

AGENDA FOR THE KERRVILLE CITY COUNCIL MEETING

TUESDAY, JANUARY 10, 2023, 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 10, 2023, 6:00 PM

CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS



Council Meeting Procedures, City Council and City Staff Safety Measures, and Citizen Participation Guidelines

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. Taking this into account, standard safety protocols will be observed by City Council, City staff, and citizens/visitors attending the meeting. Masks are voluntary and highly encouraged. Visitor seating will be designated.

Citizens may view and hear 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.

Citizens wishing to speak during a meeting shall submit a completed "speaker request form" to the City Secretary before the item is introduced, but are encouraged to submit the form before the meetings begin. Each speaker is limited to four minutes.

Thank you for your participation!

CALL TO ORDER: *By Mayor Judy Eychner*

INVOCATION AND PLEDGE OF ALLEGIANCE: *Led by Councilmember Place 3 Joe Herring, Jr.*

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 Kerrville Kindness award recognizing the Kerrville Professional Firefighters Association, and local businesses.

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:*

KERRVILLE 4.A Resolution No. 01-2023. A Resolution authorizing the City Manager to approve a master multiple use agreement with the Texas Department of Transportation to permit the City to install and maintain public art within the state's highway right-of-way within the City limits.

Attachment: 20230110_Reso 01-2023 Public Art in TXDOT ROW.pdf

KERRVILLE 4.B Resolution No. 02-2023. A Resolution supporting the Joint Airport Board's participation in a Statewide Pavement Program to include specific capital improvements at the Kerrville-Kerr County Airport.

Attachment: 20230110_Reso 02-2023 Supporting Statewide Airport pavement program.pdf

4.C Contract with Suez Water Technologies & Solutions in the amount of \$302,105 for the purchase and installation of two membrane filters at the City's Water Production Facility.

Attachment: 20230110_Scope_Membrane Filter Suez.pdf

KERRVILLE 4.D Texas Main Street Locally Designated Program 2023 Contract between the Texas Historical Commission and the City of Kerrville.

4.E City Council workshop minutes, December 13, 2022.
Attachment: [20230110_Minutes CC Workshop 12-13-22 4pm.pdf](#)

4.F City Council meeting minutes, December 13, 2022.
Attachment: [20230110_Minutes CC Meeting 12-13-22 6pm.pdf](#)

END OF CONSENT AGENDA.

5 ORDINANCES, FIRST READING:

5.A Ordinance No. 2023-03. An Ordinance amending Chapter 26 of the Code of Ordinances, City of Kerrville, Texas, titled "Buildings and Building Regulations"; by adding a new Article X titled "Outdoor Lighting", to create standards for outdoor lighting to minimize light pollution, glare, and light trespass caused by inappropriate or misaligned light fixtures, while improving nighttime public safety, utility, and security; providing an effective date; and providing other matters related to the subject.

Attachment: [20230110_Ord 2023-03 Dark Sky-Outdoor Lighting DRAFT.pdf](#)

5.B Ordinance No. 2023-04. An Ordinance closing, abandoning, and vacating all right, title, and interest in a public right-of-way, consisting of an unimproved, unopened portion of West St. that extends between Lois Street and adjacent to the properties addressed as 620 and 704 Junction Highway (SH 27); said right-of-way out of the Westland Place Addition, a Subdivision within the City of Kerrville, Kerr County, Texas, pursuant to the plat recorded in Volume 1, Page 26 of the Plat Records of Kerr County, Texas and corresponding filed notes; and, located within the City of Kerrville, Texas; finding that said portion is not required for future use as a public street; ordering recording; providing an effective date; and providing other matters related to this subject.

Attachment: [20230110_Ord 2023-04 Vacating portion of West St.pdf](#)

5.C Ordinance No. 2023-05. An Ordinance amending Ordinance No. 2022-26 and the Ad Valorem Tax for the use and support of the municipal government for the City of Kerrville, Texas, for Fiscal Year 2023.
Attachment: [20230110_Ord 2023-05 Amend Ad Valorem Tax FY2023.pdf](#)

6 ORDINANCES, SECOND READING:

6.A Ordinance No. 2023-01, second reading. An Ordinance annexing a track of land into the corporate limits of the City of Kerrville, Texas; such property making up approximately 4.45 acres and generally located adjacent to and South of Kerrville Schreiner Park; more commonly known as 2511 State Highway 173 (Bandera Highway); 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 Mixed Use (MU) Zoning District; and providing other matters relating to this subject.

Attachments: [20230110_Ord 2023-01 annex-zone 2511 Hwy 173 2nd reading.pdf](#)
[20230110_Petition annexation Ord 2023-01.pdf](#)

6.B Ordinance No. 2023-02, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the Zoning of an approximate 0.63 acre property known as 226 and 228 W. Main; from a Planned Development Zoning District (PDD) to a Light Commercial Zoning District (C-2); and providing other matters relating to the subject.

Attachment: [20230110_Ord 2023-02 Zone 226-228 W Main 2nd reading.pdf](#)

7 BOARD APPOINTMENTS:

7.A Appointment(s) to the Recovery Community Coalition.

8 **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.*

9 ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY.

10 **ITEMS FOR FUTURE AGENDAS:** *City Council may suggest items or topics for future agendas.*

ADJOURN.



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

SUBJECT: Kerrville Kindness award recognizing the Kerrville Professional Firefighters Association, and local businesses.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** December 19, 2022

SUBMITTED BY: Shelley McElhannon, City Secretary

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 City of Kerrville recognizes the actions of an individual or entity performing acts of kindness in the City.

RECOMMENDED ACTION:

Present award.



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

SUBJECT: Resolution No. 01-2023. A Resolution authorizing the City Manager to approve a master multiple use agreement with the Texas Department of Transportation to permit the City to install and maintain public art within the state's highway right-of-way within the City limits.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** December 16, 2022

SUBMITTED BY: Ashlea Boyle, Director Parks & Recreation

EXHIBITS:

| Expenditure Required: | Remaining Budget Balance in Account: | Amount Budgeted: | Account Number: |
|----------------------------------|---|-------------------------|------------------------|
| No expenditure required. | N/A | N/A | N/A |

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area C - Community / Neighborhood Character and Place Making

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Attached is a resolution between the City of Kerrville and the Texas Department of Transportation (TxDOT) for a master multiple use agreement for public art within the state right-of-way. The City desires to continue to enhance public art within the community; however, there are locations that include state right of way, such as bridge columns, that require TxDOT approval. An example of this is the current art mural on the Hwy 27 underpass along the Schreiner University extension of the Kerrville River Trail. The City received prior approval for this art installation; however, without an existing agreement, the approval process with TxDOT for public art is lengthy.

Future locations could potentially consist of the bridge columns in Louise Hays Park and the Francisco Lemos bridge along the River Trail or other areas in city limits. TxDOT has indicated its willingness to approve the establishment of public art and has agreed to enter into a master agreement for this purpose. This master agreement will significantly streamline the approval process in an effort to reduce delays and increase efficiency. Each new art piece will require supplemental information for TxDOT's approval. The City will construct, maintain, and operate the public art.

Kerrville 2050 Support Relating to Public Art

Key Priority Area:

- C - Community Placemaking.

Guiding Principle:

- C4 – Promote design that is in keeping with Kerrville, its natural beauty, history, culture and diversity using art, landscaping and other aesthetic features, including “random order” (sameness that doesn’t seem forced); encourage design that promotes interaction, a sense of community and gatherings.

Action Item:

- C4.11 – Evaluate programs and funding strategies for public art installations.

The full TXDOT Multiple Use Agreement is available for viewing in the City Secretary Office.

RECOMMENDED ACTION:

Approve Resolution No. 01-2023.

ATTACHMENTS:

[*20230110_Reso 01-2023 Public Art in TXDOT ROW.pdf*](#)

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 01-2023**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE A MASTER MULTIPLE USE AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION TO PERMIT THE CITY TO INSTALL AND MAINTAIN PUBLIC ART WITHIN THE STATE'S HIGHWAY RIGHT-OF-WAY WITHIN THE CITY LIMITS

WHEREAS, the City of Kerrville, Texas ("City") has requested that the Texas Department of Transportation ("TXDOT") permit it to install and maintain public art within TXDOT's highway right-of-way; and

WHEREAS, City Council authorizes the execution of a Master Multiple Use Agreement with TXDOT for the purposes provided above; and

WHEREAS, City Council finds it to be in the public interest to authorize the City Manager to sign the agreement referenced above;

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

City Council authorizes the City Manager to approve and execute a Master Multiple Use Agreement with TXDOT, which will permit the City to install and maintain public art within TXDOT's highway right-of-way within the City's limits.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2023.

Judy Eychner, Mayor

APPROVED AS TO FORM:


William L. Tatsch, Assistant City Attorney

ATTEST:

Shelley McEllhanon, City Clerk



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

SUBJECT: Resolution No. 02-2023. A Resolution supporting the Joint Airport Board's participation in a Statewide Pavement Program to include specific capital improvements at the Kerrville-Kerr County Airport.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** December 19, 2022

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

| Expenditure Required: | Remaining Budget Balance in Account: | Amount Budgeted: | Account Number: |
|------------------------------|---|-------------------------|------------------------|
| N/A | 1,378,750.00 | 1,378,750.00 | 48-600-108 |

PAYMENT TO BE MADE TO: Texas Department of Transportation

Kerrville 2050 Item? Yes

Key Priority Area F - Public Facilities and Services

Guiding Principle N/A

Action Item F5.1 - Establish and maintain consistent communication and partnerships with Kerr County governmental entities to enhance service delivery and expand services as needed

SUMMARY STATEMENT:

The Kerrville-Kerr County Airport has been informed that Statewide Capital Pavement Program for the Resurfacing and Marking of 12-30 Runway, Rehabilitation of the Airport Apron has been proposed for completion Summer 2023.

This project is anticipated to consist of improvements including surface treatments, and markings of runways and taxiways, and rehabilitating the apron to the Kerrville-Kerr County Airport pursuant to a grant agreement with the Texas Department of Transportation.

The Kerrville-Kerr County Joint Airport Board has recommended the accepting of this resolution to approve participation in this statewide capital pavement program, authorizing the execution of various agreements related to the project, designating the Airport Manager as the project representative, and city manager to take any other action necessary for the project.

The matching component of this 90/10 match grant has already been approved in previous budgets.

RECOMMENDED ACTION:

Approve Resolution No. 02-2023.

ATTACHMENTS:

[20230110_Reso 02-2023 Supporting Statewide Airport pavement program.pdf](#)

CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 02-2023

A RESOLUTION APPROVING THE JOINT AIRPORT BOARD'S PARTICIPATION IN A STATEWIDE CAPITAL PAVEMENT PROGRAM TO INCLUDE SPECIFIC CAPITAL IMPROVEMENTS AT THE KERRVILLE-KERR COUNTY AIRPORT; TO INCLUDE THE PROVISION OF MATCHING FUNDS FROM THE JOINT AIRPORT BOARD FOR THE PROJECT; AUTHORIZING THE EXECUTION OF VARIOUS AGREEMENTS RELATED TO THE PROJECT; DESIGNATING THE AIRPORT MANAGER AS THE PROJECT REPRESENTATIVE; AND AUTHORIZING THE CITY MANAGER TO TAKE ANY OTHER ACTION NECESSARY FOR THE PROJECT

WHEREAS, the Kerrville-Kerr County Joint Airport Board ("Board") seeks to make certain improvements to the Kerrville-Kerr County Airport ("Airport") as part of the Texas Department of Transportation's ("TxDOT") Statewide Pavement Program (the "Program"); and

WHEREAS, the general description of the project improvements under the Program includes surface treatments, the marking of runways and taxiways, and rehabilitating aprons (the "Project"); and

WHEREAS, the Board has sought financial assistance from TxDOT for the Project; and

WHEREAS, pursuant to the *Restated Interlocal Agreement for the Continued Existence of a Joint Airport Board to Provide Management of Kerrville/Kerr County Airport* (referred to herein as "Joint Action Agreement" or "Agreement"), the Board is authorized to enter into contracts with other public entities where funding is approved through the annual budget process; and

WHEREAS, the total Project cost is currently estimated to be \$1,378,750.00, which will be funded in part through a grant agreement that the Board enters into with TxDOT; and

WHEREAS, the Board has budgeted and will provide at least 10% of the costs for the Project with local funds and understands that it will be responsible for any additional costs above \$137,875.00, all of which is specified in **Exhibit A**; and

WHEREAS, the Board has named TxDOT as its agent for the purposes of applying for, receiving, and disbursing all funds for this Project and for the administration of contracts necessary for the implementation of this Project; and

WHEREAS, City Council finds that the Project and the actions authorized to be taken below serve or will serve the public interest;

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

SECTION ONE. City Council approves the Project, based upon the Project scope and cost as submitted to the City by the Board.

SECTION TWO. City Council authorizes the Board, acting through the Airport Manager, and/or the City Manager to execute all documents and agreements related to the Project.

SECTION THREE. City Council designates the Airport Manager as the Project Representative in all respects for the Project.

SECTION FOUR. City Council authorizes the City Manager to take any and all other action necessary to approve and complete the Project.

PASSED AND APPROVED ON this _____ day of _____, A.D., 2023.

Judy Eychner, Mayor

ATTEST:

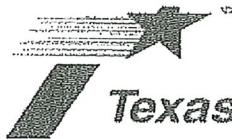
Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

EXHIBIT A
PROJECT COSTS



Texas Department of Transportation

125 EAST 11TH STREET | AUSTIN, TEXAS 78701-2483 | (512) 463-8700 | WWW.TXDOT.GOV

Project: Statewide Indigo (CSJ: 1234xxxx): (Kerville, Junction, Burnet, Temple, Georgetown) DATE: 06/20/22
Scope: Rehabilitate Pavement & Markings for RWY 12-30, RWY 3-12, Parallel & Cross-Taxiways, Apron & HAT Areas

Cost Estimate Summary

| ITEM | COST |
|--|---------------------|
| Design Phase | 30,000.00 |
| Construction | 1,294,750.00 |
| Construction Admin, RPR, Testing, etc... | 54,000.00 |
| TOTAL COST | 1,378,750.00 |

Design Phase

| ITEM | COST |
|-------------------|------------------|
| PER | 6,000.00 |
| Design | 21,000.00 |
| Bidding | 3,000.00 |
| Geotechnical | |
| Surveying | |
| TOTAL COST | 30,000.00 |

Rehabilitate Pavement & Markings for RWY 12-30, RWY 3-12, Parallel & Cross-Taxiways, Apron & HAT Areas

| ITEM | SPEC | DESCRIPTION | UNIT | QTY | UNIT COST | COST |
|--------------------------------------|-------|---|------|---------|-------------|--------------|
| 1 | C-105 | Mobilization | LS | 1 | \$20,000.00 | 20,000.00 |
| 2 | | Temporary Markings & Barricades | LS | 1 | \$20,000.00 | 20,000.00 |
| 3 | P-101 | Clean and Seal Joints & Cracks | LF | 134,000 | \$2.00 | 268,000.00 |
| 4 | P-101 | Clean and Seal Concrete Joints & Cracks | LF | 40,000 | \$3.50 | 140,000.00 |
| 5 | P-101 | Full Depth Pavement Repair | SY | 1,500 | \$100.00 | 150,000.00 |
| 6 | P-620 | Surface Preparation | LS | 1 | \$20,000.00 | 20,000.00 |
| 7 | P-620 | Reflectorized Pavement Marking | SF | 65,000 | \$2.00 | 130,000.00 |
| 8 | P-620 | Non-Reflectorized Pavement Marking | SF | 600 | \$2.00 | 1,200.00 |
| 9 | P-620 | Taxiway Centerline Green Reflectors | EA | 220 | \$30.00 | 6,600.00 |
| 10 | P-631 | Refined Coal Tar Emulsion, Slurry Seal | SY | 140,000 | \$2.00 | 280,000.00 |
| 11 | P-629 | Grip Flex P-629 | SY | | \$6.00 | 0.00 |
| | | | | | | 0.00 |
| Subtotal Estimated Construction Cost | | | | | | 1,035,800.00 |
| 25% Contingencies | | | | | | 258,950.00 |
| Total Estimated Construction Cost | | | | | | 1,294,750.00 |



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

SUBJECT: Contract with Suez Water Technologies & Solutions in the amount of \$302,105 for the purchase and installation of two membrane filters at the City's Water Production Facility.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** November 22, 2022

SUBMITTED BY: Scott Loveland, Assistant Director of Public Works

EXHIBITS:

| Expenditure Required: | Remaining Budget Balance in Account: | Amount Budgeted: | Account Number: |
|------------------------------|---|-------------------------|------------------------|
| \$302,105 | \$280,000 | \$280,000 | N/A |

PAYMENT TO BE MADE TO: Suez

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

In 2006 the City completed the membrane filter system at the surface water treatment plant, which allows for an increase of 1-1.3 mgd in water production. The two membranes that filter the water need to be replaced every 7-9 years. It has been 8 years since the City last replaced them. The membranes have reached the end of their useful life and need to be replaced.

