to Kerrville



CUP Short Term Rentals

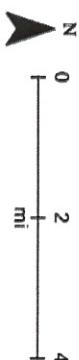


Other Short Term Rentals

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

Area: 10000

11/04/2021 01:37 PM





**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 02-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property consisting of two tracts of land, comprising approximately 1.587 acres, being part of Survey No. 123, Abstract No. 225; and more commonly known as 1796 Arcadia Loop; said property is located within a Medium Density Residential Zoning District (R-2); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: January 11, 2022 **DATE** Dec 14, 2021
SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Reso 02-2022 CUP 1796 Arcadia Loop STR.pdf](#)

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Proposal

A resolution to allow a Conditional Use Permit for a Short Term Rental on 1.58 acres out of the Lara Survey No. 123, Abstract No. 225; and more commonly known as 1796 Arcadia Loop S, Kerrville, TX 78028.

Procedural Requirements

The City, in accordance with state law, mailed 11 letters on 11/18/2021 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 11/11/2021. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-2 Single Family Residential

Existing Land Use: Single Family Residence

Direction: North, South, West, East

Current Zoning: R-2 Single Family Residential

Existing Land Uses: Single Family Residences

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property and surrounding residential areas are designated as Strategic Catalyst Area 4 and Neighborhood Residential. Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan:

The subject property is located on a residential street.

Traffic Impact:

No traffic impact is anticipated.

Parking:

A Short Term Rental requires one off street parking space per bedroom and one additional off street parking space for a manager, if the manager does not live onsite. This property has three bedrooms and no onsite manager so four off-street parking spaces are required. The applicant has identified four available off-street parking spaces, meeting the off-street parking requirement.

Case Summary:

The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-2 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has identified the following amenities as in close proximity to the proposed Short Term Rental: This location is within walking distance to the Guadalupe River and Nimitz Lake as well as a short distance to dining and shopping on Junction Hwy.

Proposed CUP Conditions for Short Term Rental

A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.

B. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.

C. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

D. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

E. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

F. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

Recommendation:

Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are numerous amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the attached Proposed CUP Conditions.

On December 2nd, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Resolution No. 02-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 02-2022**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO
AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE
PROPERTY CONSISTING OF TWO TRACTS OF LAND,
COMPRISING APPROXIMATELY 1.587 ACRES, BEING PART
OF SURVEY NO. 123, ABSTRACT NO. 225; AND MORE
COMMONLY KNOWN AS 1796 ARCADIA LOOP; SAID
PROPERTY IS LOCATED WITHIN A MEDIUM DENSITY
RESIDENTIAL ZONING DISTRICT (R-2); AND MAKING SAID
PERMIT SUBJECT TO CONDITIONS AND RESTRICTIONS**

WHEREAS, the owner of the property known as 1796 Arcadia Loop and depicted on the location map and site plan found at **Exhibit A** (the “Property”), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit (“CUP”) to authorize a short-term rental unit on the Property, which is located within a Medium Density Residential Zoning District (R-2); and

WHEREAS, the City Planning and Zoning Commission (the “Commission”), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) (“Zoning Code”), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on January 11, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Medium Density Residential Zoning District (R-2), to be developed and used for a Short-Term Rental Unit (“STRU”) as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: consisting of two tracts of land and part of Survey No. 123, Abstract No. 225, and being

depicted on the location map and survey plat found at **Exhibit A**.

General Description: 1796 Arcadia Loop, Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the rental unit on the Property, said notification attached as **Exhibit B**.
- B. Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- C. Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- D. Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- E. Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- F. Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this

Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

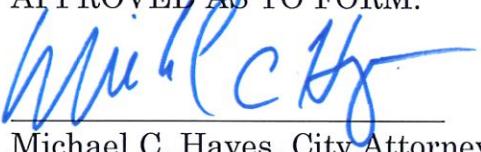
SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2022.

Bill Blackburn, Mayor

APPROVED AS TO FORM:



Michael C. Hayes

Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2021-25

Location:
1796 Arcadia Loop

Legend

200' Notification Area
Subject Properties



0 75 150 300

Scale In Feet

SURVEY PLAT

TRACT 1: 0.512 ACRES
TRACT 2: 1.075 ACRES

FLORENTINE LARA
SUR. NO. 123, ABST. NO. 225
KERR COUNTY, TEXAS

MANSFIELD SURVEYING
P.O. BOX 3111
BANDERA, TX 78003
830-688-2786

NOTES:
 All bearings are from GPS observations based
 on Texas State Plane Coordinate System,
 South Central Zone, NAD 83.

Properties are subject to the 100-year flood
 plain (Zone AE) per FIRM Map No.
 48265C0460F dated 03/03/2011.

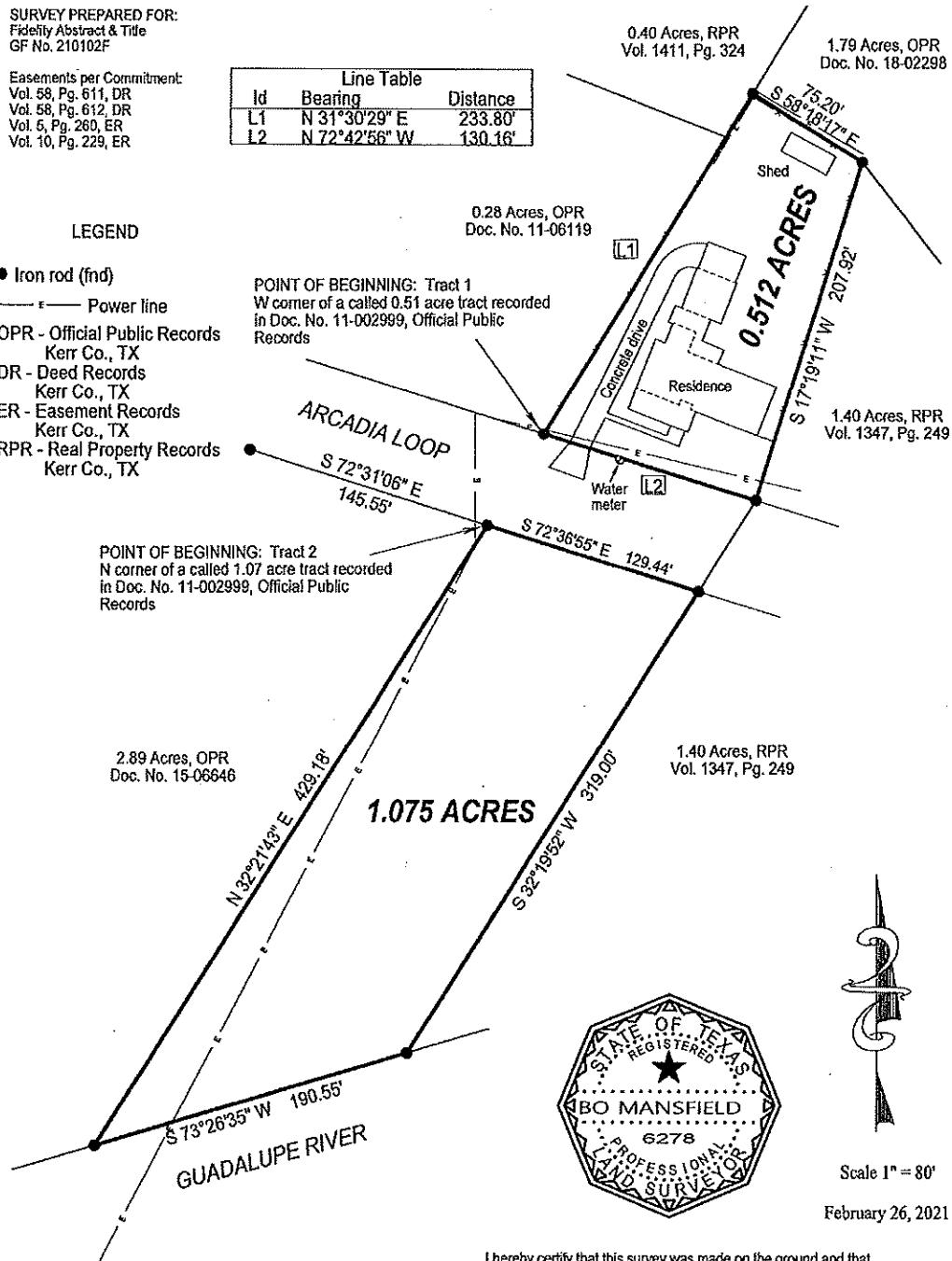
SURVEY PREPARED FOR:
 Fidelity Abstract & Title
 GF No. 210102F

Easements per Commitment:
 Vol. 58, Pg. 611, DR
 Vol. 58, Pg. 612, DR
 Vol. 5, Pg. 260, ER
 Vol. 10, Pg. 229, ER

Line Table		
Id	Bearing	Distance
L1	N 31°30'29" E	233.80'
L2	N 72°42'56" W	130.16'

LEGEND

- Iron rod (rnd)
- e — Power line
- OPR - Official Public Records
Kerr Co., TX
- DR - Deed Records
Kerr Co., TX
- ER - Easement Records
Kerr Co., TX
- RPR - Real Property Records
Kerr Co., TX



I hereby certify that this survey was made on the ground and that
 this plat correctly represents the facts found at the time of the survey,
 and that to the best of my knowledge there are no visible overlapping
 of improvements, visible easements of rights of way, boundary line conflicts,
 or encroachments except as shown herein.

R



SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 02-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 03-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising a part of Lots 21 and 22, Block 8, Lowry Addition; and more commonly known as 400 Lowry Street S.; said property is located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: January 11, 2022 **DATE** Dec 14, 2021
SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Reso 03-2022 CUP 400 Lowry STR.pdf](#)

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Proposal

A resolution to allow a Conditional Use Permit for a Short Term Rental on part of Lot 21, and part of Lot 22, Block 8, Lowry Addition; and more commonly known as 400 Lowry St S, Kerrville, TX 78028.

Procedural Requirements

The City, in accordance with state law, mailed 26 letters on 11/18/2021 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 11/11/2021. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1A Single Family Residential with Accessory Dwelling Unit

Existing Land Use: Single Family Residence

Direction: North, South, West, East

Current Zoning: R-1A Single Family Residential with Accessory Dwelling Unit

Existing Land Uses: Single Family Residences

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property and surrounding residential areas are designated as Transitional Residential. Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan:

The subject property is located on a residential street.

Traffic Impact:

No traffic impact is anticipated.

Parking:

A Short Term Rental requires one off street parking space per bedroom and one additional off street parking space for a manager, if the manager does not live onsite. This property has two bedrooms and no onsite manager so three off-street parking spaces are required. The applicant has identified four available off-street parking spaces, meeting the off-street parking requirement.

Case Summary:

The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-1A zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has identified the following amenities as in close proximity to the proposed Short Term Rental: This location is within walking distance to the river trail and is in close proximity to downtown, providing opportunities for shopping, dining and entertainment.

Proposed CUP Conditions for Short Term Rental

A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.

B. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.

C. Sign: The Property may not use more than one non-illuminated, on-site sign, in

conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

D. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

E. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

F. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

Recommendation:

Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are numerous amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the attached Proposed CUP Conditions.

On December 2nd, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Resolution No. 03-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 03-2022**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO
AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE
PROPERTY COMPRISING A PART OF LOTS 21 AND 22, BLOCK
8, LOWRY ADDITION; AND MORE COMMONLY KNOWN AS 400
LOWRY STREET S.; SAID PROPERTY IS LOCATED WITHIN A
SINGLE-FAMILY RESIDENTIAL WITH ACCESSORY
DWELLING UNIT ZONING DISTRICT (R-1A); AND MAKING
SAID PERMIT SUBJECT TO CONDITIONS AND
RESTRICTIONS**

WHEREAS, the owner of the property known as 820 Robinson Avenue and graphically depicted on the location map and site plan found at **Exhibit A** (the "Property"), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit ("CUP") to authorize a short-term rental unit on the Property, which is located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A); and

WHEREAS, the City Planning and Zoning Commission (the "Commission"), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) ("Zoning Code"), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on January 11, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A), to be developed and used for a Short-Term Rental Unit ("STRU") as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: comprising part of Lots 21 and 22, Block 8, Lowry Addition, a subdivision of Kerr County and

the city of Kerrville, and being depicted on the location map and survey plat found at **Exhibit A**.

General Description: 400 Lowry Street S., Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the rental unit on the Property, said notification attached as **Exhibit B**.
- B. Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- C. Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- D. Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- E. Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- F. Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this

Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

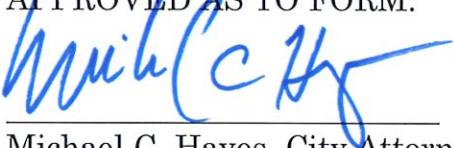
SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2022.

Bill Blackburn, Mayor

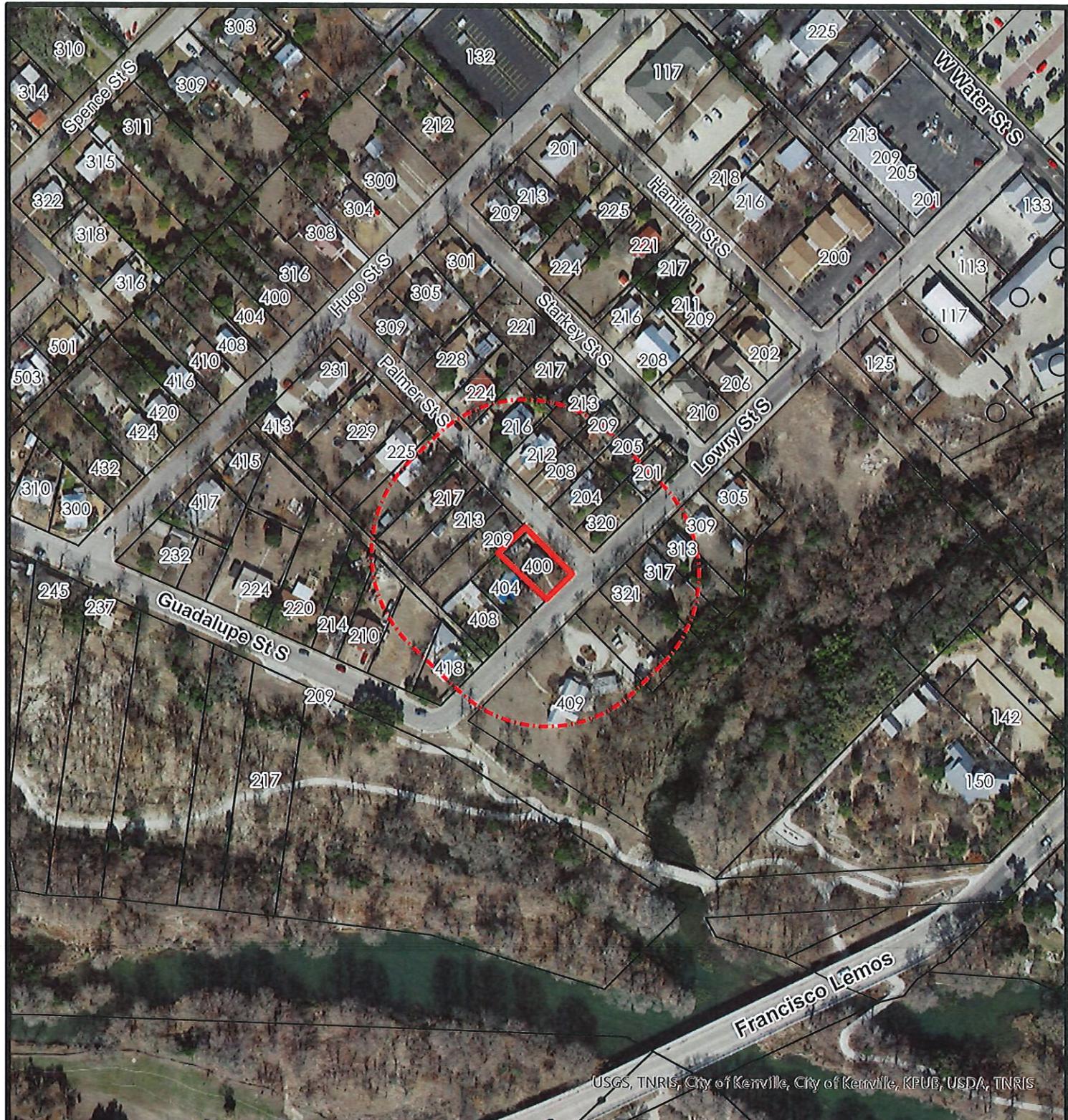
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2021-28

Location:
400 Lowry St

Exhibit A

Legend

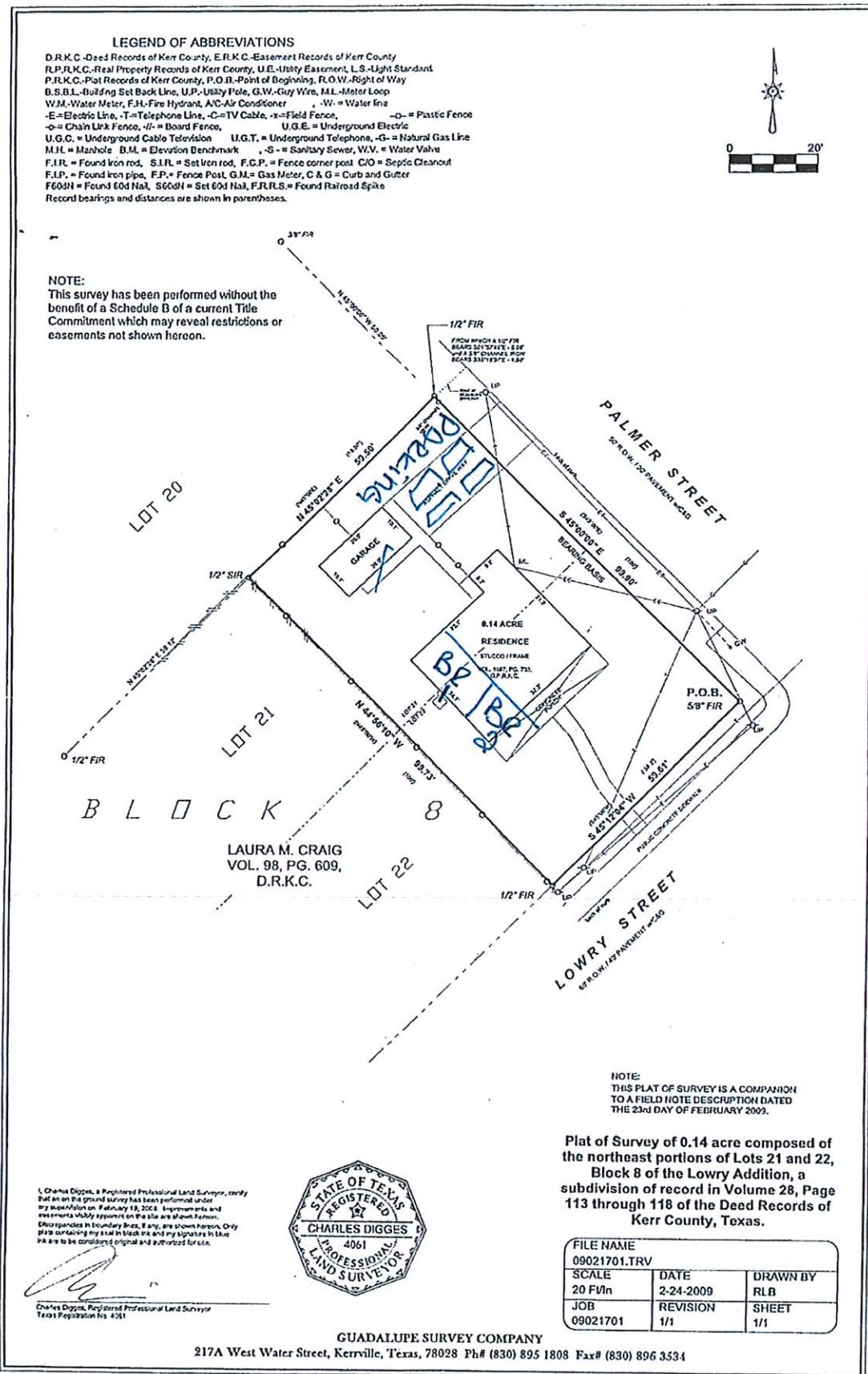
200' Notification Area
Subject Properties



0 75 150 300

Scale In Feet

EXHIBIT A



FIELD NOTE DESCRIPTION

0.14 ACRE

Being a tract of land containing 0.14 acre composed of the northeast portions of Lots 21 and 22 of Block 8 of the Lowry Addition to the City of Kerrville, a subdivision of record in Volume 28, Pages 113 through 118 of the Deed Records of Kerr County, Texas; being the same property of record in Volume 1697, Page 733 of the Official Public Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a $\frac{1}{4}$ " iron rod found for the east corner of said Block 8, of said Lot 22, and of the subject tract; said iron rod located at the intersection of the southwest right of way line of Palmer Street, a 50 foot wide public roadway and the northwest right of line of Lowry Street, a 60 foot wide public roadway;

THENCE with the northwest right of way line of said Lowry Street, with the southeast line of said Block 8 and of said Lot 22, S. $45^{\circ}12'04''$ W., a distance of 59.61 feet to a $\frac{1}{2}$ " iron rod found near a chain link fence post for the south corner of the subject tract; said iron rod being the east corner of a certain tract of land conveyed to Laura M. Craig by deed of record in Volume 98, Page 609 of the Deed Records of Kerr County, Texas;

THENCE through the interior of said Block 8, and said Lots 22 and 21, respectively, with the northeast line of said Craig tract, and with a fence, N. $44^{\circ}56'10''$ W., a distance of 99.73 feet to a $\frac{1}{2}$ " iron rod set for the west corner of the subject tract; said iron rod located in the common line of said Lot 21 and Lot 20 of said Block 8 and at a three way fence intersection;

THENCE continuing through the interior of said Block 8, with said common line of said Lots 20 and 21, and partially with a fence, N. $45^{\circ}02'28''$ E., a distance of 59.50 feet to a $\frac{1}{2}$ " iron rod found for the north corner of the subject tract; said iron rod located in the southwest right of way line of the aforementioned Palmer Street and the northeast line of said Block 8, and being the common northeast corner of said Lots 20 and 21;

THENCE with the southwest right of way line of said Palmer Street, and with the northeast line of said Block 8 and of said Lot 21 and 22, respectively, S. $45^{\circ}00'00''$ E., (Bearing Basis) a distance of 99.90 feet to the POINT of BEGINNING, and containing 0.14 acre within these metes and bounds.

Prepared this the 23rd day of February 2009, and being a companion to a Plat of Survey dated February 19, 2009.

Charles Digges, R.P.L.S.
Texas Registration No. 4061
09021701@ymail.com/rk





SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 03-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 04-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising part of Lot 31, Block 106; Westminster Addition; and more commonly known as 1807 E. Main St. N.; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: January 11, 2022 **DATE SUBMITTED:** Dec 14, 2021

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Reso 04-2022 CUP 1807 East Main STR.pdf](#)

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Proposal

A resolution to allow a Conditional Use Permit for a Short Term Rentals on part of Lot 31 and part of an alley, Block 106, Westminster 1 Addition; and more commonly known as 1807 E Main St N, Kerrville, TX 78028.

Procedural Requirements

The City, in accordance with state law, mailed 17 letters on 11/18/2021 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 11/11/2021. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1 Single Family Residential

Existing Land Use: Single Family Residence

Direction: North, West, East

Current Zoning: R-1 Single Family Residential

Existing Land Uses: Single Family Residences

Direction: South

Current Zoning: PI Public & Institutional

Existing Land Uses: Schreiner University

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property and surrounding residential areas are designated as Neighborhood Residential. To the south is Schreiner University, designated as Public Use / Strategic Catalyst Area 9. Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan:

The subject property is located on a residential street.

Traffic Impact:

No traffic impact is anticipated.

Parking:

A Short Term Rental requires one off street parking space per bedroom and one additional off street parking space for a manager, if the manager does not live onsite. This property has two bedrooms and no onsite manager so three off-street parking spaces are required. The applicant has identified four available off-street parking spaces, meeting the off-street parking requirement.

Case Summary:

The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-1 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has identified the following amenities as in close proximity to the proposed Short Term Rental: This location is within walking distance to Westland Park and a short distance to Junction Hwy, providing opportunities for shopping and dining.

Proposed CUP Conditions for Short Term Rental

A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest

Notification is shown on the following page.

B. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.

C. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

D. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

E. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

F. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

Recommendation:

Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are numerous amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the attached Proposed CUP Conditions.

On December 2nd, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Resolution No. 04-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 04-2022**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO
AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE
PROPERTY COMPRISING PART OF LOT 31, BLOCK 106,
WESTMINSTER ADDITION; AND MORE COMMONLY KNOWN
AS 1807 E. MAIN ST. N.; SAID PROPERTY IS LOCATED
WITHIN A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT
(R-1); AND MAKING SAID PERMIT SUBJECT TO CONDITIONS
AND RESTRICTIONS**

WHEREAS, the owner of the property known as 1807 E. Main St. N. and depicted on the location map and survey plat found at **Exhibit A** (the “Property”), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit (“CUP”) to authorize a short-term rental unit on the Property, which is located within a Single-Family Residential Zoning District (R-1); and

WHEREAS, the City Planning and Zoning Commission (the “Commission”), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) (“Zoning Code”), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on January 11, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Single-Family Residential Zoning District (R-1), to be developed and used for a Short-Term Rental Unit (“STRU”) as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: comprising part of Lot 31, Block 106, Westminster Addition, a subdivision of Kerr County and the city of Kerrville, and being depicted on the location map

and survey plat found at **Exhibit A**.

General Description: 1807 E. Main St. N., Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the rental unit on the Property, said notification attached as **Exhibit B**.
- B. Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- C. Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- D. Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- E. Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- F. Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a

proper valid exercise of the City's police powers.

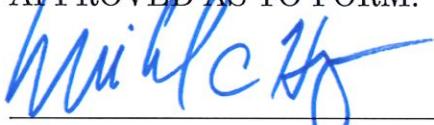
SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2022.

Bill Blackburn, Mayor

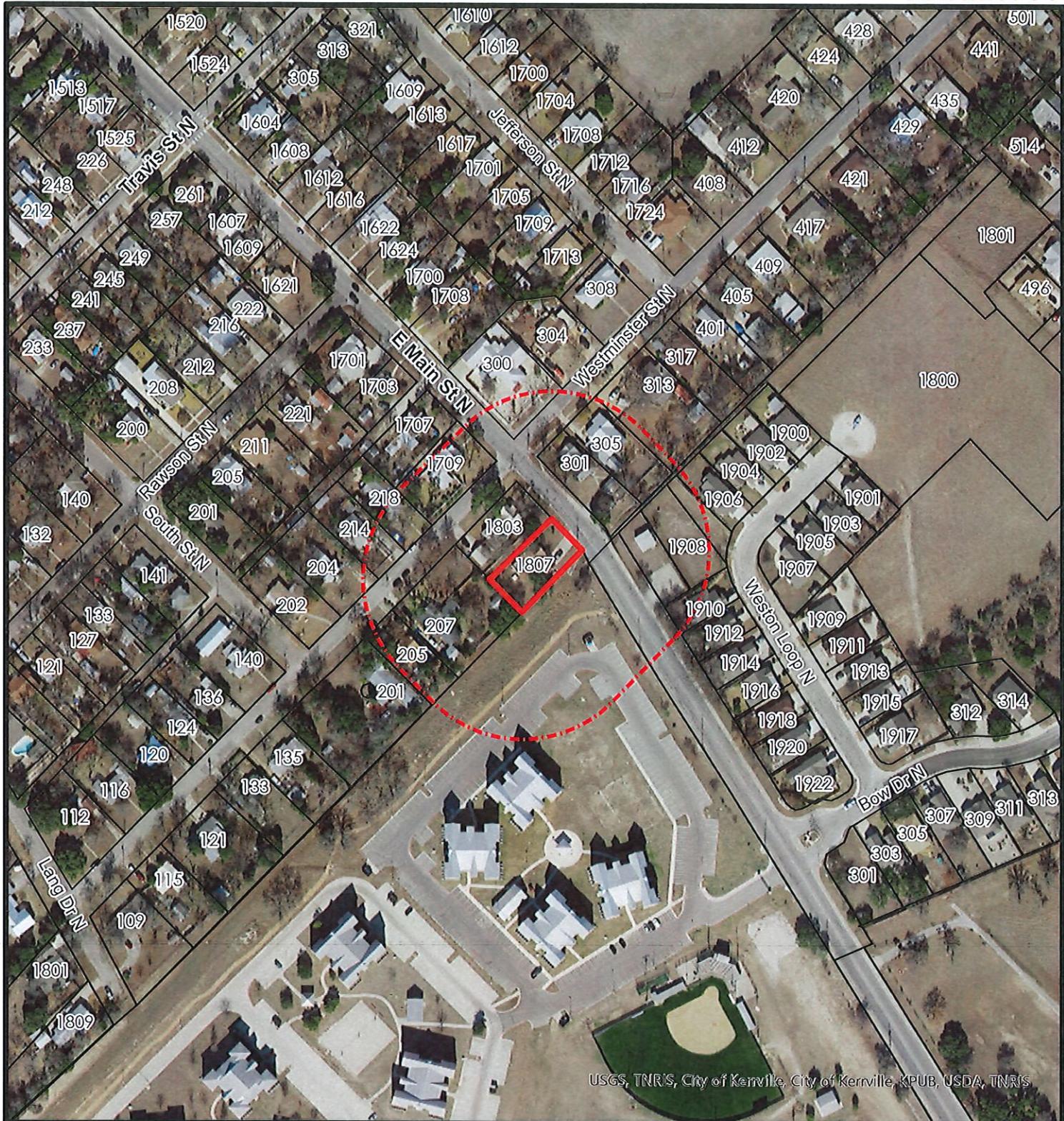
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2021-29

Location:
1807 E Main St

Exhibit A

Legend

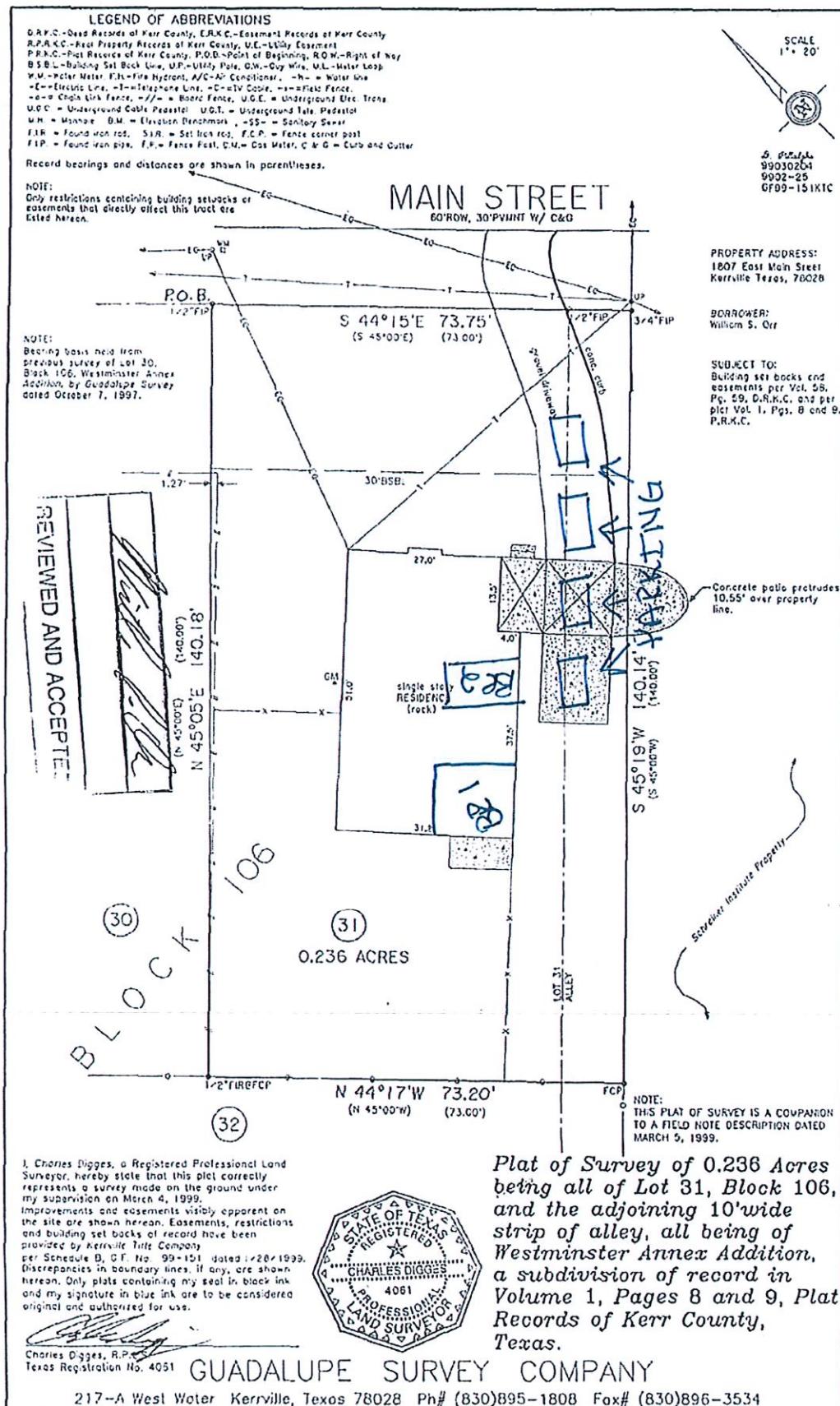
200' Notification Area
Subject Properties



0 75 150 300

Scale In Feet

EXHIBIT A





SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 04-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 05-2022. A Resolution granting a Conditional Use Permit to authorize a Short Term Rental Unit on the property comprising Lot 35, part of Lot 34, Block 106, Westminster Annex Addition; and more commonly known as 205 Westminster; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: January 11, 2022 **DATE** Dec 14, 2021
SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Reso 05-2022 CUP 205 Westminster STR.pdf](#)

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Proposal

A resolution to allow a Conditional Use Permit for a Short Term Rental on part of Lot 34 and Lot 35, Block 106, Westminster 1; and more commonly known as 205 Westminster St.

