



April 13, 2021

5:00 P.M.

CITY COUNCIL

TELECONFERENCE MEETING

AGENDA





**NOTICE OF MEETING OF THE CITY COUNCIL OF
THE CITY OF HARKER HEIGHTS, TEXAS
VIA TELECONFERENCE**

The City of Harker Heights
305 Miller's Crossing
Harker Heights, Texas 76548
Phone 254/953-5600
Fax 254/953-5614

Notice is hereby given that, beginning at 5:00 p.m. on Tuesday, April 13, 2021, and continuing from day to day thereafter if necessary, the City Council of the City of Harker Heights, Texas, will conduct a telephonic meeting to contain the spread of COVID-19 in accordance with Governor Abbott's declaration of the COVID-19 public health threat and action to temporarily suspend certain provisions of the Texas Open Meetings Act issued on March 16, 2020. The subjects to be discussed are listed in the following agenda:

Mayor
Spencer H. Smith

Mayor Protem
Michael Blomquist

City Council
Jennifer McCann
Jackeline Soriano Fountain
Lynda Nash
Jody Nicholas

MEETING AGENDA

I. Invocation:

II. Pledge of Allegiance:

I Pledge Allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

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

III. Roll Call:

IV. Mayoral Proclamations and Presentations:

1. Certificate of Appreciation to recognize Farris Landscaping for assistance provided to our citizens during the February 2021 Severe Winter Storm event.
2. Certificate of Appreciation to recognize HWY 195 Used Auto Parts for assistance provided to our citizens during the February 2021 Severe Winter Storm event.
3. Present the Municipal Court with the 2021 Municipal Traffic Safety Award from the Texas Municipal Courts Education Center (TMCEC).
4. Present the Library with the 2021 Achievement of Library Excellence Award from the Texas Municipal Library Directors Association (TMLDA).
5. Proclamation declaring April 10-16, 2021, as the Week of the Young Child.

V. Consent Items:

1. Discuss and consider approving the minutes of the meeting held on March 23, 2021, and take the appropriate action.

VI. Presentations by Citizens:

Citizens who desire to address the Council on any matter may do so during this item. Please understand that while the Council appreciates hearing your comments, State law (Texas Gov't Code §551.042) prohibits them from: (1) engaging in discussion other than providing a statement of specific factual information or reciting existing City policy, and (2) taking action other than directing Staff to place the matter on a future agenda. Please state your name and address for the record and limit your comments to three minutes.

VII. Public Hearings:

1. Conduct a public hearing to discuss and consider approving an Ordinance of the City of Harker Heights, Texas, to change the zoning designation from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas, and take the appropriate action. (Planning and Development Director)
2. Conduct a public hearing to discuss and consider approving an Ordinance of the City of Harker Heights, Texas, to change the zoning designation from R-1 (One-Family Dwelling District) to R-2 (Two-Family Dwelling District) on property described as Valley View Second Extension, Block Seven (7), Lot Six (6), Acres 0.20, generally located at 122 E. Turnbo Road, Harker Heights, Bell County, Texas, and take the appropriate action. (Planning and Development Director)
3. Conduct a public hearing to discuss and consider approving an Ordinance of the City of Harker Heights, Texas, to change the zoning designation from R-1 (One-Family Dwelling District) to R-1(M) (One Family Manufactured Home Dwelling District) on property described as Meadow Acres Retreat Addition AKA Retreat Addition, Lot Thirteen (13), Acres 0.16, generally located at 117 Bybee Court, Harker Heights, Bell County, Texas, and take the appropriate action. (Planning and Development Director)
4. Conduct a public hearing to discuss and consider approving an Ordinance of the City of Harker Heights, Texas, to change the zoning designation from R-1 (One-Family Dwelling District) to R-2 (Two-Family Dwelling District) on property described as Wildewood Acres, Block Seven (7), Lot Nine (9), & 10 foot strip adjacent on North, Acres 0.17, generally located at 917 Maplewood Drive, Harker Heights, Bell County, Texas, and take the appropriate action. (Planning and Development Director)
5. Conduct a public hearing to discuss and consider approve an Ordinance of the City of Harker Heights, Texas, amending Section 125.02(B) of the Harker Heights Code of Ordinances to add definitions which will standardize enforcement within Chapter 125 of the Harker Heights Code of Ordinances, and take the appropriate action. (Planning and Development Director)

VIII. Old Business:

IX. New Business:

1. Discuss and consider approving a request for Preliminary Plat approval for the subdivision referred to as Abooha Toklo Phase Three, on property described as a 13.740 acre tract of land in Bell County, Texas, being part of the H.B. Littlefield Survey, Abstract No. 511, the land herein described being all of Lot eight (8), Block one (1), Amended plat of Marley Addition, an addition to the City of Harker Heights, Texas, being of record in Cabinet C, Slide 123-A, also being the remainder of Lot three (3), Block one (1), Abooha Toklo Addition, Phase One, generally located south of Killeen Independent School District Middle School #14 (Nolan Middle School), on properties between Pueblo and Warriors Path, Harker Heights, Bell County, Texas, and take the appropriate action. (Planning and Development Director)
2. Discuss and consider approving a Resolution of the City Council of the City of Harker Heights, Texas, authorizing the City Manager to negotiate and sign a contract for Engineering Services with Freese and Nichols, Inc. for the Wastewater Impact Fee Study, and take the appropriate action. (Public Works Director)
3. Discuss and consider approving an Ordinance of the City of Harker Heights, Texas, establishing and confirming an economic development program pursuant to Chapter 380 of the Texas Local Government Code, and take the appropriate action. (City Manager)
4. Discuss and consider approving a request for an exemption from the Park Curfew to the Air Force Tactical Air Control Party Association for a 24-hour Memorial Run on April 29-30, 2021, and take the appropriate action. (Assistant City Manager)

X. Closed Meeting:

1. Announce a closed meeting for the following purposes:
 - (A) Pursuant to 551.071 of the Texas Government Code to consult with City Attorney regarding Pending Litigation - Harker Heights Condominiums, LLC v. City of Harker Heights, et al and other confidential legal matters.

XI. Reports of Advisory Boards & Commissions:

XII. Items from Council:

XIII. Staff Reports:

1. Receive and discuss the City Manager's Report. (City Manager)

XIV. Announcements:

XV. Adjournment:

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Harker Heights, Texas, a place readily accessible to the general public at all times, on the 9th day of April 2021, by 4:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.



Julie Helsham
City Secretary

**The public may participate remotely in this meeting by dialing-in using the toll-free number:
United States (Toll Free): 1-866-899-4679 and use Access Code: 872-990-053
To join the meeting from your computer, tablet, or smartphone, use the following meeting link:
<https://global.gotomeeting.com/join/872990053>**

**The public will be permitted to offer public comments telephonically as provided by the agenda.
Written questions or comments may be submitted two hours before the meeting to the City
Secretary's Office. When submitting your written questions or comments, you must include
your Name and Address. This agenda is also available on the City of Harker Heights website at
www.harkerheights.gov**

"This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 254-953-5600, or FAX 254-953-5614, or email jhelsham@harkerheights.gov for further information."

"Pursuant to Chapter 551 of the Government Code the City Council reserves the right to go into Closed Meeting on any item listed above if deemed necessary."



Proclamation

Whereas, the Central Texas Chapter of the Texas Association for the Education of Young Children, in conjunction with the Texas Association for the Education of Young Children (TXAEYC) and National Association for the Education of Young Children (NAEYC), are celebrating the 50th Anniversary of Week of the Young Child™, April 10-16, 2021; and

Whereas, these organizations are working to promote and inspire high quality early childhood experiences for our state’s youngest citizens, that can provide a foundation of learning and success for children in Harker Heights, Texas; and

Whereas, teachers and others who work with or on behalf of young children birth through age eight, who make a difference in the lives of young children in Harker Heights deserve thanks and recognition; and

Whereas, public policies that support early learning for all young children are crucial to young children’s futures and to the prosperity of our society.

NOW, THEREFORE I, Spencer H. Smith, Mayor of Harker Heights, Texas, do hereby proclaim April 10-16, 2021 as the

“Week of the Young Child”

in Harker Heights, Texas and encourage all citizens to work to support and invest in early childhood in Harker Heights.

In Witness Thereof, I have set my hand and have affixed the Seal of the City of Harker Heights, Texas, this 13th day of April 2021.

Spencer H. Smith
Mayor

Minutes of the of the City Council meeting held at 5:00 p.m. on Tuesday, March 23, 2021, by a telephonic meeting to contain the spread of COVID-19 in accordance with Governor Abbott's declaration of the COVID-19 public health threat and action to temporarily suspend certain provisions of the Texas Open Meetings Act issued on March 16, 2020:

Roll Call:	Spencer H. Smith	Mayor
	Michael Blomquist	Mayor Pro-tem
	Jennifer McCann	Councilmember Place 1
	Jackeline Soriano Fountain	Councilmember Place 3
	Lynda Nash	Councilmember Place 4
	Jody Nicholas	Councilmember Place 5
	David Mitchell	City Manager
	Julie Helsham	City Secretary

Mayoral Proclamations and Presentations:

1. Mayor Smith presented a Certificate of Appreciation to VFW Post 3892 Commander Willie Keller, Senior Vice Commander Jimmie Surles, Junior Vice Commander Warren Close, and Auxiliary President, Pamela Duncan, Auxiliary Chaplain Michelle Booker, and Auxiliary member Ana-Luisa Tapia, in recognition of the assistance they provided to the citizens of Harker Heights, Texas, during the February 2021 Severe Winter Storm event.
2. Mayor Smith recognized Assistant City Manager Jerry Bark for receiving the Dan Whitworth Fellow Award, the highest honor the Texas Recreation and Park Society can bestow.

Consent Items:

1. Council discussed and considered approving the minutes of the meeting held on March 9, 2021. McCann made the motion to approve as written. Seconded by Nicholas. All in favor. Motion approved 5-0.
2. Council discussed and considered approving an Ordinance of the City of Harker Heights, Texas, amending Ordinance 2020-06 of the Harker Heights Code to extend the COVID-19 Public Health Emergency Declaration through May 3, 2021. Blomquist made the motion to approve. Seconded by Fountain. All in favor. Motion approved 5-0.
3. Council discussed and considered approving an Ordinance of the City of Harker Heights, Texas, amending Ordinance 2021-08 of the Harker Heights Code to extend the Winter Storm State of Disaster Emergency Declaration through April 30, 2021. McCann made the motion to approve. Seconded by Fountain. All in favor. Motion approved 5-0.
4. Council discussed and considered approving the Appointment of Steve Moody as Presiding Election Judge and Patricia Darnell as Alternate Judge for the May 01, 2021, Joint Harker Heights Municipal Election with Killeen Independent School District. Nash made the motion to approve. Seconded by Nicholas. All in favor. Motion approved 5-0.
5. Council discussed and considered approving an Ordinance of the City of Harker Heights, Texas, amending Ordinance 2010-33, Section 34.04 of the Harker Heights Code to modify the designation of the Records Management Officer within Chapter 34 of the Harker Heights Code of Ordinances. Fountain made the motion to approve. Seconded by Blomquist. All in favor. Motion approved 5-0.

New Business:

1. Council discussed and considered approving a Resolution of the City Council of the City of Harker Heights, Texas, authorizing continued participation with the Steering Committee of Cities Served by Oncor; and authorizing the payment of six cents Per Capita to the Steering Committee to fund Regulatory and Legal Proceedings and activities related to Oncor Electric Delivery Company, LLC. Ayesha Lealiiee, Finance Director, made the presentation. Nicholas made the motion to approve. Seconded by Nash. All in favor. Motion approved 5-0.
2. Council discussed and considered approving a Resolution of the City Council of the City of Harker Heights, Texas, authorizing the City Manager to sign the Interlocal Agreement with the City of Temple, Texas, for the use of a decommissioned Temple Fire Engine. Paul Sims, Fire Chief, made the presentation. McCann made the motion to approve. Seconded by Blomquist. All in favor. Motion approved 5-0.
3. Council discussed and considered approving a Resolution of the City Council of the City of Harker Heights, Texas, awarding a contract for the Central Fire Station Pavement Reconstruction Project in the amount of \$139,270.00 to HCS, Inc Commercial General Contractor; authorize the City Manager to act and sign on behalf of the City. Mark Hyde, Public Works Director, made the presentation. Blomquist made the motion to approve. Seconded by McCann. All in favor. Motion approved 5-0.
4. Council discussed and considered approving a Resolution of the City Council of the City of Harker Heights, Texas, awarding a contract for the Pinewood Drive Drainage Channel Scour Protection Project in the amount of \$179,926.00 to Myers Concrete Construction, LP; authorize the City Manager to act and sign on behalf of the City. Mark Hyde, Public Works Director, made the presentation. McCann made the motion to approve. Seconded by Fountain. All in favor. Motion approved 5-0.

Items from Council:

Mayor Pro Tem Blomquist stated that we are rapidly approaching April 1st which is going to be the last day for submitting Voter Registration Applications in time to vote in the upcoming Municipal and Killeen Independent School District Election. Blomquist urged all citizens that have not registered to vote or need to submit a transfer of registration in time to vote to make sure to get out there to make this deadline of April 1st. Blomquist stated that it is one week closer to the Farmers' Market starting its Grand Opening for this Spring, and he is excited to steal some of the City Manger's thunder to announce that the new location for the Farmers' Market is going to be at the Harker Heights City Hall starting on May 8th.

Councilmember Fountain stated that on Saturday, March 14th she attended with Councilmember Nash the Celebration of Female Veterans at the VFW and it was an excellent event. She visited the Parks and Recreation Center and learned of a program which allows citizens to rent a bag of sport gear to enjoy the outdoors. Fountain stated that she got to attend one of the kid's soccer games and is glad to see the kids playing soccer.

Staff Reports:

1. Council received and discussed the City Manager's Report. David Mitchell, City Manager, made the presentation. No action taken.

Announcements:

Councilmember Fountain stated that she got a chance to visit the City landfill. Fountain stated that the City is going through a transition and the landfill personnel were doing a great job. Every container was full this weekend because citizens were taking their trash to the landfill to make sure that they were doing their spring cleanup. Fountain thanked Bob Massey, KDH reporter, for running the articles regarding the new solid waste process for the City and what citizens are supposed to do. Fountain stated there are still residences not doing what they are supposed to do, and the City really needs the citizens help to be able to get the program to run efficiently and be as seamless as possible.

Mayor Smith followed up with the comments made by Councilmember Fountain and stated that a lot of citizens are unaware of the new changes. Mayor Smith stated we have the opportunity to help our neighbors. Most of the citizens are doing it the right way by having the trashcan handle pointed towards their house with the lids down, those are the folks that understand it, and they need to tell their neighbors. That is what the City needs, citizens being neighborly.

Mayor Smith stated that he had a lot of time to reflect while he was away and thought about all the City has gone through with COVID-19 and the Winter Storms and just wanted to read one of his favorite quotes from President Abraham Lincoln's Second Inaugural Address on Saturday, March 4, 1865:

“With malice toward none, and charity for all, with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan – to do all which may achieve and cherish a just and lasting peace among ourselves, and with all nations.

Adjournment:

There being no further business the City of Harker Heights City Council Meeting was adjourned at 5:51 p.m.

CITY OF HARKER HEIGHTS, TEXAS:

Spencer H. Smith, Mayor

ATTEST:

Julie Helsham, City Secretary



CITY COUNCIL MEMORANDUM

Z21-07

AGENDA ITEM VII-1

FROM: THE OFFICE OF THE CITY MANAGER

DATE: APRIL 13, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, TO CHANGE THE ZONING DESIGNATION FROM PD-R (PLANNED DEVELOPMENT RESIDENTIAL) TO B-4 (SECONDARY AND HIGHWAY BUSINESS DISTRICT) ON PROPERTY DESCRIBED AS STONEWALL RIDGE PHASE I, LOT TRACT A, (FUTURE DEVELOPMENT), ACRES 1.466, GENERALLY LOCATED NEAR THE INTERSECTION OF NOLA RUTH BLVD. AND OLD NOLANVILLE ROAD, HARKER HEIGHTS, BELL COUNTY, TEXAS, AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

The applicant has requested a change from the current zoning of PD-R (Planned Development Residential) with a base zoning of R1-A (Single Family Garden Home Residential District) to B-4 (Secondary and Highway Business District) on property located on the southeast corner of Old Nolanville Road and Nola Ruth Boulevard. The property consists of approximately 1.466 acres. The current property owner desires to develop the property as a commercial lot with the intent to utilize zoning classes up to and including B-4.

The subject property in its entirety was previously zoned for PD-R at the request of the previous owner. The current zoning designation was initially approved by the Planning and Zoning Commission on January 28, 2015, and later approved by the City Council on February 10, 2015. The plats referred to as Stonewall Ridge Phases One and Two took advantage of the PD-R zoning and developed the existing forty (40) single family homes. The remaining 1.466 acres of undeveloped land was then identified as “Future Development”.

LAND USE:

Adjacent land uses include:

	Existing Land Use	Future Land Use	Zoning
North	Vacant/Right-of-Way	Vacant/Right-of-Way	Vacant/Right-of-Way
South	Single Family Residential	Commercial	PD-R
East	Single Family Residential	Commercial	R-1
West	Commercial	Commercial	B-4

The proposed development is currently vacant land. According to the Future Land Use Map (FLUM) within the 2007 Comprehensive Plan, the property was designated as Commercial. However, in 2015 the 2007 FLUM was amended for this parcel in order to allow residential development. As a result, the proposed zoning change to B-4 is not in accordance with the 2015 FLUM amendment for this parcel.

FLOOD DAMAGE PREVENTION:

No portion of this property lies within the 100 year or 500-year flood hazard areas.

NOTICES:

Staff sent out a total of thirty-seven (37) notices to property owners within the 400-foot notification area. As of March 31, 2021, staff received zero (0) responses in favor of the request, and six (6) responses in opposition of the request. Three (3) of the responses in opposition are located within the regulatory 200-foot notification buffer.

RECOMMENDATION:

Staff recommended disapproval to the Planning & Zoning Commission of an ordinance to allow a change in the zoning designation from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas, based on the following:

1. The proposed zoning request is not consistent with the 2015 site amendment (Ordinance 2015-02) to the 2007 Future Land Use Plan.

ACTION TAKEN BY THE PLANNING AND ZONING COMMISSION:

Following a public hearing held on March 31, 2021, the Planning and Zoning Commission voted (9-0) to recommend denial of an ordinance to change zoning designation from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas, due to the inconsistency with the request per the 2015 site amendment (Ordinance 2015-02) to the 2007 Future Land Use Plan and concerns with vehicular and pedestrian safety as it exists to date.

In accordance with § 155.212(D)(2) of the City’s code of ordinances, the proposed zoning change shall not become effective except by a three-fourths approval vote by the City Council since the proposed case was not approved by the Planning and Zoning Commission.

ACTION BY THE CITY COUNCIL:

1. Motion to APPROVE/DISAPPROVE an Ordinance to change zoning designation from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas.
2. Any other action desired.

ATTACHMENTS:

1. Ordinance
2. Application
3. B-4 Adopted Code
4. PD-R Ordinance #2015-02
5. Location Map
6. Zoning Map
7. Existing Land Use Map
8. Future Land Use Map
9. Notification Map
10. Citizen Responses

AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, GRANTING PD-R ZONING ON PROPERTY DESCRIBED AS STONEWALL RIDGE PHASE I, LOT TRACT A, (FUTURE DEVELOPMENT), ACRES 1.466, GENERALLY LOCATED NEAR THE INTERSECTION OF NOLA RUTH BLVD. AND OLD NOLANVILLE ROAD, HARKER HEIGHTS, BELL COUNTY, TEXAS.

WHEREAS, the City Council (“*Council*”) of the City of Harker Heights (“*City*”) finds that after due notice and public hearings as required by law, and after consideration of the recommendation of the Planning and Zoning Commission, it is necessary and desirable to amend the Code of Harker Heights (“*Code*”) as hereinafter provided; and

WHEREAS, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS:

SECTION 1: The Council officially finds and declares that the facts and recitations set forth in the preamble to this Ordinance are true and correct.

SECTION 2: The hereinafter-described property, as previously zoned of PD-R (Planned Development Residential), is hereby rezoned to B-4 (Secondary and Highway Business District):

Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas

SECTION 3: Table VII, Table of Special Ordinances, of the Code is hereby supplemented by adding the following entry:

<u>Ord. No.</u>	<u>Date Passed</u>	<u>Description</u>
	04/13/21	Granting B-4 zoning on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas.

SECTION 4: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 5: This Ordinance shall be effective from and after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

PASSED AND APPROVED on April 13, 2021

Spencer H. Smith, Mayor

ATTEST:

Juliette Helsham, City Secretary



Rezoning Request Application

Requirements - MUST BE COMPLETE OR WILL NOT BE ACCEPTED

This application must be completed and returned to the Planning and Development Department of the City of Harker Heights, Texas along with the following:

1. Pre-Application Meeting Scheduled
2. Payment of \$200.00 to the City of Harker Heights

City of Harker Heights
 Planning & Development
 305 Millers Crossing
 Harker Heights, TX 76548
 Phone: (254) 953-5647

Property Owner(s) Name: Ashfaq Abbasi **Date:** 02/08/2021

Address: 2004 Harvest Dr

City/State/Zip: Nolanville/TX/76559

Phone: [REDACTED] **E-mail:** [REDACTED]

Legal Description of Property:

Location of Property (Address if available): Old Nolanville Rd Harker Heights, TX

Lot: _____ Block: _____ Subdivision: Stonewall Ridge Phase I

Acres: 1.466 Property ID: 481768 Survey: _____

For properties not in a recorded subdivision please submit a copy of a current survey showing the property's proposed to be changed, and/or legal field notes.

Proposed Use: Commercial (Details)

Current Zoning Classification: Planned Development **Proposed Zoning:** B5 B-4A

Current Land Use: Planned Development **Proposed Land Use:** Trade or business school, real estate, :

Applicant's Representative (if applicable):

Applicant's Representative: _____

Phone: _____ **E-Mail:** _____

I, being the undersigned applicant of the property herein described, hereby make application for approval of plans submitted and made a part of the application in accordance with the provisions of the City of Harker Heights Ordinances, and hereby certify that the information provided is true and correct to the best of my knowledge and belief.

I, being the undersigned applicant, understand that failure to appear to represent a request shall be deemed a request to withdraw the proposal, or _____ will represent the owner.

ASHFAQ ABBASI
Printed Name of Property Owner

[Signature]
Signature of Property Owner

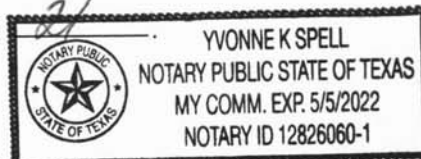
Printed Name of Representative

Signature of Representative

SWORN AND SUBSCRIBED BEFORE ME ON THIS 3 DAY OF March, 2021

[Signature]
SIGNATURE OF NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5, 2022



STAFF ONLY -- DO NOT FILL OUT BELOW

Date Submitted: 3/3/2021

Pre-Application Meeting

Receipt #: 31069241

Received By: [Signature]

Revised: 5/2020

Case #: 221-07

§ 155.031 B-4 SECONDARY AND HIGHWAY BUSINESS DISTRICT.

(A) *Permitted uses.*

- (1) Any use permitted in the B-3 Local Business District that is permitted by right.
- (2) Automobile parking lots.
- (3) Bakery (wholesale).
- (4) Dance hall and skating rink.
- (5) Frozen food locker plant.
- (6) Garage, public.
- (7) Drive-in theater.
- (8) Bowling alley.
- (9) Tourist court or motel.
- (10) Antique shop.
- (11) Secondhand goods store: (No outside display, repair or storage.)
- (12) Automobile and marine sales and re-pair, provided that:
 - (a) All service must take place in the interior (service bays) of the building. No tents may be used for repair or service, except during times of urgent public necessity as declared by the Mayor or the Planning and Development Director and posted as such at the main entrance to the City Hall.
 - (b) Oil storage facilities and refuse containers shall be screened from the view of travelers along public streets;
 - (c) There shall be no vehicle storage longer than 30 days, or auto sales including vehicles belonging to the owner (except for sales lots);
 - (d) There shall be no dismantling or wrecking on premises;
 - (e) The use shall be operated in accordance with all applicable regulations including licensing from all government agencies that have jurisdiction; and
 - (f) Gasoline storage tanks must be underground.
- (13) Building material or lumber sales (no outside storage without screening).
- (14) Cleaning, pressing and dyeing.
 - (a) No direct exterior exhaust from cleaning plant permitted.
 - (b) Dust must be controlled by either bag or filter and separator or precipitator so as to eliminate the exhausting of dust, odor, fumes or noise outside the plant.
- (15) Florist, garden shop, greenhouse, or nursery (retail).
- (16) Ball park, stadium, athletic field (private).
- (17) Philanthropic institutions (not else-where listed).
- (18) Cabinet, upholstery, woodworking shop.
- (19) Plumbing, electrical, air conditioning service shop (no outside storage without screening).
- (20) Trade or business school.
- (21) Any retail business not included in the Local Business District, provided that such use is not noxious or offensive by reason of vibrations, smoke, light, odor, dust, gas or noise.
- (23) Package liquor store (in wet areas only and subject to TABC regulations). The property, if located outside the commercial zone of Business Hwy 190, must:
 - (a) Be part of a commercial development containing a minimum of 12,000 square feet of leaseable retail floor space (for example, a shopping center or mall); and
 - (b) Be located a minimum of 300 feet, measured from the front door to the establishment, from any R zoned property by the most commonly traveled public roadway.
- (24) Brewpub or winery (in wet areas only and subject to TABC regulations). The property, if located outside the commercial zone of Business Hwy 190 or I-14, must be located a minimum of 300 feet from any R zoned property, measured from the front door of the establishment by the most commonly traveled public roadway. All manufacture, blending, fermentation, processing, and packaging of alcoholic beverages must take place wholly inside a building.

- (B) *Conditional uses.* Any use permitted in a more restricted district that is permitted by a conditional use permit.
 - (C) *Height regulations.* No building shall exceed three and one-half stories or 45 feet in height.
 - (D) *Area regulations.* The same as provided for B-2 District.
 - (E) *Intensity of use.* There are no minimum lot area or lot width requirements.
 - (F) *Parking regulations.* As per §§ 155.061 through 155.068.
 - (G) *Signage.* As per Chapter 151.
 - (H) *Screening requirements.* As per § 155.050.
 - (I) *Building facade.* As per § 155.040.
 - (J) *Landscaping requirements.* As per § 155.051.
- (Ord. 2001-36, passed 11-13-01; Am. Ord. 2019-14, passed 5-28-19)

AN ORDINANCE GRANTING PD-R ZONING ON 10.275 ACRES LOCATED AT SE CORNER OF NOLA RUTH BOULEVARD AND OLD NOLANVILLE ROAD.

WHEREAS, the City Council ("**Council**") of the City of Harker Heights ("**City**") finds that after due notice and public hearings as required by law, and after consideration of the recommendation of the Planning and Zoning Commission, it is necessary and desirable to amend the Code of Harker Heights ("**Code**") as hereinafter provided; and

WHEREAS, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS:

SECTION 1: The Council officially finds and declares that the facts and recitations set forth in the preamble to this Ordinance are true and correct.

SECTION 2: The hereinafter-described property, previously zoned R-1 (One-Family Dwelling District), be rezoned to PD-R (Planned Development- Residential District) with conditions described in the attached Exhibit A: PD-R Conditional Uses excepting Townhouse uses and conditions, following the layout illustrated in Exhibit B: Site Development Plan excepting Townhouse uses and conditions, and following the elevations presented in Exhibit C: Elevations.

10.275 acres described in Exhibit D, commonly known as SE Corner of Nola Ruth Boulevard and Old Nolanville Road

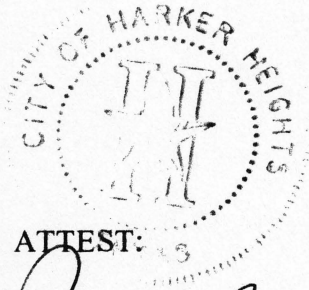
SECTION 3: Table VII, Table of Special Ordinances, of the Code is hereby supplemented by adding the following entry:

<u>Ord. No.</u>	<u>Date Passed</u>	<u>Description</u>
2015-02	02/10/15	Granting PD-R (Planned Development-Residential District) on 10.275 acres located at SE Corner of Nola Ruth Boulevard and Old Nolanville Road.

SECTION 4: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 5: This Ordinance shall be effective from and after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

PASSED AND APPROVED on February 10, 2015.



Rob Robinson

Rob Robinson, Mayor

ATTEST: *Patricia Brunson*

Patricia Brunson, City Secretary

PD-R Conditional Uses
Nola Ruth Boulevard & Old Nolanville Road

Section 1 -Project Statement:

The purpose and intent of the Nola Ruth/Old Nolanville Road *Planned Development-Residential (PD-R) District* is to allow for the design and construction of single family garden homes.

The property is a 10.275 acre tract out of the F.D. Cox Survey, Abstract No. A-0220BC, located at the southeast intersection of Nola Ruth Boulevard and Old Nolanville Road.

Section 2 – Land Use & Building Regulations within the PD-R Zoning:

1. Single Family Garden Home Area:

- A. The planned residential area of the PD-R located on the property shall consist of Single-Family housing only.
- B. The only permitted use shall be that of single family garden home housing and shall fully comply with the requirements as stated under R-1A Zoning Code in accordance with the provisions of the REDLINED *Section 155.022*, R-1A Single Family Garden Home Residential District, Harker Heights Code of Ordinances attached here. *This section is displayed in Appendix "A" and is made a part of this document by reference herein.*

Section 3 - Conditions of PD-R Zoning: In addition to the Conditions outlined below, all development within the boundaries of the PD-R shall meet or exceed currently adopted standards stated in the PD District Regulations, and be in accordance with the provisions of *Section 155.036*, and the Subdivision and Zoning requirements set forth in the Harker Heights Code of Ordinances.

1. **Open Space Buffers:** In accordance with the provisions of *Section 155.036 (B) (1)*, PD District, Harker Heights Code of Ordinances. The open space buffers shall be cleared of all cedar trees and the like leaving only hardwood trees and desirable native plant material. The disturbed areas will then be re-seeded with native grasses and wildflowers. Open space buffers may also serve as fenced backyards of the single family garden homes or townhouse homes.
2. **Landscaping:** The type and placement of all required landscaping shall be noted in a Landscaping Plan approved by the City Manager or his designated appointee to minimize the impact of the PD-R on the bordering R-1 District.
 - A. **Single family Garden Home Area:** In accordance with the provisions of *Section 155.022*, Single Family Garden Home Residential District, Harker Heights Code of Ordinances.
3. **Height of Buildings:**
 - A. **Single family Garden Home Area:** In accordance with the provisions of *Section 155.022*, Single Family Garden Home Residential District, Harker Heights Code of Ordinances.

PD-R Conditional Uses
Nola Ruth Boulevard & Old Nolanville Road

4. **Fencing and Screening:** In accordance with the provisions of *Section 155.050*, Screening Requirements, Harker Heights Code of Ordinances.
5. **Setbacks:**
 - A. **Single Family Garden Home Area:** In accordance with the provisions of *Section 155.022*, Single Family Garden Home Residential District, Harker Heights Code of Ordinances.
6. **Building Façade:** In accordance with the provisions of *Section 155.040 (2)*, Additional Use, etc..., Harker Heights Code of Ordinances and with the final building elevations (i.e. a list of and quality of materials being used) in the construction of the residential unit/units be subject to a final review by City Staff and will be based upon the submitted elevation samples.
7. **Entrances & Parking:** In accordance with the provisions of *Section 155.061 through 155.068*, Off-Street Parking and Loading Requirements, Harker Heights Code of Ordinances. In addition, the total number of covered parking spaces and garages shall be equal to at least 50% of total number of residential units.
8. The PD-R shall comply with all applicable storm water management policies and procedures governed by the authorities having jurisdiction over this project.
9. The PD-R shall provide additional means of wastewater management if necessary.
10. This shall include the implementation of a waste water lift station adequately sized by a qualified professional engineer for the demands specifically associated with the development.
11. The PD-R shall comply with all fire protection requirements as outlined in the 2009 International Fire Code and the City of Harker Height Code of Ordinance.
12. The PD-R shall provide at least the required public and private easements upon platting.
13. Preliminary and final plats for the PD-R shall be prepared in accordance with the provisions of *Chapter 154: Subdivisions*, Harker Heights Code of Ordinances, with any modifications to the development plan approved by the City Council and Planning and Zoning Commission.
14. Sidewalks shall meet all standards and requirements set forth in the City of Harker Heights Code of Ordinances.

PD-R Conditional Uses
Nola Ruth Boulevard & Old Nolanville Road

APPENDIX "A"

Harker Heights Code of Ordinances

§ 155.022 RI-A SINGLE-FAMILY GARDEN HOME RESIDENTIAL DISTRICT.

(A) *Permitted uses.* Any use permitted by right in the R-1 District, if it meets required standards.

(B) *Conditional uses.* Any conditional use permitted in the R-1 District, if it meets required standards.

(C) *Height regulations.* Same as in R-1 District.

(D) *Area regulations.*

(1) *Front yard.* There shall be a front yard having a depth of not less than 1520 feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets.

(2) *Side yard.* The minimum side yard setback for any corner lot shall be 105 feet. Other residences may be located such that one of the side yards will be zero; that is, the building may be constructed on the property line, provided:

(a) The minimum spacing between residences must be 15 feet, except that if the "RI-A" lot is adjacent to and shares a common boundary with a lot zoned "R-1," the required minimum spacing between structures shall not be less than 15 feet;

(b) The wall located on the property line shall be constructed and maintained in accordance with all other applicable codes and ordinances; and

(c) A five foot wide maintenance easement, shown on the approved subdivision plat, shall be provided across the full depth of the adjacent lot abutting the wall on the property line.

(3) *Rear yard.* There shall be a rear yard having a depth of not less than 1520 feet.

(E) *Intensity of use.* All projects must contain a minimum of one and one half acres of property. No subdivision may contain less than ten individual lots.

(1) *Lot area.* No building shall be constructed on any lot less than 4,0600 square feet of area.

(2) *Lot width.* The width of the lot shall not be less than 46 feet at the front street building line, nor shall its average width be less than 46 feet. On corner lots, with two street frontages, the minimum width shall be not less than 55 feet at its average.

(3) *Lot depth.* The average depth of the lot shall be not less than 65+00 feet, except that a corner lot having a minimum width of not less than 55 feet may have an average depth of less than 65+00 feet, provided that the minimum depth is not less than 60+00 feet.

(F) *Parking regulations.* Same as in R-1 District.

(G) *Storage.* Open storage is prohibited except for materials for the residents' use, such as firewood, gardening materials, and similar materials.