This is an item previously approved in the FY2023 budget for \$280,000. The expenditure required will be for \$302,105. The difference in actual costs and approved budget is due to the "Onsite Support" option, of which will be paid from operations by account 02-0202-2500. The full contract quote is available for viewing in the City Secretary Office.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute a contract for the replacement of the two membrane filters at the Water Production Facility.

ATTACHMENTS:

[20230110_Scope_Membrane Filter Suez.pdf](#)

1 introduction

SUEZ Water Technologies & Solutions is pleased to present this proposal at the request of City of Kerrville, Texas to provide drinking water membrane modules to replace and upgrade the full plant at the Kerrville Water Treatment Plant (WTP).

SUEZ is a proven leader in delivering tangible value to our clients over the life of the plant. Our measure of success is how well we deliver **solutions** that help our clients meet their critical business objectives.

Through long-acquired technical experience, SUEZ has clearly distinguished itself from other membrane manufacturers. A mature service culture and deep technical expertise are ready to serve and support Kerrville through this next membrane replacement & upgrade.

2 SUEZ scope & price

SUEZ's scope includes the material and services outlined in the table below. The sections that follow provide additional detail regarding each scope item.

| item description | part # | quantity | price |
|---|---------|--------------------|----------------|
| ZW500D 440ft ² membrane modules @ GMRP price of USD \$2,085.98, section 3.1 | | 100 | 280,265 |
| 2-year full replacement membrane warranty, section 10 | | incl. | |
| cassette refurbishment components for ZW500D 50/64M cassettes, section 3.3 | | 2 sets | |
| replacement spool components for aeration and permeate lines, section 3.4 | | 2 sets | |
| blower sheaves, section 3.5 | | 2 | |
| membrane/cassette hardware, tools & spares, section 3.2 | | lot | |
| in-house support, project management, section 4.1 | | incl. | |
| international shipment, fees and duties, section 5 | | incl. | |
| freight, DDP Kerrville WTP, section 5 | 3095534 | incl. | |
| material, in-house labor, delivery | | sub-total | 280,265 |
| on-site support, 2 x FSRs, 4 x 10-hour days on-site plus travel & living, section 4.2 | 135491 | 1 visit | 21,840 |
| on-site support | | sub-total | 21,840 |
| All figures are in USD and exclude taxes, which will be applied at the time of invoicing. Please make purchase order to ZENON Environmental Corporation. | | total price | 302,105 |



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

SUBJECT: Texas Main Street Locally Designated Program 2023 Contract between the Texas Historical Commission and the City of Kerrville.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** December 14, 2022

SUBMITTED BY: Megan Folkerts, Senior Management Analyst

EXHIBITS:

| Expenditure Required: | Remaining Budget Balance in Account: | Amount Budgeted: | Account Number: |
|------------------------------|---|-------------------------|------------------------|
| 535.00 | 535.00 | 535.00 | N/A |

PAYMENT TO BE MADE TO: Texas Historical Commission

Kerrville 2050 Item? Yes

Key Priority Area D - Downtown Revitalization

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

This contract renewal and agreement concerning the Kerrville Main Street Program is entered into between the City of Kerrville and the Texas Historical Commission. The Kerrville Main Street Program is part of a larger program within the Texas Main Street Program, as defined in 13 TAC sec. 19.3(1), wherein the Participant qualifies as a Texas Main Street Small City, as defined in 13 TAC sec. 19.3. The purpose of the Local Program is to assist Participant with the development, revitalization, restoration, and preservation of its historic downtown or commercial neighborhood districts in accordance with the national Main Street Approach. This Agreement shall be governed by Texas Government Code, Section 442.014, and Texas Administrative Code, Title 13, Part 2, Chapter 19. II.

The full contract is available for viewing in the City Secretary Office.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute contract.



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

SUBJECT: City Council workshop minutes, December 13, 2022.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** December 19, 2022

SUBMITTED BY: Shelley McElhannon, City Secretary

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:

City Council workshop minutes held December 13, 2022 at 4:00 p.m., City Hall Council Chambers.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[20230110_Minutes CC Workshop 12-13-22 4pm.pdf](#)

CITY COUNCIL WORKSHOP MINUTES

CITY HALL COUNCIL CHAMBERS

**DECEMBER 13, 2022 4:00 PM
701 MAIN STREET, KERRVILLE, TEXAS**

CALL TO ORDER: On December 13, 2022 at 4:00 p.m., the City Council workshop was called to order by Mayor Judy Eychner at the City Hall Council Chambers, 701 Main Street.

COUNCILMEMBERS PRESENT:

Judy Eychner, Mayor
Kim Clarkson, Mayor Pro Tem, Council Place 2
Roman Garcia, Council Place 1
Joe Herring Jr, Council Place 3
Brenda Hughes, Council Place 4

COUNCILMEMBERS ABSENT:

None

CITY STAFF PRESENT:

E.A. Hoppe, City Manager
Mike Hayes, City Attorney
Michael Hornes, Asst City Manager
Kim Meismer, Asst City Manager
Shelley McElhannon, City Secretary

Ashlea Boyle, Director Parks & Rec
Eric Maloney, Fire Chief
Chris McCall, Police Chief
Drew Paxton, Director of Planning

VISITOR(S) PRESENT:

Julie Davis, Kerrville Convention and Visitors Bureau Louis Amestoy, Media
William Rector Roger Mathews, Media

1. PUBLIC COMMENT: None

2. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION:

2A. 2023 and 2024 Solar Eclipse planning update.

E.A. Hoppe introduced the item. Ashlea Boyle, Julie Davis, and Chief Eric Maloney provided information and responded to questions.

2B. Night-Sky Friendly Lighting presentation.

Drew Paxton provided information and responded to questions.

Mayor 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), and 551.087 (deliberation regarding economic development negotiations), seconded by Councilmember Brenda Hughes. The motion passed 5-0.

Mayor Eychner recessed the workshop, and convened the closed executive session at 4:39 p.m. in the Upstairs Conference Room.

3. EXECUTIVE SESSION:

3A. Economic Improvement projects update. (551.071, 551.072, 551.087)

The closed executive session adjourned, and Council returned to workshop open session at 5:30 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 5:30 p.m.

APPROVED BY COUNCIL: _____

Judy Eychner, Mayor

ATTEST:

Shelley McElhannon, City Secretary



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

SUBJECT: City Council meeting minutes, December 13, 2022.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** December 19, 2022

SUBMITTED BY: Shelley McElhannon, City Secretary

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:

City Council meeting minutes held December 13, 2022 at 6:00 p.m., City Hall Council Chambers.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[20230110_Minutes CC Meeting 12-13-22 6pm.pdf](#)

**CITY COUNCIL MINUTES
REGULAR MEETING**

**KERRVILLE, TEXAS
DECEMBER 13, 2022 6:00 PM**

On December 13, 2022 at 6:00 p.m., Mayor Judy Eychner called the Kerrville City Council meeting to order in City Hall Council Chambers, 701 Main Street. Mayor Eychner provided the invocation and led the Pledge of Allegiance.

COUNCILMEMBERS PRESENT:

Judy Eychner, Mayor
Kim Clarkson, Mayor Pro Tem, Councilmember Place 2
Roman Garcia, Councilmember Place 1
Joe Herring, Jr., Councilmember Place 3
Brenda Hughes, Councilmember Place 4

COUNCILMEMBER ABSENT:

None

CITY EXECUTIVE STAFF:

E.A. Hoppe, City Manager
Mike Hayes, City Attorney
Michael Hornes, Asst City Manager
Kim Meismer, Asst City Manager
Shelley McElhannon, City Secretary
Stuart Barron, Exec Director Public Works
Julie Behrens, Director of Finance
Ashlea Boyle, Director Parks-Recreation

Kyle Burow, Director of Engineering
Stuart Cunyus, Public Information Officer
Megan Folkerts, Sr Analyst
Guillermo Garcia, Exec Dir Innovation
Eric Maloney, Fire Chief
Chris McCall, Police Chief
Drew Paxton, Planning Director

VISITORS PRESENT:

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

1. ANNOUNCEMENTS OF COMMUNITY INTEREST:

Announcements of Community Interest provided by Stuart Cunyus, Mayor Eychner, Chief Chris McCall, and Chief Eric Maloney. The Womens' Christian Job Core president Carlina Villalpando introduced the new Executive Director Edna Vandiver to City Council.

2. PRESENTATIONS:

2A. Kerrville Kindness Award recognizing Citizen Police Academy Alumni and Volunteers, and the Blue Santa program.

Mayor Eychner presented the Kerrville Kindness award to the Citizen Police Academy Alumni and Volunteers, and recognizing the Blue Santa program.

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

Mayor Eychner proclaimed Katie McMillan as the "2022 Christmas in Kerrville" poetry contest winner. Citizens of Kerrville selected the poem as capturing a "Christmas in Kerrville". Katie McMillan accepted the proclamation and read the poem.

2C. Texas American Planning Association Award to the City in recognition of the City's implementation of its Kerrville 2050 Comprehensive Plan.

Texas American Planning Association Board Member Carol Barrett presented the Texas American Planning Association Award to the City of Kerrville, recognizing the City's implementation of the Kerrville 2050 Comprehensive Plan.

3. VISITORS FORUM:

The following person(s) spoke:

- William Fitch
- Ruben Aguilar
- Nikki Caines
- Karen Guerriero
- George Baroody
- Ian Daugherty

4. CONSENT AGENDA:

Councilmember Roman Garcia requested to pull Consent Agenda items 4B and 4D, and Councilmember Kim Clarkson requested to pull Consent Agenda item 4F. Councilmember Garcia made a motion to approve 4A, 4C, 4E, 4G, and 4H), seconded by Councilmember Joe Herring, Jr. The motion passed 5-0.

4A. Resolution No. 80-2022. A Resolution ordering that a General Election be held on May 6, 2023, for the election of two Councilmembers for Place 1 and Place 2; providing details relating to the holding of such election; authorizing the Mayor to enter into an agreement with the Kerr County Elections Officer for the holding of the election; and providing other matters related to this subject.

4C. Grant Funding Purchase of VirTra Training Simulator and Equipment.

4E. Contract with Recon Infosec for Managed Detection and Response (MDR) services through the TIPS purchasing contract, for the amount of \$60,486 per year.

4G. Amendment to Lease Agreement for 715 Water Street with Kerrville's Fourth on the River (Arcadia Live).

4H. City Council meeting minutes November 08, 2022.

END OF CONSENT AGENDA.

4B. Resolution No. 81-2022. A Resolution establishing the City's intent to become certified as a Dark Sky Community.

Drew Paxton provided information and responded to questions.

Councilmember Garcia made a motion to approve Resolution No. 81-2022, seconded by Councilmember Clarkson. The motion passed 5-0.

4D. Approval of Zoning Board of Adjustment Rules of Procedure.

Drew Paxton provided information and responded to questions.

Councilmember Clarkson made a motion to approve Item 4D, seconded by Councilmember Herring. The motion passed 5-0.

4F. Construction Agreement with Alsay Incorporated for the Water Well No 9 (H Street) Improvement Project in an amount of \$294,000.

Stuart Barron and E.A. Hoppe provided information and responded to questions.

Councilmember Clarkson made a motion to approve Item 4F, seconded by Councilmember Herring. The motion passed 5-0.

5. PUBLIC HEARINGS AND RESOLUTIONS:

5A. Resolution No. 82-2022. A Resolution granting a Conditional Use Permit to authorize an Independent Living Facility for Seniors on property generally located adjacent to Memorial Boulevard (SH 27) and between its intersection with Meeker Road and Laurel Street; comprising an approximate 0.53 acres and more commonly known as 2916 Memorial Boulevard; said property is located within a Light Commercial Zoning District (C-2); and making said permit subject to certain conditions and restrictions.

Shelley McElhannon read Resolution No. 82-2022 caption into record.

Drew Paxton provided information and responded to questions, and applicant Rick Perry spoke. The public hearing opened at 6:58 p.m.

The following person(s) spoke:

- George Baroody

The public hearing closed at 7:01 p.m.

Councilmember Brenda Hughes made a motion to approve Resolution No. 82-2022, seconded by Councilmember Herring. The motion passed 5-0.

5B. Resolution No. 83-2022. A Resolution granting a Conditional Use Permit to authorize a Short Term Rental on the property consisting of Lot H, Block 5, Pueblo Hills Addition; and more commonly known as 1916 Leslie; said property is located within a Medium Density Residential Zoning District (R-2); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 83-2022 caption into record.

Drew Paxton provided information and responded to questions.

The public hearing opened at 7:02 p.m.

The following person(s) spoke:

- Roger Palmer

The public hearing closed at 7:05 p.m.

Councilmember Herring made a motion to table until the next meeting pending resolution of the question, "*Is the applicant continuing or withdrawing?*", seconded by Councilmember Hughes. The motion to table failed 2-3 with Councilmember Herring and Councilmember Hughes voting in favor to table, and Mayor Eychner, Councilmember Garcia, and Councilmember Clarkson opposed.

Councilmember Garcia made a motion to approve Resolution No. 83-2022, seconded by Councilmember Clarkson. The motion passed 5-0.

5C. Resolution No. 84-2022. A Resolution granting a Conditional Use Permit for a Short Term Rental on the property consisting of Lot F, Block 5, Pueblo Hills Addition; and more commonly known as 1924 Leslie; said property is located within a Medium Density Residential Zoning District (R-2); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 84-2022 caption into record.

Drew Paxton provided information and responded to questions.

The public hearing opened at 7:11 p.m.

The following person(s) spoke:

- Roger Palmer
- George Baroody
- Bruce Stracke

The public hearing closed at 7:14 p.m.

Councilmember Herring made a motion to approve Resolution No. 84-2022, seconded by Councilmember Hughes. The motion passed 5-0.

5D. Resolution No. 85-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property consisting of Lot 14, Block 2, Galleria Estates Addition; and more commonly known as 811 Lloyd; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 85-2022 caption into record.

Drew Paxton provided information and responded to questions, and applicant representative Denise Morris spoke.

The public hearing opened at 7:16 p.m.

No person(s) spoke.

The public hearing closed at 7:16 p.m.

Councilmember Hughes made a motion to approve Resolution No. 85-2022, seconded by Councilmember Herring. The motion passed 5-0.

5E. Resolution No. 86-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property consisting of Lots 4, 5, & 6, Block 8 Hillcrest Addition; and more commonly known as 1001 Prescott; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 86-2022 caption into record.

Drew Paxton provided information and responded to questions.

The public hearing opened at 7:18 p.m.

The following person(s) spoke:

- Mary Kay LaMont

The public hearing closed at 7:22 p.m.

Councilmember Clarkson made a motion to approve Resolution No. 86-2022, seconded by Councilmember Hughes. The motion passed 5-0.

5F. Resolution No. 87-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property consisting of Lot 3, Block 1, Jenkins Addition; and more commonly known as 3410 Riverside; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 87-2022 caption into record.

Drew Paxton provided information.

The public hearing opened at 7:25 p.m.

No person(s) spoke.

The public hearing closed at 7:25 p.m.

Councilmember Herring made a motion to approve Resolution No. 87-2022, seconded by Councilmember Clarkson. The motion passed 5-0.

6. PUBLIC HEARING AND ORDINANCE(S), FIRST READING:

6A. Ordinance No. 2023-01. An Ordinance annexing a track of land into the corporate limits of the City of Kerrville, Texas; such property making up approximately 4.45 acres and generally located adjacent to and South of Kerrville Schreiner Park; more commonly known as 2511 State Highway 173 (Bandera Highway); 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 Mixed Use (MU) Zoning District; and providing other matters relating to this subject.