Procedural Requirements

The City, in accordance with state law, mailed 15 letters on 10/21/2021 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 10/14/2021. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1 Single Family Residential

Existing Land Use: Single Family Residence

Direction: North, West, East

Current Zoning: R-1 Single Family Residential

Existing Land Uses: Single Family Residences

Direction: South

Current Zoning: PI Public & Institutional

Existing Land Uses: Schreiner University

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property and surrounding residential areas are designated as Neighborhood Residential. To the south is Schreiner University, designated as Public Use / Strategic Catalyst Area 9. Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan:

The subject property is located on a residential street.

Traffic Impact:

No traffic impact is anticipated.

Parking:

A Short Term Rental requires one (1) off street parking space per bedroom and one (1) additional off street parking space for a manager, if the manager does not live onsite. This property has two (2) bedrooms and no onsite manager so three off-street parking spaces are required. The applicant has identified four (4) available off-street parking spaces, meeting the off-street parking requirement.

Case Summary:

The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-1 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has identified the following amenities as in close proximity to the proposed Short Term Rental: This location is within walking distance to Schreiner University with access to the river trail and a short drive to the downtown district for shopping, dining, and entertainment.

Proposed CUP Conditions for Short Term Rental

A. Guest Notification: The owner or operator of the Property shall post "Guest

Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.

B. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.

C. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

D. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

E. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

F. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

Recommendation:

Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are numerous amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the attached Proposed CUP Conditions.

On December 2nd, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Resolution No. 05-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 05-2022**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO
AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE
PROPERTY COMPRISING LOT 35, PART OF LOT 34, BLOCK
106, WESTMINSTER ANNEX ADDITION; AND MORE
COMMONLY KNOWN AS 205 WESTMINSTER; SAID
PROPERTY IS LOCATED WITHIN A SINGLE-FAMILY
RESIDENTIAL ZONING DISTRICT (R-1); AND MAKING SAID
PERMIT SUBJECT TO CONDITIONS AND RESTRICTIONS**

WHEREAS, the owner of the property known as 205 Westminster and depicted on the location map and survey plat found at **Exhibit A** (the “Property”), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit (“CUP”) to authorize a short-term rental unit on the Property, which is located within a Single-Family Residential Zoning District (R-1); and

WHEREAS, the City Planning and Zoning Commission (the “Commission”), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) (“Zoning Code”), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on January 11, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Single-Family Residential Zoning District (R-1), to be developed and used for a Short-Term Rental Unit (“STRU”) as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: comprising Lot 35, Part of Lot 34, Block 106, Westminster Annex Addition, a subdivision of Kerr County and the city of Kerrville, and being depicted

on the location map and site plan found at **Exhibit A**.

General Description: 205 Westminster, Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the rental unit on the Property, said notification attached as **Exhibit B**.
- B. Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- C. Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- D. Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- E. Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- F. Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a

proper valid exercise of the City's police powers.

SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2022.

Bill Blackburn, Mayor

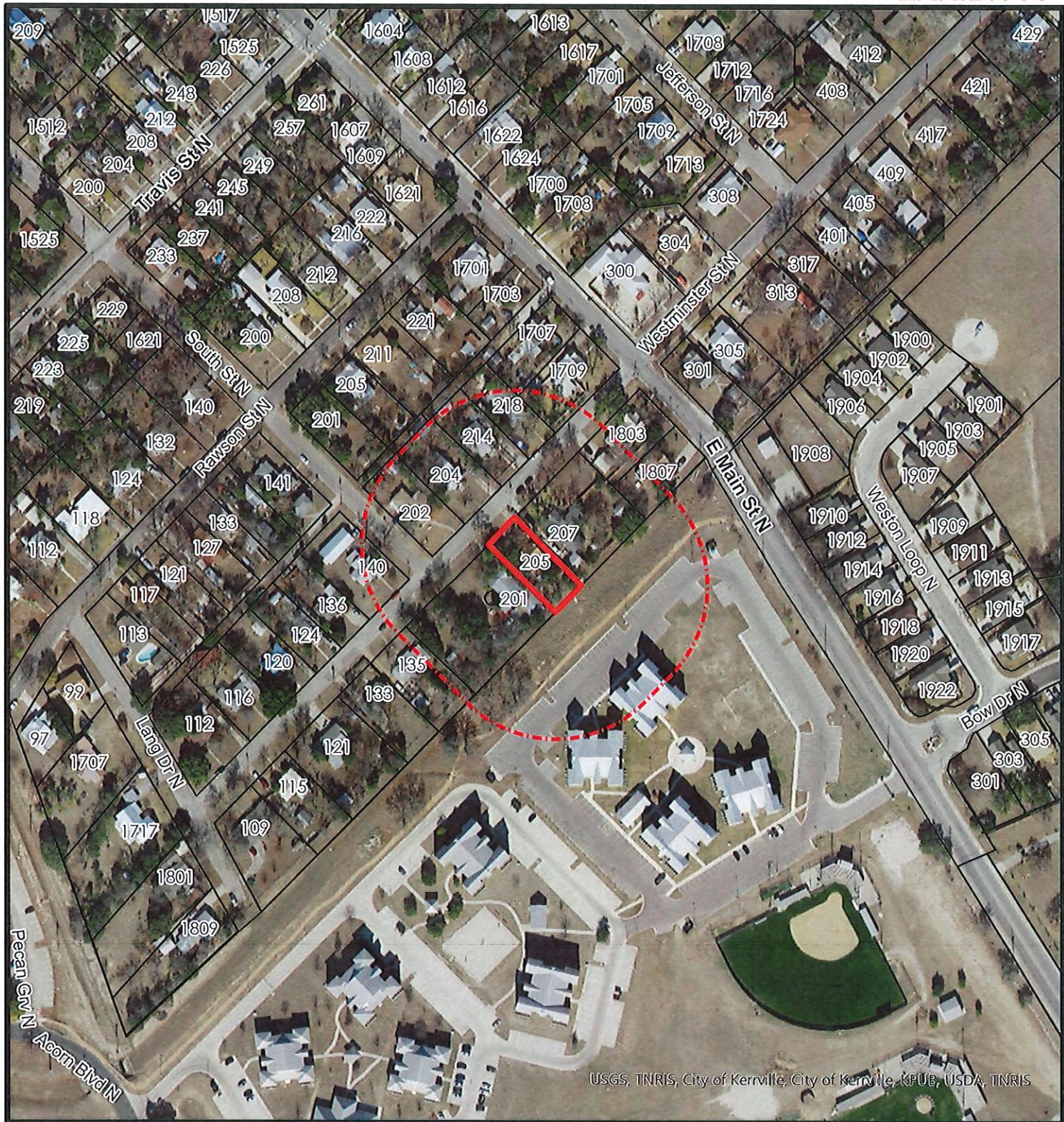
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2021-24

Location:
205 Westminster St

Legend

200' Notification Area
Subject Properties



0 75 150 300

Scale In Feet

EXHIBIT A

SURVEY PLAT OF "TRACT ONE", A 0.19 ACRE TRACT COMPRISED OF ALL OF LOT NO. THIRTY-FIVE (35) AND THE SOUTHWEST 12.5 FEET OF LOT NO. THIRTY-FOUR (34), BLOCK NO. ONE HUNDRED SIX (106), WESTMINSTER ANNEX ADDITION TO THE CITY OF KERRVILLE, RECORDED IN VOLUME 1, PAGES 8-9, PLAT RECORDS OF KERR COUNTY, TEXAS AND OF "TRACT TWO", A 0.015 ACRE TRACT BEING A PORTION OF A TEN FOOT (10') WIDE ALLEY ALONG SAID BLOCK NO. 106 HAVING BEEN CLOSED BY CITY ORDINANCE RECORDED IN VOLUME 78, PAGE 406, DEED RECORDS OF KERR COUNTY, TEXAS.

K.C.D.R. = Kerr County Deed Records

K.C.P.R. = Kerr County Plat Records

K.C.E.R. = Kerr County Easement Records

K.C.R.P.R. = Kerr County Real Property Records

K.C.D.O.T. = Kerr County Deed of Trust Records

P.O.B. = Point of Beginning in Metes & Bounds

(Record) = Record Bearing and/or Distance call in existing deed, recorded plat, etc...

BORROWER:

Robert Reilly

PROPERTY ADDRESS:

205 Westminster
Kerrville, Texas 78028

SCALE: 1" = 30 FEET

Record Calls in smaller italic print near measured calls.

NOTE: This plat is a companion document to a Metes and Bounds Description dated August 1, 2002.

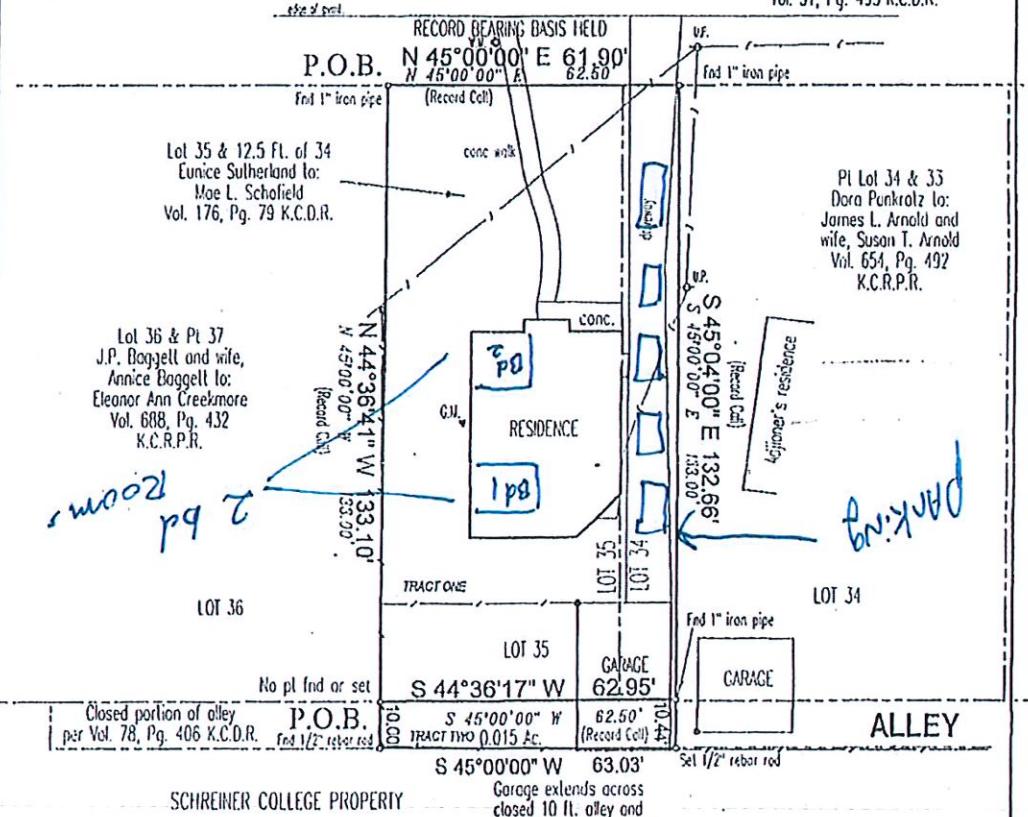
WESTMINSTER ST.

The surveyed tract hereon is subject to the restrictions, easements and all matters of record in:

Vol. 61, Pg. 494 K.C.D.R.

Vol. 46, Pg. 387 K.C.D.R.

Vol. 51, Pg. 495 K.C.D.R.



REVIEWED & APPROVED
RECORDED
DATE: 1/15/21
RECORDED
BY: [Signature]

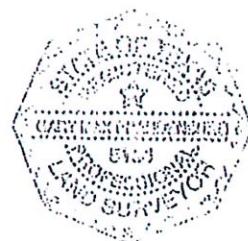
I, Cory Max Brondenburg, Registered Professional Land Surveyor No. 5164, hereby certify that this plat represents a survey made on the ground under my direct supervision and direction. That all visible improvements, easements and utilities, discrepancies in boundaries, set-back lines, and restrictive covenants are shown and/or cited hereon. No survey was made to reestablish Patent Survey Lines or Corners.

This tract does not lie within the 100-Year Flood Hazard Zone as interpreted from the FEMA F.I.R.M. No. 48265C0260 E dated July 19, 2000.

Surveyed on the ground on August 1, 2002.

Dan M. Brondenburg
Cory Max Brondenburg, Registered Professional Land Surveyor No. 5164

TEXAS LAND BOUNDARIES - 1003 TEMPLE DRIVE - KERRVILLE, TEXAS 78028 - (830) 257-3839 FAX: (830) 896-6317 - email: txlndbd@ktc.com



02080101 CF#020521F 200 MHZ A.H.



SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 05-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 06-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising Lot 5, Block 42, Westland Place Addition; and more commonly known as 600 Woodlawn Avenue N.; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: January 11, 2022

DATE

Dec 14, 2021

SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Reso 06-2022 CUP 600 Woodlawn STR.pdf](#)

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Proposal

A resolution to allow a Conditional Use Permit for a Short term rental on parts of Lot 5, Block 42, Westland Place; and more commonly known as 600 Woodlawn Ave N, Kerrville, TX 78028.

Procedural Requirements

The City, in accordance with state law, mailed 19 letters on 11/18/2021 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 11/11/2021. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1 Single Family Residential

Existing Land Use: Single Family Residence

Direction: North, West

Current Zoning: R-1 Single Family Residential

Existing Land Uses: Single Family Residences

Direction: South, East

Current Zoning: R-1A Single Family Residential with Accessory Dwelling Unit

Existing Land Uses: Single Family Residential / Westland Park

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property and surrounding residential areas are designated as Neighborhood Residential. To the east is Westland Park. Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan:

The subject property is located on a residential street.

Traffic Impact:

No traffic impact is anticipated.

Parking:

A Short Term Rental requires one off street parking space per bedroom and one additional off street parking space for a manager, if the manager does not live onsite. This property has two bedrooms and no onsite manager so three off-street parking spaces are required. The applicant has identified four available off-street parking spaces, meeting the off-street parking requirement.

Case Summary:

The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-1 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has identified the following amenities as in close proximity to the proposed Short Term Rental: This location is within walking distance to Westland Park and a short distance to Junction Hwy, providing opportunities for shopping and dining.

Proposed CUP Conditions for Short Term Rental

A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.

B. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.

C. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

D. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

E. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

F. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

Recommendation:

Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are numerous amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the attached Proposed CUP Conditions.

On December 2nd, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Resolution No. 06-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 06-2022**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO
AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE
PROPERTY COMPRISING LOT 5, BLOCK 42, WESTLAND
PLACE ADDITION; AND MORE COMMONLY KNOWN AS 600
WOODLAWN AVENUE N.; SAID PROPERTY IS LOCATED
WITHIN A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT
(R-1); AND MAKING SAID PERMIT SUBJECT TO CONDITIONS
AND RESTRICTIONS**

WHEREAS, the owner of the property known as 600 Woodlawn and depicted on the location map and survey plat found at **Exhibit A** (the “Property”), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit (“CUP”) to authorize a short-term rental unit on the Property, which is located within a Single-Family Residential Zoning District (R-1); and

WHEREAS, the City Planning and Zoning Commission (the “Commission”), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) (“Zoning Code”), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on January 11, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Single-Family Residential Zoning District (R-1), to be developed and used for a Short-Term Rental Unit (“STRU”) as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: comprising Lot 5, Block 42, Westland Place Addition, a subdivision of Kerr County and the city of Kerrville, and being depicted on the location map and

site plan found at **Exhibit A**.

General Description: 600 Woodlawn, Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the rental unit on the Property, said notification attached as **Exhibit B**.
- B. Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- C. Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- D. Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- E. Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- F. Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a

proper valid exercise of the City's police powers.

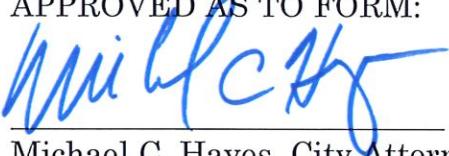
SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2022.

Bill Blackburn, Mayor

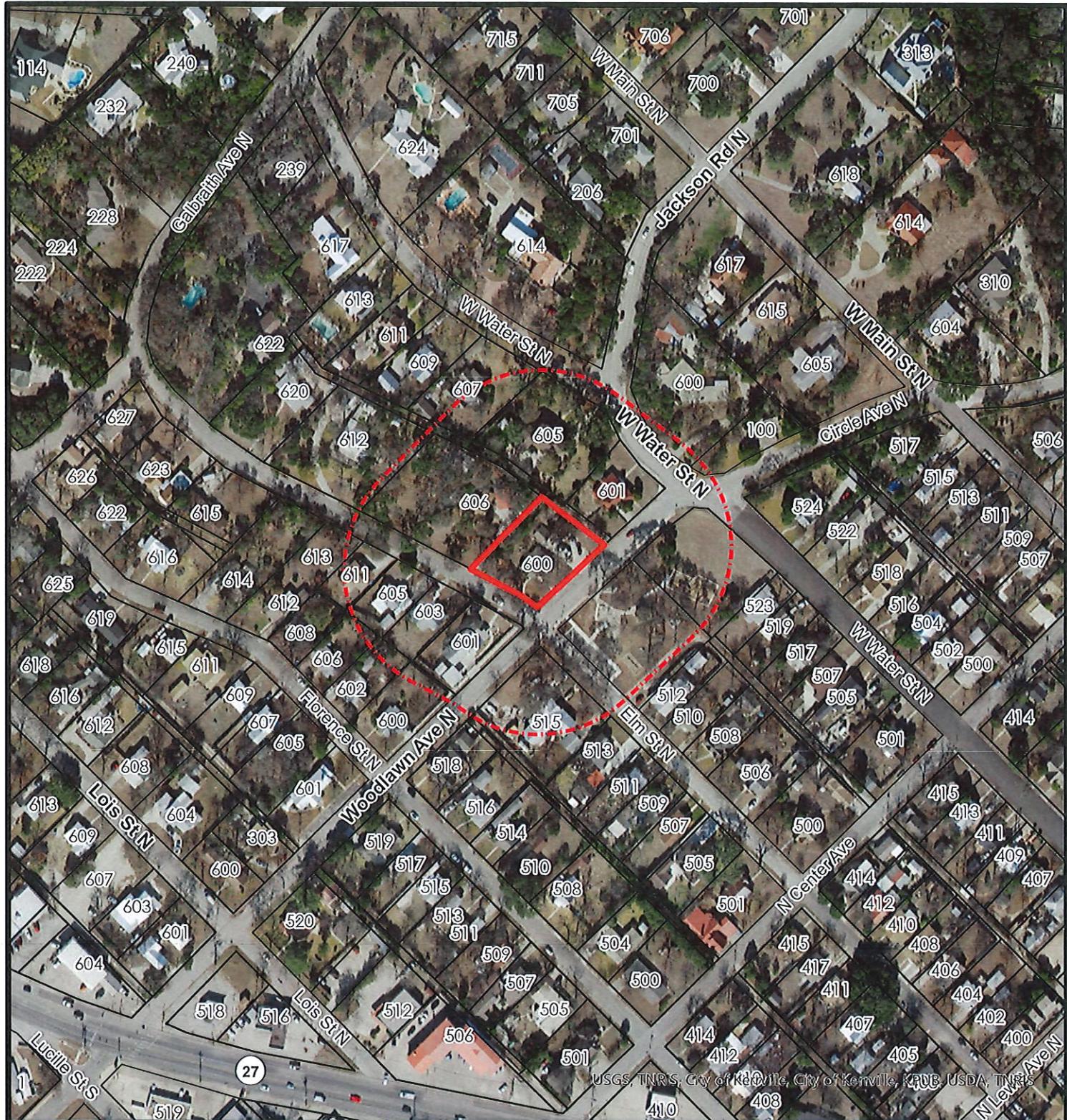
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2021-27

Location:
600 Woodlawn Ave

Legend

200' Notification Area
Subject Properties



0 75 150 300

Scale In Feet

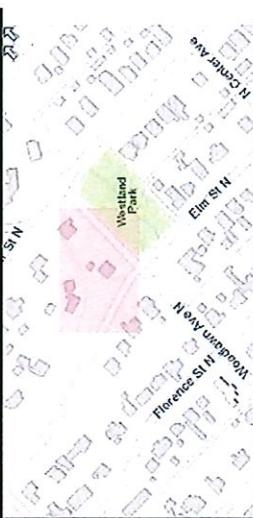
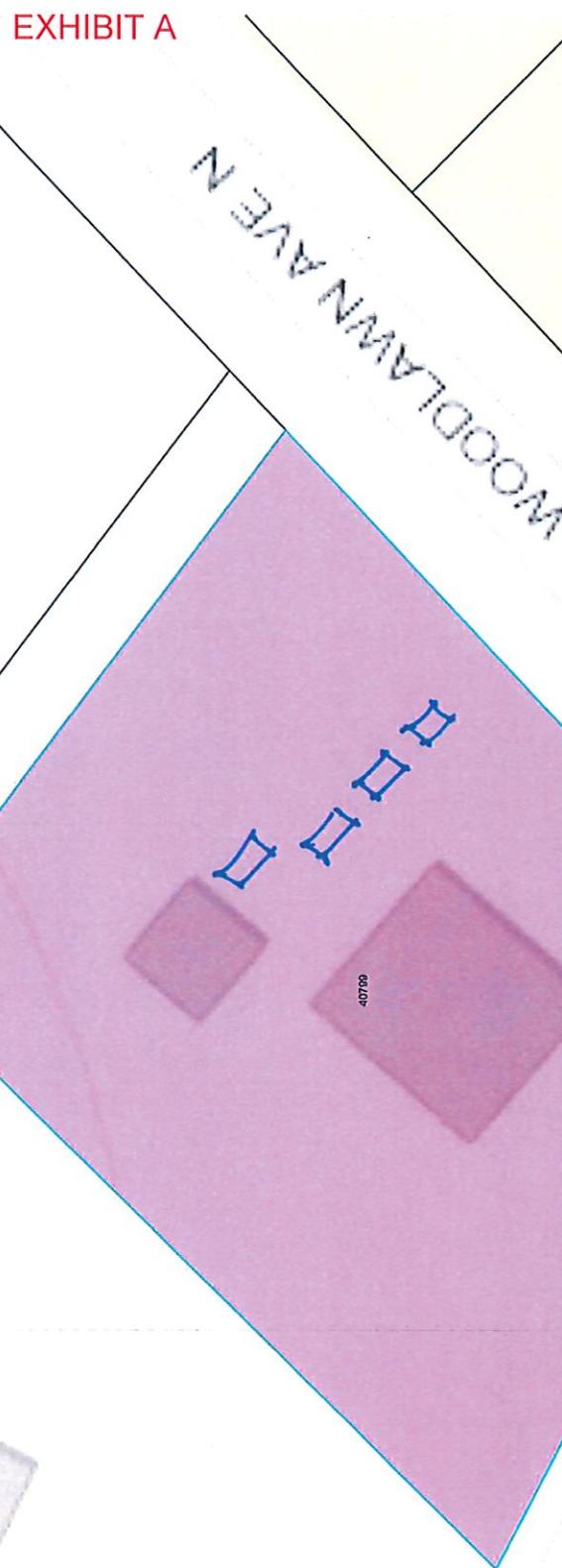


EXHIBIT A



Search Type: Property Account # Search | Search Term: 40799

Search Results 1

Property ID	Options	Geo ID	Owner ID	Owner Name	Legal Description	Status Address	Doing Business As	Appraised Value
40799	<input type="button" value=""/>	6840-0420-005000	606311	TILLEY, TOBIN BRETT & JEANETTE AELVOET	...	600 WOODLAWN AVE N Kerrville, TX 78028	Null	N/A





SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 06-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 07-2022. A Resolution granting a Conditional Use Permit to authorize a Convenience Store with Fuel Sales on this property consisting of Lots 6, 7, 8, 9, 11, 12, 13, 14, 15, Block 2, of the G Street South Addition; and more commonly known as 1001 Sidney Baker Street S.; said property is located within a Mixed Use Zoning District (MU); and making said permit subject to certain conditions and restrictions.

AGENDA DATE OF: January 11, 2022 **DATE** Dec 14, 2021
SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Reso 07-2022 CUP 1001 Sidney Baker S - Convenience Store with Fuel Sales.pdf](#)

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Proposal

A resolution to allow a Conditional Use Permit for a Convenience Store with Fuel Sales on Lots 6, 7, 8, 9, 11, 12, 13, 14, 15, Block 2, G Street South Addition; and more commonly known as 1001 Sidney Baker St S, Kerrville, TX 78028. (Case No. PZ-2021-33)

Procedural Requirements

The City, in accordance with state law, mailed 18 letters on 11/18/2021 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 11/11/2021.

At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: MU Mixed-Use

Existing Land Use: Convenience Store with Fuel Sales

Direction: North, South, & East

Current Zoning: MU Mixed-Use

Existing Land Uses: Commercial uses: bank, automotive shop, building maintenance facility

Direction: West

Current Zoning: C-2 Light Commercial

Existing Land Uses: bank and furniture store

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property and surrounding area are within the Strategic Catalyst Area 2 of the Kerrville 2050 Comprehensive Plan. This area has an emphasis on a strong commercial presence along Highway 16 (Sidney Baker Street South). Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan:

The subject property is located on an arterial and a collector.

Traffic Impact:

No traffic impact is anticipated.

Parking:

The parking requirements will be required as per the zoning code..

Case Summary:

The applicant is proposing to tear down the existing facility and rebuild a new convenience store with fuel sales. The new facility will be larger than the existing one, however will update the site with improved access and traffic flow within the site.

Proposed CUP Conditions for a Convenience Store with Fuel Sales

A. Site Plan: The development shall be consistent with the proposed site plan for the new convenience store and fuel sales.

B. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in

the Zoning Code, the provisions of this Resolution will prevail.

Recommendation:

Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are numerous amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the attached Proposed CUP Conditions.

On December 2nd, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Resolution No. 07-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 07-2022**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO
AUTHORIZE A CONVENIENCE STORE WITH FUEL SALES ON
THE PROPERTY CONSISTING OF LOTS 6, 7, 8, 9, 11, 12, 13, 14,
AND 15, BLOCK 2, OF THE G STREET SOUTH ADDITION; AND
MORE COMMONLY KNOWN AS 1001 SIDNEY BAKER STREET
S.; SAID PROPERTY IS LOCATED WITHIN A MIXED USE
ZONING DISTRICT (MU); AND MAKING SAID PERMIT
SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS**

WHEREAS, the owner of the property depicted in the location map in Exhibit A (the "Property"), being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit ("CUP") to allow the Property located within a Mixed Use Zoning District (MU) to be used for a convenience store with fuel sales; and

WHEREAS, the City Planning and Zoning Commission (the "Commission"), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) ("Zoning Code"), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on January 11, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Mixed Use Zoning District (MU), to be developed and used for a convenience store with fuel sales as that term is defined in and pursuant to the City's Zoning Code (Chapter 60, Article XI), and such use is subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: Being property lying and being situated within the City of Kerrville, Kerr County, Texas, and being Lots 6, 7, 8, 9, 11, 12, 13, 14, and 15, Block 2, of the G Street South Addition, a subdivision of Kerr County and the city of Kerrville, Texas; and being depicted on the location map at **Exhibit A**.

General Description: 1001 Sidney Baker Street S., Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. Site Plan:** The development shall be consistent with the proposed site plan for the new convenience store and fuel sales, such site plan attached as **Exhibit B**.
- B. Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and CUP granted herein is subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

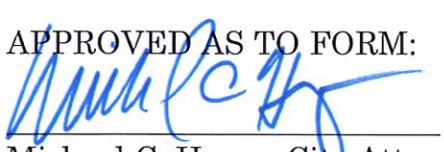
SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2021.

Bill Blackburn, Mayor

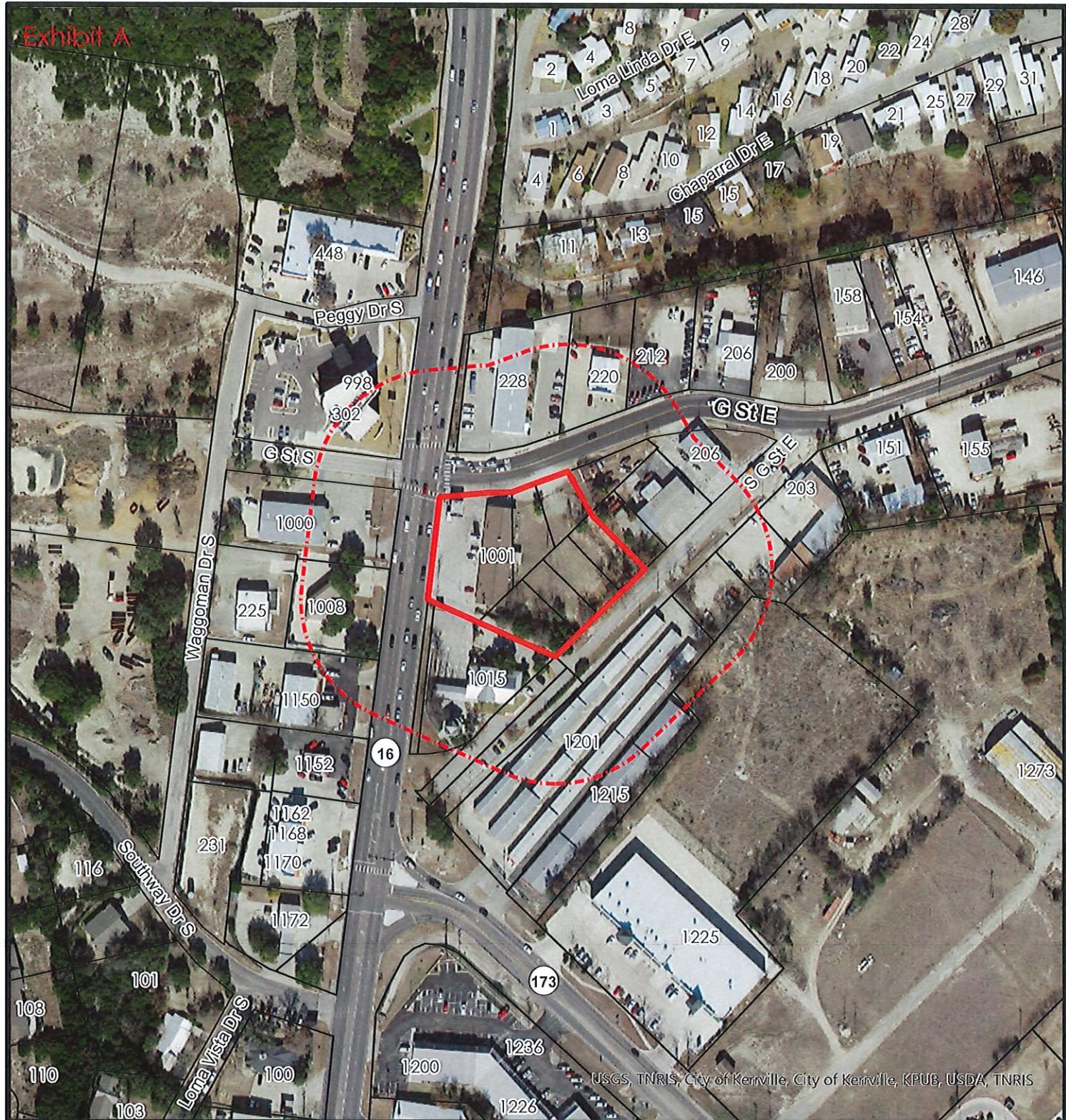
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2021-33

Location:
G Street South Addition
Block 2
Lots 6, 7, 8, 9, 11, 12, 13, 14, and 15

Legend
200' Notification Area
Subject Properties



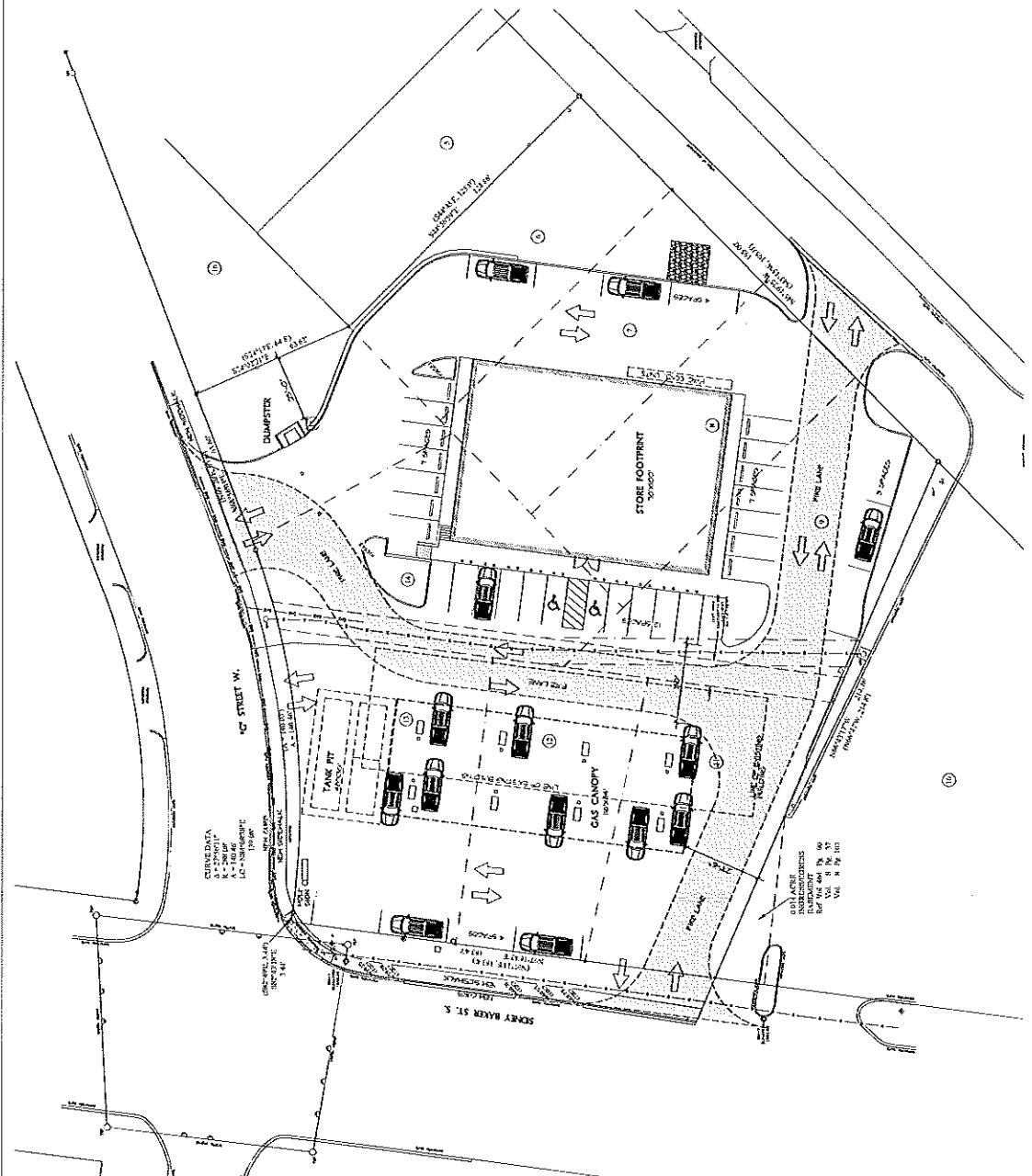
0 75 150 300

Scale In Feet

Minimart #1
1001 Sidney Baker S.
Kerrville, Texas 78028

1001 Sidney Baker S.
Kerrville, Texas 78028

卷之三





**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Ordinance No. 2022-03. An Ordinance annexing two tracts of land plus an adjacent public right-of-way that exists as part of Coronado Drive, into the Corporate Limits of the City of Kerrville, Texas; such property making up approximately 16.85 acres and generally located north and west of the 700 block of Coronado Drive; each property more specifically described in the Ordinance and being located within the extraterritorial jurisdiction of the City; adopting a Service Agreement; establishing the zoning for the annexed property as a Single-Family Residential Zoning District (R-1); rezoning an adjacent tract of land currently located within the City, by changing its zoning to an R-1 Zoning District; and providing other matters relating to this subject.