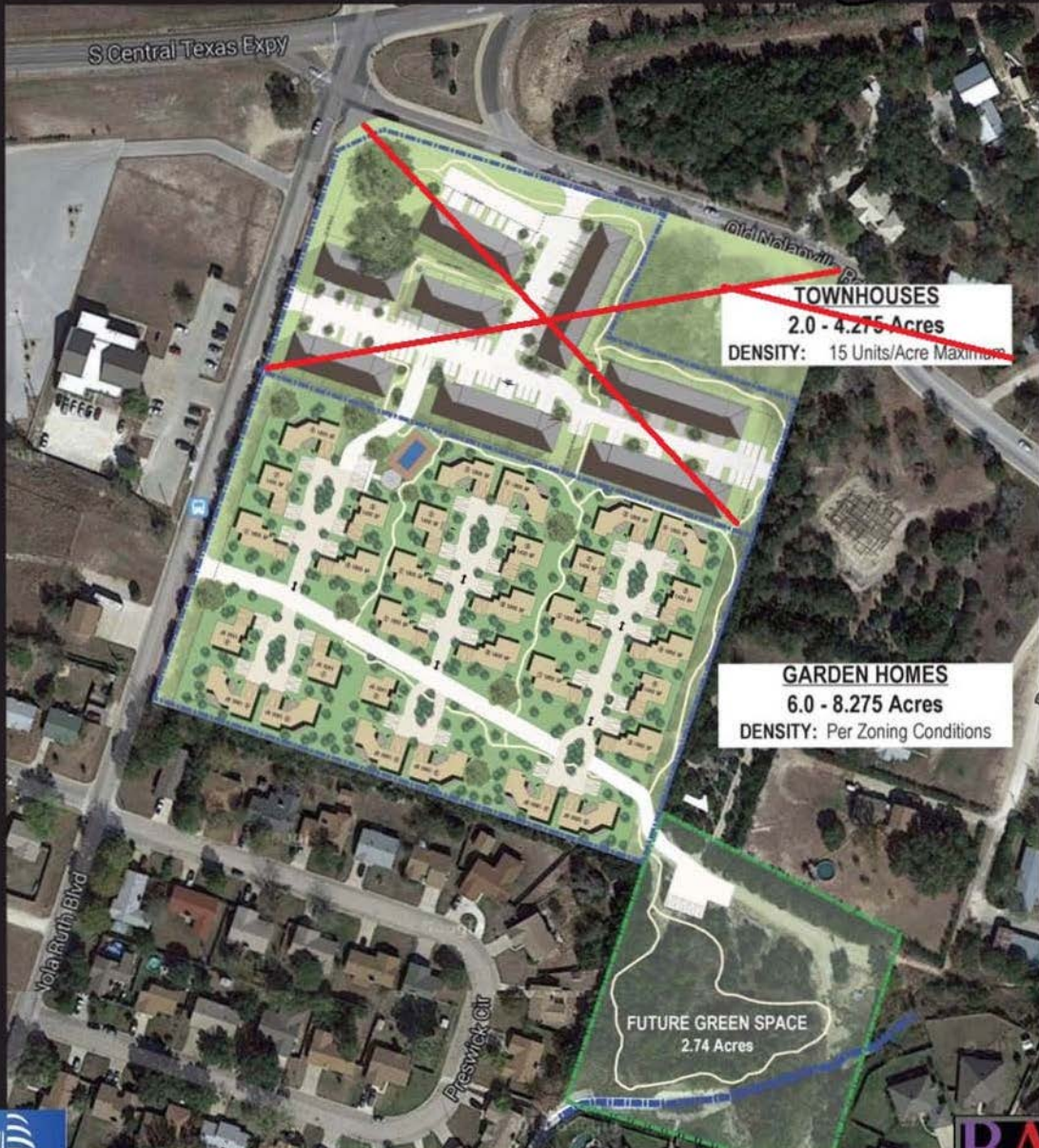
(H) *Floor area.* Minimum livable floor area shall be 1,4500 square feet.

**PD-R Conditional Uses
Nola Ruth Boulevard & Old Nolanville Road**

(I) *Additional requirements.* All structures shall have brick veneer on all sides or approved equal. "Approved Equal" shall be determined by the City Manager or his designated appointee, and will take into account the character of the development, type of material, color, texture, and cohesiveness with the existing neighborhood. —

(J) *Landscaping.* All yards shall have vegetative groundcover of sufficient quality and quantity, or other city-approved groundcover, to control dust, erosion and sediment upon final inspections. In addition, a minimum of two six-foot-tall trees, measuring two inches or more in caliper (diameter) when measured 12 inches from the base of the trunk, and eight three-gallon shrubs, are required in the front yard.

(Ord. 2001-36, passed 11-13-01; Am. Ord. 2006-40, passed 10-24-06) www.amlegal.com/alpscripts/get-content.aspx



TOWNHOUSES
2.0 - 4.275 Acres
DENSITY: 15 Units/Acre Maximum

GARDEN HOMES
6.0 - 8.275 Acres
DENSITY: Per Zoning Conditions

FUTURE GREEN SPACE
2.74 Acres



NOLA RUTH DEVELOPMENT
CONCEPT SITE PLAN





Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.

WARRANTY DEED
with Vendor's Lien

DATE: July 3, 2008

GRANTOR: CYNTHIA JO COCKRELL DYKES and RICKY DAN GIBBS
AND STEVEN WAYNE SHREEVE

GRANTOR'S MAILING ADDRESS: 1551 E. Veterans Memorial Blvd.,
Harker Heights, Bell County, Texas 76548

GRANTEE: SGSB LAND HOLDINGS, LLC., a Texas limited liability company

GRANTEE'S MAILING ADDRESS: 812 S. Presa St., San Antonio,
Bexar County, Texas 78210

CONSIDERATION: The sum of Ten and 00/100 Dollars and other good and valuable consideration, including a promissory note of even date executed by Grantee and payable to the order of TEXAS STAR BANK, S.S.B. in the principal amount of TWO HUNDRED EIGHTY THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$280,500.00). The note is secured by the first and superior vendor's lien against, and superior title to, the Property retained in this deed in favor of TEXAS STAR BANK, S.S.B. and is also secured by a first-lien deed of trust of even date from Grantee to STEVE JOHNSON, Trustee.

PROPERTY (INCLUDING ANY IMPROVEMENTS):

A tract of land out of the F. D. Cox Survey, Abstract No. 220, in Bell County, Texas, containing 10.280 acres of land, more or less, and being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes.

RESERVATIONS FROM CONVEYANCE AND WARRANTY: NONE

EXCEPTIONS TO CONVEYANCE AND WARRANTY:

1. Easement to Texas Power & Light Company recorded in Volume 556, Page 632, Volume 819, Page 371, Volume 1167, Page 864, Deed Records of Falls County, Texas;
2. Easement to Bell County WC & ID No. 4 recorded in Volume 1868, Page 625, Deed Records of Bell County, Texas;
3. Declaration of taking by the United States of America recorded in Volume 504, Page 536, Deed Records of Bell County, Texas; and

22. 07-4868
 MONTITH ABSTRACT & TITLE COMPANY
 2010 BIRD CREEK DRIVE, SUITE 100
 TEMPLE, TEXAS 76502
 SGSB

EXHIBIT D

4. Agreed Judgment to the State of Texas in Volume 1166, Page 568, Deed Records of Bell County, Texas.

Grantor, for and in consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and for ever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to warranty.

TEXAS STAR BANK, S.S.B., at Grantee's request, has paid in cash to Grantor that portion of the purchase price of the property that is evidenced by the note described. The vendor's lien and superior title to the property are retained for the benefit of TEXAS STAR BANK, S.S.B. and are transferred to that party without recourse on Grantor.

When the context requires, singular nouns and pronouns includes the plural.

Cynthia Jo Cockrell Dykes
CYNTHIA JO COCKRELL DYKES

Ricky Dan Gibbs by POA Cynthia Dykes
RICKY DAN GIBBS

Steven Wayne Shreeve
STEVEN WAYNE SHREEVE

STATE OF TEXAS
COUNTY OF BELL

This instrument was acknowledged before me on the 3rd day of July, 2008 by Cynthia Jo Cockrell ~~Dykes~~

NOTARY PUBLIC
THERESA SCHUETZE
Notary Public
STATE OF TEXAS
My Commission
Expires 09/19/2008
STATE OF TEXAS

Theresa Schuetze
NOTARY PUBLIC in and for
the State of Texas

COUNTY OF BELL

This instrument was acknowledged before me on the 3rd day of July, 2008 by Ricky Dan Gibbs, by Attorney-in-fact *Cynthia Dykes*

NOTARY PUBLIC
THERESA SCHUETZE
Notary Public
STATE OF TEXAS
My Commission
Expires 09/19/2008
STATE OF TEXAS

Theresa Schuetze
NOTARY PUBLIC in and for
the State of Texas

STATE OF TEXAS
COUNTY OF BELL

This instrument was acknowledged before me on the 3rd day of July, 2008, by Steven Wayne Shreeve

NOTARY PUBLIC
THERESA SCHUETZE
Notary Public
STATE OF TEXAS
My Commission
Expires 09/19/2008
STATE OF TEXAS

Theresa Schuetze
Notary Public, State of Texas

EXHIBIT D

DILLARD HOMES
10.275 ACRES

FIELD NOTES for a 10.275 acre tract of land in Bell County, Texas, part of the F. D. Cox Survey, Abstract No. 220, and the land herein described being part of a called 10.92 acre tract conveyed to Grady A. Cockrell and Park Gibbs, of record in Volume 1011, Page 653, Deed Records of Bell County, Texas, and being more particularly described as follows:

BEGINNING at a 3/8" iron rod, found on the east right-of-way line of Nola Ruth Boulevard at the southwest corner of said 10.92 acre tract, being the northwest corner of Lot 1, Block 1, Preswick Hills, an addition to the City of Harker Heights, Texas, of record in Cabinet A, Slide 19-B, Plat Records of Bell County, Texas, for the southwest corner of this tract;

THENCE N. 17° 01' 58" E., 716.86 feet, with the west line of said 10.92 acre tract and the east line of said Nola Ruth Boulevard, to a brass cap monument, found at a cut back in the south right-of-way line of U. S. Highway 190, for an angle corner of this tract;

THENCE N. 64° 20' 05" E., 67.35 feet, with said cut back, to a brass cap monument, found on the south right-of-way line of Old Nolanville Road on the north line of said 10.92 acre tract, for an angle corner of this tract;

THENCE with the south right-of-way line of said Old Nolanville Road and the north line of said 10.92 acre tract, the following three (3) courses:

1. S. 63° 50' 33" E., 202.61 feet, to a 1/2" iron rod, found for an interior corner of this tract;
2. N. 21° 12' 23" E., 19.95 feet, to a 1/2" iron rod, found for an exterior corner of this tract;
3. S. 80° 52' 02" E., 164.84 feet, to a 3/8" iron rod with cap, set at the northwest corner of a called 0.87 acre tract conveyed to Joe R. Hernandez and wife Rosa Hernandez, of record in Volume 1675, Page 101, Deed Records of Bell County, Texas, for the northerly northeast corner of this tract;

THENCE S. 24° 50' 44" W., 171.45 feet, generally with fence on the west line of said 0.87 acre tract, to a 3/8" iron rod, found at the southwest corner of said 0.87 acre tract, for an interior corner of this tract;

THENCE S. 72° 37' 01" E., 255.68 feet, generally with fence on the south line of said 0.87 acre tract, to a 3/4" iron pipe, found at the southeast corner of said 0.87 acre tract, being on the west line of a tract to William Elet Warren, Jr. et al, of record in Volume 4446, Page 720, Official Public Records of Real Property, Bell County, Texas, for the southerly northeast corner of this tract;

THENCE S. 17° 20' 31" W., 534.51 feet, generally with fence on the east line of said 10.92 acre tract, to a 1" iron pipe, found at the northwest corner of Briarwood Estates, Phase IV, an addition to the City of Harker Heights, Texas, of record in Cabinet C, Slide 324-C, Plat Records of Bell County, Texas, for an angle corner of this tract;

THENCE S. 18° 13' 51" W., 64.76 feet, generally with fence on the east line of said 10.92 acre tract, to a 5/8" iron rod with cap, found at the southeast corner of said 10.92 acre tract, being the northeast corner of Lot 8, Block 1, said Preswick Hills, for an angle corner of this tract;

THENCE N. 73° 10' 16" W., 642.41 feet with the south line of said 10.92 and the north line of said Block 1, Preswick Hills, to the POINT OF BEGINNING and containing 10.275 acres of land.

EXHIBIT "A"

Bell County
EXHIBIT D
Shelley Coston
County Clerk
Belton, Texas 76513

Instrument Number: 2008-00028540

Recorded On: July 09, 2008 As Recordings

Parties: DYKES CYNTHIA JO COCKRELL
To SGSB LAND HOLDINGS LLC

Billable Pages: 3
Number of Pages: 4

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Recordings	22.00
Total Recording:	22.00

***** DO NOT REMOVE THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2008-00028540
Receipt Number: 34814
Recorded Date/Time: July 09, 2008 10:37:51A

Record and Return To:

MONTEITH ABSTRACT & TITLE CO
106 S EAST ST
BELTON TX 76513

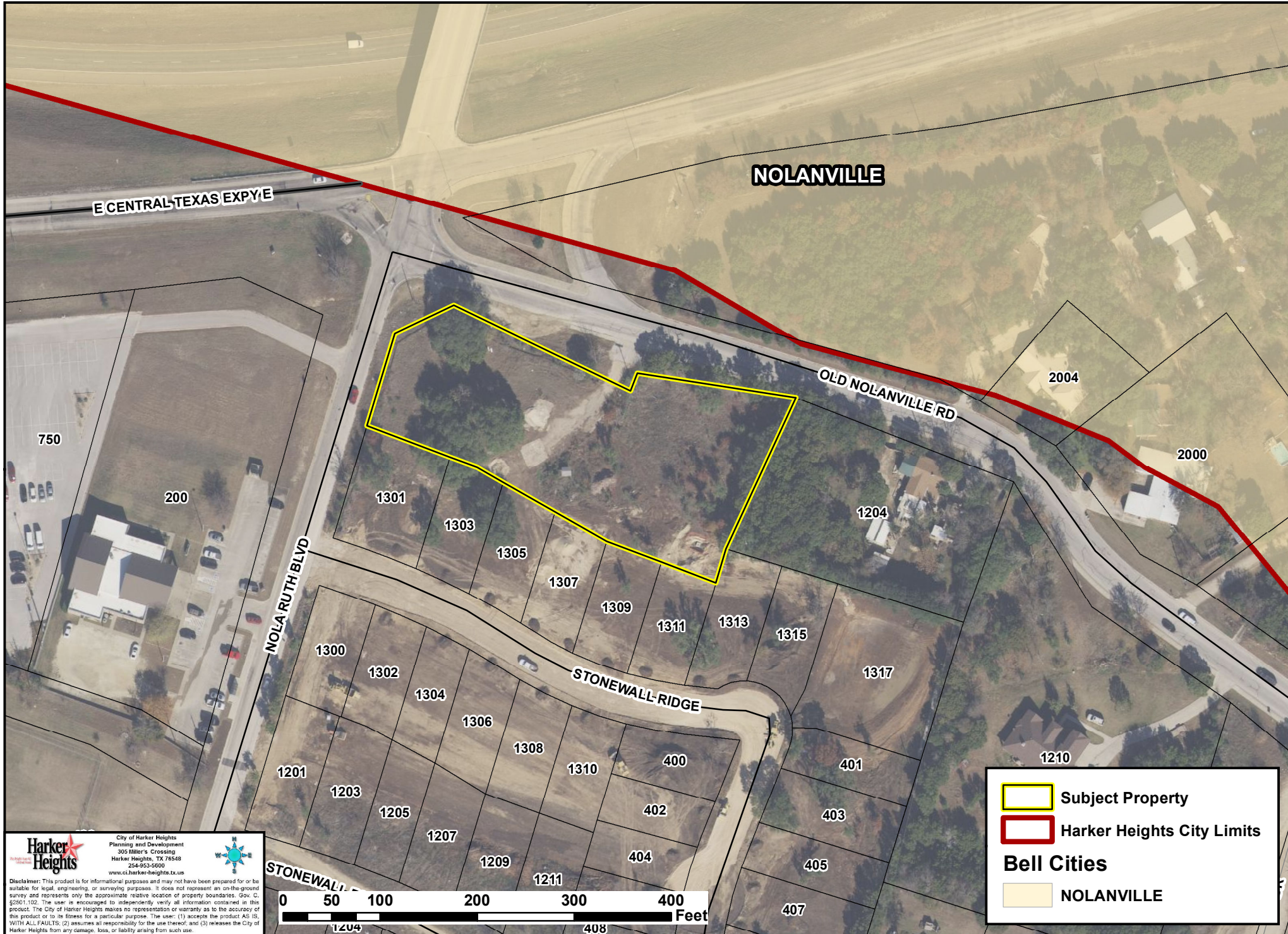
User / Station: N Mitchell - Cash Station 1



I hereby certify that this instrument was filed on the date and time stamped hereon and was duly recorded in the Real Property Records in Bell County, Texas

Shelley Coston
Bell County Clerk

A handwritten signature in cursive script that reads "Shelley Coston".



Harker Heights
 City of Harker Heights
 Planning and Development
 305 Miller's Crossing
 Harker Heights, TX 76548
 254-953-5600
 www.ci.harkerheights.tx.us

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2601.102. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.

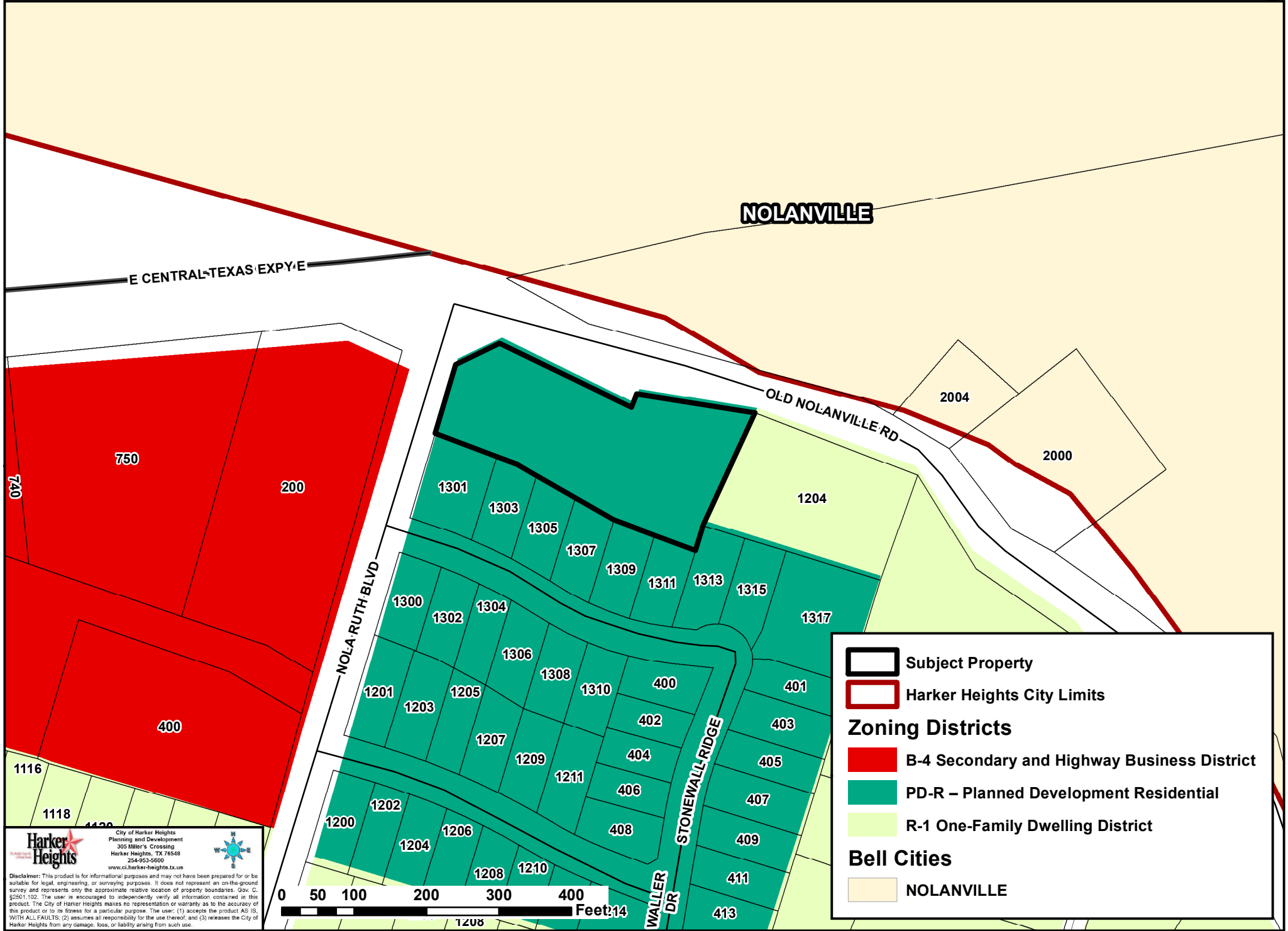
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- Subject Property
- Harker Heights City Limits

Bell Cities

- NOLANVILLE





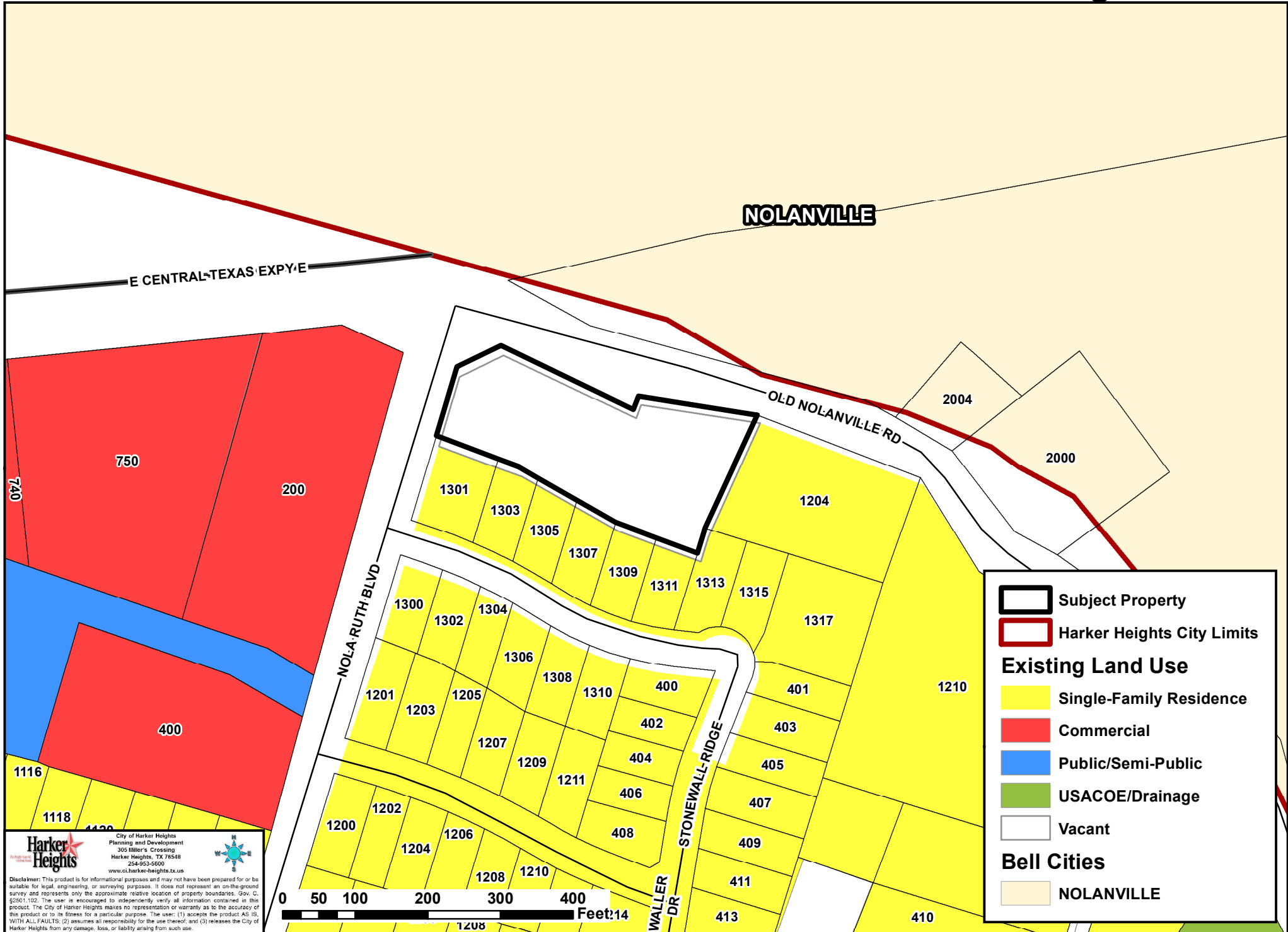
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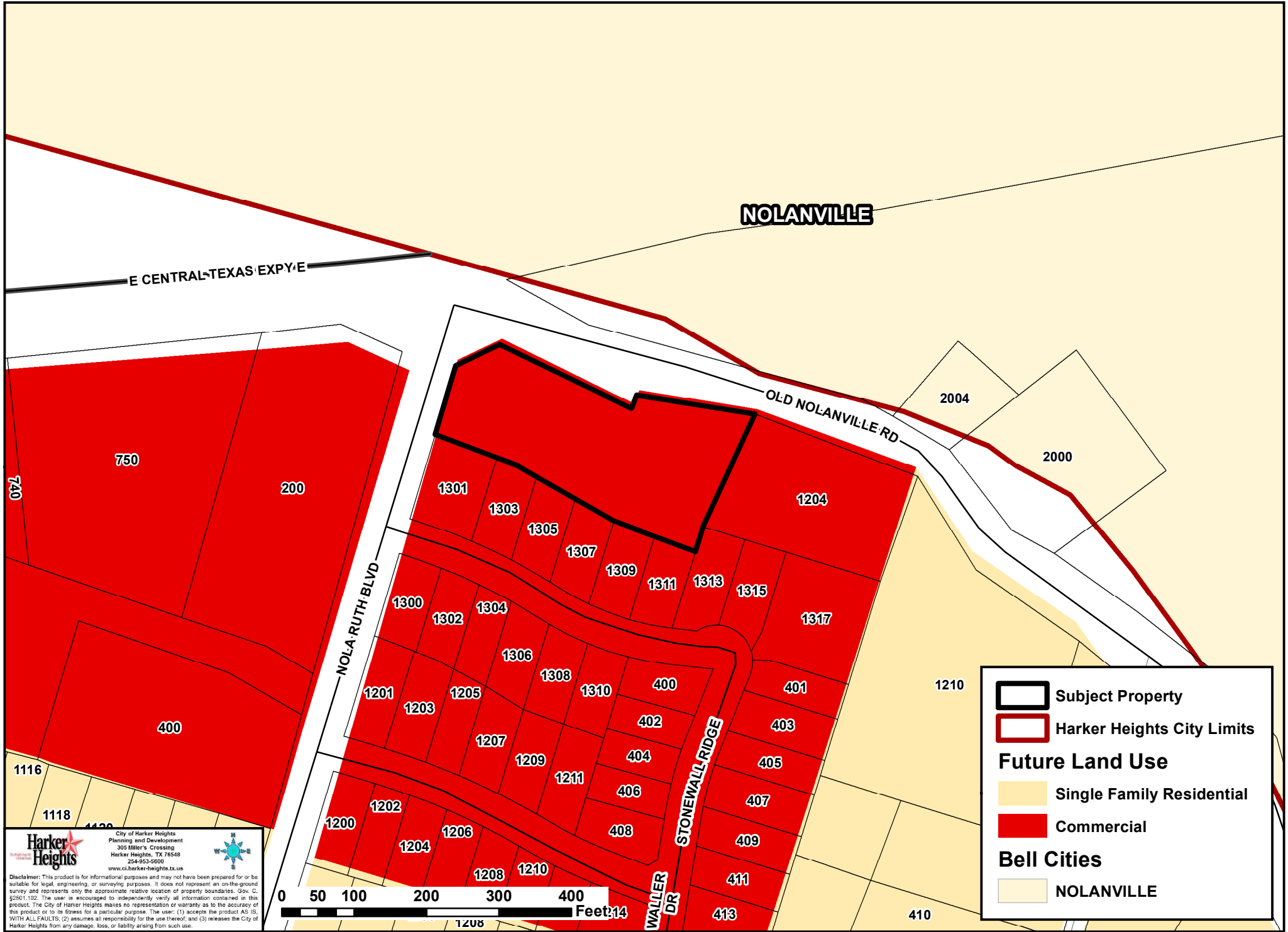
- Subject Property
- Harker Heights City Limits
- Zoning Districts**
- B-4 Secondary and Highway Business District
- PD-R – Planned Development Residential
- R-1 One-Family Dwelling District
- Bell Cities**
- NOLANVILLE

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NOLANVILLE

E CENTRAL-TEXAS EXPY/E



OLD NOLANVILLE RD

NOLA RUTH BLVD



STONEWALL RIDGE

WALLER DR


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-  Subject Property
-  Harker Heights City Limits

Future Land Use

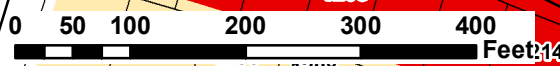
-  Single Family Residential
-  Commercial

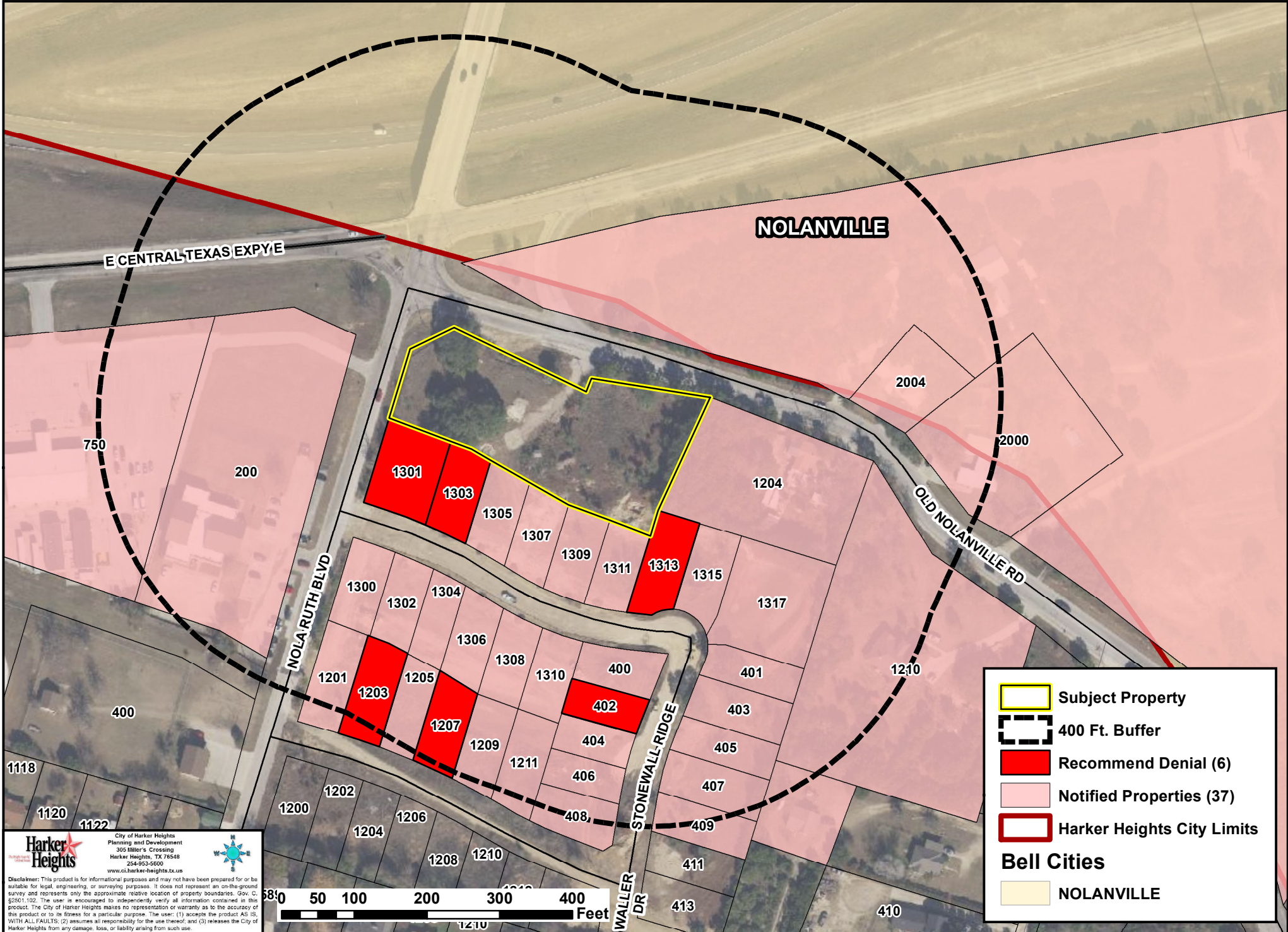
Bell Cities

-  NOLANVILLE

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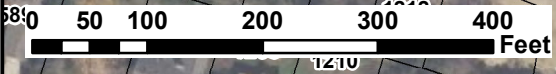




	Subject Property
	400 Ft. Buffer
	Recommend Denial (6)
	Notified Properties (37)
	Harker Heights City Limits
Bell Cities	
	NOLANVILLE

Harker Heights
 City of Harker Heights
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TO: **City of Harker Heights
Planning & Development Department**

FROM: 402 Stonewall Ridge
Harker Heights, TX
(Address of Your Property that Could
Be **Impacted** by this Request)

RE: An application has been made to consider a rezoning from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas (see attached notification map).

- I RECOMMEND APPROVAL OF THE REQUEST
 I RECOMMEND DENIAL OF THE REQUEST

Comments:

I feel that rezoning & changing our
community residence from residential to
Business not only is not what I did not
purchase my home under, but I also fear
this puts our neighborhood at higher
risk. I would like our neighborhood to remain
safe & this transition is not safe for me or
my family.

Veronica Phillips
Richard Phillips
Printed Name

[Signature]
Signature

25 MAR 2021
Date

[Signature]
Received

For additional information and/or clarification please contact the Planning
& Development Department at (254) 953-5648
Planning & Development

TO: **City of Harker Heights
Planning & Development Department**

FROM: Josh Hussey & Heather Hussey
1203 Stonewall Ridge Harker Heights,
(Address of Your Property that Could
Be Impacted by this Request) 76548

RE: An application has been made to consider a rezoning from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas (see attached notification map).

• Zoning is speculative
• Nuisance of Light infiltration to neighboring homes.

I RECOMMEND APPROVAL OF THE REQUEST

I RECOMMEND DENIAL OF THE REQUEST

Comments: ^{foot} • Potential of disrupting atmosphere and smell/air quality to neighbors.
• Increased traffic also increases crime, and trash/litter.
• Home buyers purchased in this area as residential zone, which lends to the area's appeal and R/E value.
• Homes recently purchased do not have the equity to absorb the home value loss of a zone change.
• Intersection is out of the ordinary configuration and dangerous already. Increasing traffic would increase this danger, congestion, and increase commute time for residents.
• Properties currently have warranty/drain water issues pending with the builder. Storm water issues could be a potential and cause further damage to properties.

Josh Hussey
Printed Name

[Signature]
Signature

3/23/21
Date

Received

MAR 25 2021
For additional information and/or clarification please contact the Planning & Development Department at (254) 962-5648
Planning & Development

TO: City of Harker Heights
Planning & Development Department

FROM: 1207 Stonewall Ridge
Harker Heights TX 76548
(Address of Your Property that Could
Be **Impacted** by this Request)

RE: An application has been made to consider a rezoning from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas (see attached notification map).

- I RECOMMEND APPROVAL OF THE REQUEST
 I RECOMMEND DENIAL OF THE REQUEST

Comments:

we are residential, bought residential
and prefer it to stay as sold

Troy Shoaf
Printed Name

Troy Shoaf
Signature

24 March 2021
Date

Received
MAR 24 2021

Planning & Development
For additional information and/or clarification please contact the Planning
& Development Department at (254) 953-5648.

TO: City of Harker Heights
Planning & Development Department

FROM: 1207 Stonewall Ridge
Harker Heights TX 76548
(Address of Your Property that Could
Be **Impacted** by this Request)

RE: An application has been made to consider a rezoning from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas (see attached notification map).

- I RECOMMEND APPROVAL OF THE REQUEST
- I RECOMMEND DENIAL OF THE REQUEST

Comments:

Jennifer Shoat
Printed Name

Jennifer Shoat
Signature

24 March 2021
Date

Received
MAR 24 2021

Planning & Development
For additional information and/or clarification please contact the Planning & Development Department at (254) 953-5648.

TO: City of Harker Heights
Planning & Development Department

FROM: LARRY AND PATRICIA JONES
1301 Stonewall Ridge Harker Heights
(Address of Your Property that Could Be **Impacted** by this Request)

RE: An application has been made to consider a rezoning from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A. (Future Development). Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas (see attached notification map).

- I RECOMMEND APPROVAL OF THE REQUEST
- I RECOMMEND DENIAL OF THE REQUEST

Comments:
This is a quiet community that was built in Jan 2000. There are many Retired Veterans in this community like myself would like this community to stay as a PD-R and not a Business District. If we would have known about this possible rezoning prior to buying this home, we would have not moved to this area. We and many others came to this area to make this our retired home. Please, please, please find another area to rezone as a Business District.