Shelley McElhannon read Ordinance No. 2023-01 caption into record.

Drew Paxton provided information and responded to questions.

The public hearing opened at 7:30 p.m.

No person(s) spoke.

The public hearing closed at 7:31 p.m.

Councilmember Clarkson made a motion to approve Ordinance No. 2023-01 on first reading, seconded by Councilmember Hughes. The motion passed 5-0.

6B. Ordinance No. 2023-02. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the Zoning of an approximate 0.63 acre property known as 226 and 228 W. Main; from a Planned Development Zoning District (PDD) to a Light Commercial Zoning District (C-2); and providing other matters relating to the subject.

Shelley McElhannon read Ordinance No. 2023-02 caption into record.

Drew Paxton provided information, and applicant representative Bruce Stracke spoke.

The public hearing opened at 7:34 p.m.

No person(s) spoke.

The public hearing closed at 7:34 p.m.

Councilmember Herring made a motion to approve Ordinance No. 2023-02 on first reading, seconded by Councilmember Hughes. The motion passed 5-0.

7. ORDINANCE(S), SECOND READING:

7A. Ordinance No. 2022-32, second reading. An Ordinance annexing a tract of land into the corporate limits of the City of Kerrville, Texas; such property making up approximately 11.93 acres and generally located south of the intersection of State Highway 27 and Colvin Ranch Rd.; more commonly known as 5269 State Highway 27; 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 an Industrial and Manufacturing (IM) Zoning District; and providing other matters relating to this subject.

Shelley McElhannon read Ordinance No. 2022-32 caption into record.

Drew Paxton provided information and responded to questions.

Councilmember Garcia made a motion to approve Ordinance No. 2022-32, seconded by Councilmember Herring. The motion passed 5-0.

7B. Ordinance No. 2022-30, second reading. An Ordinance creating a new Chapter 80 "Short-Term Rental Units"; requiring permitting for Short-Term Rental Units; containing a cumulative clause; containing a savings and severability clause; providing for penalties not to exceed \$2,000.00; ordering publication; providing an effective date; and providing other matters related to the subject.

Shelley McElhannon read Ordinance No. 2022-30 caption into record.

Guillermo Garcia provided information and responded to questions.

The following person(s) spoke:

- Robin Perrin
- Nikki Caines

Councilmember Clarkson made a motion to approve Ordinance No. 2022-30 on second reading, seconded by Councilmember Garcia. The motion passed 5-0.

7C. Ordinance No. 2022-33, second reading. An Ordinance amending Chapter 102 "Traffic and Vehicles," Section 102-1 "Definitions" of the Code of Ordinances of the City of Kerrville, Texas by revising the definitions of "Excessive or Unusual Noise" and "Noisemakers" in their entirety; containing a savings and severability clause; providing an effective date; ordering publication; and providing other matters relating to this subject.

Shelley McElhannon read Ordinance No. 2022-33 caption into record.

Councilmember Hughes made a motion to approve Ordinance No. 2022-33, seconded by Councilmember Herring. The motion passed 5-0.

8. CONSIDERATION AND POSSIBLE ACTION:

8A. Construction Agreement with D&D Contractors, Inc. for the Westminster Street Reconstruction project in the amount of \$1,846,158.40.

Shelley McElhannon read item 8A caption into record.

Kyle Burow provided information and responded to questions.

Councilmember Garcia made a motion to authorize the City Manager to finalize and execute a construction contract with D&D Contractors, Inc for Westminster Street Reconstruction project, seconded by Councilmember Hughes. The motion passed 5-0.

8B. Authorization to negotiate a Design-Build contract for the Heart of the Hills Heritage Center.

Shelley McElhannon read item 8B caption into record.

Kyle Burow provided information and responded to questions, and Joel Kokomor with Freese & Nichols, Inc spoke.

Councilmember Herring made a motion to direct staff to negotiate a contract with the design-build team that was determined to be the highest ranked proposer for the HHHC project and award a contract with construction cost limitation of 3.25 million dollars to Marksman General Contractors, seconded by Councilmember Hughes. The motion passed 5-0.

At 8:22 p.m., Councilmember Herring recused himself from Item 8C citing conflict of interest and departed seat at Council bench.

8C. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas; for the development and construction of an extension to the City's River Trail from the Tranquility Island bridge to the scenic downtown overlook (pavilion).

Shelley McElhannon read item 8C caption into record.

Ashlea Boyle provided information and Ashlea Boyle, Mike Hayes, and E.A. Hoppe responded to questions.

The following person(s) spoke:

- George Baroody

Councilmember Garcia made a motion to deny the agreement as presented. Mayor Eychner called for a second, with no second forthcoming. Motion to deny failed due to lack of second.

Councilmember Clarkson made a motion to approve a project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas, for the development and construction of an extension to the City's River Trail from the Tranquility Island bridge to the scenic downtown overlook (pavilion), seconded by Councilmember Hughes. The motion passed 3-1 with Mayor Eychner, Councilmember Clarkson, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed.

At 8:39 p.m., Councilmember Herring joined seat at Council bench.

8D. Funding application to the City of Kerrville, Texas, Economic Improvement Corporation, for the creation of a concept feasibility study for extensions of the Kerrville River Trail around Nimitz Lake in the amount of \$182,800.

Shelley McElhannon read 8D caption into record.

Ashlea Boyle provided information and responded to questions.

The following person(s) spoke:

- George Baroody

Councilmember Herring made a motion to approve the funding application to the City of Kerrville, Texas, Economic Improvement Corporation, for the creation of a concept feasibility study for extensions of the Kerrville River Trail around Nimitz Lake in the amount of \$182,800, seconded by Councilmember Clarkson. The motion passed 5-0.

8E. Resolution No. 88-2022. A Resolution amending The City of Kerrville Fee Schedule by adopting fees to be charged for each initial application and renewal application for Short-Term Rental Units.

Shelley McElhannon read Resolution No. 88-2022 caption into record.

Guillermo Garcia provided information and responded to questions.

Councilmember Hughes made a motion to approve Resolution No. 88-2022, seconded by Councilmember Herring. The motion passed 5-0.

9. INFORMATION & DISCUSSION:

9A. Fiscal Year 2022-Year End Financial Report, and FY2023 Financial Report 10-31-2022.

Shelley McElhannon read item 11A caption into record.

Julie Behrens provided information, and Julie Behrens and E.A. Hoppe responded to questions.

10. BOARD APPOINTMENT(S):

10A. Appointment to the Food Service Advisory Board.

Councilmember Hughes made a motion to appoint Rebecca Dittmar to the Food Service Advisory Board, seconded by Councilmember Garcia. The motion passed 5-0.

10B. Appointment(s) to the Library Advisory Board.

The following person(s) spoke:

- Jaclyn Hall
- Lillian Beard

Councilmember Clarkson called for point of order, acknowledged by Mayor Eychner.

Councilmember Hughes made a motion to appoint Barbara Jansen and Lana Tatsch to the Library Advisory Board, seconded by Councilmember Herring.

Councilmember Garcia made a motion to amend the prior motion, and to instead reappoint Beverly Avery and to appoint Crystal Smith. Mayor Eychner called for a second, with no second forthcoming. Therefore the motion to amend failed for lack of second.

Mayor Eychner then acknowledged the original motion which Councilmember Hughes made to appoint Barbara Jansen and Lana Tatsch, and seconded by Councilmember Herring, and called for a vote. The motion passed 4-1 with Mayor Eychner, Councilmember Clarkson, Councilmember Herring, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed.

10C. Appointment(s) to the Parks & Recreation Advisory Board.

Shelley McElhannon read item 10C caption into record.

Councilmember Clarkson made a motion to appoint Russell Nemky to the Parks and Recreation Advisory Board, seconded by Councilmember Herring. The motion passed 5-0.

10D. Appointment(s) to the Recovery Community Coalition.

Shelley McElhannon read item 10D caption into record.

Councilmember Garcia made a motion to table this item to the next regular meeting, seconded by Councilmember Herring. The motion passed 5-0.

10E. Appointment(s) to the Planning and Zoning Commission.

Shelley McElhannon read item 10E caption into record.

Councilmember Hughes made a motion to reappoint David Lipscomb, Tabor McMillan, and Michael Sigerman, and to appoint Kimberly Richards to the Planning and Zoning Commission, seconded by Councilmember Clarkson. The motion passed 5-0.

11. EXECUTIVE SESSION: Executive Session was not called nor convened.

11A. Appointment(s) to the Planning and Zoning Commission.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY. N/A

13. ITEM(S) FOR FUTURE AGENDAS:

- Councilmember Garcia – Board and Commission application process and application deadlines, seconded by Mayor Eychner, and consensus given by Council.
- Mayor Eychner announced seating arrangement change at Council bench, beginning in January 2023.

ADJOURN. The meeting adjourned at 9:26 p.m.

APPROVED BY COUNCIL: _____

APPROVED:

ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary



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

SUBJECT: Ordinance No. 2023-03. An Ordinance amending Chapter 26 of the Code of Ordinances, City of Kerrville, Texas, titled "Buildings and Building Regulations"; by adding a new Article X titled "Outdoor Lighting", to create standards for outdoor lighting to minimize light pollution, glare, and light trespass caused by inappropriate or misaligned light fixtures, while improving nighttime public safety, utility, and security; providing an effective date; and providing other matters related to the subject.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** November 25, 2022

SUBMITTED BY: Drew Paxton, Planning Director

EXHIBITS:

| 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? Yes

Key Priority Area P - Parks / Open Space / River Corridor

Guiding Principle N/A

Action Item P4.8 - Evaluate the desirability of a Night Sky ordinance

SUMMARY STATEMENT:

In the Kerrville 2050 Comprehensive Plan, the protection of the night skies was a frequent topic of discussion. Action item P4.8 is to evaluate the desirability of a Night Sky Ordinance. In 2019, the Code Review Committee (CRC) began to discuss the need for a dark sky, or night sky, ordinance. However, at that time they moved their focus of the update to the subdivision code and tabled the dark sky ordinance. In 2022, the CRC picked up that draft as well as the Texas Model Outdoor Lighting Ordinance from the Hill County Alliance. The CRC debated whether or not to recommend guidelines/policy or regulations as an ordinance and ultimately decided to recommend an ordinance to Council.

City Council has presented numerous proclamations celebrating October and Night Sky Month. These regulations will establish rules for outdoor lighting to help protect the night skies that the Texas Hill Country is known for.

This Ordinance, along with the Resolution of Support (adopted by Council in December 2022), is the first steps in applying for International Dark Sky Association's designation as a Dark Sky Community.

RECOMMENDED ACTION:

Approve Ordinance No. 2023-03 on first reading.

ATTACHMENTS:

20230110_Ord 2023-03 Dark Sky-Outdoor Lighting DRAFT.pdf

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2023-03**

AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, TITLED “BUILDINGS AND BUILDING REGULATIONS”; BY ADDING A NEW ARTICLE X TITLED “OUTDOOR LIGHTING”, TO CREATE STANDARDS FOR OUTDOOR LIGHTING TO MINIMIZE LIGHT POLLUTION, GLARE, AND LIGHT TRESPASS CAUSED BY INAPPROPRIATE OR MISALIGNED LIGHT FIXTURES, WHILE IMPROVING NIGHTTIME PUBLIC SAFETY, UTILITY, AND SECURITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, City Council of the City of Kerrville (“City Council”) seeks to promote the effective and reasonable artificial exterior illumination within the City; and

WHEREAS, City Council finds that improperly designed light fixtures and their components cause glare, light pollution, and wasted resources; and

WHEREAS, glare and light pollution can result in the diminishing ability to view the night sky, light trespass, and an unattractive townscape; and

WHEREAS, citizens who live in and near the City value the natural environment, including the beauty of the Hill Country and high quality of the night sky; and

WHEREAS, City Council desires to protect the health, safety, and welfare of the general public, and to protect the night sky that adds to the quality of life and economic well-being for the City and its citizens; and

WHEREAS, the lighting regulations provided herein are not intended to sacrifice the safety of citizens or visitors to the City or the security of property, but instead are intended to result in safer, efficient, and more cost-effective lighting; and

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

WHEREAS, pursuant to Chapter 214 of the Texas Local Government Code, the City has the specific authority to adopt building codes and regulate the construction of buildings and structures; and

WHEREAS, pursuant to Chapter 217 of the Texas Local Government Code, the City has the specific authority to define, prohibit, and abate conditions which create or may create public nuisances; and

WHEREAS, City Council finds that the regulations provided for by this Ordinance are reasonable, necessary, and for the public benefit;

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

SECTION ONE. Chapter 26 “*Buildings and Building Regulations*” of the Code of Ordinances of the City of Kerrville, Texas, is amended by adding a new Article X “*Outdoor Lighting*”, which will add the language that is underlined (added) as follows:

“ARTICLE X. – OUTDOOR LIGHTING”

Sec. 26-275. – Purpose and scope.

(a) The purpose of this article is:

- (1) To reduce glare and improve nighttime visibility which contributes to safer, more secure, and attractive outdoor living spaces;**
- (2) To encourage efficient, controlled lighting that conserves energy;**
- (3) To make the community a better place to live and work and a more inviting place for tourists to visit;**
- (4) To protect properties from light trespass;**
- (5) To restore and preserve the City’s heritage of a clear, dark night sky;**
- (6) To position the City to apply for the designation of International Dark Sky Community;**
- (7) To have lights at night that are directed where light is wanted, are a warm color, and equal the appropriate amount of light;**
- (8) To prevent light at night from being wasted offsite, off property, or into the night sky.**

(b) The scope of this article is as follows:

(1) This article shall apply within the City limits, hereinafter referred to as "City".

(2) Nothing herein shall be construed as preventing or limiting the City from applying this article within the surrounding areas where the City asserts powers of extraterritorial jurisdiction (ETJ) through agreements with property owners or where authorized by state law.

Sec. 26-276. - Definitions.

Adaptive controls mean mechanical or electronic devices, when used in the context of outdoor lighting systems, intended to actively regulate the switching, duration, and/or intensity of light emitted by the outdoor lighting system. Examples of adaptive controls include timers, dimmers, and motion-sensing switches.

Beam of a light fixture means the spatial distribution of the emitted light.

City Manager means the City Manager or designee.

Correlated Color Temperature ("CCT") means a measure of the color properties of light emitted by lamps, being equal to the temperature, expressed in Kelvins (K). CCT values are typically provided on lighting manufacturer packaging or data sheets.

Decorative holiday lighting means low-intensity string lights, whose luminous output does not exceed fifty (50) lumens per linear foot, and fully-shielded floodlights, whose luminous output does not exceed one thousand (1,000) lumens and which are aimed and oriented in such a way as to not create light trespass onto another property nor into the night sky.

Electronic Display means any illuminated sign of an informative or advertising nature, whether on- or off-premise, and operable at night, whose content is made visible to the viewer by means of luminous elements under active electronic control and therefore subject to alteration in order to vary the content of the message. Electronic displays may be either static or dynamic in terms of light color and intensity.

Existing light fixtures means those outdoor light fixtures already installed at the time this article is adopted.

Floodlight means a light fixture having a wide beam.

Fully Shielded means an outdoor luminaire constructed so that in its installed position, all of the light emitted from the light fixture is projected below the horizontal plane passing through the lowest light-emitting part of the fixture.

Glare means visual discomfort or impairment caused by a bright source of light in a direction near one's line of sight.

Greenhouse means any building that is constructed of glass, plastic, or other transparent material in which plants are grown under climate-controlled conditions and includes hoop houses and other similar structures.

Illuminance means the intensity of light in a specified direction measured at a specific point.

Light source means a light emitting portion of the luminaire and any diffusing elements and surfaces intended to reflect or refract light emitted from the lamp individually or collectively, for example, a lamp, bulb, lens, highly reflective surface, or frosted glass.

Light pollution means the unintended, adverse and /or obtrusive effect of the use of outdoor light at night.

Light trespass means light emitted from fixtures designed or installed in a manner that unreasonably causes light to fall on a property other than the one where the light is installed, in a motor vehicle drivers' eyes, or upwards toward the sky. If the light appears star-like from another property or the public roadway, the light is creating light trespass. It is expected that the illumination produced by a light source may be viewed from other properties but the light source itself should not be visible from other properties. Exhibit _____ of Section 26. _____ is a sample educational illustration about light trespass.