AGENDA DATE OF: January 11, 2022 **DATE** Dec 14, 2021
SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Ord 2022-03 Annex and Zone Change 700 Coronado.pdf](#)

Kerrville 2050 Item? Yes

Key Priority Area H - Housing

Guiding Principle C2. Seek to attract a range of housing options to provide choices for people with a variety of ages, incomes, lifestyles, etc.

Action Item

SUMMARY STATEMENT:

Proposal

Public hearing, consideration, and action to recommend an ordinance for the City of Kerrville to annex into its incorporated limits with a zoning classification of R-1, Single Family Residential for approximately 16.85 acres of land; consisting of the property generally located at 700 and 701 Coronado Drive and a portion of Coronado Drive right-of-way.

Procedural Requirements

47 letters were mailed on 9/23/2021 to adjacent property owners. The public notice was published in the Kerrville Daily Times on 8/12/2021. At the time of drafting this Agenda Bill, no new comments had been received. From the previous notice, Planning received three

letters of opposition, one neutral letter, and a neighborhood petition representing 14 properties.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: County

Existing Land Use: Vacant Land

Direction: North & East

Current Zoning: RE

Existing Land Uses: Single family homes

Direction: West, South

Current Zoning: R-1

Existing Land Uses: Single family homes

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property is designated as Rural Living. The surrounding area is designated as Rural Living and Neighborhood Residential. This request is a minor change to the Kerrville 2050 Comprehensive Plan to change this area from Rural Living to Neighborhood Residential. This change matches the adjacent existing neighborhood to the southwest.

Thoroughfare Plan:

The subject property is located on Coronado Drive and has two existing street stubs to Mountain Laurel View. These two street stubs are Glen View Drive and Laurelwood Drive.

Traffic Impact:

No traffic impact is anticipated.

Parking:

All off-street parking requirements will be met through final project design and approval.

Case Summary:

The applicant is requesting annexation to allow for the use of City services. A request is also being made to zone the annexed property R-1 Single Family Residential for a 44 lot subdivision.

Required legal and public notices have been sent. No comments have been received.

Recommendation:

Because the request is consistent with the adjacent development and the objectives of the Kerrville 2050 Plan, staff recommends approval of the Future Land Use Plan amendment, annexation, and zoning change request.

The Planning and Zoning Commission (P&Z) recommended approval of the annexation with a Residential Estate zoning district. The P&Z heard comments from the adjacent neighborhood regarding drainage concerns and initially continued the case for the following meeting to allow the applicant and the neighbors to meet and discuss. In the following meeting, the applicant presented a concept drainage plan to alleviate the concerns.

RECOMMENDED ACTION:

Approve Ordinance No. 2022-03 on first reading.

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-03

AN ORDINANCE ANNEXING TWO TRACTS OF LAND PLUS AN ADJACENT PUBLIC RIGHT-OF-WAY THAT EXISTS AS PART OF CORONADO DRIVE, INTO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS; SUCH PROPERTY MAKING UP APPROXIMATELY 16.85 ACRES AND GENERALLY LOCATED NORTH AND WEST OF THE 700 BLOCK OF CORONADO DRIVE; EACH PROPERTY MORE SPECIFICALLY DESCRIBED IN THIS ORDINANCE AND BEING LOCATED WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY; ADOPTING A SERVICE AGREEMENT; ESTABLISHING THE ZONING FOR THE ANNEXED PROPERTY AS A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT (R-1); REZONING AN ADJACENT TRACT OF LAND CURRENTLY LOCATED WITHIN THE CITY, BY CHANGING ITS ZONING TO AN R-1 ZONING DISTRICT; AND PROVIDING OTHER MATTERS RELATING TO THIS SUBJECT

WHEREAS, an owner of land has requested annexation by the City of Kerrville, Texas (“City”), pursuant to Local Government Code Section 43.0671; and

WHEREAS, the land to be annexed makes up approximately 16.85 acres, as more specifically described below, and includes a portion of existing right-of-way, all of which is collectively referred to herein as the “Property”; and

WHEREAS, the Property lies within the extraterritorial jurisdiction of the City; and

WHEREAS, a portion of the Property to be annexed, approximately 0.274 acres, exists as Coronado Drive, a road and corresponding right-of-way of Kerr County, Texas, which per Section 43.1056 of the Texas Local Government Code, the City may annex upon providing written notice of the annexation to the owner of the right-of-way, which the City has done; and

WHEREAS, per Section 43.106 of the Texas Local Government Code, a city that proposes to annex any portion of a county road or territory that abuts a county road must also annex the entire width of the county road and the adjacent right-of-way on both sides of the county road; and

WHEREAS, in conjunction with the approval of this Ordinance, City Council also approves a service agreement for the Property in accordance with Section 43.0672 of the Texas Local Government Code; and

WHEREAS, Section 60-37 of the City's Zoning Code creates procedures for initial zoning of newly annexed areas; and

WHEREAS, having provided all required public notices, held all required public hearings at which persons with an interest in the matter were provided an opportunity to be heard, and complying with other requirements in Section 43.0673 of the Texas Local Government Code, City Council finds it to be in the public interest to adopt this Ordinance annexing the Property, to approve a service agreement as required by state law, and to establish zoning regulations for the Property plus an additional tract which is located adjacent to said Property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. FINDINGS. City Council finds and declares the facts and recitations contained in the preamble of this Ordinance true and correct.

SECTION TWO. ANNEXATION. The property described and depicted in **Exhibit A** (the "Property") is annexed and incorporated into the corporate limits of the City of Kerrville, Texas, for all legal purposes. The Property is made up of two tracts consisting of approximate 15.925 and .651 acres, plus an existing portion of public right-of-way, consisting of approximately .274 acres, and known as Coronado Drive, and as more specifically described in **Exhibit B**.

SECTION THREE. City Council authorizes and directs the City Manager, or designee, to amend the City's official boundary map in accordance with the annexation taken in Section Two.

SECTION FOUR. PETITION FOR ANNEXATION. The petition for annexation concerning the Property is attached as **Exhibit C**, said petition, which triggered the process specified in Subchapter C-3, Chapter 43, Texas Local Government Code, authorizing the annexation of the Property. In addition and pursuant to Section 43.1056 of the Texas Local Government Code, the City has provided written notice to Kerr County of the annexation of the

right-of-way currently existing as Coronado Drive (\pm .274 acres), as depicted on the map found at **Exhibit A** and as more specifically described in **Exhibit B**.

SECTION FIVE. AGREEMENT REGARDING SERVICES. Pursuant to Section 43.0672 of the Texas Local Government Code, the City has negotiated and hereby enters into a Service Agreement (the “Agreement”) with the owner of land for the provision of services in the area. The Agreement is attached to this Ordinance as **Exhibit D**. Upon annexation of the Property, the City shall provide the Property with the municipal services set forth in the Agreement pursuant to the schedule set forth therein, such services making up the City’s full municipal services. The City shall have no obligation to provide services to the Property not listed in the Agreement.

SECTION SIX. ZONING.

A. Upon the adoption of this Ordinance, and in accordance with Section 60-37 of the City’s Zoning Code, the Property will be zoned as a Single-Family Residential Zoning District (R-1), which will allow the Property to be used in ways consistent with those land uses specified in that district.

B. The Zoning Code and the Official Zoning Map are amended to designate the following described property zoned as within a Single-Family Residential Zoning District (R-1):

Legal Description: Being approximately 1.499 acres out of Lot 61, Heights of Kerrville Subdivision, a subdivision, according to the plat filed Volume 8, Page 125 of the Kerr County real property records; and within the City of Kerrville, Kerr County, Texas; said tract more specifically described and depicted at Exhibit A.

SECTION SEVEN. AMENDMENT TO CITY BOUNDARY. The City Manager or designee is authorized and directed to amend the City’s Comprehensive Plan (*Kerrville 2050*), together with its *Future Land Use Map*, as necessary to make it consistent with the amendment(s) to the Zoning Code authorized by this Ordinance. Specifically, the Comprehensive Plan will be

revised to reflect that the Property is now "Neighborhood Residential", which change will match the adjacent residential development to the southwest.

SECTION EIGHT. EXHIBITS. All attached exhibits are incorporated herein as if fully included in the body of this Ordinance.

SECTION NINE. CUMULATIVE CLAUSE. The provisions of this Ordinance are to be cumulative of all Ordinances or parts of Ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION TEN. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION ELEVEN. PENALTY. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Article 1-1-7 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

SECTION TWELVE. PUBLICATION OF ORDINANCE. In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

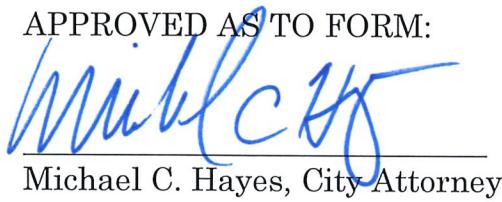
SECTION THIRTEEN. POST ANNEXATION ACTIONS. The City Manager or designee shall provide a certified copy of this Ordinance to the Texas Secretary of State, Kerr County, and Kerr Central Appraisal District and any other entity as may be required.

PASSED AND APPROVED ON FIRST READING, this _____ day of _____ A.D., 2022.

PASSED AND APPROVED ON SECOND READING, this the
____ day of _____ A.D., 2022.

Bill Blackburn, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary

**FIELD NOTE DESCRIPTION OF A 15.925 ACRE
BEING PART OF THAT CERTAIN 328.55 ACRE
PARCEL WITHIN THE FLORENTINE LARA
SURVEY No. 123, ABSTRACT No. 225,
KERR COUNTY, TEXAS**

Being a 15.925 acre parcel within that certain 328.55 acre tract of land situated in the Florentine Lara Survey No. 123, Abstract No. 225, Kerr County, Texas, being that same tract conveyed from TF-Hartman, LLC, a Texas limited liability company, and TF-Heights of Kerrville, LLC, a Texas limited liability company to Kerrville Heights, LLC, a Delaware limited liability company by a Special Warranty Deed executed the 3rd day of May, 2013, and recorded in Document No. 13-3157 of the Official Public Records of Kerr County, Texas; more particularly described by its metes and bounds as follows:

(NOTE: The following courses are based on an RTK/GNSS survey conducted on the ground, N.A.D.83 datum, Texas State Plane Coordinates, S. Central Zone reduced to horizontal ground distances expressed in U.S. Survey feet. Where record or deed courses differ from the surveyed values, the record value is shown in parenthesis)

BEGINNING at a $\frac{1}{2}$ inch diameter steel rod found at the base of a fence corner post marking the northeast corner of Lot 8, Block 8, Village Glen Subdivision recorded in Volume 6, Page 240, Official Public Records of Kerr County, Texas identical to the south-southeast corner of the herein described parcel;

THENCE westerly with the northerly line of Lots 8,7,6,5,4,3,2,1 Block 8, said Village Glen Subdivision the following courses each point marked with a found 1/2 inch diameter steel rod; N44°54'14"W, 278.76 feet;

N44°34'53"W, 93.63 feet;

N45°09'45"W, 185.65 feet;

N44°57'36"W, 92.94 feet and;

THENCE with the northerly line of Lot 1, Block 8, Village Glen Subdivision, N44°55'11"W, 104.00 feet to a 1/2 inch diameter steel rod with plastic cap stamped "Mansfield" found at the base of a fence corner post at the northerly terminus of the easterly Right-of-Way of Glen View Drive, a fifty (50) foot wide public street marking the northwest corner of Lot 1, Block 8 of said Village Glen Subdivision;

THENCE across the said northerly terminus of said Glenn View Drive, N44°55'12"W, 49.97 feet to a 5/8 inch diameter steel rod found at the base of a fence corner post in the northwest Right-of-Way line of said Glen View Drive marking the east corner of Lot 11, Block 7 of the Village Glen Subdivision;



TBPLS FIRM NO. 10194410
PHONE: 830.217.7100
WWW.WELLBORNENGINEERING.COM

631 WATER STREET
KERRVILLE, TX 78028

THENCE westerly and northwesterly along the north and northeast lines of Lots 11, 10, 9, 8, 7, and Lot 6, Block 7 of said Village Glen subdivision the following courses each point marked with 5/8 inch or 1/2 inch diameter steel rod;

N44°57'17"W, 133.42 feet;

N44°24'39"W, 28.00 feet ;

N19°46'39"W, 244.93 feet and;

THENCE continuing northwesterly, N19°46'06"W, 134.12 feet to a 1/2 inch diameter steel rod found marking the northwest corner of Lot 6, Block 7 of said subdivision, said point identical to the southerly most corner of Lot 9, The Heights of Kerrville according to the plat filed in Volume 8, Page 125, Official Public Records of Kerr County, Texas for the southwesterly most corner of the herein described parcel;

THENCE northeasterly with the southeasterly line of Lots 9, and 8, of said The Heights of Kerrville Subdivision, N07°01'42"E, 390.19 feet to a Cotton Picker Spindle found marking an angle point for Lot 8, of said The Heights of Kerrville Subdivision identical to the northwesterly most corner of the herein described parcel;

THENCE southeasterly along the southwest line of said Lot 8, S22°20'31"E, 304.19 feet to a 1/2 inch diameter steel rod with plastic cap stamped "Matkin Hoover" found marking an angle point in the south line of said Lot 8, for an angle point of the herein described parcel;

THENCE with the southerly line of Lots 8, and 7, of said Subdivision, S45°07'02"E, 700.25 feet to a 1/2 inch diameter steel rod found marking the southeasterly most corner of said Lot 7, of said Subdivision for an angle point in the boundary of the herein described parcel;

THENCE northerly with the south-southeasterly line of said Lot 7, N35°50'51"E, 165.15 feet to a 1/2 inch diameter steel rod with a plastic cap stamped "Matkin Hoover" found marking an angle point in the easterly line of said Lot 7 for an angle point in the boundary of the herein described parcel;

THENCE continuing northerly with the southeasterly line of said Lot 7, N49°54'05"E, 109.82 feet to a 1/2 inch diameter steel rod with a plastic cap stamped "Matkin Hoover" found marking the common corner of Lots 7 and 1, said Subdivision, for an angle point in the boundary of the herein described parcel;

THENCE S84°32'52"E, 114.28 feet to a 1/2 inch diameter steel rod with a plastic cap stamped "Matkin Hoover" found being an angle point of Lot 1, for an angle point in the boundary of the herein described parcel;

THENCE southeasterly with the southwest line of said Lot 1, S45°06'10"E, 384.67 feet to a 1/2 inch diameter steel rod with a plastic cap stamped "Matkin Hoover" found in the northwest Right-of-Way



TBPLS FIRM NO. 10194410
PHONE: 830.217.7100
WWW.WELLBORNENGINEERING.COM

631 WATER STREET
KERRVILLE, TX 78028

line of Coronado Drive, a sixty (60) foot wide public street marking a point of curvature on said Right-of-Way marking the northeasterly most corner of the herein described parcel;

THENCE southwesterly along and with the said northwesterly Right-of-Way line of Coronado Drive., 111.16 feet along the arc of a curve concave to the northwest through a central angle of 11°10'25" said curve having a radius of 570.00 feet and a chord of S39°35'00"W, 110.98 feet to a Cotton Picker Spindle found in the said northwest Right-of-Way of Coronado Drive;

THENCE continuing with the said Right-of-Way line of Coronado Drive, S44°52'22"W 19.52 feet along said northwest Right-of-Way of Coronado Drive to an unmarked point from which a 1/2 inch diameter steel rod bears S44°52'22"W, 5.08 feet.

THENCE over and across said Coronado Drive, N44°53'09"W, 60.05 feet to a 1/2 inch diameter steel rod found in the easterly Right-of-Way of said Coronado Drive from which a 1/2 inch diameter steel rod with plastic cap stamped "Matkin Hoover" found on the easterly Right-of-Way of said "Coronado Drive" bears N45°14'49"W, 19.44 feet;

THENCE southeasterly along the common line of Lots 59 and 61 The Heights of Kerrville as recorded in Volume 8 Page 125 Official Public Records of Kerr County, Texas, S44°52'03"E, 152.14 feet to a Cotton Picker Spindle found in the northwest line of Lot 13 Block 6 The Highlands Subdivision as recorded in Volume 2 Page 8 Official Public Records of Kerr County, Texas identical to the northeasterly corner of the herein described parcel;

THENCE southwesterly along the common line of Lots 13 and 12, Block 6 of said Highlands Subdivision, S45°12'39"W, 187.41 feet to a point in the approximate city limit line;

THENCE over and across said Lot 61 along the approximate city limit line, N44°15'00"W, 151.97 feet, to an unmarked point in the southeasterly Right-of-Way line of Coronado Drive from which a 1/2 inch steel rod bears S45°09'38"W, 178.97 feet;

THENCE westerly over and across said Coronado Drive, N45°15'00"W, 60.01 feet to an unmarked point in the westerly Right-of-Way line of Coronado Drive being the common line of said 328.55 ac parcel from which a 1/2 inch steel diameter rod found in the westerly Right-of-Way of Coronado Drive bears S45°11'20"W 179.50 feet;

THENCE continuing westerly departing the Right-of-Way line of said Coronado Drive, N44°15'00"W, 301.32 feet to an unmarked point for an angle point in the approximate city limit line;

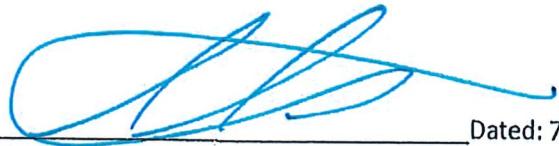
THENCE southerly along the city limit line, S45°21'00"W, 434.86 feet to the Point of Beginning the whole of which contains 19.315 acres more or less.



TBPLS FIRM NO. 10194410
PHONE: 830.217.7100
WWW.WELLBORNENGINEERING.COM

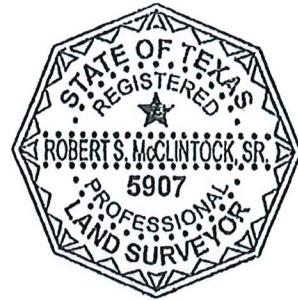
631 WATER STREET
KERRVILLE, TX 78028

Based upon a survey conducted on the ground
Under my direction and supervision July 9, 2021



Dated: 7/22/2021

R. Scott McClintock, Sr.
Registered Professional Land Surveyor
State of Texas
Registration No. 5907



WELLBORN
ENGINEERING &
SURVEYING

TBPLS FIRM NO. 10194410
PHONE: 830.217.7100
WWW.WELLBORNENGINEERING.COM

631 WATER STREET
KERRVILLE, TX 78028

**FIELD NOTE DESCRIPTION OF A 0.651 ACRE PARCEL
BEING A PART OF LOT 61
THE HEIGHTS OF KERRVILLE SUBDIVISION
ACCORDING TO THE PLAT FILED IN VOLUME 8, PAGE 125
OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS**

Being a 0.651 acre parcel of land in the Florentine Lara Survey No. 123, Abstract No. 225, Kerr County, Texas, being all of Lot 61 The Heights of Kerrville Subdivision, a subdivision of Kerr County, Texas of record in Volume 8, Page 125 Plat Records of Kerr County, Texas being that same tract conveyed from TF-Hartman, LLC, a Texas limited liability company, and TF-Heights of Kerrville, LLC, a Texas limited liability company to Kerrville Heights, LLC, a Delaware limited liability company, as recorded in Document No. 13-003157 of the Official Public Records of Kerr County, Texas; more particularly described by its metes and bounds as follows:

(NOTE: The following courses are based on an RTK/GNSS survey conducted on the ground, N.A.D.83 datum, Texas State Plane Coordinates, S. Central Zone reduced to horizontal ground distances expressed in U.S. Survey feet. Where record or deed courses differ from the surveyed values, the record value is shown in parenthesis)

BEGINNING at a 1/2 inch diameter steel rod found in the easterly Right-of-Way of "Coronado Drive" a 60 foot wide public right-of-way, the northwesterly corner of the herein described parcel from which a 1/2 inch diameter steel rod with plastic cap stamped "Matkin Hoover" found on the easterly Right-of-Way of said "Coronado Drive" bears N45°14'49"W, 19.44 feet;

THENCE southeasterly long the common line of Lots 59 and 61 The Heights of Kerrville as recorded in Volume 8 Page 125 Official Public Records of Kerr County, Texas, S44°5203E, 152.14 feet to a Cotton Picker Spindle found in the northwest line of Lot 13 Block 6 The Highlands Subdivision as recorded in Volume 2 Page 8 Official Public Records of Kerr County, Texas Identical to the northeasterly corner of the herein described parcel;

THENCE southwesterly along the common line of Lots 13 and 12 Block 6 of said Highlands Subdivision, S45°12'39"W, 187.41 feet to an unmarked point in the approximate city limit line;

THENCE over and across said Lot 61 along the approximate city limit line, N44°15'00"W, 151.97 feet, to a point in the southeasterly Right-of-Way line of said Coronado Drive;

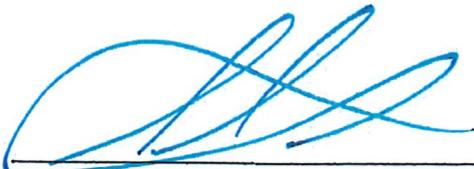
THENCE northeasterly along said Right-of-Way, N45°09'21"E, 185.77 feet to the **Point of Beginning** the whole of which contains 0.651 acres more or less.



TBPLS FIRM NO. 10194410
PHONE: 830.217.7100
WWW.WELLBORNENGINEERING.COM

631 WATER STREET
KERRVILLE, TX 78028

Based upon a survey conducted on the ground
Under my direction and supervision May 7, 2021



Dated: 08/09/2021

R. Scott McClintock, Sr.
Registered Professional Land Surveyor
State of Texas
Registration No. 5907



WELLBORN
ENGINEERING &
SURVEYING

TBPLS FIRM NO. 10194410
PHONE: 830.217.7100
WWW.WELLBORNENGINEERING.COM

631 WATER STREET
KERRVILLE, TX 78028

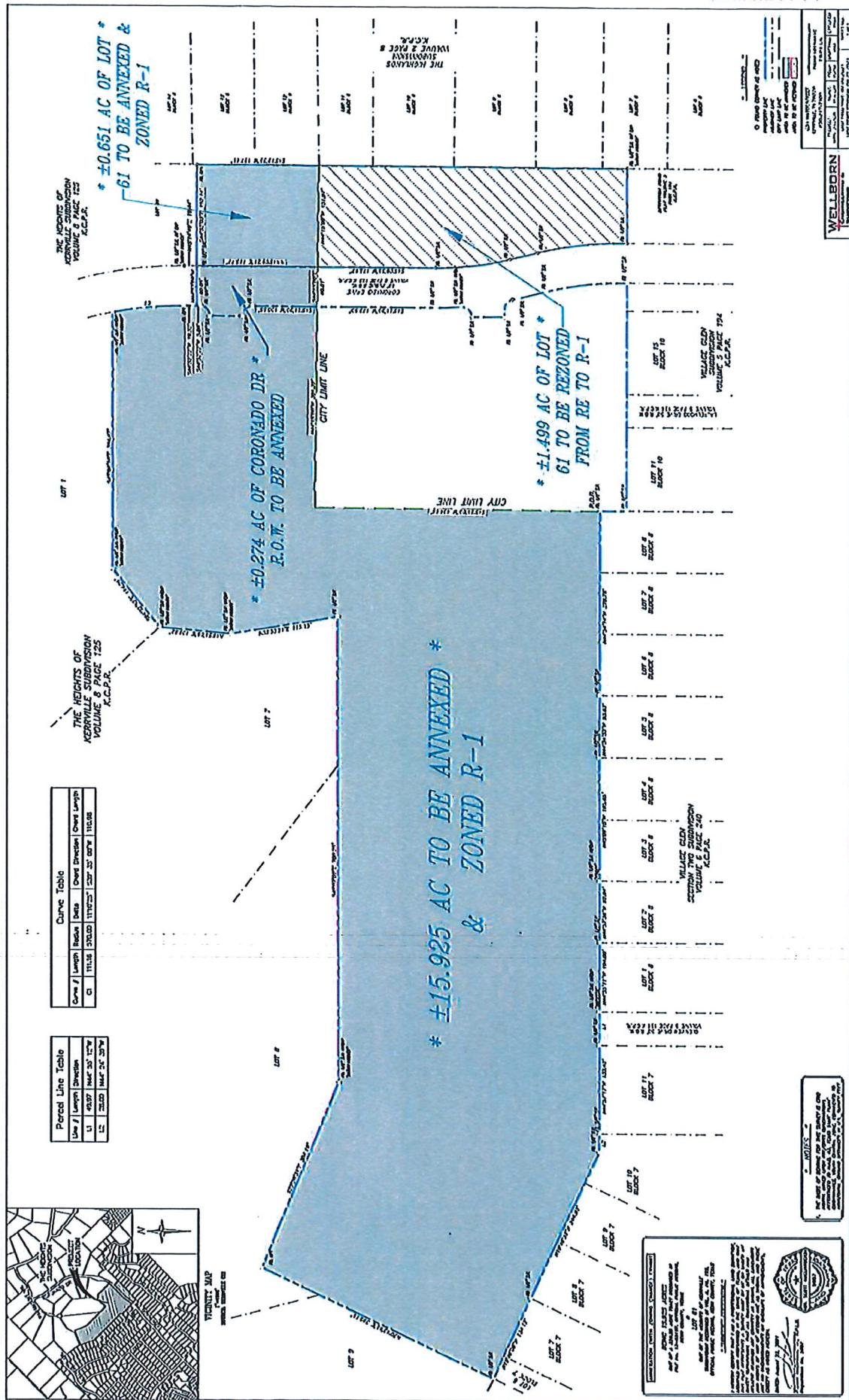
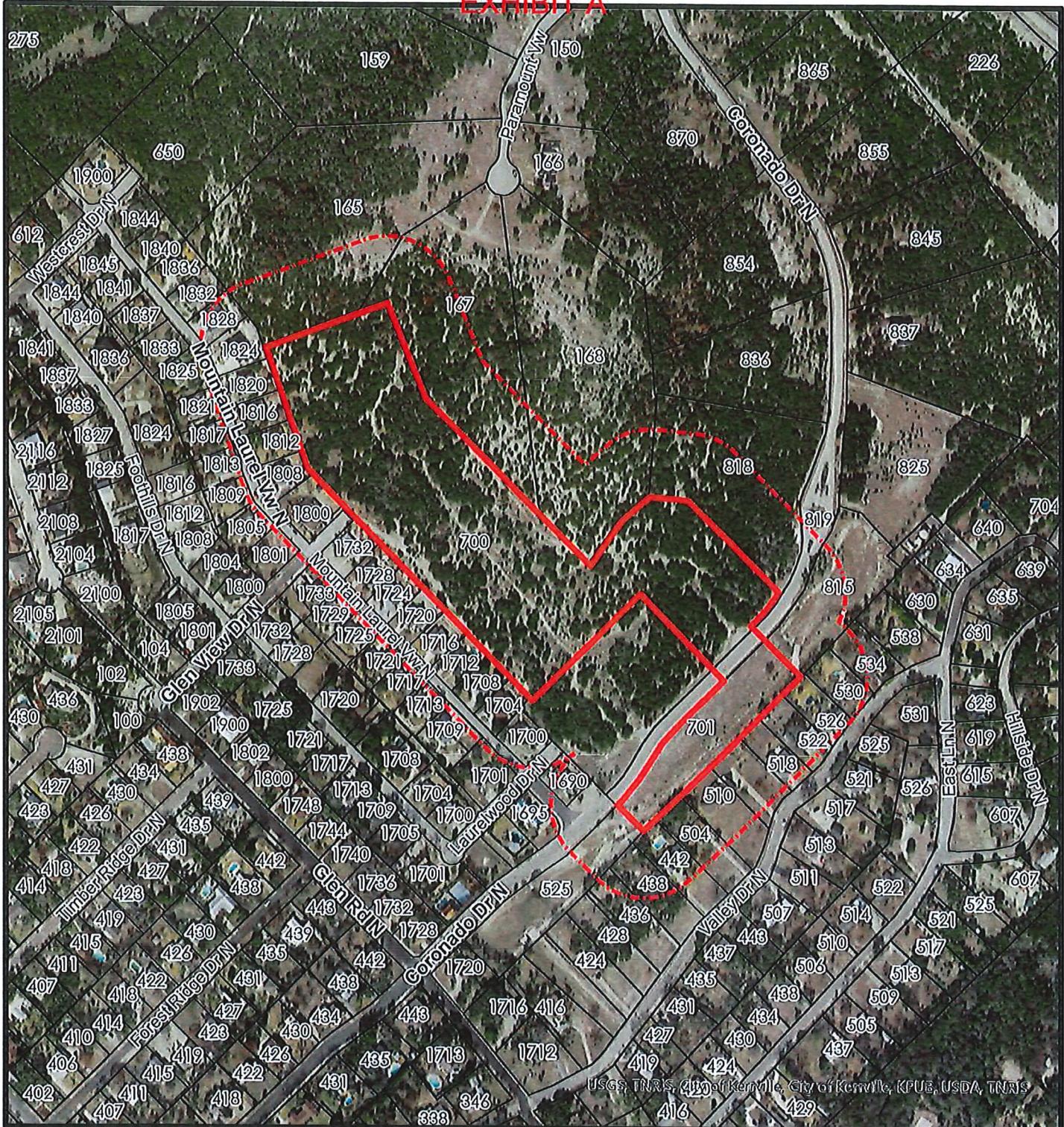


EXHIBIT A



Location Map

Case # PZ-2021-20

Location:
700 & 701 Coronado Drive

Legend

200' Notification Area
Subject Properties



0 150 300 600
Scale In Feet

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

**FIELD NOTE DESCRIPTION OF A 0.274 ACRE
BEING A PART OF A RIGHT-OF-WAY
DESIGNATED AS CORONADO DRIVE
THE HEIGHTS OF KERRVILLE SUBDIVISION
ACCORDING TO THE PLAT FILED IN VOLUME 8, PAGE 125
OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS**

Being a 0.274 acre parcel within that certain 328.55 acre tract of land situated in the Florentine Lara Survey No. 123, Abstract No. 225, Kerr County, Texas, being a part of Coronado Dr. a sixty (60) foot public Right-of-Way in The Heights of Kerrville Subdivision, a subdivision of Kerr County, Texas of record in Volume 8, Page 125 Plat Records of Kerr County, Texas being that same tract conveyed from TF-Hartman, LLC, a Texas limited liability company, and TF-Heights of Kerrville, LLC, a Texas limited liability company to Kerrville Heights, LLC, a Delaware limited liability company, as recorded in Document No. 13-003157 of the Official Public Records of Kerr County, Texas; more particularly described by its metes and bounds as follows:

(NOTE: The following courses are based on an RTK/GNSS survey conducted on the ground, N.A.D.83 datum, Texas State Plane Coordinates, S. Central Zone reduced to horizontal ground distances expressed in U.S. Survey feet. Where record or deed courses differ from the surveyed values, the record value is shown in parenthesis)

COMMENCING at a Cotton Picker Spindle found in the northwesterly Right-of-Way line of Coronado Drive, a sixty (60) foot wide public street, proceeding S44°52'22"W 19.52 feet along said northwest Right-of-Way of Coronado Drive to an unmarked point being **Point of Beginning** of the herein described tract;

THENCE continuing with the said Right-of-Way line of Coronado Drive, S44°52'22"W, 5.08 feet to a 1/2 inch diameter steel rod found in the Right-of-Way line of Coronado Dr. marking a point of curvature to the right;

THENCE continuing along and with said Right-of-Way, 23.44 feet along the arc of a curve concave to the north through a central angle of 89°32'02" said curve having a radius of 15.00 feet and a chord of S89°52'32"W, 21.13 feet to a 1/2 inch diameter steel rod found in the said northwest Right-of-Way of Coronado Drive;

THENCE following said Right-of-Way line of Coronado Drive, S45°20'26"W, 50.00 feet to a 1/2 inch diameter steel rod found marking the point of curvature to the right;

THENCE continuing with the Right-of-Way line of said Coronado Drive, 23.61 feet along the arc of a curve concave to the west through a central angle of 90°10'08" said curve having a radius of 15.00 feet



TBPLS FIRM NO. 10194410
PHONE: 830.217.7100
WWW.WELLBORNENGINEERING.COM

631 WATER STREET
KERRVILLE, TX 78028

and a chord of S00°07'32"E, 21.24 feet to a 1/2 inch diameter steel rod found at a point of tangency in the said northwest Right-of-Way of Coronado Drive;

THENCE progressing with said Right-of-Way line of said Coronado Dr., S45°11'20"W, 100.05 feet to an unmarked point in the Right-of-Way line of Coronado Dr. at the approximate city limit line;

THENCE over and across said Coronado Drive, S45°15'00"E, 60.01 feet to a point in the easterly Right-of-Way line of Coronado Drive Identical to the southwesterly line of Lot 61, The Heights of Kerrville according to the plat filed in Volume 8, Page 125, Official Public Records of Kerr County, Texas;

THENCE northeasterly with Coronado Drive, N45°09'47"E, 185.77 feet to a 1/2 inch diameter steel rod found in the southeast Right-of-Way of Coronado Drive for the southeast corner said of Lot 59, Identical to the northerly most corner of said Lot 61 The Heights of Kerrville identical to the east corner of the herein described tract;

THENCE over and across said Coronado Drive, N44°53'09"W, 60.05 feet to the **Point of Beginning** the whole of which contains 0.274 acres more or less.

