



Mayor: Mario Garza
Mayor Pro-Tem: Marco "Markie" Villegas
Commissioners: Ernesto "Neto" Guajardo
Adina "Dina" Santillan
Jesus "Jesse" Ramirez

The City of San Juan does not discriminate on the basis of disability in the admission of, access to, treatment of, or employment in its programs, activities, or public meetings. Any individual with a disability in need of an accommodation is encouraged to contact the Office of the City Secretary at 956-223-2200 at least 24 hours prior to the scheduled meeting to make proper arrangements.

SAN JUAN CITY COMMISSION

Location: San Juan Memorial Library
Multipurpose Meeting Room
1010 S. Standard St.
San Juan, Texas 78589
Tuesday, November 12, 2024

REGULAR MEETING AGENDA
6:00 PM

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. PUBLIC COMMENTS

V. PRESENTATIONS

A. AGENCY TRILOGY AWARD - FBI LEEDA-[Police Chief, Leandro Sifuentes]

B. Status Update on City Hall Transit Terminal Grant from the Lower Rio Grande Valley Development Council.

C. Presentation on Departmental Reports: Department of Planning and Zoning, Department of Parks and Recreation, Department of Sanitation, and San Juan Memorial Library.

1. Department of Planning and Zoning Monthly Report. [Monica Gomez, Interim Director of Planning]

2. Department of Parks and Recreation Monthly Report. [Ruben Guajardo, Parks & Recreation Director]
3. Department of Sanitation Monthly Report. [Israel Garza, Director of Sanitation]
4. San Juan Memorial Library Monthly Report. [Christina Perez, Interim Library Director]

VI. PUBLIC HEARING/ORDINANCES

- A. Hold a Public Hearing for the Voluntary Annexation Petition of the 7.82-Acre Tract of Land out of Lot 12, Block 27, Alamo Land and Sugar Company's Subdivision, as Requested by OC Development, LTD. [Monica Gomez, Interim Director of Planning]
- B. Hold a Public Hearing and Consider an Ordinance Providing for the Conditional Use Permit for the Sale of Alcoholic Beverages (MB – Mixed Beverage Permit and LB – Mixed Beverage Late Hours Permit) at Home2 Suites by Hilton, Located at 1003 E. Carroll Road, Legally Described as Lot 4, Plaza San Juan Subdivision, as Requested by San Juan Foodservice, LLC. [Monica Gomez, Interim Director of Planning]
- C. Hold a Public Hearing and Consider an Ordinance Providing for the Rezoning Request from Single-Family Residence District (R-S) to a Multi-Family Residence District (R-MF) of Lot 9, Block 1, Gossage Subdivision, as Requested by Zapphire Construction & Development, LLC. [Monica Gomez, Interim Director of Planning]
- D. Hold a Public Hearing and Consider an Ordinance Providing for the Rezoning Request from Single-Family Residence District (R-S) to a Multi-Family Residence District (R-MF) of Lot 10, Block 1, Gossage Subdivision, as Requested by Nan-Avi Management, LLC. [Monica Gomez, Interim Director of Planning]
- E. Hold a Public Hearing and Consider an Ordinance Providing for the Rezoning Request from Single-Family Residence District (R-S) to General Business District (C-2) of Lot 2, Nadia Estates Subdivision, as Requested by Chris Lee. [Monica Gomez, Interim Director of Planning]

VII. APPOINTMENTS

- A. Consider Appointment of a Municipal Court Judge.

VIII. DISCUSSION AND POSSIBLE ACTION ON ALL THE FOLLOWING MATTERS:

- A. Discussion and Possible Action on a Variance Request to the Zoning Ordinance to Not Comply with the 5-foot Side Setback at Lot 30, Stewart Coves Phase 1 Subdivision, as Requested by Melden and Hunt, Inc. [Monica Gomez, Interim Director of Planning]

- B. Discussion and Possible Action of an Interlocal Agreement for the 2024-2025 Fiscal Year with the Hidalgo County Urban County Program. [Monica Gomez, Interim Director of Planning]
- C. Discussion and Possible Action on the Selection of a Project and Funds Distribution for Hidalgo County Urban County Program FY 2025-2026 Funds. [Monica Gomez, Interim Director of Planning]
- D. Discussion and Possible Action to Request Assistance from the Health and Environmental Services within the San Juan City Limits. [Monica Gomez, Interim Director of Planning]
- E. Discussion and Possible Action Authorizing the City Manager to Accept Grant Funding Through the Border Zone Fire Department (BZFD) for an Amount of \$135,937.50. [Tirso Garza, Fire Chief]
- F. Discussion on Issues Regarding Lucky Drive Street.

IX. CONSENT AGENDA

- A. Consider Second and Final Reading of the Ordinance to Amend Appendix "A", Unified Development Code, Chapter 2, Article IV, Section 11, Expressway Corridor District by Modifying Subsection 11.03 Definitions and Subsection 11.04 Zoning Use Chart to Authorize the Use of Automobile Sales Corridor District. [Monica Gomez, Interim Director of Planning]

X. EXECUTIVE SESSION

- A. The San Juan City Commission will Convene in Executive Session in Accordance with the Texas Open Meeting Act, Vernon's Texas Statutes and Codes Annotated, Government Code Chapter §551.071 (Consultation with Attorney).
 - 1. Pursuant to Section 551.071 (Consultation with Attorney) of the Texas Government Code, Discussion and Possible Action Regarding Legal Issues Concerning Entertainment for 2024 Noche de Paz & Blue Santa Toy Drive Event.
 - 2. Pursuant to Section 551.071 (Consultation with Attorney) of the Texas Government Code, Discussion and Possible Action Regarding Legal Issues Concerning Governance Practices.

XI. RECONVENE

- A. The City Commission will Reconvene in Open Session to Take Necessary Action if any, in Accordance with Chapter 551, Open Meeting Subchapter E, Procedures Relating to Closed Meeting 551, Requirements to Vote or Take Final Action in Open Meeting.

1. Pursuant to Section 551.071 (Consultation with Attorney) of the Texas Government Code, Discussion and Possible Action Regarding Legal Issues Concerning Entertainment for 2024 Noche de Paz & Blue Santa Toy Drive Event.
2. Pursuant to Section 551.071 (Consultation with Attorney) of the Texas Government Code, Discussion and Possible Action Regarding Legal Issues Concerning Governance Practices.

XII. ADJOURNMENT

CERTIFICATION

I certify that the above notice of the Regular Called Meeting of the City of San Juan is true and correct; and that I posted such notice on the bulletin board. A place convenient and readily accessible to the public on the 8th day of November 2024 at 5:00 p.m. in accordance with the Texas Open Meetings Act (Tex. Gov't. Code §551-041 - §551.050).



BRENDA ESCALANTE
CITY SECRETARY
CITY OF SAN JUAN, TEXAS

CERTIFICATION OF REMOVAL

I certify that the agenda of items to be considered by the City Commission was removed by the City Secretary's Office from the San Juan City Hall bulletin area on the _____ of _____, 2024.

OFFICE OF THE CITY SECRETARY



Mayor: Mario Garza
Mayor Pro-Tem: Marco “Markie” Villegas
Commissioners: Ernesto “Neto” Guajardo
Adina “Dina” Santillan
Jesus “Jesse” Ramirez

MEMORANDUM

TO: Benjamin Arjona, City Manager

FROM: Leandro Sifuentes, Chief of Police

DATE: 10/18/2024

SUBJECT: AGENCY TRILOGY AWARD - FBI LEEDA-[Police Chief, Leandro Sifuentes]

Last year, the San Juan Police Department made a commitment to enhancing the leadership skills of our supervisors by investing in comprehensive leadership training. These trainings have equipped our supervisors to better lead the patrol force, enabling patrol officers to more effectively serve our community.

We began by sending all sergeants and corporals to the Institute for Law Enforcement Administration’s Sergeants Academy. Following this, all command staff—from lieutenants to the chief of police—began their leadership development through the FBI LEEDA (Law Enforcement Executive Development Association) program. This program comprises three distinct leadership courses: the Supervisor Leadership Institute, the Command Leadership Institute, and the Executive Leadership Institute. Together, these three courses form what is known as the Trilogy Journey.

Last year, a new goal was set: not only would the command staff benefit from the Trilogy Journey, but all sergeants would also participate in these leadership courses. The objective was that, by the end of 2024, every San Juan Police Department supervisor, from sergeant to chief, would have completed the Trilogy Journey.

I’m proud to share that, as of last month (October), the final group of supervisors completed this transformative leadership journey. With this accomplishment, the San Juan Police Department is honored to receive and accept the FBI LEEDA Agency Trilogy Award.



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MEMORANDUM

TO: Benjamin Arjona, City Manager

FROM: Monica Gomez, Interim Director of Planning

DATE: 10/29/2024

SUBJECT: Department of Planning and Zoning Monthly Report. [Monica Gomez, Interim Director of Planning]

The City of San Juan Planning Department has been busy processing subdivision plats, rezoning applications, applications for special/conditional use permits, applications for variances, public information requests and undertaking other duties as listed below.

- 48 building permits were issued during the month of October with a \$4,202,752.00 in total valuation.
- 272 garage sale permits were issued \$4,080.00 in total valuation.
- Provide customer service and support to 1,114 people and handled approximately 1,849 calls.
- The building inspectors made approximately 738 inspections.
- 39 building permits were issued for new houses \$5,189,544.00 in total valuation.

BUSINESS PERMITS

Code Enforcement Inspectors continue visiting all the businesses to check if occupational licenses and permits were up-to-date, conduct business permits and food truck inspections, day care/foster homes permits.

Letters mailed out to existing businesses: 19
Business Permits Renewed: 15
Valuation of business permits renewed: \$750.00
Health Permits Renewed: 7
Valuation of health permits renewed: \$625.00

NEW BUSINESSES OPENING IN THE CITY DURING THIS MONTH

A total of six (5) new businesses were opened in the City of San Juan during the month of October.

- Acayucan Restaurant 2506 N. Raul Longoria Road, Suite 4
- Amorcito Corazon Tacos y Antojitos 1806 N. Raul Longoria Road, Suite 3
- Ismael en Cocina 2506 N. Raul Longoria Road, Space 2
- Matte Black Nail Studio 111 W. Nolana Avenue, Suite 10
- MID Valley BHPS 700 N. Veterans Boulevard, Suite E

CODE ENFORCEMENT

The Code Enforcement Inspectors are in charge of maintaining the city clean, livable and ensuring that property owners comply with the city rules and regulations. They found the following violations during the month of October:

Officer Rodriguez

- Work Orders: 11
- Weedy Lots: 44
- Garage Sale w/o permit: 4
- Building w/o permit: 4
- Certified letters mailed out: 22
- Complaints filed in Court: 4
- Abandoned cars: 18

Officer Corona

- Work Orders: 10
- Weedy Lots: 26
- Garage Sale w/o permit: 1
- Building w/o permit: 5
- Certified letters mailed out: 34
- Abandoned cars: 5
- Commercial vehicles: 5

Officer Monroy

- Weedy Lots: 6
- Garage Sale w/o permit: 6
- Building w/o permit: 2
- Abandoned cars: 17
- Street vendors: 2

SUBDIVISIONS IN PROCESS

- Shops at Chavez, Lot 6
- Parks and Recreation Center Subdivision
- Royal Heights
- Mosa Multi-Family Subdivision
- Oakridge Estates
- Paraiso Subdivision
- Espana Subdivision
- La Cantera Subdivision
- Santa Anna Subdivision
- Valley Ranch Phase 6
- Paradise Estates

- DG Veterans Subdivision
- Monaco Estates
- La Cantera Subdivision Phase -1
- Maria Gardens Subdivision
- Rafael Estates
- Olive Tree Subdivision
- Cantu Subdivision
- Sioux Heights Subdivision
- Villas de Angelina
- The Nest Subdivision

MEETINGS ATTENDED IN OCTOBER:

- San Juan Parks and Recreation Progress Meeting (10/3/24)
- Panda Express Grand Opening (10/22/24)
- Pre-Construction Meeting for the Boys and Girls Club (10/22/24)
- Staff Meeting for Lucky Drive (10/25/24)
- Meeting with Vexus Fiber Optics (10/28/24)
- Director's Meeting (10/30/24)
- Final Walk-through for Monaco Estates Subdivision (10/31/24)
- Halloween Festival (10/31/24)

PUBLIC INFORMATION REQUEST RESPONDED: 17

PLANNING AND ZONING MEETINGS:

The Planning and Zoning Meeting was held on Thursday, October 3, 2024.



**PLANNING AND ZONING COMMISSION
OCTOBER 3, 2024
SAN JUAN MEMORIAL LIBRARY
6:00 P.M.**

P&Z PRESENT

Irma Castillo
Valerie Cardenas
Eliza Yzaguirre
Mark Salinas
Cesar Cantu
Luis Mancillas

P&Z ABSENT

Eric Sanchez

STAFF PRESENT

Monica Gomez

GUESTS PRESENT

1. CALL TO ORDER

Chairwoman Castillo called the meeting to order at 6:00 p.m.

2. APPROVAL OF MINUTES – August 22, 2024

Commissioner Yzaguirre made a motion to approve the minutes as presented by staff. Commissioner Cardenas seconded the motion. The motion passed unanimously with a 6-0 vote.

3. NOMINATION OF OFFICERS

City Staff recommended to wait on the nomination of officers since one of the Planning and Zoning Board member was not present.

4. PUBLIC HEARINGS

4.1 Amendment

To the Appendix “A”, Unified Development Code, Chapter 2, Article IV, Section 11 of the San Juan Code of Ordinances to Allow Car Dealerships in the Expressway Corridor District.

REVIEW COMMENTS:

Ms. Gomez explained the memorandum attached to the packet. She said that the expressway corridor district is a zoning that was approved in February 14, 2017, to redevelop the area along the expressway by allowing some businesses by use of or thru a conditional use permit. She mentioned that the Expressway Corridor Master Plan has been amended on November 14, 2017, to allow car wash facilities and June 14, 2022, to allow only retail. The San Juan EDC is requesting another amendment to allow car dealerships. Staff recommends approval of this amendment and car dealerships would be approved through a conditional use permit. A public hearing was on the newspaper and no comments were received in favor or against this amendment.

RECOMMENDATION: Staff is recommending approval of this amendment to allow car dealerships thru a conditional use permit.

Chairwoman Castillo opened the public hearing at 6:04 p.m.

Chairwoman Castillo asked about staff's recommendation. Ms. Gomez responded the staff recommends approval of the amendment to allow car dealerships through a conditional use permit.

Commissioner Yzaguirre asked if the amendment was to allow luxury cars.

Chairwoman Castillo requested a definition of luxury cars in the ordinance, in case it was.

Commissioner Cardenas asked if this amendment would apply to the tire shop that was previously denied. Ms. Gomez responded that tire shop is more like repair and maintenance, a mechanic shop, which is not allowed along the Expressway Corridor. This amendment is for new and preowned automobile sales.

Chairwoman Castillo closed the public hearing at 6:06 p.m.

Commissioner Cardenas made a motion to approve the amendment to the Expressway Corridor District as presented by staff. Commissioner Mancillas seconded the motion. Motion passed unanimously with a 6-0 vote.

5. NEXT MEETING – October 17, 2024 (if necessary)

6. NOMINATION OF OFFICERS

Before to adjourn the meeting, Planning and Zoning Commissioners decided to proceed with the nomination of officers.

Commissioner Mark Salinas made a motion to nominate Commissioner Valerie Cardenas as Chairwoman; Commissioner Luis Mancillas seconded the motion. Motion passed unanimously with a 6-0 vote.

Commissioner Cesar Cantu made a motion to nominate Commissioner Irma Castillo as Vice-Chairwoman; Commissioner Luis Mancillas seconded the motion. Motion passed unanimously with a 6-0 vote.

7. ADJOURNMENT

There being no further items to discuss, Commissioner Yzaguirre made a motion to adjourn; Commissioner Cardenas seconded the motion. The meeting was adjourned at 6:09 p.m.

City of San Juan, Texas

Irma Castillo, Chairwoman
Planning and Zoning Commission

Attest:

Monica Gomez
Interim Director of Planning



Mayor: Mario Garza
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Commissioners: Ernesto “Neto” Guajardo
Adina “Dina” Santillan
Jesus “Jesse” Ramirez

MEMORANDUM

TO: Benjamin Arjona, City Manager

FROM: Ruben Guajardo, Asst Parks Director

DATE: 11/05/2024

SUBJECT: Department of Parks and Recreation Monthly Report. [Ruben Guajardo, Parks & Recreation Director]

For October 2024, we have the following to report: During October 2024, our department addressed the following areas.

Parks Division-

- Parks staff has maintained our athletic fields by marking and grooming them in preparation for the rentals and league games.
- Staff continues to maintain the grounds of our city parks, landscaping departmental buildings, and other assigned areas throughout the City.
- Decorated current Parks and Recreation Department with Halloween Decorations
- Installed Dia de Los Muertos banners across 1st St./Nebraska and area by Pizza Hut
- Assisted the San Juan Basilica staff with saw dust preparations for Dia de Los Muertos
- Oct 30, 2024, Assisted in street closures and cone layout for the PSJA Homecoming Parade
- Oct 31, 2024 Staff coordinated Halloween Festival street closure, set up, take down

Recreation Division-

- Adult Softball Men’s Class E concluded on Thursday, October 10 with 10 teams and Co-Ed Softball concluded on Friday, October 18 with 8 teams.
- High school baseball and softball leagues are ongoing, on Monday and Wednesday nights.
- Youth Flag Football and Youth Volleyball began play on Tuesday, October 15. Flag Football has a total of 25 teams with 261 participants, Volleyball has a total of 28 teams with 276 participants and Tackle Football has 3, 6th grade teams totaling 58 participants.

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Phone: (956)223-2200 • Fax: (956) 787-5978

- On October 17, we held our annual Pack the House for Youth Flag Football and Tackle Football at PSJA ISD Stadium. PSJA Bears hosted Economedes HS. San Juan youth football players led the PSJA Bears football team onto the football field.
- On October 22, Myself, Ramiro Moreno, Alex Lopez, and Christine Soto presented the City of San Juan Commission with the TAAF Platinum Award for registration of teams, individuals, and TAAF training programs received at the 99th Annual TAAF Conference in Garland, Tx.
- On Saturday, October 26th, staff assisted our city commission in participating in the PSJA Tri-City Red Ribbon parade.
- On October 29, Pack the House for Youth Volleyball at PSJA high school gym game between PSJA HS vs La Joya HS. All volunteer coaches and players were acknowledged
- On October 30th, staff assisted PSJA High with the coordination of the PSJA Bears homecoming parade line-up and take-off.
- On October 31st, staff assisted in the coordination, set-up, and takedown of our annual Halloween Festival taken place at Old City Hall.

Building Maintenance Division-

- Staff has continued daily and weekly cleaning, repairing, and maintaining all city buildings. Along with coordinating the Amigo del Valle Rentals, City Hall EOC Room, and Library set-ups for weekly meetings as needed
- Installed two enclosed corked display boards at Fire Station No. 1
- Fixed sink at Fire Station No. 2
- Upgrading the lights at Marshall's Office
- Repaired restroom door at Municipal Park
- Replaced breaker for lights at Mayfield
- A Monthly Elevator Test was performed
- Staff did electrical preparations for the Halloween Festival
- Staff worked the Halloween Festival
- Assisted in installing a compressor at Solid Waste

San Juan Parks & Recreation Advisory Board-

- Conducted a meeting on Wednesday, October 23 at 6 pm

San Juan Police Athletic League (PAL)-

- Conducted a meeting on Thursday, October 24 at 6 pm

EVENTS

Pack the House – Football and Volleyball October 17 and 29, 2024

PSJA Homecoming Parade, Wednesday, October 30, 2024

Halloween Festival, Thursday, October 31, 2024

Dia de Los Muertos, November 2, 2024



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MEMORANDUM

TO: Benjamin Arjona, City Manager

FROM: Israel Garza, Sanitation Director

DATE: 11/01/2024

SUBJECT: Department of Sanitation Monthly Report. [Israel Garza, Director of Sanitation]

OCTOBER 2024 Report Sanitation Department (October 2024)

- ☐ Solid Waste Collection ran on schedule all month
- ☐ Brush Pickup ran on schedule all month
- ☐ Drop off Site: 1,060 Residents
- ☐ Residential: 1,189.55 Tons
- ☐ Commercial: 836.83 Tons
- ☐ Roll-Off Containers: 458.14Tons/103 loads
- ☐ Brush: 360.84 Tons/134 loads of brush

Central Garage (October 2024)

- ☐ Tickets Open: 35
- ☐ Tickets Closed: 12
- ☐ 5 Residential Side Loaders operating
- ☐ 1 Commercial Side Loaders operator
- ☐ 2 Commercial Front Loaders operating
- ☐ 2 Brush Truck operating
- ☐ 1 Brush Tractor (grapple) operating
- ☐ 3 Brush Grapple Truck operating
- ☐ 2 Roll- Offs Trucks operating

Recycling (October 2024)

- ☐ Cardboard : 12.98 tons/\$1,090.85
- ☐ Curbside : 3.04 tons/\$0.00
- ☐ Mixed White Paper : 0.51 tons/30.60

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☐ Books: 0.43 tons/\$8.60

Total Tons/Revenue: 16.96 tons/\$1,130.05

☐ Savings of \$339.20

☐ Walk-Ins: 211

Code Enforcements (October 2024)

☐ Esteban Garcia

☐ Violation Notice Issued: 25

☐ Illegal Dumping: 41

☐ Contact People: 82

☐ Construction Material: 15

☐ Tires: 40

October 2024

Revenue Tonnage:

Cardboard: 12.98 tons/\$1090.85

Curbside: 3.04 tons/\$0.00

Mixed White Paper 0.51 tons/\$30.60

Books 0.43 tons/\$8.60

Total Revenue I Tonnage: 16.96 tons/\$1130.05

Savings of: \$339.20

Walk - Ins: 211



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MEMORANDUM

TO: Benjamin Arjona, City Manager

FROM: Christina Perez, Interim-Director of Library

DATE: 11/05/2024

SUBJECT: San Juan Memorial Library Monthly Report. [Christina Perez, Interim Library Director]

Enclosed is the October Monthly Report including statistics and programs:

For the month of October, we had, 2,139 visitors. Out of those visitors, 540 were here for computer use only. The library checked out a total of 849 physical items for both adult and children. We had 11 in-house circulation items. We requested and received twenty-two (22) Interlibrary Loans (ILL). We had 38 new patrons added to our circulation system. We helped the public with an estimated 787 reference/informational questions. We had 22 fax transactions. The monthly amount deposited was \$953.60 both fines and fees.