LARRY JONES
Printed Name

Larry Jones
Signature

3/23/21
Date

For additional information and/or clarification please contact the Planning & Development Department at (254) 953-5648.

TO: City of Harker Heights
Planning & Development Department

FROM: Paul & Rhonda Fellows
1303 Stonewall Ridge, H.H.
(Address of Your Property that Could
Be **Impacted** by this Request)

RE: An application has been made to consider a rezoning from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas (see attached notification map).

I RECOMMEND APPROVAL OF THE REQUEST

I RECOMMEND DENIAL OF THE REQUEST

Comments:

- We recommend Denial:
- 1) Noise issues
 - 2) higher Traffic issues w/ ~~houses~~ existing houses with infant children
 - 3) Possibility of higher crime rate with higher car & foot traffic
 - 4) Depreciation of our home, value
 - 5) Destroying natural wildlife habitat
 - 6) Taking away our backyard privacy-value
 - 7) Any food establishment will attract rodents

8) Realizing a salesman will say anything, we were told that nothing was going to be put on this property

Paul D. Fellows III
Printed Name

Paul D. Fellows III
Signature

3/21/2021
Date

Received

MAR 24 2021

For additional information and/or clarification please contact Planning & Development & Development Department at (254) 953-5648.

TO: **City of Harker Heights
Planning & Development Department**

FROM: 1313 Stonewall Ridge
Harker Heights, TX 76548
(Address of Your Property that Could
Be **Impacted** by this Request)

RE: An application has been made to consider a rezoning from PD-R (Planned Development Residential) to B-4 (Secondary and Highway Business District) on property described as Stonewall Ridge Phase I, Lot Tract A, (Future Development), Acres 1.466, generally located near the intersection of Nola Ruth Blvd. and Old Nolanville Road, Harker Heights, Bell County, Texas (see attached notification map).

- I RECOMMEND APPROVAL OF THE REQUEST
 I RECOMMEND DENIAL OF THE REQUEST

Comments:

I do not want my property backed up against
commercial buildings. It will increase noise and traffic,
especially during construction, which is what I wanted to
escape. Commercial traffic directly behind my property will
decrease my family's privacy because my house is 2 stories
that is visible above the fence. From the proposed
rezoning area, one can see into my children's rooms
For noise and privacy concerns, I do not want the
rezoning.

JORDAN YANO
Printed Name


Signature

24 MARCH 2021
Date

Received

MAR 25 2021

For additional information and/or clarification please contact the Planning
& Development Department at (254) 953-5648.



CITY COUNCIL MEMORANDUM

Z21-08

AGENDA ITEM VII-2

FROM: THE OFFICE OF THE CITY MANAGER

DATE: APRIL 13, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, TO CHANGE THE ZONING DESIGNATION FROM R-1 (ONE-FAMILY DWELLING DISTRICT) TO R-2 (TWO-FAMILY DWELLING DISTRICT) ON PROPERTY DESCRIBED AS VALLEY VIEW SECOND EXTENSION, BLOCK SEVEN (7), LOT SIX (6), ACRES 0.20, GENERALLY LOCATED AT 122 E. TURNBO ROAD, HARKER HEIGHTS, BELL COUNTY, TEXAS, AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

The applicant is requesting a change from the current zoning of R-1 (One-Family Dwelling District) to R-2 (Two Family Dwelling District) on property addressed as 122 E. Turnbo Road. A single wide manufactured home currently occupies the subject property. The property consists of approximately 8,778 square feet, and the request will enable the applicant to construct one (1) duplex on the property as the existing lot meets the intensity of use requirements of the R-2 zoning district (8,400 square feet).

Surrounding Land Uses

Adjacent land uses include:

	Existing Land Use	Future Land Use	Zoning
North	Single Family Residential	Mixed Residential	R-1 (One Family Dwelling District)
South	Manufactured Home	Mixed Residential	R-1
East	Manufactured Home	Mixed Residential	R-1
West	Manufactured Home	Mixed Residential	R-1

Per the 2007 Comprehensive Plan, the applicant’s property is located in an area designated as Mixed Residential. This designation allows for the construction of site-built single-family homes, manufactured housing, and duplexes. A survey of the area identified most of the properties to consist of a combination of all of the approved residential forms. Staff therefore believes the proposed rezoning with its intended use will not likely have any adverse impacts on the neighborhood and would be consistent with the 2007 City of Harker Heights Comprehensive Plan.

Flood Damage Prevention:

No portion of this property lies within the 100 year or 500-year flood hazard areas.

Notices:

Staff sent out fifty (50) notices to property owners within the 400-foot notification area. There were zero (0) responses received in favor of the request, and zero (0) responses received in opposition of the request.

RECOMMENDATION:

Staff recommended approval to the Planning and Zoning Commission of the request to change the zoning designation from R-1 (One-Family Dwelling District) to R-2 (Two-Family Dwelling District) on property described as Valley View Second Extension, Block Seven (7), Lot Six (6), Acres 0.20, generally located at 122 E. Turnbo Road, Harker Heights, Bell County, Texas, based on the following:

1. The proposed use and rezoning are compatible with existing uses in the neighborhood.
2. The proposed use and rezoning would not likely have any adverse impact on adjoining uses and zoning districts.

ACTION TAKEN BY THE PLANNING AND ZONING COMMISSION:

Following a public hearing held on March 31, 2021, the Planning and Zoning Commission voted (9-0) to recommend approval of an ordinance to change the zoning designation from R-1 (One-Family Dwelling District) to R-2 (Two-Family Dwelling District) on property described as Valley View Second Extension, Block Seven (7), Lot Six (6), Acres 0.20, generally located at 122 E. Turnbo Road, Harker Heights, Bell County, Texas.

ACTION BY THE CITY COUNCIL:

1. Motion to APPROVE/DISAPPROVE an Ordinance to change the zoning designation from R-1 (One-Family Dwelling District) to R-2 (Two-Family Dwelling District) on property described as Valley View Second Extension, Block Seven (7), Lot Six (6), Acres 0.20, generally located at 122 E. Turnbo Road, Harker Heights, Bell County, Texas.
2. Any other action deemed necessary.

ATTACHMENTS:

1. Ordinance
2. Application
3. R-2 Adopted Code
4. Location Map
5. Existing Land Use Map
6. Zoning Map
7. Future Land Use Map
8. Notification Map

AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, GRANTING R-2 ZONING ON PROPERTY LOCATED AT 122 EAST TURNBO ROAD, HARKER HEIGHTS, TEXAS.

WHEREAS, the City Council (“*Council*”) of the City of Harker Heights (“*City*”) finds that after due notice and public hearings as required by law, and after consideration of the recommendation of the Planning and Zoning Commission, it is necessary and desirable to amend the Code of Harker Heights (“*Code*”) as hereinafter provided; and

WHEREAS, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS:

SECTION 1: The Council officially finds and declares that the facts and recitations set forth in the preamble to this Ordinance are true and correct.

SECTION 2: The hereinafter-described property, as previously zoned R-1 (One-Family Dwelling District) is rezoned to R-2 (Two Family Dwelling District):

Valley View Second Extension, Block Seven (7), Lot Six (6), 0.20 Acres, generally located at 122 East Turnbo Road, Harker Heights, Bell County, Texas.

SECTION 3: Table VII, Table of Special Ordinances, of the Code is hereby supplemented by adding the following entry:

<u>Ord. No.</u>	<u>Date Passed</u>	<u>Description</u>
	04/13/21	Granting R-2 zoning on property located at 122 E. Turnbo Road, Harker Heights, Texas.

SECTION 4: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 5: This Ordinance shall be effective from and after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

PASSED AND APPROVED on April 13, 2021

Spencer H. Smith, Mayor

ATTEST:

Juliette Helsham, City Secretary



Rezoning Request Application

Requirements - MUST BE COMPLETE OR WILL NOT BE ACCEPTED

This application must be completed and returned to the Planning and Development Department of the City of Harker Heights, Texas along with the following:

1. Pre-Application Meeting Scheduled
2. Payment of \$200.00 to the City of Harker Heights

City of Harker Heights
 Planning & Development
 305 Millers Crossing
 Harker Heights, TX 76548
 Phone: (254) 953-5647

Property Owner(s) Name: Ricky Smith Date: 3-3-21
 Address: 122 E. Turnbo Rd.
 City/State/Zip: Harker Heights, TX 76548
 Phone: [REDACTED] E-mail: [REDACTED]

Legal Description of Property:

Location of Property (Address if available): 122 E. Turnbo Rd
 Lot: 6 Block: 7 Subdivision: Valley View Second Extn.
 Acres: 75 X 115 Property ID: 107805 Survey: _____

For properties not in a recorded subdivision please submit a copy of a current survey showing the property's proposed to be changed, and/or legal field notes.

Proposed Use: Build Duplex
 Current Zoning Classification: Residential R-2^{WE} Proposed Zoning: Multi-Family R-2^{WE}
 Current Land Use: Mobile Home Proposed Land Use: Duplex

Applicant's Representative (if applicable):

Applicant's Representative: James Herring
 Phone: [REDACTED] E-Mail: [REDACTED]

I, being the undersigned applicant of the property herein described, hereby make application for approval of plans submitted and made a part of the application in accordance with the provisions of the City of Harker Heights Ordinances, and hereby certify that the information provided is true and correct to the best of my knowledge and belief.

I, being the undersigned applicant, understand that failure to appear to represent a request shall be deemed a request to withdraw the proposal, or _____ will represent the owner.

Ricky Smith
 Printed Name of Property Owner

[Signature]
 Signature of Property Owner

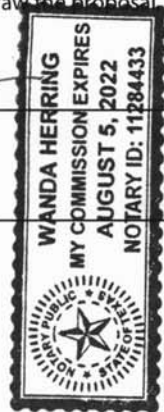
James Herring
 Printed Name of Representative

[Signature]
 Signature of Representative

SWORN AND SUBSCRIBED BEFORE ME ON THIS 3 DAY OF March, 2021.

[Signature]
 SIGNATURE OF NOTARY PUBLIC

MY COMMISSION EXPIRES: 08-05-2022



Date Submitted: 3/31/2021

STAFF ONLY -- DO NOT FILL OUT BELOW

Received By: Wilkinson Everett

Pre-Application Meeting

Receipt #: 011669443

Case #: 221-08

§ 155.023 R-2 TWO-FAMILY DWELLING DISTRICT.

(A) *Permitted uses.*

- (1) Any use permitted by right in the R-1 District, or (subject to the location requirements for such tracts) in the R1-I Districts.
- (2) Two-family or duplex dwelling.
- (3) Industrialized duplex dwelling, provided such dwelling complies with all regulations applicable to industrialized single-family housing.

(B) *Conditional uses.* Neighborhood association facilities.

(C) *Height regulations.* No building shall exceed two and one-half stories or 35 feet in height.

(D) *Area regulations.* Lots in the Wildewood Subdivision, and duplex lots platted prior to November 8, 2006, shall have six-foot-minimum side setbacks, except when siding on a street such setback shall be a minimum of 15 feet, All other duplex lots shall have a minimum of ten-foot-wide side building setbacks, except when siding on a street such setback shall be a minimum of 15 feet.

(E) *Intensity of use.*

(1) A lot on which there is erected a single-family dwelling shall conform to the same intensity of use requirements as those in the R-1 (Single-Family Dwelling District) as noted in § 155.020(E).

(2) The minimum lot area shall be 7,800 square feet for lots in the Wildewood Subdivision and duplex lots platted prior to November 8, 2006. All other duplex lots shall contain a minimum lot area of 8,400 square feet, and an average width of not less than 70 feet.

(F) *Parking regulations.* As per §§ 155.061 through 155.068.

(G) *Additional use, height, and area regulations.* Additional use, height, and area regulations and exceptions are found in § 155.040.

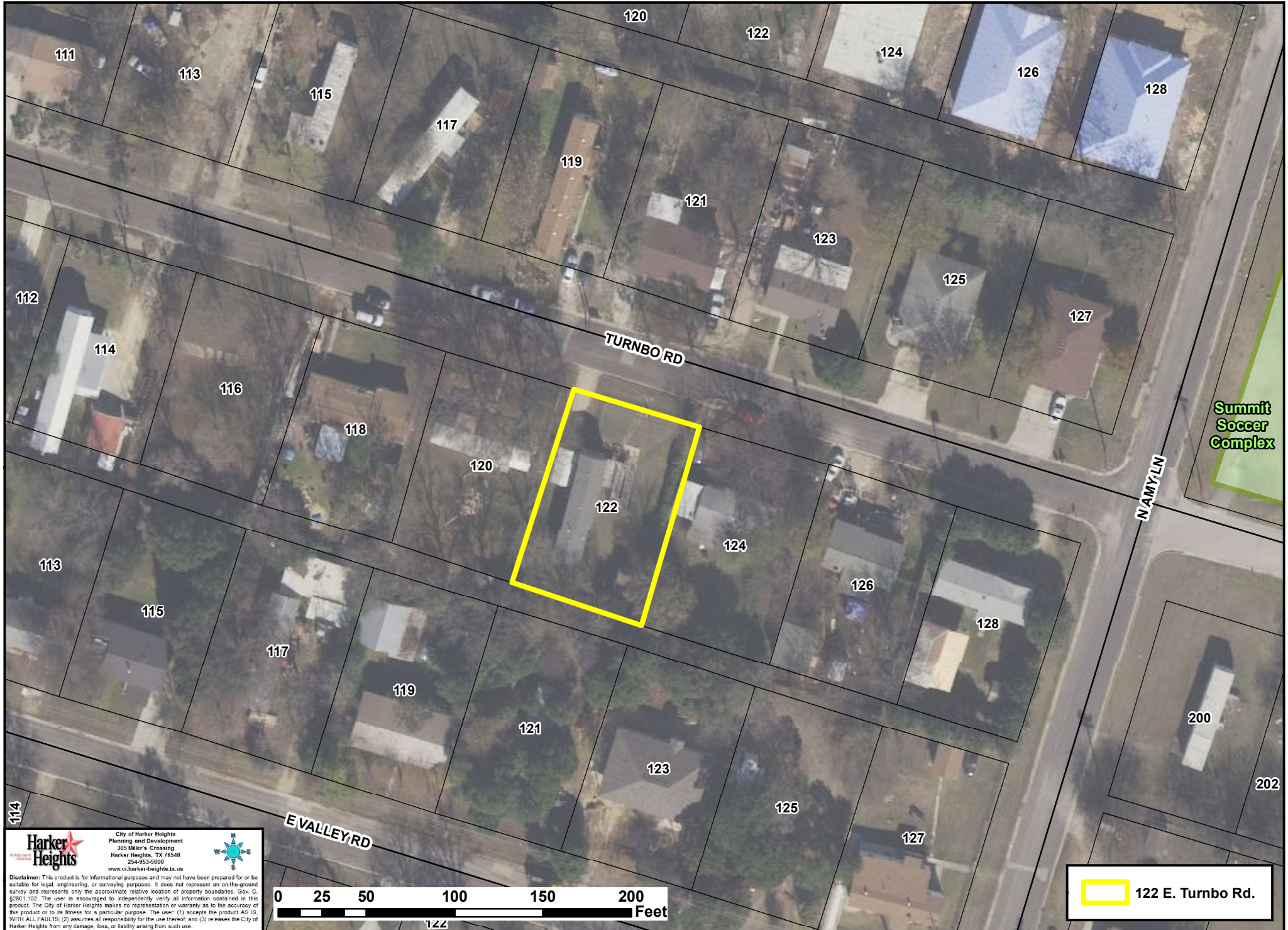
(H) *Signs.* Same as in R-1 district.

(I) *Storage.* Open storage is prohibited, except for materials for the residents' use such as firewood, gardening materials, and similar materials.

(J) *Landscaping.* All yards shall have vegetative groundcover of sufficient quality and quantity, or other city-approved groundcover, to control dust, erosion and sediment upon final inspections. In addition, a minimum of two six-foot-tall trees, measuring two inches or more in caliper (diameter) when measured 12 inches from the base of the trunk, and eight three-gallon shrubs, are required in the front yard.

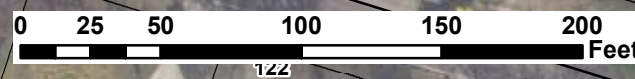
(K) *Architectural design.* R-2 buildings shall be designed to avoid repetitions of buildings or roof lines, and the same elevation may not be used within any five lot groupings. Primary entrances shall face the public street. Windows shall be provided with trim or recessed, rather than flush with exterior wall treatment.


(Ord. 2001-36, passed 11-13-01; Am. Ord. 2006-40, passed 10-24-06; Am. Ord. 2012-01, passed 2-14-12; Am. Ord. 2012-04, passed 3-27-12; Am. Ord. 2016-24, passed 10-11-16)



Harker Heights
City of Harker Heights
Planning and Development
305 Miller's Crossing
Harker Heights, TX 76548
254-953-5600
www.ci.harkerheights.tx.us

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2501.102. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.



 122 E. Turnbo Rd.



122 E. Turnbo Rd.

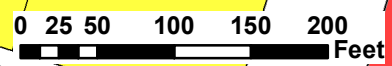
Existing Land Use

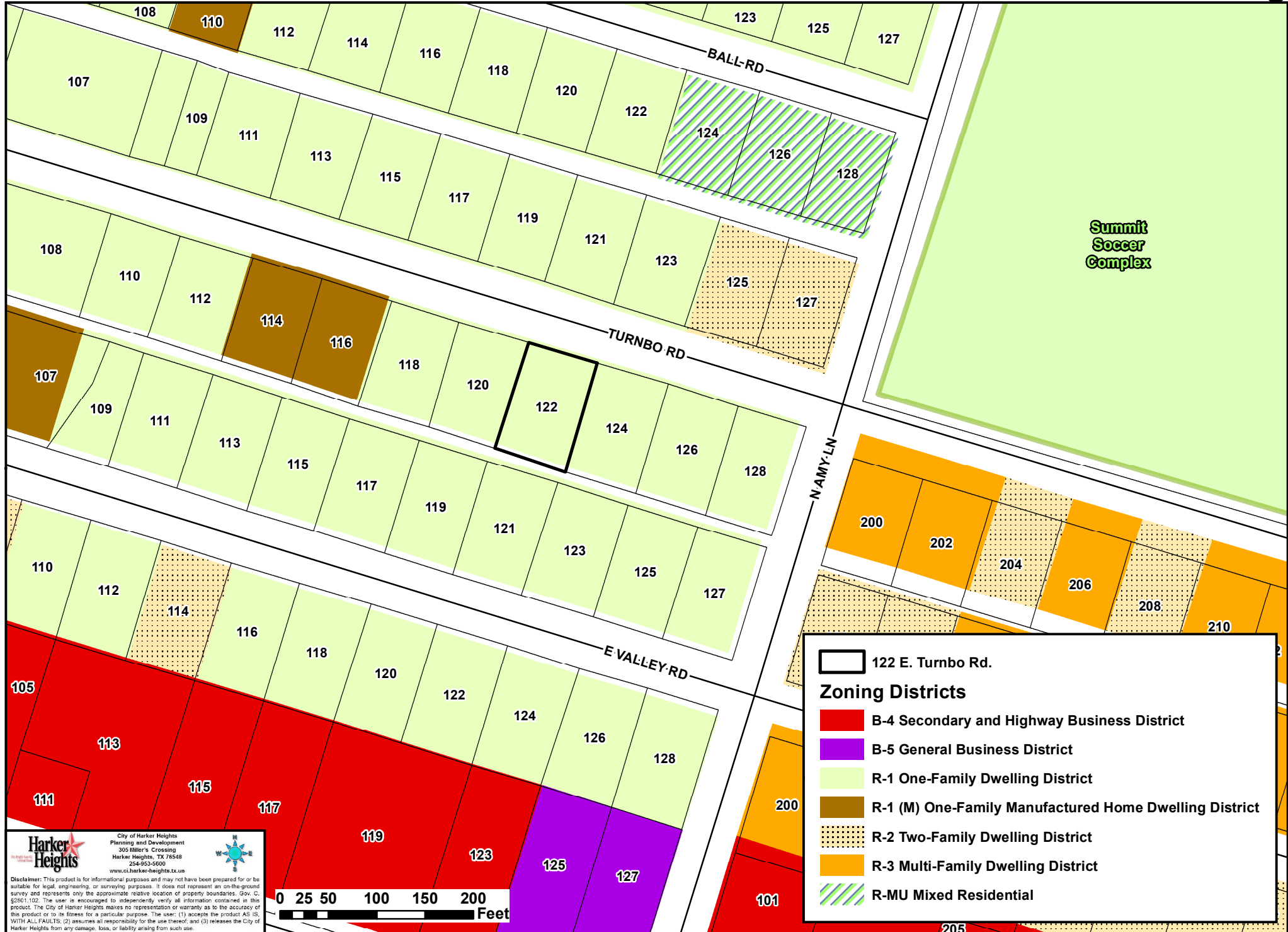
- Single-Family Residence
- Duplex
- Manufactured Home
- Multi-Family Residence
- Commercial
- Public/Semi-Public
- Park/Open Space
- USACOE/Drainage
- Vacant









Harker Heights


City of Harker Heights
 Planning and Development
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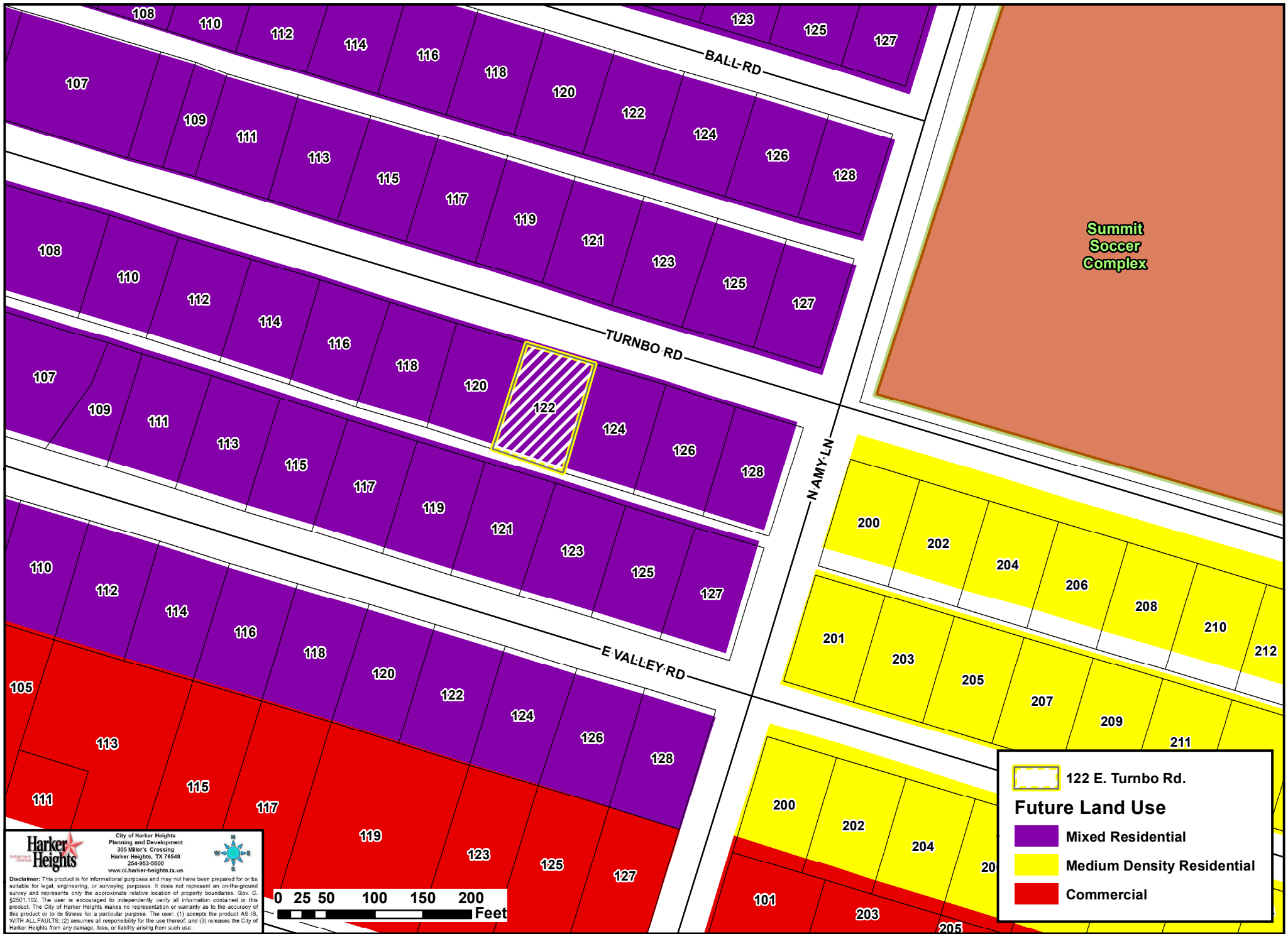
 122 E. Turnbo Rd.
Zoning Districts
 B-4 Secondary and Highway Business District
 B-5 General Business District
 R-1 One-Family Dwelling District
 R-1 (M) One-Family Manufactured Home Dwelling District
 R-2 Two-Family Dwelling District
 R-3 Multi-Family Dwelling District
 R-MU Mixed Residential


 City of Harker Heights
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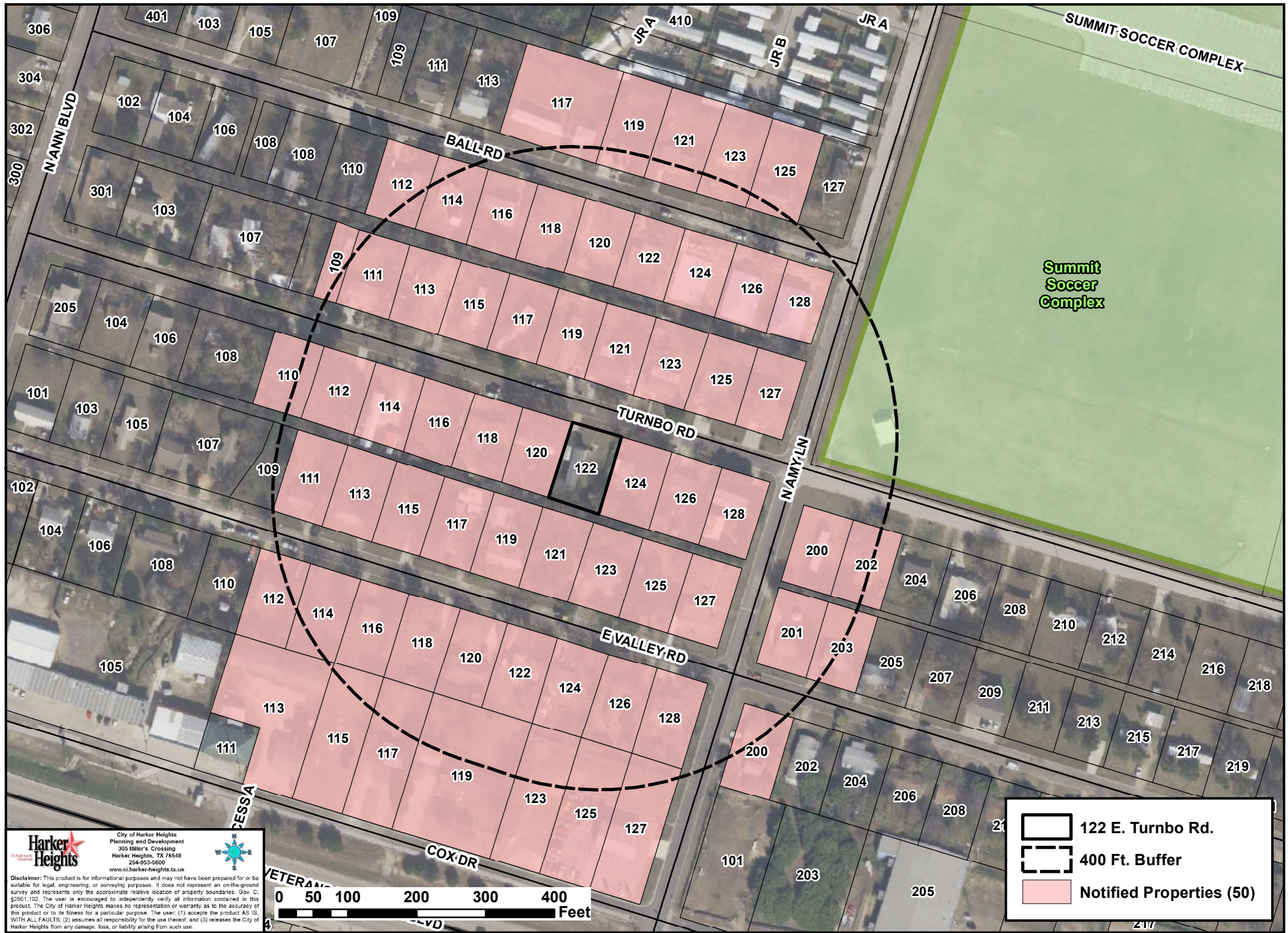




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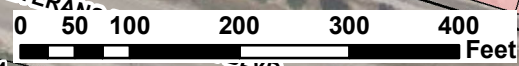
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	122 E. Turnbo Rd.
	400 Ft. Buffer
	Notified Properties (50)



CITY COUNCIL MEMORANDUM

Z21-09

AGENDA ITEM VII-3

FROM: THE OFFICE OF THE CITY MANAGER

DATE: APRIL 13, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, TO CHANGE THE ZONING DESIGNATION FROM R-1 (ONE-FAMILY DWELLING DISTRICT) TO R-1(M) (ONE FAMILY MANUFACTURED HOME DWELLING DISTRICT) ON PROPERTY DESCRIBED AS MEADOW ACRES RETREAT ADDITION AKA RETREAT ADDITION, LOT THIRTEEN (13), ACRES 0.16, GENERALLY LOCATED AT 117 BYBEE COURT, HARKER HEIGHTS, BELL COUNTY, TEXAS, AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

The applicant is requesting a change from the current zoning of R-1 (One Family Dwelling District) to R1-(M) (One Family Manufactured Home Dwelling District) on property addressed as 117 Bybee Court. The property consist of approximately 9,048 square feet and the request will enable the applicant to place a manufactured home on the property. The placement of the manufactured home will be required to adhere to the City’s code as it pertains to private lot manufactured homes (see attachment #3).

The subject property was previously taken to the Building and Standards Commission in 2018 and was determined that a site-built structure on the property was unsafe, substandard, dangerous, and in violation of the minimum standards set forth in §160.04 of the City’s code of ordinances. The case was ordered by the Commission to be demolish or removed from the property. On March 19, 2018, a demolition permit was pulled to remove the structure and all debris including foundation and sidewalks. All work was adequately completed, and the lot has remained vacant to date.

Surrounding Land Uses

Adjacent land uses include:

	Existing Land Use	Future Land Use	Zoning
North	Single Family Residence	Medium Density Residential	R-1 (One Family Dwelling District)
South	Single Family Residence	Medium Density Residential	R-1
East	Single Family Residence	Medium Density Residential	R-1
West	Single Family Residence	Medium Density Residential	R-1

Per the 2007 Comprehensive Plan the applicant’s property is in an area designated as Medium Density Residential. Per the adopted comprehensive plan, Medium Density Residential should be utilized in the following three conditions:

1. Should be located where possible as a buffer between commercial and single family uses.
2. Should be located where possible as a buffer between high-density and single-family residential uses.

3. Is an acceptable replacement for aging manufactured housing or for new development in areas zoned appropriately for such within the City.

A survey of the area identified most of the surrounding properties to be primarily site built single-family residences within the cul-de-sac street Bybee Court. Per the adopted comprehensive plan, manufactured housing should be utilized in the designated Manufactured Home Park or Mixed Residence FLUM categories. The rezone request is not consistent with the 2007 City of Harker Heights Comprehensive Plan. While the intended use may not likely have any adverse impact on the surrounding area, the proposed rezoning but would be the first manufactured home fronting Bybee Court. There are manufactured homes on adjacent properties along E. Beeline Lane and E. Bob White Lane. However, a manufactured home along Bybee Ct. would not be harmonious with the existing uses in the immediate area.

Flood Damage Prevention:

No portion of this property lies within the 100 year or 500-year flood hazard areas.

Notices:

Staff sent out thirty-seven (37) notices to property owners within the 400-foot notification area. As of March 31, 2021, staff has received zero (0) responses in favor of the request, and four (4) responses in opposition of the request. One (1) of the responses in opposition are located within the regulatory 200-foot notification buffer.

RECOMMENDATION:

Staff recommended disapproval to the Planning and Zoning Commission of the request to change the zoning designation from R-1 (One-Family Dwelling District) to R-1(M) (One Family Manufactured Home Dwelling District) on property described as Meadow Acres Retreat Addition AKA Retreat Addition, Lot Thirteen (13), Acres 0.16, generally located at 117 Bybee Ct, Harker Heights, Bell County, Texas, based on the following:

1. The proposed zoning request is not consistent with the Future Land Use Plan in the adopted 2007 Comprehensive Plan.
2. The proposed use and rezoning are inconsistent with the site-built homes along Bybee Court.

ACTION TAKE BY THE PLANNING AND ZONING COMMISSION:

Following a public hearing held on March 31, 2021, the Planning and Zoning Commission voted (9-0) to recommend denial on the request to change the zoning designation from R-1 (One-Family Dwelling District) to R-1(M) (One Family Manufactured Home Dwelling District) on property described as Meadow Acres Retreat Addition AKA Retreat Addition, Lot Thirteen (13), Acres 0.16, generally located at 117 Bybee Ct, Harker Heights, Bell County, Texas, due to the inconsistency of the request with the Future Land Use Plan in the adopted 2007 Comprehensive Plan, and that the proposed use and rezoning are inconsistent with the site-built homes along Bybee Court.

In accordance with § 155.212(D)(2) of the City's code of ordinances, the proposed zoning change shall not become effective except by a three-fourths approval vote by the City Council since the proposed case was not approved by the Planning and Zoning Commission.

ACTION BY THE CITY COUNCIL

1. Motion to APPROVE/DISAPPROVE an Ordinance to change the zoning designation from R-1 (One-Family Dwelling District) to R-1(M) (One Family Manufactured Home Dwelling District) on property described as Meadow Acres Retreat Addition AKA Retreat Addition, Lot Thirteen (13), Acres 0.16, generally located at 117 Bybee Court, Harker Heights, Bell County, Texas, based on staff's recommendation and findings.
2. Any other action deemed necessary.

ATTACHMENTS:

1. Ordinance
2. Application
3. R-1(M) Adopted Code
4. Location Map
5. Zoning Map
6. Existing Land Use Map
7. Future Land Use Map
8. Notification Map
9. Citizen Responses

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, GRANTING R-1(M) (ONE FAMILY MANUFACTURED HOME DWELLING DISTRICT) ZONING ON PROPERTY LOCATED AT 117 BYBEE COURT, HARKER HEIGHTS, BELL COUNTY, TEXAS.

WHEREAS, the City Council (“*Council*”) of the City of Harker Heights (“*City*”) finds that after due notice and public hearings as required by law, and after consideration of the recommendation of the Planning and Zoning Commission, it is necessary and desirable to amend the Code of Harker Heights (“*Code*”) as hereinafter provided; and

WHEREAS, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS:

SECTION 1: The Council officially finds and declares that the facts and recitations set forth in the preamble to this Ordinance are true and correct.

SECTION 2: The hereinafter-described property described previously zoned from R-1 (One Family Dwelling District) is rezoned to R-1(M) (One Family Manufactured Home District):

Meadow Acres Retreat Addition AKA Retreat Addition, Lot Thirteen (13), Acres 0.16, generally located at 117 Bybee Ct, Harker Heights, Bell County, Texas

SECTION 3: Table VII, Table of Special Ordinances, of the Code is hereby supplemented by adding the following entry:

<u>Ord. No.</u>	<u>Date Passed</u>	<u>Description</u>
	04/13/21	Granting R-1(M) zoning on property described as Meadow Acres Retreat Addition AKA Retreat Addition, Lot Thirteen (13), Acres 0.16, generally located at 117 Bybee Ct, Harker Heights, Bell County, Texas.

SECTION 4: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 5: This Ordinance shall be effective from and after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

PASSED AND APPROVED on April 13, 2021.