Lumen means the unit of measurement used to quantify the amount of light produced by a bulb or emitted from a light source. Lumen values are typically provided on lighting manufacturer packaging or data sheets. For the purposes of this article, unless otherwise stated, the lumen output values shall be the initial lumen output ratings as defined by the manufacturer, multiplied by the lamp efficiency. Lamp efficiency of 95% shall be used for all solid-state lamps and 80% for all other lamps, unless an alternate efficiency rating is supplied by the manufacturer.

Lumens per Net Acre means the total outdoor light output, as defined in this article, divided by the number of acres, or part of an acre with outdoor illumination. Undeveloped, non-illuminated portions of the property may not be included in the net acreage calculation.

Luminaire means a complete lighting assembly or lighting fixture, consisting of a lamp, housing, optic(s), and other structural elements, but not including any mounting pole or surface.

Luminance is a measure of light emitted by or from a surface.

Nit is the standard unit of measure of luminance used for internally illuminated signs, digital signs, or electronic displays.

Outdoor Lighting means temporary or permanent lighting that is installed, located, or used in such a manner to cause light rays to shine outdoors. Nonresidential fixtures that are installed indoors that cause light rays to shine outside are considered outdoor lighting for the intent of this article. See Exhibit 26 of Section 26. for an illustration of this type of situation. Residential fixtures installed indoors generating more than 3,800 lumens, approximately equal to a 300-watt incandescent bulb, that cause light to shine outside are also considered outdoor lighting for the intent of this article. All of the lighting that illuminates the translucent portion of a greenhouse or solarium, including roofing material, is considered outdoor lighting for the intent of this article.

Private lighting means outdoor light fixtures that are owned, leased, operated, maintained, or controlled by individual persons, including families, partnerships, corporations, and other entities engaged in the conduct of business or other non-governmental activities.

Public lighting means outdoor light fixtures that are owned, leased, operated, maintained, or controlled by the City or other governmental entity. The light fixtures are normally located on, but are not limited to, streets, highways, alleys, easements, parking lots, parks, playing fields, schools, institutions of higher learning, and meeting places.

Sag-lens or drop-lens fixture means a fixture, typically seen on older streetlights or parking lot lights, where the lens extends below the lowest opaque part of the fixture such that light is scattered above the horizontal plane.

Searchlight means a light fixture having a narrow beam intended to be seen in the sky.

Spotlight means a light fixture having a narrow beam.

Temporary lighting means non-permanent lighting installations installed and operated for a duration not to exceed thirty (30) days.

Total outdoor light output means the total amount of light, measured in lumens, from all outdoor light fixtures within the illuminated area of a property. The lumen value to be used in the calculation is the lumen value as defined in this article. To compute the total, add the lumen outputs attributed to each light fixture together.

Sec. 26-277. - Nonconforming existing outdoor light fixtures.

- (a) All existing outdoor lighting legally installed before the adoption of this article that does not conform with the standards specified by this article is considered nonconforming.
- (b) Nonconforming outdoor lighting is allowed to remain until required to be replaced pursuant to the terms of this article.
- (c) Nonconforming outdoor lighting shall be brought into compliance with this article within ten (10) years from the date of adoption of this article.
- (d) If more than fifty percent (50%) of the total appraised value of a structure, as determined from the records of the county's appraisal district, has been destroyed, the nonconforming status expires and the structure's previously nonconforming outdoor lighting shall be removed and shall only be replaced in conformity with the standards of this article.
- (e) Nonconforming outdoor lighting shall be brought into conformance with this article as follows:
 - (1) *Nonresidential Application.* All existing outdoor lighting located on a property used for nonresidential purposes that is part of an application for a conditional use permit or a building permit for a major addition is required to be brought into conformance with this article before final inspection or the issuance of a certificate of occupancy, when applicable. For the following permits issued by the City, the applicant shall have a maximum of 90 days from date of permit issuance to bring the lighting into conformance: sign permit for an externally or internally illuminated outdoor sign.
 - (2) *Residential addition or remodel.* Nothing herein shall be construed to terminate a residential property's nonconforming status as a result of an addition or remodel. However, all outdoor residential lighting that is affixed to a construction project requiring a building permit is required to conform the standards established by this article.
 - (3) *Abandonment of nonconforming.* A nonconforming structure will be deemed abandoned if the structure remains vacant for a continuous period of six (6) months. In that instance, the nonconforming status expires and the structure's previously nonconforming outdoor lighting must be removed and may only be replaced in conformity with the standards of this article. Abandonment of the nonconformity will not occur during the vacancy of the structure while the structure is actively marketed for sale or lease.

(f) It is unlawful to expand or repair outdoor lighting that was previously nonconforming or replace such lighting with nonconforming lighting where the prior nonconforming status has expired, been forfeited, or otherwise abandoned.

(g) All new construction and/or new luminaires installed, including replacements for existing fixtures, shall comply with this article.

(h) Residential property owners may request from the City an amortization extension of up to a maximum of ten (10) years from the date a nonconforming fixture was installed provided that the fixture was compliant with existing City regulations at the time it was installed, and that date of installation can be substantiated via documents, date stamped photographs, or similar evidence, which is then approved by the City Manager.

(i) Amortization extensions to a date at which outdoor lighting shall conform to this article shall be on a per fixture basis with the following requirements:

- (1) The light fixture must be documented to cost at least \$100.00 when originally purchased;
- (2) The fixture cannot be brought into compliance by changing the bulb or lighting element or installing shielding; or
- (3) If the bulbs or other lighting elements of the fixture require replacement during the amortization period, the replacement bulbs or lighting elements shall not be rated in excess of 3000 Kelvin.

Sec. 26-278. – General provisions.

(a) *Shielding.*

- (1) Unless exempted elsewhere in this article, all outdoor lighting shall be fully shielded.
- (2) New streetlights shall be fully shielded fixtures of approved historical design, utilizing a minimum output consistent with the safety of drivers and pedestrians.
- (3) Mounting height or topography or proximity to other properties may cause public or private outdoor light fixtures to require additional shielding to prevent glare, light trespass, or an unsafe condition on properties other than the one on which it is installed.

(4) All lighting that illuminates the translucent portion of a greenhouse or solarium must be shielded so that no direct light shines outside of the structure and no more than 4% of the reflected or refracted illumination is allowed to escape outside the structure.

(5) Outdoor light fixtures with a maximum output of 200 lumens per fixture, regardless of the number of bulbs, may be left unshielded provided the source of the light is not visible from any other property and the fixture conforms to all other regulations of this article. The output from these fixtures shall not exceed 10% of the lumens per net acre allowed by this article.

(b) *Light trespass.*

(1) Light trespass is prohibited. No luminaire installed within the City, except governmental owned streetlights, may create conditions of light trespass. Governmental owned street lights may only create light trespass below it within one hundred feet (100.0') of its installed location.

(2) All outdoor lighting, except governmental owned streetlights, shall be shielded so that the light source shall not be visible from any other property.

(c) *Outdoor Sports Facilities.* Lighting at public and private outdoor sports facilities, including playing fields, arenas, tracks, and swimming pools, shall:

(1) be shielded to the greatest practical extent to reduce glare, safety hazards, light trespass, and light pollution;

(2) provide levels of illuminance that are adjustable according to task, allowing for illuminating levels not to exceed nationally recognized Illuminating Engineering Society of North America (IESNA) standards according to the appropriate class of play, as well as for lower output during other times, such as when field maintenance is being actively performed;

(3) be provided exclusively for illumination of the surface of play and adjacent viewing stands, and not for any other application, such as lighting a parking lot;

(4) be extinguished by 11:00 p.m. or within one (1) hour of the end of active play. The outdoor sports facility lighting shall be fitted with mechanical or electronic timers to prevent lights from being left on accidentally overnight; and

(5) be exempted from the other regulations of this article if its design and installation, as certified by a professional engineer (PE) licensed in the state of Texas, adheres to the version of the International Dark Sky Association's *Criteria for Community-Friendly Outdoor Sports Lighting Operative* at the time when the construction permit is submitted to the City for review.

(d) *Towers.* No lighting of towers and associated facilities is allowed, except by permit, and except as required by the Federal Aviation Administration or other federal or state agency. In coordination with the applicable federal or state agency, an applicant shall determine the maximum height of the tower that would not require lighting. If a proposed tower would require lighting, the applicant shall demonstrate that a tower height that requires lighting is necessary. Such justification shall include documentation showing:

(1) Coverage limitations;

(2) Type of system (e.g., cellular, radio, television);

(3) Technical and engineering details of the lighting to be installed; and

(4) Requirements of federal, state, and local agencies.

If a tower height that requires lighting is justified, slowly blinking red lights must be used at night. White strobe lights at night are prohibited.

(e) *Color Temperature.*

(1) The correlated color temperature (CCT) of luminaires shall not exceed 3000 Kelvins.

(2) Luminaires rated below 2500 Kelvin are encouraged for better nighttime visibility.

(f) *Service Station Canopies and other building overhangs.* All luminaires mounted on or recessed into the lower surface of service station canopies or other overhangs shall be fully shielded and utilize only flat lenses or windows. Shielding must be provided by the luminaire itself, and not by surrounding structures such as canopy edges. Light directed on service station pumps may be angled to illuminate the pump to the level of federal standards and to shield the light from normal view.

(g) *General curfew.*

(1) For all nonresidential zoning districts:

- a. All privately owned exterior lighting not adaptively controlled shall be extinguished by 11:00 p.m. or within one (1) hour of the end of normal business hours, whichever occurs later.
- b. Exterior lighting with adaptive controls shall reduce lighting to 25% or less of the total outdoor light output allowed by 11:00 p.m. or within one (1) hour of the end of normal business hours, whichever occurs later. Adaptive controls may be used to activate lights and resume normal light output when motion is detected and be reduced back to 25% or less of total outdoor light output allowed within 5 minutes after activation has ceased, and the light shall not be triggered by activity off property.
- c. Businesses whose normal operating hours are (24) twenty-four hours per day are exempt from this provision.

(2) All public lighting not adaptively controlled must be fully extinguished by 11:00 p.m., or within one (1) hour of the end of occupancy of the structure or area to be lit, whichever is later.

(3) All outdoor lighting is encouraged to be turned off when no one is present to use the light.

(h) Lumen caps.

(1) The lumen per net acre values are an upper limit and not a design goal; design goals should be the lowest levels that meet the requirement of the task. Lumen per net acre values exclude governmental owned street lights used for illumination of public rights-of-way and outdoor recreation facilities.

(2) The following lumen caps apply:

- a. *Nonresidential Property.* Total outdoor light output installed on any nonresidential property shall not exceed 100,000 lumens per net acre in any contiguous illuminated area;
- b. *Residential Property.* Total outdoor light output installed on any residential property shall not exceed 25,000 lumens per net acre in any contiguous illuminated area.

(i) *Adaptive controls.* All new public lighting, including streetlights, will incorporate adaptive controls, such as timers, motion-sensors, and light-sensitive switches, to actively regulate the emission of light from light fixtures

such that the lighting of areas is restricted to times, places, and amounts required for safe occupancy.

(j) *Flagpoles.* Property owners are encouraged to not illuminate flagpoles at night, but rather to hoist flags after dawn and lower flags before sunset. If flags are illuminated at night, lighting of up to a total of two (2) flag poles per property is permitted with the following conditions:

(1) Flagpoles with a height greater than twenty feet (20.0') above ground level shall be illuminated only from above. This may be achieved by utilizing a luminaire attached to the top of the flagpole or a luminaire mounted above the top of the flagpole on a structure within fifteen feet (15.0') of the flagpole and must comply with all sections of this article. The total light output from any luminaire mounted on top of or above a flagpole shall not exceed 800 lumens.

(2) Flagpoles with a height equal to or less than twenty feet (20.0') above ground level may be illuminated from below. If ground-level illumination is used, flagpoles may be illuminated with up to two (2) spotlight type luminaires, utilizing shields or diffusers to reduce glare, whose maximum combined lumen output is 75 lumens per linear foot of pole height, measured from the level of the luminaire above grade to the top of the flagpole. Luminaires shall be mounted so that their lenses are perpendicular to the flagpole and the light output points directly toward the flag(s).

(k) *Prohibitions.* The use of the following types of outdoor lighting are prohibited, except as specifically exempted here or elsewhere in this article:

(1) Sag-lens or drop-lens fixtures.

(2) Any luminaire that uses mercury vapor lamps.

(3) Searchlights, sky beams, and similar lighting, except as required by response personnel during emergency conditions.

(4) Any light that dynamically varies its output by intermittently fading, flashing, blinking, or rotating. This type of lighting includes strobe lighting.

(l) *Warranting.* New installations of outdoor lighting will only be installed on public property, including right-of-way, upon determination by the City Manager that a public safety hazard exists in the area to be lit and that the hazard can only be effectively mitigated through the use of outdoor lighting

and not through some other passive means, such as reflectorized roadway paint or markers.

Sec. 26-279. – Plan submission and compliance review.

(a) An individual applying for a compliance review or building permit under this article intending to install new outdoor lighting or update existing outdoor lighting shall file a lighting plan with the City. A lighting plan shall be filed at the same time as any other plans required by the City. The applicant may obtain a document from the City that lists all of the items that comprise a proper and complete outdoor lighting submittal. The submittal shall contain, at a minimum, the following:

- (1) Plans indicating the number and location on the premises of proposed and existing light fixtures, the type of light fixture, the manufacturer's order number, the lamp type, Kelvin rating, initial lumens produced, the mounting height for each fixture, adaptive controls, building elevations for any structure whose interior lighting is defined as outdoor lighting per this article and the manufacturer's specification sheet for each light fixture.
- (2) The number of acres or part of an acre that is to be illuminated contiguously, the square footage of the footprint for each structure within the area to be illuminated; and
- (3) Any other evidence that the proposed installation will comply with this article.

(b) The lighting plan shall be reviewed by the City Manager to determine compliance with this article, taking into account all factors, including levels of illuminance, luminance, glare, safety hazards, light trespass, and light pollution. The City Manager shall approve or reject the plan within 30 days of submission, returning it to the applicant with a written explanation. The applicant shall not install any outdoor lighting until receiving approval of the lighting plan. After the lighting plan is approved, no substitutions may be made for approved light fixtures without re-submitting the plan for review with the substitutions.

Sec. 26-280. – Exemptions, temporary permitting, amendments, and public nuisance.

(a) *Exemptions.* This article exempts the following:

- (1) Decorative holiday lighting.

(2) String, festoon, bistro, and similar lighting, provided that the emission of no individual lamp exceeds fifty (50) lumens. These lights must be rated at or below 3000 Kelvin.

(3) Underwater lighting of swimming pools and similar water features.

(4) Lighting required by law to be installed on surface vehicles and aircraft;

(5) Airport lighting required by law;

(6) Lighting required by federal or state laws or regulations;

(7) Temporary emergency lighting needed by law enforcement, fire, and other emergency services as well as building egress lighting whose electric power is provided by either battery or generator;

(8) Lighting employed during emergency repairs of roads and utilities provided such lighting is deployed, positioned, and aimed such that the resulting glare is not directed toward any roadway or highway or residence;

(9) Temporary lighting at construction projects provided such lighting is deployed, positioned and aimed such that the resulting glare is not directed toward any roadway or highway or residence;

(10) Temporary lighting for theatrical, television, performance areas, or events provided the lights are positioned safely and do not create issues of light trespass.

(b) Amendment. City Council may amend this article as local conditions change and as changes occur in the recommendations of nationally recognized organizations such as the Illuminating Engineering Society of North America and the International Dark-Sky Association.

(c) Public nuisance. Any violation of this article that results in light trespass or an unreasonable interference with the common and usual use of any other property is hereby declared to be a public nuisance.

(d) Notification. All applicants for building permits will be notified of this article.

Sec. 26-280. – Violations; penalty.

(a) A person who violates any provision of this article commits an offense.

(b) An offense under this article is punishable by a fine not to exceed \$2,000.00.

(c) A separate offense occurs each day or part of a day that the violation is committed, continued, or permitted.

(d) The remedies and procedures in this section and in other laws are cumulative law, and the use of any particular remedy or procedure does not prevent the application or enforcement of any other law.”

SECTION TWO. The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the provisions adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code as appropriate.