Please see the attached statistical report.

During the month of October

- Hosted Agrilife for Homeschool Hour
- Held Senior Crafting Sessions hosted by Well-Med
- Attended TML Training
- Attended UMO Head Start for Outreach
- Attended San Juan's Trunk or Treat Event
- Attended San Juan's Dia de los Muertos Event
- Attended Hidalgo County Library System Meeting
- Managed the day-to-day operations of the San Juan Memorial Library

Meetings to be held in November 2024

Multipurpose Room

Early Voting, November 1st

Election Day, November 5th

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Keep San Juan Beautiful, November 6th
Planning & Zoning, November 7th & 21st
City Commission, November 12th & 26th
Foot Locker Meeting, November 13th & 14th
Homeschool Hour, November 15th
Avance Meeting, November 16th
Birding Center Spider Presentation, November 18th

Training Room:

Well-Med, November 13th
Library Board, November 13th

Statistics	
Total Visitors	2,139
Computer Users	540
Total Checkouts	849
In-House Use	11
Inter-Library Loans	22
New Patrons	38
Reference\ Informational Questions	787
FAX transactions	22
Children's Programs	19
Attendance	449

Multipurpose Room Reservations	Attendance
1st Special Called Meeting	8
2nd KSJB Board	5
3rd Planning and Zonning	7
4th Agralife - Walk and Talk	10
5th The Lions Club	26
7th Slime Day	34
10th Movie Day	6
19th Nosotros Por Valle	34
20th Npsptros Por Valle	45
21st Early Voting	858
22th Early Voting	687
23rd Early Voting	639
24th Early Voting	561
25th Early Voting	733
26th Early Voting	536
27th Early Voting	219
28th Early Voting	501
29th Early Voting	545
30th Early Voting	525
31st Early Voting	574
Total	2,359

Training Room Reservations	Attendance
2nd Noche de Paz	5
8th Insurance Agency	2
12th Training for Teachers	8
16th Well-Med	10
25th Homeschool hr	22
30th Wellmed	5
Total	52

Total DVD Checkouts	
Children's DVDs	85
Other than Children's DVDs	29
Total	114

Total Book Checkouts	
Children's Books	555
Other than Children's Books	180
Total	735

WiFi Usage	
LibGuest	1,008
LibStaff	2,203
Total	3,211

Study Room Attendance	
Study Rooms	74

Facebook Page	
Likes	22
Visitors	1,800

SJML Homepage	
Visitors	33,810

Deposits	
Fines	\$ 85.89
Copies	\$ 867.55
Surcharges	\$ 0.16
Total	\$953.44
Total + Surcharges	\$953.60

Youth & Children's Programs/Attendance

Date	Program	Attendance
Tuesday, October 1, 2024	Crafts & Snacks	33
Thursday, October 3, 2024	Coraline	13
Sunday, October 6, 2024	Coloring Time	11
Monday, October 7, 2024	Slime DIY	34
Tuesday, October 8, 2024	Crafts & Snacks	22
Wednesday, October 9, 2024	Toddler Time	8
Thursday, October 10, 2024	Frankenweenie	7
Tuesday, October 15, 2024	Crafts & Snacks	20
Wednesday, October 16, 2024	Toddler Time	3
Thursday, October 17, 2024	Over the Garden Wall	2
Monday, October 21, 2024	Anime Pin Button DIY	19
Monday, October 21, 2024	UMOS Migrant School	24
Tuesday, October 22, 2024	Crafts & Snacks	21
Thursday, October 24, 2024	The Nightmare Before Christmas	12
Friday, October 25, 2024	Homeschool Hour	22
Sunday, October 27, 2024	Coloring Time	12
Monday, October 28, 2024	Play-Doh Time	8
Tuesday, October 29, 2024	Crafts & Snacks	18
Thursday, October 31, 2024	Trick-or-Treat Trail	160
Total	19	449

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Hold a Public Hearing for the Voluntary Annexation Petition of the 7.82-Acre Tract of Land out of Lot 12, Block 27, Alamo Land and Sugar Company's Subdivision, as Requested by OC Development, LTD. [Monica Gomez, Interim Director of Planning]

STAFF COMMENTS AND RECOMMENDATIONS:

The Planning and Zoning Department is processing a Villas de Angelina Subdivision, which is a residential subdivision, located approximately a quarter of a mile West from Cesar Chavez Road, along the South side of Hall Acres Road. Part of the subdivision is located outside the city limits of San Juan and developer is submitting a voluntary annexation petition of a 7.82-acre tract of land out of Lot 12, Block 27, Alamo Land and Sugar Company's Subdivision.

OC Development, LTD. has submitted a petition for voluntary annexation to the City of San Juan. Annexation of this property is being undertaken in accordance with the provisions of the Texas Local Government Code, Chapter 43, Municipal Annexation, Section 43.028 and the City Charter.

RECOMMENDATION:

Staff recommends approval of the first public hearing as presented.

PREPARED BY:

Monica Gomez,
Interim Director of
Planning

APPROVED BY:

Benjamin Arjona, City
Manager



**Planning & Zoning Department
VOLUNTARY ANNEXATION SCHEDULE
Proposed Villas de Angelina Subdivision**

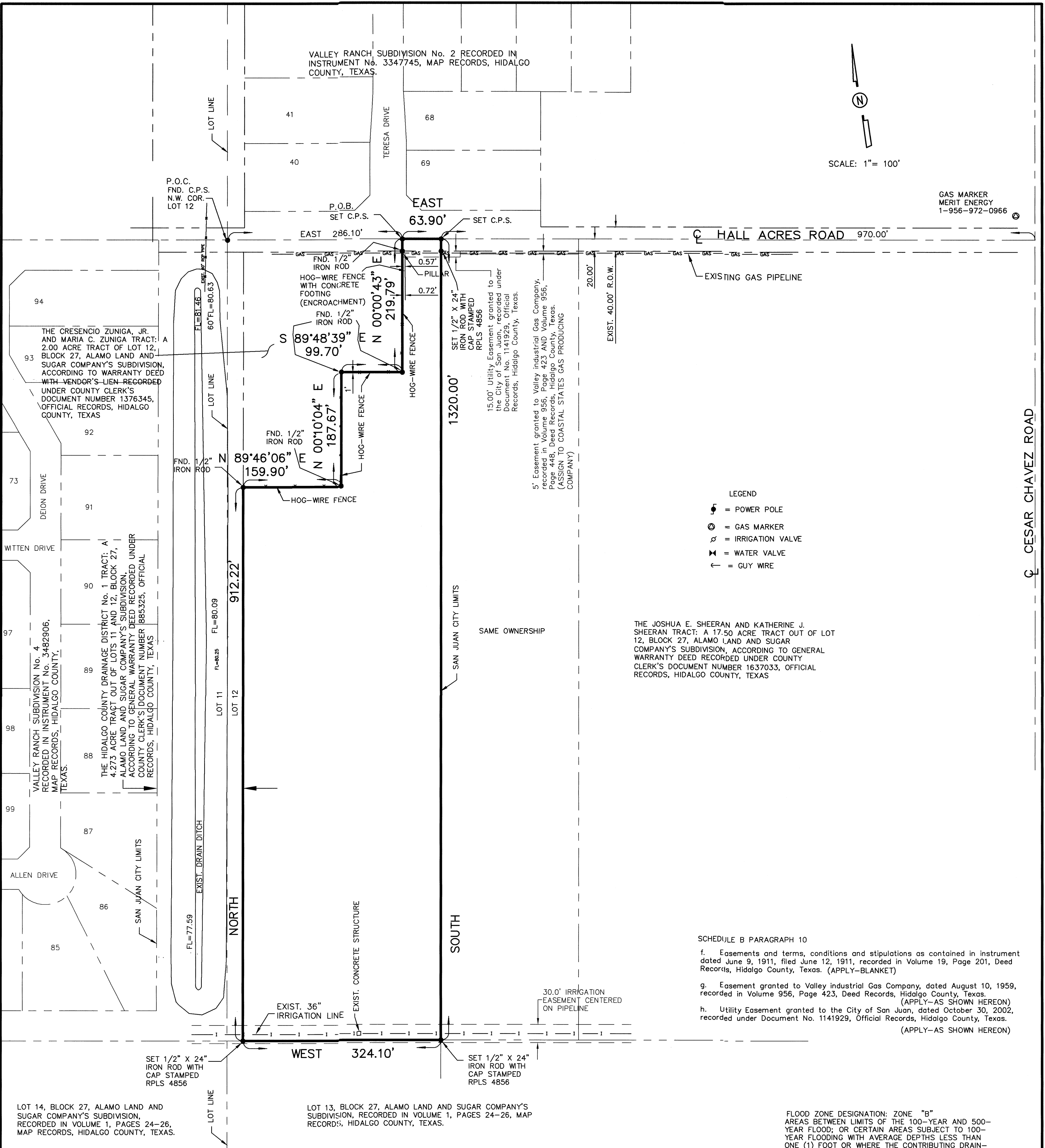
Subject Property	Being a 7.82-acre tract of land out of Lot 12, Block 27, Alamo Land and Sugar Company's Subdivision, Hidalgo County, Texas.
Wednesday, September 25, 2024	Planning Department distributes location map, annexation map and subdivision plat to other city departments for their review and comments.
Monday, September 30, 2024	Negotiate written service agreement with property owner and City.
Tuesday, October 22, 2024	City Commission accepts the petition for Voluntary Annexation, setting dates and times for public hearings by a Resolution.
Wednesday, October 23, 2024	First Public Hearing Notice is published in local newspaper. Send Written Notice by Certified Letter to school district, public entity, and appraisal district, etc.
Tuesday, November 12, 2024	City Commission holds public hearing on Voluntary Annexation.
Wednesday, November 27, 2024	Notice of 2 nd Public Hearing is published in the local newspaper.
Tuesday, December 10, 2024	City Commission holds 2 nd public hearing on Voluntary Annexation.
Tuesday, January 14, 2025	First Reading: City Commission Approves Voluntary Annexation Ordinance.
Tuesday, January 28, 2025	2 nd Reading: City Commission Approves Voluntary Annexation Ordinance.

VALLEY RANCH SUBDIVISION No. 2 RECORDED IN
INSTRUMENT No. 3347745, MAP RECORDS, HIDALGO
COUNTY, TEXAS.



SCALE: 1"= 100'

GAS MARKER
MERIT ENERGY
1-956-972-0966



LEGEND

- ⚡ = POWER POLE
- ⊙ = GAS MARKER
- ⊗ = IRRIGATION VALVE
- ⋈ = WATER VALVE
- ← = GUY WIRE

THE JOSHUA E. SHEERAN AND KATHERINE J.
SHEERAN TRACT: A 17.50 ACRE TRACT OUT OF LOT
12, BLOCK 27, ALAMO LAND AND SUGAR
COMPANY'S SUBDIVISION, ACCORDING TO GENERAL
WARRANTY DEED RECORDED UNDER COUNTY
CLERK'S DOCUMENT NUMBER 1637033, OFFICIAL
RECORDS, HIDALGO COUNTY, TEXAS

SCHEDULE B PARAGRAPH 10

- Easements and terms, conditions and stipulations as contained in instrument dated June 9, 1911, filed June 12, 1911, recorded in Volume 19, Page 201, Deed Records, Hidalgo County, Texas. (APPLY-BLANKET)
- Easement granted to Valley Industrial Gas Company, dated August 10, 1959, recorded in Volume 956, Page 423, Deed Records, Hidalgo County, Texas. (APPLY-AS SHOWN HEREON)
- Utility Easement granted to the City of San Juan, dated October 30, 2002, recorded under Document No. 1141929, Official Records, Hidalgo County, Texas. (APPLY-AS SHOWN HEREON)

PLAT SHOWING

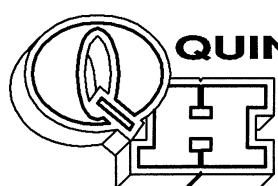
A 7.82 ACRE TRACT OF LAND OUT OF LOT 12, BLOCK 27,
ALAMO LAND AND SUGAR COMPANY'S SUBDIVISION, HIDALGO
COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF
RECORDED IN VOLUME 1, PAGES 24-26, MAP RECORDS,
HIDALGO COUNTY, TEXAS AND ACCORDING TO WARRANTY DEED
RECORDED UNDER COUNTY CLERK'S DOCUMENT NUMBER
3076373, OFFICIAL RECORDS, HIDALGO COUNTY, TEXAS.

FLOOD ZONE DESIGNATION: ZONE "B"
AREAS BETWEEN LIMITS OF THE 100-YEAR AND 500-
YEAR FLOOD; OR CERTAIN AREAS SUBJECT TO 100-
YEAR FLOODING WITH AVERAGE DEPTHS LESS THAN
ONE (1) FOOT OR WHERE THE CONTRIBUTING DRAIN-
AGE AREA IS LESS THAN ONE (1) SQUARE MILE; OR
AREAS PROTECTED BY LEVEES FROM THE BASE FLOOD.
COMMUNITY-PANEL NUMBER 480334 0425 C
MAP REVISED: NOVEMBER 16, 1982

BEARINGS SHOWN ON THIS SURVEY PLAT ARE IN
ACCORDANCE WITH VIANEY ESTATES RECORDED IN VOLUME
45, PAGE 125, MAP RECORDS, HIDALGO COUNTY, TEXAS.

I, ALFONSO QUINTANILLA, A REGISTERED PROFESSIONAL
LAND SURVEYOR, DO HEREBY CERTIFY THE FOREGOING
PLAT TO BE A TRUE AND CORRECT REPRESENTATION
OF THE LANDS SHOWN AS THE RESULT OF AN ACTUAL
SURVEY DONE ON THE GROUND UNDER MY DIRECTION.
THERE ARE NO VISIBLE DISCREPANCIES, CONFLICTS, OR
SHORTAGES IN AREA ON BOUNDARY LINES, OR ANY VISIBLE
ENCROACHMENTS, OR ANY VISIBLE OVERLAPPING OF
IMPROVEMENTS EXCEPT AS SHOWN ON THIS PLAT.

VOL. 1 PAGES 24-26
SURVEYED SEPTEMBER 12, 2024
OWNER OC DEVELOPMENT, LTD.
ADDRESS
JOB No. G.F. No. 19007028
BOOK No. PAGE
Z: \data\SUBDIVISIONS\12-PRELIMINARY\Eddie Cantu\HALL ACRES EAST SIDE\LT 12 BK 27 ALS



QUINTANILLA, HEADLEY AND ASSOCIATES, INC.

CONSULTING ENGINEERS • LAND SURVEYORS
124 E. STUBBS ST. PHONE 956-381-6480
EDINBURG, TEXAS 78539 FAX 956-381-0527
REGISTRATION NUMBER F-1513 ALFONSOQ@QHA-ENG.COM
ENGINEERING REGISTRATION NUMBER F-1513
SURVEYING REGISTRATION NUMBER 100411-00



Alfonso Quintanilla
REGISTERED PROFESSIONAL LAND SURVEYOR
No. 4856

RECEIVED

SEP 20 2024

Planning Department

PETITION FOR ANNEXATION

To the Mayor and City Council, City of San Juan:

The undersigned, owner of land or representative of the majority of landowners hereby petitions the City Council of the City of San Juan to annex Villas de Angelina: a 7.82 acre tract of land out of Lot 12, Block 27, Alamo Land and Sugar Company's Subdivision, Hidalgo County, Texas, according to the plat or map thereof recorded in Volume 1, Pages 24-26, Map Records, Hidalgo County, Texas.



Eduardo Cantu, Member
OC Development, Ltd

STATE OF TEXAS §

COUNTY OF HIDALGO §

Before me, the undersigned authority, on this day appeared Eduardo Cantu who stated upon his oath the following:

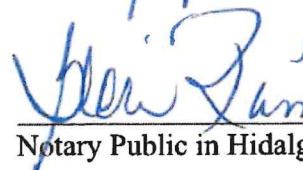
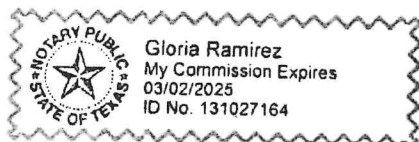
My name is Eduardo Cantu and I am the agent of the majority of the landowners.
There are no residents nor are there any qualified voters in the area to be annexed.

Further affiant saith not.

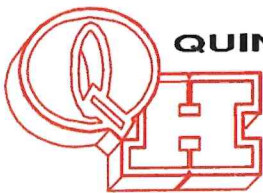


Eduardo Cantu, Member
OC Development, Ltd

SWORN TO and subscribed before me on the 18th day of September, 2024



Notary Public in Hidalgo County, Texas



QUINTANILLA, HEADLEY AND ASSOCIATES, INC.

Consulting Engineers ★ Land Surveyors

Alfonso Quintanilla, P.E., R.P.L.S. Eulalio Ramirez, P.E.
Engineering Firm Registration No. F-1513
Surveying Firm Registration No. 100411-00
Municipal & County Projects ★ Subdivisions ★ Surveys
124 E. Stubbs, Edinburg, Texas 78539
Phone 956/381-6480 Fax 956/381-0527

METES AND BOUNDS

**VILLAS DE ANGELINA SUBDIVISION
ANNEXATION**

A 7.82 ACRE TRACT OF LAND OUT OF LOT 12, BLOCK 27, ALAMO LAND AND SUGAR COMPANY'S SUBDIVISION, HIDALGO COUNTY, TEXAS, ACCORDING TO THE PLAT OR MAP THEREOF RECORDED IN VOLUME 1, PAGES 24-26, MAP RECORDS HIDALGO COUNTY, TEXAS, AND ACCORDING TO WARRANTY DEED WITH VENDOR'S LIEN RECORDED UNDER COUNTY CLERK'S DOCUMENT NUMBER 3076373, OFFICIAL RECORDS, HIDALGO COUNTY, TEXAS, REFERENCE TO WHICH IS HERE MADE FOR ALL PURPOSES AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS.

BEGINNING AT A COTTON PICKER SPINDLE SET ON THE NORTH LINE OF LOT 12 AND IN THE CENTERLINE OF HALL ACRES ROAD FOR THE NORTHEAST CORNER OF THE CRESCENCIO ZUNIGA, JR. TRACT (A 2.00 ACRE TRACT OF LAND OUT OF LOT 12, BLOCK 27, ALAMO LAND AND SUGAR COMPANY'S SUBDIVISION, ACCORDING TO WARRANTY DEED WITH VENDOR'S LIEN RECORDED UNDER COUNTY CLERK'S DOCUMENT NUMBER 1376345, OFFICIAL RECORDS, HIDALGO COUNTY, TEXAS) AND THE NORTHWEST CORNER OF THIS TRACT, SAID SPINDLE BEARS EAST, 286.10 FEET FROM THE NORTHWEST CORNER OF LOT 12.

THENCE; EAST, ALONG THE NORTH LINE OF LOT 12 AND THE CENTERLINE OF HALL ACRES ROAD, A DISTANCE OF 63.90 FEET TO A COTTON PICKER SPINDLE SET FOR THE NORTHEAST CORNER OF THIS TRACT.

THENCE; SOUTH, PASSING A 1/2" IRON ROD WITH CAP STAMPED RPLS 4856 SET AT 20.00 FEET FOR THE SOUTH RIGHT OF WAY LINE OF HALL ACRES ROAD, A TOTAL DISTANCE OF 1,320.00 FEET TO A 1/2" IRON ROD WITH CAP STAMPED RPLS 4856 SET ON THE SOUTH LINE OF LOT 12 FOR THE SOUTHEAST CORNER OF THIS TRACT.

THENCE; WEST, ALONG THE SOUTH LINE OF LOT 12, A DISTANCE OF 324.10 FEET TO A 1/2" IRON ROD WITH CAP STAMPED RPLS 4856 SET FOR THE SOUTHEAST CORNER OF THE HIDALGO COUNTY DRAINAGE DISTRICT No.1 TRACT (A 4.273 ACRE TRACT OF LAND OUT OF LOTS 11 AND 12, BLOCK 27, ALAMO LAND AND SUGAR COMPANY'S SUBDIVISION, ACCORDING TO GENERAL WARRANTY DEED RECORDED UNDER COUNTY CLERK'S DOCUMENT NUMBER 885325, OFFICIAL RECORDS, HIDALGO COUNTY, TEXAS) AND THE SOUTHWEST CORNER OF THIS TRACT.

THENCE; NORTH, ALONG THE EAST LINE OF THE HIDALGO COUNTY DRAINAGE DISTRICT No.1 TRACT, A DISTANCE OF 912.22 FEET TO A 1/2" IRON ROD FOUND FOR THE SOUTHWEST CORNER OF THE CRESENCIO C. ZUNIGA, JR. TRACT AND AN EXTERIOR CORNER OF THIS TRACT.

THENCE; N 89°46'06" E, ALONG THE SOUTH LINE OF THE CRESENCIO ZUNIGA, JR. TRACT, A DISTANCE OF 159.90 FEET TO A 1/2" IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID TRACT AND AN INTERIOR CORNER OF THIS TRACT.

THENCE; N 00°10'04" E, ALONG THE EAST LINE OF THE CRESENCIO ZUNIGA, JR. TRACT, A DISTANCE OF 187.67 FEET TO A 1/2" IRON ROD FOUND FOR AN EXTERIOR CORNER OF THIS TRACT.

THENCE; S 89°48'39" E, ALONG THE EAST LINE OF THE CRESENCIO ZUNIGA, JR. TRACT, A DISTANCE OF 99.70 FEET TO A 1/2" IRON ROD FOUND FOR AN INTERIOR CORNER OF THIS TRACT.

THENCE; N 00°00'43" E, ALONG THE EAST LINE OF THE CRESENCIO ZUNIGA, JR. TRACT, PASSING A 1/2" IRON ROD FOUND AT 199.79 FEET FOR THE SOUTH RIGHT OF WAY LINE OF HALL ACRES ROAD, A TOTAL DISTANCE OF 219.79 FEET TO THE POINT OF BEGINNING AND CONTAINING 7.82 ACRES OF LAND MORE OR LESS.