Spencer H. Smith, Mayor

ATTEST:

Juliette Helsham, City Secretary



Rezoning Request Application

Requirements - MUST BE COMPLETE OR WILL NOT BE ACCEPTED

This application must be completed and returned to the Planning and Development Department of the City of Harker Heights, Texas along with the following:

1. Pre-Application Meeting Scheduled
2. Payment of \$200.00 to the City of Harker Heights

City of Harker Heights
 Planning & Development
 305 Millers Crossing
 Harker Heights, TX 76548
 Phone: (254) 953-5647

Property Owner(s) Name: Mauricio Tinajero Resendiz Date: 03-03-21
 Address: 1205 Highmeadows Cove
 City/State/Zip: Round Rock, Tx 78684
 Phone: [REDACTED] E-mail: [REDACTED]

Legal Description of Property:

Location of Property (Address if available): 117 Bybee CT Harker Heights
 Lot: 0013 Block: _____ Subdivision: _____
 Acres: _____ Property ID: 17229 Survey: Meadow Acres Retreat Addition ^{WB}

For properties not in a recorded subdivision please submit a copy of a current survey showing the property's proposed to be changed, and/or legal field notes.

Proposed Use: R1M
 Current Zoning Classification: R1 Proposed Zoning: R1M
 Current Land Use: Vacant ^{WB} Proposed Land Use: Mobile home ^{WB}

Applicant's Representative (if applicable):

Applicant's Representative: Maria Tierrablanca
 Phone: [REDACTED] E-Mail: [REDACTED]

I, being the undersigned applicant of the property herein described, hereby make application for approval of plans submitted and made a part of the application in accordance with the provisions of the City of Harker Heights Ordinances, and hereby certify that the information provided is true and correct to the best of my knowledge and belief.

I, being the undersigned applicant, understand that failure to appear to represent a request shall be deemed a request to withdraw the proposal, or _____ will represent the owner.

Mauricio Tinajero
 Printed Name of Property Owner

[Signature]
 Signature of Property Owner

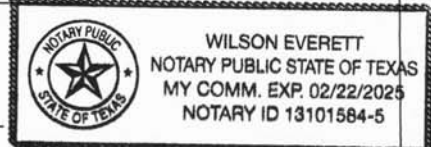
Printed Name of Representative

Signature of Representative

SWORN AND SUBSCRIBED BEFORE ME ON THIS 3 DAY OF March, 20 21

Wilson Everett
 SIGNATURE OF NOTARY PUBLIC

MY COMMISSION EXPIRES: 2/22/2025



Date Submitted: 3/31/2021
 Received By: Wilson Everett

STAFF ONLY -- DO NOT FILL OUT BELOW

Pre-Application Meeting

Receipt #: 011669431
 Case #: 221-09

§ 155.020 R-1 ONE FAMILY DWELLING DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right:

- (1) Site-built, single-family dwellings and industrialized housing.
- (2) Church or other place of worship.
- (3) Municipal buildings, non-profit libraries or museums, police and fire stations, public utilities (without outside storage yards or electric substations), public parks, playgrounds, municipal golf courses, public recreation facilities, and community buildings.
- (4) Customary home occupations as defined in §155.003.
- (5) *Accessory structure.*

(a) One small accessory building (not exceeding 144 square feet) per residence customarily incident to the above uses (not involving the conduct of a business) subject to the following requirements:

- 1. Structure must be built upon a moveable foundation;
- 2. Structure cannot exceed 12 feet in height;
- 3. Structure must set behind the rear facade of the main residence building and must be setback five feet from the rear property line and six feet from the side property line; and
- 4. Materials, building design, and construction must comply with the requirements of Ch. 150.

(b) Large accessory buildings customarily incident to the above uses (not involving the conduct of a business) subject to the following requirements:

- 1. Building materials and facade must be consistent with the main residence building materials and facade;
- 2. Large accessory building must be behind the front facade of the main residence;
- 3. The height of the large accessory building cannot exceed that of the main residence building;
- 4. Number, size, setbacks and height requirements based on the size of the lot as follows:

Lot Size	Number of Large Accessory Structures Allowed	Maximum Aggregate Size of All Accessory Structures	Setbacks	Maximum Height
< 10,000 square feet	1	250 square feet	Front: 25 feet Side: 6 feet Rear: 10 feet	15 feet
> 10,000 square feet < .5 acre	1	500 square feet	Front: 25 feet Side: 6 feet Rear: 10 feet	15 feet
> .5 acre < 1 acre	2	1,000 square feet	Front: 25 feet Side: 6 feet Rear: 20 feet	24 feet
> 1 acre	4	1,500 square feet	Front: 25 feet Side: 6 feet Rear: 20 feet	24 feet

- (6) Private garage.
- (7) Home based child care.
- (8) Real estate sales office, or temporary living quarters to provide security during the development of residential subdivisions, but not to exceed two years.
- (9) Low impact telecommunication towers.
- (10) Public schools.

(B) *Conditional uses.* The following require conditional use permits:

- (1) Private schools having a curriculum equal to a public elementary, high school, or institution of higher learning (except home schooling).

(2) Neighborhood association facilities.

(3) Farms, nurseries, truck gardens and greenhouses, provided no sales offices are maintained and no livestock are kept within 250 feet of a residence of any person other than the farm owner.

(4) Accessory dwelling for a relative or servant (not for rent).

(5) Accessory structure as provided by § 155.040.

(C) *Height regulations.* No building shall exceed two and one-half stories or 35 feet in height.

(D) *Front yard, side yard, and rear yard.* As per Table 21-A.

(E) *Intensity of use.* Every lot or tract of land shall have an area of not less than 8,400 square feet and an average overall width of not less than 70 feet and a minimum lot frontage of not less than 45 feet. Except that if a lot or tract should have less area or width than is herein required and its boundary lines along their entire length should touch lands under other ownership on the effective date of this chapter and shall not have changed since the date, such parcel of land may be used for a single family dwelling.

(F) *Additional use, height, and area regulation.* Additional use, height, and area regulations and exceptions are found in § 155.040.

(G) *R-1(M) zoning designation.* R-1(M) is a one family residential lot that also allows manufactured homes. All manufactured housing structures installed after December 31, 1999, must be installed on a permanent foundation, as that term is defined in § 152.01.

(1) In order to be approved, the manufactured home must be found to have design compatibility with other dwellings in the neighborhood.

(2) The following standards apply to any placement of a manufactured home on a lot after December 31, 1999:

(a) Roofing shall be similar in color, material and appearance to the roofing material commonly used on residential dwellings within the community or comparable to the predominant materials used on dwellings within the neighborhood.

Materials shall include asphalt composition, shingle, tile, crushed rock, standing seam metal or similar materials (except all other metal). Roof pitch shall be a minimum of 3/12.

(b) Exterior siding shall be similar in color, material, and appearance to the exterior siding material commonly used on residential dwellings within the community or comparable to predominant materials used on dwellings within the neighborhood. Exterior siding shall be of brick, wood, stucco, plaster, concrete or other material which is finished in a non-glossy and non-reflective manner.

(c) If a garage/carport is constructed, it must be similar in appearance to others in the neighborhood and constructed of like materials as that of the primary home.

(d) Two all-weather surface off street parking spaces meeting the requirements of §155.061 shall be provided.

(3) Every manufactured home shall be placed so that the entrance or front of the home faces or parallels the principal street frontage, except:

(a) In cases where the lot is one acre or greater and the home is located more than 50 feet from the street; or

(b) Where the lot width is 60 feet or less.

(4) All entrances to a manufactured home shall be provided with permanent steps, porch or similar suitable entry.

(5) The lot must meet all applicable requirements of Chapter 154, and shall comply with the area regulations in (D) of this section. Variance in setbacks may be given in inches not to exceed one foot at the Building Official's discretion.

(H) *Signs* As per Chapter 151.

(I) *Parking.* As per §§ 155.061 through 155.068.

(J) *Storage.* Open storage is prohibited except for materials for the residents' use, such as firewood, gardening materials, and similar materials.

(K) *Landscaping.* All yards shall have vegetative groundcover of sufficient quality and quantity, or other city-approved groundcover, to control dust, erosion and sediment upon final inspections. In addition, a minimum of two six-foot-tall trees, measuring two inches or more in caliper (diameter) when measured 12 inches from the base of the trunk, and eight three-gallon shrubs, are required in the front yard.

(L) *Industrialized housing.*

(1) Industrialized housing shall be considered real property and must:

(a) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for the county;

(b) Have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;

(c) Comply with city aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings;

(d) Be securely fixed to a permanent foundation; and

(e) Have all local permits and licenses that are applicable to site-built housing.

For purposes of this division, **VALUE** means the taxable **VALUE** of the industrialized housing and lot after installation of the housing.

(2) Any owner or authorized agent who intends to construct, erect, install or move any industrialized housing into the city shall first make application to the Building Official and obtain the required permits. In addition to any other information otherwise required for such permits, the application shall:

(a) Identify each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located, and show the taxable value for each such dwelling, as determined by the most recent certified tax appraisal roll for the county;

(b) Describe the exterior siding, roofing, roof pitch, foundation fascia, and fenestration for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located;

(c) Describe the permanent foundation and method of attachment proposed for the industrialized housing; and

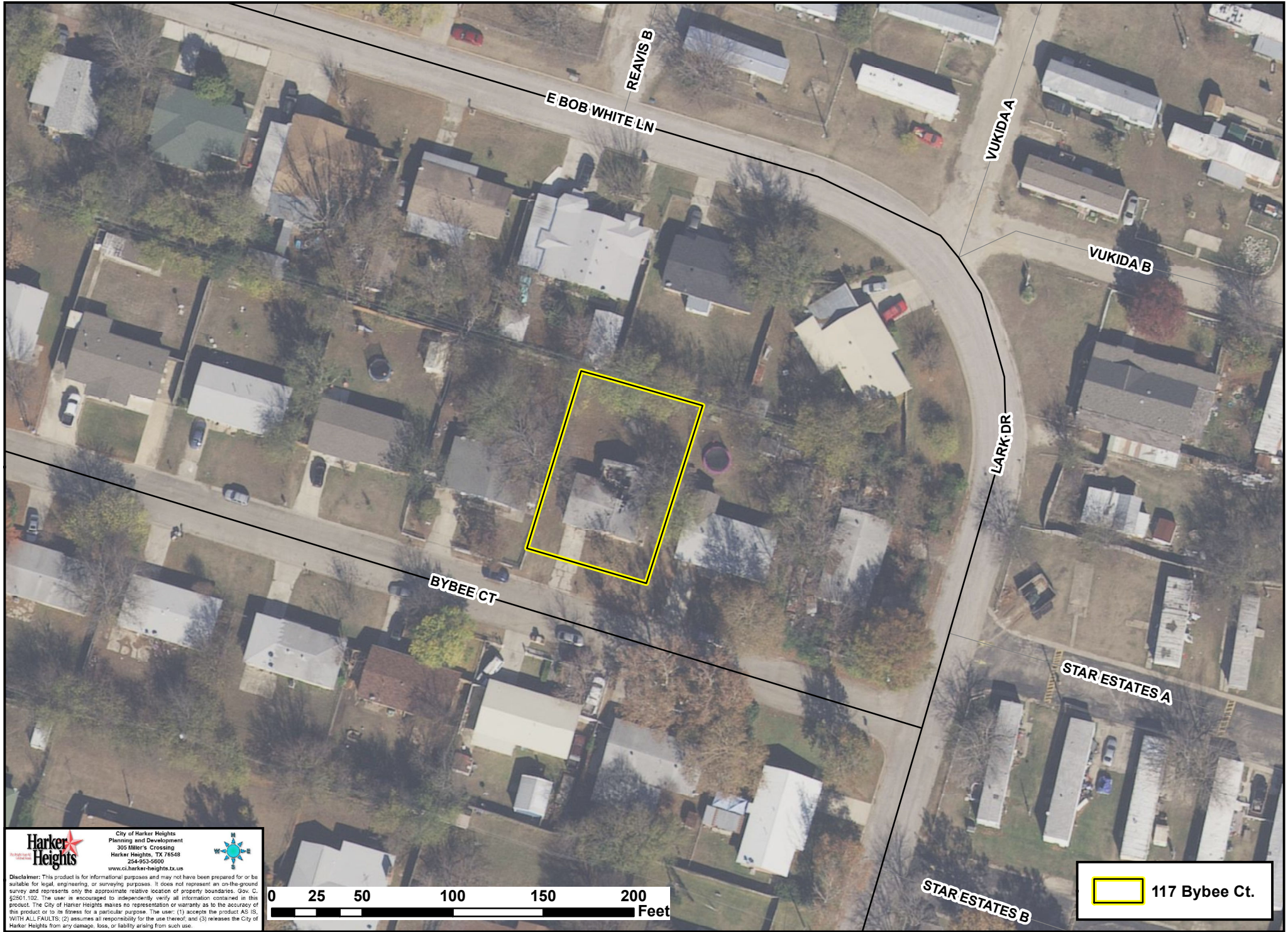
(d) State the anticipated taxable value of the industrialized housing and the lot after installation of the industrialized housing.

(3) A person commits an offense if the person:

(a) Constructs, erects, installs or moves any industrialized housing in the city without first obtaining a permit as required by this section; or

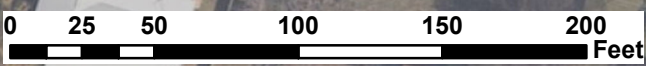
(b) Constructs, erects, installs or moves any industrialized housing into the city unless such industrialized housing complies with this section.

(Ord. 2001-36, passed 11-13-01; Am. Ord. 2002-28, passed 11-12-02; Am. Ord. 2006-40, passed 10-24-06; Am. Ord. 2010-32, passed 10-12-10; Am. Ord. 2011-08, passed 4-19-11)

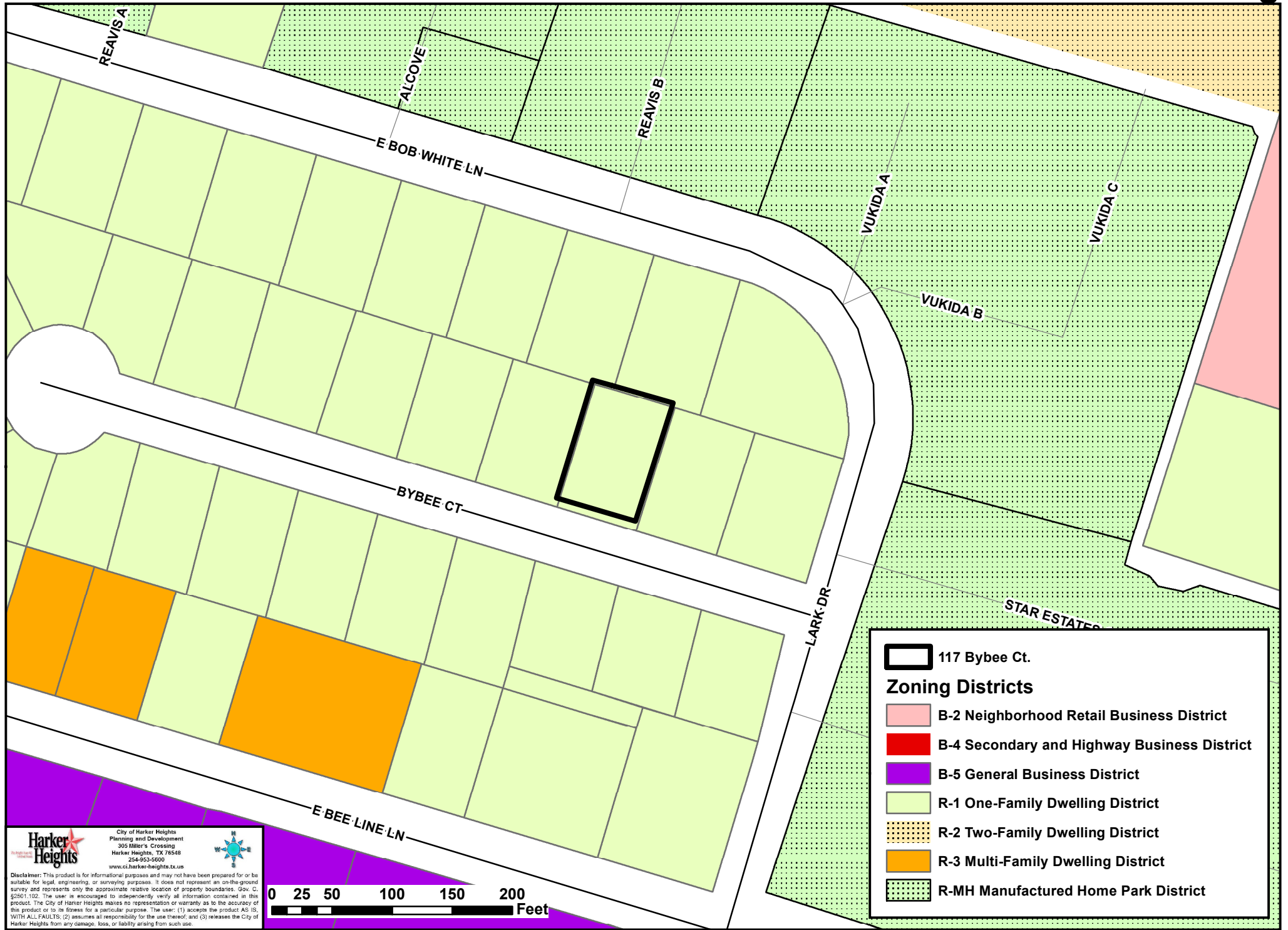


Harker Heights
City of Harker Heights
Planning and Development
305 Miller's Crossing
Harker Heights, TX 76748
254-953-5600
www.ci.harkerheights.tx.us

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2601.102. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.



 117 Bybee Ct.



117 Bybee Ct.

Zoning Districts

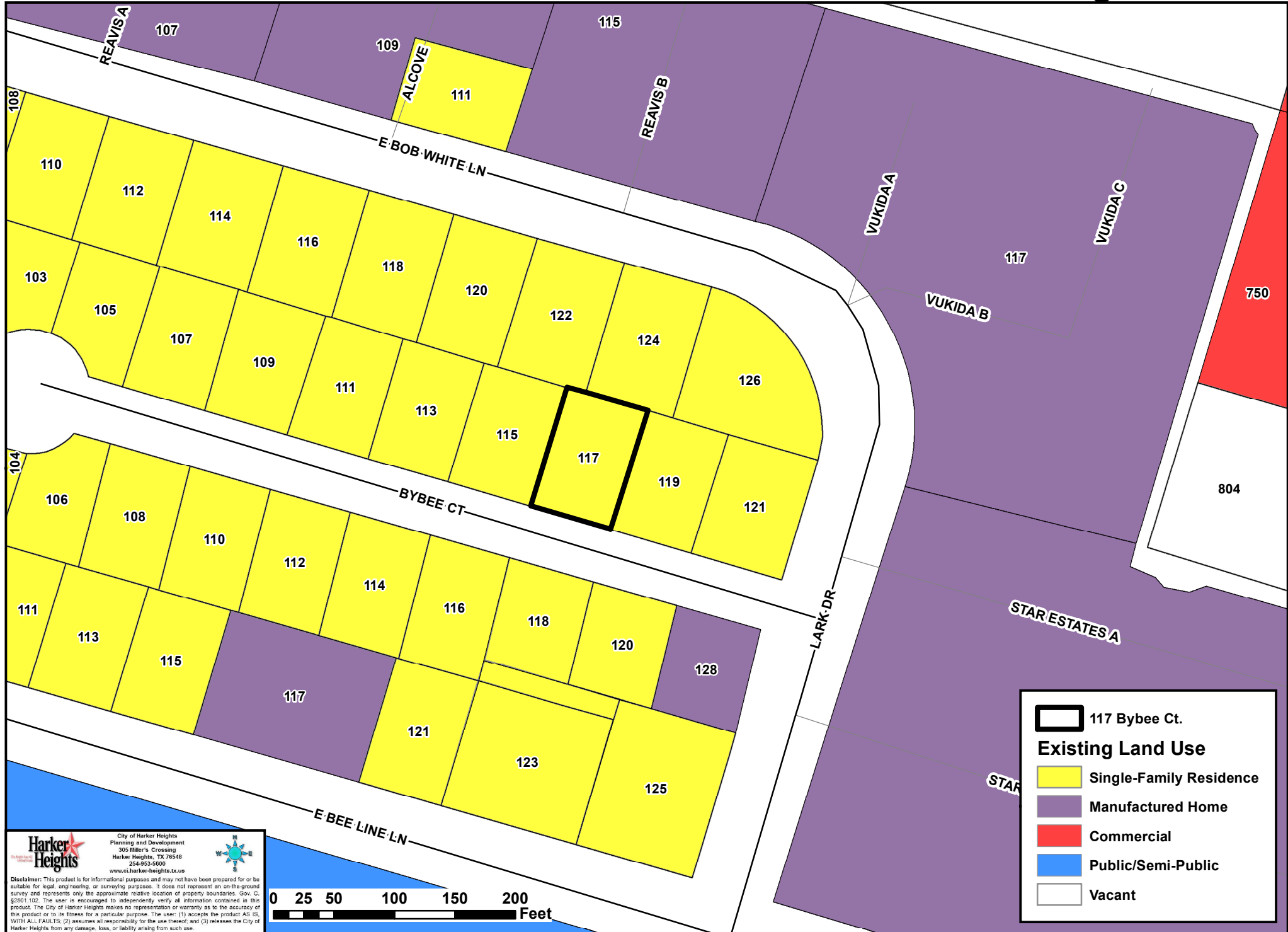
- B-2 Neighborhood Retail Business District
- B-4 Secondary and Highway Business District
- B-5 General Business District
- R-1 One-Family Dwelling District
- R-2 Two-Family Dwelling District
- R-3 Multi-Family Dwelling District
- R-MH Manufactured Home Park District


Harker Heights

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0 25 50 100 150 200 Feet



 117 Bybee Ct.

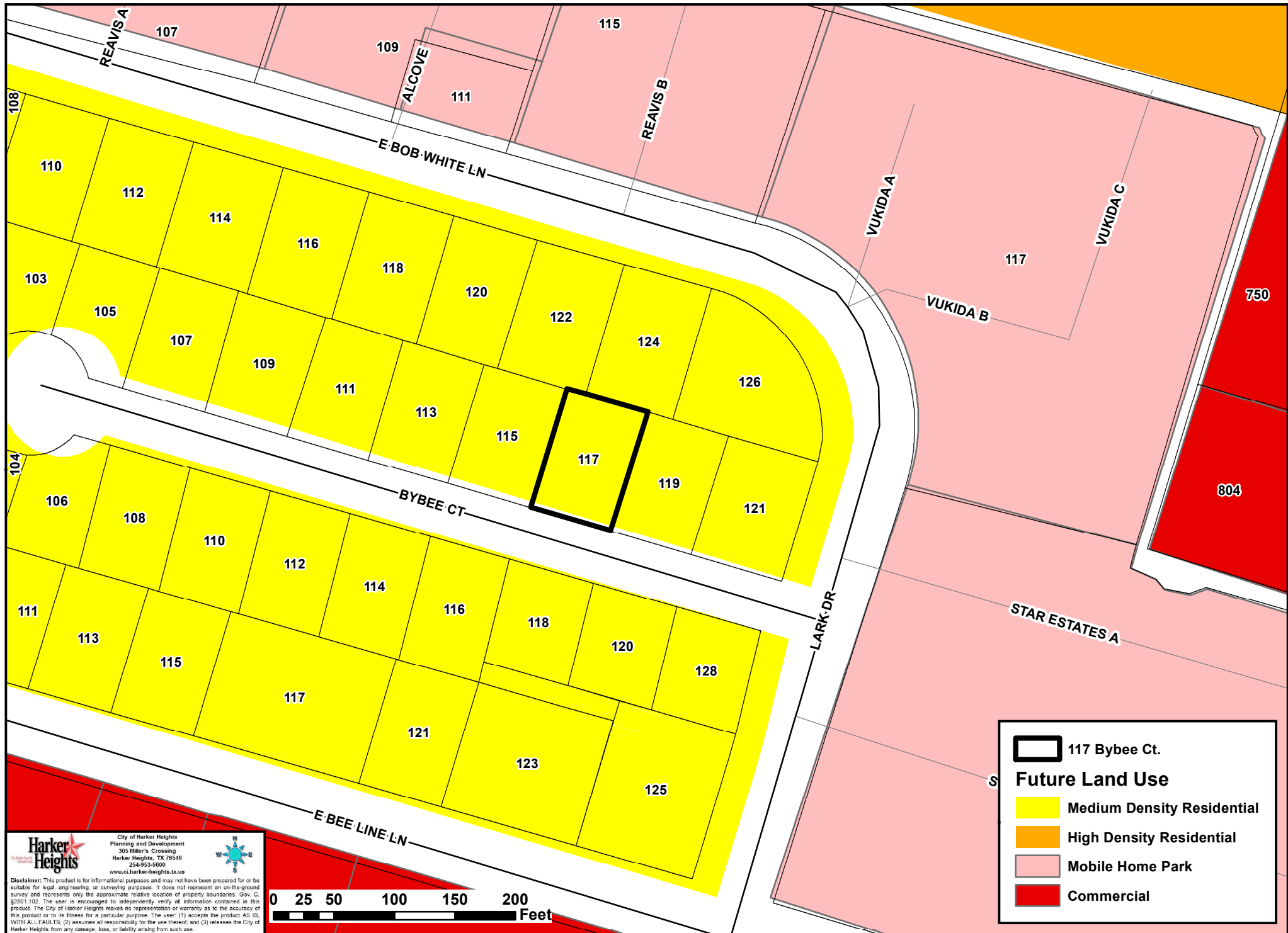
Existing Land Use






-  Single-Family Residence
-  Manufactured Home
-  Commercial
-  Public/Semi-Public
-  Vacant

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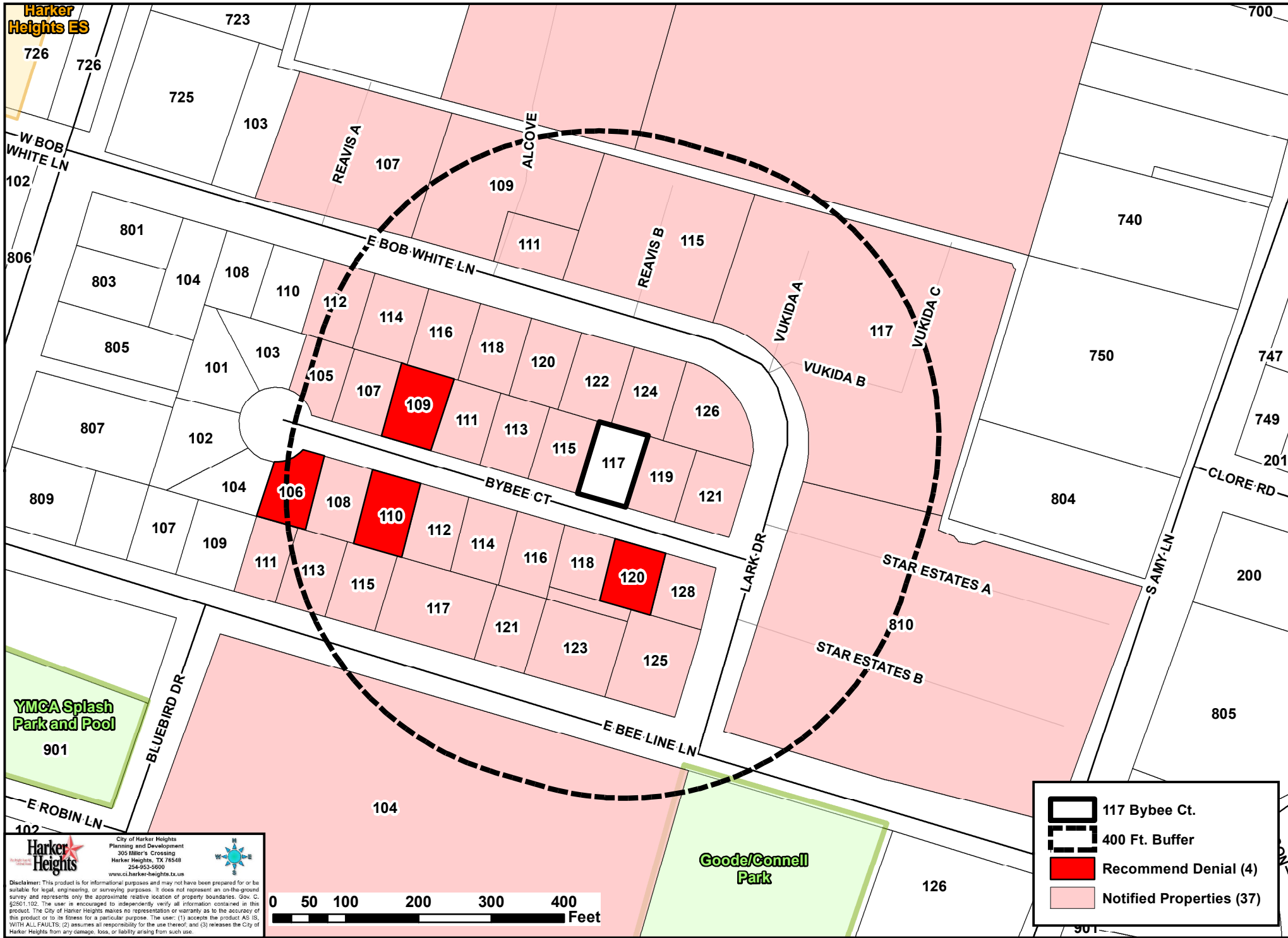


	117 Bybee Ct.
	Medium Density Residential
	High Density Residential
	Mobile Home Park
	Commercial

Harker Heights
City of Harker Heights
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	117 Bybee Ct.
	400 Ft. Buffer
	Recommend Denial (4)
	Notified Properties (37)

Harker Heights
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Harker Heights, TX 76548
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TO: **City of Harker Heights
Planning & Development Department**

FROM: 103 BYBEE CT
HARKER HTS, TX 76548
(Address of Your Property that Could
Be **Impacted** by this Request)

RE: An application has been made to consider a rezoning from R-1 (One-Family Dwelling District) to R-1(M) (One Family Manufactured Home Dwelling District) on property described as Meadow Acres Retreat Addition AKA Retreat Addition, Lot Thirteen (13), Acres 0.16, generally located at 117 Bybee Ct, Harker Heights, Bell County, Texas (see attached notification map).

- I RECOMMEND APPROVAL OF THE REQUEST
- I RECOMMEND DENIAL OF THE REQUEST

Comments:
WILL BRING DOWN PROPERTY
VALUE FOR AREA.

CHARLESA CLINE
Printed Name

[Signature]
Signature

03/25/2021
Date

For additional information and/or clarification please contact the Planning & Development Department at (254) 953-5648.

TO: City of Harker Heights
Planning & Development Department

FROM: Robert + Debra Koehn
109 Bybee Ct. H.H. TX. 76548
(Address of Your Property that Could
Be **Impacted** by this Request)

RE: An application has been made to consider a rezoning from R-1 (One-Family Dwelling District) to R-1(M) (One Family Manufactured Home Dwelling District) on property described as Meadow Acres Retreat Addition AKA Retreat Addition, Lot Thirteen (13), Acres 0.16, generally located at 117 Bybee Ct, Harker Heights, Bell County, Texas (see attached notification map).

- I RECOMMEND APPROVAL OF THE REQUEST
 I RECOMMEND DENIAL OF THE REQUEST

Comments:
approval will decrease my property
value

ROBERT KOEHN
Printed Name

Robert Koehn
Signature

3.29.21
Date

Received

APR 01 2021

Planning & Development

For additional information and/or clarification please contact the Planning & Development Department at (254) 953-5648.

TO: City of Harker Heights
Planning & Development Department

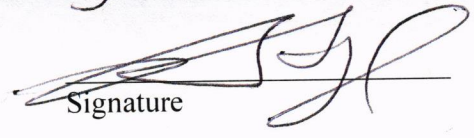
FROM: 120 Bybee Ct, H.H.
Roger Segal - R+B Segal LLC
(Address of Your Property that Could Be **Impacted** by this Request)

RE: An application has been made to consider a rezoning from R-1 (One-Family Dwelling District) to R-1(M) (One Family Manufactured Home Dwelling District) on property described as Meadow Acres Retreat Addition AKA Retreat Addition, Lot Thirteen (13), Acres 0.16, generally located at 117 Bybee Ct, Harker Heights, Bell County, Texas (see attached notification map).

- I RECOMMEND APPROVAL OF THE REQUEST
- I RECOMMEND DENIAL OF THE REQUEST

Comments: Definitely Not!!
Will devalue the entire block,
will also hurt the potential
INDIVIDUAL SALE of all houses
on that block
enough trailers nearby!!!

Roger Segal
Printed Name


Signature

March 19, 2021
Date

Received
MAR 22 2021

Planning & Development
For additional information and/or clarification please contact the Planning & Development Department at (254) 953-5648.

TO: City of Harker Heights
Planning & Development Department

FROM: Don Wright
104, 108, 110, 111, 112, & 115 Bybee
(Address of Your Property that Could
Be **Impacted** by this Request)

RE: An application has been made to consider a rezoning from R-1 (One-Family Dwelling District) to R-1(M) (One Family Manufactured Home Dwelling District) on property described as Meadow Acres Retreat Addition AKA Retreat Addition, Lot Thirteen (13), Acres 0.16, generally located at 117 Bybee Ct, Harker Heights, Bell County, Texas (see attached notification map).

I RECOMMEND APPROVAL OF THE REQUEST

I RECOMMEND DENIAL OF THE REQUEST

I am **strongly opposed** to rezoning this property for mobile home use. Allowing a mobile home in the middle of stick-built homes will decrease the value of the homes in the neighborhood. I have an ownership interest in the following six properties on Bybee Ct:

- 104 Bybee – Owned by Codra Residential, Ltd.
- 108 Bybee – 1st Lien Note- Codra Residential, Ltd.
- 110 Bybee – Owned by JMCK Properties
- 111 Bybee – 1st Lien Note owned by JMCK
- 112 Bybee - 1st Lien Note owned by Codra Residential
- 115 Bybee – 1st Lien Note owned by JMCK Properties

Don Wright
Printed Name:

3/23/21
Date

[Signature]
Signature **Received**

MAR 25 2021

Planning & Development

For additional information and/or clarification please contact the Planning & Development Department at (254) 953-5648.



CITY COUNCIL MEMORANDUM

Z21-10

AGENDA ITEM VII-4

FROM: THE OFFICE OF THE CITY MANAGER

DATE: APRIL 13, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, TO CHANGE THE ZONING DESIGNATION FROM R-1 (ONE-FAMILY DWELLING DISTRICT) TO R-2 (TWO-FAMILY DWELLING DISTRICT) ON PROPERTY DESCRIBED AS WILDEWOOD ACRES, BLOCK SEVEN (7), LOT NINE (9), & 10 FOOT STRIP ADJACENT ON NORTH, ACRES 0.17, GENERALLY LOCATED AT 917 MAPLEWOOD DRIVE, HARKER HEIGHTS, BELL COUNTY, TEXAS, AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

The applicant is requesting a change from the current zoning of R-1 (One-Family Dwelling District) to R-2 (Two Family Dwelling District) on property addressed as 917 Maplewood Drive. The vacant property consists of approximately 7,800 square feet and the request will enable the applicant to construct a duplex on the property. The subject property was platted to its current configuration in 1972 and therefore is permitted the specified setback and area requirements as outlined in the R-2 zoning district.

§155.023 (D) *Area regulations.* Lots in the Wildewood Subdivision, and duplex lots platted prior to November 8, 2006, shall have **six-foot-minimum side setbacks**, except when siding on a street such setback shall be a minimum of 15 feet. All other duplex lots shall have a minimum of ten-foot-wide side building setbacks, except when siding on a street such setback shall be a minimum of 15 feet.

§155.023 (E) *Intensity of Use (2)* **The minimum lot area shall be 7,800 square feet for lots in the Wildewood Subdivision and duplex lots platted prior to November 8, 2006.** All other duplex lots shall contain a minimum lot area of 8,400 square feet, and an average width of not less than 70 feet.