Based upon a survey conducted on the ground
Under my direction and supervision May 7, 2021



Dated: 08/09/2021

R. Scott McClintock, Sr.
Registered Professional Land Surveyor
State of Texas
Registration No. 5907



TBPLS FIRM NO. 10194410
PHONE: 830.217.7100
WWW.WELLBORNENGINEERING.COM

631 WATER STREET
KERRVILLE, TX 78028

PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR OF THE GOVERNING BODY OF KERRVILLE, TEXAS:

The undersigned owners of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby waive the requirement to be offered a development agreement pursuant to Section 43.016 of the Texas Local Government Code (where applicable); and petition your honorable Body to extend the present City limits so as to include as part of the City of Kerrville, Texas, the following described territory, to wit:

See Exhibits A & B

NOTE: Exhibits are not attached to this document

We certify that the above described tract of land is contiguous and adjacent to the City of Kerrville, Texas, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

Signed: John Yell

THE STATE OF TEXAS

COUNTY OF KERR Dallas

BEFORE ME, the undersigned authority, on this day personally appeared Scott Koenick, known to me to be the person(s) whose name(s) is subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 16th day of July, 2022.

Elaine M. Noel
Notary Public in and for
Kerr County, Texas

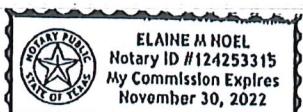


EXHIBIT D

SERVICE AGREEMENT

This Services Agreement (the "Agreement") is entered into between the **CITY OF KERRVILLE, TX**, a Texas Home-Rule Municipal Corporation (the "City") and **KERRVILLE HEIGHTS, LLC** (the "Owner"). The City and the Owner are collectively referred to as the "Parties".

WHEREAS, pursuant to a lawfully submitted petition for annexation from Owner, City intends to institute annexation proceedings for a tract(s) of land described more fully hereinafter (referred to herein as the "Subject Property"); and,

WHEREAS, *Section 43.0672 of the Tex. Loc. Gov't Code* requires a written agreement for the provision of services in the area first be entered into between City and Owner of the Subject Property; and,

WHEREAS, City and Owner agree each will benefit from the City's development restrictions and zoning requirements, as well as other municipal services provided by City which are good and valuable consideration for the Owner to request annexation and for the Parties to enter into this Agreement for City to provide the listed services upon annexation and in accordance with this Agreement; and,

WHEREAS, the Parties find that, to date, the statutory requirements have been satisfied and City is authorized by *Chapter 43, Tex. Loc. Gov't. Code*, to annex the Subject Property into the City;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

Section 1. Property Description. The legal description of the Subject Property is as set forth in **Exhibit A**, attached hereto and incorporated herein.

Section 2. Services. City will provide the services listed and specified in **Exhibit B**, attached hereto and incorporated herein, for the Subject Property on the effective date of annexation of the Subject Property.

Section 3. Owner's Obligations. Owner shall not file for approval a subdivision plat, site plan, or related development document with City for the Subject Property or portion thereof; or construct, or allow to be constructed, any building or structure on the Subject Property or portion thereof until City has obtained authorization.

Section 4. Term. The term of this Agreement (the "Term") is ten (10) years from the Effective Date.

Section 5. Vested Rights Claims. This Agreement is not a permit for the purposes of Chapter 245, Texas Local Government Code.

Section 6. Authorization. The Parties and officers signing this Agreement warrant to be duly authorized to execute this Agreement.

Section 7. Covenant Running with the Land. This Agreement shall run with the Subject Property, and this Agreement may be recorded in the Official Public Records of Kerr County, Texas. Owner and City acknowledge and agree that this Agreement is binding upon City and Owner and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.

Section 8. Severability. If any provision of this Agreement is held by a court of competent and final jurisdiction to be invalid or unenforceable for any reason, then the remainder of the Agreement shall be deemed to be valid and enforceable as if the invalid portion had not been included.

Section 9. Amendment and Modifications. This Agreement may be amended or modified only in a written instrument that is executed by both City and Owner after it has been authorized by the City Council.

Section 10. Gender, Number, and Headings. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

Section 11. Governmental Immunity; Defenses. Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either City or Owner, including governmental immunity, nor to create any legal rights or claims on behalf of any third party.

Section 12. Enforcement; Waiver. This Agreement may be enforced by Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

Section 13. Effect of Future Laws. No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement.

Section 14. Venue and Applicable Law. Venue for this Agreement shall be in Kerr County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas.

Section 15. Counterparts. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

Section 16. Effective Date. This Agreement shall be in full force and effect as of the date of approval of this Agreement by the City Council, from and after its execution by the parties.

Section 17. Sections to Survive Termination. This Agreement shall survive its termination to the extent necessary for the implementation of the provisions related to water service to the Subject Property by the City.

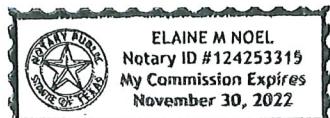
EXECUTED this 22nd day of December, 2021.

KERRVILLE HEIGHTS, LLC

Scott Kocurek
Manager

STATE OF TEXAS
COUNTY OF DALLAS

This instrument was acknowledged before me on the 22nd day of December, 2021, by Scott Kocurek, the Manager, of Kerrville Heights, LLC.



Notary Public, State of Texas

CITY OF KERRVILLE, TX

E.A. Hoppe, City Manager

This instrument was acknowledged before me on the _____ day of _____, 2021, by E.A. Hoppe, City Manager, City of Kerrville, Texas.

Notary Public, State of Texas

Upon Recording, Return to:

Upon Recording, Return to:
City of Kerrville, Texas
City Secretary
City Hall, 701 Main Street
Kerrville, Texas 78028

EXHIBIT B
ANNEXATION SERVICE PLAN

- I. INTRODUCTION:** This service plan for the extension of municipal services to the area to be annexed was developed in accordance with state law. Municipal facilities and services to the annexed area described above will be provided or made available on behalf of the City of Kerrville, Texas (“City”) at the levels and schedule specified below.
- II. UNIFORM LEVEL OF SERVICES:** The City shall provide services by any of the methods by which it extends the services to any other area of the municipality, based upon differing characteristics of topography, land use, and population density, which may be considered a sufficient basis for providing differing levels of service.
- III. SPECIFIC FINDINGS:** City Council finds and determines that this Service Plan, as provided below, will provide full municipal services to the annexation area both adequate to serve the annexation area and commensurate with the levels of services provided in other parts of the City with the same or similar topography, land use, and population density, and it will not provide a lower level of service in the annexation area than were in existence at the time immediately preceding the effective date of annexation.

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Code Enforcement	The provisions of Code Enforcement services, including the application and enforcement of building, electrical, plumbing, and other related code requirements adopted by the City of Kerrville shall be made immediately to the area upon annexation. The preparation of a zoning plan shall serve as a basis for the zoning of land following annexation. The adoption of the zoning plan shall be in accordance with the procedures of the City of Kerrville’s Zoning Ordinance.	Immediately following annexation, zoning to be concurrent with annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Fire Protection and Emergency Medical Services (EMS)	Fire protection and emergency medical services will be provided to the annexation area. The City will serve the annexation area from existing fire stations closest to the area of annexation. Emergency dispatch assignment of Fire Services resources to the annexation area would be the same as currently provided in areas of similar land use and population within the City.	Immediately following annexation
Fire Prevention	The services of the City of Kerrville Fire Marshall shall be provided to the area.	Immediately following annexation.
Library	Residents of the area, if any, will continue to be entitled to utilize all City of Kerrville Library facilities.	Immediately following annexation.
Parks and Recreation Facilities	The City will maintain park and recreation facilities located within the annexation area, if any, on the effective date of annexation on the same basis and at the same level as similar facilities are maintained throughout the City.	Immediately following annexation
Police Protection	Police Services will provide protection and law enforcement services to the annexation area. The level of service will be at the same level as currently provided in areas of similar land use and population within the City. These services include the following: 1) regular patrol of the area, 2) handling of complaints and incidents, 3) traffic enforcement, and 4) special units, such as criminal investigations, narcotics, crime prevention, neighborhood services, and special weapons and tactics.	Immediately following annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Maintenance of Existing Roads & Streets	<p>The City's Public Works Department will maintain existing roads and streets, drainage, and regulatory signs on the effective date of annexation. The same basis and level of services currently provided throughout the City will be adhered to as follows:</p> <ol style="list-style-type: none"> 1. Emergency maintenance of streets to include repair of hazardous potholes, ice and snow monitoring of major thoroughfares necessary for traffic flow. 2. Routine maintenance of public streets and rights-of-way performed within the City. 3. Street sweeping services may occur based upon need and funding. 4. Installation and maintenance of traffic signs, street markings, and other traffic control devices as the need is established by appropriate study and traffic standards. Private streets, including ingress/egress easements, access easements, common areas, common driveways and anything else which has not been specifically dedicated and accepted as public right-of-way, will not be maintained by the City. Public streets will be included in the City's preventive maintenance program. Preventive maintenance projects are prioritized and scheduled based on a variety of factors, including surface condition, transversibility, age, traffic volume, density of dwellings per block, adjacent street conditions and available funding. Any necessary rehabilitation or reconstruction will be considered on a citywide priority basis. 	Immediately following annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Solid Waste Collection	Solid Waste collection to the annexation area will be provided on the same basis and at the same level as provided throughout the City, in accordance with applicable law.	Immediately following annexation
Traffic Engineering	Traffic control devices and street markers shall be installed where deemed necessary by the city street department, except as provided by the Texas Department of Transportation.	Immediately following annexation
Water Service	The City will provide for the maintenance of City-owned public water lines within the annexation area provided that the area is within the City's Certificate of Convenience and Necessity area as determined by the Texas Commission on Environmental Quality (TCEQ) beginning on the effective date of the annexation. Water service is provided at the same level as currently provided in areas of similar topography, land use, and population within the City. The City's policy that water extensions are the responsibility of the developer of property will be applied in this area.	As the property develops

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Wastewater Service	<p>The City will provide for the maintenance of sanitary sewer lines within the annexation area provided that the area is within the City's Certificate of Convenience and Necessity area as determined by the Texas Commission on Environmental Quality (TCEQ) beginning on the effective date of the annexation. Sanitary sewer service is provided at the same level as currently provided in areas of similar topography, land use, and population within the City. The City's policy that sanitary sewer extensions are the responsibility of the developer of property will be applied to this area. Maintenance of all parts of the sewer system will begin as those parts are put into service. The sewer system will be maintained with the same frequency and level of effort as comparable parts of the system in other parts of the City.</p>	As the property develops
Provision for Other City Services	<p>Other City services that may be provided by the City such as planning, inspection, code enforcement, animal control, library, parks and recreation, municipal court, and general administration will be made available on the same basis and at the same level as provided throughout the City.</p>	Immediately following annexation



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Ordinance No. 2022-04. An Ordinance annexing a tract of land into the Corporate Limits of the City of Kerrville, Texas; such property making up approximately 6.0 acres and generally located southeast of and adjacent to Holdsworth Drive, and a portion of which connects to Paschal Avenue N.; more commonly known 253 Holdsworth Dr.; such property more specifically described in the Ordinance and being located within the extraterritorial jurisdiction of and adjacent to the City Limits; adopting a Service Agreement; establishing the zoning for the annexed property as a Multi-Family Residential (R-3) Zoning District; and providing other matters relating to this subject.

AGENDA DATE OF: January 11, 2022 **DATE** Dec 14, 2021
SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Ord 2022-04 Annex Zone change 253 Holdsworth.pdf](#)

Kerrville 2050 Item?	Yes
Key Priority Area	H - Housing
Guiding Principle	H1. Provide a diverse range of housing options to meet the needs and desires of all age groups, income levels, and lifestyles
Action Item	H2.9 - Ensure that existing City codes, including zoning and subdivision ordinances and the zoning map, are consistent with and support Kerrville 2050

SUMMARY STATEMENT:

Proposal

An ordinance to annex into the City of Kerrville's incorporated limits with a zoning classification of R-3 Multifamily Residential District the following parcel: 6 acres of land located in the C. Self Survey No. 626, Abstract No. 325 and the John Young Survey No. 118 Abstract No. 376, Kerr County, Texas; and more commonly known as 253 Holdsworth Drive, Kerrville, TX 78028. (Case No. PZ-2021-30)

Procedural Requirements

The City, in accordance with state law, mailed 11 letters on 11/18/2021 to adjacent

property owners. The City published a similar notice in the Kerrville Daily Times on 11/11/2021.

At the time of drafting this agenda bill, Development Services has received no comments.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: N/A County/ETJ

Existing Land Use: Vacant Land

Direction: North

Current Zoning: R-2 and vacant ETJ land

Existing Land Uses: Single-family residential and vacant land

Direction: East & South

Current Zoning: R-3

Existing Land Uses: multi-family residential

Consistency with the Kerrville 2050 Comprehensive Plan (“Comp Plan”):

The subject property is within the Strategic Catalyst Area 5. This catalyst area is anchored by Kerrville Sports Complex. The surrounding area is designated as a blend of Estate Residential, Neighborhood Residential, Preservation Residential, Transitional Residential, Community Commercial, Regional Commercial, Entertainment Mixed Use.

Thoroughfare Plan:

The subject property is located on Holdsworth Drive (a minor arterial) and also has access to Pascal Avenue (a collector), as required for multi-family developments.

Traffic Impact:

Future traffic impacts will be reviewed through the TIA Worksheet through the development and subdivision of this property.

Parking:

All off-street parking requirements will be met through final project design and approval.

Case Summary:

The applicant is requesting that the City annex the property with a zoning of R-3 Multifamily Residential.

Recommendation:

City Council approved a resolution of support for this project in 2021 (Resolution 11-2021) for the TDHCA Tax Credit application process. This project has been awarded the TDHCA Tax Credit.

Because the request is consistent with the adjacent development and the objectives of the Kerrville 2050 Plan, staff recommends annexation and the zoning request.

On December 2nd, the Planning and Zoning Commission recommended approval of the annexation and zoning request with a unanimous vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2022-04, on first reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-04**

AN ORDINANCE ANNEXING A TRACT OF LAND INTO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS; SUCH PROPERTY MAKING UP APPROXIMATELY 6.0 ACRES AND GENERALLY LOCATED SOUTHEAST OF AND ADJACENT TO HOLDSWORTH DRIVE, AND A PORTION OF WHICH CONNECTS TO PASCHAL AVE. N.; MORE COMMONLY KNOWN AS 253 HOLDSWORTH DR.; SUCH PROPERTY MORE SPECIFICALLY DESCRIBED IN THIS ORDINANCE AND BEING LOCATED WITHIN THE EXTRATERRITORIAL JURISDICTION OF AND ADJACENT TO THE CITY LIMITS; ADOPTING A SERVICE AGREEMENT; ESTABLISHING THE ZONING FOR THE ANNEXED PROPERTY AS A MULTIFAMILY RESIDENTIAL (R-3) ZONING DISTRICT; AND PROVIDING OTHER MATTERS RELATING TO THIS SUBJECT

WHEREAS, an owner of land has requested annexation by the City of Kerrville, Texas (“City”), pursuant to Local Government Code Section 43.0671; and

WHEREAS, the land to be annexed makes up a total of approximately 6.0 acres, as more specifically described below (the “Property”); and

WHEREAS, the Property lies within the extraterritorial jurisdiction of the City and adjacent to the City’s limits; and

WHEREAS, in conjunction with the approval of this Ordinance, City Council also approves a service agreement for the Property in accordance with Section 43.0672 of the Texas Local Government Code; and

WHEREAS, Section 60-37 of the City’s Zoning Code creates procedures for initial zoning of newly annexed areas; and

WHEREAS, having provided all required public notices, held all required public hearings at which persons with an interest in the matter were provided an opportunity to be heard, and complying with other requirements in Section 43.0673 of the Texas Local Government Code, City Council finds it to be in the public interest to adopt this Ordinance annexing the Property, to

approve a service agreement as required by state law, and to establish zoning regulations for the Property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. FINDINGS. City Council finds and declares the facts and recitations contained in the preamble of this Ordinance true and correct.

SECTION TWO. ANNEXATION. The property described and depicted in **Exhibit A** (the “Property”) is annexed and incorporated into the corporate limits of the City of Kerrville, Texas, for all legal purposes.

SECTION THREE. AMENDMENT TO CITY BOUNDARY. City Council authorizes and directs the City Manager, or designee, to amend the City’s official boundary map in accordance with the annexation taken in Section Two.

SECTION FOUR. PETITION FOR ANNEXATION. The petition for annexation concerning the Property is attached as **Exhibit B** and incorporated herein by reference, said petition, which triggered the process specified in Subchapter C-3, Chapter 43, Texas Local Government Code, authorizing the annexation of the Property.

SECTION FIVE. AGREEMENT REGARDING SERVICES. Pursuant to Section 43.0672 of the Texas Local Government Code, the City has negotiated and hereby enters into a Service Agreement (the “Agreement”) with the owner of land for the provision of services in the area. The Agreement is attached to this Ordinance as **Exhibit C** and by this reference is incorporated into it. Upon annexation of the Property, the City shall provide the Property with the municipal services set forth in the Agreement pursuant to the schedule set forth therein, such services making up the City’s full municipal services. The City shall have no obligation to provide services to the Property not listed in the Agreement.

SECTION SIX. ZONING. Upon the adoption of this Ordinance, and in accordance with Section 60-37 of the City’s Zoning Code, the Property will be zoned as a Multifamily Residential Zoning District (R-3), which will authorize such property to be used in ways consistent with those land uses specified in that district.

SECTION SEVEN. CUMULATIVE CLAUSE. The provisions of this Ordinance are to be cumulative of all Ordinances or parts of Ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION EIGHT. PUBLICATION OF ORDINANCE. In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

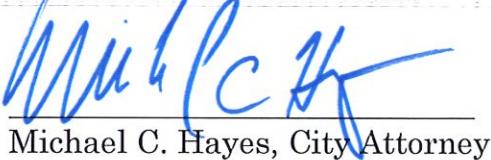
SECTION NINE. POST ANNEXATION ACTIONS. The City Manager or designee shall provide a certified copy of this Ordinance to the Texas Secretary of State, Kerr County, and Kerr Central Appraisal District and any other entity as may be required.

PASSED AND APPROVED ON FIRST READING, this the _____ day of _____ A.D., 2022.

PASSED AND APPROVED ON SECOND READING, this the _____ day of _____ A.D., 2022.

Bill Blackburn, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2021-30

Location:

6-acre tract of land located in
the C. Self Survey 626 Abstract 325 and the
John Young Survey 118 Abstract 376

Legend

200' Notification Area
Subject Properties



0 75 150 300

Scale In Feet

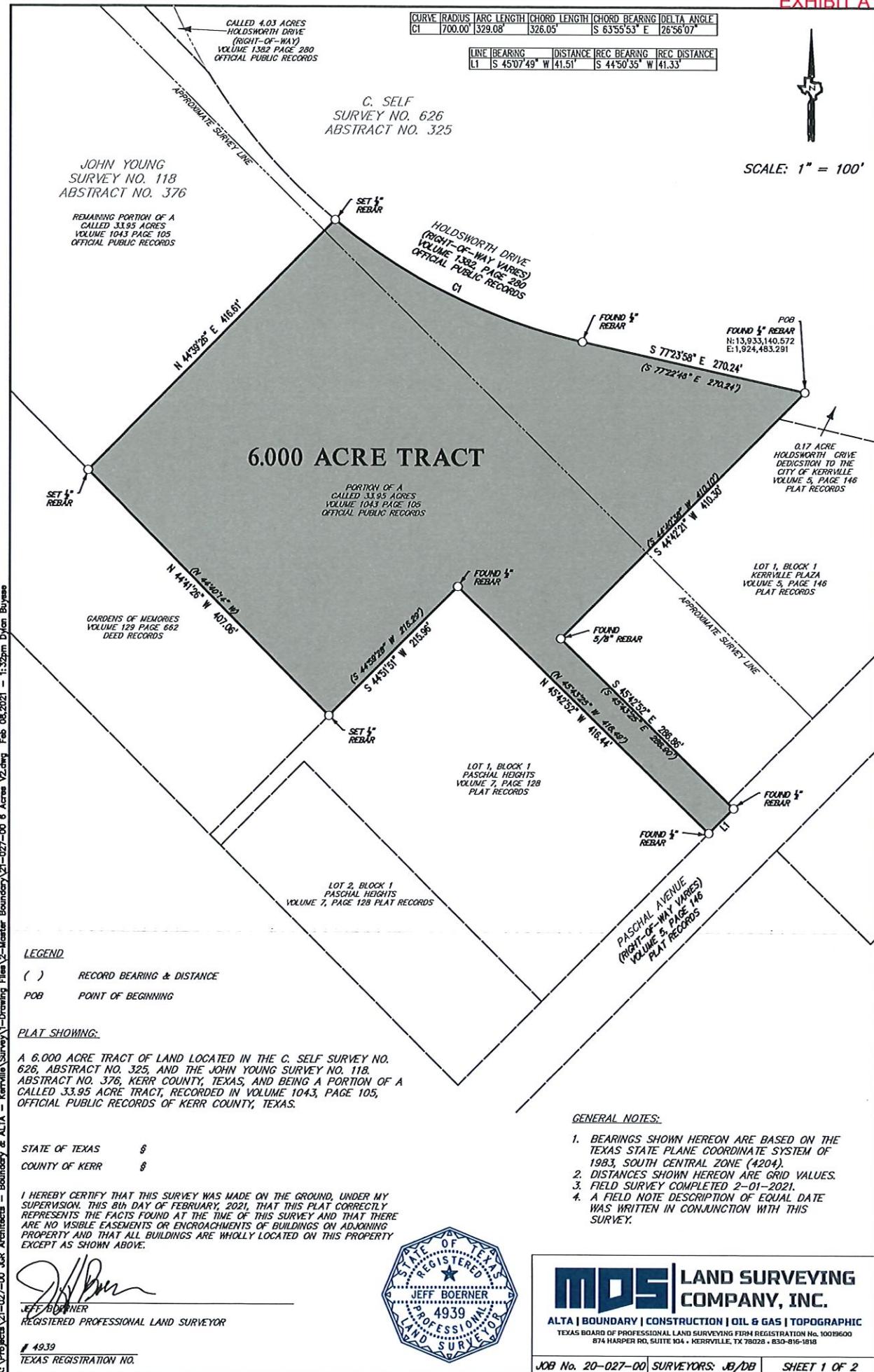


EXHIBIT A

Continuation of Schedule A

GF No. 2070240-COM

4. Legal description of land:***See Schedule C for requirements

Being that certain tract of land stated to contain 6 acres, more or less, out of certain tract of land stated to contain 33.95 acres, more or less, being out of Kerr County, Texas, as more particularly described on Exhibit A in Deed dated December 10, 1999, recorded in Volume 1043, Page 105, Real Property Records, Kerr County, Texas, executed by Tommy A. Brewster, Successor Trustee of the Amelang Children Trust, Earlene Gelsinger Neeley, Adele Amelang Seger, Andrew Amelang, and Julia Amelang Brewster, to GSA Partners, a Texas general partnership, and being out of that certain tract of land stated to contain 1.51 acres, more or less, being out of Kerr County, Texas, as more particularly described on Exhibit A in Deed dated August 25, 2004, recorded in Volume 1380, Page 320, Real Property Records, Kerr County, Texas, executed by Noratco, Inc., a Texas corporation, to GSA Partners, a Texas general partnership, as said 6 acres is generally located on Exhibit A attached hereto and incorporated herein.***

***Description is for general location purposes only and is not sufficient for policy issuance. See Schedule C for requirements.

Note: The company is prohibited under current regulations from insuring the amount of acreage within the insured parcel of land. Neither this commitment nor any policy issued pursuant hereto shall include insurance as to the amount of land contained within the insured parcel.

PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR OF THE GOVERNING BODY OF KERRVILLE, TEXAS:

The undersigned owners of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby [if applicable: waive the requirement to be offered a development agreement pursuant to Section 43.016, and] petition your honorable Body to extend the present city limits so as to include as part of the City of Kerrville, Texas, the following described territory, to wit:

See Attached Survey for 6 Acre Tract On Holdsworth Drive

We certify that the above described tract of land is contiguous and adjacent to the City of KERRVILLE, Texas, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

Signed: Jud Abel

Signed: _____

Signed: _____

THE STATE OF TEXAS

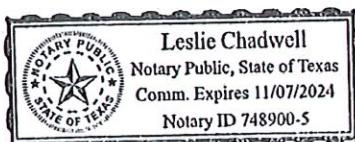
COUNTY OF HARRIS

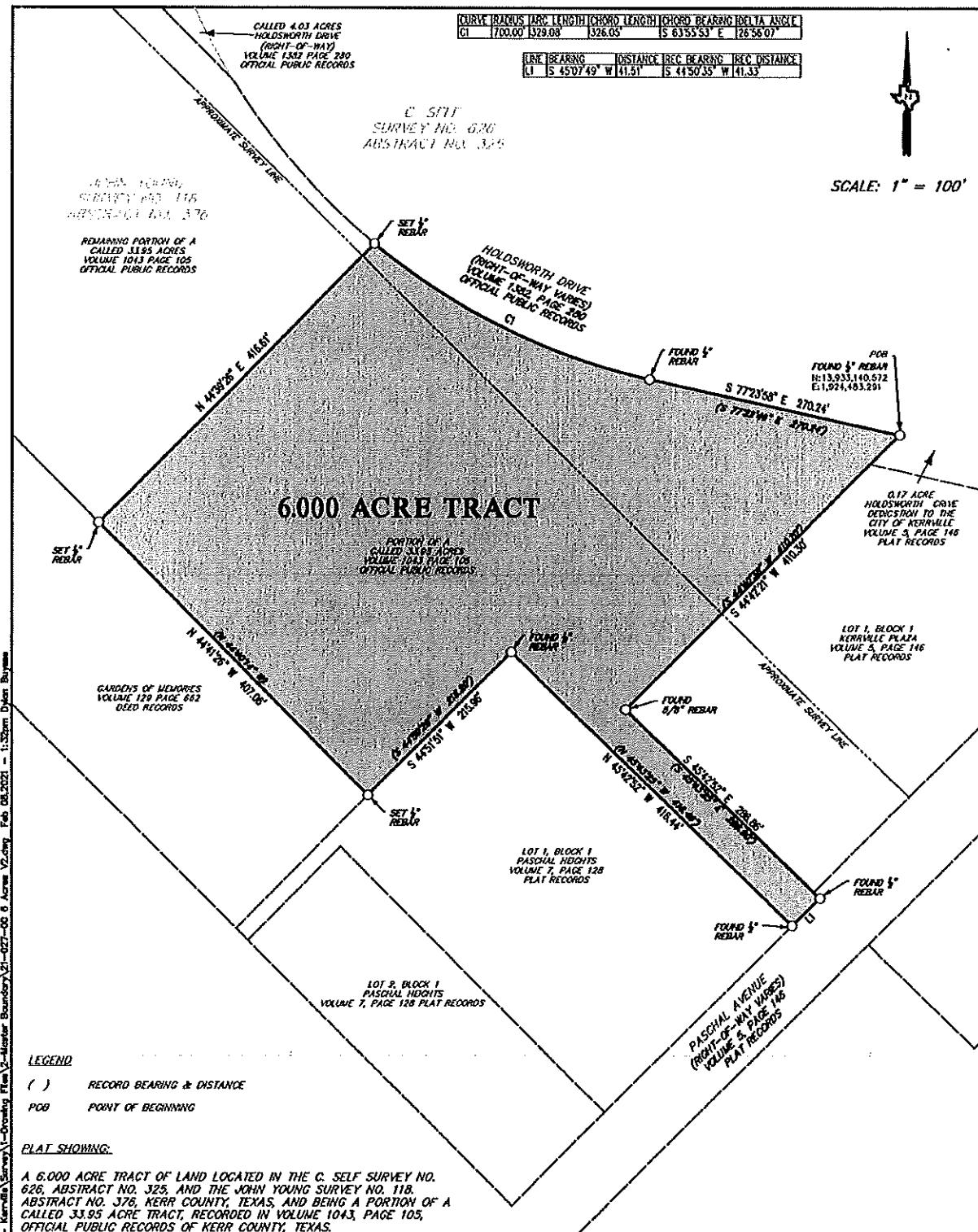
BEFORE ME, the undersigned authority, on this day personally appeared Jud Abel, and _____, known to me to be the persons whose names are subscribed to the foregoing instrument and each acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 8th day of OCTOBER, 2021.

ccj Abel

Notary Public in and for
HARRIS County, Texas.





LEGENDA

() RECORD BEARING & DISTANCE
POB POINT OF BEGINNING

PLAT SHOWING

A 6,000 ACRE TRACT OF LAND LOCATED IN THE C. SELF SURVEY NO. 626, ABSTRACT NO. 325, AND THE JOHN YOUNG SURVEY NO. 118, ABSTRACT NO. 372, KERR COUNTY, TEXAS, AND BEING A PORTION OF A CALLED 33.95 ACRE TRACT, RECORDED IN VOLUME 1043, PAGE 105, OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS.