BEARINGS ARE IN ACCORDANCE WITH VIANEY ESTATES, RECORDED IN VOLUME 45, PAGE 125, MAP RECORDS, HIDALGO COUNTY, TEXAS.

I, ALFONSO QUINTANILLA, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, DO HEREBY CERTIFY THE ABOVE METES AND BOUNDS TO BE TRUE AND CORRECT, AND TO BE THE REPRESENTATION AND RESULT OF AN ACTUAL SURVEY DONE ON THE GROUND UNDER MY DIRECTION.

DATE PREPARED: SEPTEMBER 12, 2024



ALFONSO QUINTANILLA
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4856



AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Hold a Public Hearing and Consider an Ordinance Providing for the Conditional Use Permit for the Sale of Alcoholic Beverages (MB – Mixed Beverage Permit and LB – Mixed Beverage Late Hours Permit) at Home2 Suites by Hilton, Located at 1003 E. Carroll Road, Legally Described as Lot 4, Plaza San Juan Subdivision, as Requested by San Juan Foodservice, LLC. [Monica Gomez, Interim Director of Planning]

STAFF COMMENTS AND RECOMMENDATIONS:

The property is located approximately 270 feet East of Raul Longoria Road, along the South side of Nadia Street. The property has a total frontage of 100 feet along Nadia Street and a lot depth of 173.69 feet for a total of 0.39 Acres (gross). The requested zoning designation is the General Business District (C-2), which allows any retail business. The lot is currently vacant and the applicant is seeking a zone change to build a parking area for the proposed retail business that is located on the adjacent property (Nadia Street and Raul Longoria Road).

The property is currently zoned Single-Family Residence District (R-S), which is for a one-family dwelling. Surrounding zoning districts are for residential use along Nadia Street and commercial along Raul Longoria Road. The future land use designation for this property is commercial use.

Staff mailed a notice of the public hearing to fourteen (14) neighboring property owners within the two hundred (200) foot radius on Friday, October 25, 2024, and received no comments in favor or against this request at the time this report was prepared. Notice of the public hearing was published in the newspaper on Wednesday, October 23, 2024.

RECOMMENDATION:

During their regular meeting on November 7, 2024, the Planning and Zoning Commission unanimously recommended approval of the Conditional Use Permit with a 5-0 vote.

PREPARED BY:

Monica Gomez,
Interim Director of
Planning

APPROVED BY:

Benjamin Arjona, City
Manager

MEETING DATES:
PLANNING AND ZONING COMMISSION – 09/07/2024
CITY COMMISSION – 09/12/2024
DATE PREPARED – 10/28/2024

PAGE 1

STAFF REPORT
GENERAL INFORMATION

APPLICATION: Conditional Use Permit for the Sale of Alcoholic Beverages (*MB – Mixed Beverage Permit and LB – Mixed Beverage Late Hours Permit*) at Home2 Suites by Hilton

APPLICANT: San Juan Foodservice, LLC.

SURVEYOR/ENGINEER: N/A

LEGAL: Lot 4, Plaza San Juan Subdivision

LOCATION: 1003 E. Carroll Road

EXISTING ZONING: *North* – Restaurants (Starbucks, Chili’s and Olive Garden; Expressway Corridor District (EC)

ADJACENT ZONING: *South* – Residential; Single-Family Residence District (R-S)
East – Commercial Retail; Expressway Corridor District (EC)
West – Car dealership; Expressway Corridor District (EC)

ACCESS AND CIRCULATION: This property has access along Carroll Road.

PUBLIC SERVICES: Water and sewer services are provided by the City of San Juan.

RECOMMENDATION: Staff recommends approval of the conditional use permit subject to comply with the list of requirements in the attached report.

EVALUATION AND CONDITIONS FOR APPROVAL

The applicant is requesting a Conditional Use Permit for the Sale of Mixed Beverages for On-Premise Consumption and Late Hours Permit until 2:00 a.m. at the Home2 Suites Hotel. The property is located approximately a quarter of a mile West from Cesar Chavez Road, along the North side of Carroll Road. The property has about 487.23 feet of frontage along East Carroll Road and a depth of 265.03 for a lot area of 3.43 acres. The location currently has the hotel and the surrounding area has a commercial plaza with several retail businesses and restaurants. Zoning at this location is Expressway Corridor District (EC).

Adjacent zoning is Expressway Corridor District (EC) to the North, East and West. To the South there is a residential use, Single-Family Residence District (R-S). The applicant is proposing to sell mixed beverages inside the hotel. The proposed hours of operation are Monday through Sunday from 7:00 a.m. to 2:00 a.m. Staff received a Conditional Use Permit Application: Mixed Beverages for On-Premise Consumption and Late Hours Permit on October 8, 2024. If approved, the applicant will proceed to obtain the necessary licensing and permits from the Texas Alcoholic Beverage Commission (TABC). Additional permits may be required with the City of San Juan for different alcohol permits.

Staff mailed a notice of the public hearing before the Planning and Zoning Commission to fourteen (14) neighboring property owners within a two hundred (200) foot radius on Friday, October 25, 2024 and have received no comments in favor or against this request at the time this report was prepared. Notice of the public hearing was published in the newspaper on Wednesday, October 23, 2024.

Staff recommends approval of the conditional use permit based the location and intent for this activity. The proposed use should not present a conflict with existing adjacent uses. If approved, the applicant will be required to comply with the additional following conditions:

1. The applicant complies with the hours of operation for the On-Premise Consumption of beer, wine and mixed beverages as allowed by the City and the Texas Alcoholic Beverage Commission.
2. Adequate security lighting must be provided for customer's safety and crime prevention purposes.
3. The applicant complies with all city requirements, including but not limited to building, building occupancy, fire codes, landscaping, parking, and all other City requirements.
4. The applicant must comply with the City's *Security Cameras Ordinance*.
5. Owner agrees to pay an annual fee to the City of San Juan to maintain the alcohol license, conditional use and occupational license permits.
6. No loading or unloading of merchandise in a public street.
7. There shall be no smoking inside the premises at any time.
8. The business must comply with the city's noise ordinance.

9. The Conditional Use Permit may be revoked at any time by the Planning and Zoning Commission and City Council.

ATTACHMENTS:

- Location Map
- Aerial Photo
- Zoning Map
- Site Plan
- Subdivision Plat
- Letter from property owner
- List of neighboring property owners receiving notice
- Ordinance

FINAL RESOLUTION OF REQUEST & COMMENTS:

P&Z – 11/07/2024 Commissioner Sanchez made a motion to approve the conditional use permit as presented by staff. Commissioner Yzaguirre seconded the motion. Motion passed unanimously with a 5-0 vote.

Ms. Gomez explained that the conditional use permit is to sell mixed beverages and late hours permit until 2:00 am at the Home2 Suites Hotel, which is located at 1003 E. Carroll Road. The surrounding uses consists of restaurants and commercial retail. To the north the Starbucks, Chili's and Olive Garden are located, to the East a commercial plaza, to the west a car dealership and to the south, residential use. If the application gets approved, the applicant would need to obtain a license with Texas Alcoholic Beverage Commission (TABC) and city permits for different alcohol permits. Staff mailed a notice of the public hearing to 14 property owners and no comments were received in favor or against the request. Attached to the packet is a list of requirements for your reference. Staff recommends approval of the conditional use permit subject to comply with the list of requirements in the attached report.

No discussion took place on this item.



Home2 Suites Hotel



ORDINANCE NO.

AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE SALE OF ALCOHOLIC BEVERAGE (MB - MIX BEVERAGE PERMIT AND LB – MIXED BEVERAGE LATE HOURS PERMIT) AT HOME2 SUITESBY HILTON, LOCATED AT 1003 E. CARROLL ROAD, LEGALLY DESCRIBED AS THE LOT 4, PLAZA SAN JUAN SUBDIVISION, AS PROVIDED IN ARTICLE IV, OF THE ZONING ORDINANCE, CITY OF SAN JUAN, HIDALGO COUNTY, TEXAS, PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; PROVIDING FOR A CODE DISPOSITION.

WHEREAS, San Juan Foodservice, LLC. has applied for a Conditional Use Permit under Article IV; of the Zoning Ordinance of the City of San Juan for the Sale of Alcoholic Beverages (*MB – Mix Beverage Permit and LB – Mix Beverage Late Hurs Permit*) for On-Premise Consumption at the Home2 Suites Hotel, located at 1003 E. Carroll Road, San Juan, Texas.

WHEREAS, this type of activity is prohibited by said Zoning Ordinance unless a Conditional Use Permit is granted; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAN JUAN, TEXAS, AS FOLLOWS:

SECTION I. That a Conditional Use Permit under Article IV of the Zoning Ordinance of the City of San Juan, Texas, be granted to San Juan Foodservice, LLC. has applied for a Conditional Use Permit for the Sale of Alcoholic Beverages (*MB – Mix Beverage Permit and LB – Mix Beverage Late Hurs Permit*) for On-Premise Consumption at the Home2 Suites Hotel, subject to the following conditions:

1. The applicant complies with the hours of operation for the On-Premise Consumption of beer, wine and mixed beverages as allowed by the City and the Texas Alcoholic Beverage Commission.
2. Adequate security lighting must be provided for customer's safety and crime prevention purposes.
3. The applicant complies with all city requirements, including but not limited to building, building occupancy, fire codes, landscaping, parking, and all other City requirements.
4. The applicant must comply with the City's *Security Cameras Ordinance*.
5. Owner agrees to pay an annual fee to the City of San Juan to maintain the alcohol license, conditional use and occupational license permits.
6. No loading or unloading of merchandise in a public street.
7. There shall be no smoking inside the premises at any time.
8. The business must comply with the city's noise ordinance

9. The Conditional Use Permit may be revoked at any time by the Planning and Zoning Commission and City Council.

SECTION II. PUBLICATION AND EFFECTIVE DATE CLAUSE. This Ordinance shall be published in the official newspaper of the City of San Juan, Texas, as provided by law, and shall be and remain in full force and effect from the after said date of publication.

PASSED and **APPROVED** on first reading on the 12th day of November, 2024.

PASSED and **APPROVED** on second and final reading on the ____ day of _____, 2024.

CITY OF SAN JUAN

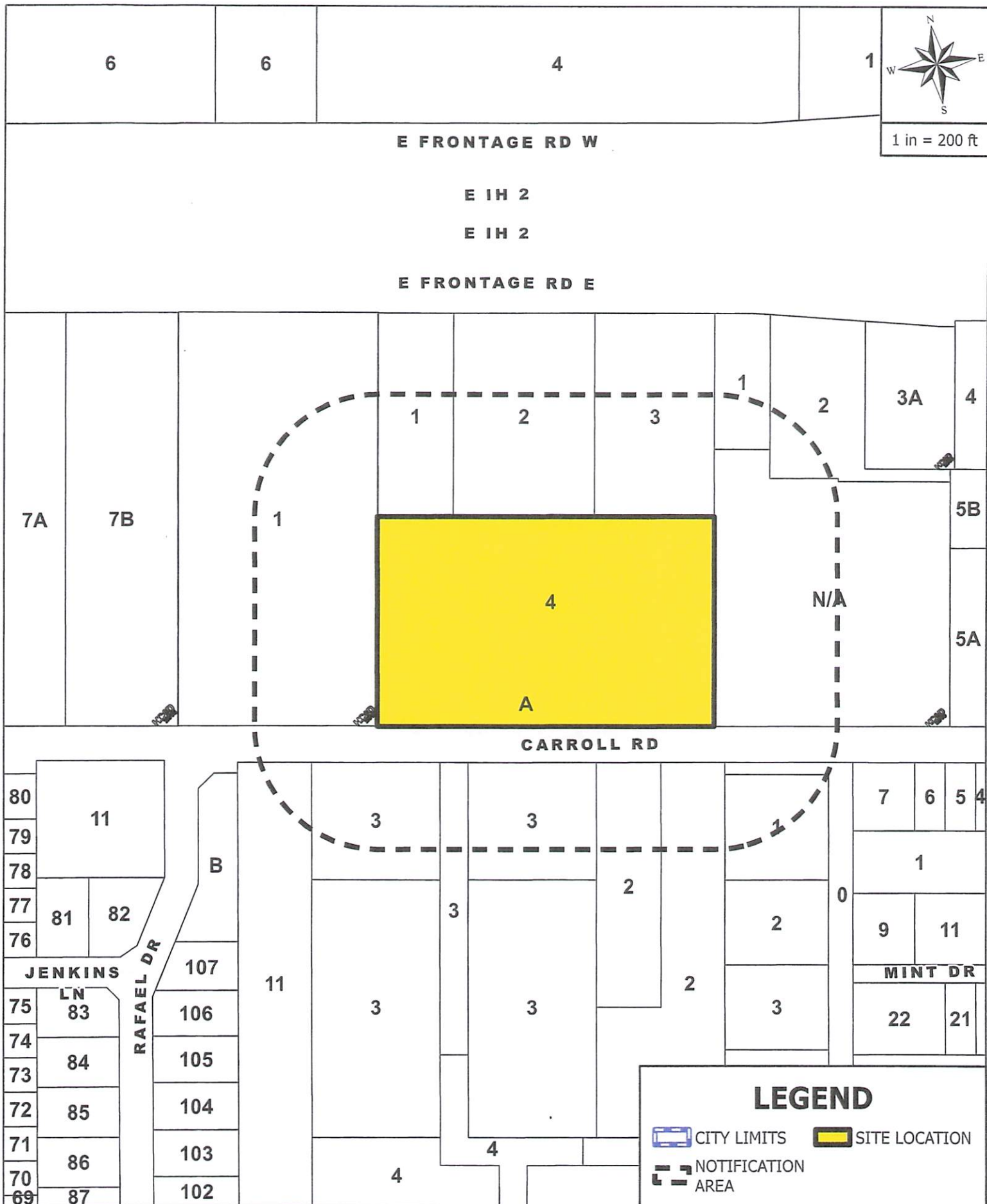
MARIO GARZA, MAYOR

ATTEST:

APPROVED BY:
Palacios, Garza & Thompson, P.C.

BRENDA ESCALANTE
CITY SECRETARY

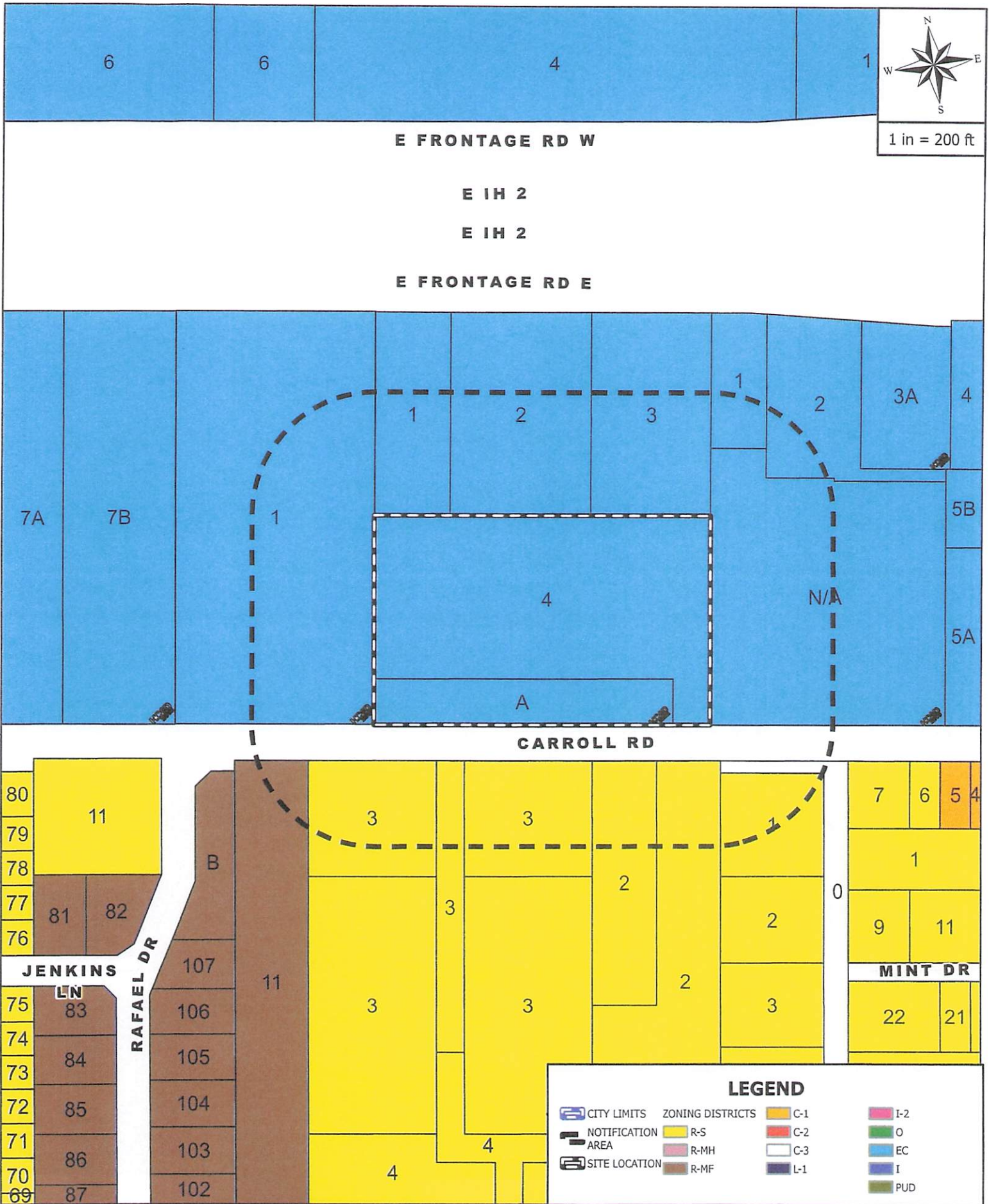
CITY ATTORNEY



MAILOUT & SITE MAP

CASE ADDRESS:

1003 CARROLL RD / SAN JUAN FOODSERVICES, LLC

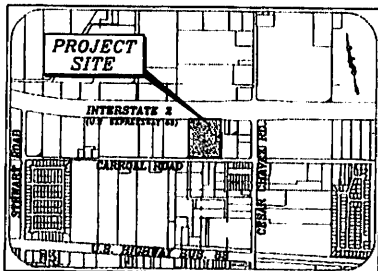
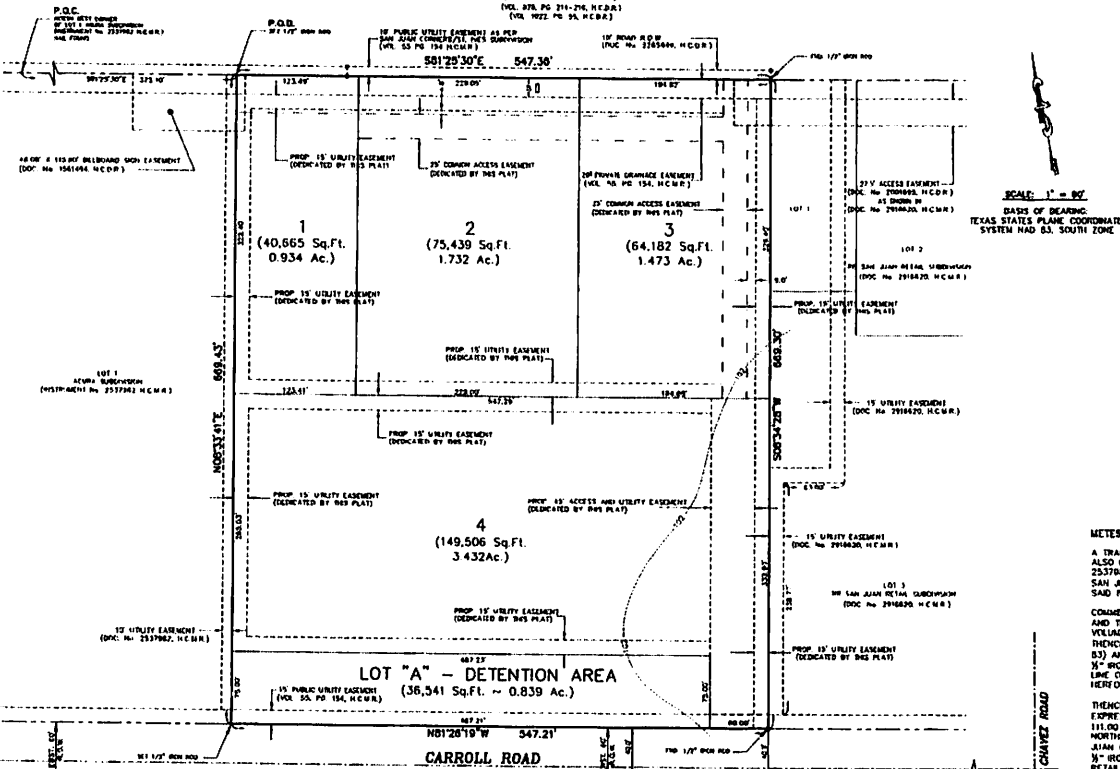


ZONING MAP

CASE ADDRESS:

1003 CARROLL RD / SAN JUAN FOODSERVICES, LLC

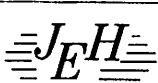
INTERSTATE 2
(U.S. EXPRESSWAY 83)
(VOL. 55, PG. 154, H.C.M.R.)
(VOL. 1022, PG. 24, H.C.M.R.)