Surrounding Land Uses

Adjacent land uses include:

	Existing Land Use	Future Land Use	Zoning
North	Manufactured Home	Medium Density Residential	R-1 (One Family Dwelling District)
South	Duplex	Medium Density Residential	R-2 (Two Family Dwelling District)
East	Manufactured Home	Medium Density Residential	R-1
West	Duplex	Medium Density Residential	R-2

Per the 2007 Comprehensive Plan the applicant's property is in an area designated as Medium Density Residential (MDR). This area is designated as an acceptable replacement for aging manufactured housing or for new development. A survey of the area identified most of the properties to consist of duplexes, manufactured homes, or vacant lots. The proposed rezoning is consistent with the current uses in the neighborhood and the 2007 City of Harker Heights Comprehensive Plan.

Flood Damage Prevention:

No portion of this property lies within the 100 year or 500-year flood hazard areas.

Notices:

Staff sent out forty-three (43) notices to property owners within the 400-foot notification area. There were zero (0) responses received in favor of the request, and zero (0) responses received in opposition of the request.

RECOMMENDATION:

Staff recommended approval to the Planning and Zoning Commission of the request to change the zoning designation from R-1 (One-Family Dwelling District) to R-2 (Two-Family Dwelling District) on property described as Wildewood Acres, Block Seven (7), Lot Nine (9), & 10 foot strip adjacent on North, Acres 0.17, generally located at 917 Maplewood Drive, Harker Heights, Bell County, Texas, based on the following:

1. The proposed use and rezoning are compatible with existing uses in the neighborhood.
2. The proposed use and rezoning would not likely have any adverse impact on adjoining uses and zoning districts.

ACTION TAKEN BY THE PLANNING AND ZONING COMMISSION:

Following a public hearing held on March 31, 2021, the Planning and Zoning Commission voted (6-3) to recommend approval on the request to change the zoning designation from R-1 (One-Family Dwelling District) to R-2 (Two-Family Dwelling District) on property described as Wildewood Acres, Block Seven (7), Lot Nine (9), & 10 foot strip adjacent on North, Acres 0.17, generally located at 917 Maplewood Drive, Harker Heights, Bell County, Texas.

ACTION BY THE CITY COUNCIL:

1. Motion to APPROVE/DISAPPROVE an Ordinance to change the zoning designation from R-1 (One-Family Dwelling District) to R-2 (Two-Family Dwelling District) on property described as Wildewood Acres, Block Seven (7), Lot Nine (9), & 10 foot strip adjacent on North, Acres 0.17, generally located at 917 Maplewood Drive, Harker Heights, Bell County, Texas.
2. Any other action deemed necessary.

ATTACHMENTS:

1. Ordinance
2. Application
3. R-2 Adopted Code
4. Location Map
5. Zoning Map
6. Existing Land Use Map
7. Future Land Use Map
8. Notification Area Map

AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, GRANTING R-2 ZONING ON PROPERTY LOCATED 917 MAPLEWOOD DRIVE, HARKER HEIGHTS, BELL COUNTY, TEXAS.

WHEREAS, the City Council (“*Council*”) of the City of Harker Heights (“*City*”) finds that after due notice and public hearings as required by law, and after consideration of the recommendation of the Planning and Zoning Commission, it is necessary and desirable to amend the Code of Harker Heights (“*Code*”) as hereinafter provided; and

WHEREAS, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS:

SECTION 1: The Council officially finds and declares that the facts and recitations set forth in the preamble to this Ordinance are true and correct.

SECTION 2: The hereinafter-described property, as previously zoned R-1 (One-Family Dwelling District) is rezoned to R-2 (Two Family Dwelling District):

Wildewood Acres, Block Seven (7), Lot Nine (9), & 10 foot strip adjacent on North, Acres 0.17, generally located at 917 Maplewood Drive, Harker Heights, Bell County, Texas

SECTION 3: Table VII, Table of Special Ordinances, of the Code is hereby supplemented by adding the following entry:

<u>Ord. No.</u>	<u>Date Passed</u>	<u>Description</u>
	04/13/21	Granting R-2 zoning on property located at 917 Maplewood Drive, Harker Heights, Bell County, Texas.

SECTION 4: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 5: This Ordinance shall be effective from and after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

PASSED AND APPROVED on April 13, 2021

Spencer H. Smith, Mayor

ATTEST:

Juliette Helsham, City Secretary



Rezoning Request Application

Requirements - MUST BE COMPLETE OR WILL NOT BE ACCEPTED

This application must be completed and returned to the Planning and Development Department of the City of Harker Heights, Texas along with the following:

1. Pre-Application Meeting Scheduled
2. Payment of \$200.00 to the City of Harker Heights

City of Harker Heights
 Planning & Development
 305 Millers Crossing
 Harker Heights, TX 76548
 Phone: (254) 953-5647

Property Owner(s) Name: Raymond Hamden Date: 3-3-2021

Address: PO Box 2008

City/State/Zip: Harker Heights, TX 76548

Phone: [REDACTED] E-mail: [REDACTED]

Legal Description of Property:

Location of Property (Address if available): 917 Maplewood Dr., 76548

Lot: 09 Block: 07 Subdivision: Wildewood Acres

Acres: .179 Property ID: 129918 Survey: Wildewood Acres

For properties not in a recorded subdivision please submit a copy of a current survey showing the property's proposed to be changed, and/or legal field notes.

Proposed Use: R-2

Current Zoning Classification: R-1 Proposed Zoning: R-2

Current Land Use: ~~R-1~~ VACANT WE Proposed Land Use: R-2 Duplex WE

Applicant's Representative (if applicable):

Applicant's Representative: _____

Phone: _____ E-Mail: _____

I, being the undersigned applicant of the property herein described, hereby make application for approval of plans submitted and made a part of the application in accordance with the provisions of the City of Harker Heights Ordinances, and hereby certify that the information provided is true and correct to the best of my knowledge and belief.

I, being the undersigned applicant, understand that failure to appear to represent a request shall be deemed a request to withdraw the proposal, or _____ will represent the owner.

Raymond Hamden
 Printed Name of Property Owner

[Signature]
 Signature of Property Owner

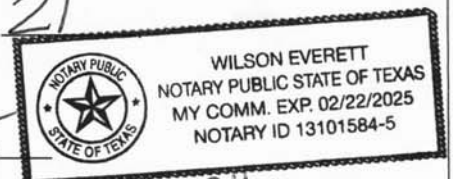
Printed Name of Representative

Signature of Representative

SWORN AND SUBSCRIBED BEFORE ME ON THIS 3 DAY OF March, 20 21

Wilson Everett
 SIGNATURE OF NOTARY PUBLIC

MY COMMISSION EXPIRES: 02/22/2025



Date Submitted: 3/31/2021

STAFF ONLY -- DO NOT FILL OUT BELOW

Received By: Wilson Everett

Pre-Application Meeting

Receipt #: 01669400

Revised: 5/2020

Case #: 221-10

§ 155.023 R-2 TWO-FAMILY DWELLING DISTRICT.

(A) *Permitted uses.*

- (1) Any use permitted by right in the R-1 District, or (subject to the location requirements for such tracts) in the R1-I Districts.
- (2) Two-family or duplex dwelling.
- (3) Industrialized duplex dwelling, provided such dwelling complies with all regulations applicable to industrialized single-family housing.

(B) *Conditional uses.* Neighborhood association facilities.

(C) *Height regulations.* No building shall exceed two and one-half stories or 35 feet in height.

(D) *Area regulations.* Lots in the Wildewood Subdivision, and duplex lots platted prior to November 8, 2006, shall have six-foot-minimum side setbacks, except when siding on a street such setback shall be a minimum of 15 feet, All other duplex lots shall have a minimum of ten-foot-wide side building setbacks, except when siding on a street such setback shall be a minimum of 15 feet.

(E) *Intensity of use.*

(1) A lot on which there is erected a single-family dwelling shall conform to the same intensity of use requirements as those in the R-1 (Single-Family Dwelling District) as noted in § 155.020(E).

(2) The minimum lot area shall be 7,800 square feet for lots in the Wildewood Subdivision and duplex lots platted prior to November 8, 2006. All other duplex lots shall contain a minimum lot area of 8,400 square feet, and an average width of not less than 70 feet.

(F) *Parking regulations.* As per §§ 155.061 through 155.068.

(G) *Additional use, height, and area regulations.* Additional use, height, and area regulations and exceptions are found in § 155.040.

(H) *Signs.* Same as in R-1 district.

(I) *Storage.* Open storage is prohibited, except for materials for the residents' use such as firewood, gardening materials, and similar materials.

(J) *Landscaping.* All yards shall have vegetative groundcover of sufficient quality and quantity, or other city-approved groundcover, to control dust, erosion and sediment upon final inspections. In addition, a minimum of two six-foot-tall trees, measuring two inches or more in caliper (diameter) when measured 12 inches from the base of the trunk, and eight three-gallon shrubs, are required in the front yard.

(K) *Architectural design.* R-2 buildings shall be designed to avoid repetitions of buildings or roof lines, and the same elevation may not be used within any five lot groupings. Primary entrances shall face the public street. Windows shall be provided with trim or recessed, rather than flush with exterior wall treatment.

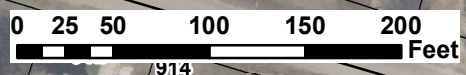
(Ord. 2001-36, passed 11-13-01; Am. Ord. 2006-40, passed 10-24-06; Am. Ord. 2012-01, passed 2-14-12; Am. Ord. 2012-04, passed 3-27-12; Am. Ord. 2016-24, passed 10-11-16)




Harker Heights
City of Harker Heights
Planning and Development
305 Miller's Crossing
Harker Heights, TX 76748
254-953-5600
www.ci.harkerheights.tx.us

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2601.102. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of this product or its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.




 917 Maplewood Dr.






 917 Maplewood Dr.

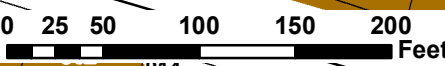
Zoning Districts

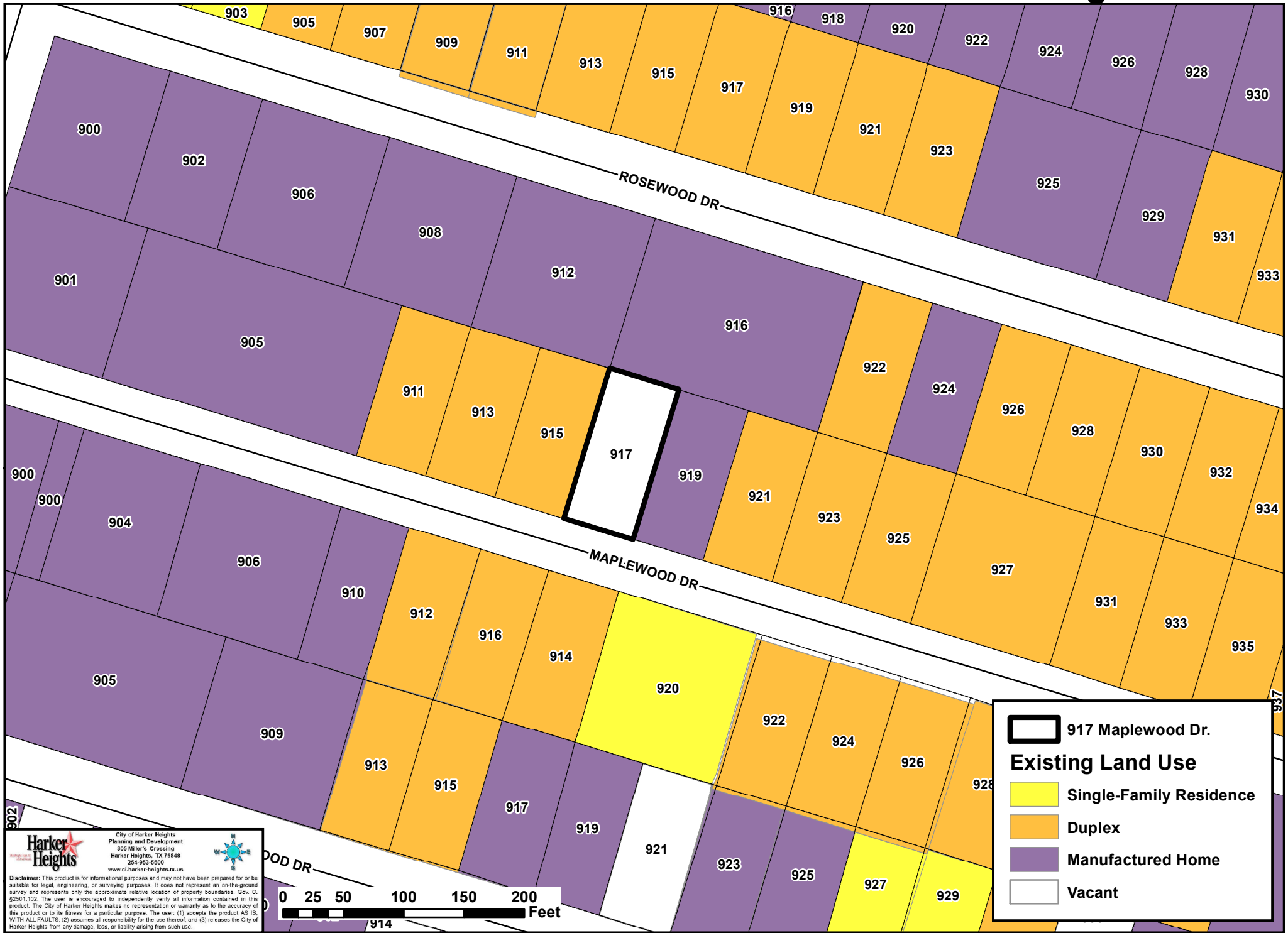
-  R-1 One-Family Dwelling District
-  R-1 (M) One-Family Manufactured Home Dwelling District
-  R-2 Two-Family Dwelling District

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917 Maplewood Dr.

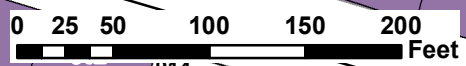
Existing Land Use

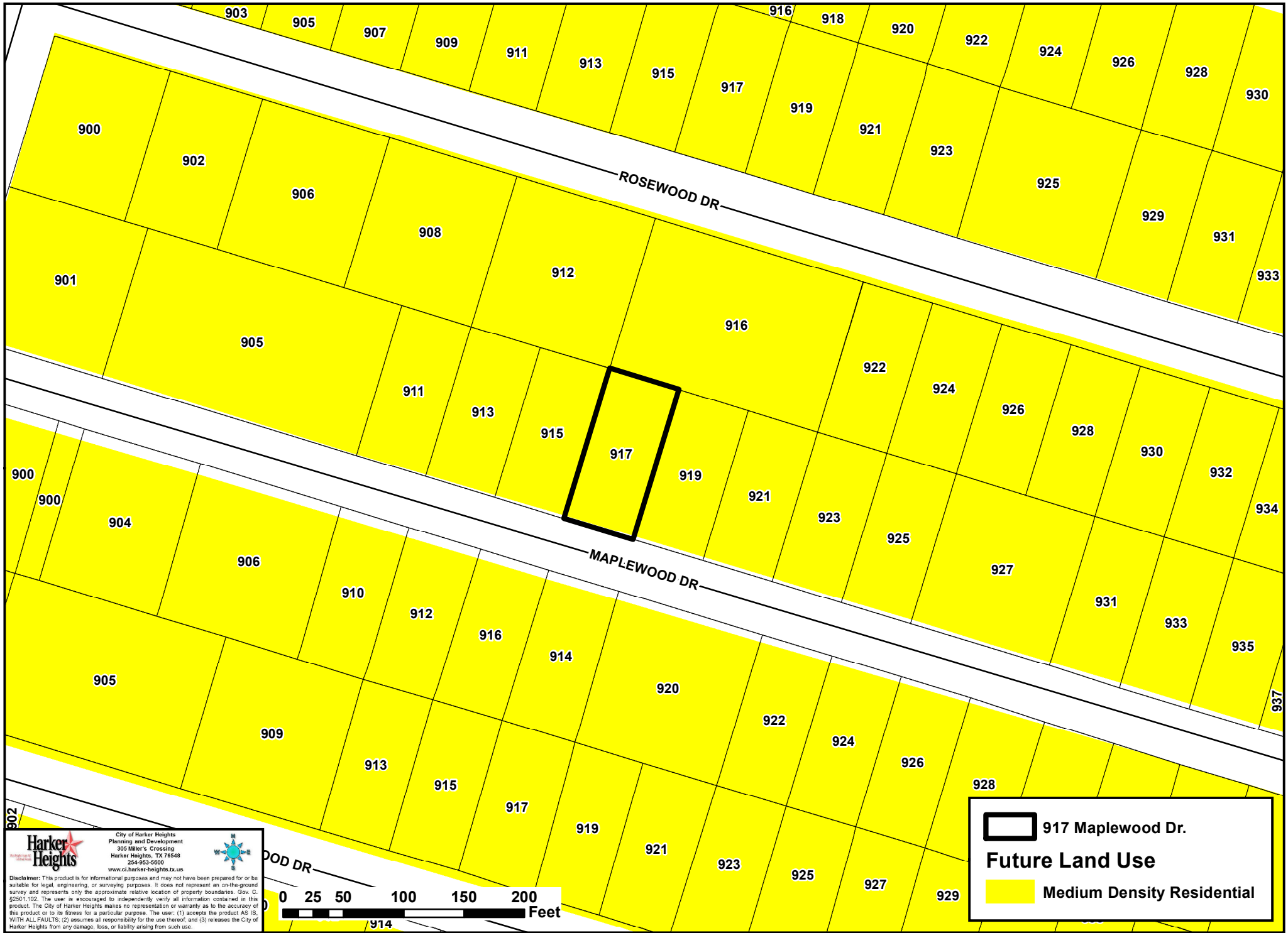
- Single-Family Residence
- Duplex
- Manufactured Home
- Vacant

Harker Heights

City of Harker Heights
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305 Miller's Crossing
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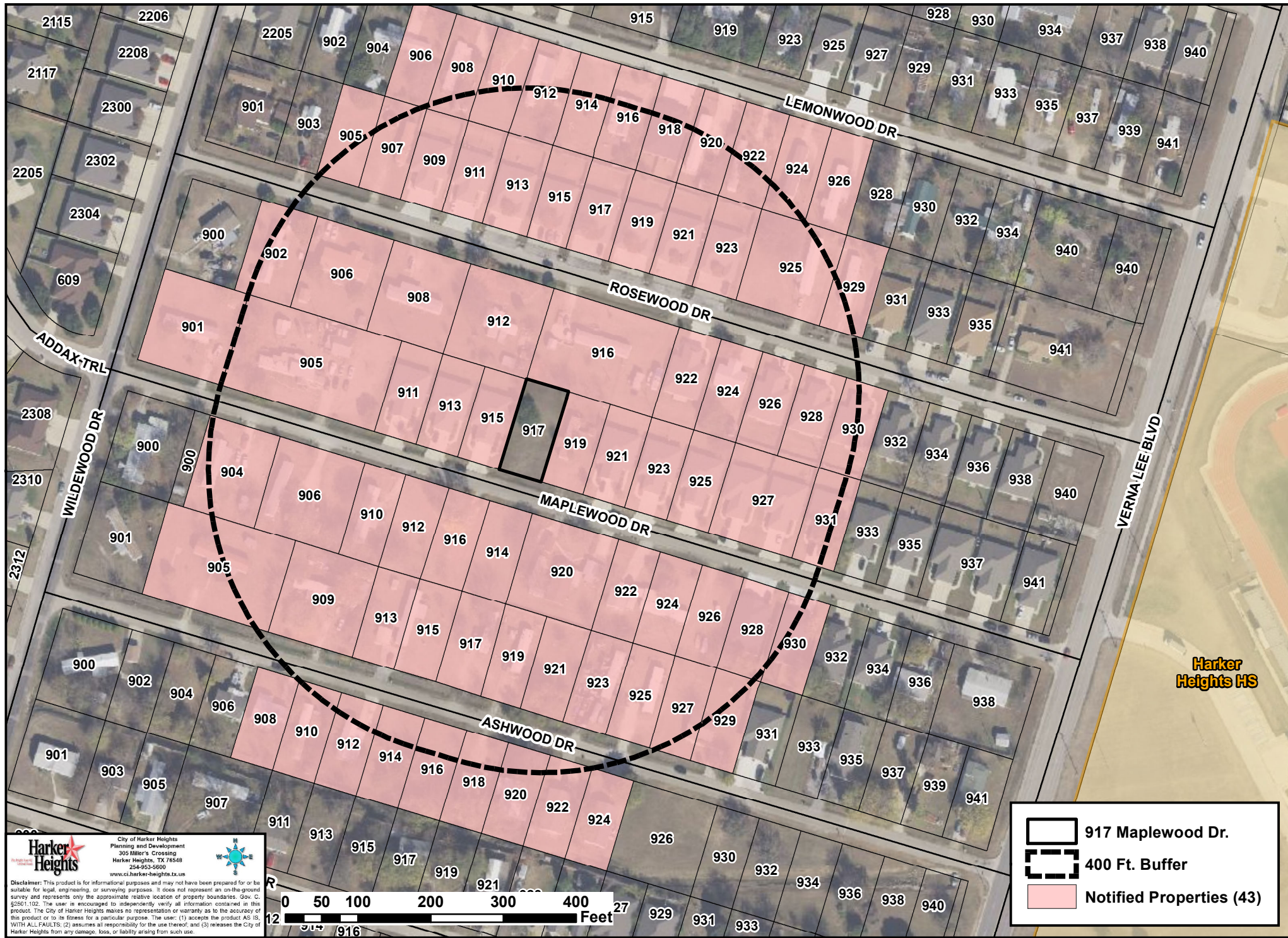




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
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 917 Maplewood Dr.
Future Land Use
 Medium Density Residential



Harker Heights
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	917 Maplewood Dr.
	400 Ft. Buffer
	Notified Properties (43)



COUNCIL MEMORANDUM

AGENDA ITEM #VII-5

FROM: THE OFFICE OF THE CITY MANAGER

DATE: APRIL 13, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, AMENDING SECTRION § 125.02 (B) OF THE HARKER HEIGHTS CODE OF ORDINANCES TO ADD DEFINITIONS WHICH WILL STANDARDIZE ENFORCEMENT WITHIN CHAPTER 125 OF THE HARKER HEIGHTS CODE OF ORDINANCES AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

While enforcing Chapter 125: Establishments Not Licensed by The Texas Alcoholic Beverage Commission (TABC) of the Harker Heights Code of Ordinances, the city staff and City Attorney identified two definitions and one revision to an existing definition that are necessary in order to provide for enforcement.

ANALYSIS

As proposed, the ordinance amendment would clarify the definitions of a BYOB Venue or Event, a Public Place, and a Restaurant. The addition of these definitions solidifies what type of business is being operated and provides for uniform enforcement of the ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of an amendment to § 125.02 (B) of the Harker Heights Code of Ordinances to add definitions which will standardize enforcement within Chapter 125 of the Harker Heights Code of Ordinances.

ACTION BY CITY COUNCIL:

1. Motion to Approve/Disapprove an amendment to § 125.02 (B) of the Harker Heights Code of Ordinances to add definitions which will standardize enforcement within Chapter 125 of the Harker Heights Code of Ordinances, based upon staff's recommendation and findings.
2. Any other action desired.

ATTACHMENTS:

1. Amending Ordinance
2. Current Ordinance with Annotated Changes

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, AMENDING § 125.02 (B) OF THE HARKER HEIGHTS CODE OF ORDINANCES TO ADD DEFINITIONS WHICH WILL STANDARDIZE ENFORCEMENT WITHIN CHAPTER 125 OF THE HARKER HEIGHTS CODE OF ORDINANCES.

WHEREAS, the City Council (“*Council*”) of the City of Harker Heights (“*City*”) finds that it is necessary and desirable to amend the Code of Harker Heights (“*Code*”) as hereinafter provided in order to add definitions within § 125.02 (B); and

WHEREAS, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS:

SECTION 1: The City Council officially finds and declares that the facts and recitations set forth in the preamble to this ordinance are true and correct.

SECTION 2: Section 125.02 (B) of the Code of Harker Heights is hereby amended to read as follows:

(B) In this chapter:

...

BYOB VENUE OR EVENT. An establishment to which this chapter applies, as prescribed by § 125.03.

...

PUBLIC PLACE. Any place accessible by the public, a business or public facility, a way or place, of whatever nature, opened to the use of the public as a matter of right, or for purposes of vehicular travel a street, or in the case of a sidewalk thereof, for pedestrian travel.

RESTAURANT. An establishment engaged in the preparation and retail sale of food, and beverages for on-premise consumption or in a ready-to-consume state. To qualify as a restaurant under this Chapter, the establishment must produce at least 80% of its total revenue, exclusive of tips and gratuities, from the provision of food service.

SECTION 3: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

SECTION 4: All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any city official or employee charged with the enforcement of this ordinance, acting for the City of Harker Heights in the discharge of official duties, shall not thereby become

personally liable, and is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of said duties.

SECTION 5: This ordinance shall be effective from and after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

PASSED AND APPROVED by the City Council of the City of Harker Heights on Tuesday, February 24, 2021.

Spencer H. Smith, Mayor

ATTEST:

Juliette Helsham, City Secretary

CHAPTER 125: ESTABLISHMENTS NOT LICENSED BY THE TEXAS ALCOHOLIC BEVERAGE COMMISSION

Section

General Provisions

- 125.01 Short title and purpose
- 125.02 Definitions
- 125.03 Applicability
- 125.04 Notice
- 125.05 Administrative rules

Permits

- 125.15 Permit required
- 125.16 Qualifications
- 125.17 Permit application
- 125.18 Permit approval or denial
- 125.19 Permit not transferable
- 125.20 Permit not a right
- 125.21 Permit expiration; renewal
- 125.22 Requirement to supplement information
- 125.23 Permit suspension
- 125.24 Permit revocation
- 125.25 Appeal

Regulations for Operation of a BYOB Establishment

- 125.35 Public place
- 125.36 Permit posting required
- 125.37 Manager required on premises
- 125.38 Security plan implementation
- 125.39 Minimum age for admittance and alcohol consumption
- 125.40 Doors to remain unlocked
- 125.41 Consent to inspection; immediate access required
- 125.42 Hours of operation
- 125.43 Alcoholic beverage consumption areas
- 125.44 Parking area restrictions
- 125.45 Sale of alcoholic beverages prohibited
- 125.46 Restriction on consumption and purchase of alcohol by permit holder and employees
- 125.47 Insurance requirement
- 125.48 Compliance with other laws
- 125.49 Crime prevention and reporting

Enforcement

- 125.60 Criminal penalty
- 125.61 Civil remedies

- 125.62 Cumulative remedies
- 125.63 Authority of City Attorney

GENERAL PROVISIONS

§ 125.01 SHORT TITLE AND PURPOSE.

(A) This chapter may be known and cited as "BYOB Businesses Regulation."

(B) The purpose of this chapter is to protect the welfare of the citizens of the City of Harker Heights by monitoring and regulating BYOB businesses. To this end, this chapter establishes a permit program for BYOB businesses, imposes regulations of business operations of BYOB businesses, and imposes civil and criminal penalties for violations of this chapter by BYOB businesses.

(Ord. 2020-10, passed 4-14-20)

§ 125.02 DEFINITIONS.

(A) It is a common practice for an establishment not licensed or permitted by the Texas Alcoholic Beverage Commission to sell or serve alcoholic beverages to allow its patrons to bring their own alcoholic beverages onto the premises for consumption. This practice is often referred to as "BYOB," an acronym for "bring your own bottle."

(B) In this chapter:

ALCOHOLIC BEVERAGE. Has the meaning assigned by the Texas Alcoholic Beverage Code.

BYOB PERMIT. A permit, issued pursuant to this chapter, to operate a BYOB venue.

BYOB VENUE OR EVENT. An establishment to which this chapter applies, as prescribed by § 125.03.

DEPARTMENT. The Planning and Development Department of the City of Harker Heights.

DIRECTOR. The Director of the Planning and Development Department.

PREMISES. The grounds and all buildings, vehicles, and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person.

PUBLIC PLACE. Any place accessible by the public, a business or public facility, a way or place, of whatever nature, opened to the use of the public as a matter of right, or for purposes of vehicular travel a street, or in the case of a sidewalk thereof, for pedestrian travel.

RESTAURANT. An establishment engaged in the preparation and retail sale of food, and beverages for on-premise consumption or in a ready-to-consume state. To qualify as a restaurant under this Chapter, the establishment must produce at least 80% of its total revenue, exclusive of tips and gratuities, from the provision of food service.

(Ord. 2020-10, passed 4-14-20)

§ 125.03 APPLICABILITY.

(A) Except as provided in division (B), this chapter applies to an establishment that:

(1) Is not licensed or permitted by the Texas Alcoholic Beverage Commission to sell or serve alcoholic beverages; and

(2) Allows patrons to bring alcoholic beverages onto the premises for possession and consumption.

(B) This chapter does not apply to:

(1) A residence;

(2) An establishment operated by a governmental entity;

(3) A private club, as defined by the Texas Alcoholic Beverage Code;

(4) A fraternal or veteran's organization, as defined by the Texas Alcoholic Beverage Code;

(5) A college and university use;

(6) A religious assembly use;

(7) A restaurant; or

(8) A theater use.

(Ord. 2020-10, passed 4-14-20)

§ 125.04 NOTICE.

(A) Mailed notice is presumed received on the fifth day after it is mailed.

(B) Notice to a permit holder may be delivered to the manager at the BYOB venue and is effective on delivery.

(Ord. 2020-10, passed 4-14-20)

§ 125.05 ADMINISTRATIVE RULES.

The Director shall adopt administrative rules to implement, administer, and enforce this chapter.

(Ord. 2020-10, passed 4-14-20)

PERMITS

§ 125.15 PERMIT REQUIRED.

(A) A person shall obtain a BYOB permit issued by the Department before the person may operate a BYOB venue.

(B) A person must obtain a separate BYOB permit for each BYOB venue location.

(Ord. 2020-10, passed 4-14-20)

§ 125.16 QUALIFICATIONS.

(A) A person may not apply for or hold a permit under this chapter unless the person is at least 18 years of age.

(B) A person may not hold a BYOB permit under this chapter or manage a BYOB venue if the person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities for operating a BYOB venue, and the conviction makes the person unfit to hold a permit or manage a BYOB venue.

(Ord. 2020-10, passed 4-14-20)

§ 125.17 PERMIT APPLICATION.

(A) A person who seeks a permit to operate a BYOB venue must submit an application to the Director on a form provided by the Director. The application must include:

(1) The names, addresses, and birth dates of all persons who have an ownership interest in, or who will manage, the proposed BYOB venue;

(2) Authorization for the city to conduct a criminal background check on each person described in division (A)(1);

(3) The name of the BYOB venue and its physical address;

(4) A registration certificate for the establishment from the Secretary of State, if registration is required by law;

(5) Proof that the applicant has all other permits and approvals required to operate the establishment, including appropriate zoning;

(6) A security plan that meets or exceeds the minimum standards established by administrative rule, as determined by the Police Chief;

(7) Scale drawings of the site, including:

(a) All site improvements;

(b) The floor plan of each building; and

(c) A designation of the areas where the consumption of alcohol is to be allowed;

(8) Information required by administrative rule;

(9) Proof that the applicant has a commercial general liability insurance policy providing minimum premises/operations coverage of \$500,000 per occurrence and \$1,000,000 in the aggregate on an occurrence basis; and

(10) Other information reasonably required by the Director.

(B) An applicant shall pay the non-refundable permit fee established by ordinance.

(C) A BYOB permit is void if the applicant obtains the BYOB permit by knowingly providing false information on the application.

(Ord. 2020-10, passed 4-14-20)

§ 125.18 PERMIT APPROVAL OR DENIAL.

(A) The Director shall approve a BYOB permit application if the Director determines that the applicant and the proposed BYOB venue meet the requirements of § 125.16 (Qualifications) and § 125.17 (Permit Application), and are not disqualified by divisions (B) and (C) of this section.

(B) The Director shall deny a BYOB permit application if the Director determines that:

(1) The applicant is under the age of 18 years;

(2) The BYOB venue as proposed would not comply with this chapter; or

(3) The applicant had a BYOB permit required by this chapter revoked within the preceding 12-month period.

(C) The Director may deny a BYOB permit application if the Director determines if that:

- (1) The applicant provided incorrect or incomplete information on the application; or
- (2) The person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities for operating a BYOB venue, and the conviction makes the person unfit to hold a permit.

(D) If the Director does not approve or deny an application within 45 days of the date it is filed, the application is denied.

(E) The Director shall give written notice of a denial of an application to the applicant.

(F) An applicant may appeal to the Board of Adjustment a denial of a BYOB permit application in accordance with § 125.25 (Appeal).

(Ord. 2020-10, passed 4-14-20; Am. Ord. 2020-13, passed 4-28-20)

§ 125.19 PERMIT NOT TRANSFERABLE.

A BYOB permit issued under this chapter is not transferable to another person or venue.
(Ord. 2020-10, passed 4-14-20)

§ 125.20 PERMIT NOT A RIGHT.

A BYOB permit issued under this chapter is a grant of a privilege and is not a property right.
(Ord. 2020-10, passed 4-14-20)

§ 125.21 PERMIT EXPIRATION; RENEWAL.

A BYOB permit issued under this chapter expires one year after the date it is issued. A BYOB permit holder shall file an application for BYOB permit renewal not sooner than the ninetieth day and not later than the forty-fifth day before the BYOB permit expires. An application that is not filed within the described time period is a new application.
(Ord. 2020-10, passed 4-14-20)

§ 125.22 REQUIREMENT TO SUPPLEMENT INFORMATION.

While a BYOB permit application is pending or a BYOB permit is in effect, an applicant or permit holder shall immediately supplement the information provided to the Director in the BYOB permit application if the information is or becomes inaccurate, incomplete, or misleading.
(Ord. 2020-10, passed 4-14-20)

§ 125.23 PERMIT SUSPENSION.

(A) The Director may suspend a BYOB permit issued under this chapter without prior notice or hearing if the Director determines that:

- (1) The BYOB permit holder, the manager, or an employee of the BYOB venue has violated a requirement of this chapter;

- (2) The BYOB venue does not comply with this chapter; or
 - (3) The BYOB permit holder does not qualify for a permit under this chapter.
- (B) If the Director suspends a BYOB permit:
- (1) The Director shall give written notice to the BYOB permit holder that:
 - (a) The BYOB permit is immediately suspended on receipt of the notice; and
 - (b) The BYOB permit holder may file a written request for a hearing not later than the tenth day after the date of receipt of notice of suspension; and
 - (2) The BYOB permit holder shall immediately close the BYOB venue.
 - (3) Any BYOB permit which has been suspended under this chapter shall be surrendered upon demand to the Director. At the end of the period of suspension, in the absence of further violations, the surrendered BYOB permit shall be returned to the BYOB permit holder and shall be valid under the provisions of this code. If the period of suspension extends beyond the normal expiration date of the BYOB permit, the BYOB permit holder shall pay all BYOB permit fees without proration in order to receive a valid BYOB permit.
- (C) Suspension of a BYOB permit is effective on receipt of notice.
- (D) A BYOB permit holder may file with the Director a written request for a hearing on a BYOB permit suspension. The request must be filed not later than the tenth day after the date of receipt of notice of suspension.
- (E) If a BYOB permit holder timely files a hearing request:
- (1) The Director shall hold a hearing on the permit suspension not later than the fourteenth day after the date the hearing request is filed. At such hearing, the BYOB permit holder may present information to the Director addressing the Director's suspension of a BYOB permit and reasons, if any, that the BYOB permit holder believes the suspension is not warranted; and
 - (2) A suspension is stayed pending the outcome of the hearing.
- (F) If a hearing request is not timely filed, a suspension continues in effect.
- (G) After hearing, the Director shall give written notice to the BYOB permit holder as to whether suspension is continued in effect after a hearing under division (E).
- (H) The Director may reinstate a permit if the reason for suspension no longer exists.
- (Ord. 2020-10, passed 4-14-20)

§ 125.24 PERMIT REVOCATION.

- (A) The Director may revoke a BYOB permit issued under this chapter if the Director determines that:
- (1) The permit holder, the manager, or an employee of the BYOB venue has engaged in serious or repeated violations of this chapter;
 - (2) The BYOB venue does not comply with this chapter; or
 - (3) The permit holder does not qualify for a permit under this chapter.
- (B) Before revoking a BYOB permit, the Director shall provide the BYOB permit holder with written notice of the pending permit revocation. The written notice shall include:
- (1) The reason the BYOB permit is subject to revocation;

(2) The date on which the BYOB permit is scheduled to be revoked; and

(3) A statement that the BYOB permit will be revoked on the scheduled date unless the BYOB permit holder files a written request for a hearing with the Director not later than the tenth day after the date the notice is received.