STATE OF TEXAS

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND, UNDER MY SUPERVISION, THIS 26th DAY OF FEBRUARY, 2021, THAT THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THIS SURVEY AND THAT THERE ARE NO USABLE EASEMENTS OR ENCROACHMENTS OF THIS SURVEY ON ADJACENT PROPERTY AND THAT ALL BUILDINGS ARE WHOLLY LOCATED ON THIS PROPERTY EXCEPT AS SHOWN ABOVE.

JEFF BORRNER
REGISTERED PROFESSIONAL LAND SURVEYOR

4939
TEXAS REGISTRATION NO.



The logo for MDS Land Surveying Company, Inc. It features the letters 'MDS' in a large, bold, black, blocky font. To the right of 'MDS' is a vertical black bar. To the right of the bar, the words 'LAND SURVEYING' are stacked on top of 'COMPANY, INC.' in a smaller, black, sans-serif font.

ALTA | BOUNDARY | CONSTRUCTION | OIL & GAS | TOPOGRAPHIC
TEXAS BOARD OF PROFESSIONAL LAND SURVEYING FIRMS REGISTRATION NO. 10019500
876 HARPER RD, SUITE 104 • KILLEEN, TX 76528 • 830-266-1418

JOB NO. 20-027-00 SURVEYORS: JB/DB SHEET 1 OF 2

7 NO. 20-027-00 SURVEYORS: J.B./DB

SHEET 1 OF 2

SERVICE AGREEMENT

This Services Agreement (the "Agreement") is entered into between the **CITY OF KERRVILLE, TX**, a Texas Home-Rule Municipal Corporation (the "City") and _____ (the "Owner"). The City and the Owner are collectively referred to as the Parties.

WHEREAS, pursuant to a lawfully submitted petition for annexation from Owner, City intends to institute annexation proceedings for a tract(s) of land described more fully hereinafter (referred to herein as the "Subject Property"); and,

WHEREAS, *Section 43.0672 of the Tex. Loc. Gov't Code* requires a written agreement for the provision of services in the area first be entered into between City and Owner of the Subject Property; and,

WHEREAS, City and Owner agree each will benefit from the City's development restrictions and zoning requirements, as well as other municipal services provided by City which are good and valuable consideration for the Owner to request annexation and for the Parties to enter into this Agreement for City to provide the listed services upon annexation and in accordance with this Agreement; and,

WHEREAS, it is found that the statutory requirements have been satisfied and City is authorized by *Chapter 43, Tex. Loc. Gov't. Code*, to annex the Subject Property into the City;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

Section 1. Property Description. The legal description of the Subject Property is as set forth in **Exhibit A**, attached hereto and incorporated herein.

Section 2. Services. City will provide the services listed and specified in **Exhibit B**, attached hereto and incorporated herein, for the Subject Property on the effective date of annexation of the Subject Property.

Section 3. Owner's Obligations. Owner shall not file for approval a subdivision plat, site plan, or related development document with City for the Subject Property or portion thereof; or construct, or allow to be constructed, any building or structure on the Subject Property or portion thereof until City has obtained authorization.

Section 4. Term. The term of this Agreement (the "Term") is ten (10) years from the Effective Date.

Section 5. Vested Rights Claims. This Agreement is not a permit for the purposes of Chapter 245, Texas Local Government Code.

Section 6. Authorization. All parties and officers signing this Agreement warrant to be duly authorized to execute this Agreement.

Section 7. Covenant Running with the Land. This Agreement shall run with the Subject Property, and this Agreement shall be recorded in the Official Public Records of Kerr County, Texas. Owner and City acknowledge and agree that this Agreement is binding upon City and Owner and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.

Section 8. Severability. If any provision of this Agreement is held by a court of competent and final jurisdiction to be invalid or unenforceable for any reason, then the remainder of the Agreement shall be deemed to be valid and enforceable as if the invalid portion had not been included.

Section 9. Amendment and Modifications. This Agreement may be amended or modified only in a written instrument that is executed by both City and Owner after it has been authorized by the City Council.

Section 10. Gender, Number, and Headings. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

Section 11. Governmental Immunity; Defenses. Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either City or Owner, including governmental immunity, nor to create any legal rights or claims on behalf of any third party.

Section 12. Enforcement; Waiver. This Agreement may be enforced by Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

Section 13. Effect of Future Laws. No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement.

Section 14. Venue and Applicable Law. Venue for this Agreement shall be in Kerr County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas.

Section 15. Counterparts. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

Section 16. Effective Date. This Agreement shall be in full force and effect as of the date of approval of this Agreement by the City Council, from and after its execution by the parties.

Section 17. Sections to Survive Termination. This Agreement shall survive its termination to the extent necessary for the implementation of the provisions related to water service to the Subject Property by the City.

EXECUTED this ____ day of _____, 2021.

OWNER (Entity Name)

_____ (printed name),
_____ (title)

STATE OF TEXAS
COUNTY OF KERR

This instrument was acknowledged before me on the _____ day of
_____, 2022, by _____, the _____, of
_____.

Notary Public, State of Texas

CITY OF KERRVILLE, TX

E.A. Hoppe, City Manager

This instrument was acknowledged before me on the _____ day of _____, 2022, by E.A. Hoppe, City Manager, City of Kerrville, Texas.

Notary Public, State of Texas

Upon Recording, Return to:
City of Kerrville, Texas
City Secretary
City Hall, 701 Main Street
Kerrville, Texas 78028

EXHIBIT A
LEGAL DESCRIPTION OF SUBJECT PROPERTY

EXHIBIT B
ANNEXATION SERVICE PLAN

- I. INTRODUCTION:** This service plan for the extension of municipal services to the area to be annexed was developed in accordance with state law. Municipal facilities and services to the annexed area described above will be provided or made available on behalf of the City of Kerrville, Texas ("City") at the levels and schedule specified below.
- II. UNIFORM LEVEL OF SERVICES:** The City shall provide services by any of the methods by which it extends the services to any other area of the municipality, based upon differing characteristics of topography, land use, and population density, which may be considered a sufficient basis for providing differing levels of service.
- III. SPECIFIC FINDINGS:** City Council finds and determines that this Service Plan, as provided below, will provide full municipal services to the annexation area both adequate to serve the annexation area and commensurate with the levels of services provided in other parts of the City with the same or similar topography, land use, and population density, and it will not provide a lower level of service in the annexation area than were in existence at the time immediately preceding the effective date of annexation.

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Code Enforcement	The provisions of Code Enforcement services, including the application and enforcement of building, electrical, plumbing, and other related code requirements adopted by the City of Kerrville shall be made immediately to the area upon annexation. The preparation of a zoning plan shall serve as a basis for the zoning of land following annexation. The adoption of the zoning plan shall be in accordance with the procedures of the City of Kerrville's Zoning Ordinance.	Immediately following annexation, zoning to be concurrent with annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Fire Protection and Emergency Medical Services (EMS)	Fire protection and emergency medical services will be provided to the annexation area. The City will serve the annexation area from existing fire stations closest to the area of annexation. Emergency dispatch assignment of Fire Services resources to the annexation area would be the same as currently provided in areas of similar land use and population within the City.	Immediately following annexation
Fire Prevention	The services of the City of Kerrville Fire Marshall shall be provided to the area.	Immediately following annexation.
Library	Residents of the area, if any, will continue to be entitled to utilize all City of Kerrville Library facilities.	Immediately following annexation.
Parks and Recreation Facilities	The City will maintain park and recreation facilities located within the annexation area, if any, on the effective date of annexation on the same basis and at the same level as similar facilities are maintained throughout the City.	Immediately following annexation
Police Protection	Police Services will provide protection and law enforcement services to the annexation area. The level of service will be at the same level as currently provided in areas of similar land use and population within the City. These services include the following: 1) regular patrol of the area, 2) handling of complaints and incidents, 3) traffic enforcement, and 4) special units, such as criminal investigations, narcotics, crime prevention, neighborhood services, and special weapons and tactics.	Immediately following annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Maintenance of Existing Roads & Streets	<p>The City's Public Works Department will maintain existing roads and streets, drainage, and regulatory signs on the effective date of annexation. The same basis and level of services currently provided throughout the City will be adhered to as follows:</p> <ol style="list-style-type: none"> 1. Emergency maintenance of streets to include repair of hazardous potholes, ice and snow monitoring of major thoroughfares necessary for traffic flow. 2. Routine maintenance of public streets and rights-of-way performed within the City. 3. Street sweeping services may occur based upon need and funding. 4. Installation and maintenance of traffic signs, street markings, and other traffic control devices as the need is established by appropriate study and traffic standards. Private streets, including ingress/egress easements, access easements, common areas, common driveways and anything else which has not been specifically dedicated and accepted as public right-of-way, will not be maintained by the City. Public streets will be included in the City's preventive maintenance program. Preventive maintenance projects are prioritized and scheduled based on a variety of factors, including surface condition, transversibility, age, traffic volume, density of dwellings per block, adjacent street conditions and available funding. Any necessary rehabilitation or reconstruction will be considered on a citywide priority basis. 	Immediately following annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Solid Waste Collection	Solid Waste collection to the annexation area will be provided on the same basis and at the same level as provided throughout the City, in accordance with applicable law.	Immediately following annexation
Traffic Engineering	Traffic control devices and street markers shall be installed where deemed necessary by the city street department, except as provided by the Texas Department of Transportation.	Immediately following annexation
Water Service	The City will provide for the maintenance of City-owned public water lines within the annexation area provided that the area is within the City's Certificate of Convenience and Necessity area as determined by the Texas Commission on Environmental Quality (TCEQ) beginning on the effective date of the annexation. Water service is provided at the same level as currently provided in areas of similar topography, land use, and population within the City. The City's policy that water extensions are the responsibility of the developer of property will be applied in this area.	As the property develops

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Wastewater Service	<p>The City will provide for the maintenance of sanitary sewer lines within the annexation area provided that the area is within the City's Certificate of Convenience and Necessity area as determined by the Texas Commission on Environmental Quality (TCEQ) beginning on the effective date of the annexation. Sanitary sewer service is provided at the same level as currently provided in areas of similar topography, land use, and population within the City. The City's policy that sanitary sewer extensions are the responsibility of the developer of property will be applied to this area. Maintenance of all parts of the sewer system will begin as those parts are put into service. The sewer system will be maintained with the same frequency and level of effort as comparable parts of the system in other parts of the City.</p>	As the property develops
Provision for Other City Services	<p>Other City services that may be provided by the City such as planning, inspection, code enforcement, animal control, library, parks and recreation, municipal court, and general administration will be made available on the same basis and at the same level as provided throughout the City.</p>	Immediately following annexation



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Ordinance No. 2022-05. An Ordinance annexing two tracts of land plus an adjacent public right-of-way that exists as part of Lehmann Drive, into the Corporate Limits of the City of Kerrville, Texas; such property making up approximately 168.84 acres and generally located along the west and southwest borders of Peterson Regional Medical Center; such property more specifically described in this Ordinance and being located within the extraterritorial jurisdiction of the City and adjacent to the City Limits; adopting a Service Agreement; establishing the zoning for the annexed property as Agriculture (AG) and Public and Institutional (PI) Zoning Districts; and providing other matters relating to this subject.

AGENDA DATE OF: January 11, 2022 **DATE** Dec 14, 2021
SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Ord 2022-05 Annex and Zone Change 195 Lehmann PRMC.pdf](#)

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Proposal

An ordinance to annex into the City of Kerrville's incorporated limits with a zoning classification of PI Public and Institutional District and AG Agricultural District the following parcels; a 168.84 acre parcel being a portion of the James A. Cocke Survey No. 144, Abstract No. 95, and the Thomas J. Waddel Survey No. 145, Abstract No. 354, being a portion of 157.291 acres according to the Trustees Deed filed in Document No. 09-07631, Official Public Records of Kerr County, Texas, a portion of Lot 1, Block 1 of the Peterson Regional Medical Center Plat recorded in Volume 8, Page 1368, Plat Records of Kerr County, Texas, and 9.58 acres according to the Warranty Deed filed in Volume 1557, Page 63, Official Public Records of Kerr County, Texas, and a portion of Lehmann Drive, a fifty (50) foot public street; and more commonly known as 195 Lehmann Drive (Case No.

PZ-2021-32).

Procedural Requirements

The City, in accordance with state law, mailed 36 letters on 11/18/2021 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 11/11/2021.

At the time of drafting this agenda bill, Development Services has received no comments.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: N/A County/ETJ

Existing Land Use: Vacant Land

Direction: North & West

Current Zoning: PI

Existing Land Uses: Peterson Regional Medical Center and Kerrville State Hospital

Direction: East

Current Zoning: PI

Existing Land Uses: Peterson Regional Medical Center

Direction: South

Current Zoning: N/A County/ETJ

Existing Land Uses: Single-family homes

Consistency with the Kerrville 2050 Comprehensive Plan (“Comp Plan”):

The subject property is within the Strategic Catalyst Area 2. This catalyst area is anchored by Peterson Regional Medical Center (PRMC) and the surrounding non-residential area. The surrounding area is designated as a blend of residential, professional services, mixed-use, and outdoor tourism.

Thoroughfare Plan:

The subject property is located behind PRMC accessed from Lehmann Drive and Lenard Lane. Lehmann Drive and Lenard Lane are designated as a collector on the Kerrville Thoroughfare Plan.

Traffic Impact:

Future traffic impacts will be reviewed through the TIA Worksheet through the development and subdivision of this property.

Parking:

All off-street parking requirements will be met through final project design and approval.

Case Summary:

The applicant is requesting that the City annex the property, to allow for the future expansion of the PRMC campus, per their newly updated master plan.

This request will create a small donut hole in the city limits and is solely based on ownership. This separately owned parcel has not requested annexation, and is one lot of Single-Family Residential. As per Section 43.057 of the Texas Local Government Code, the Council must include a finding that surrounding this area is in the best interest of the public. In this case, facilitating Peterson Regional Medical Center's masterplan and future expansion benefits the community.

Recommendation:

Because the request is consistent with the adjacent development and the objectives of the Kerrville 2050 Plan, staff recommends annexation and the zoning request.

On December 2nd, the Planning and Zoning Commission recommended the annexation and zoning request with a unanimous vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2022-05, on first reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-05**

AN ORDINANCE ANNEXING TWO TRACTS OF LAND PLUS AN ADJACENT PUBLIC RIGHT-OF-WAY THAT EXISTS AS PART OF LEHMANN DRIVE, INTO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS; SUCH PROPERTY MAKING UP APPROXIMATELY 168.84 ACRES AND GENERALLY LOCATED ALONG THE WEST AND SOUTHWEST BORDERS OF PETERSON REGIONAL MEDICAL CENTER; SUCH PROPERTY MORE SPECIFICALLY DESCRIBED IN THIS ORDINANCE AND BEING LOCATED WITHIN THE EXTRATERRITORIAL JURISDICTION THE CITY AND ADJACENT TO THE CITY LIMITS; ADOPTING A SERVICE AGREEMENT; ESTABLISHING THE ZONING FOR THE ANNEXED PROPERTY AS AGRICULTURE (AG) AND PUBLIC AND INSTITUTIONAL (PI) ZONING DISTRICTS; AND PROVIDING OTHER MATTERS RELATING TO THIS SUBJECT

WHEREAS, an owner of land has requested annexation by the City of Kerrville, Texas (“City”), pursuant to Local Government Code Section 43.0671; and

WHEREAS, the land to be annexed makes up a total of approximately 168.85 acres, as more specifically described below, and includes a portion of existing right-of-way, all of which is collectively referred to herein as the “Property”; and

WHEREAS, the Property lies within the extraterritorial jurisdiction of the City; and

WHEREAS, a portion of the Property to be annexed exists as Lehmann Drive, a road and corresponding right-of-way of Kerr County, Texas, which per Section 43.1056 of the Texas Local Government Code, the City may annex upon providing written notice of the annexation to the owner of the right-of-way, which the City has done; and

WHEREAS, the City has provided notice to Kerr County as required by Section 43.1056 of the Texas Local Government Code; and

WHEREAS, per Section 43.106 of the Texas Local Government Code, a city that proposes to annex any portion of a county road or territory that abuts a county road must also annex the entire width of the county road and the adjacent right-of-way on both sides of the county road; and

WHEREAS, in conjunction with the approval of this Ordinance, City Council also approves a service agreement for the Property in accordance with Section 43.0672 of the Texas Local Government Code; and

WHEREAS, Section 60-37 of the City's Zoning Code creates procedures for initial zoning of newly annexed areas; and

WHEREAS, having provided all required public notices, held all required public hearings at which persons with an interest in the matter were provided an opportunity to be heard, and complying with other requirements in Section 43.0673 of the Texas Local Government Code, City Council finds it to be in the public interest to adopt this Ordinance annexing the Property, to approve a service agreement as required by state law, and to establish zoning regulations for the Property plus an additional tract which is located adjacent to said Property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. FINDINGS. City Council finds and declares the facts and recitations contained in the preamble of this Ordinance true and correct.

SECTION TWO. ANNEXATION. The property described and depicted in **Exhibit A** (the "Property") is annexed and incorporated into the corporate limits of the City of Kerrville, Texas, for all legal purposes. The Property is made up of two tracts consisting of approximately 157.291 acres ("Tract 1") and 6.85 acres ("Tract 2"), respectively, plus an existing portion of public right-of-way, known as Lehmann Drive, consisting of approximately 1.54 acres, and as more specifically depicted in **Exhibit B**.

SECTION THREE. ANNEXATION THAT SURROUNDS AREA. The annexation that will occur pursuant to Section Two, above, will surround a property consisting of approximately 2.05 acres, said property which is depicted on the map found at **Exhibit A**. City Council finds that surrounding this area is in the public interest.

SECTION FOUR. AMENDMENT TO CITY BOUNDARY. City Council authorizes and directs the City Manager, or designee, to amend the City's official boundary map in accordance with the annexation taken in Section Two.

SECTION FIVE. PETITION FOR ANNEXATION. The petition for annexation concerning the Property is attached as **Exhibit C** and incorporated herein by reference, said petition, which triggered the process specified in Subchapter C-3, Chapter 43, Texas Local Government Code, authorizing the annexation of the Property. In addition and pursuant to Section 43.1056 of the Texas Local Government Code, the City has provided written notice to Kerr County of the annexation of the right-of-way currently existing as Lehmann Drive, as depicted on the map found at **Exhibit A** and as more specifically described in **Exhibit B**.

SECTION SIX. AGREEMENT REGARDING SERVICES. Pursuant to Section 43.0672 of the Texas Local Government Code, the City has negotiated and hereby enters into a Service Agreement (the "Agreement") with the owner of land for the provision of services in the area. The Agreement is attached to this Ordinance as **Exhibit D** and by this reference is incorporated into it. Upon annexation of the Property, the City shall provide the Property with the municipal services set forth in the Agreement pursuant to the schedule set forth therein, such services making up the City's full municipal services. The City shall have no obligation to provide services to the Property not listed in the Agreement.

SECTION SEVEN. ZONING. Upon the adoption of this Ordinance, and in accordance with Section 60-37 of the City's Zoning Code, the Property will be zoned as follows:

A. Tract 1 – Agriculture Zoning District (AG), which will such property to be used in ways consistent with those land uses specified in that district.

B. Tract 2 – Public and Institutional Zoning District (PI), which will such property to be used in ways consistent with those land uses specified in that district.

SECTION EIGHT. CUMULATIVE CLAUSE. The provisions of this Ordinance are to be cumulative of all Ordinances or parts of Ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION NINE. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION TEN. PENALTY. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Article 1-1-7 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

SECTION ELEVEN. PUBLICATION OF ORDINANCE. In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

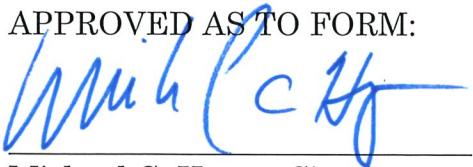
SECTION TWELVE. POST ANNEXATION ACTIONS. The City Manager or designee shall provide a certified copy of this Ordinance to the Texas Secretary of State, Kerr County, and Kerr Central Appraisal District and any other entity as may be required.

PASSED AND APPROVED ON FIRST READING, this the _____
day of _____ A.D., 2022.

PASSED AND APPROVED ON SECOND READING, this the _____
day of _____ A.D., 2022.

Bill Blackburn, Mayor

APPROVED AS TO FORM:

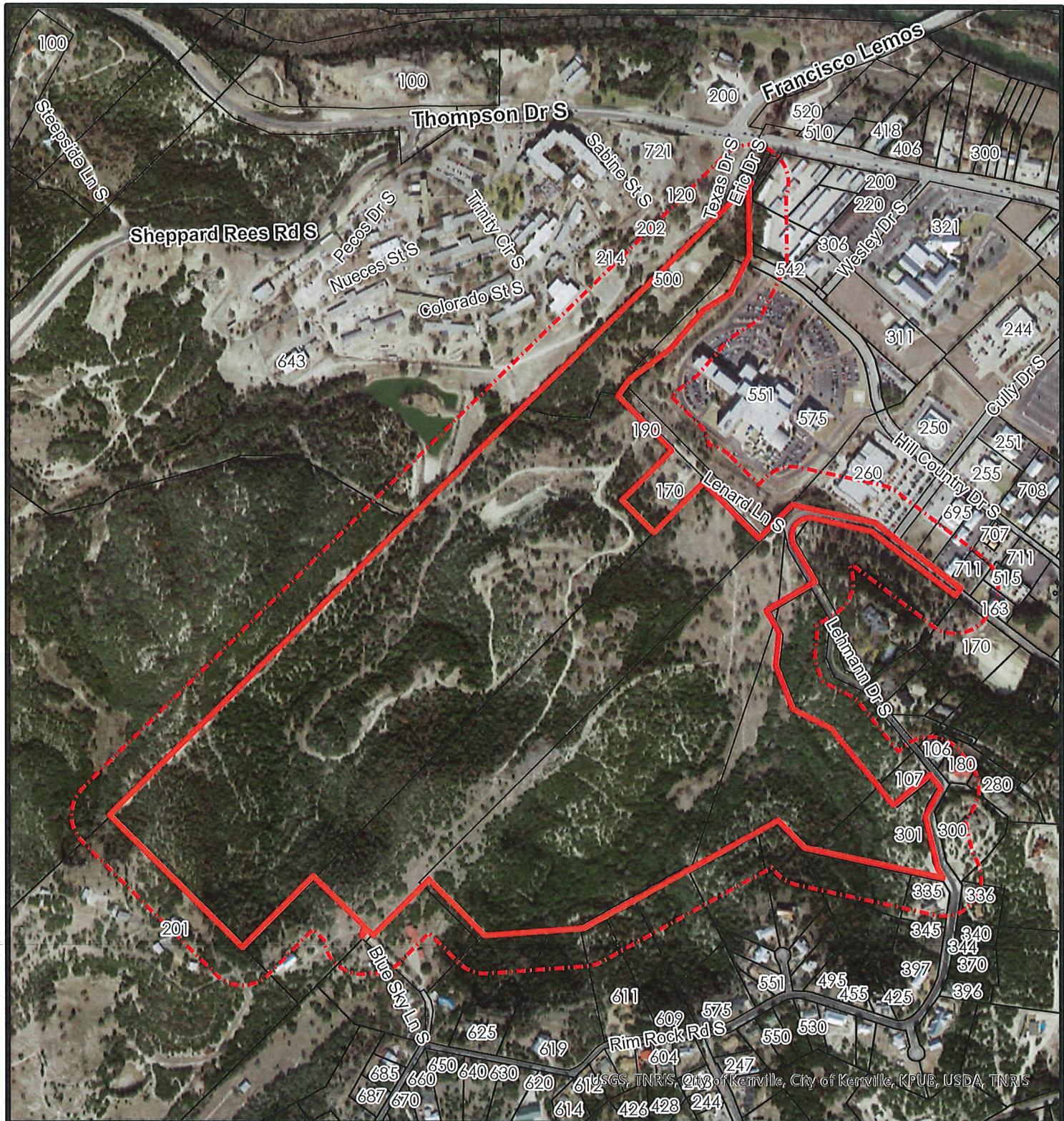


Michael C. Hayes, City Attorney

ATTEST:



Shelley McElhannon, City Secretary



Location Map

Case # PZ-2021-32

Location:

190 Lenard Ln,
500 Eric Dr, & 301 Rim Rock Rd

Legend

200' Notification Area
Subject Properties



0 250 500 1,000

Scale In Feet

EXHIBIT A

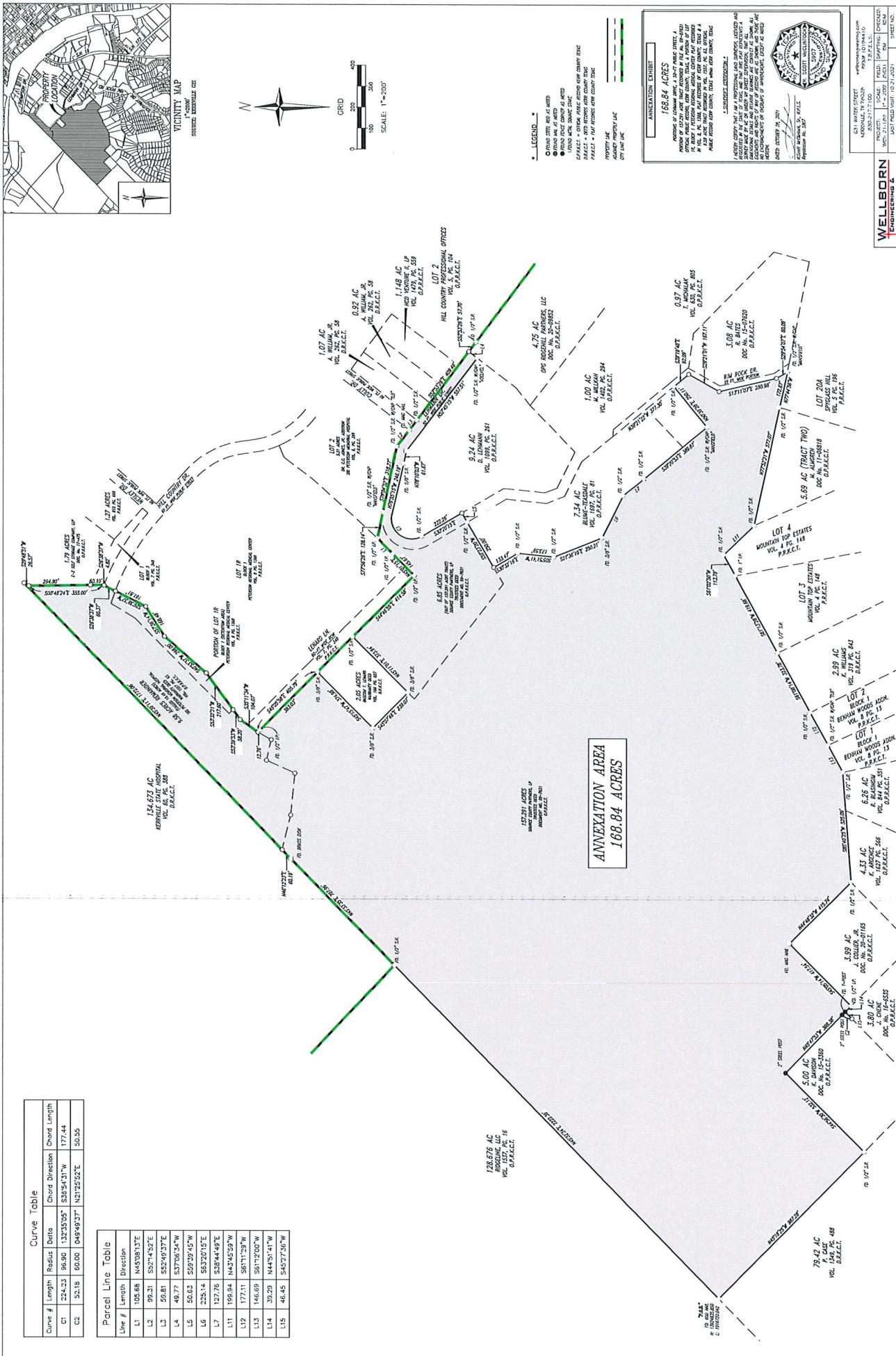
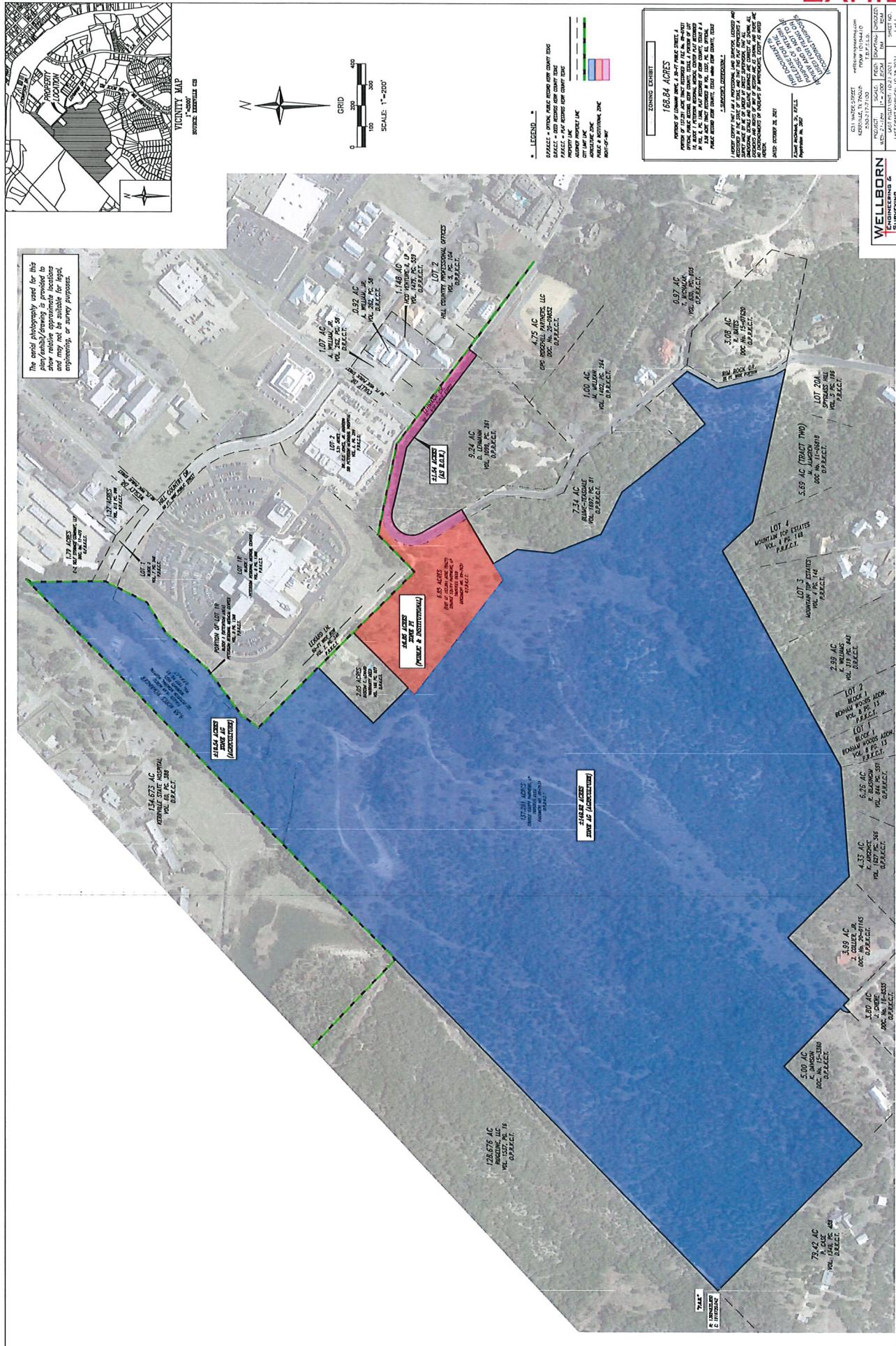


EXHIBIT B



PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR OF THE GOVERNING BODY OF KERRVILLE, TEXAS:

The undersigned owners of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby waive the requirement to be offered a development agreement pursuant to Section 43.016 of the Texas Local Government Code (where applicable); and petition your honorable Body to extend the present City limits so as to include as part of the City of Kerrville, Texas, the following described territory, to wit:

See Exhibit A

We certify that the above described tract of land is contiguous and adjacent to the City of Kerrville, Texas, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

Signed: 

THE STATE OF TEXAS

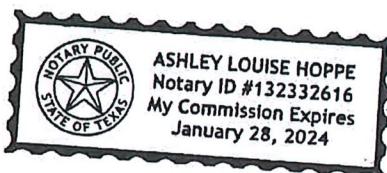
COUNTY OF KERR

BEFORE ME, the undersigned authority, on this day personally appeared COPY EDMONDSON, known to me to be the person(s) whose name(s) is subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 28th day of OCTOBER, 2021.

amery hoppe

Notary Public in and for
Kerr County, Texas



SERVICE AGREEMENT

This Services Agreement (the "Agreement") is entered into between the **CITY OF KERRVILLE, TX**, a Texas Home-Rule Municipal Corporation (the "City") and _____ (the "Owner"). The City and the Owner are collectively referred to as the Parties.