LOCATION MAP
SCALE: 1"=1000'

DATE OF PREPARATION: SEPTEMBER, 2021

DRAWN BY: P. CONZALEZ



JAVIER HINOJOSA ENGINEERING
CONSULTING ENGINEERS
416 E. DOVE AVENUE, McALLEN, TEXAS 78504
PHONE: (956) 488-1346
javier@javierhinojosaengineering.com
TIPELS FIRM NO. F-1293

THIS PLAT IS HEREBY APPROVED BY THE HIDALGO COUNTY IRRIGATION DISTRICT NO. 7 ON THIS 11-10-21 DAY OF OCTOBER, 2021 A.D. NO IMPROVEMENTS OF ANY KIND (INCLUDING WITHOUT LIMITATION, DICES, FENCES, AND BUILDINGS) SHALL BE PLACED UPON HIDALGO COUNTY IRRIGATION DISTRICT NO. 7 RIGHTS OF WAY OR EASEMENTS.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1 HEREBY CERTIFIES THAT THE DRAINAGE PLANS FOR THIS SUBDIVISION COMPLY WITH THE MINIMUM STANDARDS OF THE DISTRICT ADOPTED UNDER TEXAS WATER CODE 49.211 (C). THE DISTRICT HAS NOT REVIEWED AND DOES NOT CERTIFY THAT THE DRAINAGE STRUCTURES DESCRIBED ARE APPROPRIATE FOR THE SPECIFIC SUBDIVISION, BASED ON GENERALLY ACCEPTED ENGINEERING CRITERIA. IT IS THE RESPONSIBILITY OF THE DEVELOPER AND HIS ENGINEER TO MAKE THESE DETERMINATIONS.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

[Signature]
PAUL E. BROWN, C.E.M.
GENERAL MANAGER

ATTEST: *[Signature]*
SECRETARY

11-10-21
DATE

PRINCIPAL CONTACTS:			
OWNER:	300 E. 11th St. LLC	NOT CAMP CRAFT RD., SUITE 100	AUSTIN, TEXAS 78704
ENGINEER:	JAVIER HINOJOSA, P.E.	416 E. DOVE AVENUE	McALLEN, TX 78504
SURVEYOR:	CARLOS VASQUEZ, R.P.L.S.	517 DECHAMPT AVE.	McALLEN, TX 78501

GENERAL NOTES:

- THIS PROPERTY IS LOCATED IN ZONE "C" ON A FLOOD INSURANCE RATE MAP - COMMUNITY PANEL NO. 480334-0425 C, REVISED NOV. 10, 1987.
- MINIMUM FINISHED FLOOR ELEVATION SHALL BE 10' ABOVE 100% OF FLOOD AS MEASURED FROM THE CENTER OF THIS LOT.
- A TOTAL OF 1,547 ACREE FEET (68,547 C.F.) OF STORM WATER DETENTION IS REQUIRED FOR THIS SUBDIVISION.
- NO PERMANENT STRUCTURES OR FENCES SHALL BE CONSTRUCTED ON ANY EASEMENTS AS PER CITY OF SAN JUAN ORDINANCE.
- STANDARD BUILDING SETBACKS SHALL COMPLY WITH THE CITY OF SAN JUAN ZONING ORDINANCE.
- ALL UTILITY EASEMENT AND DRAINAGE EASEMENTS SHALL BE PROPERLY MAINTAINED BY THE OWNER AS PER CITY ORDINANCE.
- DEMONSTRATE: 111V-102.82 TOP OF EXISTING CURB INLET LOCATED ALONG THE NORTH SIDE OF CARROLL ROAD APPROXIMATELY 230' WEST OF THE SOUTHEAST CORNER OF THIS SUBDIVISION.
- A 5' FOOT SIDEWALK IS REQUIRED ALONG THE SOUTH SIDE OF INTERSTATE 2 (U.S. EXPRESSWAY 83) AND THE NORTH SIDE OF CARROLL ROAD.
- AN ENGINEERED DETENTION PLAN MUST BE APPROVED BY THE CITY OF SAN JUAN PRIOR TO ISSUANCE OF A BUILDING PERMIT.
- A 6' BUFFER IS REQUIRED BETWEEN COMMERCIAL/RESIDENTIAL USES.
- ACCESS FROM THE SOUTH SIDE OF U.S. EXPRESSWAY 83 SHALL BE FROM AN EXISTING ENTRANCE PREVIOUSLY CONSTRUCTED.
- ACCESS TO CARROLL ROAD TO BE DETERMINED DURING SITE PLAN APPROVAL PROCESS BY THE CITY OF SAN JUAN.
- ALL CONSTRUCTION SHALL COMPLY WITH STORM-WATER POLLUTION PREVENTION PLAN (SWPPP) REQUIREMENTS.
- ALL UTILITY EASEMENTS AND DRAINAGE EASEMENTS SHALL BE PROPERLY MAINTAINED BY THE OWNER AS PER CITY ORDINANCE.

SCALE: 1" = 80'
BASED ON BEARING
TEXAS STATE PLANE, COORDINATE
SYSTEM HAD 83, SOUTH ZONE

METERS AND BOUNDS

A TRACT OF LAND CONTAINING 8.41 ACRES OF LAND SITUATED IN HIDALGO COUNTY, TEXAS AND ALSO BEING A PART OR PORTION OF LOT 1, ACURA SUBDIVISION, MAP REFERENCE: DOCUMENT NO. 2537882, H.C.M.R., AND SAID 8.41 ACRES OF LAND ALSO BEING A PART OR PORTION OF LOT 8, SAN JUAN CORNERS/ST. IVES SUBDIVISION, MAP REFERENCE: VOLUME 55, PAGE 154, H.C.M.R., AND SAID 8.41 ACRES OF LAND ALSO BEING ALSO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING ON AN N.W. CORNER OF THE NORTHWEST CORNER OF SAID LOT 1, ACURA SUBDIVISION AND THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 2 (U.S. EXPRESSWAY 83) AS RECORDED IN VOLUME 978, PAGE 214-216, VOLUME 1022, PAGE 55 AND DOCUMENT NO. 2288449, H.C.M.R.; THENCE S81°25'20"E ALONG THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 2 (U.S. EXPRESSWAY 83) AND THE NORTH LINE OF SAID LOT 1, ACURA SUBDIVISION, A DISTANCE OF 325.10 FEET TO A 3" IRON ROD WITH A PLASTIC CAP STAMPED "200 15" SET ON THE PROJECTION LINE OF THE EAST LINE OF A 100 FOOT UTILITY EASEMENT OF SAID ACURA SUBDIVISION, FOR THE NORTHWEST CORNER HEREOF AND THE POINT OF BEGINNING;

THENCE S81°25'30"E CONTINUING ALONG THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 2 (U.S. EXPRESSWAY 83) AND THE NORTH LINE OF SAID LOT 1, ACURA SUBDIVISION, AT A DISTANCE OF 111.00 FEET TO A 3" IRON ROD WITH A PLASTIC CAP STAMPED "200 15" SET ON THE NORTHWEST CORNER OF SAID LOT 1, ACURA SUBDIVISION AND THE WEST LINE OF SAID LOT 6, SAN JUAN CORNERS/ST. IVES SUBDIVISION, CONTINUING A TOTAL DISTANCE OF 547.38 FEET TO A 3" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "200 15" SET ON THE PROJECTION LINE OF THE EAST LINE OF A 100 FOOT UTILITY EASEMENT OF SAID ACURA SUBDIVISION, FOR THE NORTHEAST CORNER HEREOF;

THENCE S 00°34'28"E ALONG THE WEST LINE OF SAID RR SAN JUAN RETAIL SUBDIVISION, A DISTANCE OF 688.30 FEET TO A 3" IRON ROD WITH A PLASTIC CAP STAMPED "34 1/2" FOUND ON THE SOUTHWEST CORNER OF SAID RR SAN JUAN RETAIL SUBDIVISION, THE NORTH RIGHT-OF-WAY LINE OF CARROLL ROAD, AND THE SOUTH LINE OF SAID LOT 8, SAN JUAN CORNERS/ST. IVES SUBDIVISION, FOR THE SOUTHEAST CORNER HEREOF;

THENCE N 81°24'18"E ALONG THE SOUTH LINE OF SAID LOT 8, SAN JUAN CORNERS/ST. IVES SUBDIVISION AND THE NORTH RIGHT-OF-WAY LINE OF SAID CARROLL ROAD, AT A DISTANCE OF 436.21 FEET PASS A 3" IRON ROD WITH A PLASTIC CAP STAMPED "34 1/2" FOUND ON THE COMMON SOUTH CORNER OF SAID LOT 8, SAN JUAN CORNERS SUBDIVISION AND SAID LOT 1, ACURA SUBDIVISION, AND CONTINUING ALONG THE SOUTH LINE OF SAID LOT 1, ACURA SUBDIVISION, A TOTAL DISTANCE OF 547.21 FEET TO A 3" IRON ROD WITH A PLASTIC CAP STAMPED "200 15" SET ON THE PROJECTION LINE OF THE EAST LINE OF SAID 100 FOOT UTILITY EASEMENT OF SAID ACURA SUBDIVISION, FOR THE SOUTHWEST CORNER HEREOF;

THENCE N 00°35'41"E, AT A DISTANCE OF 150 FEET PASS THE INTERSECTION OF THE NORTH LINE OF A 150 FOOT PUBLIC UTILITY EASEMENT AND THE SOUTHWEST CORNER OF SAID 100 FOOT UTILITY EASEMENT OF SAID ACURA SUBDIVISION, AND CONTINUING ALONG THE EAST LINE OF SAID 100 FOOT UTILITY EASEMENT OF SAID ACURA SUBDIVISION, AT A DISTANCE OF 649.43 FEET PASS THE INTERSECTION OF THE NORTH LINE OF SAID 100 FOOT UTILITY EASEMENT AND THE SOUTH LINE OF A 200 FOOT DRAINAGE EASEMENT OF SAID ACURA SUBDIVISION, AND CONTINUING A TOTAL DISTANCE OF 688.43 FEET THE POINT OF BEGINNING, CONTAINING 8.41 ACRES OF LAND, MORE OR LESS.



FILE FOR RECORD IN
HIDALGO COUNTY CLERK'S
OFFICE

ON: 12-21-21 AT: 12:27 PM
INSTRUMENT NUMBER: 32937729
OF THE PUBLIC RECORDS OF HIDALGO COUNTY, TEXAS
BY: *[Signature]* DEPUTY

**SUBDIVISION PLAT OF
PLAZA SAN JUAN
SUBDIVISION**

A TRACT OF LAND CONTAINING 8.41 ACRES OF LAND SITUATED IN HIDALGO COUNTY, TEXAS AND ALSO BEING A PART OR PORTION OF LOT 1, ACURA SUBDIVISION, MAP REFERENCE: DOCUMENT NO. 2537882, H.C.M.R., AND SAID 8.41 ACRES OF LAND ALSO BEING A PART OR PORTION OF LOT 8, SAN JUAN CORNERS/ST. IVES SUBDIVISION, MAP REFERENCE: VOLUME 55, PAGE 154, HIDALGO COUNTY MAP RECORDS.

STATE OF TEXAS
COUNTY OF HIDALGO

I, THE UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS PLAZA SAN JUAN SUBDIVISION, AN ADDITION TO THE CITY OF SAN JUAN, TEXAS, AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, SEWER LINES, WATER CONDUITS, STORM SEWERS, FIRE HYDRANTS AND PUBLIC PLACES WHICH ARE LAYED OUT HEREON, WHICH WILL CAUSE TO BE INSTALLED OR DEDICATED UNDER THE SUBDIVISION APPROVAL PROCESS OF THE CITY OF SAN JUAN, ALL THE SAME FOR THE PURPOSES THEREIN EXPRESSED, EITHER ON THE PLAT OR ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF SAN JUAN.

[Signature]
STEVE HELBLE
300 CAMP CRAFT RD., SUITE 100
AUSTIN, TEXAS 78746
BY: STEVE HELBLE

STATE OF TEXAS
COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, STEVE HELBLE, PERSONALLY APPEARED AND PROVED, THROUGH HIS DEPARTMENT OF PUBLIC SAFETY DRIVER'S LICENSE, TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, FURTHERMORE, AFTER BEING DULY SWORN BY ME, HE DECLARED THAT THE STATEMENTS CONTAINED THEREIN ARE TRUE AND CORRECT, AND ACKNOWLEDGED THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREBY EXPRESSED, ALL GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 13 DAY OF October, 2021 A.D.

[Signature]
NOTARY PUBLIC FOR THE STATE OF TEXAS
MY COMMISSION EXPIRES ON: 10-14-23

I, THE UNDERSIGNED, THE MAYOR OF THE CITY OF SAN JUAN HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THIS CITY WHEREIN MY APPROVAL IS REQUIRED.

[Signature]
MAYOR CITY OF SAN JUAN
MARIO GARZA
ATTEST: *[Signature]*
CITY SECRETARY DIANA CAVAZOS
DATE: 11/08/21

PLAZA SAN JUAN SUBDIVISION HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING COMMISSION OF THE CITY OF SAN JUAN, TEXAS AND IS HEREBY APPROVED BY SUCH COMMISSION.

THIS THE 9th DAY OF November, 2021 A.D.

[Signature]
CHAIRMAN, PLANNING AND ZONING COMMISSION

STATE OF TEXAS
COUNTY OF HIDALGO

I, JAVIER HINOJOSA, REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT.

[Signature]
JAVIER HINOJOSA, P.E.
REGISTERED PROFESSIONAL ENGINEER NO. 74808

STATE OF TEXAS
COUNTY OF HIDALGO

I, CARLOS VASQUEZ, A REGISTERED PUBLIC LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTIES MADE UNDER MY SUPERVISION ON THE GROUND.

[Signature]
CARLOS VASQUEZ, R.P.L.S.
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4606
C.V.O. LAND SURVEYORS L.L.C.
517 DECHAMPT AVENUE
McALLEN, TEXAS 78502
TIPELS FIRM NO. 10119000
TEL. (956) 818-1501 DATE SURVEYED 1/20/2021

Narrative for Request of a Conditional Use Permit for San Juan Foodservice LLC d/b/a Home2 Suites by Hilton

San Juan Foodservice, LLC D/B/A HOME2 SUITES BY HILTON

1003 Carrol Road, San Juan, Texas 78589

(956) 373-2377

Home2 Suites by Hilton is owned by San Juan Foodservice, LLC operated by Bharat R. Patel located at 1101 Carroll Road, San Juan, Hidalgo County, Texas 78589. The Hotel will be managed by Bharat R. Patel who is the Managing Member of this business.

The Hotel Business will operate seven days a week and will be open 24 hours a day.

Our lounge will be open Mondays to Sundays from 07:00 AM till 2:00 AM

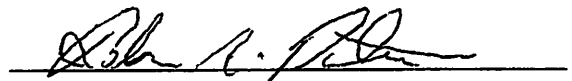
We will employ approximately forty (40) to Sixty (60) employees depending on the Season including front desk, wait staff, cashiers, janitorial staff, maintenance and housekeeping.

We feel we can operate a First-Class Hotel with experienced and top-quality employees as we operate multiple hotels and motels throughout the Rio Grande Valley including the Embassy Suites in McAllen and THE WINDDAM Resort on South Padre Island and we have built a new building affording a comfortable atmosphere resulting in a professional and positive shopping experience. Customers, Family, Friends, and guests can visit our facility to enjoy our new building where our lounge will offer Mixed Drinks, Domestic and Imported Beer, Wine and Wine Coolers.

Alcoholic Beverage sales will be for on-premises consumption on our property.

Our Hotel is with in walking distance to several popular restaurants such as Star Bucks, Olive Garden, Chili's and Denny's.

We will have adequate parking for our guests.

A handwritten signature in black ink, appearing to read 'Bharat R. Patel', is written over a horizontal line.

Bharat R. Patel

Conditional Use Permit for the for the Sale of Alcoholic Beverages (*MB – Mixed Beverage Permit and LB – Mixed Beverage Late Hours Permit*) at Home2 Suites by Hilton, located at 1003 E. Carroll Road, legally described as Lot 4, Plaza San Juan Subdivision, as Requested by San Juan Foodservice, LLC.

San Juan Foodservice LLC
1003 E. Carroll Road
San Juan, TX 78589

DJP III LLC
Attn: Ronald Heller
312 Pearl Pkwy, Apt. 4902
San Antonio, TX 78215

Cabrera Brenda Lizette &
Wilmer Josue
1102 E. Carroll Rd
San Juan, TX 78589

BHM Pharr Hospitality LLC
Ruby Red Hospitality – JD Garcia
7010 Padre Blvd.
South Padre Island, TX 78597

Arnulfo V. Garcia & Irene ET AL
303 Carroll Ln.
San Juan, TX 78589

SCC SJC LLC
301 Camp Craft Rd, Ste. 100
Austin, TX 78746

Francisco Martinez
PO BOX 992
San Juan, TX 78589

2008 Bank Family Trust ETAL
PO BOX 320725
Los Gatos, CA 95032

Laura C. Guerra & Roumaldo S.
301 Carroll Ln.
San Juan, TX 78589

RRG Revocable Trust
Rigney John A. Trustee
5354 N. Seminary
Edinburg, TX 78541

Omar Zarate
2811 Victoria St.
Hidalgo, TX 78557

Heriberto & Mirna Perez
310 N. Cage
Pharr, TX 78577

Ricardo Martinez Sr. & Petra
Co-Trustees Revocable Trust
2710 N. Shary Rd.
Mission, TX 78574

Bramble Real Estates LTD
6101 N. 23rd St, Ste. H
McAllen, TX 78504

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Hold a Public Hearing and Consider an Ordinance Providing for the Rezoning Request from Single-Family Residence District (R-S) to a Multi-Family Residence District (R-MF) of Lot 9, Block 1, Gossage Subdivision, as Requested by Zapphire Construction & Development, LLC. [Monica Gomez, Interim Director of Planning]

STAFF COMMENTS AND RECOMMENDATIONS:

The property is located on the South side of 10th Street, approximately 60 feet West Wyoming Avenue. The property has a total frontage of 60 feet along East 10th Street and a lot depth of 150 feet for a total lot area of 0.20 Acres (gross). The requested zoning designation is the Multi-Family Residence District (R-MF), which allows duplex, triplex, and fourplex family dwelling and more intense multifamily uses. The lot is currently vacant. The applicant is seeking a zone change to build a duplex at this location.

The property is currently zoned Single-Family Residence District (R-S), which is for a one-family dwelling. Surrounding zoning districts are for residential use. Adjacent land consists of single-family residential uses. The future land use designation for this property is for residential use.

Staff mailed a notice of the public hearing to nine (9) neighboring property owners within the two hundred (200) foot radius on Friday, October 25, 2024, and received no comments in favor or against this request at the time this report was prepared. Notice of the public hearing was published in the newspaper on Wednesday, October 23, 2024.

RECOMMENDATION:

During their regular meeting on November 7, 2024, the Planning and Zoning Commission recommended denial of the rezoning request with a 4-1 vote.

PREPARED BY:

Monica Gomez,
Interim Director of
Planning

APPROVED BY:

Benjamin Arjona, City
Manager

MEETING DATES:
PLANNING AND ZONING COMMISSION – 11/07/2024
CITY COMMISSION – 11/12/2024
DATE PREPARED – 10/29/2024

PAGE 1

STAFF REPORT
GENERAL INFORMATION

APPLICATION:	Rezoning Request from Single-Family Residence District (R-S) to a Multi-Family Residence District (R-MF)
APPLICANT:	Zapphire Construction & Development, LLC.
AGENT:	N/A
LEGAL:	Lot 9, Block 1, Gossage Subdivision
LOT/TRACT SIZE:	Each lot is 60 feet by 150 feet (9,000 square feet)
CURRENT USE OF PROPERTY:	Vacant Lot
PROPOSED USE OF PROPERTY:	Multi-Family Residence District (R-MF)
EXISTING ZONING:	Single-Family Residence District (R-S)
EXISTING LAND USE/ ADJACENT ZONING:	<i>North</i> – Residential; Single-Family Residential District (R-S) <i>South</i> – Residential; Single-Family Residential District (R-S) <i>East</i> – Residential; Single-Family Residence District (R-S) <i>West</i> – Residential; Single-Family Residence District (R-S)
ACCESS AND CIRCULATION:	This property has access along East 10 th Street.
PUBLIC SERVICES:	Water and sewer services are provided by the City of San Juan.
RECOMMENDATION:	Staff recommends denial of the rezoning request since lot size do not meet the multi-family requirements.

EVALUATION AND CONDITIONS FOR APPROVAL

The property is located on the South side of 10th Street, approximately 60 feet West Wyoming Avenue. The property has a total frontage of 60 feet along East 10th Street and a lot depth of 150 feet for a total lot area of 0.20 Acres (gross). The requested zoning designation is the Multi-Family Residence District (R-MF), which allows duplex, triplex, and fourplex family dwelling and more intense multifamily uses. The lot is currently vacant. The applicant is seeking a zone change to build a duplex at this location.

The property is currently zoned Single-Family Residence District (R-S), which is for a one-family dwelling. Surrounding zoning districts are for residential use. Adjacent land consists of single-family residential uses. The future land use designation for this property is for residential use.

Staff mailed a notice of the public hearing to nine (9) neighboring property owners within the two hundred (200) foot radius on Friday, October 25, 2024, and received no comments in favor or against this request at the time this report was prepared. Notice of the public hearing was published in the newspaper on Wednesday, October 23, 2024.

Staff recommends denial of the rezoning request since lot size do not meet the multi-family requirements.

ATTACHMENTS:

Location Map
Aerial Photo
Zoning Map
Survey
Subdivision Plat
Table of Requirements
List of neighboring property owners receiving notice
Ordinance

FINAL RESOLUTION OF REQUEST & COMMENTS:

P&Z – 11/07/2024 Commissioner Salinas made a motion to denied the rezoning request as presented by staff. Commissioner Castillo seconded the motion. Motion passed with a 4-1 vote with Commissioner Sanchez voting nay.

Ms. Gomez explained that the rezoning request that was made for Lot 9, Gossage Subdivision, the property is located at Wyoming and 10th Street. The rezoning request is from residential to multi-family. The lot size is 60 feet by 150 feet (9,000 square feet total) which does not comply with the lot size for a multi-family lot. As per city ordinance the multi-family lots needs to 150 feet by 150 feet, surrounding uses consist of single-family residence district and future land use map designation is for residential use. We sent notices to 9 property owners and not comments were received in favor or against the request. Staff recommends denial of the rezoning request since lot size does not meet the requirements.

Mrs. Maggie Mustard, property owner, spoke in favor of the two rezoning cases for Lots 9 and 10, Gossage Subdivision. She said that both properties are family owned and they are planning to build a duplex on each lot. She also mentioned an apartment complex that is located on the next block from her property.

Chairwoman Cardenas asked if this will be considered a spot zoning. Ms. Gomez responded yes; she made reference to the zoning map attached to the packet.

Chairwoman Cardenas explained that some buildings are grandfathered in and this is purpose of these meetings, trying to maintain the integrity of the properties that should be zoned. She also asked staff if the lot size for duplex or fourplexes are the same. Ms. Gomez responded yes, she said that city ordinance has multi-family district which allows duplex, triplex, fourplex and more intense multi-family use.