(C) A BYOB permit revocation becomes effective on expiration of the time period prescribed by the notice if the BYOB permit holder does not file a written request for hearing with the Director not later than the tenth day after the notice is received.

(D) If a BYOB permit holder timely files a hearing request:

(1) The Director shall hold a hearing on the BYOB permit revocation not later than the fourteenth day after the date the hearing request is filed. At such hearing, the BYOB permit holder may present information to the Director addressing the Director's intent to revoke the BYOB permit and reasons, if any, that the BYOB permit holder believes the revocation is not warranted; and

(2) A revocation is stayed pending the outcome of the hearing.

(E) The Director shall give written notice to the BYOB permit holder of a decision regarding the revocation of the BYOB permit or a revocation that becomes effective under division (C).

(Ord. 2020-10, passed 4-14-20)

§ 125.25 APPEAL.

(A) An applicant or a permit holder may appeal to the Board of Adjustment a permit application denial, a permit suspension, or a permit revocation. To stay a suspension or revocation under this chapter, appeal to the Board of Adjustment must be made within ten days after the applicant/BYOB permit holder receives written notice of the decision that it is appealing.

(B) If the permit holder timely files a notice of appeal pursuant to division (A), a suspension, or revocation is stayed.

(Ord. 2020-10, passed 4-14-20)

REGULATIONS FOR OPERATION OF A BYOB ESTABLISHMENT

§ 125.35 PUBLIC PLACE.

A BYOB venue is a public place.

(Ord. 2020-10, passed 4-14-20)

§ 125.36 PERMIT POSTING REQUIRED.

A BYOB permit holder shall post the BYOB permit required by this chapter in a prominent public location at the BYOB venue.

(Ord. 2020-10, passed 4-14-20)

§ 125.37 MANAGER REQUIRED ON PREMISES.

A BYOB permit holder shall ensure that a qualified manager is continuously on the BYOB venue premises during the hours of operation. A BYOB permit holder may serve as the manager.

(Ord. 2020-10, passed 4-14-20)

§ 125.38 SECURITY PLAN IMPLEMENTATION.

(A) A person may not operate a BYOB venue without an approved security plan.

(B) A BYOB permit holder and a BYOB venue manager shall provide security for the BYOB venue in accordance with the security plan.

(Ord. 2020-10, passed 4-14-20)

§ 125.39 MINIMUM AGE FOR ADMITTANCE AND ALCOHOL CONSUMPTION.

(A) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow a person under the age of 18 years on the premises.

(B) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow a person under the age of 21 years to consume alcohol on the premises.

(Ord. 2020-10, passed 4-14-20)

§ 125.40 DOORS TO REMAIN UNLOCKED.

During the hours of operation, a person may not lock or obstruct:

(A) An exterior entrance door that is designated or available for use by patrons; or

(B) An interior door that provides access to a portion of the premises that is designated or available for use by patrons.

(Ord. 2020-10, passed 4-14-20)

§ 125.41 CONSENT TO INSPECTION; IMMEDIATE ACCESS REQUIRED.

(A) By accepting a BYOB permit under this chapter, the permit holder consents that the Director, the Director's representative, law enforcement personnel, code enforcement personnel, and other on-duty governmental personnel may enter the premises during the hours of operation to conduct an investigation or inspect the premises to determine compliance with this chapter.

(B) A BYOB permit holder, a manager, and an employee of a BYOB venue shall provide the Director, the Director's representative, law enforcement personnel, code enforcement personnel, and other on-duty governmental personnel with immediate access to all portions of the premises.

(Ord. 2020-10, passed 4-14-20)

§ 125.42 HOURS OF OPERATION.

(A) A BYOB permit holder, a manager, or an employee of a BYOB venue shall close a BYOB venue between 2:00 a.m. and 7:00 a.m. each day except Sunday, and between 2:00 a.m. and noon on Sunday. A patron who is on the premises at 2:00 a.m. may remain until not later than 2:15 a.m.

(B) A person may not consume an alcoholic beverage on the premises of a BYOB venue between 2:15 a.m. and 7:00 a.m. each day except Sunday, or between 2:15 a.m. and noon on Sunday.

(C) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow a member of the public on its premises, including a parking area, between 2:30 a.m. and 7:00 a.m. each day except Sunday, or between 2:30 a.m. and noon on Sunday. This prohibition does not apply to a person who is providing a product or service directly to the BYOB venue.

(Ord. 2020-10, passed 4-14-20)

§ 125.43 ALCOHOLIC BEVERAGE CONSUMPTION AREAS.

(A) A permit holder shall designate, subject to the approval of the Director, the portions of the premises on which the consumption of alcoholic beverages is permitted. A designated area:

- (1) Must be located and designed to minimize adverse effects on adjacent property;
- (2) May include the interior of a building or a deck, patio, or garden; and
- (3) Must exclude parking areas.

(B) A person may not consume, and a permit holder, a manager, or an employee of a BYOB venue may not allow the consumption of an alcoholic beverage outside of a designated area.

(C) The BYOB permit holder shall indicate the portions of the premises on which the consumption of alcoholic beverages is permitted on the floor plan provided with the BYOB permit application. If the BYOB permit holder desires to change or modify the area where alcoholic beverages may be consumed, it must first provide a revised floor plan to the Director.

(Ord. 2020-10, passed 4-14-20)

§ 125.44 PARKING AREA RESTRICTIONS.

(A) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow persons to congregate in a parking area.

(B) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow a person to consume an alcoholic beverage in a parking area.

(C) A BYOB permit holder shall post signs in each parking area stating that the consumption of an alcoholic beverage is prohibited.

(Ord. 2020-10, passed 4-14-20)

§ 125.45 SALE OF ALCOHOLIC BEVERAGES PROHIBITED.

A person may not sell an alcoholic beverage at a BYOB venue.

(Ord. 2020-10, passed 4-14-20)

§ 125.46 RESTRICTION ON CONSUMPTION AND PURCHASE OF ALCOHOL BY PERMIT HOLDER AND EMPLOYEES.

A BYOB permit holder, manager, or employee of a BYOB venue may not:

- (A) Consume an alcoholic beverage while on duty;
- (B) Purchase or otherwise acquire an alcoholic beverage for a patron; or
- (C) Give an alcoholic beverage to a patron.

(Ord. 2020-10, passed 4-14-20)

§ 125.47 INSURANCE REQUIREMENT.

A BYOB permit holder, a manager, or owner shall maintain a commercial general liability insurance policy providing minimum premises/operations coverage of \$500,000 per occurrence and \$1,000,000 in the aggregate on an occurrence basis. The policy must be provided by an insurer licensed by the Texas Department of Insurance, and must be endorsed to name as additional insured, the city. Prior to opening for business, the BYOB permit holder, manager, or owner shall deliver a certificate of insurance and copies of all endorsements for additional insured to the Director, and thereafter at least ten days prior to the expiration of such policies. The permit holder, manager, or owner shall prominently display a sign at the facility stating that the owner or operator has purchased liability insurance to cover activities at the facility.

(Ord. 2020-10, passed 4-14-20; Am. Ord. 2020-17, passed 5-12-20)

§ 125.48 COMPLIANCE WITH OTHER LAWS.

A BYOB permit holder, a manager, and an employee of a BYOB venue shall comply with the Texas Alcoholic Beverage Code and all applicable criminal, zoning, health, and safety laws relating to the operation of the BYOB venue.

(Ord. 2020-10, passed 4-14-20)

§ 125.49 CRIME PREVENTION AND REPORTING.

The BYOB permit holder, the manager, and the employees of a BYOB venue shall:

- (A) Take reasonable measures to prevent criminal activity on the premises; and
- (B) Immediately report to law enforcement personnel all suspected criminal activity on the premises or the surrounding areas that they observe or of which they otherwise become aware.

(Ord. 2020-10, passed 4-14-20)

ENFORCEMENT

§ 125.60 CRIMINAL PENALTY.

(A) A person commits a Class C misdemeanor if the person:

- (1) Operates a BYOB venue without a permit required by this chapter; or
- (2) Violates a provision of this chapter, other than § 125.45 (Sale of Alcoholic Beverages Prohibited) or § 125.48 (Compliance with Other Laws).

(B) Proof of a culpable mental state is not required to prove an offense under this chapter, except for § 125.42(B) (Hours of Operation).

(C) Each day that a violation occurs or continues is a separate offense.
(Ord. 2020-10, passed 4-14-20)

§ 125.61 CIVIL REMEDIES.

(A) The City Council has determined that this chapter is necessary to protect health, life, and property and to preserve the good government, order, and security of the city and its inhabitants.

(B) A person who continues to violate this chapter after being notified of the offense in writing by an authorized city representative is subject to a civil penalty not to exceed \$1,000 for each day or part of a day the violation occurs.

(C) The city may file suit to enforce this chapter to collect a civil penalty.

(D) The city may seek to enjoin violations of this chapter.

(Ord. 2020-10, passed 4-14-20)

§ 125.62 CUMULATIVE REMEDIES.

The remedies authorized under this subchapter are cumulative. If the city files a civil or criminal action, it is not precluded from pursuing any other action or remedy.

(Ord. 2020-10, passed 4-14-20)

§ 125.63 AUTHORITY OF CITY ATTORNEY.

The City Attorney may, without further authorization of the City Council, undertake the enforcement of this chapter by all legal means appropriate or necessary, including but not limited to: enforcement in municipal court, filing of appropriate criminal or civil actions in courts of appropriate jurisdiction, and to defend the city from suit if suit is taken to appeal any action of the city.

(Ord. 2020-10, passed 4-14-20)



CITY COUNCIL MEMORANDUM

P21-13

AGENDA ITEM # IX-1

FROM: THE OFFICE OF THE CITY MANAGER

DATE: APRIL 13, 2021

DISCUSS AND CONSIDER APPROVING A REQUEST FOR PRELIMINARY PLAT APPROVAL FOR THE SUBDIVISION REFERRED TO AS ABOOHA TOKLO PHASE THREE, ON PROPERTY DESCRIBED AS A 13.740 ACRE TRACT OF LAND IN BELL COUNTY, TEXAS, BEING PART OF THE H.B. LITTLEFIELD SURVEY, ABSTRACT NO. 511, THE LAND HEREIN DESCRIBED BEING ALL OF LOT EIGHT (8), BLOCK ONE (1), AMENDED PLAT OF MARLEY ADDITION, AN ADDITION TO THE CITY OF HARKER HEIGHTS, TEXAS, BEING OF RECORD IN CABINET C, SLIDE 123-A, ALSO BEING THE REMAINDER OF LOT THREE (3), BLOCK ONE (1), ABOOHA TOKLO ADDITION, PHASE ONE, GENERALLY LOCATED SOUTH OF KILLEEN INDEPENDENT SCHOOL DISTRICT MIDDLE SCHOOL #14 (NOLAN MIDDLE SCHOOL), ON PROPERTIES BETWEEN PUEBLO AND WARRIORS PATH, HARKER HEIGHTS, BELL COUNTY, TEXAS, AND TAKE THE APPROPRIATE ACTION.

PROJECT DESCRIPTION:

The applicant has submitted an application for preliminary plat approval for approximately 13.74 acres of vacant land between Pueblo Trace and Warriors Path. This is the second phase of a combined development as outlined in Abooha Toklo Addition Concept Plan and Abooha Toklo Addition Section Two Concept Plan. The preliminary plat identifies two (2) blocks and a total of forty-seven (47) residential lots. The subject properties are all currently zoned as R-2 (Two Family Dwelling District) and are proposed to be developed in accordance with the existing zoning classification. The preliminary infrastructure includes water and wastewater lines, sidewalks, and the extension of Tejas Trail from Pueblo Trace to Warriors Path.

Staff has reviewed the submitted preliminary plat and engineering plans and has made comments to address safety, drainage, water and wastewater utilities and other pertinent requirements to ensure that all developmental regulations stipulated in the City of Harker Heights Code of Ordinances will be adhered to.

RECOMMENDATION:

As of March 22, 2021, some of staff's comments were outstanding. The majority of staff's concerns can be addressed during the construction plan and final plat process. Staff therefore recommends approval of the Preliminary Plat referred to as Abooha Toklo Phase Three, on property described as a 13.740 acre tract of land in Bell County, Texas, being part of the H.B. Littlefield Survey, Abstract No. 511, the land herein described being all of Lot eight (8), Block one (1), Amended plat of Marley Addition, an addition to the City of Harker Heights, Texas, being of record in Cabinet C, Slide 123-A, also being the remainder of Lot three (3), Block one (1), Abooha Toklo Addition, Phase One, generally located south of KISD Middle School #14,

AKA Nolan Middle School, on properties between Pueblo and Warriors Path, Harker Heights, Bell County, Texas with the following conditions: Per Section 154.21(D)(4) of the City's Code of Ordinances, the following shall be addressed prior to approval of the final plat:

- a. Provide for the required minor arterial right-of-way width along Warrior's Path (Lot 24, Block 1 shall be in line with Lot 23, Block 2).
- b. Place a note on the plat dedication page indicating that no access will be granted onto Warrior's Path from the following lots: Lot 24, Block 2 and Lot 23, Block 2.

ACTION TAKEN BY THE PLANNING AND ZONING COMMISSION:

On March 31, 2021, the Planning and Zoning Commission voted (7-2) to recommend conditional approval of the request for a Preliminary Plat referred to as Abooha Toklo Phase Three, on property described as a 13.740 acre tract of land in Bell County, Texas, being part of the H.B. Littlefield Survey, Abstract No. 511, the land herein described being all of Lot eight (8), Block one (1), Amended plat of Marley Addition, an addition to the City of Harker Heights, Texas, being of record in Cabinet C, Slide 123-A, also being the remainder of Lot three (3), Block one (1), Abooha Toklo Addition, Phase One, generally located south of Killeen Independent School District Middle School #14 (Nolan Middle School), on properties between Pueblo and Warriors Path, Harker Heights, Bell County, Texas with the following conditions: Per Section 154.21(D) (4) of the City of Harker Heights' Code of Ordinances, the following shall be addressed prior to approval of the final plat:

- a. Provide for the required minor arterial right-of-way width along Warrior's Path (Lot 24, Block 1 shall be in line with Lot 23, Block 2).
- b. Place a note on the plat dedication page indicating that no access will be granted onto Warrior's Path from the following lots: Lot 24, Block 2 and Lot 23, Block 2.

ACTION BY THE CITY COUNCIL:

1. Motion to **Approve, Approve with conditions, or Disapprove with explanation** a request for Preliminary Plat approval for subdivision referred to as Abooha Toklo Phase Three, on property described as a 13.740 acre tract of land in Bell County, Texas, being part of the H.B. Littlefield Survey, Abstract No. 511, the land herein described being all of Lot eight (8), Block one (1), Amended plat of Marley Addition, an addition to the City of Harker Heights, Texas, being of record in Cabinet C, Slide 123-A, also being the remainder of Lot three (3), Block one (1), Abooha Toklo Addition, Phase One, generally located south of Killeen Independent School District Middle School #1 (Nolan Middle School), on properties between Pueblo and Warriors Path, Harker Heights, Bell County, Texas.
2. Any other action desired.

ATTACHMENTS:

1. Application
2. Location Map
3. Abooha Toklo Addition Concept Plan (Approved on July 14, 2020)
4. Abooha Toklo Addition Section Two Concept Plan (Approved on December 8, 2020)
5. Preliminary Plat with Preliminary Engineering Plan Sheets
6. Staff Comments with Responses (March 16, 2021)



Preliminary Plat Application

*** Requirements - APPLICATION MUST BE FULLY COMPLETED OR WILL NOT BE ACCEPTED***

This application must be completed returned to the Planning Development Department of the City of Harker Heights, Texas along with the following:

1. Pre-Application Meeting with Staff to ensure applicability
2. Payment of \$500.00 + \$25/per lot
3. Signed Original Field Notes and Dedication Pages
4. Paper Plan Submissions: Ten (10) Copies of the Plat and Seven (7) Copies of Preliminary Engineering Drawings
5. Electronic Submission of all documents for review delivered to Planning Administrative Assistant

City of Harker Heights
 Planning & Development
 305 Millers Crossing
 Harker Heights, TX 76548
 Phone: (254) 953-5647
 Fax: (254) 953-5666

Property Information:

Plat Name: Abooha Toklo Preliminary Plat 3 **Date Submitted:** Mar 3, 2021

Existing Lot Count: 0 **Proposed Lot Count:** 47 **Proposed Units:** 45 **Acreage:** 13.740

Existing Land Use: Vacant/Agriculture **Proposed Land Use:** Duplex

Site Address or General Location: Approximately intersection of Warrior's Path & Pontotoc Trace

Public Infrastructure Proposed with Subdivision: Water Wastewater Streets (including Private) Stormwater

Owner Information & Authorization:

Property Owner: Jerome Kenneth Gomer

Address: 1524 Indian Trail, Harker Heights, TX 76548

Phone: [REDACTED] E-Mail: [REDACTED]

Developer: Jerome Kenneth Gomer

Address: 1524 Indian Trail, Harker Heights, TX 76548

Phone: [REDACTED] E-Mail: [REDACTED]

Engineer/Surveyor: Mitchell & Associates, Inc.

Address: PO Box 1088, Killeen, TX 76540

Phone: [REDACTED] E-Mail: [REDACTED]

CHECK ONE OF THE FOLLOWING:

- I will represent the application myself.
- I hereby designate Mitchell's Associates (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this development application.

The property owner and/or their authorized representative must be present at all Planning and Zoning Commission Meetings and City Council Meetings at which their plan or plat is on the agenda for discussion or action. Failure of the developer or their authorized representative to appear during a meeting may be deemed a withdrawal of the plat or plan.

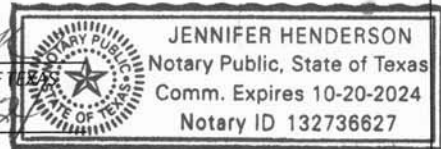
Jerome Kenneth Gomer

Printed Name of Owner

[Signature]
Signature of Owner

SWORN AND SUBSCRIBED BEFORE ME ON THIS 3rd DAY OF March, 2021.

[Signature]
 NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
 MY COMMISSION EXPIRES: 10-20-2024



STAFF ONLY -- DO NOT FILL OUT

Date Submitted: 3/3/2021 Received By: Wesley Everett Receipt #: 01669570



Preliminary Plat Application

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City of Harker Heights
 Planning & Development
 305 Millers Crossing
 Harker Heights, TX 76548
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Phone: [REDACTED] E-Mail: [REDACTED]

Engineer/Surveyor: Mitchell & Associates, Inc.

Address: PO Box 1088, Killeen, TX 76540

Phone: [REDACTED] E-Mail: [REDACTED]

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- I hereby designate Mitchell & Associates (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this development application.

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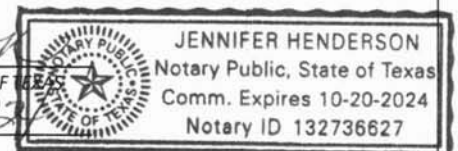
Jerome Kenneth Gomer

Printed Name of Owner

[Signature]
Signature of Owner

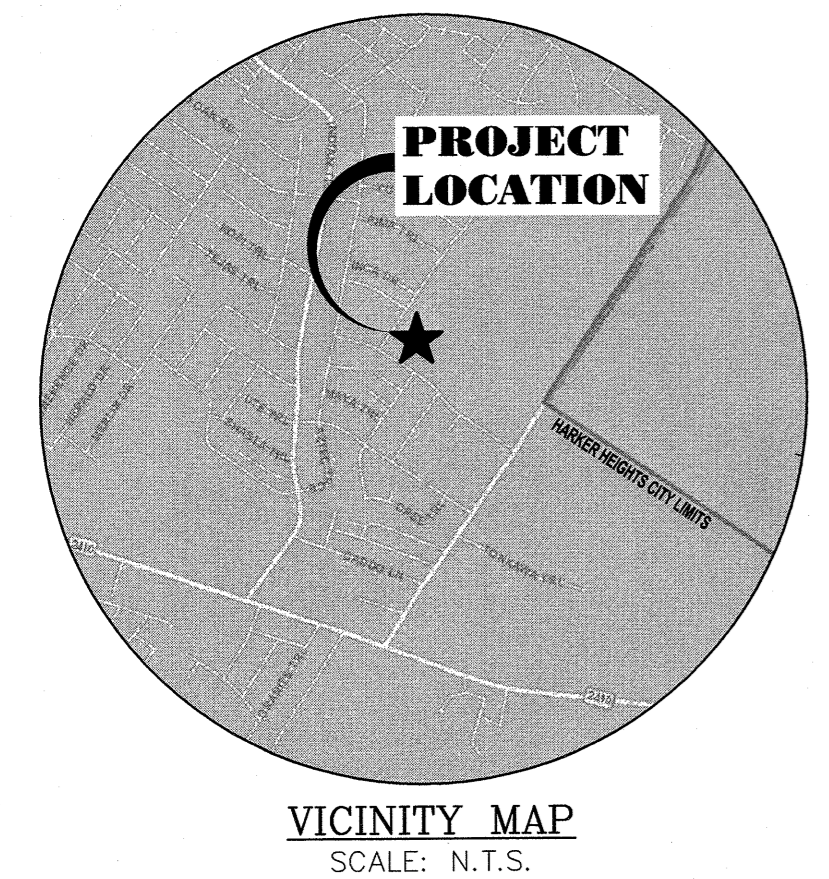
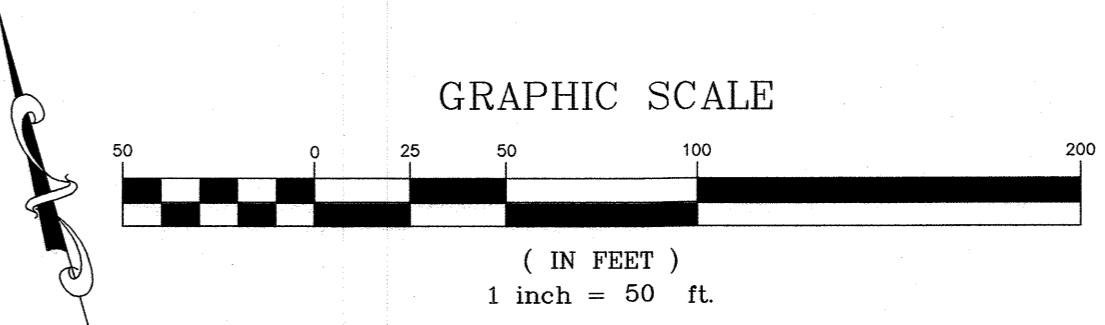
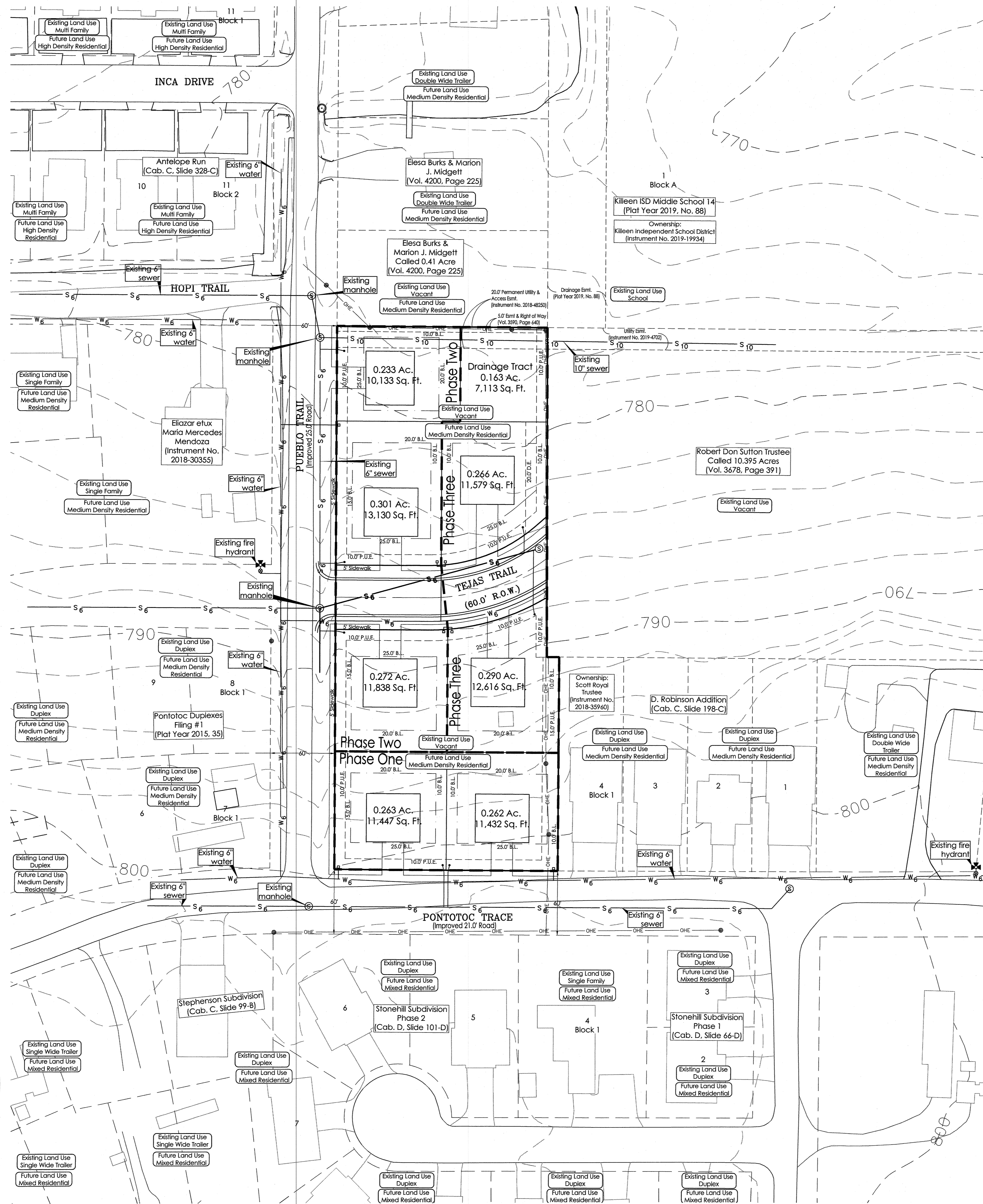
SWORN AND SUBSCRIBED BEFORE ME ON THIS 3rd
 DAY OF March, 2021.

Jennifer Henderson
 NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
 MY COMMISSION EXPIRES: 10-20-2023



STAFF ONLY – DO NOT FILL OUT

Date Submitted: _____ Received By: _____ Receipt #: _____



No.	DATE	REVISIONS
1	6/16/2020	CITY OF HARKER HEIGHTS COMMENTS

ABOOHA TOKLO ADDITION
HARKER HEIGHTS, BELL COUNTY, TEXAS
CONCEPT PLAN



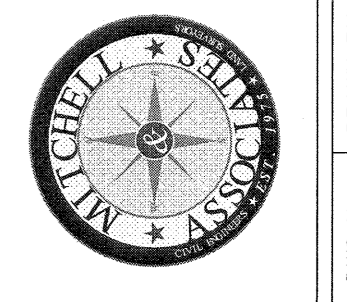
PROPERTY OWNER:
 Rebecca S. Slentz
 6 W Aztec Ln
 Belton, TX 76513

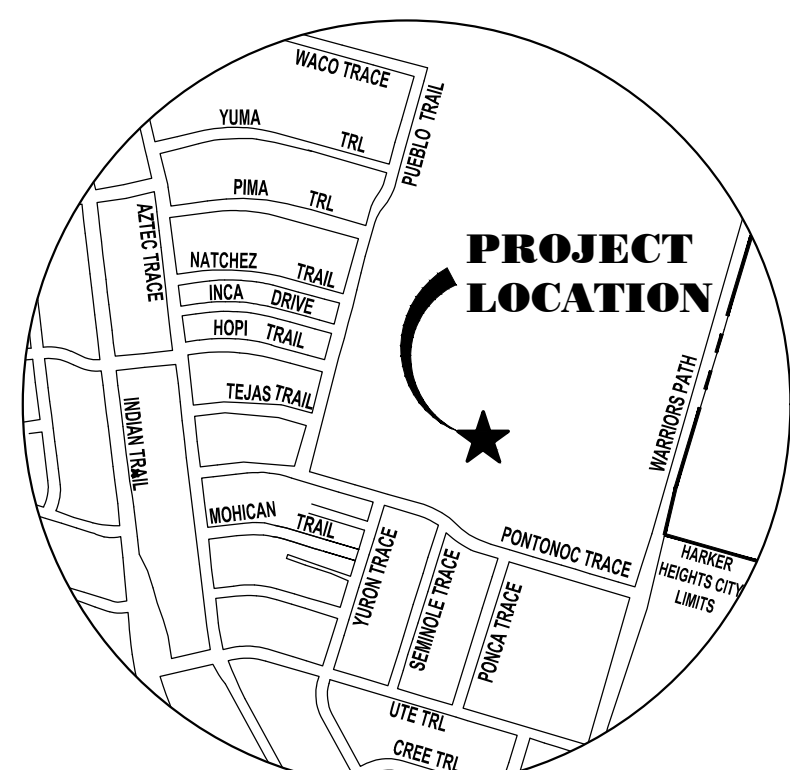
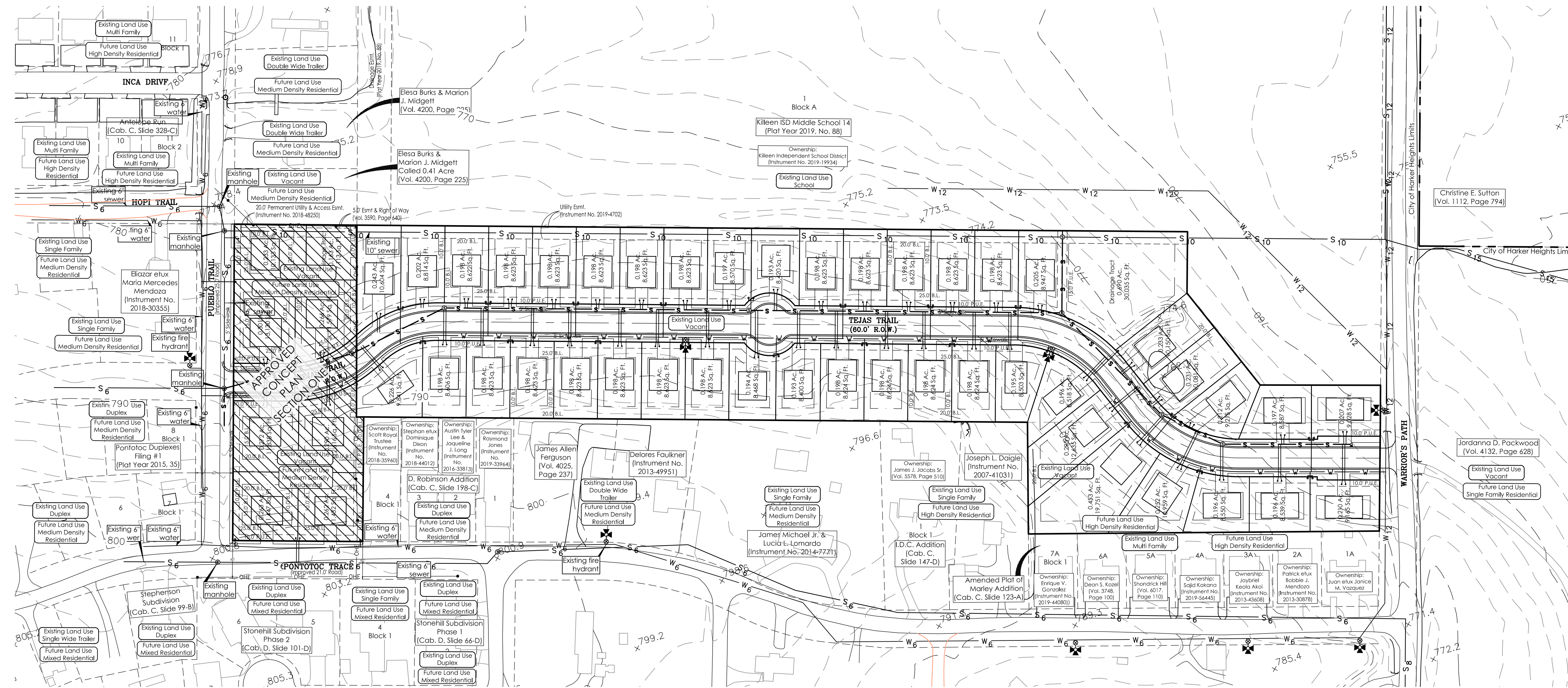
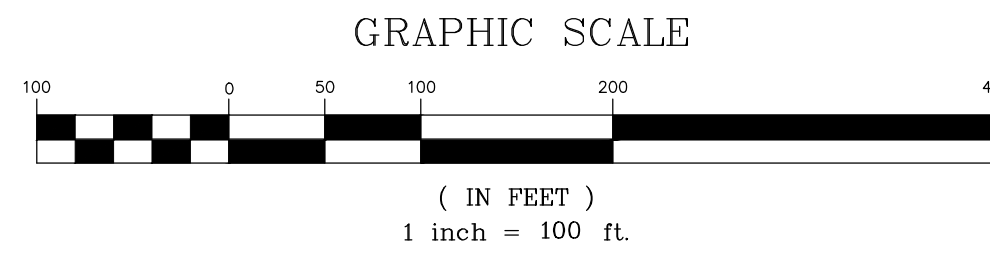
SURVEYOR/ENGINEER:
 Mitchell & Associates, Inc.
 P.O. Box 1088
 Killeen, TX 76540

- NOTES:**
- Existing Land Use: Vacant
 Proposed Land Use: Multi Family Residential (7 Lots)
 - Topography shown is based upon City of Harker Heights Aerial Topography (2012).
 - Sidewalks to be installed along lot frontages at the time of structure construction.
 - Phase 3 shall not be constructed without a code compliant vehicle turnaround.

MITCHELL & ASSOCIATES, INC.
 ENGINEERING & SURVEYING
 KILLEEN, TEXAS 76541
 PHONE: (254) 634-3541
 FAX: (254) 634-2141
TEXAS BOARD OF PROFESSIONAL ENGINEERS FIRM REGISTRATION NO. 3541
 E. P. L. S. FIRM REGISTRATION NO. 102494-00

DWG No.	DATE	SCALE	FR/LB	AS. SHOWN	1957/14	7 LOTS	AREA:
20-048-D-S	JUNE 2020	AS. SHOWN	1957/14	3 BLOCKS		7 LOTS	2,332 AC.





VICINITY MAP
SCALE: N.T.S.

PROPERTY OWNERS:
Robert Sutton
1408 Warriors Path
Harker Heights, TX 76548

DEVELOPER:
Jerome Gomer
1524 Indian Trail
Harker Heights, TX 76548

Jocelyn Kenworthy
305 Tomahawk Drive
Harker Heights, TX 76548

SURVEYOR/ENGINEER:
Mitchell & Associates, Inc.
P.O. Box 1088
Killeen, TX 76540

NOTES:

- Existing Land Use: Vacant
Proposed Land Use: Duplex Residential (43 Lots)
- Topography shown is based upon City of Harker Heights Aerial Topography (2012).
- Sidewalks to be installed along lot frontages at the time of structure construction.