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. 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. The City Council 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 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., 2023.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ of _____, A.D., 2023.

Judy Eychner, Mayor

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

DRAFT 1/05/2023

Michael C. Hayes, City Attorney



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

SUBJECT: Ordinance No. 2023-04. An Ordinance closing, abandoning, and vacating all right, title, and interest in a public right-of-way, consisting of an unimproved, unopened portion of West St. that extends between Lois Street and adjacent to the properties addressed as 620 and 704 Junction Highway (SH 27); said right-of-way out of the Westland Place Addition, a Subdivision within the City of Kerrville, Kerr County, Texas, pursuant to the plat recorded in Volume 1, Page 26 of the Plat Records of Kerr County, Texas and corresponding filed notes; and, located within the City of Kerrville, Texas; finding that said portion is not required for future use as a public street; ordering recording; providing an effective date; and providing other matters related to this subject.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** November 30, 2022

SUBMITTED BY: Stuart Barron, Director of Public Works

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:

As part of the Knapp Road Wastewater Project the City of Kerrville needs to acquire a wastewater easement from Randall Boeselt, the property owner at 704 Junction Hwy. Mr. Boeselt has agreed to an easement exchange. He will dedicate a wastewater easement and expend the drainage easement thought a portion of his property, if the City abandons a portion of West Street right of way.

If the City abandons a portion of West Street ROW Mr. Boeselt could expand the existing driveway around his building. The additional space would allow one full lane of drive through traffic and the necessary space for the mandatory fire lane, helping increase the viability of his commercial property. Future parking would also be allowed in the easement as long as any future improvements do not impede drainage or negatively affect the City's use of our easements.

The properties to be exchanged are similar in size and suspected value.

RECOMMENDED ACTION:

Approve Ordinance No. 2023-04 on first reading, and authorize the City Manager to complete any and all necessary actions to finalize the property/easement exchange.

ATTACHMENTS:

[20230110_Ord 2023-04 Vacating portion of West St.pdf](#)

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2023-04

AN ORDINANCE CLOSING, ABANDONING, AND VACATING ALL RIGHT, TITLE, AND INTEREST IN A PUBLIC RIGHT-OF-WAY, CONSISTING OF AN UNIMPROVED, UNOPENED PORTION OF WEST ST. THAT EXTENDS BETWEEN LOIS STREET AND ADJACENT TO THE PROPERTIES ADDRESSED AS 620 AND 704 JUNCTION HIGHWAY (SH 27); SAID RIGHT-OF-WAY OUT OF THE WESTLAND PLACE ADDITION, A SUBDIVISION WITHIN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, PURSUANT TO THE PLAT RECORDED IN VOLUME 1, PAGE 26 OF THE PLAT RECORDS OF KERR COUNTY, TEXAS AND CORRESPONDING FIELD NOTES; AND, LOCATED WITHIN THE CITY OF KERRVILLE, TEXAS; FINDING THAT SAID PORTION IS NOT REQUIRED FOR FUTURE USE AS A PUBLIC STREET; ORDERING RECORDING; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THIS SUBJECT

WHEREAS, West Street, as located within the City of Kerrville, Texas, was created by plat and corresponding field notes on or about March 12, 1926, which documents were then filed within the property records of Kerr County, Texas (Vol. 1, Page 26 and Vol. 45, Page 335); and

WHEREAS, an unimproved and unopened portion of West Street exists between Lois Street and Junction Highway (SH 27) (“Right-of-Way Segment”), which is neither improved nor marked in any way; and

WHEREAS, the Right-of-Way Segment has not been and is no longer required for public use as the City has no plans to improve, open, or maintain it as a public right-of-way; and

WHEREAS, the adjacent property owner to the west of this Right-of-Way Segment (704 Junction Highway) has plans for the continued use and the additional development of his property (“Owner”), and has asked the City to abandon, vacate, and thereafter convey such segment to him which will enable the additional development; and

WHEREAS, the Right-of-Way Segment requested to be abandoned and vacated is unimproved; will not be needed as a future public right-of-way; would require the expenditure of funds to improve; and even if improved, may pose safety hazards as to its use and travel between Lois Street and Junction Highway; and

WHEREAS, City staff recommends that the City formally close, abandon, vacate and thereafter convey the Right-of-Way Segment, subject to terms of this Ordinance; and

WHEREAS, the City of Kerrville, Texas, is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Section 311.007 of the Texas Transportation Code authorizes any such city to abandon, vacate, or close any street or alley; and

WHEREAS, pursuant to Section 253.001 of the Texas Local Government Code, Council must adopt an ordinance directing the City Manager, upon closure, abandonment, and vacation, to execute a conveyance of the Right-of-Way Segment; and

WHEREAS, the Right-of-Way Segment was created by plat and accompanying field notes and as such, the rights vacated, abandoned, and closed by the City pursuant to this Ordinance will allow the City to convey fee ownership of the segment to the adjacent property (lot) owners, as appropriate; and

WHEREAS, City Council held a public hearing beginning at approximately 6:00 p.m. on January 10, 2023, as advertised, to consider public comments regarding the issue of closure, abandonment, and vacation of the Right-of-Way Segment; and

WHEREAS, pursuant to the actions contemplated to be taken below and in order to avoid any cost to the public required with respect to the future improvement and maintenance of the Right-of-Way Segment, City Council, acting pursuant to state law and to facilitate the additional development and use of property and avoid unnecessary costs and safety issues with respect to improving the Right-of-Way Segment, finds it to be in the public interest and advisable to close, abandon, vacate, and convey the Right-of-Way Segment, subject to the limitations and conditions which follow;

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

SECTION ONE. The facts and matters set forth in the preamble to this Ordinance are hereby found to be true and correct.

SECTION TWO. City Council finds that the Right-of-Way Segment is no longer essential to the safe and efficient flow of traffic. As an exercise of its discretion, City Council hereby closes, abandons, and vacates all of the City's right, title, and interest of the public in and to the Right-of-Way Segment, which is identified as follows, subject however, to the conditions and restrictions provided below:

That portion of an unimproved public right-of-way as it continues southwest from its intersection with Lois Street to its intersection with Junction Highway (SH 27), and being depicted in Exhibit A, attached hereto and incorporated herein by reference.

The vacation, abandonment, and closure does not extend to any portion of West Street not described in **Exhibit A**, but will be described with greater specificity upon filing into the property records.

SECTION THREE. The Right-of-Way Segment exists by virtue of a subdivision plat recorded at Volume 1, Page 26 of the Plat Records of Kerr County, Texas; along with corresponding Field Notes recorded at Volume 45, Page 335 of the Real Property Records of Kerr County, Texas.

SECTION FOUR. The property abutting the Right-of-Way Segment is:

620 Junction Highway, Kerrville, TX 78028

704 Junction Highway, Kerrville, TX 78028

The listing above is made solely to facilitate indexing this Ordinance in the Real Property Records of Kerr County, Texas. If the listing is inaccurate or not comprehensive, it does not affect the validity of this Ordinance or the closure, abandonment, vacation, and quit-claiming of the Right-of-Way Segment.

SECTION FIVE. The City shall convey the Right of Way Segment to the owner(s) of the adjacent property(s) subject to the limitations and conditions found in Sections Six and Seven respectively, and the following:

- a) the City shall obtain an appraisal as to the value of the Right-of-Way Segment based upon its fee simple interest. Such appraisal will take into account existing property interests burdening and limiting the use of the segment as referenced in Section Six.
- b) in reviewing the appraisal, City staff shall also take into account the City's request to increase the area or purpose(s) of the existing interests referenced in Section Six, such request to be made to the property owner(s).
- c) The City Attorney is authorized to draft the appropriate deed and any other documents for such purposes.
- d) the conveyance shall comply with state law.

SECTION SIX. All presently existing water and wastewater lines and facilities, electric transmission and distribution lines and facilities, gas lines and facilities, communication lines and facilities, or any other public utility lines and facilities within the Right-of-Way Segment may remain in place despite this Ordinance and may continue to be used, repaired, enlarged, and maintained by the City. Any person wanting removal of an existing utility line or facility must negotiate separately with the pertinent utility. Any person building on the Right-of-Way Segment without first reaching an agreement with a utility having a line(s) or facility(s) within the segment does so at its own risk. Upon the effective date of this Ordinance, no utility may add additional utility lines or facilities within the Right-of-Way Segment based on a claim that the Right-of-Way Segment is a public (street or alley) right-of-way. This closure does not give up any right arising other than from the plat and field notes creating the Right-of-Way Segment.

SECTION SEVEN. The following condition precedent to the vacation, abandonment, closure, and conveyance shall apply and be part of the consideration for the action authorized by this Ordinance:

Within 12 months of the adoption of this Ordinance, the owner(s) adjacent to the Right-of-Way segment shall submit, obtain approval, and officially record a subdivision plat(s) absorbing all of the abandoned Right-of-Way Segment or a proportionate amount thereof that the owner(s) has acquired, into the adjacent lot(s) and reconfiguration of said lot(s), meeting all requirements of the City's regulations. No plat will impair the rights retained by City pursuant to Section Six, above, unless in the course of platting, the owner(s), at its own expense, otherwise provides for those rights according to platting rules of general applicability. Further, the plat(s) shall note such previously established rights. Finally, the plat(s) shall reaffirm and convey a water and wastewater easement and drainage easement to the City to account for the existing main(s) and drainage facilities located within the Right-of-Way Segment, in a width not be less than twenty feet (20.0') and otherwise in compliance with the City's regulations. Such configuration is depicted in **Exhibit B**, but will be located with greater specificity in accordance with state law within the plat(s) or equivalent instrument(s).

SECTION EIGHT. The City Secretary is authorized and directed to prepare a certified copy of this Ordinance and furnish the same to abutting property owners, and in addition, record this closure, abandonment, and vacation Ordinance in the Real Property Records of Kerr County, Texas of all the right, title, or interest of the City in and to the Right-of-Way Segment, but only to that interest that City Council may lawfully close, abandon, and vacate, and subject to the limitations and conditions of this Ordinance.

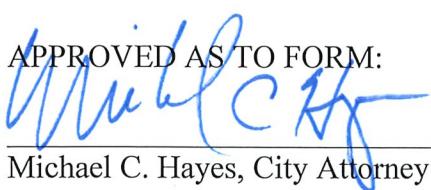
SECTION NINE. The City Manager and City Attorney or designees are authorized and directed to execute and deliver any document(s) and to take any action(s) necessary to complete the closure, abandonment, vacation, and conveyance.

SECTION TEN. This Ordinance shall become effective immediately after its second reading and final passage.

PASSED AND APPROVED ON FIRST READING, this the _____ day of _____, A.D., 2023.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ day of _____, A.D., 2023.

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

Judy Eychner, Mayor

ATTEST:

Shelley McElhannon, City Secretary

FIELD NOTES DESCRIPTION FOR 0.21 ACRE OF AN UNOPENED SECTION OF WEST STREET IN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land out of Walter Fosgate Survey No. 120, Abstract No. 138, in the City of Kerrville, Kerr County, Texas; comprising part of an unopened section of West Street adjacent to Lot No. 2, Block 49, of Westland Place, a subdivision of record in Volume 1 at Page 26A of the Plat Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows (record calls shown in parentheses):

BEGINNING at a $\frac{1}{2}$ " iron stake found at the south corner of said Lot No. 2 at the intersection with the northwest right-of-way line of said West Street, a reentrant corner of Lot No. 2-B of the Del Norte Addition Two, the replat of which is recorded in Volume 7 at Page 253 of the Plat Records of Kerr County, Texas;

THENCE, with the northwest right-of-way line of said West Street, the southeast line of said Lot No. 2, also being the southeast line of said Lot No. 2-B, N. $44^{\circ}53'35''$ E. 137.18 ft. (N. $45^{\circ}00'00''$ E. 137.01 ft.) to a $\frac{1}{2}$ " iron stake found at the most easterly corner of said Lot No. 2-B for the north corner of the herein described tract;

THENCE, upon, over and across said West Street, S. $45^{\circ}09'31''$ E. 50.00 ft. to a $\frac{1}{2}$ " iron stake set for the east corner of the herein described tract in the southeast right-of-way line of said West Street, the northwest line of Lot No. 1, Block 39, of said Westland Place;

THENCE, with the southeast right-of-way line of said West Street, S. $44^{\circ}53'35''$ W., with the northwest line of said Lot No. 1, at approximately 137 ft. passing its west corner, the northwesterly terminus of the northeast right-of-way line of an unopened part of Lucile Street, then with the northwest end of said Lucile Street, at approximately 177 ft. passing the northwesterly terminus of the southwest right-of-way line of said Lucile Street, the north corner of Lot No. 11, Block 38, then with the northwest line of said Lot No. 11 for a total distance of 204.38 ft. to a $\frac{1}{2}$ " iron stake set for the south corner of the herein described tract in the northeast right-of-way line of State Highway No. 27, Junction Highway;

THENCE, with the northeast right-of-way line of said State Highway No. 27, upon, over and across said West Street, N. $60^{\circ}12'52''$ W. 32.92 ft. to a $\frac{1}{2}$ " iron stake found in the northwest right-of-way line of said West Street, the south corner of said Lot No. 2-B of the Del Norte Addition Two;

THENCE, with the northwest right-of-way line of said West Street, the southeast line of said Lot No. 2-B: N. $45^{\circ}05'03''$ E. 76.00 ft. (N. $45^{\circ}08'00''$ E. 75.48 ft.) to a $\frac{1}{2}$ " iron stake found at an easterly corner of said Lot No. 2-B; and N. $45^{\circ}54'37''$ W. 18.47 ft. (N. $45^{\circ}47'04''$ W. 18.35 ft.) to the PLACE OF BEGINNING containing 0.21 acre of land, more or less, within these metes and bounds. Note: All set $\frac{1}{2}$ " iron stakes marked with red plastic cap inscribed with "VOELKEL SURVEYING".

Page 2 – 0.21 Acre of the “Unopened” part of West Street in the
City of Kerrville, Kerr County, Texas

I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as stated. (Bearing basis = True north based on GPS observations)

Date surveyed: July 3 & September 10, 2019; December 7, 2022

Dated this 7th day of December, 2022



Don W. Voelkel
Registered Professional Land Surveyor No. 3990



EXHIBIT A



SURVEY PLAT FOR 0.21 ACRE OF AN "UNOPENED" PORTION OF WEST STREET ADJACENT TO LOT NO. 2-5-B OF THE DEL NORTE ADDITION TWO, THE REPLAT OF WHICH IS RECORDED IN VOLUME 7 AT PAGE 235 OF THE PLAT RECORDS OF KERR COUNTY, TEXAS, OUT OF WALLER TOWNSHIP, SECTION 20, ASSISTANT 10, T. 10 S., R. 10 E., THE OUT OF PLAT RECORDS OF KERR COUNTY, TEXAS, THE 10 E. LINE OF WHICH IS ESTABLISHED BY THE PLAT OF WESTLAND PLACE AS RECORDED IN VOLUME 1, AT PAGE 264 OF THE PLAT RECORDS OF KERR COUNTY, TEXAS.