WHEREAS, pursuant to a lawfully submitted petition for annexation from Owner, City intends to institute annexation proceedings for a tract(s) of land described more fully hereinafter (referred to herein as the "Subject Property"); and,

WHEREAS, *Section 43.0672 of the Tex. Loc. Gov't Code* requires a written agreement for the provision of services in the area first be entered into between City and Owner of the Subject Property; and,

WHEREAS, City and Owner agree each will benefit from the City's development restrictions and zoning requirements, as well as other municipal services provided by City which are good and valuable consideration for the Owner to request annexation and for the Parties to enter into this Agreement for City to provide the listed services upon annexation and in accordance with this Agreement; and,

WHEREAS, it is found that the statutory requirements have been satisfied and City is authorized by *Chapter 43, Tex. Loc. Gov't. Code*, to annex the Subject Property into the City;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

Section 1. Property Description. The legal description of the Subject Property is as set forth in **Exhibit A**, attached hereto and incorporated herein.

Section 2. Services. City will provide the services listed and specified in **Exhibit B**, attached hereto and incorporated herein, for the Subject Property on the effective date of annexation of the Subject Property.

Section 3. Owner's Obligations. Owner shall not file for approval a subdivision plat, site plan, or related development document with City for the Subject Property or portion thereof; or construct, or allow to be constructed, any building or structure on the Subject Property or portion thereof until City has obtained authorization.

Section 4. Term. The term of this Agreement (the "Term") is ten (10) years from the Effective Date.

Section 5. Vested Rights Claims. This Agreement is not a permit for the purposes of Chapter 245, Texas Local Government Code.

Section 6. Authorization. All parties and officers signing this Agreement warrant to be duly authorized to execute this Agreement.

Section 7. Covenant Running with the Land. This Agreement shall run with the Subject Property, and this Agreement shall be recorded in the Official Public Records of Kerr County, Texas. Owner and City acknowledge and agree that this Agreement is binding upon City and Owner and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.

Section 8. Severability. If any provision of this Agreement is held by a court of competent and final jurisdiction to be invalid or unenforceable for any reason, then the remainder of the Agreement shall be deemed to be valid and enforceable as if the invalid portion had not been included.

Section 9. Amendment and Modifications. This Agreement may be amended or modified only in a written instrument that is executed by both City and Owner after it has been authorized by the City Council.

Section 10. Gender, Number, and Headings. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

Section 11. Governmental Immunity; Defenses. Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either City or Owner, including governmental immunity, nor to create any legal rights or claims on behalf of any third party.

Section 12. Enforcement; Waiver. This Agreement may be enforced by Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

Section 13. Effect of Future Laws. No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement.

Section 14. Venue and Applicable Law. Venue for this Agreement shall be in Kerr County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas.

Section 15. Counterparts. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

Section 16. Effective Date. This Agreement shall be in full force and effect as of the date of approval of this Agreement by the City Council, from and after its execution by the parties.

Section 17. Sections to Survive Termination. This Agreement shall survive its termination to the extent necessary for the implementation of the provisions related to water service to the Subject Property by the City.

EXECUTED this ____ day of _____, 2021.

OWNER (Entity Name)

_____ (printed name),
_____ (title)

STATE OF TEXAS
COUNTY OF KERR

This instrument was acknowledged before me on the _____ day of _____, 2022, by _____, the _____, of

Notary Public, State of Texas

CITY OF KERRVILLE, TX

E.A. Hoppe, City Manager

This instrument was acknowledged before me on the _____ day of _____, 2022, by E.A. Hoppe, City Manager, City of Kerrville, Texas.

Notary Public, State of Texas

Upon Recording, Return to:
City of Kerrville, Texas
City Secretary
City Hall, 701 Main Street
Kerrville, Texas 78028

EXHIBIT B
ANNEXATION SERVICE PLAN

- I. INTRODUCTION:** This service plan for the extension of municipal services to the area to be annexed was developed in accordance with state law. Municipal facilities and services to the annexed area described above will be provided or made available on behalf of the City of Kerrville, Texas (“City”) at the levels and schedule specified below.
- II. UNIFORM LEVEL OF SERVICES:** The City shall provide services by any of the methods by which it extends the services to any other area of the municipality, based upon differing characteristics of topography, land use, and population density, which may be considered a sufficient basis for providing differing levels of service.
- III. SPECIFIC FINDINGS:** City Council finds and determines that this Service Plan, as provided below, will provide full municipal services to the annexation area both adequate to serve the annexation area and commensurate with the levels of services provided in other parts of the City with the same or similar topography, land use, and population density, and it will not provide a lower level of service in the annexation area than were in existence at the time immediately preceding the effective date of annexation.

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Code Enforcement	The provisions of Code Enforcement services, including the application and enforcement of building, electrical, plumbing, and other related code requirements adopted by the City of Kerrville shall be made immediately to the area upon annexation. The preparation of a zoning plan shall serve as a basis for the zoning of land following annexation. The adoption of the zoning plan shall be in accordance with the procedures of the City of Kerrville’s Zoning Ordinance.	Immediately following annexation, zoning to be concurrent with annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Fire Protection and Emergency Medical Services (EMS)	Fire protection and emergency medical services will be provided to the annexation area. The City will serve the annexation area from existing fire stations closest to the area of annexation. Emergency dispatch assignment of Fire Services resources to the annexation area would be the same as currently provided in areas of similar land use and population within the City.	Immediately following annexation
Fire Prevention	The services of the City of Kerrville Fire Marshall shall be provided to the area.	Immediately following annexation.
Library	Residents of the area, if any, will continue to be entitled to utilize all City of Kerrville Library facilities.	Immediately following annexation.
Parks and Recreation Facilities	The City will maintain park and recreation facilities located within the annexation area, if any, on the effective date of annexation on the same basis and at the same level as similar facilities are maintained throughout the City.	Immediately following annexation
Police Protection	Police Services will provide protection and law enforcement services to the annexation area. The level of service will be at the same level as currently provided in areas of similar land use and population within the City. These services include the following: 1) regular patrol of the area, 2) handling of complaints and incidents, 3) traffic enforcement, and 4) special units, such as criminal investigations, narcotics, crime prevention, neighborhood services, and special weapons and tactics.	Immediately following annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Maintenance of Existing Roads & Streets	<p>The City's Public Works Department will maintain existing roads and streets, drainage, and regulatory signs on the effective date of annexation. The same basis and level of services currently provided throughout the City will be adhered to as follows:</p> <ol style="list-style-type: none"> 1. Emergency maintenance of streets to include repair of hazardous potholes, ice and snow monitoring of major thoroughfares necessary for traffic flow. 2. Routine maintenance of public streets and rights-of-way performed within the City. 3. Street sweeping services may occur based upon need and funding. 4. Installation and maintenance of traffic signs, street markings, and other traffic control devices as the need is established by appropriate study and traffic standards. Private streets, including ingress/egress easements, access easements, common areas, common driveways and anything else which has not been specifically dedicated and accepted as public right-of-way, will not be maintained by the City. Public streets will be included in the City's preventive maintenance program. Preventive maintenance projects are prioritized and scheduled based on a variety of factors, including surface condition, transversibility, age, traffic volume, density of dwellings per block, adjacent street conditions and available funding. Any necessary rehabilitation or reconstruction will be considered on a citywide priority basis. 	Immediately following annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Solid Waste Collection	Solid Waste collection to the annexation area will be provided on the same basis and at the same level as provided throughout the City, in accordance with applicable law.	Immediately following annexation
Traffic Engineering	Traffic control devices and street markers shall be installed where deemed necessary by the city street department, except as provided by the Texas Department of Transportation.	Immediately following annexation
Water Service	The City will provide for the maintenance of City-owned public water lines within the annexation area provided that the area is within the City's Certificate of Convenience and Necessity area as determined by the Texas Commission on Environmental Quality (TCEQ) beginning on the effective date of the annexation. Water service is provided at the same level as currently provided in areas of similar topography, land use, and population within the City. The City's policy that water extensions are the responsibility of the developer of property will be applied in this area.	As the property develops

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Wastewater Service	<p>The City will provide for the maintenance of sanitary sewer lines within the annexation area provided that the area is within the City's Certificate of Convenience and Necessity area as determined by the Texas Commission on Environmental Quality (TCEQ) beginning on the effective date of the annexation. Sanitary sewer service is provided at the same level as currently provided in areas of similar topography, land use, and population within the City. The City's policy that sanitary sewer extensions are the responsibility of the developer of property will be applied to this area. Maintenance of all parts of the sewer system will begin as those parts are put into service. The sewer system will be maintained with the same frequency and level of effort as comparable parts of the system in other parts of the City.</p>	As the property develops
Provision for Other City Services	<p>Other City services that may be provided by the City such as planning, inspection, code enforcement, animal control, library, parks and recreation, municipal court, and general administration will be made available on the same basis and at the same level as provided throughout the City.</p>	Immediately following annexation



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Ordinance No. 2022-06. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, such Chapter more commonly known as the City's Zoning Code; by changing the zoning of multiple lots along Washington St. and between Barnett St. and North St., said lots more commonly known as 500, 504, 508, 512, 602, 604, 608, 616, 624, and 625 Washington St.; and 817 Barnett Street; within the City of Kerrville, Kerr County, Texas; from a Residential Transition Zoning District (RT) to a Public and Institutional Zoning District (PI); and providing other matters relating to the subject.

AGENDA DATE OF: January 11, 2022

DATE

Dec 14, 2021

SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Ord 2022-06 Zone change 500-625 Washington 817 Barnett.pdf](#)

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Proposal

An ordinance to change the zoning from RT Residential Transition District to PI Public and Institutional District on Lots 10, 11, 12, 13, 14, 15, 16, 17; Block J, and Block M, B.F. Cage Addition; and more commonly known as 500, 504, 508, 512, 602, 604, 608, 616, 624, and 625 Washington St and 817 Barnett Street, Kerrville, TX 78028. (Case No. PZ-2021-26)

Procedural Requirements

The City, in accordance with state law, mailed 30 letters on 11/18/2021 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 11/11/2021.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: RT Residential Transition

Existing Land Uses: Church

Direction: North, South, and East

Current Zoning: RT Residential Transition

Existing Land Uses: Residential and Non-Residential

Direction: West

Current Zoning: DAC Downtown Arts and Culture

Existing Land Uses: Church

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property and land directly adjacent are within the Strategic Catalyst Area 1 in the Kerrville 2050 Comprehensive Plan. This SCA is specific for the revitalization of Downtown and the surrounding areas. This zoning change request is consistent with the Comprehensive Plan.

Thoroughfare Plan:

The subject property is located on Washington Street between Barnett Street and North Street. North Street is a collector and designed to move traffic from neighborhood-level streets out to the arterials.

Traffic Impact:

No traffic impact is anticipated.

Parking:

The church currently has multiple parking lots on its campus. Any additional development of the site may trigger additional parking as required by the zoning code.

Recommendation:

Based on the consistency with the Kerrville 2050 Plan, staff recommends the rezoning request from RT to PI.

On December 2nd, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2022-06, on first reading.

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-06

AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, SUCH CHAPTER MORE COMMONLY KNOWN AS THE CITY'S ZONING CODE; BY CHANGING THE ZONING OF MULTIPLE LOTS ALONG WASHINGTON ST. AND BETWEEN BARNETT ST. AND NORTH ST., SAID LOTS MORE COMMONLY KNOWN AS 500, 504, 508, 512, 602, 604, 608, 616, 624, AND 625 WASHINGTON ST.; AND 817 BARNETT ST.; WITHIN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS; FROM A RESIDENTIAL TRANSITION ZONING DISTRICT (RT) TO A PUBLIC AND INSTITUTIONAL ZONING DISTRICT (PI); AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on January 11, 2022, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on this Ordinance, the adoption of which will result in the change of a zoning district for the properties currently addressed as 500, 504, 508, 512, 602, 604, 608, 616, 624, and 625 Washington St.; and 817 Barnett St.; such change to result in the removal of the properties from a Residential Transition Zoning District (RT) to placement within a Public and Institutional Zoning District (PI); and

WHEREAS, on January 11, 2022, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. The Zoning Code for the City of Kerrville, Texas, Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* are hereby amended to designate the following described property zoned as within a Public and Institutional Zoning District (PI):

Legal Description: Being Lots 10, 11, 12, 13, 14, 15, 16, and 17; Block J, and Block M, B.F. Cage Addition; and within the City of Kerrville, Kerr County, Texas; said property more specifically depicted at Exhibit

A, attached hereto and made a part hereof for all purposes.

Address: 500, 504, 508, 512, 602, 604, 608, 616, 624, and 625 Washington St.; and 817 Barnett St.

SECTION TWO. The City Manager or designee is authorized and directed to amend the City's *Official Zoning Map* to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with the City's Zoning Code.

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION FIVE. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION SIX. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the _____ day of _____, A.D., 2022.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ of _____, A.D., 2022.

Bill Blackburn, Mayor

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Michael C. Hayes".

Michael C. Hayes, City Attorney



Location Map

Case # PZ-2021-26

Location:

500, 504, 508, 512, 602, 604,
608, 616, 624, and 625 Washington St,
817 Barnett St

Legend

200' Notification Area
Subject Properties



0 75 150 300

Scale In Feet

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



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Ordinance No. 2022-02. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, such chapter more commonly known as the City's Zoning Code; by amending said Code to include adding new definitions, revising the requirement for variances, requiring signs for notification, and other amendments as provided herein; providing a cumulative clause; providing for severability; providing an effective date; ordering publication; and providing other matters relating to the subject.

AGENDA DATE OF: January 11, 2022 **DATE** Dec 14, 2021
SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220111_Ord 2022-02 Zoning Code Amendments.pdf](#)

Kerrville 2050 Item?	Yes
Key Priority Area	E - Economic Development
Guiding Principle	E2. Develop policies, processes and programs, including economic incentives, which are clear and consistently applied by a team of City and partner economic development entities working with stakeholders and focused on attracting, retaining and expanding business
Action Item	E2.12 - Ensure that Development Services processes and existing codes and ordinances are not impediments to development/redevelopment

SUMMARY STATEMENT:

The City Council adopted the current zoning code in the fall of 2019, following the recommendations from the Kerrville 2050 Implementation Plan. With that adoption, Council encouraged periodic review and updates to the new zoning code to ensure consistency with the goals and objectives within the Kerrville 2050 Plan. Subsequently, Council approved a minor update to the zoning code in the fall of 2020. After another year's worth of development projects and building permits, there are a few items that have been brought forth to be reviewed and updated this year. This includes recommendations from City Council, Planning and Zoning Commission, and staff through recent development projects.

Updates and amendments include:

- Short Term Rental definition
- Additional notices of public hearings
- Shipping Containers in various districts
- Building Height requirements
- Traffic Impact Analysis
- Garage Sales
- Recreational Vehicles
- Land Use Table for Medical Offices

The Planning and Zoning Commission reviewed these updates on October 21st and recommended approval on December 2nd.

RECOMMENDED ACTION:

Approve Ordinance No. 2022-02, on first reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-02**

**AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF
ORDINANCES, CITY OF KERRVILLE, TEXAS, SUCH CHAPTER
MORE COMMONLY KNOWN AS THE CITY'S ZONING CODE; BY
AMENDING SAID CODE TO INCLUDE ADDING NEW
DEFINITIONS, REVISING THE REQUIREMENT FOR
VARIANCES, REQUIRING SIGNS FOR NOTIFICATION, AND
OTHER AMENDMENTS AS PROVIDED HEREIN; PROVIDING A
CUMULATIVE CLAUSE; PROVIDING FOR SEVERABILITY;
PROVIDING AN EFFECTIVE DATE; ORDERING
PUBLICATION; AND PROVIDING OTHER MATTERS
RELATING TO THE SUBJECT**

WHEREAS, on August 27, 2019, City Council adopted Ordinance No. 2019-17, which adopted the City's Zoning Code, which included a Land Use Table and Zoning Map, collectively referred to herein as the "Zoning Code"; and

WHEREAS, Ordinance No. 2019-17 was adopted in accordance with and pursuant to the City's Comprehensive Plan; and

WHEREAS, pursuant to several recent land development projects, City Council, the Planning and Zoning Commission, and City staff recommend the adoption of several amendments to the Zoning Code; and

WHEREAS, pursuant Section 60-73 of the Zoning Code, and in accordance with Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on January 11, 2022, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in a number of amendments to the Zoning Code as provided herein; and

WHEREAS, on January 11, 2022, City Council held a public hearing on various zoning amendments pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. Section 60-17 of the Zoning Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“Sec. 60-17. - Terms defined.

:

Short-term rental unit means a facility, located in a residential zoning district, used for the purpose of providing short-term lodging for compensation, architecturally designed to look like a single-family dwelling, which may also be occupied concurrently as the residence for the owner, operator, or manager of the property, or providing separate lodging units such as cabins, guest homes, or similar residential-scale structures but in any instance, may not house more than ten (10) occupants, with no more than six bedrooms total on the property, and offering meals only to those who receive lodging, and providing that all bedrooms used as a permanent residence shall count toward the maximum six bedrooms of the short term rental unit.

SECTION TWO. Section 60-28, subsection (2), of the Zoning Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“*Variances.* Pursuant to section 60-31, the board of adjustment may consider granting, upon written application, variances to the terms of the zoning code, excluding variances to the list of permitted land uses; provided these variances are not contrary to the public interest, and where the applicant can demonstrate that because of special land-related conditions unique to the property, a literal enforcement of the code would result in unnecessary hardship that is ~~neither financial nor~~ not self-imposed, and so that the spirit of the code will be observed and substantial justice done.”

SECTION THREE. Section 60-31 of the Zoning Code is amended by adding a new subsection (2)c., with new language indicated by blue, underline (addition) as follows:

“c. A notification sign posted on the subject property by the Director, visible to persons using the public right-of-way, and which states the purpose and dates of the hearing. The Director shall install the sign at least 11 days before the first public hearing and the sign must remain posted and visible during the pendency of the variance. Such sign is exempt from the City's sign code as a government sign.”

SECTION FOUR. Section 60-31, subsection (3), of the Zoning Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, addition as follows:

“(3) *Required findings of fact.* No variance shall be granted by the board of adjustment until it makes one or more of the following findings, which as applied to a structure, would result in an unnecessary hardship:

- a. That there are exceptional circumstances or conditions applicable to the property on which the application is made related to size, shape, area, topography, surrounding condition, or location that do not apply generally to other property in the same area and the same zoning district;
- b. That the exceptional circumstances or conditions are such that literal enforcement of the provisions of this chapter would result in an unnecessary hardship inconsistent with the general purpose and intent of this chapter;
- c. That the granting of such variance will not be contrary to the public interest, materially detrimental to the public welfare, or injurious to the property or improvements in the zoning district or area in which the property is located;
- d. That the granting of such variance will not be contrary to the objectives and principles contained in the comprehensive plan, as amended;
- e. That the variance to be granted is the minimum variance that will relieve the proven hardship;
- f. That the variance is not being granted to relieve the applicant of conditions or circumstances:
 1. Which are not inherent in the property itself, but are the result of the use or development of the property;
 2. Which are caused by a division of land on or after date of adoption, other than a division of land resulting from the sale of a property interest to a governmental entity, which division of land caused the property to be unusable for any reasonable development under the existing regulations; or
 3. Which were otherwise self-imposed by the present or a previous owner.
- g. That the variance is not grounded solely upon the opportunity to make the property more profitable or to reduce expense to the current or any future owner;

- h. That the variance would not modify or effectively repeal any development or use regulations set forth in a conditional use permit (CUP) or an ordinance or resolution adopting a concept plan or establishing a planned development district which are in addition to the generally applicable use and development regulations set forth in this zoning code;
- i. That the variance would only affect a specific parcel of property and is not of such a general nature as to effectively constitute a change in zoning of said parcel or a larger area without following the procedures for such as set forth herein;
- j. That the variance does not change the permitted, conditional, or prohibited uses in the zoning district in which the property is located;
- k. the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the City under Section 26.01, Tax Code;
- l. compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
- m. compliance would result in the structure not being in compliance with a requirement of a City ordinance, building code, or other requirement;
- n. compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- o. the City considers the structure to be a nonconforming structure, in accordance with its regulations.”

SECTION FIVE. Section 60-41 of the Zoning Code is deleted in its entirety, as indicated by red, strikeout (~~deleted~~) as follows:

~~“See. 60-41. Use of Property Located in One Zoning District to Benefit Another.~~

~~No person shall use property located in one zoning district to provide parking for, or access to, a use located on property located in another zoning district unless:~~

~~(1) Parking:~~

~~a. The property being used for said parking is also zoned to permit the use for which such parking is desired;~~

- ~~b. A variance is granted under the provisions of this Zoning Code or the Development Standards ordinance, whichever applies, to allow the off site parking; or,~~
- ~~e. A Conditional Use Permit is secured for the off site parking in accordance with this Zoning Code.~~

~~(2) Mutual Access:~~

- ~~a. The property being used for said access is also zoned to permit the use for which such access is desired;~~
- ~~b. A variance is granted under the provisions of this Zoning Code or the Development Standards ordinance, whichever applies, to allow the mutual access; or,~~
- ~~e. A Conditional Use Permit is secured for the mutual access in accordance with this Zoning Code.”~~

SECTION SIX. Section 60-52, subsection (b), of the Zoning Code is amended by adding a new subsection (10), with the new language indicated by blue, underline (addition) as follows:

“(10) Traffic Impact Analysis: An application for MU zoning shall include a traffic impact analysis as defined herein.”

SECTION SEVEN. Section 60-52, subsection (c)(8), of the Zoning Code is amended by adding a new subsection d., with the new language indicated by blue, underline (addition) as follows:

“d. Traffic Impact Analysis: An application for PD zoning shall include a traffic impact analysis as defined herein.”

SECTION EIGHT. Section 60-52, subsection (d)(3) of the Zoning Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and additions indicated by blue, underline (addition) as follows:

Maximum Building Height	• 35 feet • <u>No limit except where adjacent to a residential zoning district as defined in subsection (d)(3) above, as follows:</u> • <u>Two stories of up to 35 feet when adjacent to a residential zoning district, plus one foot (1.0') of</u>
-------------------------	--

	<p>additional building height permitted for each 1 foot (1.0') of setback from the residential zoning district</p> <ul style="list-style-type: none"> • An installation of a public or private utility <u>is</u> exempt from this requirement
--	--

SECTION NINE. Section 60-60, subsection a.2., of the Zoning Code is amended by adding a new subsection C., with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“2. These regulations do not apply to:

- A. A boarding home facility, as that term is defined within Chapter 30 of the Code of Ordinances; ~~or~~
- B. Cottage food production that meets the qualifications imposed under state law and subject to other City ordinances, rules, or regulations; or
- C. Garage sales, but where no more than four (4) are held per calendar year, none of which lasts longer than three (3) days.”

SECTION TEN. Section 60-60, subsection (13) of the Zoning Code, is amended with deleted language indicated by red, strikeout (~~deleted~~) and the new language indicated by blue, underline (addition) as follows:

“(13) **Travel Trailers and Recreational Vehicles:** The use of a travel trailer or recreational vehicle shall be subject to the following regulations:

- a. The use of a travel trailer or recreational vehicle as a permanent residence or business anywhere within the City is prohibited, unless located within an RM or C-3 district and on property developed as a Mobile Home Rental Community (MHRC); on property which is being used as a recreational vehicle park even if the recreational vehicle park is a nonconforming use; or where one (1) travel trailer or one (1) recreational vehicle is located on property which is being used for the seasonal retail sale of holiday trees, such use to only occur between November 5 and December 31.
- b. Travel trailers or recreational vehicles parked in a recreational vehicle park or in an RM or C-3 zoning district shall meet the following requirements:

1. Remain road ready with tongue and towing equipment attached to the vehicle or stored onsite; and
2. Utilize temporary utility hookups, such that hardwired electricity and plumbing is prohibited, and

~~It shall be a defense to a violation of subsection (a), above, if:~~

- ~~1. The trailer or recreational vehicle is located on property within an RM district which is developed as a MHRC at the time of the offense; or~~
- ~~2. The trailer or recreational vehicle is located on property which is being used as a recreational vehicle park even if the recreational vehicle park is a nonconforming use; or~~
- ~~c3. The A travel trailer or recreational vehicle ~~is~~ may be parked within a residential district but shall only be:~~
 - ~~A. Parked on a lot developed with a dwelling unit with a valid certificate of occupancy;~~
 - ~~B. Occupied by one or more people who do not claim the ~~dwelling unit~~ trailer or vehicle as their permanent residence; and~~
 - ~~C. ~~Has been~~ Located on the lot for a period not exceeding 14 days.~~
- ~~d. A travel trailer or recreational vehicle may be stored, which means parked and not in active use, on a developed lot with a dwelling unit. The storage must not create any visibility obstruction or otherwise interfere with pedestrian or vehicular circulation.~~
- ~~4. One (1) travel trailer or one (1) recreational vehicle is located on property which is being used for the seasonal retail sale of holiday trees. This section shall only be valid between November 5 and December 31.”~~

SECTION ELEVEN. Section 60-60 of the Zoning Code is amended by adding a new subsection (17), with the new language indicated by blue, underline (addition) as follows:

“(17) Shipping container. A shipping container is permitted within any public and institutional district (PI), on property of not less than five (5)

acres, and where the shipping container is located at least one-hundred feet (100.0') from a residential district. A container shall be setback behind a line parallel to the front wall of the nearest building and is required to be screened in accordance with this code and/or matched to the color of the nearest building. Each container must be permanently anchored in compliance with the building codes and receive a permit from the City.”

SECTION TWELVE. Section 60-51, subsection (3), of the Zoning Code is amended by correcting a typographical error with the deleted language indicated by red, strikeout (~~deleted~~) and the new language indicated by blue, underline (addition) as follows:

“(3) If notice was originally sent pursuant to Section 211.007 65-84, Texas Local Government Code, the applicable fee necessary to reimburse the City for sending a notice of postponement to those originally notified.”

SECTION THIRTEEN. Section 60-65, subsection (4), of the Zoning Code is amended by adding a new subsection (2)c., with the new language indicated by blue, underline (addition) as follows:

“(4) **Review Process:** Upon receipt of a complete application for a zoning change request, the application shall be reviewed under the process governing the review of an application for rezoning under Section Chapter 211, Texas Local Government Code, including notification, a report from the Director, and public hearings before the Planning and Zoning Commission and City Council, allowing for testimony from the applicant and others who have an interest in the matter, facts, and opinions concerning the proposed change. Notification as referenced above shall include a notification sign posted on the subject property by the Director, visible to persons using the public right-of-way, and which states the purpose and dates of the hearings. The Director shall install the sign at least 11 days before the first public hearing and the sign must remain posted and visible during the pendency of the review. Such sign is exempt from the City's sign code.”

SECTION FOURTEEN. Table 1, Land Use Table, which was adopted as part of the Zoning Code, is amended as follows, such amendments as indicated on the attached table with amendments indicated:

A. Add “shipping container” as an authorized use within a Public and Institutional District.

B. Add “shipping container” to all Residential Districts but as a prohibited use.

C. Add “medical office” as an authorized use within a Public and Institutional District.

SECTION FIFTEEN. The City Manager or designee is authorized and directed to amend the City’s *Official Zoning Map* to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with the City’s Zoning Code.

SECTION SIXTEEN. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION SEVENTEEN. The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION EIGHTEEN. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City’s Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION NINETEEN. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the _____ day of _____, A.D., 2022.

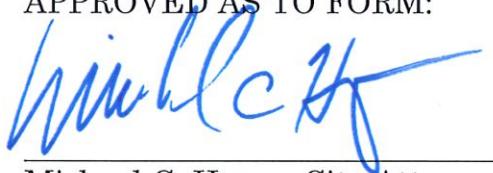
PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ of _____, A.D., 2022.

Bill Blackburn, Mayor

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Michael C. Hayes".

Michael C. Hayes, City Attorney



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Ordinance No. 2022-01. Second reading. An Ordinance amending Chapter 74 of the Code of Ordinances, City of Kerrville, Texas, titled "Parks and Recreation", by adding a new Article III "Parkland Dedication", to include parkland dedication requirements for new residential development within the City and its extraterritorial jurisdiction; providing an effective date; and providing other matters relating to the subject.

AGENDA DATE OF: January 11, 2022 **DATE SUBMITTED:** Dec 17, 2021

SUBMITTED BY: Ashlea Boyle

EXHIBITS: [20220111_Ord 2022-01 Parkland Dedication second reading.pdf](#)
[20220111_UGRA Parkland Dedication Ordinance Comments.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$0	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	Yes
Key Priority Area	P - Parks / Open Space / River Corridor
Guiding Principle	P4. Update the Parks Master Plan, other applicable codes and ordinances and capital planning and funding priorities to support Kerrville 2050
Action Item	P4.4 - Amend the park dedication ordinance to further promote improvements to existing and future parks

SUMMARY STATEMENT:

Attached is an Ordinance amending the Parkland Dedication Ordinance. The Parkland Dedication Ordinance was originally established in 1987; and the last revision was in 1991 (which is also attached). This ordinance amendment is adopted to provide parks for recreational purposes as a function of 1) subdivision development and 2) new residential construction. This ordinance is enacted in accordance with the Home Rule powers of the City of Kerrville, granted under the Texas Constitution, and the statutes of the State of Texas. It is hereby declared by the City Council that recreation areas in the form of parks

are necessary and in the public welfare.

Parks and parkland, as they pertain to this ordinance, are those public properties providing for a variety of outdoor recreational opportunities and within convenient distances to a majority of the residences to be served thereby. A portion of the costs of these parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, will be beneficiaries of such facilities.

This amendment includes retaining fees-in-lieu of parkland as a priority over land dedication in accordance with the direction set by the adopted vision in Kerrville 2050 placing an emphasis on regional parks versus creating new, smaller neighborhood parks. The amount is valued at one acre per 42 residential units.

The Upper Guadalupe River Authority (UGRA) has also provided a letter of support for the parkland dedication ordinance. City staff will continue discussions with UGRA to determine if and when park projects might be able to incorporate any water quality features in parks.

Recommended amendments include:

- 1) Fees - Removing the fees from the ordinance and placing the fees in the overall Fee Schedule, as adopted by Council annually. For single and two-family residential projects, the timing of the payment of these fees will be moved from the building permit to the recording of the subdivision plat. The Parks and Recreation Advisory Board recommendation also includes incremental annual fee increases. (This proposed multi-year fee increase may be included in a future budget amendment.) The current fee is \$250 per unit. The fee structure is being updated based on the current land values and land dedication ratio. This will be referenced in the ordinance and included in the annual budget. Fees will be evaluated annually by staff and adjusted by the City Council as appropriate. Proposed fees are FY22 = \$700, FY23 = \$850, FY24 = \$1,000, FY25 = \$1,275.
- 2) Eliminate varying unit-size and separate multi-family rate amounts and make the ETJ rate the same as the in-City rate.
- 3) Expanding the refund period from five years to ten years. This will allow for a greater collection of funds accrued for capital projects in a more realistic implementation time. The parkland dedication fund can be utilized for capital improvements, but not operations and maintenance.
- 4) Increasing the overlap of fee collection districts from .5 miles on either side of HWY 16 to one mile. Highway 16 is the designated dividing line of east or west districts in which the collected funds are accrued and then allocated back on the corresponding side of town.
- 5) Adding language for the timeline of when a developer pays fees if a property is subdivided to be when the property is developed; and

6) General verbiage cleanups.

The Parks and Recreation Advisory Board unanimously approved these amendments on September 7, 2021.

On December 14, 2021, City Council held a public hearing with no speakers and approved Ordinance No. 2022-01 on first reading.

RECOMMENDED ACTION:

Approve Ordinance No. 2022-01, on second reading.