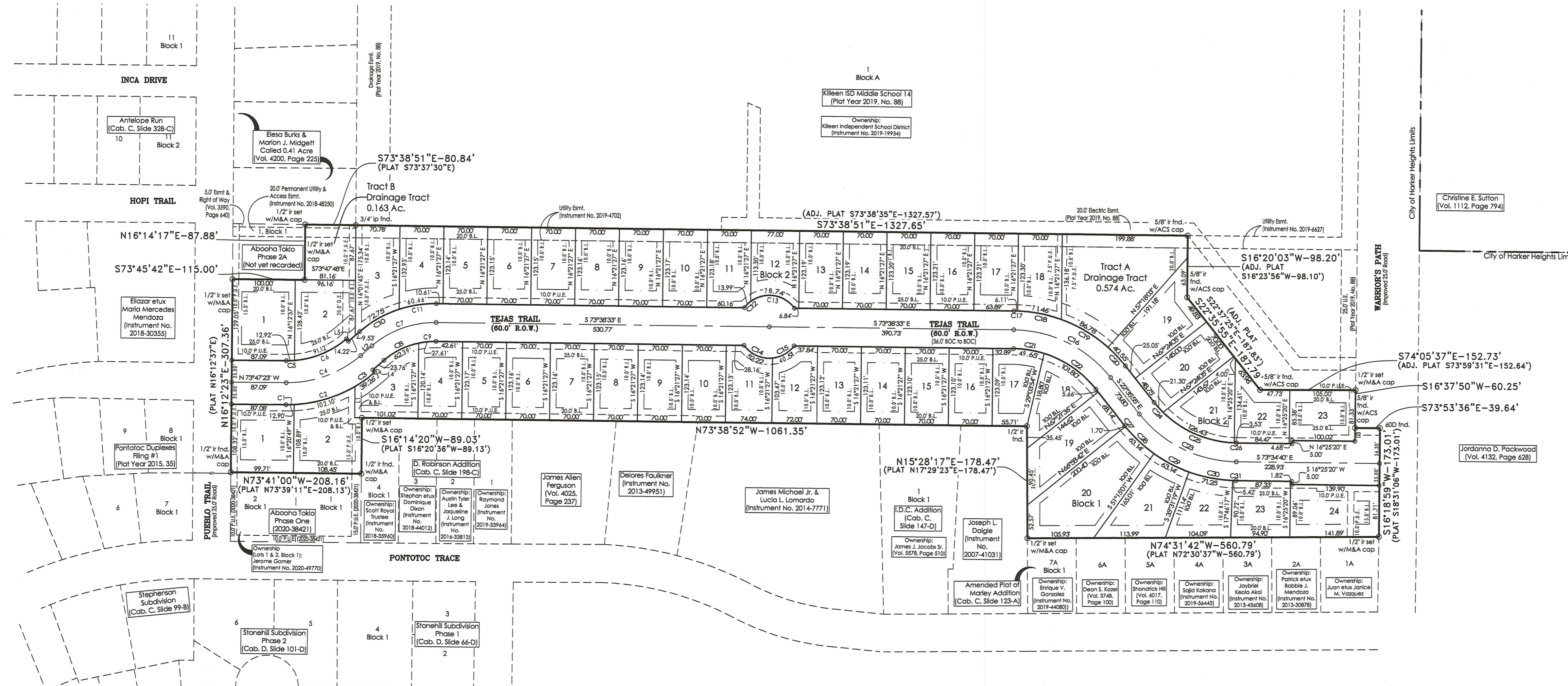
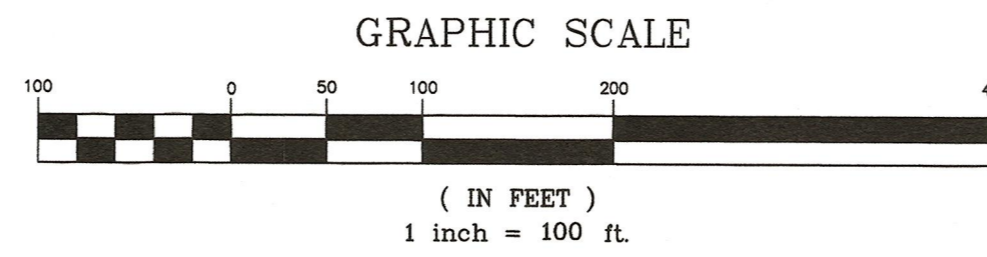
**ABOOHA TOKLO ADDITION
SECTION TWO
HARKER HEIGHTS, BELL COUNTY, TEXAS**

CONCEPT PLAN

MITCHELL & ASSOCIATES, INC.
ENGINEERING & SURVEYING
102 N. COLLEGE
KILLEEN, TEXAS 76541
PHONE: (254) 634-5541
FAX: (254) 634-2141
TEXAS BOARD OF PROFESSIONAL ENGINEERS FIRM REGISTRATION NO. 3241
P. E. S. L. S. FIRM REGISTRATION NO. 100204-00



NO.	DATE	CITY OF HH COMMENTS	REVISIONS	BY
1	11/20/20			



LOT AREAS		
Lot	Block	Area
1	Block 1	10825 Sq. Ft.
2	Block 1	12607 Sq. Ft.
3	Block 1	9172 Sq. Ft.
4	Block 1	8594 Sq. Ft.
5	Block 1	8622 Sq. Ft.
6	Block 1	8621 Sq. Ft.
7	Block 1	8620 Sq. Ft.
8	Block 1	8620 Sq. Ft.
9	Block 1	8620 Sq. Ft.
10	Block 1	8619 Sq. Ft.
11	Block 1	8436 Sq. Ft.
12	Block 1	8422 Sq. Ft.
13	Block 1	8618 Sq. Ft.
14	Block 1	8617 Sq. Ft.
15	Block 1	8617 Sq. Ft.
16	Block 1	8617 Sq. Ft.
17	Block 1	8443 Sq. Ft.
18	Block 1	8427 Sq. Ft.
19	Block 1	12143 Sq. Ft.
20	Block 1	18567 Sq. Ft.
21	Block 1	11003 Sq. Ft.
22	Block 1	8484 Sq. Ft.
23	Block 1	8428 Sq. Ft.
24	Block 1	11762 Sq. Ft.

LINE TABLE		
LINE	LENGTH	BEARING
L1	49.68'	S16°01'45"W
L2	23.76'	N65°06'06"E
L3	21.08'	S16°37'50"W
L4	5.00'	N24°53'54"W
L5	5.00'	N24°53'54"W

CURVE TABLE						
CURVE	BEARING	CHORD	LENGTH	RADIUS	DELTA	TANGENT
C1	S75°30'30"E	12.90'	12.90'	215.00'	3°26'15"	6.45'
C2	N89°10'05"E	101.15'	102.10'	215.00'	27°12'35"	52.03'
C3	N70°19'57"E	39.20'	39.26'	215.00'	10°27'42"	19.68'
C4	N85°39'22"E	126.39'	129.15'	180.00'	41°06'32"	67.49'
C5	S76°20'32"E	12.92'	12.92'	145.00'	5°06'19"	6.46'
C6	N83°06'12"E	89.62'	91.12'	145.00'	36°00'13"	47.12'
C7	S85°43'46"W	109.21'	111.61'	155.00'	41°15'21"	58.35'
C8	S79°24'03"W	61.75'	62.39'	125.00'	28°35'54"	31.86'
C9	N79°58'17"W	27.56'	27.61'	125.00'	12°39'27"	13.86'
C10	S76°22'01"W	72.28'	72.75'	185.00'	22°31'51"	36.85'
C11	N83°00'18"W	60.19'	60.46'	185.00'	18°43'30"	30.50'
C12	S61°14'38"W	13.95'	13.99'	50.00'	16°01'59"	7.04'
C13	N65°37'33"W	70.85'	78.74'	50.00'	90°13'38"	50.20'
C14	S50°25'54"E	49.88'	52.22'	50.00'	59°50'20"	28.77'
C15	N76°26'17"E	39.41'	40.51'	50.00'	46°25'17"	21.44'
C16	N48°07'14"W	172.34'	178.18'	200.00'	51°02'38"	95.49'
C17	N72°52'53"W	6.11'	6.11'	230.00'	1°31'20"	3.06'
C18	N63°13'10"W	71.17'	71.46'	230.00'	17°48'07"	36.02'
C19	N43°30'32"W	86.27'	86.78'	230.00'	21°37'09"	43.91'
C20	N27°38'56"W	40.49'	40.55'	230.00'	10°06'02"	20.33'

CURVE TABLE						
CURVE	BEARING	CHORD	LENGTH	RADIUS	DELTA	TANGENT
C21	N65°16'32"W	49.47'	49.65'	170.00'	16°44'01"	25.00'
C22	N39°45'13"W	100.29'	101.80'	170.00'	34°18'36"	52.48'
C23	S48°05'17"E	172.14'	177.95'	200.00'	50°58'44"	95.35'
C24	S26°11'19"E	21.29'	21.30'	170.00'	7°10'48"	10.67'
C25	S51°05'01"E	123.53'	126.43'	170.00'	42°36'37"	66.30'
C26	S72°59'00"E	3.53'	3.53'	170.00'	1°11'20"	1.76'
C27	S22°48'36"E	1.70'	1.70'	230.00'	0°25'22"	0.85'
C28	S30°53'08"E	62.94'	63.14'	230.00'	15°43'42"	31.77'
C29	S46°36'50"E	62.94'	63.14'	230.00'	15°43'42"	31.77'
C30	S63°21'12"E	70.97'	71.25'	230.00'	17°45'02"	35.92'
C31	S72°54'11"E	5.42'	5.42'	230.00'	1°20'57"	2.71'

LOT AREAS		
Lot	Block	Area
1	Block 2	12899 Sq. Ft.
2	Block 2	10853 Sq. Ft.
3	Block 2	10603 Sq. Ft.
4	Block 2	8811 Sq. Ft.
5	Block 2	8620 Sq. Ft.
6	Block 2	8620 Sq. Ft.
7	Block 2	8621 Sq. Ft.
8	Block 2	8621 Sq. Ft.
9	Block 2	8622 Sq. Ft.
10	Block 2	8622 Sq. Ft.
11	Block 2	8569 Sq. Ft.
12	Block 2	8420 Sq. Ft.

LOT AREAS		
Lot	Block	Area
13	Block 2	8623 Sq. Ft.
14	Block 2	8624 Sq. Ft.
15	Block 2	8624 Sq. Ft.
16	Block 2	8625 Sq. Ft.
17	Block 2	8625 Sq. Ft.
18	Block 2	8950 Sq. Ft.
19	Block 2	12327 Sq. Ft.
20	Block 2	10141 Sq. Ft.
21	Block 2	8933 Sq. Ft.
22	Block 2	8487 Sq. Ft.
23	Block 2	8501 Sq. Ft.

PROPERTY OWNERS:
 Robert Sutton
 1408 Warriors Path
 Harker Heights, TX 76548

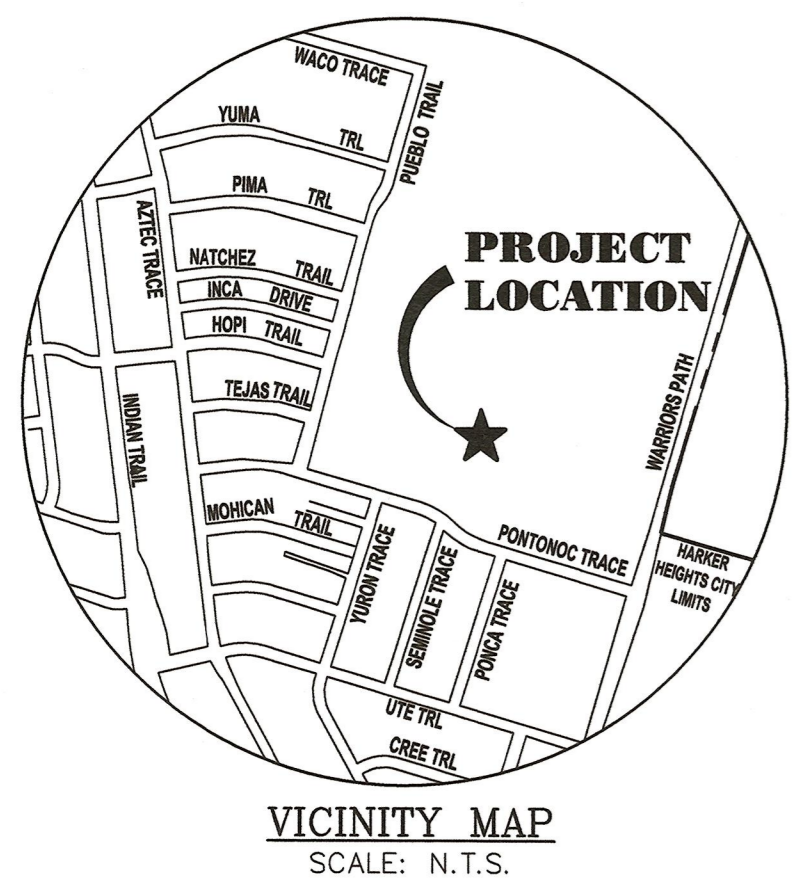
DEVELOPER:
 Jerome Gomer
 1524 Indian Trail
 Harker Heights, TX 76548

SURVEYOR/ENGINEER:
 Mitchell & Associates, Inc.
 P.O. Box 1088
 Killeen, TX 76540

Jocelyn Kenworthy
 305 Tomahawk Drive
 Harker Heights, TX 76548

NOTES:

- All bearings are based upon the Texas Coordinate System, NAD 83 (CORS 96), Texas Central Zone as determined by Leica Texas Smartnet GPS observations. All distances are surface distance. Combined scale factor=1.0001168.
- All interior lot corners marked with 1/2" ir & cap stamped "M&A" set after construction completed.
- This subdivision is located in zone X, areas determined to be outside the 0.2% annual chance floodplain, as indicated on the U.S. FEMA Agency Boundary Map, (Flood Insurance Rate Map), Map No. 48027C295E, effective date September 26, 2008 for Bell County, Texas.
- Zoning: R-2 (Two Family Dwelling)
- Block 1, Lots 1-2, and Block 2, Lots 1-2, and Drainage Tract B identified in Abooha Toklo Concept Plan, Block 1, Lots 3-24, and Block 2, Lots 3-23, and Drainage Tract A identified in Abooha Toklo Section Two Concept Plan



No.	DATE	REVISIONS
1	3/16/2021	CITY OF HARKER HEIGHTS COMMENTS
		REMARKS
		BY

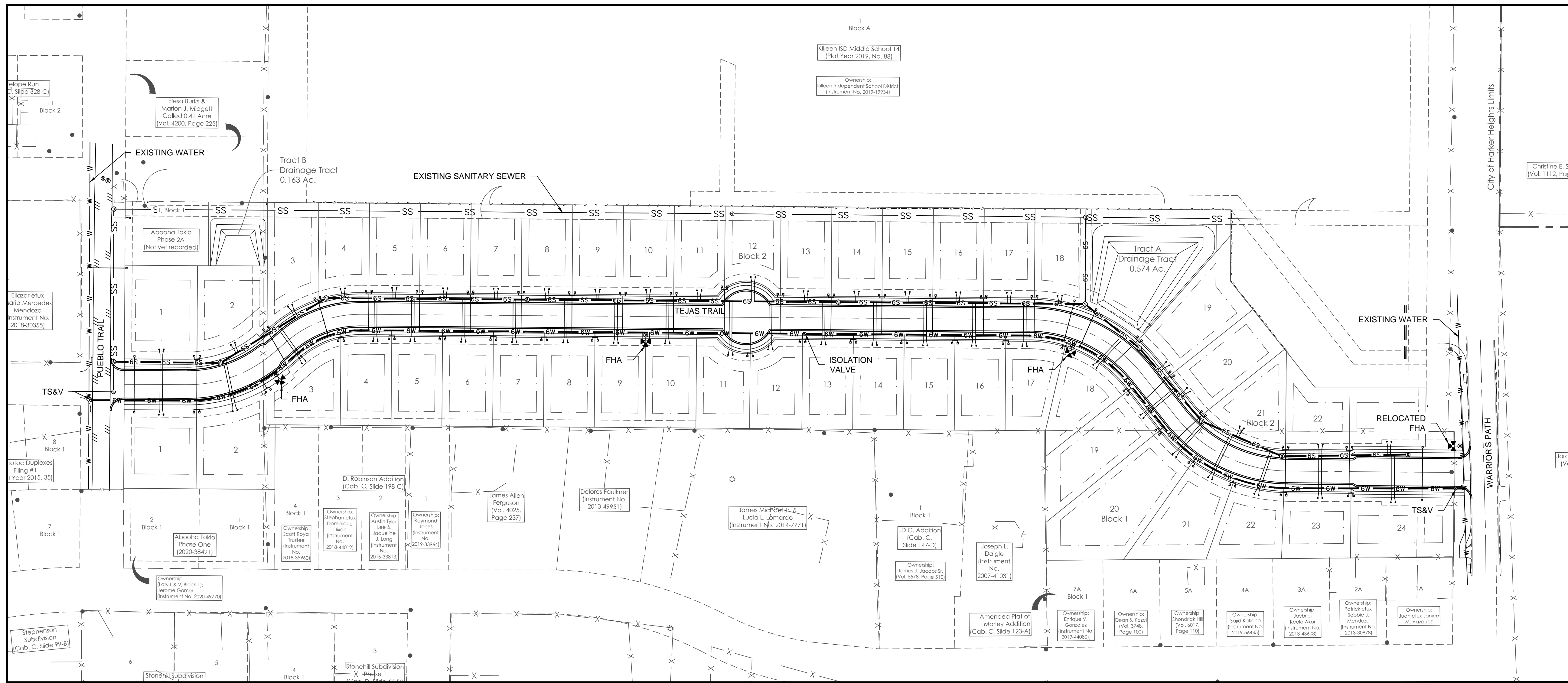
PRELIMINARY PLAT

ABOOHA TOKLO ADDITION, PHASE THREE
 BEING A REPLAT OF PART OF LOT 3, BLOCK 1, ABOOHA TOKLO ADDITION, PHASE ONE, ALL OF LOT 8, BLOCK 1, AMENDED BLOCK 1, MARLEY ADDITION AND OUT OF THE H. B. LITTLEFIELD SURVEY, ABSTRACT NO. 511, HARKER HEIGHTS, BELL COUNTY, TEXAS

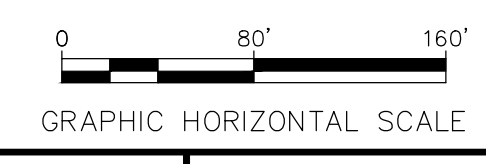
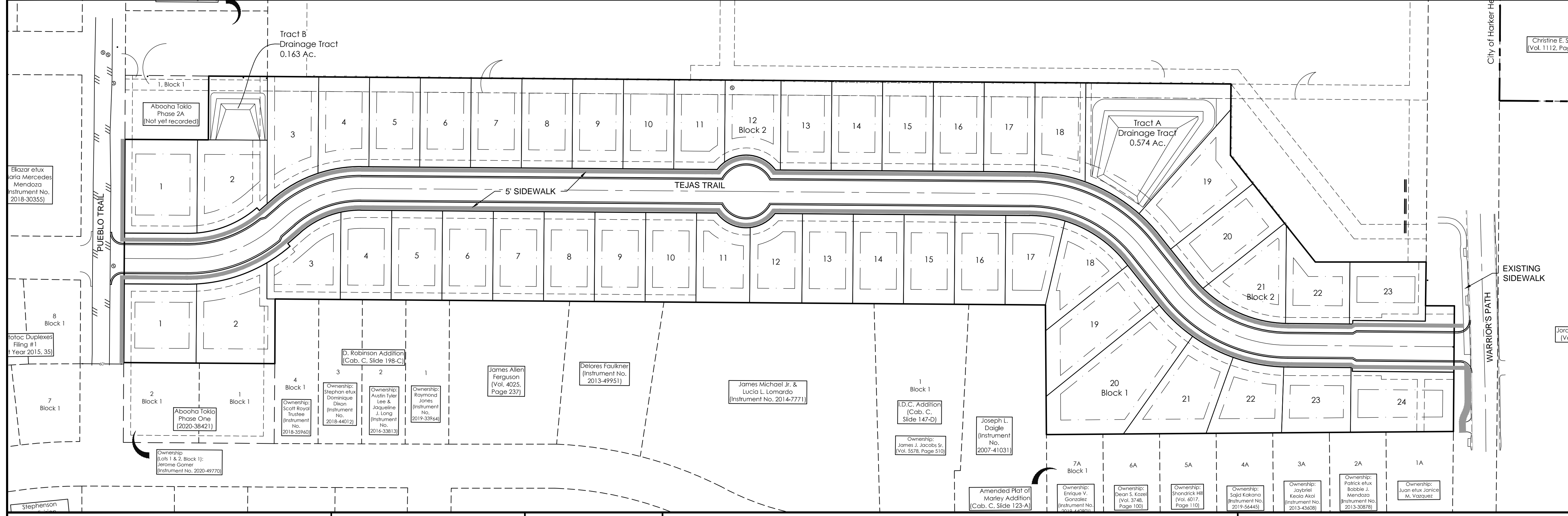
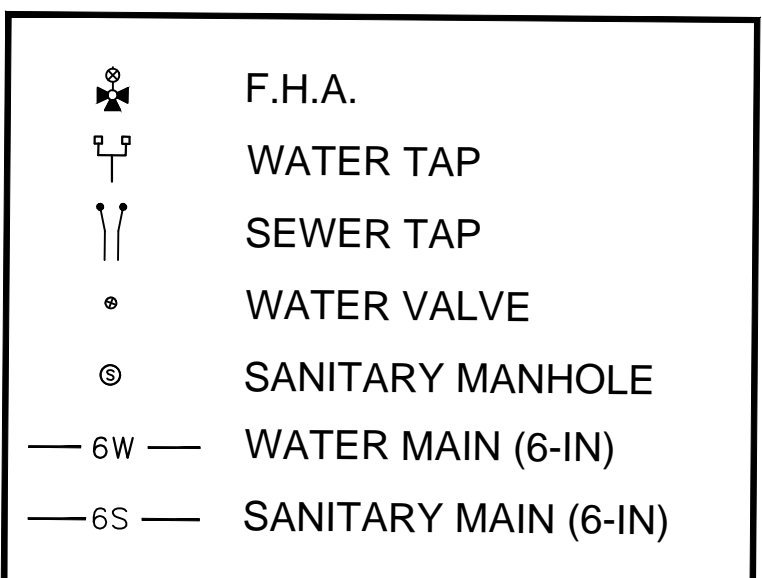


MITCHELL & ASSOCIATES, INC.
 ENGINEERING & SURVEYING
 1021 N. COLLEGE
 KILLEEN, TEXAS 76541
 PHONE: (254) 634-5541
 FAX: (254) 634-2141
 TEXAS BOARD OF PROFESSIONAL ENGINEERS REGISTRATION NO. 3241
 I. B. P. L. S. TIME REGISTRATION NO. 102024-00

DWG. No. 21-013-D-S
 DRAWN BY: AS/FRB
 DATE: MARCH 2021
 SCALE: AS SHOWN
 REF.: 47 LOTS
 AREA: 13,740 AC.
 SHEET P1

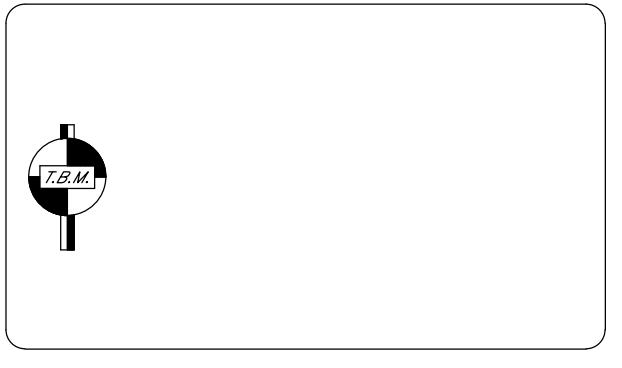


- NOTES:**
1. ALL BACK OF CURB RETURN RADII ARE 15' UNLESS OTHERWISE NOTED.
 2. ALL SEWER AND WATER LINE CROSSINGS SHALL COMPLY WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) CHAPTER 217, SUBCHAPTER C, CONVENTIONAL COLLECTION SYSTEMS AND TCEQ CAPTER 290, SUBCHAPTER D, RULES AND REGULATIONS FOR PUBLIC WATER SYSTEMS.
 3. DESIGN SHOWN IS PRELIMINARY IN NATURE. FINAL DESIGN SHALL MEET THE MINIMUM STANDARDS OF THE MOST CURRENT EDITION OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, NORTH CENTRAL TEXAS.



FOR REGULATORY REVIEW
 These plans and specifications
 are preliminary in nature and
 are for regulatory review only.
 NOT FOR CONSTRUCTION

No.	DATE	REMARKS	BY
2	03/24/21	CITY COMMENTS	AR
1	03/16/21	CITY COMMENTS	AR



**ABOOHA TOKLO
 PHASE THREE - PRELIMINARY
 HARKER HEIGHTS, BELL COUNTY, TEXAS**

STREETS, UTILITIES, & SIDEWALKS

SHEET TITLE:

MITCHELL & ASSOCIATES, INC.
 ENGINEERING & SURVEYING
 102 N. COLLEGE STREET
 KILLEEN, TEXAS 76541
 PHONE: (254) 634-5541 FAX: (254) 634-2141
 TEXAS BOARD OF PROFESSIONAL ENGINEERS FIRM REGISTRATION NO. 3241
 T. B. P. L. S. FIRM REGISTRATION NO. 100204-00

DATE	March 2021	AREA:	13.74 Ac.	REF.:	***
SCALE	AS SHOWN	LOTS:	47	DWG#	21-013-D-S
DWN BY:	AR	BLK:	2	SHEET	P101

S:\SUBDIVISIONS\21-013-D-S\Abooha Toklo 3 Preliminary Plan - FH\DWG\21-013-D-S-3-Plan - Prelim Streets and Utilities.dwg 3/24/2021 8:51 PM



CITY COUNCIL MEMORANDUM

AGENDA ITEM #IX-2

FROM: THE OFFICE OF THE CITY MANAGER

DATE: APRIL 13, 2021

DISCUSS AND CONSIDER APPROVING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND SIGN A CONTRACT FOR ENGINEERING SERVICES WITH FREESE AND NICHOLS, INC. FOR THE WASTEWATER IMPACT FEE STUDY, AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

With the increased residential development along and east of Warriors Path Road, the City of Harker Heights requested Thonhoff Consulting Engineers to conduct a sanitary sewer capacity study for the area east of Warriors Path Road. Results of the study indicated the Evergreen-Fawn Valley Lift Station located on Granite Trail Drive is currently at capacity. To increase lift station and associated sanitary sewer infrastructure capacity to accommodate the additional 1,000 homes, the projected engineering and construction cost would be \$1,000,000.

Since development is causing the demand for additional wastewater capacity, staff felt developers should pay their portion of the wastewater capacity improvements required for their subdivision through impact fees. To implement impact fees within a city, a study must be completed defining the service area and the development of an impact fee capital improvement program along with at least two public hearings. The study will be coordinated through a capital improvements advisory committee appointed by the City Council. The impact fee study and the construction of the wastewater improvements would run simultaneously with the goal of having the additional wastewater capacity constructed within 1.5 years.

Freese and Nichols recently completed a successful city-wide impact fee study for the City of Waco.

The City Council workshopped the Freese and Nichols Wastewater Impact Fee Study proposal on April 6, 2021.

Funds are included in the FY 2020-21 CIP budget for this project.

RECOMMENDATIONS:

Public Works recommends authorizing the City Manager to negotiate and sign the Contract.

ACTION BY COUNCIL:

1. Motion to APPROVE/DISAPPROVE a Resolution authorizing the City Manager to negotiate and sign a Contract for engineering services with Freese and Nichols, Inc. for the Wastewater Impact Fee Study.
2. Any other action desired.

ATTACHMENTS:

1. Resolution.
2. Freese and Nichols Wastewater Impact Fee Study Proposal.
3. Thonhoff Consulting Engineers Probable Cost Estimate.
4. Proposed Impact Fee Service Area Location Map.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND SIGN A CONTRACT FOR ENGINEERING SERVICES WITH FREESE AND NICHOLS, INC. FOR THE WASTEWATER IMPACT FEE STUDY.

WHEREAS, Freese and Nichols, Inc. recently completed a successful city-wide impact fee study for the City of Waco; and

WHEREAS, the Harker Heights study includes defining the service area and the development of an impact fee capital improvement program along with several public hearings. The study will be coordinated through a capital improvements advisory committee appointed by the City Council.; and

WHEREAS, funds are included in the FY 2020-21 CIP budget for this project; and

WHEREAS, the City Council finds that Freese and Nichols, Inc. is the most highly qualified provider on the basis of demonstrated competence and qualifications, and that the proposed Contract for engineering services for the study ("**Agreement**") is in the public interest and should be approved; and

WHEREAS, the meeting at which this resolution was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harker Heights, Texas:

1. The facts and recitations set forth above are hereby found and declared to be true and correct.
2. The proposed Agreement is hereby approved in all respects, including its form, terms and provisions.
3. The City Manager, David Mitchell, is hereby authorized and empowered to act in the name and on behalf of the City to negotiate, execute and deliver the Agreement (and any changes therein and additions thereto as he shall determine to be necessary or advisable, such determination to be conclusively evidenced by the execution and delivery thereof), together with any related consents, notices, certificates, acknowledgments, and other instruments, and to act as the representative of the City in any lawful way to perform or cause to be performed such other and further acts as may be reasonably necessary and appropriate to effectuate the said Agreement, and to accomplish the purposes of these resolutions.
4. All actions taken or performed prior to the date hereof by any person herein authorized to act in respect to the matters referred to and approved in this Resolution be and hereby are ratified and confirmed in all respects.

5. Any person, corporation, partnership, limited partnership, association, joint venture or other business entity may presume upon the validity of the acts of any person authorized herein to act, without further recourse to the governing documents, minutes or other proceedings of the City, and without joinder of any other officer or employee of the City.

PASSED AND APPROVED on April 13, 2021, by the Harker Heights City Council.

CITY OF HARKER HEIGHTS, TEXAS:

Spencer H. Smith, Mayor
City of Harker Heights, Texas

ATTEST:

Julie Helsham, City Secretary
City of Harker Heights, Texas

City of Harker Heights Wastewater Impact Fee Study Scope of Work

Project Understanding

Freese and Nichols, Inc. (FNI) understands that the City of Harker Heights is seeking to develop wastewater impact fees for the FM 2410 area, consistent with the requirements of Chapter 395 of the Texas Local Government Codes. The City seeks to do this by defining a service area, conducting an existing condition analysis, determining the growth for the 10-year planning period, developing an impact fee capital improvements program, defining a service unit equivalency table, and calculating the maximum fee per service-unit for the wastewater system. The study will be coordinated through a Capital Improvements Advisory Committee (appointed by the City) and culminate with adoption through a public hearing process.

A. Data Collection and Land Use Assumptions

- A1. Project Kick-Off Meeting: Freese and Nichols, Inc. (FNI) will meet with the City to review scope, project team, schedule of the project, and discuss the data request memorandum.
- A2. Data Collection: FNI will compile information from the City including GIS files, as-built drawings, lift station layouts, recently completed system improvements, utility billing data, and wastewater flow data.
- A3. Develop Land Use Assumptions: FNI will utilize available data from previous studies to develop 5-year, 10-year, and 20-year land use assumptions for the FM 2410 study area. Land use assumptions will be expressed in terms of population.
- A4. Progress Meeting: Service Area and Land Use Assumptions: FNI will meet with the City to discuss the draft service area and land use assumptions.
- A5. Revise Land Use Assumptions: Based on comments received at the progress meeting, FNI will revise the land use assumptions and provide updated PDFs of maps and tables to the City.
- A6. Citizen Advisory Committee Impact Fee Presentation #1: FNI will conduct a presentation to the Citizen Advisory Committee to present an overview of impact fees and the land use assumptions. FNI will prepare presentation materials and exhibits for the Citizen Advisory Committee presentation.

B. Wastewater CIP Development

- B1. Review Historical Wastewater Flows: FNI will obtain and evaluate historical wastewater flow data to develop trends and calculate peaking factors. This data will be used to determine expected per-capita loads for future projections.

- B2. Develop and Distribute Wastewater Flow Projections: FNI will validate the wastewater flow projections from previous studies for 5-year, 10-year, and 20-year conditions using the future land use assumptions and selected design criteria.
- B3. Develop Wastewater Impact Fee Capital Improvements Plan (CIP): FNI will utilize the previous studies provided by the City and develop prioritization and costs for each proposed project in Year 2021 dollars including engineering and contingencies. FNI will also review recently completed wastewater improvements and determine which projects are eligible for future cost recovery from growth. Large scale citywide maps will be produced showing proposed projects, costs, and phasing.
- B4. Progress Meeting: Wastewater CIP: FNI will meet with the City present the impact fee CIP.

C. Land Use and CIP Report and Public Hearing

- C1. Develop Draft Land Use Assumptions and CIP Report: Prepare a Draft Land Use Assumptions and CIP Report showing land use assumptions, impact fee eligible capital improvement costs. Submit an electronic PDF copy of the draft report for City review.
- C2. Progress Meeting: Draft Land Use Assumptions and CIP Report: FNI will meet with City to discuss Draft Report and solicit comments.
- C3. Citizen Advisory Committee Impact Fee Presentation #2: FNI will conduct a presentation to the Citizen Advisory Committee to present the land use assumptions and the wastewater CIP. FNI will prepare presentation materials and exhibits for the Citizen Advisory Committee presentation.
- C4. Finalize Land Use Assumptions and CIP Report: Based on comments by City staff, FNI will finalize and provide one (1) electronic PDF copy and ten (10) hardcopies of the final Land Use Assumptions and CIP Report.
- C5. Public Hearing #1 Land Use Assumptions and CIP: FNI will attend the Public Hearing to present and address questions about impact fee calculations.

D. Wastewater Impact Fee Analysis

- D1. Conduct Wastewater Impact Fee Capacity Analysis for Existing Projects: FNI will utilize the land use assumptions to analyze recently completed projects for remaining capacity for impact fee cost recovery for 10-year projected growth.
- D2. Conduct Wastewater Impact Fee Capacity Analysis for Proposed Projects: FNI will utilize the land use assumptions to analyze proposed wastewater improvements for eligible capacity for impact fee cost recovery for 10-year projected growth.
- D3. Calculate Project Costs Eligible for Impact Fee Cost Recovery: FNI will utilize the capacity analysis and capital project costs to calculate the percentage of project cost eligible for impact fee cost recovery.

- D4. Develop Service Unit Equivalents (SUEs): FNI will utilize equivalent capacity of water meters to establish the service unit equivalents (SUEs) required in Chapter 395 of the Local Government Code for both existing and 10-year growth conditions.
- D5. Calculate Maximum Allowable Impact Fees: FNI will develop maximum allowable wastewater impact fees using the 50% credit method based on the existing and proposed capital improvement costs to support 10-year growth based on projected increase in SUEs.
- D6. Progress Meeting: Impact Fee Calculations: FNI will meet with City staff to present the impact fee calculations.

E. Impact Fee Report, Public Hearing, and Ordinance Support

- E1. Draft Impact Fee Report: FNI will prepare a draft report that documents the methodology, findings, and recommendations of the study. FNI will submit electronic copies of the report to City Staff for review.
- E2. Progress Meeting: Draft Impact Fee Report: FNI will meet with City to discuss Draft Report and solicit comments.
- E3. Finalize Impact Fee Report: FNI will prepare a final Impact Fee Report and deliver an electronic PDF copy and ten (10) hard copies to the City.
- E4. Impact Fee Benchmarking: Collect data on impact fees charged by neighboring utilities to benchmark against the City's updated maximum allowable impact fees. City staff and/or the CIAC will identify up to eight (8) area utilities for the comparison.
- E5. Citizen Advisory Committee Impact Fee Presentation #3: FNI will conduct a presentation to the Citizen Advisory Committee to present the impact fee calculations and benchmarking results. FNI will prepare presentation materials and exhibits for the Citizen Advisory Committee presentation.
- E6. Public Hearing #2 Impact Fees: FNI will attend the second Public Hearing to present and address questions about impact fee calculations.

Summary of Impact Fee Meetings

(all meetings are assumed to be virtual by TEAMS, Zoom, or other platform)

- Project Kick-Off Meeting
- Progress Meeting: Service Areas and Land Use Assumptions
- Citizen Advisory Committee Impact Fee Presentation #1
- Progress Meeting: Wastewater CIP
- Progress Meeting: Draft Land Use Assumptions and CIP Report
- Citizen Advisory Committee Impact Fee Presentation #2
- Public Hearing #1 Land Use Assumptions and CIP
- Progress Meeting: Impact Fee Calculations
- Progress Meeting: Draft Impact Fee Report
- Citizen Advisory Committee Impact Fee Presentation #3
- Public Hearing #2 Impact Fees

Project Schedule

FNI will complete the scope of work within 11 months of notice to proceed.