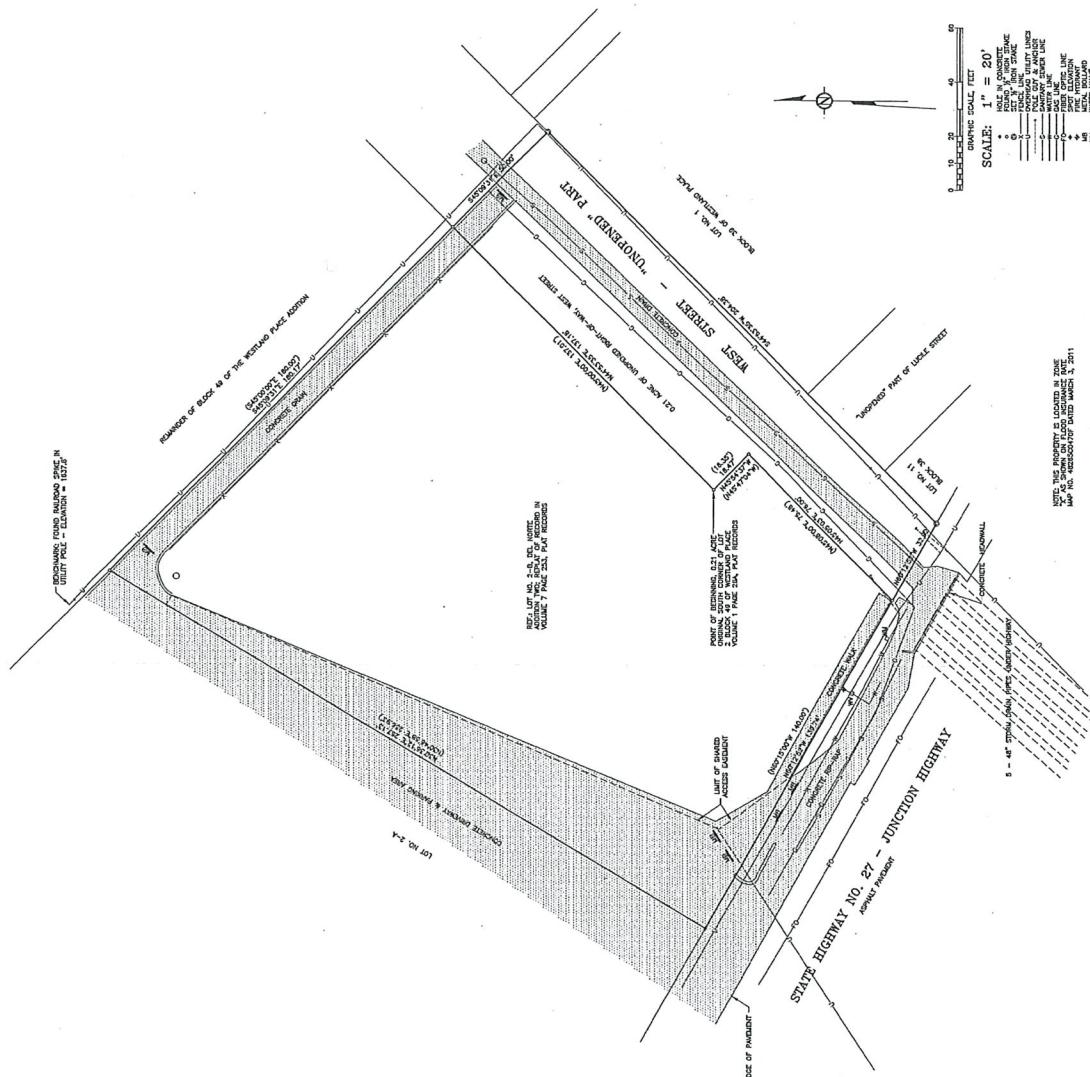


Exhibit B





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

SUBJECT: Ordinance No. 2023-05. An Ordinance amending Ordinance No. 2022-26 and the Ad Valorem Tax for the use and support of the municipal government for the City of Kerrville, Texas, for Fiscal Year 2023.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** January 4, 2023

SUBMITTED BY: Julie Behrens, Director of Finance

EXHIBITS:

| Expenditure Required: | Remaining Budget Balance in Account: | Amount Budgeted: | Account Number: |
|------------------------------|---|-------------------------|------------------------|
| NA | NA | NA | NA |

PAYMENT TO BE MADE TO: NA

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

The City published a notice of public hearing on the proposed property tax rate of \$0.5752 per \$100 of taxable property valuation upon filing the FY2023 Proposed Budget.

The FY2023 Proposed Budget that was presented to Council on August 9, 2022, included a proposed rate of \$0.5752. This rate was proposed based on the estimated debt rate of \$0.1411, which increased due to the voter approved bond issuance for the construction of the new Public Safety Facility, plus the M & O rate for the operation of the General Fund. The ordinance included in the council agenda included a property tax rate of \$0.5752.

Subsequently, Council approved the overall property tax rate of \$0.5750, which included the \$0.0002 reduction to the debt portion of the tax rate.

The day of the council meeting, staff received notification that the bond interest rate was ***slightly*** less than anticipated, which would allow for a \$0.0002 reduction in the debt portion of the tax rate.

Even though the overall impact to the debt fund for FY2023 was very small (on average \$0.56 per homeowner) the intention was to show a good faith effort to collect only what was needed to pay additional debt.

Staff discovered that the property tax rate ordinance amended to \$0.5750 was not submitted to the Tax Assessor / Collector for billing. Instead, the original ordinance with a rate of \$0.5752 was submitted and the rate of \$0.5752 was used to generate property tax statements, which were issued in late 2022.

The total excess collections to the debt fund using \$0.5752 instead of \$0.5750 (assuming 100% of taxes are collected) will be \$4,156 on a total budget of \$15.2M.

Staff consulted with the City Attorney, the Tax Assessor / Collector's Tax Collection Attorney, an attorney at TML, and Bond Council to determine legal solutions. It was determined that there were two options to correct this error.

Option #1: (Staff recommendation) Amend the tax rate to adopt \$0.5752 as originally presented and publicized:

If collections are 100% (City's average collection is 98%), the debt fund would show an excess collection in FY2023 of \$4,156 which would be reported as "excess collections" when calculating the debt rate for FY2024. Each year, as part of the tax rate calculation process, staff provides debt information to the Tax Assessor / Collector, including any excess collections. Excess collections occur for a variety of reasons but typically occur when taxes are collected from prior years. The excess collections are subtracted from the amount needed to pay debt, which can adjust the debt rate (depending on the materiality) in subsequent years. Keep in mind, it is acceptable to retain enough fund balance in the debt fund to pay one year of debt payments as a safeguard in the event the City fails to collect enough tax to cover the debt.

Option #2: Adjust the records of the Tax Assessor / Collector to the adopted rate of \$0.5750. If this scenario is used, the following adjustment would be required, by law:

1. New bills generated to taxpayers who have not yet paid their property taxes (as of Feb 1)
2. Issue a refund check to every taxpayer who already paid their taxes who are entitled to a refund.(Note: average homeowner will over pay by \$0.56)
3. Hard costs for this would be approximately \$9,000 (printing, postage, check stock, notices, etc.) as well as the potential for stale date checks, given the small amount of the refund.

Staff recommends Option 1 based on:

1. The immateriality of the amount: Total Property Tax Budget: \$15.2M. Impact at 100% collections: $\$4,156 = 0.027\%$
2. The \$4,156 (if 100% is collected) will all be held in the debt fund (not used for M & O)
3. Excess collections will be reported during the FY2024 debt rate calculation process
4. It would cost twice as much as the amount of excess collections to issue new statements and refunds.
5. Refund for \$100K home value = \$0.20 Refund for \$250K home value = \$0.50
6. This would likely create a large number of uncashed checks that the Tax Assessor would have to hold for 3 years prior to sending to the Comptroller
7. Each refund will cost approximately \$1.00 to process & mail
8. No impact to frozen or exempt owners – approximately 3,400 accounts

RECOMMENDED ACTION:

Approve Ordinance No. 2023-05 on first reading.

ATTACHMENTS:

[*20230110_Ord 2023-05 Amend Ad Valorem Tax FY2023.pdf*](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2023-05**

**AN ORDINANCE AMENDING ORDINANCE NO. 2022-26 AND
THE AD VALOREM TAX FOR THE USE AND THE SUPPORT OF
THE MUNICIPAL GOVERNMENT FOR THE CITY OF
KERRVILLE, TEXAS, FOR FISCAL YEAR 2023**

WHEREAS, City Council, through its adoption of Ordinance No. 2022-26, previously adopted the City's tax rate for Fiscal Year 2023;

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

SECTION ONE. Section One of Ordinance No. 2022-26 is amended to increase the City's ad valorem tax rate by 0.0002 so that such rate is now **\$0.5752** for the Fiscal Year 2023.

SECTION TWO. Section Five of Ordinance No. 2022-26 is amended in its entirety to replace its language with the following:

**“SECTION FIVE. THIS TAX RATE WILL RAISE
MORE TAXES FOR MAINTENANCE AND
OPERATIONS THAN LAST YEAR’S TAX RATE. THE
TAX RATE WILL EFFECTIVELY BE RAISED BY 12.94%
AND WILL RAISE TAXES FOR MAINTENANCE AND
OPERATIONS ON A \$100,000 HOME BY
APPROXIMATELY \$65.90. (Tx. Tax Code, Section 26.05)”**

SECTION THREE. Other than the amendments provided here, no other changes are made to Ordinance No. 2022-26.

FIRST READING:

**[MOTION TO STATE AS FOLLOWS: *Motion to approve Ordinance No. 2023-
and that the property tax rate be increased by the adoption of a tax rate
of \$0.5752, which is effectively a 12.94% percent increase in the tax rate. (Tx.
Tax Code, Section 26.05)***

City Secretary to take record vote as follows:

| | YES | NO |
|---------------------------|-------|-------|
| Judy Eychner, Mayor | _____ | _____ |
| Roman Garcia, Place 1 | _____ | _____ |
| Kim Clarkson, Place 2 | _____ | _____ |
| Joe Herring, Jr., Place 3 | _____ | _____ |
| Brenda Hughes, Place 4 | _____ | _____ |

PASSED AND APPROVED ON FIRST READING, this the _____ day of _____, A.D., 2023.

SECOND READING:

[MOTION TO STATE AS FOLLOWS: *Motion to approve Ordinance No. 2023-____ and that the property tax rate be increased by the adoption of a tax rate of \$0.5752, which is effectively a 12.94% percent increase in the tax rate.*]

City Secretary to take record vote as follows:

| | YES | NO |
|---------------------------|-------|-------|
| Judy Eychner, Mayor | _____ | _____ |
| Roman Garcia, Place 1 | _____ | _____ |
| Kim Clarkson, Place 2 | _____ | _____ |
| Joe Herring, Jr., Place 3 | _____ | _____ |
| Brenda Hughes, Place 4 | _____ | _____ |

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ day of _____, A.D., 2023.

Judy Eychner, Mayor

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



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

SUBJECT:

Ordinance No. 2023-01, second reading. An Ordinance annexing a track of land into the corporate limits of the City of Kerrville, Texas; such property making up approximately 4.45 acres and generally located adjacent to and South of Kerrville Schreiner Park; more commonly known as 2511 State Highway 173 (Bandera Highway); 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 Mixed Use (MU) Zoning District; and providing other matters relating to this subject.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** December 19, 2022

SUBMITTED BY: Drew Paxton, Planning Director

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:

Proposal: An ordinance to annex into the City of Kerrville's incorporated limits with a zoning classification of MU Mixed Use on 4.45 acres of land out of the David Schuchard Survey No. 67, Abstract No. 299; and more commonly known as 2511 Bandera Hwy, Kerrville, TX 78028. (Case No. PZ-2022-60)

Procedural Requirements: The City, in accordance with state law, mailed 9 letters on 10/19/2022 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 10/13/2022.

At the time of drafting this agenda bill, Development Services has received one comment, in opposition, from adjacent property owners.

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: PI

Existing Land Uses: Kerrville Schreiner Park, Guadalupe River

Direction: **South**

Current Zoning: N/A County/ETJ

Existing Land Uses: vacant land and single family residential

Direction: **East**

Current Zoning: N/A County/ETJ

Existing Land Uses: vacant land and single family residential

Direction: **West**

Current Zoning: PI

Existing Land Uses: Kerrville Schreiner Park

Consistency with the Kerrville 2050 Comprehensive Plan (“Comp Plan”): The subject property is within the Strategic Catalyst Area #10, this area follows the Guadalupe riverbank southward along its western edge, connecting neighborhoods near the lake. Bandera Highway (i.e., State Highway 173) is the major thoroughfare here.

This location is between Bandera Highway and the Guadalupe River. Professional Services place types are appropriate around or near the highway. Agriculture and Outdoor Tourism uses are best suited to the River corridor.

Thoroughfare Plan: The subject property is located on Bandera Highway, a primary arterial.

Traffic Impact: Future traffic impacts of the future development will be reviewed through TxDOT.

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 MU, Mixed Use.

Recommendation: Because the request is consistent with the Future Land Use Plan and the objectives of the Kerrville 2050 Plan, staff recommends annexation and the zoning request.

On November 3rd, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

On December 13, 2022, the City Council approved Ordinance No. 2023-01 on first reading, with a unanimous vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2023-01.

ATTACHMENTS:

[*20230110_Ord 2023-01 annex-zone 2511 Hwy 173 2nd reading.pdf*](#)

[*20230110_Petition annexation Ord 2023-01.pdf*](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2023-01**

AN ORDINANCE ANNEXING A TRACT OF LAND INTO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS; SUCH PROPERTY MAKING UP APPROXIMATELY 4.45 ACRES AND GENERALLY LOCATED ADJACENT TO AND SOUTH OF KERRVILLE SCHREINER PARK; MORE COMMONLY KNOWN AS 2511 STATE HIGHWAY 173 (BANDERA HIGHWAY); 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 MIXED USE (MU) 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 4.45 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 to amend the City’s official boundary map in accordance with this annexation.

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 Mixed Use (MU) Zoning District, 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. 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 NINE. 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 TEN. 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 ELEVEN. POST ANNEXATION ACTIONS. The City Manager 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 13 day of December A.D., 2022.

PASSED AND APPROVED ON SECOND READING, this the _____ day of _____ A.D., 2023.

Judy Eychner, Mayor

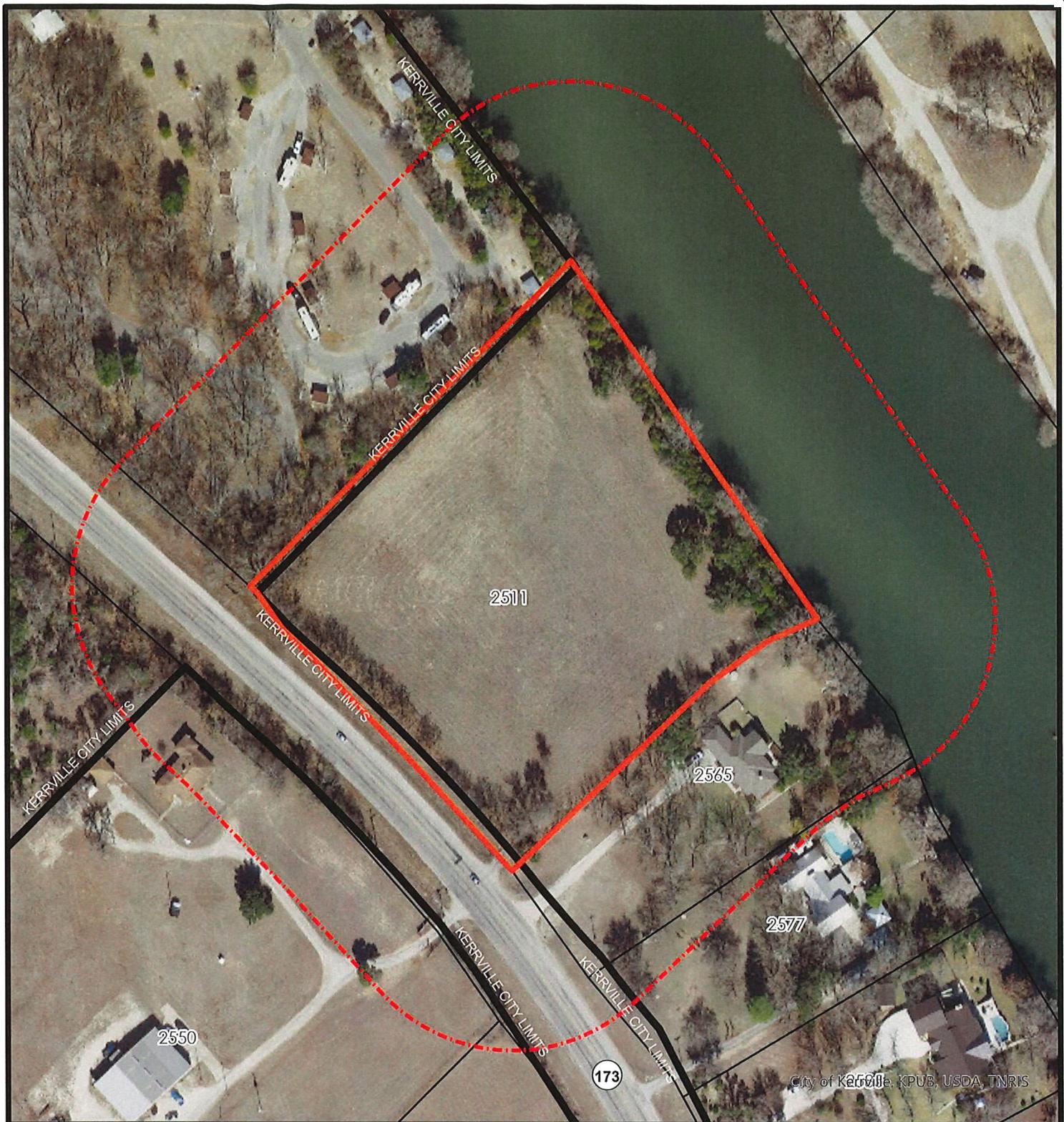
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2022-060