Ms. Gomez stated for the record, that this is zoning case and they should not be discussing the proposed use of the property.

Commissioner Sanchez asked if there are any plans to update the zoning ordinance. Ms. Gomez said city staff is working on that.



Proposed Site



Comprehensive Plan



ORDINANCE NO.

AN ORDINANCE AMENDING THE ZONING ORDINANCE NO. 98-006, THE ZONING ORDINANCE OF THE CITY OF SAN JUAN, TO CHANGE THE ZONING DISTRICT FROM SINGLE-FAMILY RESIDENCE DISTRICT (R-S) TO MULTI-FAMILY RESIDENCE DISTRICT (R-MF) OF A PROPERTY LEGALLY DESCRIBED AS LOT 9, GOSSAGE SUBDIVISION, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAN JUAN, TEXAS:

Consistent with the City's land use plan as set-forth in the land use map that is a part of the City's Zoning Ordinance, and consistent with the City's intentions of allowing and encouraging multi-family district development that generates property taxes, water and sewer revenues and sales tax revenues.

The zoning district of the property legally described as Lot 9, Gossage Subdivision, shall be changed to Multi-Family Residence District (R-MF) and the zoning map shall be amended accordingly.

PASSED and **APPROVED** on first reading on the 12th day of November, 2024.

PASSED and **APPROVED** on second and final reading on the ____ day of _____, 2024.

CITY OF SAN JUAN

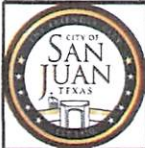
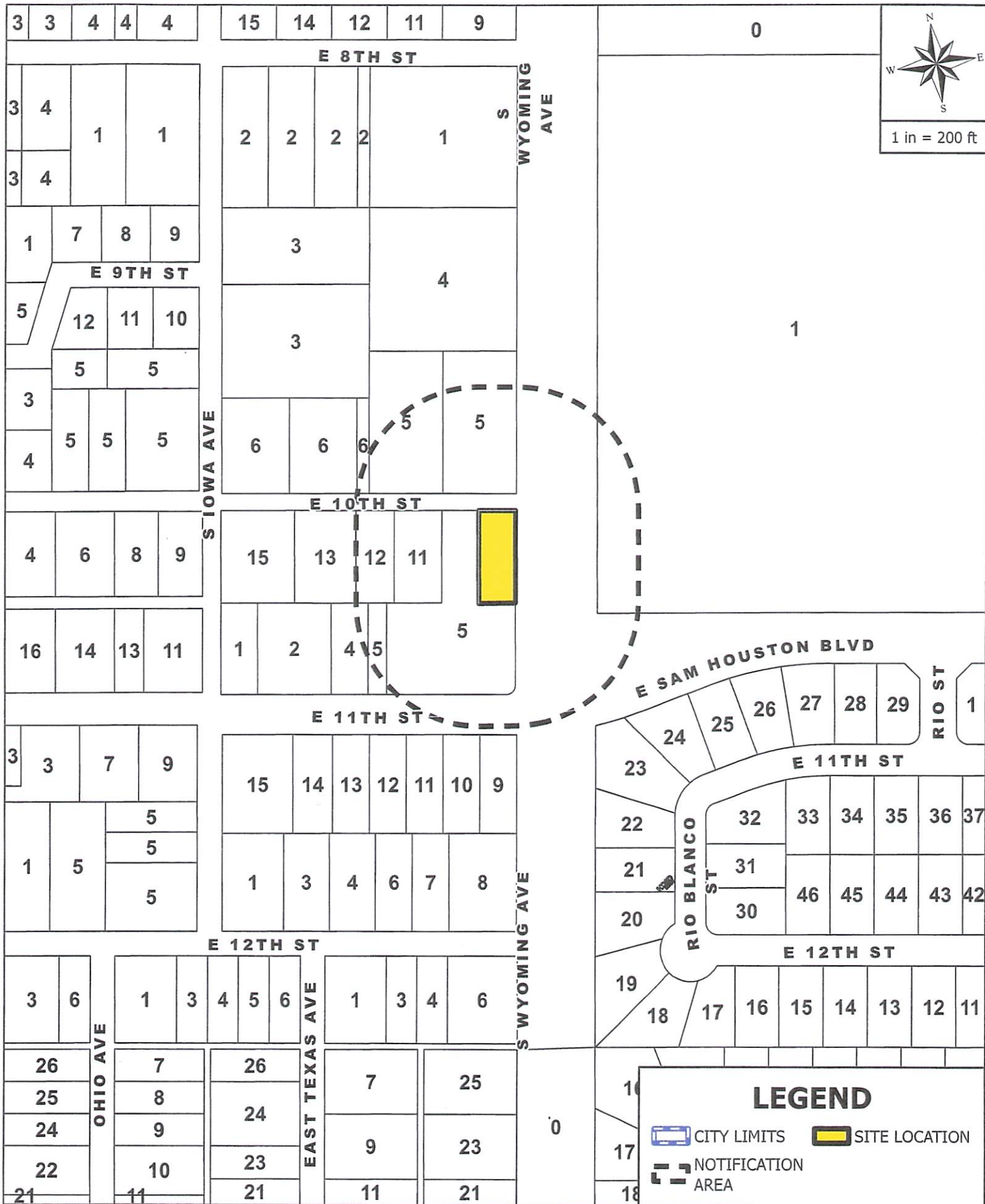
MARIO GARZA
MAYOR

ATTEST:

APPROVED BY:
Palacios, Garza & Thompson, P.C.

BRENDA ESCALANTE
CITY SECRETARY

CITY ATTORNEY



MAILOUT & SITE MAP

CASE ADDRESS:

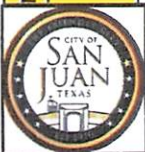
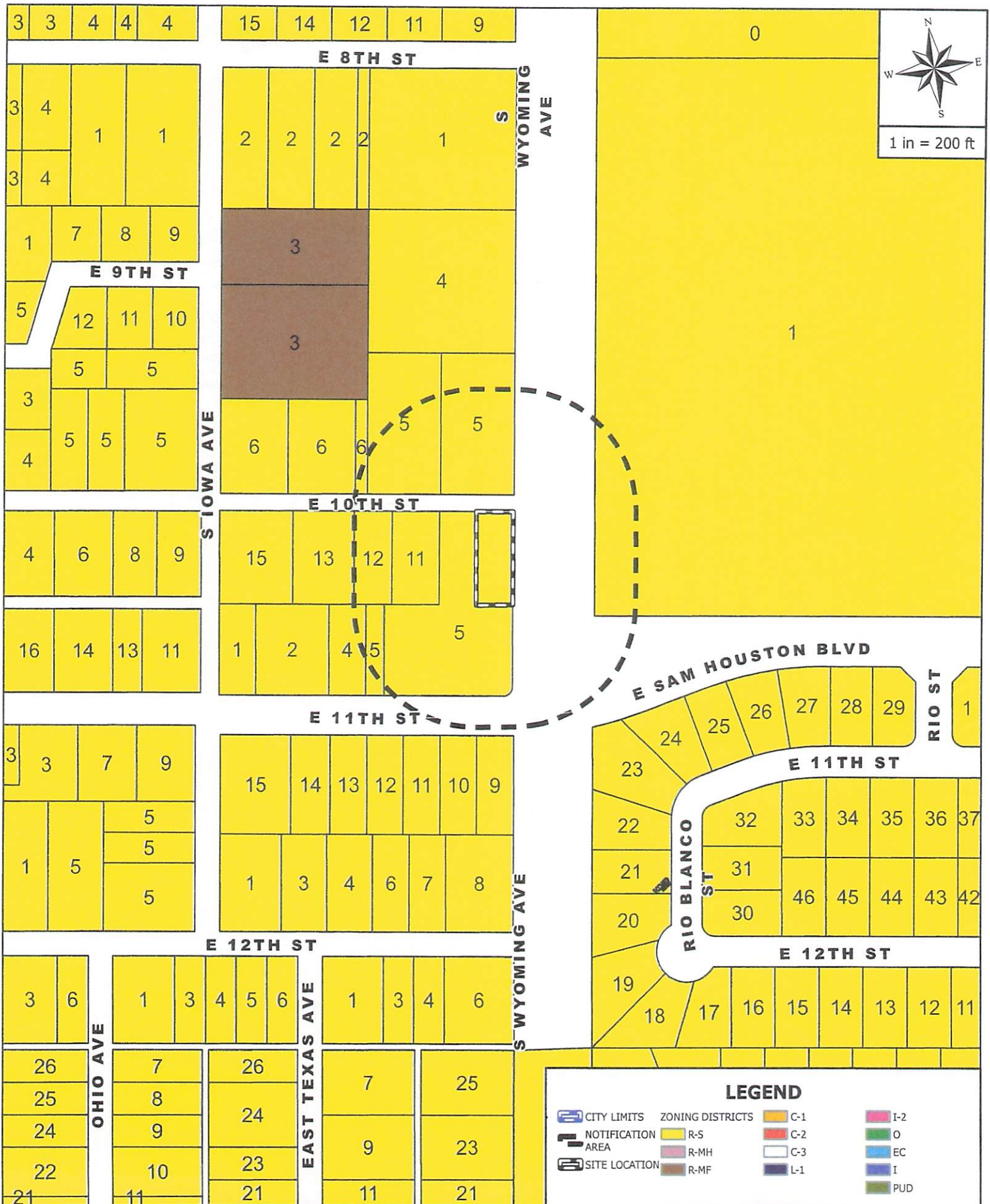
314 E 10TH ST / ZAPPHIRE CONSTRUCTION & DEVELOPMENT



AERIAL MAP

CASE ADDRESS:

314 E 10TH ST / ZAPPHIRE CONSTRUCTION & DEVELOPMENT



ZONING MAP

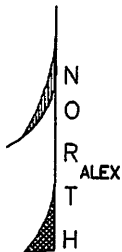
CASE ADDRESS:

314 E 10TH ST / ZAPPHIRE CONSTRUCTION & DEVELOPMENT



PEÑA ENGINEERING

FIRM #10087200 • 1001 WHITEWING • P.O. BOX 4320
(956) 682-8812 • McALLEN, TEXAS 78502 • FAX (956) 631-PENA



SCALE: 1"=20'
CAD: GOSSAGE9-1
JOB: 85783

BASIS OF BEARING IS THE SOUTH LINE OF LOTS 11-16,
BLOCK 1, GOSSAGE BLOCK SUBDIVISION, V. 10 P. 41,
MAP RECORDS, HIDALGO COUNTY, TEXAS.

LEGEND:

- F1 - FOUND 1/2" DIAMETER IRON ROD
- F1C - FOUND 1/2" DIAMETER IRON ROD W/CAP
STAMPED "RPLS 4802"
- S - SET 1/2" DIAMETER IRON ROD W/CAP
STAMPED "PENA 5242"
- B/C - BACK OF CONCRETE CURB & GUTTER
- R.O.W. - RIGHT OF WAY
- P-P - POWER POLE LINE

EASEMENTS AS PER GF NO. 955979
EFFECTIVE DATE: AUGUST 16, 2024
ISSUED DATE: AUGUST 26, 2024

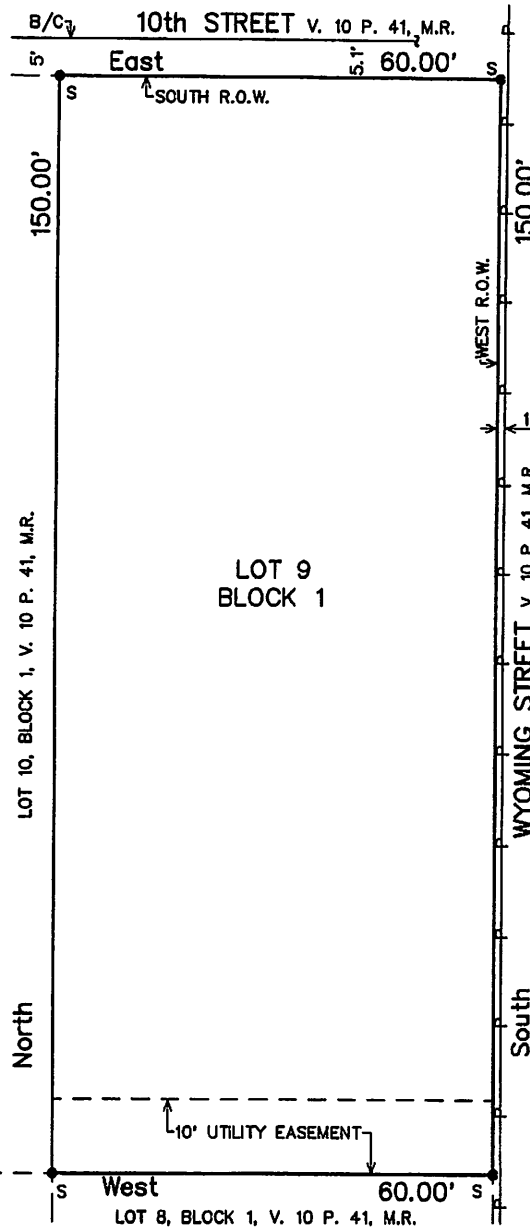
1. EASEMENTS, RULES, REGULATIONS, & RIGHTS
IN FAVOR OF HIDALGO COUNTY IRRIGATION
DISTRICT NO. 2
2. ALL RIGHT, TITLE, & INTEREST, INCLUDING BUT
NOT LIMITED TO FEE SIMPLE TITLE, OWNED OR
CLAIMED TO BE OWNED BY HIDALGO COUNTY
IRRIGATION DISTRICT NO. 2

IOWA AVENUE V. 10 P. 41, M.R.
EAST R.O.W.

360.00' 60.00'

F1 S.W.C. LOT 16 BLK 1

F1C S.W.C. LOT 11 BLK 1



BUYER'S NAME: ZAPPHIRE CONSTRUCTION & DEVELOPMENT, LLC

FLOOD ZONE: By GRAPHICAL PLOTTING FLOOD HAZARD MAP NO. H01

MAP REVISED: AUGUST 27, 1976

☒ Zone "C" - This is to certify that this property is not in a flood prone area.

I certify that this plat represents the facts found on the ground at the time of survey and that there are no visible or apparent easements, discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or overlapping of improvements or visible easements except as shown on this plat. No subsurface utilities or service connections are shown. © copyright 2024 PENA ENGINEERING this survey was provided in multiple originals solely for the borrower named hereon, in conjunction with the original transaction which shall take place within 6 months after the survey was provided. No license has been created or implied to copy this Survey. Survey valid only if print has original seal and signature.

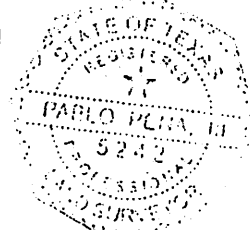
ADDRESS:

LEGAL DESCRIPTION: LOT 9, BLOCK 1, GOSSAGE BLOCK SUBDIVISION, AN ADDITION
TO THE CITY OF SAN JUAN, HIDALGO COUNTY, TEXAS,
ACCORDING TO THE MAP RECORDED IN VOLUME 10 PAGE 41
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.

Pablo Peña

09/18/2024
DATE

PABLO PEÑA III
REG. PROFESSIONAL LAND SURVEYOR No. 5242



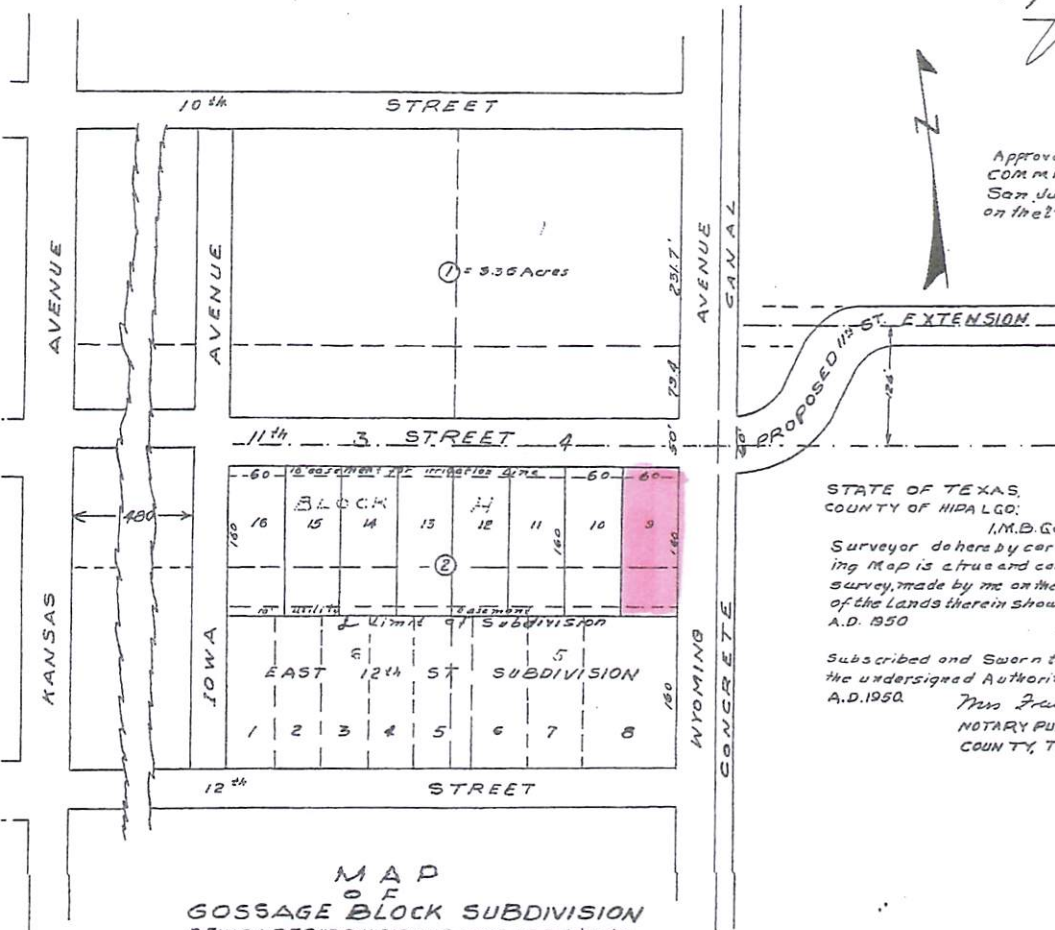
STATE OF TEXAS,
COUNTY OF HIDALGO;

We, W.H. Gossage and M.L. Gossage, Owners of the North 51.7 feet of Block H, CITY of SAN JUAN and having caused same to be resubdivided, do hereby approve, accept and adopt the accompanying Map of said RESUBDIVISION and we do hereby grant to the public the use of and an easement into the Streets shown there on, for all public purposes. There is reserved under and across the North 10 feet of the Lots shown there on, an easement for an irrigation line only, and there are reserved over, under and across the South 10 feet of said Lots and the Streets shown there on, easements for water lines, gas lines, sewer lines, telephone and electric light lines and other utilities. All such easements are for the benefit of the City of San Juan or those to whom said City may hereafter give franchise. IN TESTIMONY WHEREOF, Witness our hands this 18th day of March, A.D. 1950.

[Signature]
OWNER
[Signature]
OWNER

Approved and accepted by the
COMMISSIONERS of the City of
San Juan at their regular meeting
on the 24th day of April, A.D. 1950.

Attest *[Signature]*
Mayor
Attest *[Signature]*
Secretary



MAP
OF
GOSSAGE BLOCK SUBDIVISION
BEING A RESUBDIVISION OF LOTS 1, 2, 3, 4 & THE
NORTH 51.7 FEET OF LOTS 5 & 6, BLOCK H, SAN
JUAN TOWNSITE SUBDIVISION, HIDALGO
COUNTY, TEXAS

scale 1"=100'

[Signature]
Civil Engineer & Surveyor

STATE OF TEXAS,
COUNTY OF HIDALGO:

I, M.B. Gore, a Civil Engineer and
Surveyor, do hereby certify that the accompany-
ing Map is a true and correct representation of a
survey made by me on the ground, for the Owners
of the Lands therein shown, on the 2nd day of February
A.D. 1950.

Subscribed and Sworn to by M.B. Gore before me,
the undersigned Authority, on the 10th day of March,
A.D. 1950.

[Signature]
NOTARY PUBLIC IN AND FOR HIDALGO
COUNTY, TEXAS.



Appendix A. Unified Development Code

CHAPTER 2. ZONING REGULATIONS

ARTICLE VI. AREA AND HEIGHT REQUIREMENTS

§ 1.00. TABLE OF REQUIREMENTS.

The following table shall govern the area and height requirements of all lots and structures.

DISTRICT	TYPE OF USE	MAXIMUM STORIES	HEIGHT (FEET)	MINIMUM WIDTH OF LOT
R-S	Single-Family Dwelling - corner lot	2-1/2	35	60 ft. 65 ft.
R-MH	Manufactured Homes - corner	N/A	N/A	50 ft. 55 ft.
R-MF	Multifamily	3	45	150 ft.
Expressway & High Speed Arterial				200 ft.
C	Commercial	10	125	150 ft.
	Direct Access			100 ft.
	Not direct access			
I1, I2 & IN	Industrial and Institutional	8	100	200 ft.
	Direct access			150 ft.
	Not direct access			

DISTRICT	LOT DIMENSIONS DEPTH	AREA PER FAMILY (SQ. FT.)	MINIMUM YARD FRONT SIDE REAR
R-S	100 ft.	6,000 & 6,500	20 ft. (7)* 6 ft. (8)* (9)*
R-MF Duplex, Triplex, Fourplex and Multiple	150 ft.	22,500	20 ft. (7)* 6 ft. (8)* (9)*
R-MH	125 ft.	6,250 & 6,875	
Expressway & High speed arterials	400 ft.	4,000	
C1, C2, C3	200 ft.	20,000 & 30,000	None 4 2 3
I1, I2 & IN	400 ft.	60,000 & 80,000	None 4 2 3

(Ordinance 15-10 adopted 8/11/15)

Rezoning Request from Single-Family Residence District (R-S) to a Multi-Family Residence District (R-MF) of Lot 9, Block 1, Gossage Subdivision, as Requested by Zapphire Construction & Development, LLC.