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-01

**AN ORDINANCE AMENDING CHAPTER 74 OF THE CODE OF
ORDINANCES, CITY OF KERRVILLE, TEXAS, TITLED “PARKS
AND RECREATION”, BY ADDING A NEW ARTICLE III
“PARKLAND DEDICATION”, TO INCLUDE PARKLAND
DEDICATION REQUIREMENTS FOR NEW RESIDENTIAL
DEVELOPMENT WITHIN THE CITY AND ITS
EXTRATERRITORIAL JURISDICTION; PROVIDING AN
EFFECTIVE DATE; AND PROVIDING OTHER MATTERS
RELATING TO THE SUBJECT**

WHEREAS, on September 28, 2021, City Council approved Ordinance No. 2021-24, which adopted a new Subdivision Code for the City and its extraterritorial jurisdiction (“ETJ”); and

WHEREAS, Ordinance No. 2021-24 repealed and replaced the City’s previous Subdivision Code, which included a requirement for parkland dedications for all new subdivisions in accordance with Ordinance No. 91-10, as adopted by City Council on June 11, 1991; and

WHEREAS, Ordinance No. 91-10 amended the City’s initial parkland dedication requirements adopted in 1987; and

WHEREAS, Ordinance No. 91-10 established a parkland dedication fee of \$250.00 per lot or unit, which has remained at this amount since 1991; and

WHEREAS, the City Council believes it remains in the public interest to continue to maintain and gain parkland within the City and potentially, its ETJ; and

WHEREAS, in the most recent Comprehensive Plan, a *Kerrville 2050* Guiding Principle was identified and stated to “focus on enhancing/investing in existing parks, their purpose or repurpose, and improving accessibility before acquiring land for new parks”; and

WHEREAS, Subsection 82-50(c)(5) of the Subdivision Code provides that all proposed subdivisions shall be served by public parks that provide a variety of outdoor recreational opportunities and are located according to the *Parks and Recreation Master Plan* (the “Master Plan”), as amended and as most recently adopted by City Council in September 2008; and

WHEREAS, Section 82-55 of the Subdivision Code likewise provides that it is the policy of the City to require residential developments to contribute parkland or

fees-in-lieu of land dedication in proportion to the needs of future residents and within close proximity to their homes, such that all residential subdivisions within the City shall dedicate parkland or pay fees-in-lieu of such dedication; and

WHEREAS, the City's Parks and Recreation Advisory Board has reviewed both the Master Plan and the City's previous Parkland Dedication regulations (Ord. No. 91-10) on a number of occasions, and voted to recommend the regulations and requirements provided herein; and

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

WHEREAS, pursuant to Chapter 212 of the Texas Local Government Code, the City has authority to regulate subdivisions; and

WHEREAS, pursuant to Chapter 331 of the Texas Local Government Code, the City may improve land for park purposes, operate and maintain parks, and control and manage parks; and

WHEREAS, City Council hereby finds that parkland and recreational areas in the form of neighborhood and community parks are necessary and in the public's welfare, as the City currently has approximately 4 square miles of existing parkland, open spaces, or scenic areas located within the City or as are accessible in its ETJ; and

WHEREAS, based upon the City's current size and in particular, the location of the City's largest, multiuse regional parkland, including Louise Hays, Lehmann-Monroe, Kerrville-Schreiner, the Kerrville River Trail, and the Kerrville Sports Complex, most City residents could be deemed as residing relatively near all of these parks for the ease of accessibility and use; and

WHEREAS, the only adequate procedure to provide for parkland is to integrate such requirements into the planning and development of property or subdivisions in the City and its ETJ; and

WHEREAS, existing parkland within the City currently serve the needs of neighborhoods located within the City and its ETJ, many of which are located within a reasonable distance of City residents and ETJ users; and

WHEREAS, Louise Hays Park, Lehmann-Monroe Park, Kerrville-Schreiner Park, the Kerrville Sports Complex, and the Kerrville River Trail, each of which

provides amenities that are typical in neighborhood, community parks, and regional parks providing services to City residents and ETJ users alike, due to the absence or limitation of similar parkland facilities within the ETJ; and

WHEREAS, neighborhood parks and community parks combined, can meet most of the recreational needs of City residents and ETJ users; and

WHEREAS, these parkland dedication requirements are adopted to maintain and provide parkland in the form of neighborhood parks, community parks, regional parks, and special use parks in conjunction with the development of residential projects both in the City and its ETJ; and

WHEREAS, costs associated with development and maintenance of neighborhood, community parks, and regional parks should be borne by the developers and landowners of residential property who, by reason of the proximity of their property to such parks, are the primary beneficiaries of such facilities; and

WHEREAS, the requirements within this Ordinance are adopted to affect the purposes stated above; and

WHEREAS, the City Council finds that the amendments imposed by this Ordinance are reasonable, necessary, and proper for the good government of the City and that such amendments promote the health, safety, morals, or general welfare of the City and its safe, orderly, and healthful development, in accordance with Section 212.002, Texas Local Government Code; and

WHEREAS, on December 14, 2021, and pursuant to public notice, City Council held a public hearing on the regulations provided herein, and has considered the comments, reports, and recommendations of the Parks and Recreation Advisory Board and staff, public testimony, and other relevant support materials;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. Chapter 74 “*Parks and Recreation*” of the Code of Ordinances of the City of Kerrville, Texas, is amended by adding a new Article III “Parkland Dedication”, which will add the language that is underlined (added) as follows:

“ARTICLE III. – PARKLAND DEDICATION

Sec. 74-50. - Purpose.

(a) The regulations found within this article are adopted to provide parkland, open space, and trails for recreational purposes as a function of (i) subdivision development; and (ii) new residential construction for previously platted lots.

(b) The City finds that parks, open space, and trails are necessary for public welfare, and that the adequate procedure to provide these community amenities is by integrating standards into the City's procedures for planning and developing property. In addition, the City finds that a portion of the costs of parks, open spaces, and trails should be borne by the ultimate residential property owners who, by reason of their general proximity of their property to such amenities, will be the primary beneficiaries.

Sec. 74-51. - Definitions.

Applicant means a person or entity who submits an application to the City for an approval as required by this article. To qualify as an applicant, the person or entity must have sufficient legal authority or proprietary interests in the land. This term is restricted to include only the property owner(s), or a duly authorized agent and representative of the property owner. The term may include the "developer", "subdivider", "builder", or other similar title.

City Manager means the City Manager of the City, or designee.

Development means the construction, reconstruction, conversion, structural alteration, relocation, renovation, or enlargement of any structure on land.

Dwelling Unit means any building, structure, or portion of a structure, which is designed, used, or intended to be used, for human occupancy as primary living quarters.

ETJ means the extraterritorial jurisdiction of the City, pursuant to state law.

Fee-in-lieu means the fee that the City requires an applicant pay instead of parkland dedication, and the fund generated from such fees to be used for parkland acquisition or improvements of existing parks. City Council shall include such fee in the fee schedule, which is annually reviewed and adopted as part of its budget.

Multifamily dwelling means the same as this term is defined by the Zoning Code, to include apartments, condominiums, and assisted living facilities.

Open Space means a category of parkland that is to be kept essentially unimproved and dedicated for the public. The primary functions of this type of parkland is the protection of hill country scenic vistas; protection of a quiet, rural

lifestyle; and conservation of native wildlife. Open space may feature minimal improvements such as walking trails, picnic sites, and/or benches.

Parkland means a tract of land designated and used for recreation or open space, to include neighborhood, community, and regional parks.

Parks and Recreation Master Plan (“Master Plan”) means the stand-alone document that is intended to guide the continued development of the City’s Parks and Recreation Department and is a tool to educate and explain needs within this system. Such plan is periodically reviewed and revised by the City’s Parks and Recreation Advisory Board, but subject to approval by the City Council.

Planning and Zoning Commission means the City’s Planning and Zoning Commission also referred to as the “Commission.”

Sec. 74-52. - Parkland requirement for land developed for residential purposes.

(a) Applicability. All new residential developments, to include new residential construction on previously platted lots, located either inside the City limits or within the ETJ, shall be required to contribute to the development and/or maintenance of parkland in accordance with this article and pursuant to goals and strategies contemplated by the Master Plan.

(b) Fee-in-lieu. Where the City Manager determines, in his or her sole discretion, that sufficient parkland exists within an area to serve a proposed residential development, and that the recreation potential for the proposed development would be better served by expanding or improving existing parkland, then the City will require the payment of the then existing fee-in-lieu as provided by this article for the expansion or improvement of those existing park facilities. The final plat shall include a note stating and affirming the application and payment of fees-in-lieu. Such fees are applicable as follows:

(1) Single-family residential - at the time of the Commission’s approval of a subdivision’s final plat, the City shall assess the development the existing fee-in-lieu for each single-family residential lot. Following approval but prior to recording, the applicant shall pay the City the assessed fee.

(2) Multifamily dwelling - in conjunction with but prior to the City’s issuance of a building permit for a new multifamily dwelling, the applicant shall pay the City the fee-in-lieu for each dwelling unit to be constructed as part of the multifamily dwelling.

(3) Previously approved single-family, residential lots - where the City has previously approved a residential subdivision as evidenced by a plat filed within the property records of Kerr County, a dwelling unit proposed for development on an unimproved lot from such subdivision shall be subject to payment of the fee-in-lieu. Thus, the applicant shall pay the City such fee as part of his or her submission of an application for a building permit.

(c) Dedicated parkland.

(1) In lieu of paying the fee-in-lieu, the City Manager, in his or her sole discretion, may require a developer to dedicate to the City one (1) acre of land per 42 proposed single-family residential lots or dwelling units, or a proportionate amount of land based on the number of lots or dwelling units, to be used as public parkland. The applicant shall indicate on a preliminary plat, final plat, subdivision construction plans, and site plan submitted to the City for approval the area proposed for such dedicated parkland. When construction of park improvements is proposed, all amenities shall be identified on the subdivision construction plan. No parkland required to be dedicated under this article may be less than one (1) acre and shall be dedicated as a single lot.

(2) Conditions and situations may warrant the City requesting parkland to be dedicated within the subdivision, to include each phase where applicable. In such cases, the City Manager will coordinate a reasonable parkland location with the applicant during the preliminary platting process.

(3) In all instances, the City shall have the right to accept the dedication of land or to refuse same and to require payment of the fee-in-lieu.

(4) The land dedication required by this article shall be made on the final plat and the Commission may not approve or record a final plat until the parkland dedication requirements are met. The applicant shall include the location of the parkland on the plat and include language on the plat that clearly indicates that the parkland is being dedicated and conveyed to the City in fee simple for public use.

(5) Any land dedicated to the City under this article shall be suitable for public parkland purposes and recreational uses, exclusive of encumbrances such as required setback areas, buffers, rights-of-way, other easements, or other similar requirements of the City's Code of Ordinances or other laws. The City Manager, in his or her sole discretion, may accept areas within the 100-year floodplain as dedicated parkland, but no area within the designated floodway may count toward the requirement of parkland dedication. In addition, no

property with excessive slopes, which make active recreation use impractical on the site, will count toward parkland dedication. Active recreation includes parkland needed to accommodate team sports, such as baseball, softball, football, and soccer, and to provide fields for league play.

(6) Any land dedicated shall have suitable means of access from a currently existing public street or one that the applicant will build during the initial development.

(7) The parkland proposed for dedication shall be in good condition, including the removal of all debris and dead plant materials, and the complete installation, and acceptance by the City, of utility services, sidewalks, and other public improvements. Any land disturbed by activities not related to parkland development shall be restored and the soil stabilized in a method approved by the City Manager in accordance with the requirements of this Code.

(d) Exemptions. The following situations are exempt from this article:

(1) dwelling units that have received building permits to begin construction prior to the effective date of the ordinance adopting this article; or

(2) subdivisions, or platted phases thereof, where the City has previously approved parkland dedication or the fee-in-lieu. Subsequent unplatting phases of any such subdivision are not exempt and will remain subject to this article.

(e) Special fund; right to a refund.

(1) The City has previously established and currently maintains a separate fund for the deposit of fees-in-lieu paid under this article or previous requirements, such fund known as the *Parkland Dedication Fund*. The City has used and will continue to use the fund for the development, improvement, and acquisition of parkland, trails, and facilities to benefit each within the district in which the development is located. Such districts are identified as follows:

a. For developments and property located east of Highway 16, the district is the area east of this highway. Additionally, if public parkland exists west of but within one (1) mile of, Highway 16 that can reasonably serve the development, then fee-in-lieu funds can be used for the parkland so noted west of Highway 16.

b. For contributing subdivisions or property located west of Highway 16, the district shall be the area west this highway. Additionally, if public parkland exists east of but within one (1) mile of, Highway 16 that can reasonably serve the development, then fee-in-lieu funds can be used for the parkland so noted east of Highway 16.

(2) The City shall account for all sums paid for parkland acquisition or expansion or improvement of park facilities under this article with reference to the specific development. Funds paid to the City shall be expended by the City in the order that they are paid, analogous to first in, first out. Any funds paid for such purposes must be expended by the City within ten (10) years from the date received by the City for acquisition, development, expansion, or improvement of a parkland as provided herein. If not so expended, the current owner(s) of the contributing property shall be entitled to a prorata refund of any such funds not expended, not including any interest; provided that the owners of such property must make a written request for such refund from the City within one (1) year of the expiration of the ten (10) year period to qualify for a refund.”

SECTION TWO. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict. This Ordinance repeals and replaces Ordinance No. 91-10.

SECTION THREE. The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION FOUR. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION FIVE. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the _____ day of _____, A.D., 2021.

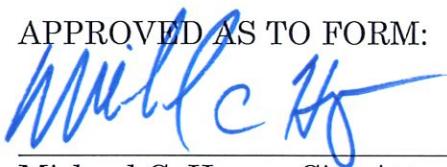
PASSED AND APPROVED ON SECOND AND FINAL READING, this
the ____ of _____, A.D., 2022.

Bill Blackburn, Mayor

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

A blue ink signature of Michael C. Hayes.

Michael C. Hayes, City Attorney

COPY OF PARKLAND ORDINANCE 91-10

CITY OF KERRVILLE, TEXAS

ORDINANCE NO. 91 - 10

AN ORDINANCE ENACTING REQUIREMENTS FOR PARKLAND IMPACT FEES AND PARKLAND DEDICATION IN LIEU OF IMPACT FEES TO PROVIDE FOR PARK DEVELOPMENT, ESTABLISHING A SPECIAL FUND FOR MONEY PAID FOR PARK DEVELOPMENT, AND CONTAINING A SAVINGS CLAUSE; AND DELETING ORDINANCE NO. 87 - 55 IN ITS ENTIRETY; AND AMENDING ARTICLE 10-IV-3, SECTION C, OF THE KERRVILLE SUBDIVISION ORDINANCE, TO REFER TO THE PARKLAND DEDICATION ORDINANCE AND TO DELETE ANY NATURAL FEATURES CREDITS FOR PARKLAND IMPACT FEES OR PARKLAND DEDICATION.

WHEREAS, the City's Ad Hoc Committee on Parkland Dedication, composed of members from the City Council, the Planning and Zoning Commission, the Parks and Recreation Board, the Board of Realtors, and the Kerrville Home Builders Association, has met on four occasions to draft recommendations to the City Council regarding changes to the Parkland Dedication Ordinance; and

WHEREAS, the aforementioned committee has made the recommendations included below, and the Park and Recreation Board has concurred;

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

1. That Ordinance No. 87 - 55 is hereby deleted in its entirety.
2. That Exhibit "A" attached hereto and incorporated herein by reference which sets forth requirements for parkland impact fees and dedication to provide for park development, establishes a special fund for money paid for park development and contains a savings clause is hereby adopted.
3. That Exhibit "B" attached hereto and incorporated herein by reference which amends Art. 10-IV-3, Section (C), Parks, Open Spaces, Public Easements, and Preservation of Natural Features of the Subdivision Ordinance, by (A) revising Paragraph 1 to reference Parkland Dedication Ordinance No. 91 - 10 and (B) amends Paragraph 3 by deleting the last sentence thereof to eliminate any natural features credit

Approved by City Council
Date: June 11, 1981
Volume 32 Page 114

toward the parkland fee or dedication requirements of Parkland Dedication Ordinance No. 91 - 10, is hereby adopted.

PASSED AND APPROVED ON FIRST READING THIS 9 DAY OF
April, 1991.

PASSED AND APPROVED ON SECOND READING THIS 11 DAY OF
June, 1991.

THE CITY OF KERRVILLE, TEXAS

Leonard L. Holloway
Leonard L. Holloway, Mayor

ATTEST:

Sheila L. Brand
Sheila L. Brand, City Clerk

APPROVED AS TO FORM:

WALLACE, MOSTY, MACHANN,
JACKSON & WILLIAMS

By: Elton M. Mathan

34EDMa

EXHIBIT "A"

CITY OF KERRVILLE

ORDINANCE 91-10
PARKLAND ORDINANCE

SECTION 1. PURPOSE

This ordinance is adopted to provide recreational areas in the form of neighborhood parks as a function of (1) subdivision development and (2) new residential construction. This ordinance is enacted in accordance with the Home Rule powers of the City of Kerrville, granted under the Texas Constitution, and the statutes of the State of Texas. It is hereby declared by the City Council that recreational areas in the form of neighborhood parks are necessary and in the public welfare. It is also hereby declared that in certain cases the preservation of open space is necessary to provide for the public welfare and may be beneficial to the public in lieu of dedication of parkland.

Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances to a majority of the residences to be served thereby. A portion of the costs of neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, will be beneficiaries of such facilities. Therefore, the following requirements are adopted to effect the purposes stated.

SECTION 2. GENERAL REQUIREMENTS FOR ANY LAND TO BE USED FOR RESIDENTIAL PURPOSES.

a. In order to accomplish the objectives of this ordinance, all new residential developments, including new residential construction, shall be required to contribute to the City's parkland development plans as described below:

At the time of the issuance of a Building Permit for new residential structures, there shall be paid by the applicant, a parkland impact fee for each dwelling constructed according to the following schedule:

<u>Dwelling Unit Size*</u>	<u>Building Fee/Unit**</u>	
	<u>1990</u>	<u>1991 and Thereafter</u>
Less than 1,000 Sq. Ft.	\$100.00	\$125.00

1,000 - 1,500 Sq. Ft.	125.00	150.00
1,501 - 2,000 Sq. Ft.	150.00	200.00
More than 2,000 Sq. Ft.	175.00	225.00

*Heated or cooled space, excluding garages

**All years are based upon calendar years

b. E.T.J. Plats: Those subdivisions located in the City's E.T.J. which are rendered for plat approval, shall be required to pay the following fees:

SUBDIVISION FEE/PER EACH DWELLING UNIT

<u>1990</u>	<u>1991 and Thereafter</u>
\$150.00	\$200.00

SECTION 3. DEDICATION IN LIEU OF FEES

a. In lieu of paying a parkland dedication fee, a developer may offer to dedicate one acre of land per 42 proposed dwelling units, or a proportionate amount of land based on the number of proposed dwelling units, to be used as public parkland or public open space. Any proposed plat submitted to the City for approval shall show the area proposed for parkland or open space if the developer elects to offer to the public said parkland or open space in lieu of fees.

b. In all instances, the City shall have the right to accept the dedication of land or to refuse same, and to require payment of cash in accordance with Section 2 of this ordinance.

c. If the City determines that sufficient park area is already in the public domain in the neighborhood of the proposed development, and that the recreation potential for the neighborhood of the proposed development would be better served by expanding or improving existing park facilities, then the City shall require the payment of cash in the amount provided by Section 2 for the expansion or improvement of those existing park facilities.

d. The land dedication required by this ordinance shall be made on the final plat or by separate instrument, and no final plat shall be approved until the parkland or open space dedication requirements are met.

e. At the discretion of the City, any former gift of land by the owner to the City may be credited on a per acre basis toward eventual land dedication requirements imposed on the donor of such lands, provided that the gifted land is located in the

same neighborhood, as defined hereinafter, as the proposed development for which a credit is requested by such donor.

f. Any land dedicated to the City under this ordinance shall be suitable for either active or passive recreational use, exclusive of setback areas, bufferyards, parking areas, or other similar requirements of the Zoning Ordinances of the City. For example, a drainage area that serves no useful recreational purpose shall not be accepted.

g. Any land dedicated shall have suitable means of access from a public street.

h. Action by the City under this Section shall mean action by City Council after review with recommendation by the City Parks and Recreation Board.

SECTION 4. PLAT RESTRICTIONS

Notation shall be made on each plat describing the method of Parkland Dedication.

SECTION 5. EXEMPTIONS

The following shall be exempt from this ordinance:

1. All dwelling units that have received permits to begin construction prior to the effective date of this ordinance; and
2. All subdivisions (or phases thereof) that have received approval for private recreational facilities or open space in lieu of parkland impact fees under Ordinance No. 87 - 55 prior to the effective date of this ordinance; provided that subsequent phases of any such subdivision shall not be exempt and shall be subject to this ordinance.
3. Nursing homes providing convalescent care.

SECTION 6. SPECIAL FUND - RIGHT TO REFUND

a. There is hereby established a separate fund for the deposit of all sums paid under this ordinance or any preceding ordinance, which shall be known as the Parkland Dedication Fund. Said fund shall accumulate all sums paid and interest earned on all deposits. The money in the special fund shall be used for parks in the neighborhood in which the contributing subdivision is located. Such neighborhoods shall be identified as follows:

For contributing subdivisions or property located East of Highway 16, the neighborhood shall be the area East of Highway 16 and the area lying West of and within one-half ($\frac{1}{2}$) mile of Highway 16.

For contributing subdivisions or property located West of Highway 16, the neighborhood shall be the area West of Highway 16 and the area lying East of and within one-half ($\frac{1}{2}$) mile of Highway 16.

b. The City shall account for all sums paid for parkland acquisition or expansion or improvement of park facilities under this ordinance with reference to the individual development and the neighborhood involved. Any funds paid for such purposes must be expended by the City within five (5) years from the date received by the City for acquisition, development, expansion or improvement of a neighborhood park as provided herein. If not so expended, the owners of the contributing property on the last day of such five (5) year period shall be entitled to a prorata refund of all such funds not expended; provided that the owners of such property must request such refund from the City within one (1) year of entitlement, in writing, or such right shall be barred and such owner's refund or prorata part thereof shall be retained by the City.

SECTION 7. SAVINGS CLAUSE

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provisions or application of this ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this ordinance are declared to be severable.

34EDMab

EXHIBIT "B"

ART. 10-IV-3

SECTION (C) PARKS, OPEN SPACES, PUBLIC EASEMENTS, AND PRESERVATION OF NATURAL FEATURES.

1. Parkland Dedication. All subdivision plats which are to be approved by the Planning and Zoning Commission shall note the method of Parkland Dedication, which has been chosen by the developer and approved by the City as provided in Ordinance 91 - 10.
3. Preservation of Natural Features. Natural features such as large trees, water-courses, historical spots, and similar community assets will add attractiveness and value to the property. Nature features shall be identified on a site plan prior to plat approval. If considered to be of significant value to the property, or the neighborhood, or the community, the Commission may require the preservation of some or all of these natural features.

34EDMaa



*Guadalupe Basin
Natural
Resources Center*
125 Lehmann Drive
Ste. 100
Kerrville, Texas
78028-5908
(830) 896-5445
Fax (830) 257-2621
Email: tbushnoe@ugra.org

UGRA

January 3, 2022

Ms. Ashlea Boyle
Director of Parks and Recreation
City of Kerrville
Parks and Recreation Department
2385 Bandera Highway
Kerrville, Texas 78028

Re: Parkland Dedication Ordinance Amendment

Dear Ms. Boyle:

Thank you for the opportunity to comment on City of Kerrville (City) Ordinance No. 2022-01 regarding parkland dedication requirements within the City and its ETJ. UGRA understands that the amendments will allow the Parks and Recreation Department to achieve a vision for parks as outlined in the adopted Kerrville 2050 plan by enhancing regional parks. UGRA's desire to comment on the ordinance stems from the opportunity to increase use of nature-based infrastructure techniques in park capital improvements if the ordinance is approved.

The amendments will allow the parkland dedication fund to grow and potentially fund larger capital improvement projects. We would like to encourage the City to include nature-based infrastructure techniques in the design and construction of these improvements. These techniques can be innovative solutions to manage stormwater runoff and protect the health of the Guadalupe River both in riverside parks and those within the watershed. The techniques can also create attractive park features that are designed to infiltrate runoff. For example, a bioretention area can be designed with pathways and benches for public enjoyment and planted to attract beneficial wildlife such as butterflies or other pollinators. Permeable walkways, soil amendments, and rain gardens can be used to mitigate drainage problems or nuisance flooding. Rainwater harvesting can prevent stormwater runoff and conserve water by creating additional supply for landscape irrigation. Placing signs where these nature-based infrastructure techniques are used can raise public awareness of the threat of stormwater pollution to the Guadalupe River and demonstrate features that can be replicated at homes or businesses. City parks can not only function to reduce stormwater pollution and improve water quality, but they can also be examples of sustainable development techniques for the entire community.

We understand that it is within the sole discretion of the City Manager to determine if sufficient parkland exists within an area to serve a proposed residential

development. We would like to encourage the City Manager to consider the value of preserving natural open space within developments for both recreational value and stormwater management. As our community grows and more land in transitioned to impervious surfaces, more stormwater runoff is generated, and the pollutant loads to our creeks and river increase. Areas of infiltration adjacent to where the stormwater runoff is generated will help mitigate that increase. These vegetated areas can also be usable park space and therefore achieve a dual purpose.

Thank you again for the opportunity to share these comments and please let me know if you would like to discuss them further. I defer to your direction regarding whether these comments should be made in a more formal capacity. As always, UGRA stands ready to assist the City in any appropriate way to achieve our mutual goal of protecting our beautiful river for the benefit of our community.

Sincerely,



Tara M. Bushnoe
Natural Resources Manager

cc: E.A. Hoppe, City of Kerrville City Manager
Mike Hayes, City of Kerrville City Attorney
Drew Paxton, City of Kerrville Planning Director
Ray Buck, UGRA General Manager
Diane McMahon, UGRA Board President



**TO BE CONSIDERED BY
ECONOMIC IMPROVEMENT CORPORATION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Economic Development Grant Agreement between Sid Peterson Memorial Hospital, Inc. and the City of Kerrville, Texas Economic Improvement Corporation for infrastructure necessary to promote or develop new or expanded business enterprises that create primary jobs.

AGENDA DATE OF: January 11, 2022 **DATE SUBMITTED:** Dec 27, 2021

SUBMITTED BY: EA Hoppe

EXHIBITS: [20220111_EIC Agreement Funding Grant Agreement SPMH.pdf](#)
[20220111_EIC Application - Peterson_Health 11-11-2021.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
1,600,000	N/A	N/A	N/A

PAYMENT TO BE MADE TO: Sid Peterson Memorial Hospital, Inc.

Kerrville 2050 Item?	Yes
Key Priority Area	E - Economic Development
Guiding Principle	E12. Nurture continued growth and quality of the medical/health care industry in Kerrville
Action Item	E12.4 -Work with the hospitals to address their expansion needs/requirements

SUMMARY STATEMENT:

The Kerrville Economic Improvement Corporation received a Funding Application (attached) from Sid Peterson Memorial Hospital (Peterson Health) in regards to the potential expansion of their campus within Kerrville's Strategic Catalyst Area #2, often referred as the "medical district." Sid Person Memorial Hospital is the largest employer within Kerr county and the city of Kerrville. The citizens of Kerrville recognized the importance of Sid Peterson Memorial Hospital to the local economy by specifically identifying two key action items within the Kerrville 2050 Comprehensive Plan (Economic Development; Nurture continued growth and quality of the medical/health care industry;

E12.1 - Promote the growth and expansion of the hospital and the medical industry, E12.4 - Work with the hospital to address their expansion needs/requirements) Sid Peterson Memorial Hospital representatives will be on hand to present their request and answer questions.

Peterson Health presented their application to the EIC at their regular meeting in November. The EIC unanimously approved the drafting of an Economic Development Grant Agreement to be further discussed and considered at a Public Hearing December 20, 2021, which was held. The EIC subsequently unanimously approved the attached Funding Agreement.

RECOMMENDED ACTION:

Approve the Economic Development Grant Agreement between Sid Peterson Memorial Hospital and the City of Kerrville, Texas Economic Improvement Corporation.

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
SID PETERSON MEMORIAL HOSPITAL, INC. AND THE CITY
OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT
CORPORATION FOR INFRASTRUCTURE NECESSARY TO
PROMOTE OR DEVELOP NEW OR EXPANDED BUSINESS
ENTERPRISES THAT CREATE PRIMARY JOBS**

This Economic Development Grant Agreement ("Agreement") is entered into as of the Effective Date by and between **SID PETERSON MEMORIAL HOSPITAL, INC.** (dba Peterson Regional Medical Center), a Texas nonprofit corporation ("Peterson"), acting herein by and through its duly authorized President and Chief Executive Officer; and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** ("EIC"), a Type B Economic Development Corporation established pursuant to Chapters 501, 502, and 505 of the Texas Local Government Code, as amended (*i.e.*, the Development Corporation Act and hereafter referred to as "the Act"), acting by and through its duly authorized President. Peterson and EIC are sometimes collectively referred to herein as "Parties" and individually as "Party".

WITNESSETH:

WHEREAS, pursuant to the Act, EIC is authorized to provide funding relating to the construction of projects which EIC finds to be encompassed within the definition of "Projects", as that word is defined by Chapters 501 and 505 of the Act; and

WHEREAS, the EIC was formed to administer sales and use tax approved by the citizens of Kerrville, Texas, in May 1995 and collected for projects including:

Expenditures that are found by the EIC: 1) to be required or suitable for *infrastructure necessary to promote or develop new or expanded business enterprises, limited to, streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements* as provided by Section 501.103 of the Act; and 2) land, buildings, equipment, *facilities, and improvements* to promote or develop *new or expanded business enterprises that create or retain primary jobs* including a project to provide public safety facilities, *streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements, and any improvements*

or facilities related to a project described by this subdivision; and any other project that the Board in its discretion, determines promotes or develops new or expanded business enterprises that create or retain primary jobs, as provided by Sections 501.103 and 505.155 of the Act (emphasis supplied); and

WHEREAS, Peterson, whose headquarters, Peterson Regional Medical Center (“PRMC”), is in Kerrville, Texas, and is the largest employer in Kerr County, is a community-based healthcare provider, which provides comprehensive medical care to Kerr County residents as well as residents of counties in the surrounding region, to include the cities of Bandera, Comfort, and Fredericksburg; and

WHEREAS, the provision of a significant amount of medical services and care to persons residing beyond Kerr County means that the professionals providing such services hold “primary jobs”; and

WHEREAS, Peterson recently purchased approximately 169 acres of an unimproved property across Lehmann Drive from PRMC as further described and depicted in **Exhibit A** (the “Property”); and

WHEREAS, Peterson has applied to the City of Kerrville (“City”) for annexation of the Property; and

WHEREAS, Peterson is in the process of designing and developing a surgery center and making improvements to another facility located at the PRMC, such improvements currently estimated to cost over \$44 Million; and

WHEREAS, in undertaking such improvements, Peterson will utilize a portion of the existing PRMC property that it uses as a parking area; and

WHEREAS, Peterson has accounted for the required funds for the PRMC improvements, and believes the improvements and the expansion of services and care that it affords are necessary to keep up with its expanding health care coverage and will allow it to recruit additional staff, including surgeons and other specialists; and

WHEREAS, in conjunction with such expansion, Peterson desires to develop the Property and to use it as an offsite parking area for employees and others that use the PRMC, such development encompassing the construction of public infrastructure, including the extension of a public road, utilities, and drainage facilities (the “Project”); and

WHEREAS, Peterson has advised the EIC that a contributing factor that would induce Peterson to add to and improve the PRMC as well as to undertake the

Project would be an agreement with EIC to provide an economic development grant to Peterson to defray a portion of the Project costs; and

WHEREAS, the City's Comprehensive Plan provides, as one of its goals, for the City to nurture the continued growth and quality of medical and healthcare services in Kerrville and to work with Peterson to address its expansion needs as required, as the City recognizes Peterson as an economic driver, the City's largest employer, and a producer of medical tourism, with its resulting economic benefits, into the City; and

WHEREAS, finding that providing a grant to fund the Project is required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises by promoting the expansion of the PRMC, its services, the number of people it is able to serve, and to promote or develop new and expanded business enterprises that create or retain primary jobs, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures; and

WHEREAS, EIC finds that it will be in the public interest to enter into this Agreement with Peterson to provide a grant of 4B Revenues, as defined below, to Peterson for a portion of its cost necessary for the construction of the offsite improvements; and

WHEREAS, on December 20, 2021, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, EIC held a public hearing pursuant to Section 505.159 of the Act related to the proposed expenditure of 4B Revenues for the purposes provided above;

NOW THEREFORE, for and in consideration of the recitals set forth above and the promises made herein, Peterson, EIC, and City agree as follows:

Article I **Definitions**

For purposes of this Agreement, each of the following terms has the meaning set forth herein unless the context clearly indicates otherwise:

“4B Sales Tax” means the one-half of one percent (0.5%) local sales and use tax collected by City for the benefit of EIC pursuant to the Act.

“Affiliate” means, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with such Person.

“Bankruptcy or Insolvency” means the dissolution or termination of a Party's existence as a going business, insolvency, appointment of receiver for any part of such

Party's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such Party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“*City*” means the City of Kerrville, Texas.

“*Commencement of Construction*” means that (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Improvements on the Property; (ii) all necessary permits for the construction of the Improvements on the Property pursuant to the plans have been issued by all applicable governmental authorities; and (iii) grading of the Property and/or construction of the Improvements have begun.

“*Control*,” or any derivation thereof, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of securities, by contract or otherwise.

“*Force Majeure*” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, terrorist act, or threat thereof, riot, civil commotion, insurrection, government action or inaction (unless caused by the intentionally wrongful acts or omissions of the Party), fires, earthquake, tornado, hurricane, explosions, floods, strikes, slowdowns, or work stoppages.

“*Grant*” means the amount of One Million Six Hundred Thousand and No/100 Dollars (\$1,600,000.00) paid by EIC to Peterson in two installments, as provided in this Agreement.

“*Improvements*” means the public infrastructure constructed on the Property, including the construction of a public road, utilities, and storm sewer, as more fully described in **Exhibit B**.

“*Local Sales and Use Tax*” means (i) the one percent (1%) sales and use tax imposed by the City pursuant to Chapter 321, Texas Tax Code and (ii) the 4B Sales Tax.

“*Person*” means an individual, corporation, partnership, trust, estate, unincorporated organization, association, or other entity.

“*Project*” means the specific scope of work for the Improvements provided to the EIC by Peterson, which is attached as **Exhibit B**.

“*Property*” means the property described and depicted in **Exhibit A**.

“*Substantial Completion of Construction*” means the City has accepted and/or approved, as evidenced where appropriate by the issuance of a permit(s) or a certificate of occupancy or otherwise, the Improvements or Surgery Center.