Location:
2511 Bandera Highway

Legend

200' Notification Area
Subject Properties



0 55 110 220

Scale In Feet

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EXHIBIT "A"I. PROPERTY:

All that certain tract or parcel of land lying and being situated in the County of Kerr, State of Texas, and being 4.45 acres, more or less, and being more particularly described as:

Being all of a certain tract or parcel of land out of David Schaubard Survey No. 67, Abstract No. 299, in Kerr County, Texas; the same land conveyed as Tract No. 2 to the GMU Family Partnership, Ltd. from the George Milton Underwood IV Income Trust Two, et al, by a Special Warranty Deed executed the 7th day of July, 1998 and recorded in Volume 962 at Page 679 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows (record calls shown in parentheses):

BEGINNING at a 3/8" iron stake found for the west corner of the herein described tract and said Tract No. 2, 3.4 ft. N:59°24'04"W, from a three-way fence cornerpost in the northeast right-of-way line of State Highway No. 173, in the southeast line of 500 acres conveyed to the State of Texas from the City of Kerrville by a Warranty Deed executed the 10th day of December, 1934 and recorded in Volume 58 at Page 116 of the Deed Records of Kerr County, Texas; which point bears, approximately, 7332 ft. N.45°E. from the west corner of said Survey No. 67;

THENCE, with the common line between said Tract No. 2 and said 500 acres, north of and diverging from a fence, N.44°43'18"E., at 483.7 ft. passing 17.0 ft. northwest of a fence endpost for reference, then continuing for a total distance of 504.20 ft. (N.44°44'E. 504.2 ft.) to an unmarked point on the southwest bank of the Guadalupe River for the north corner of the herein described tract, the northeasterly common corner of said Tract No. 2 and said 500 acres;

THENCE, with the northeast line of said Tract No. 2, along the southwest bank of said Guadalupe River, S.33°32'04"E. 435.76 ft. (S.33°30'E. 436.5 ft.) to an unmarked point for the east corner of the herein described tract and said Tract No. 2, which point bears 53.7 ft. N.67°34'49"W. from the north corner of 1.75 acres conveyed to Norman G. Sherman, et ux, from William Henry Ray, et al, by a Warranty Deed executed the 6th day of August, 1984 and recorded in Volume 301 at Page 420 of the Deed Records of Kerr County, Texas;

THENCE, with the southeast line of said Tract No. 2, northwest of and converging with the northwest line of said 1.75 acres, S.45°01'14"W., at 73.08 ft. (73.3 ft.) passing a 3/8" iron stake found for reference, then continuing for a total distance of 418.30 ft. (S.45°06'W. 418.3 ft.) to a 3/8" iron stake found at a fence cornerpost for the south corner of the herein described tract and said Tract No. 2, in the northeast right-of-way line of said State Highway No. 173, in a 02°54'35" curve concave to the southwest having a radius of 1969.26 ft. (1970.08 ft.);

THENCE, along a fence with the southwest line of said Tract No. 2, the northeast right-of-way line of said State Highway No. 173: 307.39 ft. (311.3 ft.) along an arc of said 02°54'35" curve subtended by a central angle of 08°56'36" [long chord = N.43°39'50"W. 307.07 ft.] to a concrete right-of-way marker found at its end; and N.48°08'08"W. 117.65 ft. (N.48°04'W. 114.7 ft.) to the PLACE OF BEGINNING containing 4.45 acres of land, more or less, within these metes and bounds.

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II. EXCEPTIONS:

1. Standby fees, taxes and assessments by any taxing authority for the year 2006, and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, TEXAS TAX CODE, or because of improvements not assessed for a previous tax year.
2. Visible and/or apparent utility easements.
4. Easements to Lower Colorado River Authority recorded in Volume 5, Page 609, Easement Records of Kerr County, Texas.
5. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporation, governments or other entities,
 - a. to tidelands, or lands comprising the shores or beds of navigable to perennial rivers and streams, lakes, bays, gulf or oceans, or
 - b. to lands beyond the line of harbor or bulkhead lines as established or changed by any government, or
 - c. to filled-in lands, or artificial islands, or
 - d. to statutory water rights, including riparian rights, or
 - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.
6. Fence encroachment on north boundary line as shown on survey dated January 12, 2000, prepared by Don Voelkel, RPLS.

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.
 THE STATE OF TEXAS
 COUNTY OF KERR
 I hereby certify that this instrument was FILED in the File Number Sequence
 on the date and at the time stamped herein by me and was duly RECORDED
 in the Official Public Records of Kerr County, Texas on

AUG 21 2006

Janner Lipes
 COUNTY CLERK, KERR COUNTY, TEXAS



EXHIBIT A

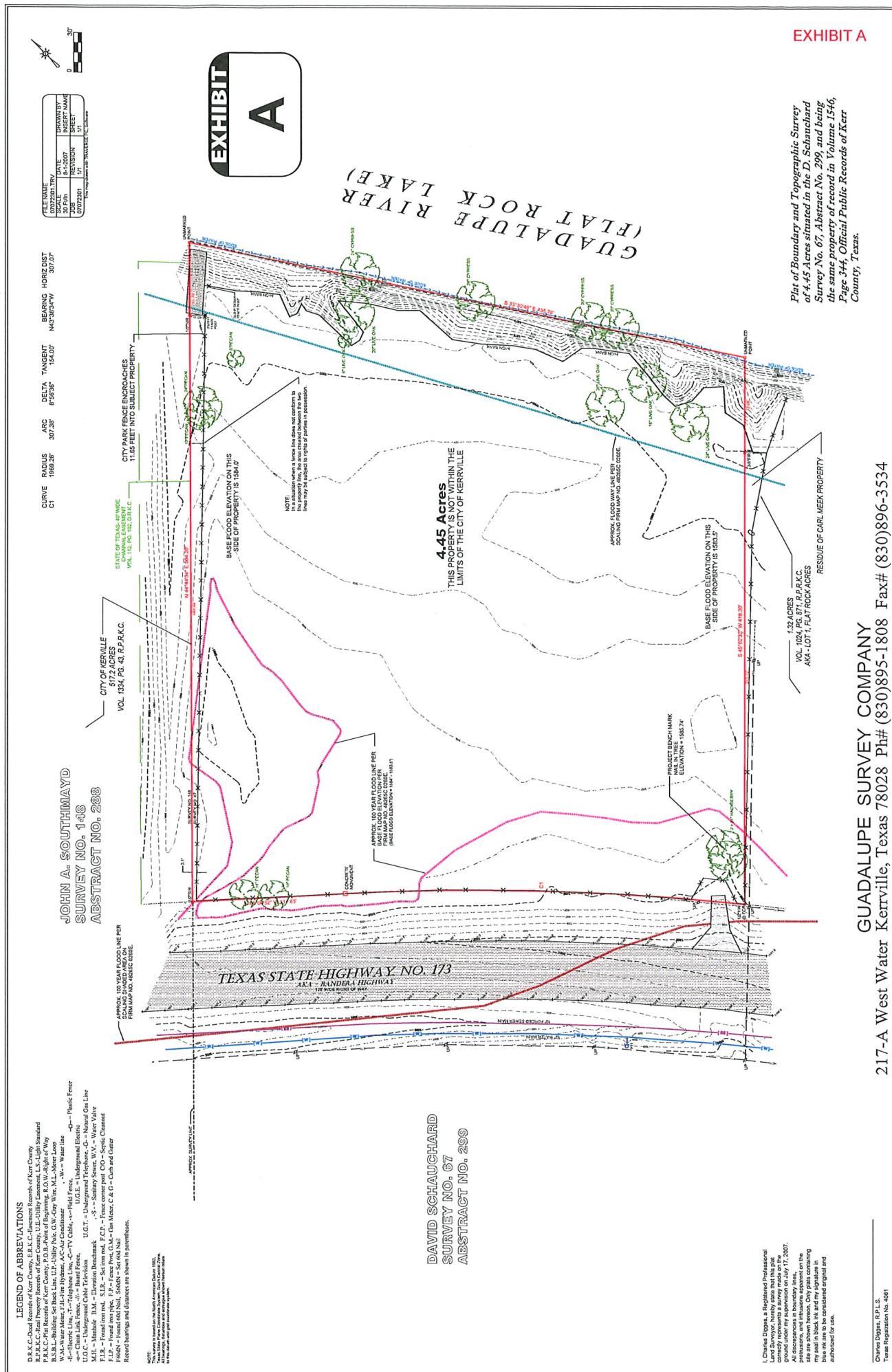


EXHIBIT B

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: Janelle DeWitt

THE STATE OF TEXAS

COUNTY OF KERR

BEFORE ME, the undersigned authority, on this day personally appeared Janelle DeWitt, 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 16 day of September, 2023.

D. K. Kline

Notary Public in and for
Kerr County, Texas

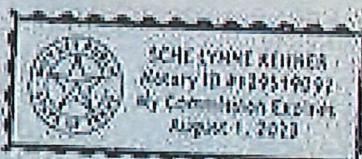


EXHIBIT C
ANNEXATION SERVICE PLAN

- 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 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 annexed area both adequate to serve the annexed 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 annexed 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 shall be made immediately to the area upon annexation. The adoption of zoning plan shall be in accordance with the procedures of the City’s Zoning Code. | Immediately following annexation, zoning to be concurrent with annexation |
| Fire Protection and Emergency Medical Services (EMS) | Fire protection and emergency medical services will be provided to the annexed area. The City will serve the annexed area from existing fire stations closest to the area of annexation. Emergency dispatch assignment of Fire Services resources to the annexed area would be the same as currently provided in areas of similar land use and population within the City. | Immediately following annexation |

| SERVICE | DETAILS OF SERVICE PROVIDED | TIMETABLE |
|--|---|-----------------------------------|
| Fire Prevention | The services of the City's 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 the City's Library facilities. | Immediately following annexation. |
| Parks and Recreation Facilities | The City will maintain park and recreation facilities located within the annexed 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 annexed 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 |
| Maintenance of Existing Roads & Streets | 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: 1. Emergency maintenance of streets to include repair of hazardous potholes, ice and snow monitoring of major thoroughfares necessary for traffic flow. | Immediately following annexation |

| SERVICE | DETAILS OF SERVICE PROVIDED | TIMETABLE |
|-------------------------------|---|----------------------------------|
| | <p>2. Routine maintenance of public streets and rights-of-way performed within the City.</p> <p>3. Street sweeping services may occur based upon need and funding.</p> <p>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.</p> | |
| Solid Waste Collection | Solid Waste collection to the annexed 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 |

| SERVICE | DETAILS OF SERVICE PROVIDED | TIMETABLE |
|---------------------------|---|--------------------------|
| Water Service | <p>The City will provide for the maintenance of City-owned public water lines within the annexed area provided that the area is within the City's Certificate of Convenience and Necessity area as determined by the Public Utility Commission (PUC) 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.</p> | As the property develops |
| Wastewater Service | <p>The City will provide for the maintenance of sanitary sewer lines within the annexed area provided that the area is within the City's Certificate of Convenience and Necessity area as determined by the Public Utility Commission (PUC) 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 |

| SERVICE | DETAILS OF SERVICE PROVIDED | TIMETABLE |
|--|--|----------------------------------|
| Provision for Other City Services | Other City services that may be provided by the City such as planning, inspection, animal control, municipal court, and general administration will be made available on the same basis and at the same level as provided throughout the City. | Immediately following annexation |



City of Kerrville

701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

December 1, 2022

To Whom It May Concern,

Please allow this letter to serve as permission to release the City's Confidential Sales Tax Report, Hotel Occupancy Tax Reports, and any other financial or statistical report for the purpose of economic analysis, financial forecasting, and budgeting.

Requests for the report will be made using the Comptroller's Open Records Portal. Please release the report when requested to:

Julie Behrens
Director of Finance
julie.behrens@kerrvilletx.gov

Trina Rodriguez
Assistant Director of Finance
trina.rodriguez@kerrvilletx.gov

Thank you,

E.A. Hoppe
City Manager
City of Kerrville

PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

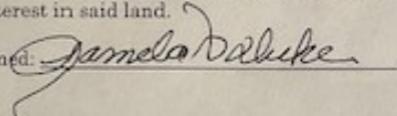
TO THE MAYOR OF THE GOVERNING BODY OF KERRVILLE, TEXAS:

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:

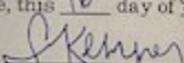


THE STATE OF TEXAS

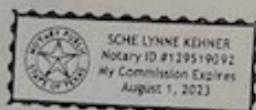
COUNTY OF KERR

BEFORE ME, the undersigned authority, on this day personally appeared Pamela Duke, 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 16 day of September, 2022.



Notary Public in and for
Kerr County, Texas



LEGEND OF ABBREVIATIONS

D.R.K.C.-Deed Records of Kerr County, E.R.K.C.-Easement Records of Kerr County
 R.P.R.K.C.-Real Property Records of Kerr County, U.E.-Utility Easement, L.S.-Light Standard
 P.R.K.C.-Plan Records of Kerr County, P.O.B.-Point of Beginning, R.O.W.-Right of Way
 B.S.B.L.-Building Set Back Line, U.P.-Utility Pole, G.W.-Guy Wire, M.L.-Meter Loop
 W.M.-Water Meter, F.H.-Fire Hydrant, A/C-Air Conditioner, -W- = Water line
 -E=Electric Line, -T=Telephone Line, -C=TV Cable, -x=Field Fence, -□=Plastic Fence
 -o=Chain Link Fence, -/-=Board Fence, U.G.E.=Underground Electric
 U.G.C.=Underground Cable Television U.G.T.=Underground Telephone, -G= Natural Gas Line
 M.H.=Manhole B.M.=Elevation Benchmark
 , -S = Sanitary Sewer, W.V.= Water Valve
 F.I.R.=Found iron rod, S.I.R.=Set iron rod, F.C.P.=Fence corner post C/O=Septic Cleanout
 F.I.P.=Found iron pipe, F.P.=Fence Post, G.M.=Gas Meter, C & G=Curb and Gutter
 F60dN=Found 60d Nail, S60dN=Set 60d Nail
 Record bearings and distances are shown in parentheses.

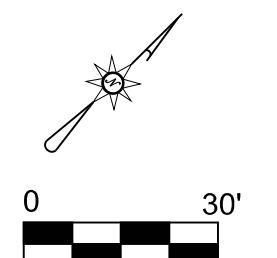
NOTE:
 This survey is based on the North American Datum 1983,
 Texas State Plane Coordinate System, South Central Zone.
 All bearings, distances and areas shown hereon relate
 to this datum and grid coordinate system.