Chapa Hector M. & Bertha G.
PO BOX 679
San Juan, TX 78589

Gonzalez Berenice Celeste
1100 Mesquite Dr.
Palmview, TX 78572

Munoz Hector Elias
808 Tarrant Cir.
Pharr TX, 78577

Rodriguez Nahum & Juanita V.
315 E. 10th St.
San Juan, TX 78589

San Juan City
709 S. Nebraska Ave.
San Juan, TX 78589

Hetrick Joe
PO BOX 271
San Juan, TX 78589

PSJA IND School District
PO BOX 769
Pharr, TX 78577

Chapa Jaime
12900 E. Loop 1604 North
San Antonio, TX 78233

Zapphire Construction & Development
LLC
1017 Sycamore Ave.
McAllen, TX 78501

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Hold a Public Hearing and Consider an Ordinance Providing for the Rezoning Request from Single-Family Residence District (R-S) to a Multi-Family Residence District (R-MF) of Lot 10, Block 1, Gossage Subdivision, as Requested by Nan-Avi Management, LLC. [Monica Gomez, Interim Director of Planning]

STAFF COMMENTS AND RECOMMENDATIONS:

The property is located at the Southwest corner of 10th Street and Wyoming Avenue. The property has a total frontage of 60 feet along East 10th Street and a lot depth of 150 feet for a total lot area of 0.20 Acres (gross). The requested zoning designation is the Multi-Family Residence District (R-MF), which allows duplex, triplex, and fourplex family dwelling and more intense multifamily uses. The lot is currently vacant. The applicant is seeking a zone change to build a duplex at this location.

The property is currently zoned Single-Family Residence District (R-S), which is for a one-family dwelling. Surrounding zoning districts are for residential use. Adjacent land consists of single-family residential uses. The future land use designation for this property is for residential use.

Staff mailed a notice of the public hearing to twelve (12) neighboring property owners within the two hundred (200) foot radius on Friday, October 25, 2024, and received no comments in favor or against this request at the time this report was prepared. Notice of the public hearing was published in the newspaper on Wednesday, October 23, 2024.

RECOMMENDATION:

During their regular meeting on November 7, 2024, the Planning and Zoning Commission recommended denial of the rezoning request with a 4-1 vote.

PREPARED BY:

Monica Gomez,
Interim Director of
Planning

APPROVED BY:

Benjamin Arjona, City
Manager

MEETING DATES:
PLANNING AND ZONING COMMISSION – 11/07/2024
CITY COMMISSION – 11/12/2024
DATE PREPARED – 10/29/2024

PAGE 1

STAFF REPORT
GENERAL INFORMATION

APPLICATION:	Rezoning Request from Single-Family Residence District (R-S) to a Multi-Family Residence District (R-MF)
APPLICANT:	Nan-Avi Management, LLC.
AGENT:	N/A
LEGAL:	Lot 10, Block 1, Gossage Subdivision
LOT/TRACT SIZE:	Each lot is 60 feet by 150 feet
CURRENT USE OF PROPERTY:	Vacant Lot
PROPOSED USE OF PROPERTY:	Multi-Family Residence District (R-MF)
EXISTING ZONING:	Single-Family Residence District (R-S)
EXISTING LAND USE/ ADJACENT ZONING:	<i>North</i> – Residential; Single-Family Residential District (R-S) <i>South</i> – Residential; Single-Family Residential District (R-S) <i>East</i> – Residential; Single-Family Residence District (R-S) <i>West</i> – Residential; Single-Family Residence District (R-S)
ACCESS AND CIRCULATION:	This property has access along 10 th Street.
PUBLIC SERVICES:	Water and sewer services are provided by the City of San Juan.
RECOMMENDATION:	Staff recommends denial of the rezoning request since lot size do not meet the multi-family requirements.

EVALUATION AND CONDITIONS FOR APPROVAL

The property is located at the Southwest corner of 10th Street and Wyoming Avenue. The property has a total frontage of 60 feet along East 10th Street and a lot depth of 150 feet for a total lot area of 0.20 Acres (gross). The requested zoning designation is the Multi-Family Residence District (R-MF), which allows duplex, triplex, and fourplex family dwelling and more intense multifamily uses. The lot is currently vacant. The applicant is seeking a zone change to build a duplex at this location.

The property is currently zoned Single-Family Residence District (R-S), which is for a one-family dwelling. Surrounding zoning districts are for residential use. Adjacent land consists of single-family residential uses. The future land use designation for this property is for residential use.

Staff mailed a notice of the public hearing to twelve (12) neighboring property owners within the two hundred (200) foot radius on Friday, October 25, 2024, and received no comments in favor or against this request at the time this report was prepared. Notice of the public hearing was published in the newspaper on Wednesday, October 23, 2024.

Staff recommends denial of the rezoning request since lot size do not meet the multi-family requirements.

ATTACHMENTS:

Location Map
Aerial Photo
Zoning Map
Survey
Subdivision Plat
Table of Requirements
List of neighboring property owners receiving notice
Ordinance

FINAL RESOLUTION OF REQUEST & COMMENTS:

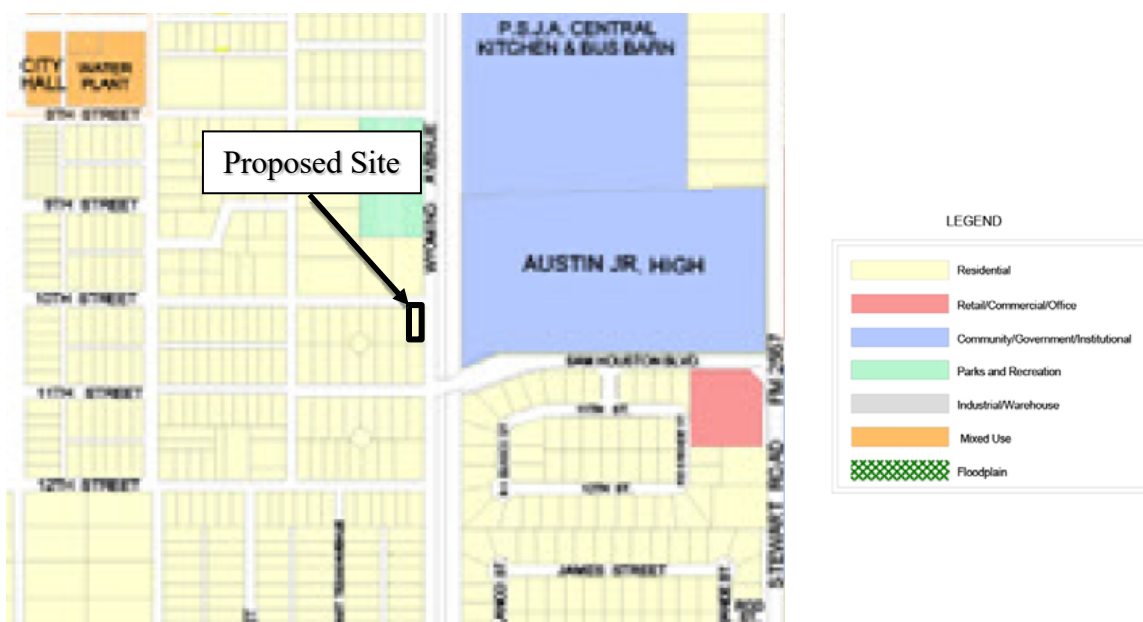
P&Z – 11/07/2024 Commissioner Yzaguirre made a motion to denial the rezoning request as presented by staff. Commissioner Salinas seconded the motion. Motion passed with a 4-1 vote.

Ms. Gomez stated the rezoning request is for Lot 10, Gossage Subdivision, property is located at the Southwest corner of Wyoming and 10th Street. The zone change is from residential to multi-family. Lot size is 60 feet by 150 feet, which does not comply with lot size requirements. Notices were sent to 12 property owners; and one email was received against the request. Staff recommends denial of this rezoning request.

No discussion took place on this item.



Proposed Site



Comprehensive Plan



ORDINANCE NO.

AN ORDINANCE AMENDING THE ZONING ORDINANCE NO. 98-006, THE ZONING ORDINANCE OF THE CITY OF SAN JUAN, TO CHANGE THE ZONING DISTRICT FROM SINGLE-FAMILY RESIDENCE DISTRICT (R-S) TO MULTI-FAMILY RESIDENCE DISTRICT (R-MF) OF A PROPERTY LEGALLY DESCRIBED AS LOT 10, GOSSAGE SUBDIVISION, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAN JUAN, TEXAS:

Consistent with the City's land use plan as set-forth in the land use map that is a part of the City's Zoning Ordinance, and consistent with the City's intentions of allowing and encouraging multi-family district development that generates property taxes, water and sewer revenues and sales tax revenues.

The zoning district of the property legally described as Lot 10, Gossage Subdivision, shall be changed to Multi-Family Residence District (R-MF) and the zoning map shall be amended accordingly.

PASSED and **APPROVED** on first reading on the 12th day of November, 2024.

PASSED and **APPROVED** on second and final reading on the ____ day of _____, 2024.

CITY OF SAN JUAN

MARIO GARZA
MAYOR

ATTEST:

APPROVED BY:
Palacios, Garza & Thompson, P.C.

BRENDA ESCALANTE
CITY SECRETARY

CITY ATTORNEY



AERIAL MAP

CASE ADDRESS:

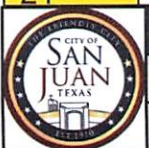
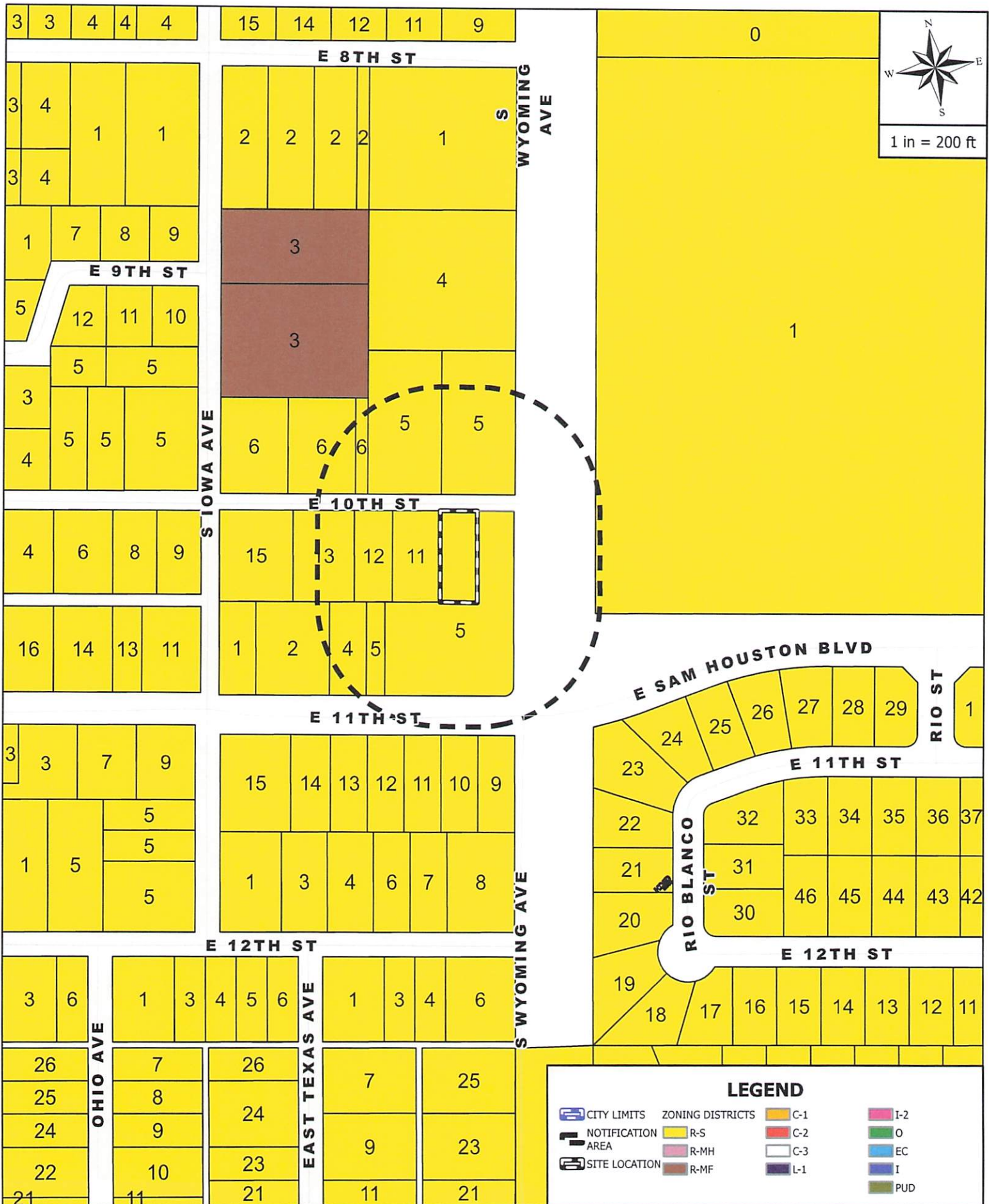
312 E 10TH ST / NAN-AVI MANAGEMENT, LLC

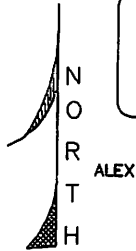


MAILOUT & SITE MAP

CASE ADDRESS:

312 E 10TH ST / NAN-AVI MANAGEMENT, LLC





SCALE: 1"=20'
CAD: GOSSAGE10-1
JOB: 85763

BASIS OF BEARING IS THE SOUTH LINE OF LOTS 11-16,
BLOCK 1, GOSSAGE BLOCK SUBDIVISION, V. 10 P. 41,
MAP RECORDS, HIDALGO COUNTY, TEXAS

LEGEND:
F1 - FOUND 1/2" DIAMETER IRON ROD
F1C - FOUND 1/2" DIAMETER IRON ROD W/CAP
STAMPED "RPLS 4802"
S - SET 1/2" DIAMETER IRON ROD W/CAP
STAMPED "PENA 5242"
B/C - BACK OF CONCRETE CURB & GUTTER
R.O.W. - RIGHT OF WAY
X-X - 4' CHAIN LINK FENCE

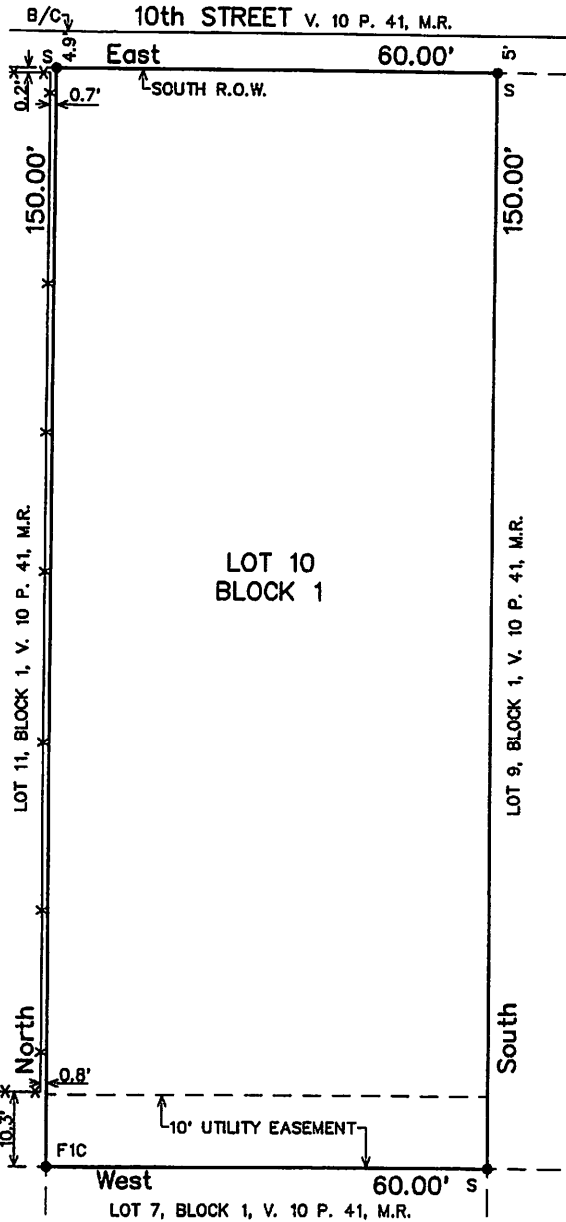
EASEMENTS AS PER GF NO. 955980
EFFECTIVE DATE: AUGUST 16, 2024
ISSUED DATE: AUGUST 26, 2024

1. EASEMENTS, RULES, REGULATIONS, & RIGHTS
IN FAVOR OF HIDALGO COUNTY IRRIGATION
DISTRICT NO. 2
2. ALL RIGHT, TITLE, & INTEREST, INCLUDING BUT
NOT LIMITED TO FEE SIMPLE TITLE, OWNED OR
CLAIMED TO BE OWNED BY HIDALGO COUNTY
IRRIGATION DISTRICT NO. 2

IOWA AVENUE, V. 10 P. 41, M.R.
EAST R.O.W.

F1
S.W.C.
LOT 16
BLK 1

360.00'



BUYER'S NAME: ZAPPHIRE CONSTRUCTION & DEVELOPMENT, LLC

FLOOD ZONE: By GRAPHICAL PLOTTING FLOOD HAZARD MAP NO. H01

MAP REVISED: AUGUST 27, 1976

☒ Zone "C" - This is to certify that this property is not in a flood prone area.

I certify that this plat represents the facts found on the ground at the time of survey and that there are no visible or apparent easements, discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or overlapping of improvements or visible easements except as shown on this plat. No subsurface utilities or service connections are shown, © copyright 2024 PENA ENGINEERING this survey was provided in multiple originals solely for the borrower named hereon, in conjunction with the original transaction which shall take place within 6 months after the survey was provided. No license has been created or implied to copy this Survey. Survey valid only if print has original seal and signature.

ADDRESS:

LEGAL DESCRIPTION: LOT 10, BLOCK 1, GOSSAGE BLOCK SUBDIVISION, AN ADDITION
TO THE CITY OF SAN JUAN, HIDALGO COUNTY, TEXAS,
ACCORDING TO THE MAP RECORDED IN VOLUME 10 PAGE 41
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.

09/18/2024
DATE

PABLO PEÑA III
REG. PROFESSIONAL LAND SURVEYOR No. 5242



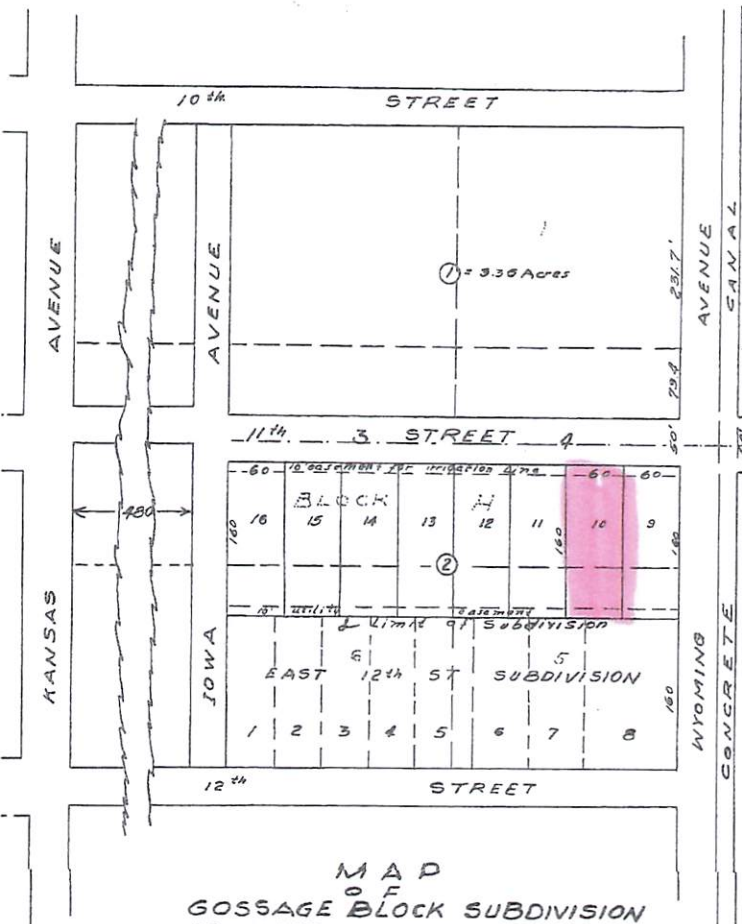
STATE OF TEXAS,
COUNTY OF HIDALGO;

We, W.H. Gossage and M.L. Gossage, Owners of the North 51.7 feet of Block H, CITY of SAN JUAN and having caused same to be resubdivided, do hereby approve, accept and adopt the accompanying Map of said RESUBDIVISION and we do hereby grant to the public the use of and an easement into the Streets shown there on, for all public purposes. There is reserved over, under and across the North 10 feet of the Lots shown there on, an easement for an irrigation line only, and there are reserved lines, telephone and electric light lines and other utilities. All such easements are for the benefit of the City of San Juan or those to whom said City may hereafter give franchise. IN TESTIMONY WHEREOF, Witness our hands this 18th day of March, A.D. 1950.

W.H. Gossage
OWNER
M.L. Gossage
OWNER

Approved and accepted by the
COMMISSIONERS of the City of
San Juan at their regular meeting
on the 24th day of April, A.D. 1950.

Attest *M.A. Bornsaw*
Mayor
Attest *J.W. C. Longmire*
Secretary



MAP
OF
GOSSAGE BLOCK SUBDIVISION
BEING A RESUBDIVISION OF LOTS 1, 2, 3, & 4 THE
NORTH 51.7 FEET OF LOTS 3 & 6, BLOCK H, SAN
JUAN TOWNSITE SUBDIVISION, HIDALGO
COUNTY, TEXAS
scale 1"=100'

M.B. Gore
Civil Engineer & Surveyor

STATE OF TEXAS,
COUNTY OF HIDALGO;

I, M.B. Gore, a Civil Engineer and
Surveyor do hereby certify that the accompany-
ing Map is a true and correct representation of a
survey made by me on the ground, for the Owners
of the lands therein shown, on the 2nd day of February
A.D. 1950.

Subscribed and Sworn to by M.B. Gore before me,
the undersigned Authority, on the 16th day of March,
A.D. 1950.