Fee Summary

Task	Description	Hours	Total Labor Effort	Total Expense Effort	Total Effort
A	Data Collection and Land Use Assumptions	83	\$12,662	\$706	\$13,368
B	Wastewater CIP Development	71	\$10,545	\$604	\$11,149
C	Land Use and CIP Report and Public Hearing	68	\$10,536	\$813	\$11,349
D	Wastewater Impact Fee Analysis	92	\$13,702	\$782	\$14,484
E	Impact Fee Report, Public Hearing, and Ordinance Support	82	\$12,578	\$1,073	\$13,651
Total		396	\$60,023	\$3,977	\$64,000

6.0 RECOMMENDATION AND ENGINEER'S ESTIMATE OF TOTAL PROJECT COST

It is the Recommendation of the Engineer to select Alternative No. 2 for construction. This project would renovate the Rummel Road Lift Station increasing its capacity from 800 GPM to 1,000 GPM @ 220' TDH using VFD pump control. This alternative would construct a new 10-inch force main extension from Granite Drive to Wildewood Drive. This alternative would bypass the Evergreen/Fawn Valley Lift Station and remove all extraneous flow from the FM 2410 service area and therefore no renovations would be needed at this second lift station.

The Engineer's Estimate of Total Project Cost is as follows:

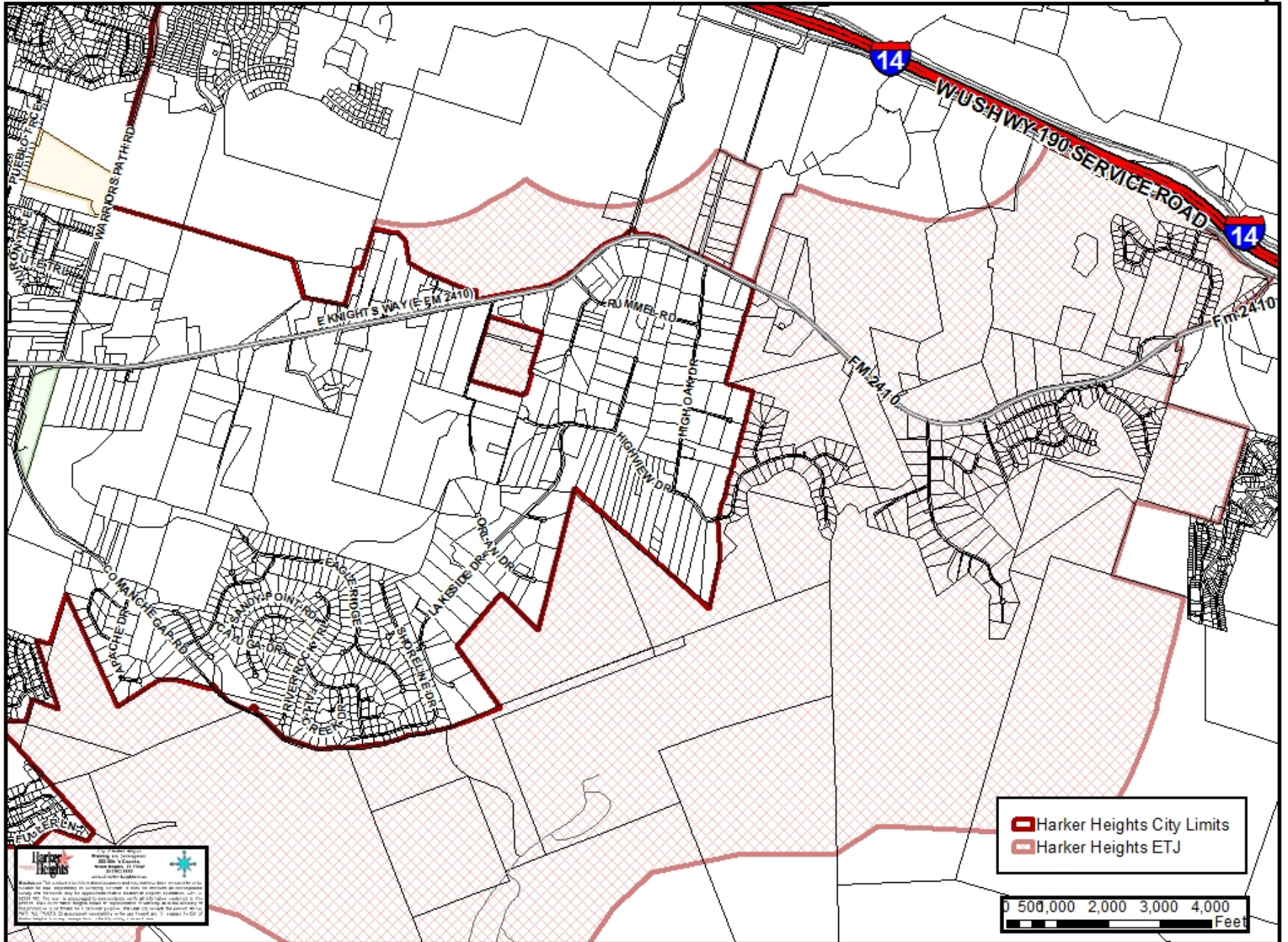
Construction



Renovation of Rummel Road Lift Station	\$ 160,000
New 10-inch Force Main Extension	<u>\$ 479,000</u>
Subtotal Construction	\$ 639,000

Engineering

Design Survey	\$ 20,000
TxDOT Permitting	10,000
Basic Engineering Services	95,000
Resident Project Representative	50,000
Construction Staking	20,000
Construction Testing	10,000
Record Drawings	<u>10,000</u>
Subtotal Engineering	\$ 215,000
Project Cost Subtotal	\$ 854,000
Contingency @ +/- 20%	<u>146,000</u>
Engineer's Estimate of Total Project Cost	\$ 1,000,000

Location Map



 Harker Heights City Limits
 Harker Heights ETJ

0 500,000 2,000 3,000 4,000
Feet


City of Harker Heights
200 West 4th Street
Harker Heights, TX 76788
www.harkerheights.com

Disclaimer: The content of this information is provided for informational purposes only. It is not intended to be used as a substitute for professional advice. The City of Harker Heights is not responsible for any errors or omissions in this information. The City of Harker Heights is not responsible for any damages, including consequential damages, arising from the use of this information. © 2014 City of Harker Heights. All rights reserved.



CITY COUNCIL MEMORANDUM

AGENDA ITEM #IX-3

FROM: THE OFFICE OF THE CITY MANAGER

DATE: APRIL 13, 2021

DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, ESTABLISHING AND CONFIRMING AN ECONOMIC DEVELOPMENT PROGRAM PURSUANT TO CHAPTER 380 OF THE TEXAS LOCAL GOVERNMENT CODE, AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

Chapter 380 of the Local Government Code authorizes the City to establish a program for economic development and to stimulate, encourage and develop business and commercial activity in the City. These agreements between cities and private developers are often called “380 Agreements” or “development agreements.” The City has utilized 380 Agreements in the past to lure Marker Heights to the City as well as Seton Medical Center. The Ordinance before you lays out an economic development program that:

1. Clearly lays out the purpose of the program.
2. Contractual protections for any incentives or benefits granted.
3. Applicability of the program.
4. The Economic Development Power of the City to include the possible uses of development agreements.
5. Procedures for applying for a development incentive.
6. Performance standards for development agreements.
7. Provisions necessary in any development agreement.
8. How and when loans and financing can occur.
9. Level of incentives will be reviewed case by case.
10. Program decision making is granted to the Council with the City Manager listed as the Council’s Program Administrator.
11. Monitoring compliance of development agreements.

This Ordinance is a best practice which sets out clear guidelines for how any economic development incentive request will be handled by the City. This ensures the fair and equitable review of all requests while ensuring that the public’s interest in such agreements is maintained. The ordinance will be contained in a new chapter of our code – Chapter 40.

ATTACHMENTS:

1. Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS,
ESTABLISHING AND CONFIRMING AN ECONOMIC
DEVELOPMENT PROGRAM PURSUANT TO CHAPTER 380 OF THE
TEXAS LOCAL GOVERNMENT CODE**

WHEREAS, the City Council of the City of Harker Heights is committed to the healthy economic development of the City of Harker Heights; and

WHEREAS, the City Council has both expressed and implied authority to establish a program to stimulate business and commercial activity within the City; and

WHEREAS, Chapter 380 of the Texas Local Government Code authorizes the City Council to establish a program for economic development and to stimulate, encourage and develop business and commercial activity within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS AS FOLLOWS:

Section 1. A new Chapter 40 – Economic Development Program is hereby adopted and incorporated into the Code of Ordinances of the City of Harker Heights as follows:

Sec. 40-1 Purpose

The purpose of the economic development program set forth in this chapter is to promote and facilitate the development and diversification of the economy of the City of Harker Heights and to create new jobs and businesses, retaining existing jobs and eliminating unemployment and underemployment in the City. The City Council is authorized to make such grants, loans or other incentives as are authorized by law to promote economic development and to stimulate business and commercial activity within the City of Harker Heights.

Sec. 40-2 Incentives or Benefits

Any incentive or benefit provided under this program, or under any economic development authority of the City of Harker Heights, shall be accompanied by contractual protections to ensure:

1. the public purpose of economic development, creation of new jobs, retention of existing jobs and businesses, stimulation of the local economy,

economic diversification, limitation of unemployment or under employment may be served;

2. there is protection and verifiable accountability for the handling of public money;

3. the City receives consideration in the form of economic development benefits to the City and its citizens; and

4. the City has remedies to recoup incentives, as appropriate, from a business if it fails to meet certain performance standards set by the City Council.

Sec. 40-3 Applicability

The scope of this program includes and applies to businesses and commercial activity relating to or engaged in manufacturing, assembly, warehousing/distribution or other industrial or commercial enterprises, including enterprises which create or facilitate tourism and provisional and technical support businesses. This program may also apply to housing that promotes economic development and to other endeavors as authorized by state law. As the creation of concrete performance measures relating to increased tourism may be difficult, tourism will generally be treated as an indirect factor in making decision on program projects. This program applies within the boundaries of the City of Harker Heights and any extraterritorial jurisdiction of the City.

Sec. 40-4 Economic Development Power

A. Texas Local Government Code §380.001 authorizes the City to use employees or funds, make loans or grants of public money and provide personnel and services of the City and take other actions to support the City's program of economic development and to carry out its purposes. The City may also accept contributions, gifts or other resources to develop and administer the program. The City has authority to do all things authorized by Chapter 380 of the Texas Local Government Code.

B. Possible uses of the authority created by §380.001 include, but are not limited to:

1. loans, lease purchases, grants or financing for site acquisition or development;

2. in kind services such as site preparation using City equipment, personnel or contractors;

3. grants or assistance promoting economic development; or

4. waiver or rebate of permits or other fees.

Sec. 40-5 Development Incentives

A. Development incentives, including those identified in this chapter, will be provided in accordance with this program and state law.

B. To be considered for development incentives, a business must provide the following information for review by the City:

1. name of company;
2. form of business (corporation, partnership, etc.);
3. state of incorporation or organization;
4. proof of authority to do business in this state;
5. history of business and description of its operations and other locations;
6. management summary/biography as required by the City;
and
7. audited or equivalent financial statements as required by the City.

Sec. 40-6 Performance Standard

A. In order to qualify for development incentives of any sort from the City, a business must enter into a development agreement setting forth various economic development performance standards that the business agrees to meet. In determining the eligibility of a business for development incentives and/or advisability of making incentives, as well as the level and type of incentives to be provided, the City will consider various factors including, but not limited to, the following:

1. the level of capital investment or increase of the City's tax base;
2. the number of jobs to be created or maintained;
3. the level of wages and benefits for jobs created and the total payroll;

4. the “fit” of the business within the City’s overall development concept and goals;

5. the impact of the project or business on the creation or retention of jobs within the City; and

6. the opportunity for future expansion of the business.

B. The City may also consider indirect factors such as increase in the expected level of purchases of products and services from local sources, indirect employment gains, increased tourism, or environmental impact of the business.

Sec. 40-7 Development Agreement

Any business receiving an incentive from the City must enter into a development agreement with the City in a form and containing the terms approved by the City Council and the City’s legal counsel. Such an agreement will include, but not be limited to:

1. identification of the development incentives and terms of payment or development of such incentives;

2. identification of the economic development performance standards that the business must meet and the identification of deadlines for construction of improvements, start of operations or meeting specific employment or payroll standards, as appropriate;

3. remedies for the City’s recovery of development incentives if the business fails to comply with the economic development performance standards;

4. provision for inspections and reports determined by the City to be necessary to review the compliance of the business with the economic development performance standards;

5. other provisions considered necessary or proper by the City or its legal counsel;

6. a venue provision providing all disputes will be heard in a court of competent jurisdiction sitting in Bell County, Texas with Texas law to control; and

7. a provision requiring that any subsequent purchaser of the business or assignee abide by the economic development obligations of the business, for so long as the same shall exist, prohibiting subleases and requiring the approval of the City for any assignment, which approval shall

not be unreasonably withheld if the assignee assumes the business' obligation to the City and is deemed financially able and competent to carry out those obligations.

Sec. 40-8 Financing and Loans

A. Financing by the City through loans for eligible projects will require documentation as well as liens and security interests substantially similar to that found in bank financings. All financing documents must be approved by the City's legal counsel. In some cases, the City may determine that personal guarantees are required.

B. The City will determine the manner in which all loans will be made, and such documentation as may be necessary to obtain any draw of loan proceeds. In that regard, the City may require a draw request to be accompanied by a lien release, affidavit or other documentation for the City's protection.

C. Any construction contract funded by a loan from the City must provide for performance and payment bonds in the amount of the cost of the work with both the business and City as beneficiary and provide for at least a five percent (5%) retainage. The business must also provide or cause to be provided property insurance on the financed project in the amount of the replacement cost, which insurance must name the City as a loss payee. Liability insurance naming the City as an additional insured will also be required.

Sec. 40-9 Other Program Characteristics

It is the intention of the City Council that this program shall have a broad scope in order that continued development of the City's economy can be realized. The City shall have the right and power to use any development incentives identified herein or otherwise authorized by state law to promote economic development through eligible projects anywhere within the City or its extraterritorial jurisdiction.

Sec. 40-10 Level of Development Incentives

It is difficult to establish a bright line standard for the level of development incentives that may be offered to a business. A determination of the level of incentive, or to provide any incentive at all, will be made on a case by case basis, taking into account the factors set forth in this article and other factors relating to the economic development of the City. Some general rules are recognized:

1. Grants, as opposed to loans or in kind services, will generally require a greater level of benefit to the local economy or tax base provided by the business;

2. Provision of increased employment is preferred to increased capital investment alone;

3. Both quantity and quality of jobs is important. Jobs created must be quality full-time jobs. The City Council may require that the average or minimum wages paid in connection with the business meet standards as set forth in the development agreement;

4. The jobs created must be located within the City of Harker Heights or its extraterritorial jurisdiction to be considered;

5. Jobs to be filled by persons actually residing within or to reside within the City of Harker Heights and its surrounding area will be given greater consideration than jobs that may be filled by persons commuting to the City.

Sec. 40-11 Program Administration

A. The City Council shall have and retain control and final decision-making authority over all aspects of the program. However, as authorized by law, the City Council may designate or appoint another entity or person for the administration of the program. The City Manager shall serve as the City's Program Administrator.

B. The Program Administrator's duties may include, but will not be limited to:

1. identifying target businesses or industries;
2. negotiating tentative development incentives and economic development performance standards with businesses in coordination with the City's legal counsel;
3. analyzing the feasibility of proposed projects and the ability of businesses to perform;
4. recommending development incentives, if any, economic performance standards and other terms of a development agreement to the City Council; and
5. assisting in monitoring and evaluating business compliance with economic development performance standards and the development agreement.

Sec. 40-12 Monitoring Compliance

A. Any business making application for an economic development incentive or receiving an incentive must provide all records and reports reasonably requested by the City or its program administrator to determine the business' compliance with the development agreement.

B. The business must allow the City, the project administrator or any representative or consultant of either to inspect the business premises and improvements thereon to determine compliance with the development agreement.

C. Defaults may be enforced by actions up to and including:

1. complete cancellation of development incentives;
2. recovery of previously provided development incentives;
3. retaking of property by the City if the sale or lease of property was a part of the project; and/or
4. partial or pro rata reduction or recovery of development incentive.

D. The terms of default provisions in the development agreement will be as negotiated; however, all program project agreements must contain adequate default provisions to comply with applicable law.

PASSED on this the _____ day of _____, 2021.

CITY OF HARKER HEIGHTS, TEXAS

By: _____
Mayor

ATTEST:

City Secretary



CITY COUNCIL MEMORANDUM

AGENDA ITEM # IX-4

FROM: THE OFFICE OF THE CITY MANAGER

DATE: APRIL 13, 2021

DISCUSS AND CONSIDER APPROVING A REQUEST FOR AN EXEMPTION FROM THE PARK CURFEW TO THE AIR FORCE TACTICAL AIR CONTROL PARTY ASSOCIATION FOR A 24-HOUR MEMORIAL RUN ON APRIL 29-30, 2021, AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

The Air Force Tactical Air Control Party Association (TACP) is requesting to host a 24-Hour Run at Carl Levin Park from Thursday, April 29th to Friday, April 30th, 2021. This annual event with the Air Force Tactical Air Control Party Airmen is hosted around the world on the same date. It is intended to honor the fallen, the living, and support those in need in relation to the TACP community. This event was first hosted at Carl Levin Park in March of 2019 and was scheduled for March of 2020 but was cancelled due to the COVID-19 pandemic.

By Ordinance, Section 105.04, all of our parks have a curfew from 11:00 p.m. to 5:00 a.m. that can be waived by permission from City Council.

RECOMMENDATION:

None

ACTION BY CITY COUNCIL:

1. Motion to APPROVE/DISAPPROVE a request for an exemption of the Parks Curfew for the Air Force Tactical Air Control Party Association 24-Hour Run at Carl Levin Park from Thursday, April 29th to Friday, April 30th, 2021.
2. Any other action desired.

ATTACHMENTS:

1. Application for Facility Rental – Parks & Recreation
2. Additional Texas Health and Human Services Precautions

HARKER HEIGHTS PARKS & RECREATION

Application for Outdoor Facility Rental

Proposed Date of the Event: 29 April - 30 April Start Time: 10AM End Time: 2PM (30+)
*Include set up & tear down during your time slot

Event Name & Description: TACP 24hour Run

Mark Requested	Facility	Amenities	Capacity	Notes	Rental Fees (per 4-hour period)	Rental Deposit
<u>X</u>	Carl Levin Park Pavilion 400 Miller's Crossing	Picnic Tables Electricity Grills (4) Water	200	N/A	Resident: \$50 Non-Resident: \$100	Resident: \$100 Non-Resident: \$200
—	Carl Levin Park Amphitheater 400 Miller's Crossing	Electricity	15-20 (Covered)	Patrons allowed to bring grills.	Resident: \$25 Non-Resident: \$65	\$100
—	Carl Levin Park Gazebo 400 Miller's Crossing	N/A	8-10	N/A	Resident: \$15 Non-Resident: \$25	N/A
—	Harker Heights Community Park Pavilion 1501 E FM 2410	Picnic Tables Electricity Water	150	Patrons allowed to bring grills.	Resident: \$50 Non-Resident: \$100	Resident: \$100 Non-Resident: \$200
—	Purser Park Pavilion A (Closest to Restroom & Playground) 100 W Mountain Lion Road	Picnic Tables Electricity Grill	18-20	Limit (1) Bounce House	Resident: \$50 Non-Resident: \$100	\$100
—	Purser Park Pavilion B 100 W Mountain Lion Road	Picnic Tables Electricity Grill	18-20	N/A	Resident: \$50 Non-Resident: \$100	\$100

Current proof of residency required to receive resident discount

Name: Bryan Roberts Phone: 316-285-6342 Alt Phone: 765-620-6905
 Address: 22038 W 53rd Street City: Flowood State: TX Zip: 76144

Deposit Return Payable To: _____
(if different than above)

Approximate Number of Attendees: 125 Approximate Number of Vehicles: 60

Inflatables or Jumping Equipment: [Yes] or [No] Water Needed: [Yes] or [No]
(Must meet with Grounds Crew (2) days prior) (If Yes, give quantity needed): _____

Amplified Sound: [Yes] or [No]
(If Yes, describe sound amplification usage and equipment such as type used, wattage, etc.): _____

Please explain and describe if you are requesting the use of any additional space aside from the structure itself:
(Examples are open grass, walking trails, parking lots, basketball court, pond, etc.)

walking trails, open grass, parking, both rooms, etc.

FOR OFFICE USE ONLY

Reviewed By / Date	Total Amount Due	Deposit Amount	Walk-through Date and Time			
Approved By / Date	Date Total Paid	Date Deposit Paid	Cash	Card	Check	Rental Credit
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Last 4 _____	Check # _____	AC Approval _____	

(All runs / walks must be approved by the Parks Director, PD, and FD)

Date: _____ Amount: \$ _____ Reason: _____

A Not sure on alcohol it's

<p align="center">PARKS AND RECREATION ORDINANCE</p> <p align="center"><i>BTR</i> (Initial)</p>	<p>RULES AND REGULATIONS: Must reference § 105.03 <i>GENERAL RULES AND REGULATIONS</i>.</p> <p>HOURS: Must reference § 105.04 <i>RESTRICTED AREAS AND HOURS</i>.</p> <p>ALCOHOL: Must reference § 105.05 <i>ALCOHOL</i>.</p> <p>ANIMALS: Must reference § 105.06 <i>ANIMALS</i>.</p> <p>ACTIVITIES: Must reference § 105.07 <i>RECREATIONAL ACTIVITIES</i>.</p> <p>VEHICLES: Must reference § 105.08 <i>VEHICLES</i>.</p> <p>ADDITIONAL RULES: Must reference § 105.09 <i>ADDITIONAL RULES</i>.</p> <p>ENFORCEMENT: Must reference § 105.98 <i>ENFORCEMENT</i>.</p> <p>PENALTY: Must reference § 105.99 <i>PENALTY</i>.</p>
<p align="center">FACILITY RENTAL POLICY</p> <p align="center"><i>BTR</i> (Initial)</p>	<p>CONTACT: If you require assistance during your event, you may contact the Recreation Center during business hours (254-953-5657) or call 911 for emergencies.</p> <p>CITY FACILITY USE: City events will take priority and all other events may be rescheduled or cancelled as needed.</p> <p>OUTSIDE ORGANIZATION USE: All use by outside organizations is through rental only.</p> <p>APPROVAL: All rentals are subject to approval by Harker Heights Parks and Recreation.</p> <p>TYPES OF USE: Facilities are to be used for the purpose in which they were intended unless approved by Harker Heights Parks and Recreation.</p> <p>RENTER RESPONSIBILITY: The renter will be responsible for all persons in the group or organization utilizing the facility.</p> <p>CROWD CONTROL: The responsibility for crowd control or discipline is assumed by the permit holder and all proceedings shall be orderly.</p> <p>200+ GROUPS: Large groups must have a separate and clearly designated First Aid Station so that in the event of an injury or emergency the victim(s) will be able to be accessed by emergency personnel.</p> <p>PARKING: For large groups parking may become a problem and must reference § 105.08 <i>VEHICLES</i>.</p> <p>ROADS: Any request to block off roads must be authorized by Harker Heights Police Department which can be reach at 254-953-5400, and it is the responsibility of the renter to obtain approval from the Harker Heights Police Department.</p> <p>SOLID WASTE, TRASH, GARBAGE: Must reference <i>Chapter 51</i> with all solid waste, trash, garbage must be disposed of properly at the conclusion of each rental period and placed in provided trash cans.</p> <p>AMPLIFIED NOISE: Must reference <i>Chapter 95</i> and have approval for use of amplified noise.</p> <p>INFLATABLES: Inflatables may be set up for parties or event with approval.</p>
<p align="center">RESERVATIONS AND REFUNDS</p> <p align="center"><i>BTR</i> (Initial)</p>	<p>RESERVATION: A rental application must be completed for each new facility rental not already paid for.</p> <p>PROCESSING: The City has 2 business days to notify the patron if there are any perceived conflicts with the event scheduled.</p> <p>CANCELLATION: A written request shall be emailed or brought in person 24 hours prior to the rental to receive a refund.</p> <p>RESPONSIBLE PARTY: The permit holder and the responsible party (person, 21 years of age or older, who officially rented the facility) must be on-site when the facility is being used.</p> <p>PAYMENT: No rental is considered booked until payment has been completed or arranged with Harker Heights Parks and Recreation.</p> <p>REFUNDS: All refunds, including deposits, take 2-3 weeks for processing and will be returned in check form to the address listed on this form.</p> <p>INCLEMENT WEATHER: Renter must cancel event prior to the event start time to receive a refund for rain or other inclement weather.</p> <p>NO SHOW: Reservations that do not complete payment or no show without notification will lose deposit and may not be allowed to future rentals as determined by Harker Heights Parks and Recreation.</p>
<p align="center">CONDITIONS OF PERMIT</p> <p align="center"><i>BTR</i> (Initial)</p>	<p>CITY PROPERTY: Use is subject to all pertinent State Laws, City Ordinances, Health Department Regulations, and Facility Rules.</p> <p>DEPOSIT: The holder of this permit will be held responsible for inappropriate use, violation of rules, or damage to City property resulting from use herein as determined by Harker Heights Parks and Recreation.</p> <p>INDEMNITY: The permit holder shall indemnify and hold harmless the City of Harker Heights, officers, employees, and agents and assigns from any and all claims for injury and / or damages to persons or property, including wrongful death, resulting from the use of this permit.</p>

I have read, understand, and initialed the Harker Heights Parks and Recreation Facility Rental Policies and will adhere to these rules and regulations. Failure to adhere to these rules and regulations could result in forfeiture of deposit and revocation of future reservation privileges.

31 Mar 21
Date

[Signature]
Signature

CHAPTER 105: PARKS AND RECREATION

§ 105.03 GENERAL RULES AND REGULATIONS.

The following rules and regulations shall be in force in all parks of the City of Harker Heights located within or without the corporate limits of the city.

- (A) Injury to plants, improvements, etc. It shall be unlawful for any person to cut, deface, mark, pluck, injure, damage, or destroy any shrub, tree, plant, grass, turf, fountain, seat, fence, building, structure, ornament, monument, or any other natural or artificial improvement in a park. (See also § 131.02.)
- (B) Park facility use and program rates and other related charges. Park facility rental rates, program registration rates, and other related charges will be established by the City Council in the annual fee schedule.
- (C) Disposal of litter. It shall be unlawful for any person to deposit or discharge, or cause the deposit or discharge, of paper, glass, metal, litter, rubbish, waste, garbage, refuse or trash of any description on any park lawn, driveway, path, fountain, pond, stream, or other place except in receptacles provided for that purpose. (See also § 51.02.)
- (D) Commercial activity. It shall be unlawful for any person to engage in any commercial venture including offering to sell any goods, wares, merchandise or food, or render any service for hire or to solicit funds or donations of any item without the written permission of the Director.
- (E) Noise regulations. See Chapter 95
- (F) Glass containers. It shall be unlawful for any person to use or possess in any form a glass container in any area situated within a park.
- (G) Fires. It shall be unlawful for any person to start or maintain an outdoor fire in any park, except for cooking fires which shall be started and maintained only in a stove, barbecue pit or in a portable camp stove. No person starting or maintaining any fire in a park shall leave the fire unattended without first completely extinguishing the fire.
- (H) Interference with other park users. It shall be unlawful for any person to recklessly and unreasonably prevent, disturb, disrupt, or interfere with the lawful use of a park by another person, or any lawful activity permitted within the park.
- (I) Disorderly conduct. See § 42.01 of the Tex. Penal Code, as amended.
- (J) Public nudity. It shall be unlawful for any person to appear in a state of nudity.

§ 105.04 RESTRICTED AREAS AND HOURS.

- (A) Hours. All parks located within the city are closed to the public each day from 11:00 p.m. until 5:00 a.m., unless otherwise permitted by the Director. In addition, any municipal park, section or part thereof may be declared closed to the public by the Director or a peace officer at any time and for any interval of time upon a temporary basis (daily or otherwise), either entirely or merely to certain uses as the Director or peace officer shall find reasonably necessary to manage, use, preserve and govern park property, buildings and activities.
- (B) Restricted areas. It shall be unlawful for any person to knowingly enter into or remain in or on a park or area designated by one or more posted signs as "restricted" or "closed."
- (C) Curfew in parks. See § 130.02.
- (D) It is an affirmative defense to prosecution under this section that at the time of the violation the person was lawfully attending a special event, activity, or program that was sponsored by the city or conducted in the park with written permission of the city.

§ 105.05 ALCOHOL.

- (A) It shall be unlawful for any person to knowingly possess or consume any alcoholic beverage, as defined by the Tex. Alcoholic Beverage Code, while in a park or a public street, public alley, or public parking lot adjacent to a park.
- (B) It is an affirmative defense to prosecution under division (A) of this section that:
 - (1) The alcoholic beverage was in a container with an unbroken seal or other evidence of having never been opened; or
 - (2) At the time and place of the alleged offense the possession or consumption was permitted by:
 - (a) A valid license issued by the Texas Alcoholic Beverage Commission, or
 - (b) A permit, lease or rental agreement granted by the city.

§ 105.06 ANIMALS.

- (A) It shall be unlawful for any person while in a park to:
 - (1) Knowingly frighten, annoy, injure, or attempt to frighten, annoy, or injure any animal, bird or reptile, or to remove or have possession of the young, eggs or nest of any animal, reptile or bird, or to capture or attempt to capture such animal, reptile or bird except with the consent of the owner thereof.
 - (2) Keep or permit an animal unless the same is attended and kept under the person's physical restraint at all times by means of a leash, cord, chain or enclosure. (See also § 90.36.)
 - (3) Without written permission of the Director, ride any animal in or upon a park area not specifically designated for such purpose. (See also § 90.06.)
 - (4) Tether or pasture, or allow or cause to be tethered or pastured, any animal in a park. (See also § 90.49.)
 - (5) Bring a dangerous dog (as that term is defined by § 90.01) onto park property.
 - (6) If the animal is required to be vaccinated against rabies, bring such animal onto park property without having in his or her immediate possession proof of such current vaccination.
 - (7) Fail to have in his or her possession such materials or implements as may be used immediately in a sanitary and lawful manner to remove and dispose of defecation, as required by § 90.05, by an animal under his or her ownership or control in a park.
- (B) Notwithstanding division (A) of this section, fishing shall be permitted in areas designated by the Director and subject to such conditions as may be imposed by the Director. In addition, the Director may authorize the capture or killing of any animal within a park as necessary to eliminate or minimize any nuisance or hazard to public health and safety, or to alleviate suffering.

§ 105.07 RECREATIONAL ACTIVITIES.

- (A) Practicing golf. It shall be unlawful for any person to practice golf in any portion of a park not specifically designated for that purpose.
- (B) Shooting sports. It shall be unlawful for any person to launch, fire or discharge any arrow, slingshot, firearm, or gun of any kind (including air guns and paintball guns) within or across any park area not specifically designated for that purpose. (See also § 130.44.)
- (C) Throwing sports. It shall be unlawful for any person to practice throwing a javelin, spear, knife, throwing star, shotput, discus, or other dangerous object within or across any park area not specifically designated for that purpose.
- (D) Drones, kites, model airplanes, etc. It shall be unlawful for any person to fly a kite, or propel or guide a drone, model airplane or rocket in any park area traversed by high voltage transmission lines.
- (E) Wading, swimming, or boating. It shall be unlawful for any person to wade, swim, bathe, or boat within any park area not specifically designated for that purpose.
- (F) Camping. It shall be unlawful for any person to camp overnight in a park without first obtaining a permit under this chapter.
- (G) Climbing. It shall be unlawful for any person to climb fences, buildings, or other structures in a park, except play equipment designated for that purpose.

§ 105.08 VEHICLES.

- (A) It shall be unlawful for any person to:
 - (1) Drive or operate any vehicle in, over or through any park area except upon drives, streets, boulevards or other areas designated for such purposes;
 - (2) Stop, stand or park any motor vehicle or to permit any such motor vehicle to so stop, stand or park within any park except within the limit lines of a designated parking stall or a passenger curb loading zone; or
 - (3) Wash a vehicle in any park or do routine maintenance in any park area not specifically designated for that purpose.
- (B) It is an affirmative defense to prosecution under division (A) of this section that the driving, stopping, standing, or parking was due to temporary mechanical failure of the vehicle, provided that as soon as reasonably possible the operator completed emergency repairs or summoned tow removal equipment, as appropriate.
- (C) The Director is authorized to establish time limits for the parking of motor vehicles within designated parking areas of the city's parks.
- (D) If any motor vehicle is found within any park in violation of this division and the identity of the operator of such vehicle cannot be determined:
 - (1) It is rebuttably presumed that the registered owner of the vehicle is the person who stopped, stood, or parked the vehicle at the time and place of the alleged offense; and
 - (2) The police may remove or impound the vehicle as provided by law.

§ 105.09 ADDITIONAL RULES.

- (A) The Director shall have the authority to adopt such additional rules as may be reasonably necessary to protect the safety of persons and property in parks, and to ensure that parks and recreation facilities are available for use on an orderly and non-discriminatory basis for those persons wishing to utilize those facilities.
- (B) Rules adopted by the Director pursuant to this section shall be conspicuously posted at the parks facilities to which they apply.

§ 105.98 ENFORCEMENT.

- (A) Compliance with rules and regulations of this chapter is a condition of the use of the public parks and recreation areas of the city, and all peace officers shall have the right and power to arrest any person who may violate any of the rules, regulations, orders, or requirements of any ordinance or general law relating to the maintenance of the parks located within or without the corporate limits of the city.
- (B) All park property owned and operated by the city shall be under the jurisdiction of the Police Department of the city, and all rules and regulations concerning said properties shall be enforced as provided herein.
- (C) The Director and park attendants may in connection with their duties diligently enforce the provisions of this chapter.
- (D) Proof of the fact that any device, sign, signal or marking designating or restricting any area of a park for particular hours, purposes, or uses was actually in place at any location in the city shall constitute prima facie evidence that the same was installed under the authority of law.
- (E) It is an affirmative defense to prosecution under this chapter that at the time and place of the alleged violation the person:
 - (1) Had obtained written permission from the city or the Director to engage in the activity for which the offense is charged;
 - (2) Was acting on instructions lawfully given by a peace officer, the Director, or a park attendant;
 - (3) Was an employee or contractor of the city, or other public official, acting in the course and scope of his or her official duties in performing the activity for which the offense is charged; or
 - (4) Was responding appropriately to an emergency involving a sudden or unexpected occurrence of a serious and urgent situation which requires immediate action to preserve life or property, including without limitation fire, natural disaster, an automobile accident, or seeking immediate medical treatment for any person.

§ 105.99 PENALTY.

- (A) Ejection. A person violating any provision of this chapter, or any rule adopted by the Director hereunder, may be ejected from a park by the Director, a peace officer, or any park attendant. It shall be unlawful for any person to remain in or on any park property after being instructed by the Director, a peace officer, or any park attendant to leave, and an unauthorized return or refusal to leave shall constitute a criminal trespass.
- (B) A violation of a provision of this chapter is an offense and shall be punishable upon conviction by a fine of not more than \$500. Unless otherwise expressly provided, a culpable mental state is not required for the commission of an offense under this chapter and need not be proved.

Questions from Texas Health and Human Services

Event Date: 29/30 April

Renter: Ft Wood 9 ASOS

The overall number of projected attendees

125

The likelihood of individuals over the age of 65 attending

Small

The density of the forum and the ability to ensure social distancing of 6 feet between individuals

Likely

1. The likelihood of individuals over the age of 65 attending
 - a. TACP thinks that most participants will be under the age of 65. They are expecting most runners to be military members and most members are not stationed near their parents and grandparents.

2. The density of the forum and ability to ensure social distancing of 6 feet between individuals
 - a. For COVID mitigation actions, TACP plans on promoting social distancing with other parties that might be partaking. Their unit has divided into four different groups and each group will only run during their assigned 6-hour block. They will also have hand sanitizers at the starting point for participants to use at their own leisure.