JOHN A. SOUTHMAYD
 SURVEY NO. 148
 ABSTRACT NO. 288

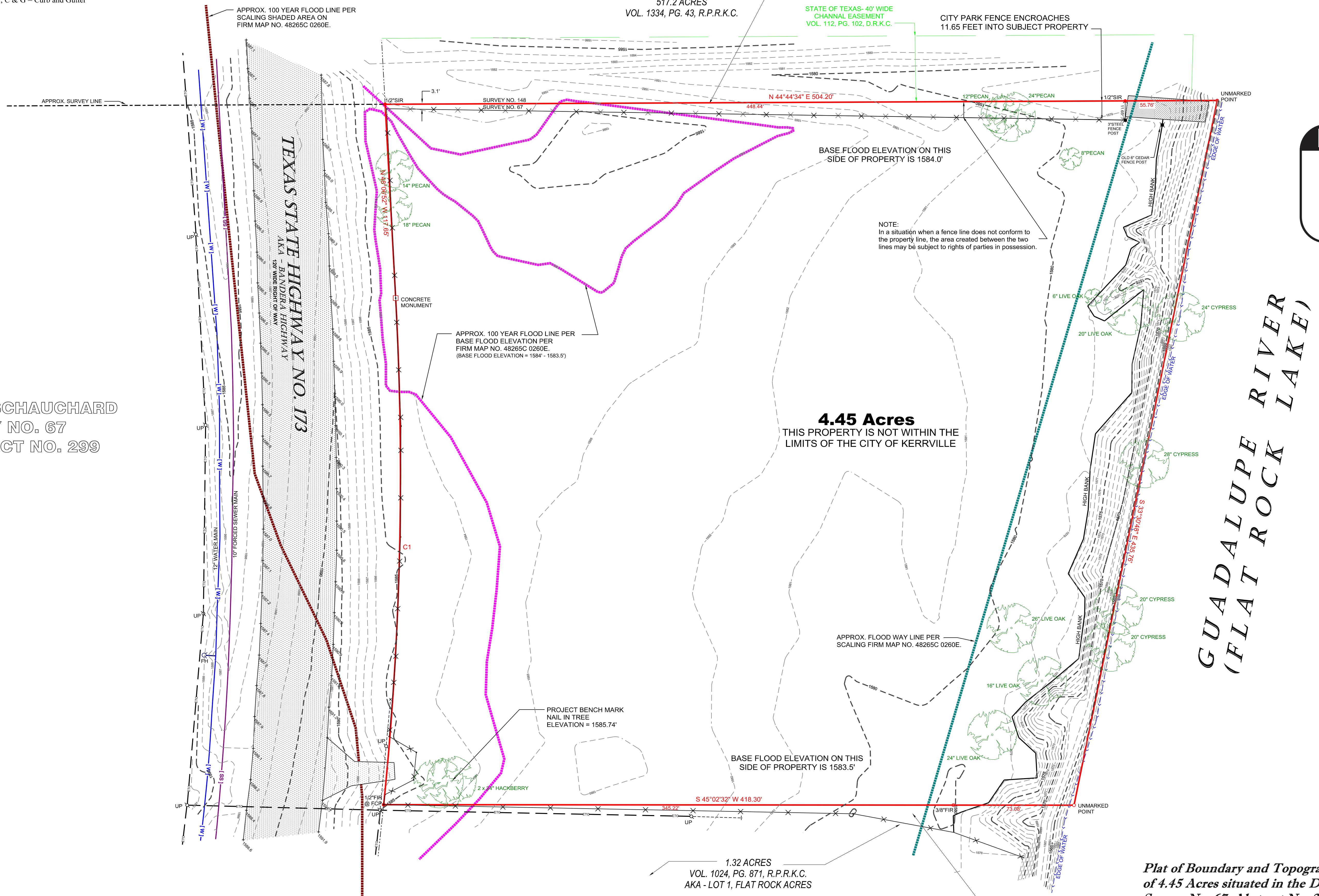
CURVE C1 1969.26' RADIUS 307.38' ARC 8°56'36" DELTA 154.00' BEARING N43°38'34" W HORIZ DIST 307.07'

| | |
|-------------|--------------|
| FILE NAME | 07072301.TRV |
| SCALE | 30 Ft/in |
| DATE | 8-1-2007 |
| DRAWN BY | |
| JOB | 07072301 |
| REVISION | 1/1 |
| INSERT NAME | |

This map drawn with TRAVERSE PC, Software



DAVID SCHAUCHARD
 SURVEY NO. 67
 ABSTRACT NO. 299



I, Charles Diggles, a Registered Professional Land Surveyor, hereby state that this plat correctly represents a survey made on the ground under my supervision on July 17, 2007.

All discrepancies in boundary lines, protrusions, and intrusions apparent on the site are shown hereon. Only plats containing my seal in black ink and my signature in blue ink are to be considered original and authorized for use.

Plat of Boundary and Topographic Survey of 4.45 Acres situated in the D. Schauhard Survey No. 67, Abstract No. 299, and being the same property of record in Volume 1546, Page 344, Official Public Records of Kerr County, Texas.

GUADALUPE SURVEY COMPANY

217-A West Water Kerrville, Texas 78028 Ph# (830)895-1808 Fax# (830)896-3534

"NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER."

WARRANTY DEED

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF KERR §

THAT TUSCANY LAND, LTD., a Texas limited partnership, hereinafter referred to as "GRANTOR", for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash, and other good and valuable consideration, in hand paid by PAMELA A. DUKE, hereinafter referred to as "GRANTEE", receipt of which is hereby acknowledged, and for which no lien, expressed, or implied, is retained or shall exist, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does GRANT, BARGAIN, SELL and CONVEY unto GRANTEE, as her sole and separate property and estate, the property, lying and being situated in Kerr County, Texas, together with all rights, benefits, privileges, tenements, hereditaments and appurtenances thereon or in anywise appertaining thereto and together with any and all improvements thereon (collectively, the "Property") described as follows:

4.45 acres, more or less, lying and being situated in Kerr County, Texas, more particularly described in and subject to the exceptions stated in Exhibit "A" attached hereto and made a part hereof for all purposes.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, subject as aforesaid, unto GRANTEE, and GRANTEE's heirs, legal representatives and assigns, forever; and GRANTOR does hereby bind GRANTOR, and GRANTOR's successors, to WARRANT AND FOREVER DEFEND all and singular the Property, subject as aforesaid, unto GRANTEE, and GRANTEE's heirs, legal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this the 18 day of August, 2006.

TUSCANY LAND, LTD.

BY: TL LLC, General Partner

By: Robert Keeble
Robert Keeble, President

Grantee's name and address:

RETURN TO:
Pamela A. Duke
119-B Aspen Airport Business Center
Aspen, CO 81611

FILED FOR RECORD
at...11:0'clock.....P.M

AUG 18 2006

JANNETT PIEPER
Clerk County Court, Kerr County, Texas
Angela Thompson Deputy

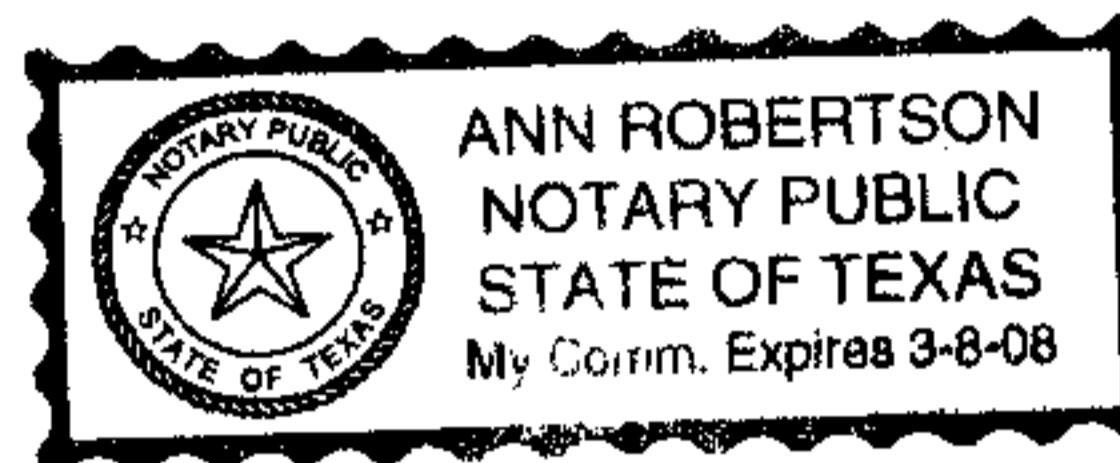
17

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on the 18 day of August, 2006, by ROBERT KEEBLE, President of TL LLC, a Texas limited liability company, General Partner of TUSCANY LAND, LTD., a Texas limited partnership, on behalf of said limited partnership.

Ann Robertson
Notary Public, State of Texas



FILED BY
KERRVILLE TITLE COMPANY

EXHIBIT "A"I. PROPERTY:

All that certain tract or parcel of land lying and being situated in the County of Kerr, State of Texas, and being 4.45 acres, more or less, and being more particularly described as:

Being all of a certain tract or parcel of land out of David Schauhard Survey No. 67, Abstract No. 299, in Kerr County, Texas; the same land conveyed as Tract No. 2 to the GMU Family Partnership, Ltd. from the George Milton Underwood IV Income Trust Two, et al, by a Special Warranty Deed executed the 7th day of July, 1998 and recorded in Volume 962 at Page 679 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows (record calls shown in parentheses):

BEGINNING at a 3/8" iron stake found for the west corner of the herein described tract and said Tract No. 2, 3.4 ft. N.59°24'04"W. from a three-way fence cornerpost in the northeast right-of-way line of State Highway No. 173, in the southeast line of 500 acres conveyed to the State of Texas from the City of Kerrville by a Warranty Deed executed the 10th day of December, 1934 and recorded in Volume 58 at Page 116 of the Deed Records of Kerr County, Texas; which point bears, approximately, 7332 ft. N.45°E. from the west corner of said Survey No. 67;

THENCE, with the common line between said Tract No. 2 and said 500 acres, north of and diverging from a fence, N.44°43'18"E., at 483.7 ft. passing 17.0 ft. northwest of a fence endpost for reference, then continuing for a total distance of 504.20 ft. (N.44°44'E. 504.2 ft.) to an unmarked point on the southwest bank of the Guadalupe River for the north corner of the herein described tract, the northeasterly common corner of said Tract No. 2 and said 500 acres;

THENCE, with the northeast line of said Tract No. 2, along the southwest bank of said Guadalupe River, S.33°32'04"E. 435.76 ft. (S.33°30'E. 436.5 ft.) to an unmarked point for the east corner of the herein described tract and said Tract No. 2, which point bears 53.7 ft. N.67°34'49"W. from the north corner of 1.75 acres conveyed to Norman G. Sherman, et ux, from William Henry Ray, et al, by a Warranty Deed executed the 6th day of August, 1984 and recorded in Volume 301 at Page 420 of the Deed Records of Kerr County, Texas;

THENCE, with the southeast line of said Tract No. 2, northwest of and converging with the northwest line of said 1.75 acres, S.45°01'14"W., at 73.08 ft. (73.3 ft.) passing a 3/8" iron stake found for reference, then continuing for a total distance of 418.30 ft. (S.45°06'W. 418.3 ft.) to a 3/8" iron stake found at a fence cornerpost for the south corner of the herein described tract and said Tract No. 2, in the northeast right-of-way line of said State Highway No. 173, in a 02°54'35" curve concave to the southwest having a radius of 1969.26 ft. (1970.08 ft.);

THENCE, along a fence with the southwest line of said Tract No. 2, the northeast right-of-way line of said State Highway No. 173: 307.39 ft. (311.3 ft.) along an arc of said 02°54'35" curve subtended by a central angle of 08°56'36" [long chord = N.43°39'50"W. 307.07 ft.] to a concrete right-of-way marker found at its end; and N.48°08'08"W. 117.65 ft. (N.48°04'W. 114.7 ft.) to the PLACE OF BEGINNING containing 4.45 acres of land, more or less, within these metes and bounds.

II. EXCEPTIONS:

1. Standby fees, taxes and assessments by any taxing authority for the year 2006, and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, TEXAS TAX CODE, or because of improvements not assessed for a previous tax year.
2. Visible and/or apparent utility easements.
4. Easements to Lower Colorado River Authority recorded in Volume 5, Page 609, Easement Records of Kerr County, Texas.
5. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporation, governments or other entities,
 - a. to tidelands, or lands comprising the shores or beds of navigable to perennial rivers and streams, lakes, bays, gulf or oceans, or
 - b. to lands beyond the line of harbor or bulkhead lines as established or changed by any government, or
 - c. to filled-in lands, or artificial islands, or
 - d. to statutory water rights, including riparian rights, or
 - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.
6. Fence encroachment on north boundary line as shown on survey dated January 12, 2000, prepared by Don Voelkel, RPLS.

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.
 THE STATE OF TEXAS }
 COUNTY OF KERR
 I hereby certify that this instrument was FILED in the File Number Sequence
 on the date and at the time stamped hereon by me and was duly RECORDED
 in the Official Public Records of Kerr County, Texas on

AUG 21 2006

*Janet Peiper*

COUNTY CLERK, KERR COUNTY, TEXAS



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

SUBJECT:

Ordinance No. 2023-02, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the Zoning of an approximate 0.63 acre property known as 226 and 228 W. Main; from a Planned Development Zoning District (PDD) to a Light Commercial Zoning District (C-2); and providing other matters relating to the subject.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** December 19, 2022

SUBMITTED BY: Drew Paxton, Planning Director

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:

Proposal: An ordinance to change the zoning from PDD Planned Development District to C-2 Light commercial on 0.63 acre of land out of John Young Survey No. 118, Abstract No. 375; and more commonly known as 226 & 228 W Main St N, Kerrville, TX 78028. (Case No. PZ-2022-62)

Procedural Requirements: The City, in accordance with state law, mailed 24 letters on 10/19/2022 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 10/13/2022.

Staff Analysis and Recommendation:

Consistency with the Kerrville 2050 Comprehensive Plan: The property and surrounding area are designated Community Commercial. The request for C-2 is consistent with the objectives and description of Community Commercial place type.

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: PDD

Existing Land Uses: automobile dealership

Direction: North

Current Zoning: R-1A

Existing Land Uses: Single family residential

Direction: South

Current Zoning: C-2 Light Commercial

Existing Land Uses: commercial

Direction: East

Current Zoning: R-1A

Existing Land Uses: single family residential

Direction: West

Current Zoning: C-1 and C-2

Existing Land Uses: commercial and offices

Thoroughfare Plan: This property fronts on West Main Street near Junction Highway

Traffic Impact: To be determined

Parking: To be determined

Recommendation: Based on the consistency with the Kerrville 2050 Comprehensive Plan, staff recommends the case for approval.

On November 3rd, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

On December 13, 2022, the City Council approved Ordinance No. 2023-02 on first reading, with a unanimous vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2023-02.

ATTACHMENTS:

[*20230110_Ord 2023-02 Zone 226-228 W Main 2nd reading.pdf*](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2023-02**

**AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF
ORDINANCES, CITY OF KERRVILLE, TEXAS; BY CHANGING
THE ZONING OF AN APPROXIMATE 0.63 ACRE PROPERTY
KNOWN AS 226 AND 228 W. MAIN; FROM A PLANNED
DEVELOPMENT ZONING DISTRICT (PDD) TO A LIGHT
COMMERCIAL ZONING DISTRICT (C-2); 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 December 13, 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 property known as 226 and 228 W. Main and comprising approximately 0.63 acres; such change to result in the removal of the property from a Planned Development (Zoning) District (PDD) to placement within a Light Commercial Zoning District (C-2); and

WHEREAS, on December 13, 2022, City Council held a public hearing on this zoning change 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 (the “Zoning Code”), and the *Official Zoning Map* are amended to designate the following described property as zoned within a Light Commercial Zoning District (C-2):

Legal Description: Being a 0.63 acre tract, consisting of two tracts, both being out of the John Young Survey No. 118, Abstract 375; said property depicted at **Exhibit A**, attached hereto and made a part hereof for all purposes, and hereafter referred to as the “Property.”

Address: 226 and 228 W. Main, Kerrville, Texas 78028.

SECTION TWO. The City Manager 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 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. This Ordinance repeals Ordinance No. 2002-21, as adopted on November 26, 2002, and which created the Planned Development (Zoning) District (PDD) on the Property.

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 13 day of December, A.D., 2022.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ of _____, A.D., 2023.

ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

Michael Hayes

Michael C. Hayes, City Attorney



City of Kerrville, KPUB, USDA, TNRIS

Location Map

Case # PZ-2022-062

Location:
226 & 228 W Main St N

Legend

200' Notification Area
Subject Properties



0 30 60 120

Scale In Feet



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

SUBJECT: Appointment(s) to the Recovery Community Coalition.

AGENDA DATE OF: January 10, 2023 **DATE SUBMITTED:** December 19, 2022

SUBMITTED BY: Shelley McElhannon, City Secretary

EXHIBITS:

| 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:

Three terms expire December 31, 2022.

Five applications have been received: Deanna Allen, Katelynn Christopher, Aaron Edmiston, Richard Elliot, Christa Lovett.

Interview Team is Councilmember Place 1 Roman Garcia and Councilmember Place 3 Joe Herring, Jr.

Staff liaison is Chief Eric Maloney.

RECOMMENDED ACTION:

Appoint member(s).