Frank H. Grew
NOTARY PUBLIC IN AND FOR HIDALGO
COUNTY, TEXAS.



Appendix A. Unified Development Code

CHAPTER 2. ZONING REGULATIONS

ARTICLE VI. AREA AND HEIGHT REQUIREMENTS

§ 1.00. TABLE OF REQUIREMENTS.

The following table shall govern the area and height requirements of all lots and structures.

DISTRICT	TYPE OF USE	MAXIMUM STORIES	HEIGHT (FEET)	MINIMUM WIDTH OF LOT
R-S	Single-Family Dwelling - corner lot	2-1/2	35	60 ft. 65 ft.
R-MH	Manufactured Homes - corner	N/A	N/A	50 ft. 55 ft.
R-MF	Multifamily	3	45	150 ft.
Expressway & High Speed Arterial				200 ft.
C	Commercial	10	125	150 ft.
	Direct Access			100 ft.
	Not direct access			
I1, I2 & IN	Industrial and Institutional	8	100	200 ft.
	Direct access			150 ft.
	Not direct access			

DISTRICT	LOT DIMENSIONS DEPTH	AREA PER FAMILY (SQ. FT.)	MINIMUM YARD FRONT SIDE REAR
R-S	100 ft.	6,000 & 6,500	20 ft. (7)* 6 ft. (8)* (9)*
R-MF Duplex, Triplex, Fourplex and Multiple	150 ft.	22,500	20 ft. (7)* 6 ft. (8)* (9)*
R-MH	125 ft.	6,250 & 6,875	
Expressway & High speed arterials	400 ft.	4,000	
C1, C2, C3	200 ft.	20,000 & 30,000	None 4 2 3
I1, I2 & IN	400 ft.	60,000 & 80,000	None 4 2 3

(Ordinance 15-10 adopted 8/11/15)

Rezoning Request from Single-Family Residence District (R-S) to a Multi-Family Residence District (R-MF) of Lot 10, Block 1, Gossage Subdivision, as Requested by Nan-Avi Management, LLC.

Chapa Hector M. & Bertha G.
PO BOX 679
San Juan, TX 78589

Chapa Jaime
12900 E. Loop 1604 North
San Antonio, TX 78233

Gutierrez Elias Jair
307 E. 11th St.
San Juan, TX 78589

Nan-Avi Management LLC
5113 Quince Ave.
McAllen, TX 78501

Gonzalez Berenice Celeste
1100 Mesquite Dr.
Palmview, TX 78572

PSJA IND School District
PO BOX 769
Pharr, TX 78577

Salinas Sergio F & Florinda
306 E. 10th St.
San Juan, TX 78589

Munoz Hector Elias
808 Tarrant Cir.
Pharr TX, 78577

Rodriguez Nahum & Juanita V.
315 E. 10th St.
San Juan, TX 78589

San Juan City
709 S. Nebraska Ave.
San Juan, TX 78589

Jimenez Eric I. & Rackel K Longoria
305 E. 10th St.
San Juan, TX 78589

Hetrick Joe
PO BOX 271
San Juan, TX 78589



Monica Gomez <mgomez@sjtx.us>

Rezoning Lot 10, Block 1, Gossage Subdivioion

1 message

Frank Hetrick <frank.hetrick@gmail.com>

Thu, Nov 7, 2024 at 10:34 AM

To: permits@sjtx.us

I am strongly opposed to changing the zoning to multi family. I grew up in this house and my family has lived here for over 60 years. We currently have a quiet residential neighborhood and multi family dwellings tend to bring in a different element.

As an example a multi family property was built on the corner of 11th Street and Iowa and law enforcement is frequently there.

This tends to bring down property values in the area a that is a great concern. The quality of our neighborhood will suffer. I have been trying to make improvements to my home and feel these will all be in vain.

Thank you for your time,

Joseph F. Hetrick
319 E 11th Street
San Juan, Tx 78589



AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Hold a Public Hearing and Consider an Ordinance Providing for the Rezoning Request from Single-Family Residence District (R-S) to General Business District (C-2) of Lot 2, Nadia Estates Subdivision, as Requested by Chris Lee. [Monica Gomez, Interim Director of Planning]

STAFF COMMENTS AND RECOMMENDATIONS:

The property is located approximately 270 feet East of Raul Longoria Road, along the South side of Nadia Street. The property has a total frontage of 100 feet along Nadia Street and a lot of depth of 173.69 feet for a total of 0.39 Acres (gross). The requested zoning designation is the General Business District (C-2), which allows any retail business. The lot is currently vacant, and the applicant is seeking a zone change to build a parking area for the proposed retail business that is located on the adjacent property (Nadia Street and Raul Longoria Road).

The property is currently zoned Single-Family Residence District (R-S), which is for a one-family dwelling. Surrounding zoning districts are for residential use along Nadia Street and commercial along Raul Longoria Road. The future land use designation for this property is commercial use.

Staff mailed a notice of the public hearing to fourteen (14) neighboring property owners within the two hundred (200) foot radius on Friday, October 25, 2024, and received no comments in favor or against this request at the time this report was prepared. Notice of the public hearing was published in the newspaper on Wednesday, October 23, 2024.

RECOMMENDATION:

During their regular meeting on November 7, 2024, the Planning and Zoning Commission unanimously recommended approval of the rezoning request as presented with a 5-0 vote.

PREPARED BY:

Monica Gomez,
Interim Director of
Planning

APPROVED BY:

Benjamin Arjona, City
Manager

MEETING DATES:
PLANNING AND ZONING COMMISSION – 11/07/2024
CITY COMMISSION – 11/12/2024
DATE PREPARED – 10/29/2024

PAGE 1

STAFF REPORT
GENERAL INFORMATION

APPLICATION:	Rezoning Request from Single-Family Residence District (R-S) to General Business District (C-2)
APPLICANT:	Chris Lee
AGENT:	N/A
LEGAL:	Lot 2, Nadia Estates Subdivision
LOT/TRACT SIZE:	The lot is 100 feet by 173.69 feet
CURRENT USE OF PROPERTY:	Vacant Lot
PROPOSED USE OF PROPERTY:	General Business District (C-2)
EXISTING ZONING:	Single-Family Residence District (R-S)
EXISTING LAND USE/ ADJACENT ZONING:	<u>North</u> – Residential; Single-Family Residential District (R-S) <u>South</u> – Educational; Single-Family Residential District (R-S) <u>East</u> – Residential; Single-Family Residence District (R-S) <u>West</u> – Commercial; General Business District (C-2)
ACCESS AND CIRCULATION:	This property has access along Nadia Street.
PUBLIC SERVICES:	Water service is provided by the North Alamo Water Supply Corporation and sewer by the City of San Juan.
RECOMMENDATION:	Staff recommends approval of the rezoning request.

EVALUATION AND CONDITIONS FOR APPROVAL

The property is located approximately 270 feet East of Raul Longoria Road, along the South side of Nadia Street. The property has a total frontage of 100 feet along Nadia Street and a lot depth of 173.69 feet for a total of 0.39 Acres (gross). The requested zoning designation is the General Business District (C-2), which allows any retail business. The lot is currently vacant and the applicant is seeking a zone change to build a parking area for the proposed retail business that is located on the adjacent property (Nadia Street and Raul Longoria Road).

The property is currently zoned Single-Family Residence District (R-S), which is for a one-family dwelling. Surrounding zoning districts are for residential use along Nadia Street and commercial along Raul Longoria Road. The future land use designation for this property is commercial use.

Staff mailed a notice of the public hearing to fourteen (14) neighboring property owners within the two hundred (200) foot radius on Friday, October 25, 2024, and received no comments in favor or against this request at the time this report was prepared. Notice of the public hearing was published in the newspaper on Wednesday, October 23, 2024.

ATTACHMENTS:

Location Map
Aerial Photo
Zoning Map
Subdivision Plat
List of neighboring property owners receiving notice
Ordinance

FINAL RESOLUTION OF REQUEST & COMMENTS:

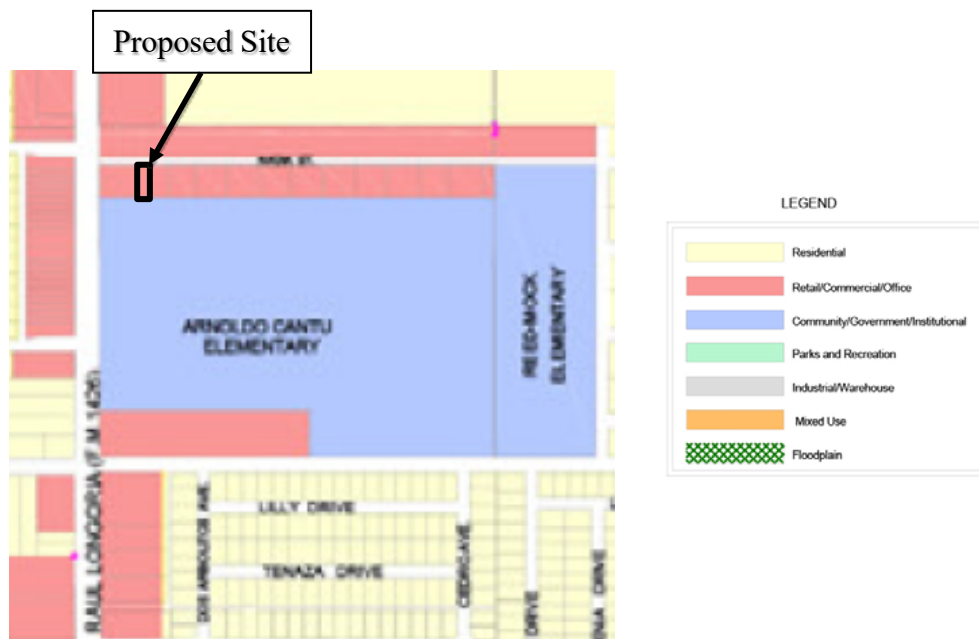
P&Z – 11/07/2024 Commissioner Sanchez made a motion to approve the rezoning request as presented by staff. Vice Chair Castillo seconded the motion. Motion passed unanimously with a 5-0 vote.

Ms. Gomez explained that the rezoning request is for Lot 2, Nadia Estates Subdivision from residential to commercial district. Nadia Estates Subdivision is residential subdivision which has a commercial lot, (Lot 1) at corner of Nadia and Raul Longoria Road destined for commercial use. Surrounding uses along Nadia Street are for residential and along Raul Longoria Road as commercial use. A new commercial retail is proposed at Lot 1 and Lot 2 will be used for parking area for employees. Staff recommends approval of the rezoning request since property is adjacent to a commercial lot. Notices were sent to 14 property owners and no comments were received in favor or against the request.

Mr. Donato Sanfilippo, manager of Casa Kevin, stated that retail store Casa Kevin is coming to San Juan, and the reason of this rezoning request is to have parking area for employees at this lot. He said that store and parking for customers is at Lot 1, which is already a commercial lot.



Proposed Site





ORDINANCE NO.

AN ORDINANCE AMENDING THE ZONING ORDINANCE NO. 98-006, THE ZONING ORDINANCE OF THE CITY OF SAN JUAN, TO CHANGE THE ZONING DISTRICT FROM SINGLE-FAMILY RESIDENCE DISTRICT (R-S) TO GENERAL BUSINESS DISTRICT (C-2) OF A PROPERTY LEGALLY DESCRIBED AS LOT 2, NADIA ESTATES SUBDIVISION, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAN JUAN, TEXAS:

Consistent with the City's land use plan as set-forth in the land use map that is a part of the City's Zoning Ordinance, and consistent with the City's intentions of allowing and encouraging commercial district development that generates property taxes, water and sewer revenues and sales tax revenues.

The zoning district of the property legally described as Lot 2, Nadia Estates Subdivision, shall be changed to General Business District (C-2) and the zoning map shall be amended accordingly.

PASSED and **APPROVED** on first reading on the 12th day of November, 2024.

PASSED and **APPROVED** on second and final reading on the ____ day of _____, 2024.

CITY OF SAN JUAN

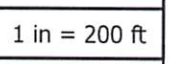
MARIO GARZA
MAYOR

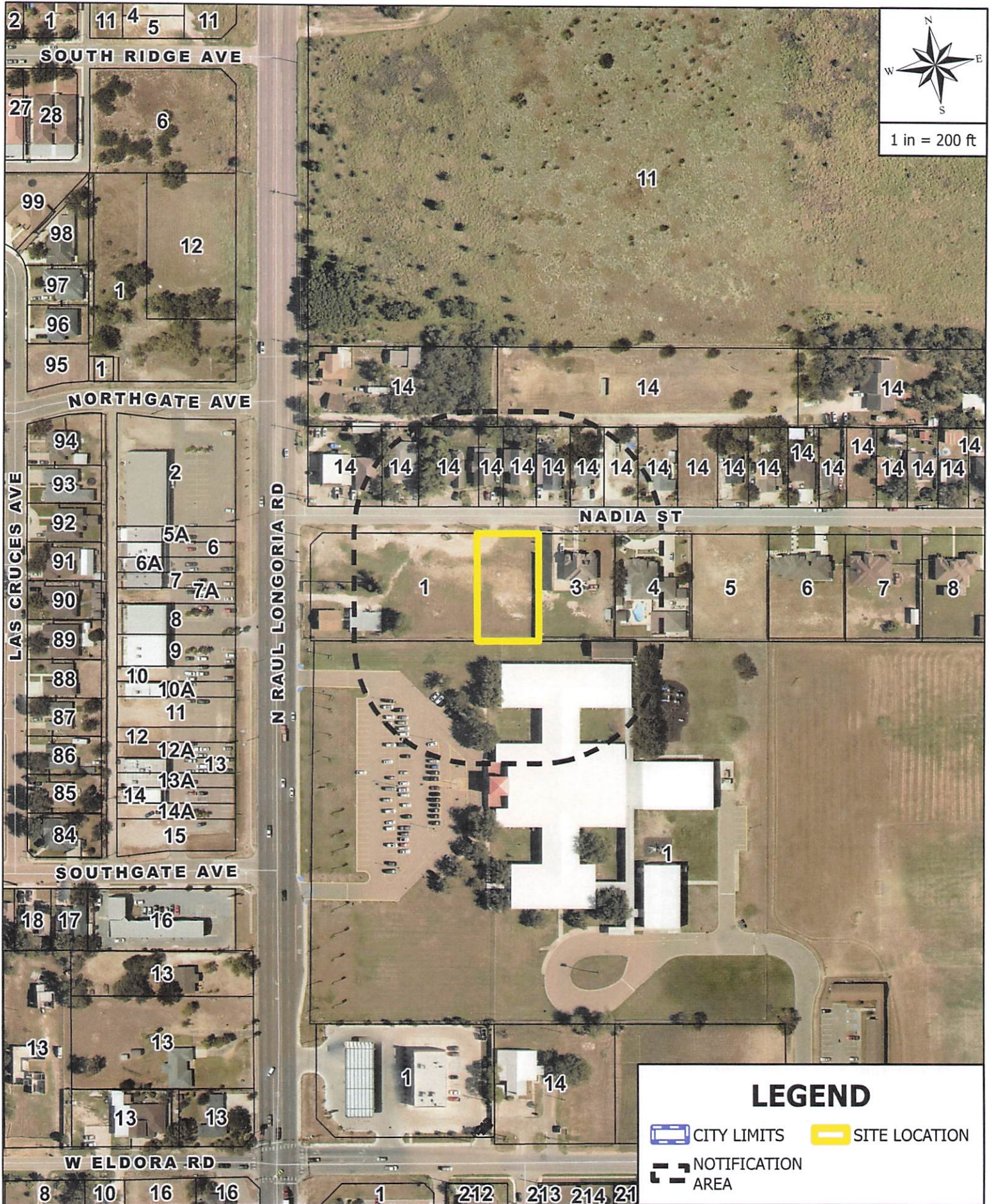
ATTEST:

APPROVED BY:
Palacios, Garza & Thompson, P.C.

BRENDA ESCALANTE
CITY SECRETARY

CITY ATTORNEY





AERIAL MAP

CASE ADDRESS:

109 NADIA ST / CHRIS LEE



Rezoning Request from Single-Family Residence District (R-S) to General Business District (C-2) of Lot 2, Nadia Estates Subdivision, as Requested by Chris Lee

Chris Lee
120 N. 17th St.
McAllen, TX 78501

Martinez Jose Raudel A.
PO BOX 121
San Juan, TX 78589

Moreno Valentin & Rosario
3205 N. Raul Longoria Rd.
San Juan, TX 78589

Martinez Alonzo & Blanca
801 E. Minnesota Rd.
San Juan, TX 78589

Jorge Sepulveda
321 Expressway 83
Penitas, TX 78576

Silva Jesus & Esther
PO BOX 1678
San Juan, TX 78589

PSJA School District
PO BOX Y
Pharr, TX 78577

Alvarado Leeroy
113 Nadia St.
San Juan, TX 78589

Reyes Brandon & Giselle Fernandez
200 Nadia St.
San Juan, TX 78589

Martinez Irma & Francisco Prado Sr.
PO BOX 2306
San Juan, TX 78589

Silva Edith
PO BOX 1678
San Juan, TX 78589

Saenz Berta O
204 Nadia St.
San Juan, TX 78589

Escandon Rosario Adriana Lopez
8003 S. Encinos Ave.
Pharr, TX 78577

Gamez Jesus & Margarita
PO BOX 1223
Lithonia, GA 30058

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Consider Appointment of a Municipal Court Judge.

STAFF COMMENTS AND RECOMMENDATIONS:

Consider Appointment of a Municipal Court Judge.

RECOMMENDATION:

Approve as Recommended by the City Commission.

PREPARED BY:

Brenda Escalante,
City Secretary

APPROVED BY:

Benjamin Arjona, City
Manager

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Discussion and Possible Action on a Variance Request to the Zoning Ordinance to Not Comply with the 5-foot Side Setback at Lot 30, Stewart Coves Phase 1 Subdivision, as Requested by Melden and Hunt, Inc. [Monica Gomez, Interim Director of Planning]

STAFF COMMENTS AND RECOMMENDATIONS:

The applicant is requesting a variance to the zoning ordinance to not comply with the 5-foot side setback on the North side of Lot 30, Stewart Coves Phase 1 Subdivision, since a 5-foot Irrigation Easement is located outside the property and the lot size is 41.42 feet in width.

Staff mailed a notice of the public hearing to three (3) neighboring property owners within the two hundred (200) foot radius on Friday, October 25, 2024, and received no comments in favor or against this request at the time this report was prepared. Notice of the public hearing was published in the newspaper on Wednesday, October 23, 2024.

RECOMMENDATION:

During their regular meeting on November 7, 2024, the Planning and Zoning Commission unanimously recommended approval of the variance request with a 5-0 vote.

PREPARED BY:

Monica Gomez,
Interim Director of
Planning

APPROVED BY:

Benjamin Arjona, City
Manager

MEETING DATES:
PLANNING AND ZONING COMMISSION – 11/07/2024
CITY COMMISSION – 11/12/2024
DATE PREPARED – 10/29/2024

STAFF REPORT
GENERAL INFORMATION

APPLICATION:	Variance request to the Zoning Ordinance to not comply with the 5-foot side setback
APPLICANT:	Melden and Hunt, Inc.
SURVEYOR/ENGINEER:	N/A
LEGAL:	Lot 30, Stewart Coves Phase 1 Subdivision
LOCATION:	2024 S. Lake Texoma Street
EXISTING ZONING:	Single-Family Residence District (R-S)
EXISTING LAND USE/	<u>North</u> – Residence; Single-Family Residence District (R-S)
ADJACENT ZONING:	<u>South</u> – Residence; Single-Family Residence District (R-S) <u>East</u> – Residence; Single-Family Residence District (R-S) <u>West</u> – Residence; Single-Family Residence District (R-S)
ACCESS AND CIRCULATION:	This property has access along Lake Texoma Street
PUBLIC SERVICES:	Water and sewer are provided by the City of San Juan.
RECOMMENDATION:	Staff recommends denial of the variance request since it opposes to the zoning ordinance.

EVALUATION AND CONDITIONS FOR APPROVAL

The applicant is requesting a variance to the zoning ordinance to not comply with the 5-foot side setback at the North side of Lot 30, Stewart Coves Phase 1 Subdivision since a 5-foot Drainage Easement is located outside of the property and the lot size is 41.42 feet in width.

Staff mailed a notice of the public hearing to three (3) neighboring property owners within the two hundred (200) foot radius on Friday, October 25, 2024, and received no comments in favor or against this request at the time this report was prepared. Notice of the public hearing was published in the newspaper on Wednesday, October 23, 2024.