“*Surgery Center*” means the approximate 41,000 square foot, three-story building that Peterson intends to design and construct as part of its PRMC.

Article II Term

2.1. Effective Date and Termination. The term of this Agreement (the “Term”) commences on December 20, 2021 (the “Effective Date”), and terminates on the earlier of:

- (a) December 19, 2026;
- (b) Three years after Substantial Completion of the Surgery Center;
- (c) when terminated by mutual agreement of the Parties;
- (d) if Commencement of Construction does not occur by January 1, 2023 for the Improvements and EIC elects to terminate this Agreement by providing notice to Peterson before Commencement of Construction actually occurs;
- (e) if Commencement of Construction does not occur for the Surgery Center by January 1, 2023 and EIC elects to terminate this Agreement by providing notice to Peterson before Commencement of Construction actually occurs;
- (f) when terminated pursuant to Articles VIII or IX; or
- (g) at Peterson’s sole and absolute discretion, upon Peterson’s return of the Grant or the portion of the Grant it has received to EIC.

2.2 Rights upon Termination. Upon termination of this Agreement, all rights, duties, and obligations of any kind under this Agreement will automatically expire and terminate and be of no other force and effect except to the extent such obligations expressly survive the termination of this Agreement.

Article III 4B Revenue Grant

3.1 Grant and its Conditions. Subject to Peterson’s compliance with this Agreement, EIC agrees to provide Peterson with an amount up to and not to exceed the Grant, which EIC shall pay in two equal installments of Eight Hundred Thousand

and No/100 Dollars (\$800,000.00) each. EIC shall pay the installments of the Grant as follows:

(a) EIC shall pay the first installment of the Grant to Peterson not later than thirty (30) days after Peterson's delivery to City of a request for payment following the date that the Project has achieved Substantial Completion of Construction.

(b) EIC shall pay the second installment of the Grant to Peterson not later than thirty (30) days after Peterson's delivery to City of a request for payment following the date that the Surgery Center has achieved Substantial Completion of Construction. Where the Surgery Center achieves Substantial Completion prior to October 1, 2022, the EIC may elect to withhold such payment until this date.

(c) Prior to any payment, EIC, through the City Manager, may require that Peterson submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval.

(d) In no instance will the EIC be responsible for paying any amount which exceeds each installment of or the Grant, whether at the time of payment or into the future.

3.2 Grant Limitations. Under no circumstances shall the obligations of EIC hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, EIC shall not be obligated to pay any commercial bank, lender, or similar institution for any loan or credit agreement made by Peterson.

3.3 Current Revenue. The Grant will be paid solely from lawfully available funds that have been appropriated by EIC. EIC shall have no obligation or liability to pay any installment of the Grant except as allowed by law. EIC shall not be required to pay any installment of the Grant if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.

3.4 Grant Limited to "Costs". Payments made by EIC to Peterson from 4B Sales Taxes will be limited to the payments of "costs" as defined by the Act and as specified above for the Project; provided, however, for purposes of this Agreement, "costs" do not include funds spent by Peterson relating to the purchase of the Property or interest or other fees paid by Peterson related to borrowing funds for the purpose of paying for the Project or the Improvement.

Article IV Conditions to the Economic Development Grant

4.1 Generally. The obligation of EIC to provide the Grant and the right of Peterson to retain the Grant without an obligation to repay all or any portion of the

Grant to EIC shall be conditioned upon continued compliance with, and satisfaction of, each of the terms and conditions of this Agreement by Peterson and specifically, each of the conditions set forth in this Article IV.

4.2 Good Standing. Peterson shall not have incurred a breach or default of this Agreement or any Related Agreement beyond any applicable notice and cure period.

4.3 Development Regulations. Prior to and following annexation of the Property, Peterson shall comply with all applicable development regulations of the City, to include building codes, subdivision regulations, and zoning, in its development and construction of the Project and the Surgery Center. In addition, Peterson shall cause to be developed a traffic impact analysis for any proposed or future impact from vehicle use or access to or from the Property and mitigate any impact as required by the study, Texas Department of Transportation, and/or City irrespective of vesting rights. Peterson shall engage a firm or professional to conduct the study that is licensed to do so by the state. Peterson will attempt to: meet the standards found for "dark sky" lighting; and, as much as is practical, preserve the large diameter (*i.e.*, 18" or greater in diameter) healthy, non-diseased, and native, non-invasive existing trees unless removal is necessary; and, utilize landscaping to include planting materials from the list of recommended plants set forth in the most recent edition of *Recommended Plants for the Kerrville Area* by the City at the time of planting. All landscaping must be maintained in a healthy, growing condition. Peterson's failure to comply with this provision constitutes a breach of this Agreement should Peterson, following notice from City, fail to fully comply.

4.4 Records. Peterson shall keep and maintain complete and accurate records relating to its costs of designing and constructing the Project for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect Peterson's records related to the Project during the term of this Agreement and for three (3) years thereafter, upon reasonable notice at Peterson's offices at the address identified in Section 10.4, below.

Article V

Sale of Project, Merger or Consolidation of Peterson

5.1 Sale of Peterson Assets. A sale of all or any of the assets of Peterson shall not release Peterson from its duties and responsibilities to EIC under the terms of this Agreement and shall not result in the assignment of this Agreement by such acquiring entity without prior written consent from EIC, which will not be unreasonably withheld; provided, that Peterson's proposed successor shall have the financial condition to fully satisfy Peterson's duties and responsibilities hereunder and agrees to assume Peterson's responsibilities under this Agreement. EIC may, in its sole discretion, reasonably determine whether such proposed successor's financial condition is satisfactory.

5.2 Merger. In the event of any proposed merger or other consolidation of Peterson with any third party not affiliated with Peterson, not later than thirty (30) days prior to any such merger or consolidation, Peterson shall provide EIC with information and assurance reasonably acceptable to EIC regarding: (i) the surviving entity's assumption and satisfaction of the Peterson's obligations hereunder; and (ii) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity shall have the financial condition to fully satisfy Peterson's duties and responsibilities under this Agreement.

5.3 EIC Rights. Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that EIC shall have no rights to approve or disapprove any sale or merger transaction of any kind involving Peterson. In the event of any sale or merger involving Peterson or its affiliates, the surviving entity shall assume Peterson's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

Article VI Peterson's Representations and Warranties

Peterson represents and warrants as of the date hereof:

- (a) Peterson is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;
- (b) Execution of this Agreement has been duly authorized by Peterson and this Agreement is not in contravention of Peterson's corporate charter, or any agreement or instrument to which Peterson is a party or by which it may be bound as of the date hereof;
- (c) No litigation or governmental proceeding is pending, or, to the knowledge of Peterson, threatened against or affecting Peterson, which may result in a material adverse change in Peterson's business, properties, or operations sufficient to jeopardize Peterson's legal existence; and
- (d) No written application, written statement, or correspondence submitted by Peterson to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of Peterson, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading.
- (e) Except as expressly set forth in this Article VI, Peterson makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

Article VII **EIC'S Representations and Warranties**

EIC represents and warrants as of the date hereof:

- (a) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the statute under which it is governed and by the authorities and powers vested in it as a corporation duly and properly organized under the Act;
- (b) Execution of this Agreement has been duly authorized by EIC;
- (c) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and
- (d) EIC has no reasonable basis for believing that it has or will have incurred debts beyond its ability to pay as such debts mature, including but not limited to the obligations set forth in this Agreement.
- (e) Except as expressly set forth in this Article VII, EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

Article VIII **Conditions under which EIC May Suspend Performance of Its Obligations Under This Agreement**

EIC may, at its sole option and after thirty (30) days written notice to Peterson, suspend EIC's performance under this Agreement until such time as Peterson shall have cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:

- (a) Peterson becomes insolvent;
- (b) The appointment of a receiver of Peterson, or of all or any substantial part of the Property, and the failure of such receiver to be discharged within sixty (60) days thereafter;
- (c) The adjudication of Peterson as bankrupt; or
- (d) The filing by Peterson of a petition to be adjudged as bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.

Should any of the foregoing conditions not be cured by Peterson within ninety (90) days after the onset of the condition, Peterson will be considered to have breached this Agreement and EIC may, at its option, with written notice to Peterson, terminate this Agreement and Peterson shall be obligated to refund the Grant to EIC.

Article IX Remedies

9.1 Notice and Opportunity to Cure. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any Party, or any successor to such Party, such defaulting or breaching Party (or successor) shall upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within a reasonable time (but in no event later than ninety (90) days from the date of notification of such breach), the aggrieved Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief, enforcement by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan payments and to apply the revenues from the project in accordance with this Agreement, as required by the Act. This provision and specifically the notice and time to cure shall not apply to the obligation of Peterson found within Article IV.

9.2 Termination. Upon breach of this Agreement by either Party and the failure to cure as permitted by Section 9.1, the non-breaching Party shall have the sole right and discretion to either terminate this Agreement and/or pursue any and all remedies which may be provided by law and this Agreement. Each Party acknowledges and agrees that no Party hereunder shall be entitled to recover any amounts in excess of the Grant contracted for under this Agreement.

9.3 Delay Not Waiver. Any delay by any Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not, so long as the breach or default by another Party shall be continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor shall any waiver in fact be made by any party with respect to any specific default by any other party except to the extent specifically waived in writing.

Article X General Provisions

10.1 Severability. The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision.

Further, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

10.2 Amendment. This Agreement may be amended only by written amendment signed by both Parties.

10.3 Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in Kerrville, Kerr County, Texas. Venue shall lie in a state court of competent jurisdiction in Kerr County, Texas; and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof.

10.4 Notices. All notices given with respect to this Agreement shall be in writing and shall be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For Peterson

Cory Edmondson, President and CEO
Sid Peterson Memorial Hospital, Inc.
551 Hill Country Drive
Kerrville, Texas 78028

For EIC

President

City of Kerrville, Texas, Economic Improvement Corporation
701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

10.5 Assignment. This Agreement is binding upon the Parties and their successors and assigns. Except as set forth in Article V, this Agreement may not be assigned by either Party without the specific prior written consent of the other, which consent will not be unreasonably withheld. In the event that a Party consents to any valid assignment of this Agreement by the other Party, the assigning Party shall be relieved of any and all obligations and liabilities on the part of such assigning Party under this Agreement. Peterson may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by Peterson or by the parent,

subsidiary, or affiliate of Peterson provided the entity assumes all of Peterson's obligations and liabilities under this Agreement; agrees to comply with all provisions of this Agreement; has the legal, managerial, technical, and financial ability to properly perform and discharge such obligations and liabilities; and such abilities are each at least as great as those of Peterson and Peterson provides a written guarantee of such assignee's performance in a form reasonably acceptable to EIC. EIC shall be advised in writing of such assignment and of the entity's qualifications at least sixty (60) days before such assignment occurs.

10.6 Parties In Interest. Nothing in this Agreement shall entitle any party other than Peterson or EIC to any claim, cause of action, remedy, or right of any kind except as expressly provided in Article IX.

10.7 Interpretation. Each Party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the Parties, at arm's length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.

10.8 No Joint Venture. Nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties.

10.9 Survival of Terms. All rights, duties, liabilities, and obligations accrued prior to termination shall survive termination.

10.10 Entire Agreement. This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof.

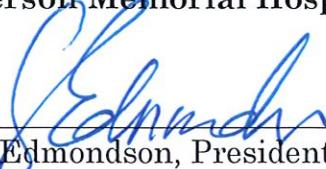
10.11 Recitals. The recitals to this Agreement are incorporated herein.

10.12 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

10.13 Employment of Undocumented Workers. During the term of this Agreement, Peterson agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Peterson shall repay the Grant within one hundred twenty (120) days after the date Peterson is notified by EIC of such violation, plus interest at the rate of four percent (4%) compounded annually from the date of violation until paid. Peterson is not liable for a violation of this section in relation to any workers employed by a subsidiary, Affiliate, contractor, subcontractor, or franchisee of Peterson or any other Person other than Peterson.

SIGNED AND AGREED on this _____ day of _____, 2021.

Sid Peterson Memorial Hospital, Inc.

By: 
Cory Edmondson, President and CEO

SIGNED AND AGREED on this 5th day of January, 2022, 2021.

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

BY: 
Greg Richards, President

ATTEST:

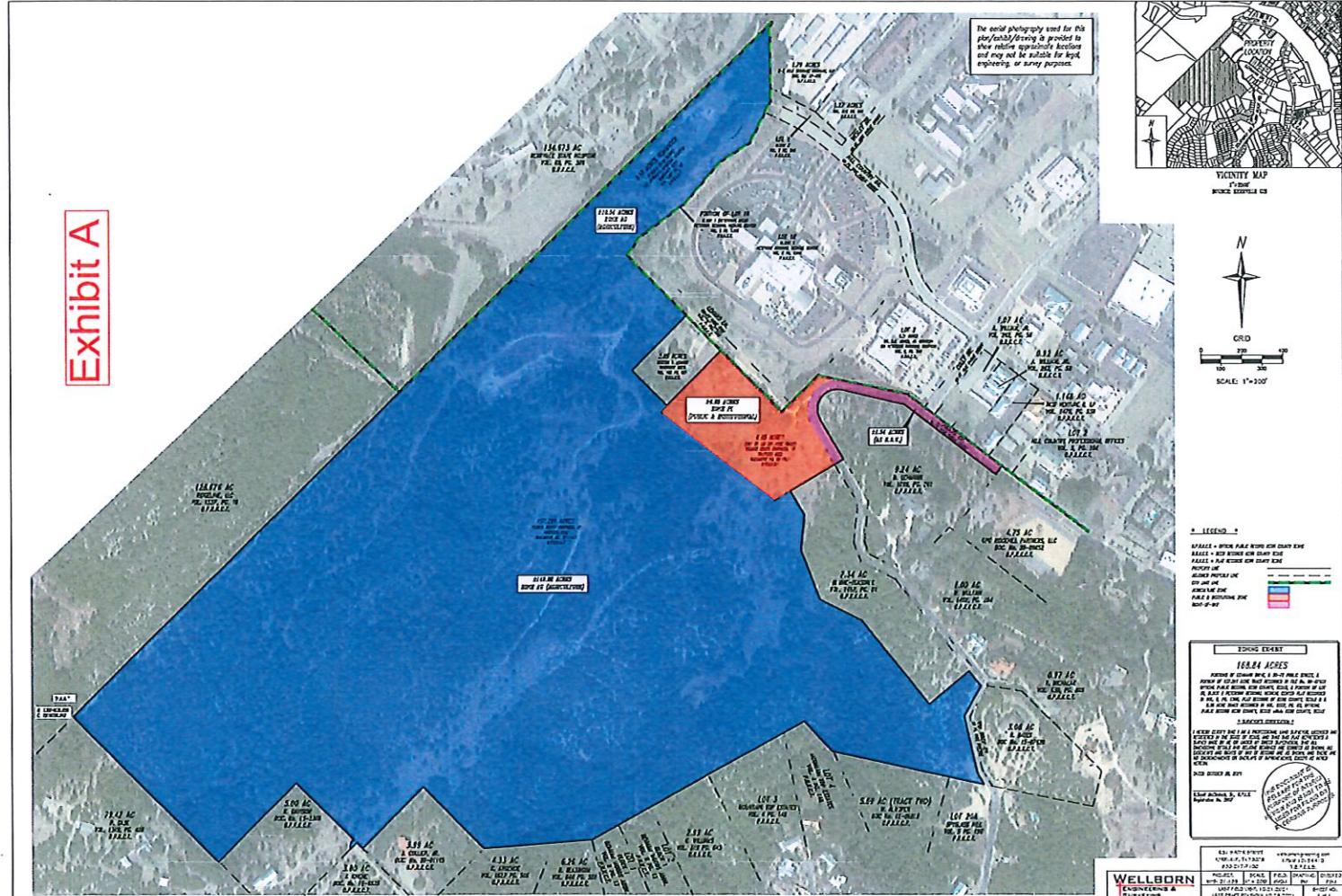
BY: _____
Kesha Franchina, Recording Secretary

APPROVED AS TO FORM:

BY: 
Michael C. Hayes, Attorney for EIC

EXHIBIT A
PROPERTY

Exhibit A



157-acre property development

elevating health

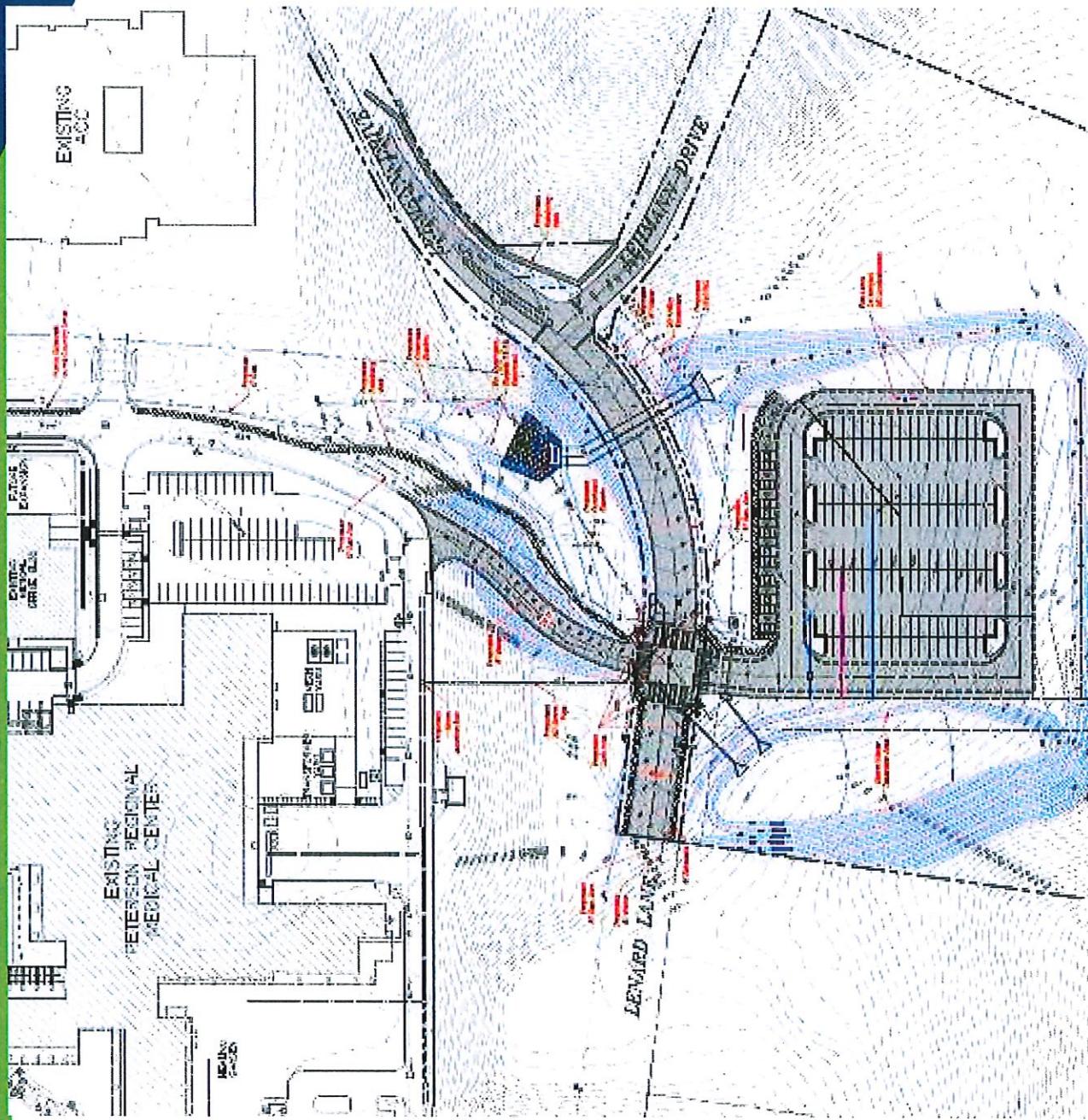


EXHIBIT B

PROJECT

Surgery Center Parking Offset

Exhibit D
elevating health



Public Improvements Estimate

elevating health

Public Improvements - PRMC Offsite Parking

Kerr County, Texas

Unit Take-Offs based upon Preliminary Site Plan prepared by WES in October 2021

Public Improvements - Preliminary Engineer's Opinion of Probable Construction Cost (PEOPCC)

Demolition	\$	27,600.00
Paving	\$	345,060.83
Sanitary Sewer	\$	83,863.50
Water	\$	127,034.00
Gas	\$	137,700.00
Storm Sewer	\$	324,895.00
Dry Utilities	\$	79,665.00
Grading Material	\$	90,773.52
Miscellaneous	\$	410,000.00
TOTAL	\$	1,626,591.85

**APPLICATION FOR 4B SALES TAX FUNDS
CITY OF KERRVILLE
ECONOMIC IMPROVEMENT CORPORATION**

Both the Economic Improvement Corporation Board of Directors (EIC) and the Kerrville City Council must approve all expenditures of 4B funding. Before a project may be considered and awarded any funds, the attached application must be completed and submitted to:

**City of Kerrville Economic Improvement Corporation
701 Main Street
Kerrville, Texas 78028
830.257.8000**

All actions of the EIC are subject to the Development Corporation Act of 1979, article 5190.6 Vernon's Civil Statutes, Section 4B. The EIC is a legal entity with statutory authority to spend economic development sales tax dollars. The Corporation is city-chartered and governed by a city-appointed board of directors. The EIC is a 4B Corporation and may fund "projects" focused on the creation of "primary jobs" and/or to provide an economic benefit to the City of Kerrville, as well as "Quality of Life" projects. Application approvals are subject to funding availability.

**APPLICATION
SECTION 1 - DEFINITIONS**

Clawback- That provision in a Funding Agreement, which states how and to what extent any incentive payments from public funds must be repaid if the stated Performance Standards are not met.

Current Payroll- The company's total expenditure for all employees for the month immediately preceding this application multiplied by 12.

Employee Benefit- Incentives offered to employees and paid for by the employer such as health care coverage, vacation, etc. If an employee pays 30% of the cost, or more, it should not be considered a "benefit" for purposes of this application.

Full Time Job- The employment of a person for a minimum of 35 hours per week and offering that person all those benefits adopted by company policy for Full Time Employees. Major stockholders or immediate family members should not be included in this number when considering "New Full-Time Jobs Created."

Hourly Wage- The gross amount paid to the employee for each hour worked not including the Employer's portion of FICA or FWH. Benefits should not be included in this figure, but should be listed separately under the compensation per employee section of the application.

Part-Time Job- A person working less than 35 hours per week. Major stockholders or immediate family members should not be included in this category when completing the application under New Part-Time Jobs Created.

Funding Agreement- a written document designed to protect the interest of local taxpayers by putting a businesses' job creation or capital investment commitments in writing and by linking the payment of any financial incentive to the business fulfilling its written commitments (i.e. clawbacks).

Public Capital Project- Improvements owned and maintained by the City of Kerrville included in the Capital Improvement Plan and funded by the capital budget.

SECTION II - APPLICANT INFORMATION

Submittal Date: 11 /11 /2021

Company Name: Sid Peterson Memorial Hospital d.b.a. Peterson Health

Address (City/State): 551 Hill Country Drive Phone 830.258.7366

Attn: Administration _____ Fax 830.258.7574

Kerrville TX 78028

Name of Company Contact on this project:

Cory Edmondson, President and CEO

Contact Address (if different from above):

Phone _____

Phone

Type of Business Structure: Corporation X Partnership Sole Proprietorship

Year Business Started: Year 1989 Location 710 Water Street
originally 1949

Current Employment: Permanent Full-Time 1048 Permanent Part-Time 92

Average Production Wage \$29.17

Full-Time Employees receive the following benefits:

Medical, Dental, Pharmacy, 401k and Paid Time Off (PTO)

Financial Information: Five Years Annual Financials Attached Enclosed
Include: Statement of profit and loss; Balance sheet; Cash Flow Statement; IRS reporting forms, Pro forma

Annual Sales for Corporation / Company \$ 172,427,085 for fiscal year ending 6/30/2021

Local Sales Tax paid Annually \$ Not Applicable

Has the Company ever filed for bankruptcy protection under Chapter 7 or Chapter 11 of the Bankruptcy Statutes? No (x) Yes () Details:

SECTION III- PROJECT INFORMATION

This application is for a:

Business Development (X)

- Expansion of Existing Facility () or
- New Construction (X)
- Other ()

Quality of Life Improvement ()

- Parks, Open Space ()
- Other ()

Capital Improvements for Public Infrastructure

- Utilities (X)
- Roadways (X)
- Other ()

The proposed improvements are to be located within the following taxing district(s): City of Kerrville () Kerr County () Kerrville ISD (x)

Ingram ISD () Center Point ISD () *Application in process for annexation of approx 157 acres

SECTION IV - PROJECT DESCRIPTION (Attached)

Please attach a statement on company letterhead and signed by an officer of the company (1) fully explaining the nature and scope of the project; (2) describing the proposed site and existing improvements, if any; (3) describing all proposed improvements; and (4) providing a list of eligible improvements; (5) provide a list of major, fixed equipment along with manufacturer specifications and cost quote from the manufacturer.

Should this project be approved, the Economic Improvement Corporation may require performance criteria as a part of the funding agreement, in addition to this application. The funding agreement is between the Economic Improvement Corporation and the City

of Kerrville. Said funding agreement will outline project costs, timelines, other information may be necessary to carry out the project in an efficient manner.

SECTION V – ECONOMIC IMPACT INFORMATION

Part A- Project Investment in Improvements

Total	\$ 43,918,867
Sq. Footage of New Building (s)	Approx 43,500 square feet
Size of Parking	110 spaces plus approx 163 spaces in parking lot addition
Other	

Part B- Project Investment in Fixed Equipment

(New)\$ _____
Manufacturer of Equipment _____
Anticipated Useful Life of Equipment _____
Purchase Price \$ _____ Installation Cost \$ _____
Anticipated Delivery time from Date of Order _____

Part C- Permanent Employment Estimates- (do not include owners, stockholders or their dependents)

Anticipated Number of New Full-Time Employees as a result of this project 65
Anticipated Number within 12 months of Completion of this project 25
Anticipated Number within 24 months of Completion of this project 50 (includes 25 from first 12 months)
Typical Job Descriptions or Job Titles
Medical Office Receptionist, Medical Assistant, Clinic Supervisor Licensed Vocational Nurse,
Registered Nurse, Practice Manager plus additional jobs related to surgical services, imaging/radiology,
physical, occupational and speech therapy.

Anticipated starting salaries of these employees: (avg.) \$ 23.12 /hour

Part D- Permanent Part-Time Employment Estimates- *Only Full-Time Equivalents considered in projections (do not include owners, stockholders or their dependents)

Anticipated Number of New Part-Time Employees as a result of this project _____
Anticipated Number within 12 months of Completion of this project _____
Anticipated Number within 24 months of Completion of this project _____
Typical Job Descriptions or Job Titles of these employees:

Anticipated starting salaries of these employees: (avg.) \$ _____ / hour

Part E- Payroll Impact

Within 12 months of Project Completion _____ Within 24 months of Project Completion X

\$ 2,404,480
FTE X Avg. Wage X 40 hrs X 52 wks

\$ Only Full-Time Equivalents considered in projections
PTE X Avg. Wage X 20 hrs X 52 wks

SECTION VI- OTHER ASSISTANCE

Has the Company applied for any State or Federal assistance on this project?

No (X) Yes ()

Describe:

To the best of my knowledge, the above information is an accurate description of the proposed project details.

Cory Edmondson

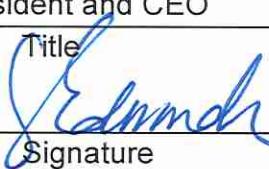
11-11-2021

Printed name

Date

President and CEO

Title



Signature

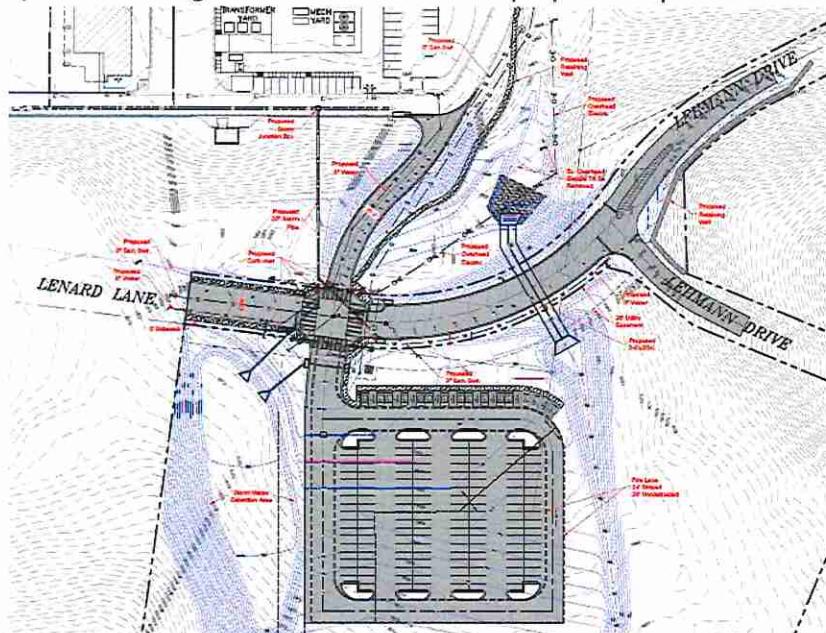
November 11, 2021

Dear Economic Improvement Corporation Board of Directors,

In late 2019, Peterson Health engaged a consultant to assist in developing a facility master plan. The intent behind developing this plan was to ensure we have the physical infrastructure/facilities needed to accommodate continued growth and to meet the needs of Kerrville and surrounding communities. One of the major items identified in the plan was the need for additional outpatient and ambulatory surgery space. Moving forward with the development of the Amanda and J. David Williams Surgery Center will create additional surgical space and make room at the Pevehouse Ambulatory Care Center (ACC) to accommodate expanding service lines such as imaging and physical therapy. Peterson's total project investment, including improvements to the ACC, is approximately \$43.9 million.

The new three-story, 43,500 square foot Amanda and J. David Williams Surgery Center will be on Peterson Health's main campus, located on Hill Country Drive. This is in **Kerrville's Medical District**- an identified **Strategic Catalyst Area according to the Kerrville 2050 plan**. The center will boast four operating rooms, four endoscopy suites, a procedure room, numerous ancillary spaces, a conference room, and provider clinic space. Since the new surgery center will be constructed on an existing parking lot of the hospital, there is a need for an additional parking lot to accommodate the spaces that will be lost. Peterson Health recently purchased approximately 157 acres behind the hospital to accommodate this parking lot and future growth as further development on the mostly developed existing main campus would be challenging at best.

The proposed parking lot behind the hospital will accommodate approximately 163 additional parking spaces. The diagram below illustrates the proposed improvements.



The total proposed improvements for the site behind the hospital that will house the new parking lot (road, sidewalk, utility and lot construction) are approximately \$2.8 million. Please note this is only for the site behind the hospital and does not include any costs associated with the proposed site for the new surgery center. The Preliminary Engineer's Opinion of Probable Construction Cost (PEOPCC) for public and private improvements are as follows:

PUBLIC IMPROVEMENTS		PRIVATE IMPROVEMENTS	
Demolition	\$ 27,600.00	Demolition	\$ 1,320.00
Paving	\$ 345,060.83	Paving	\$ 433,967.28
Sanitary Sewer	\$ 83,863.50	Sanitary Sewer	\$ 6,177.50
Water	\$ 127,034.00	Water	\$ 3,000.00
Gas	\$ 137,700.00	Gas	\$ -
Storm Sewer	\$ 324,895.00	Storm Sewer	\$ 42,470.00
Dry Utilities	\$ 79,665.00	Dry Utilities	\$ 32,760.00
Grading Material	\$ 90,773.52	Grading Material	\$ 339,619.91
Miscellaneous	\$ 410,000.00	Miscellaneous	\$ 284,500.00
TOTAL	\$ 1,626,591.85	TOTAL	\$ 1,143,814.69

Making an investment in these improvements now will allow Peterson to build the needed parking spaces that will be lost due to the construction of the new surgery center. In addition, it will pave the way for continued future growth and development of Kerrville's Medical District and the land recently acquired by Peterson Health. I thank you in advance for your consideration of this funding request.

Sincerely,



Cory Edmondson, FACHE

President and CEO



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Appointment of chair and vice-chair for the Tax Increment Reinvestment Zone (TIRZ) Board of Directors. (This item is eligible for Executive Session 551.074).

AGENDA DATE OF: January 11, 2022 **DATE SUBMITTED:** Dec 17, 2021

SUBMITTED BY: Shelley McElhannon

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
N/A	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

The Board consists of seven (7) members appointed by City Council, where such members may include one or more Councilmembers. At the time of appointments and at any other time, City Council shall designate the Chair of the Board from among its appointments. The current TIRZ Board members are: Kenneth Early, John Harrison, Patrick Murray, Mindy Wendele, Fred Gamble, Katherine Howard, and Bruce Stracke.

Kenneth Early is the current Chair and Mindy Wendele is the current Vice-Chair. Both are eligible for reappointment as Chair and Vice-Chair.

RECOMMENDED ACTION:

Appoint TIRZ Board Chair and Vice-Chair.