ATTACHMENTS:

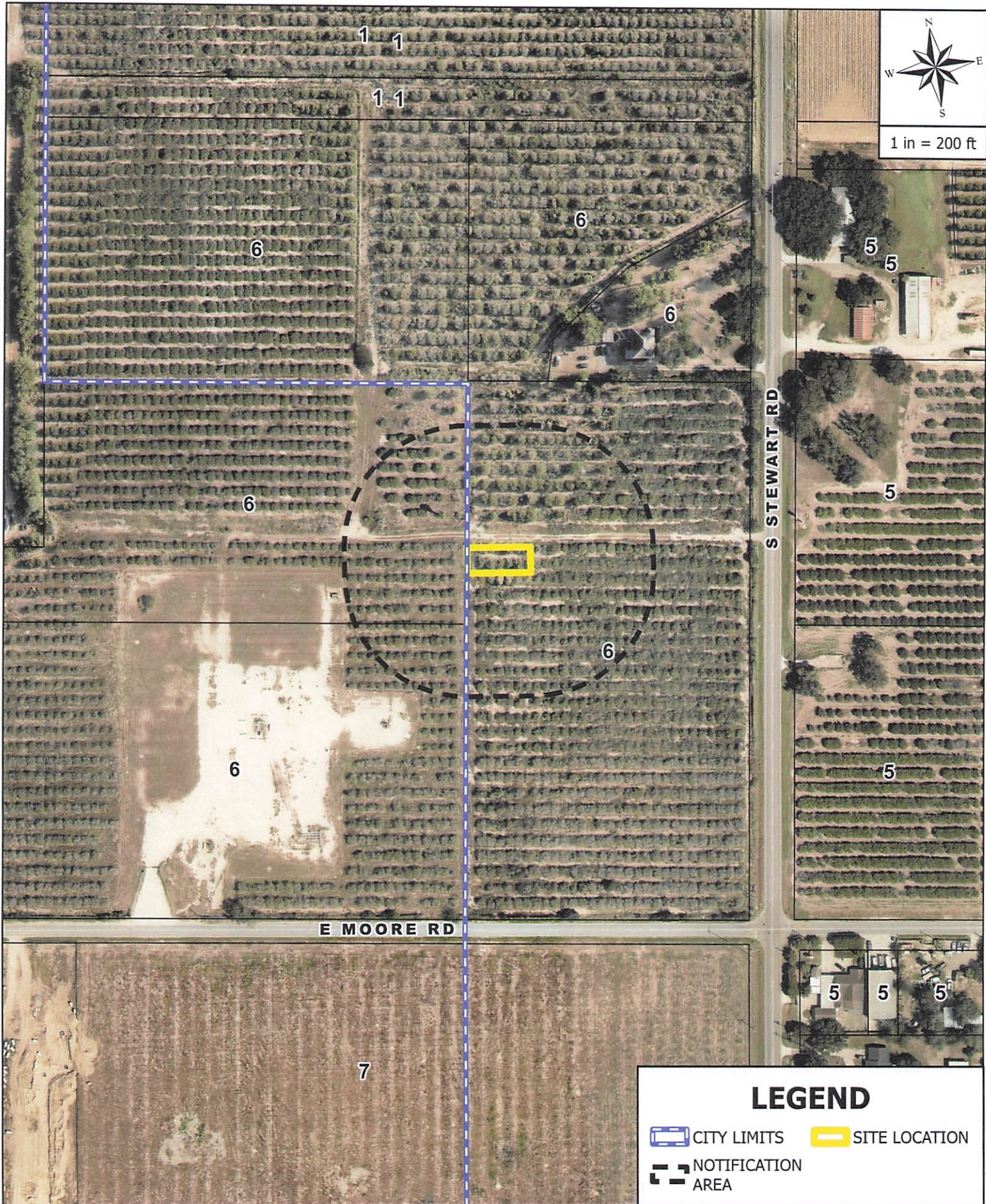
- Aerial Map
- Location Map
- Zoning Map
- Subdivision plat
- Letter from applicant
- List of neighboring property owners receiving notice

FINAL RESOLUTION OF REQUEST & COMMENTS:

P&Z – 11/07/2024 Vice-Chair Castillo made a motion to approve the variance request. Commissioner Yzaguirre seconded the motion. Motion passed unanimously with a 5-0 vote.

Ms. Gomez explained that this is variance request to the zoning ordinance to do not comply with the 5' side setback only for Lot 30 at the Stewart Coves Subdivision Phase 1. The reason of this request, is because of the lot size which is 41.42 feet by 115.44 feet. Adjacent to this property is a 5' Irrigation Easement. For this reason, Melden and Hunt is requesting a zero-side setback to the north side, which is adjacent to this Irrigation Easement. Staff is recommending to denial since it opposes to our zoning ordinance.

Mario Reyna, P.E. from Melden & Hunt, Inc., explained that Hidalgo County Irrigation District requested that easement after the plat was approved by the city. He said that the variance is only for Lot 30, and he is requesting a zero-side setback on the north side, next to the Irrigation Easement.



LEGEND

- CITY LIMITS
- SITE LOCATION
- NOTIFICATION AREA



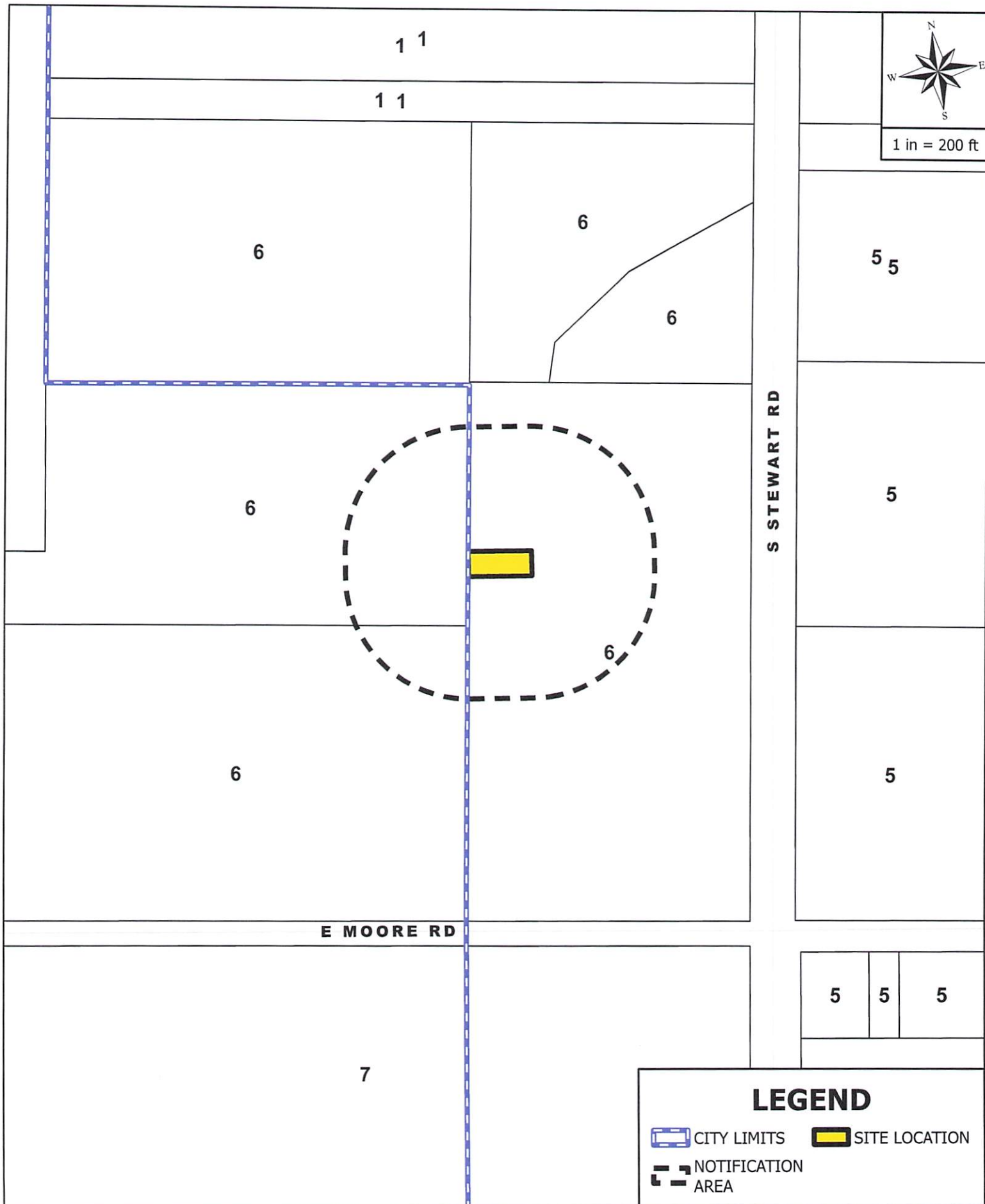
AERIAL MAP

CASE ADDRESS:

2024 S LAKE TEXOMA ST / MELDEN & HUNT, INC.



1 in = 200 ft



LEGEND



CITY LIMITS



SITE LOCATION



NOTIFICATION
AREA



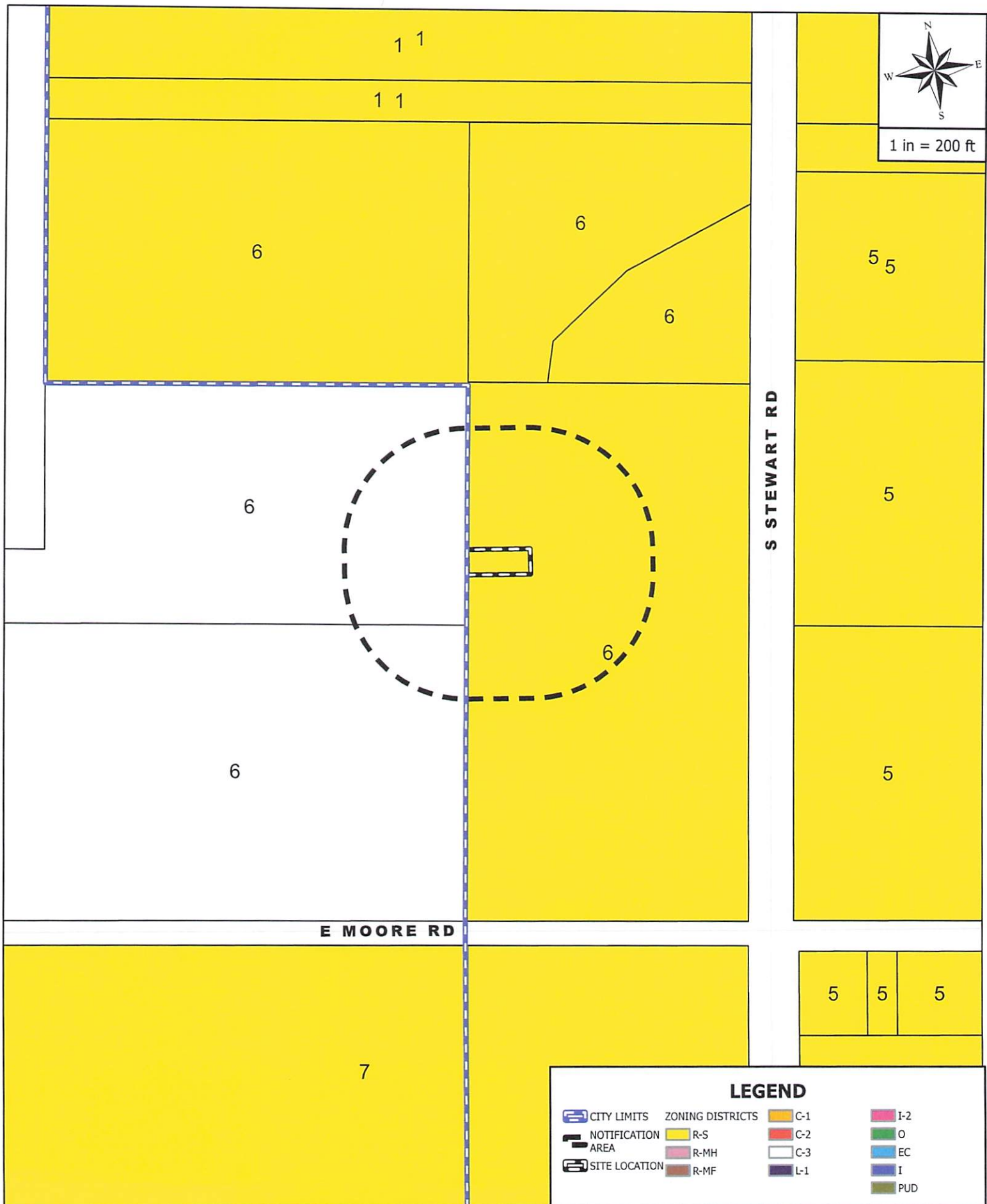
MAILOUT & SITE MAP

CASE ADDRESS:

2024 S LAKE TEXOMA ST / MELDEN & HUNT, INC.



1 in = 200 ft



ZONING MAP

CASE ADDRESS:

2024 S LAKE TEXOMA ST / MELDEN & HUNT, INC.



MELDEN & HUNT INC.

CONSULTANTS • ENGINEERS • SURVEYORS

MARIO A. REYNA • ALLAN F. BOOE • KELLEY A. HELLER-VELA • ROBERTO N. TAMEZ • RUBEN JAMES DE JESUS • MICHAEL HERNANDEZ

TBPELS Firm # F-1435
TBPELS # 10096900

October 10, 2024

City of San Juan Planning Dept.
Monica Gomez, Asst. Planning Director
709 S. Nebraska
San Juan, Texas 78589

Re: Stewart Coves– Variance Request

Dear Ms. Gomez:

On behalf of the owner, Rhodes Development, we respectfully request the following variance from your ordinance(s):

1. Requesting a variance for lot 30 0' Side Setbacks (North side of Lot)

Your consideration of this request is appreciated. If you have any questions, please feel free to contact us at (956) 381-0981.

Respectfully,

Mario A. Reyna, P.E.
President

Cc: Rhodes Development, Owner/Developer

Variance Request to the Zoning Ordinance to not comply with the 5-foot side setback at Lot 30, Stewart Coves Phase 1 Subdivision, as Requested by Melden and Hunt, Inc.

MMGJ South Texas LLC
401 W. Dallas Ave.
McAllen, TX 78501

HDP Stewart Coves LLC
1316 Sherman Ave. No. 215
Evanston, IL 60201

Melden and Hunt Inc.
115 W. McIntyre St.
Edinburg, TX 78541

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Discussion and Possible Action of an Interlocal Agreement for the 2024-2025 Fiscal Year with the Hidalgo County Urban County Program. [Monica Gomez, Interim Director of Planning]

STAFF COMMENTS AND RECOMMENDATIONS:

This is an Interlocal Agreement between the City of San Juan and the Hidalgo County Urban County Program for the 2024 – 2025 Fiscal Year to set out basic administrative understandings for the expenditure of the CDBG funds to be carried out in the City's jurisdiction.

RECOMMENDATION:

Approval of the Interlocal Agreement with the Hidalgo County Urban County Program.

PREPARED BY:

Monica Gomez,
Interim Director of
Planning

APPROVED BY:

Benjamin Arjona, City
Manager



HIDALGO COUNTY URBAN COUNTY PROGRAM

October 30, 2024

All City Managers,
Hidalgo County

Re: 2024-2025 Fiscal Year Interlocal Agreement

To All City Managers:

Attached is the Interlocal Agreement for the 2024-2025 Urban County Program fiscal year that must be approved by your city council. Please return Interlocal Agreement to the Urban County Program office no later than **Friday, November 29, 2024**. In addition, minutes reflecting city council's approval of the Interlocal Agreement are also required. The UCP will accept signed and stamped excerpts of minutes in lieu of official certified minutes not being ready before the due date. Please see guidelines below:

Codes of Conduct - In addition to various Exhibits in the Agreement, the Agreement contains Exhibit A-I, the Code of Conduct Certifications. The Code of Conduct must be signed by each city council member, the city secretary, and city manager. Note that there are only five (5) copies of the Code of Conduct included in your Agreement; make additional copies for signature as needed.

Signing the Codes of Conduct - In **BLUE INK**, is required for all original signatures.

Failure to submit the Interlocal Agreement - The Interlocal Agreement is due every fiscal year for cities participating in the Urban County Program. **Failure to submit approved Interlocal Agreement by November 29, 2024 will result in forfeiture of funds.**

Please note that once the agreement has been returned to UCP with approval certification and signatures, the agreements will then be submitted to Commissioner's Court to complete the required approval process. A completely signed copy will be forwarded to each city for your administration files. Should you have any questions or concerns, please do not hesitate to contact Anita Jenny, CDBG Division Manager III or myself at 956-787-8127.

Respectfully,

A handwritten signature in blue ink that reads "Nellie Flores".

Nellie Flores, Finance Manager III
Urban County Program

NF/mg

Enclosure: Interlocal Agreement with Exhibits.

1916 TESORO STREET □ PHARR, TEXAS 78577 □ (956) 787-8127 FAX: (956) 318-2988
E-mail: ucp@co.hidalgo.tx.us

**Equal Housing Opportunity
Equal Employment Opportunity Employer**

INTERLOCAL AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

This Interlocal Agreement, made and entered into by and between the County of Hidalgo, a political subdivision of the State of Texas, hereafter referred to as the “County” and the [City of San Juan](#), a municipal corporation under the laws of the State of Texas, hereafter referred to as “City”.

WITNESSETH

WHEREAS, the Department of Housing and Urban Development made a Determination of Essential Powers on November 16, 1987 which depicts Hidalgo County as having the “essential powers” to carry out community renewal and lower income housing assistance in the County, and

WHEREAS, the Department of Housing and Urban Development formally allocated [\\$7,507,970.00](#) of Fiscal Year [2024](#) Community Development Block Grant (CDBG) Funds under Grant No. [B-24-UC-48-0501](#) to County, and

WHEREAS, the City and County have entered into a Cooperation Agreement which allows the County to use the City’s population as the basis for qualification as an Urban County, and

WHEREAS, both the County and the City need to set out basic administrative understandings for the proper expenditure of CDBG funds as set out in 24 CFR.570 and other related federal rules and regulations as they apply to Subrecipients.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That the County and the City do mutually agree as follows:

SECTION I Rules and Regulations

The City agrees to cooperate with the County in respect to the implementation of CDBG activities to be carried out in the City’s jurisdiction as per 24 CFR 570 and other rules, regulations and decisions as may be made by the Department of Housing and Urban Development or any other federal or state agency that may legally exercise its jurisdiction over expenditures of CDBG funds. Both City and County agree and understand that the County is the grantee for the CDBG funds and the City is subject to all rules and regulations governing Subrecipients under 24 CFR 570.

SECTION II Applicability of Uniform Administrative Requirements

The County understands that it is responsible for the maintenance, retention, accessibility and public disclosure of all records, expenditures and files as may be promulgated for the administration of CDBG funds and as may be required by 24 CFR 570 and the “Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments.” (24 CFR Part 85) or any variation as may be approved by HUD. The City agrees to work with the County to make available all data, information and records as may be necessary for the proper accounting of all CDBG expenditures and activities. A description of City

and County responsibilities can be found in Exhibit B Matrix. City agrees to make all records available to the County and shall not be the custodian of any official records or information.

City agrees to comply with 2 CFR Part 200 and with the following sections of 24 CFR Part 85 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Government”:

- (1) Section 85.3, “Definitions”;
- (2) Section 85.6, “Exceptions”;
- (3) Section 85.12, Special grant or subgrant conditions for “high-risk “grantees”;
- (4) Section 85.20, “Standards for financial management systems,” except paragraph (a);
- (5) Section 85.21, “Payment,” except as modified by SS570.513;
- (6) Section 85.22, “Allowable costs”;
- (7) Section 85.26, “Non-federal audits”
- (8) Section 85.32, “Equipment,” except in all cases in which the equipment is sold, the proceeds shall be program income;
- (9) Section 85.33, “Supplies”;
- (10) Section 85.34, “Copyrights”;
- (11) Section 85.35, “Sub-awards to debarred and suspended parties”;
- (12) Section 85.36, “Procurement,” except paragraph (a);
- (13) Section 85.37, “Subgrants”;
- (14) Section 85.40, “Monitoring and reporting program performance,” except paragraphs (b)-(d) and (f);
- (15) Section 85.41, “Financial Reporting,” except paragraphs (a), (b), and (e);
- (16) Section 85.42, “Retention and access requirements for records”;
- (17) Section 85.43, “Enforcement”;
- (18) Section 85.44, “Termination for convenience”;
- (19) Section 85.51, “Later disallowances and adjustments”; and
- (20) Section 85.52, “Collection of amounts due.”

the City agrees to submit a yearly Certified City Financial Audit regardless of the dollar amount expended in that fiscal year in the time and manner prescribed by the County.

SECTION III Other Program Requirements

The City agrees to comply with “Other Program Requirements” as listed in Exhibit D (24 CFR 570.600-611) except for the environmental responsibilities outlined at 24 CFR 570.604 and the review process under Executive Order 12372.

SECTION IV Allocation

The City understands that the Urban County allocation has been set at [\\$7,507,970.00](#) for [Fiscal Year 2024](#) and that City’s allotment has been set at [\\$284,266.00](#). The City agrees to cooperate with the county in the expenditure of these funds for the activities so described in Exhibit A of this Agreement and that Exhibit A is an integral part of this Agreement.

The City further agrees to inform the County on any changes in scope, funding or location of the activities listed on Exhibit A prior to executing any change. Any changes proposed by City must be approved by the County in reference to eligibility, program compliance and citizen participation requirements.

City and County mutually agree that the City shall have four (4) fiscal years to properly expend or cause to be expended, according to all applicable rules and regulations, all funds allocated to it in [Fiscal Year 2024](#). In consideration for the same, the City agrees not to have more than 1.5 times its annual allocation in its line of credit by [April 30, 2025](#); Funds in excess of the 1.5 standards shall be subject to the Recapture by the Urban County Program, and/or any applicable Redistribution & Recapture Policy. The County shall recapture any and all unobligated funds that a City fails to expend or obligate, by [June 30, 2025](#) and shall expend such funds at the discretion of the Hidalgo County Commissioners' Court. The Hidalgo County Commissioners' Court may take any type of remedial action, including but not limited to Recapture, at any time to comply with any and all rules, regulations and decisions, and timeliness requirements as may be made by the Department of Housing and Urban Development or any other federal or state agency that may legally exercise its jurisdiction over expenditures of CDBG funds.

SECTION V

Access

The City and County both agree to give the Department of Housing and Urban Development, the Inspector General, the Comptroller General of the United States, or any of its authorized representatives, access to and the right to examine, excerpt and transcribe all books, accounts, records, reports, files and other papers, things, or property belonging to or in use by the City or County for a period as such records are legally required to be maintained by the City or County.

SECTION VI

Monitoring

The County reserves the right to carry out regular and periodic field inspections to ensure compliance with the requirements of this Agreement. City shall attend a compliance seminar after the award of funds and prior to the first draw. After each monitoring visit, County shall provide City with a written report of the monitor's inspection. If the monitoring report finds deficiencies in City's performance under the terms of this Agreement, the monitoring report shall include requirements for the timely correction of such deficiencies by City. Failure by City to take action as specified in the monitoring report may be cause for suspension or termination of this Agreement, as provided in Section XIV of this Agreement.

SECTION VII

Conflict of Interest

In compliance with 24 CFR 611, the City and County both covenant that no member of their respective governing bodies nor any staff member who exercises influence on the decision making process, presently has or will have any interest, direct or indirect, with any person, corporation, company or association that is hired to carry out any of the activities so listed on Exhibit A or will receive federal assistance from any activity.

The City and County both agree that no person who is an elected official, employee, consultant, or agent of the City or County shall gain any interest in any corporation, company, or association that is hired to carry out any of the activities so listed in Exhibit A during their tenure or for a period of one year thereafter.

No City or County employee, elected official, consultant and/or agent shall solicit nor accept gratuities, favors, or anything of monetary value from any person, corporation, company, or association that has been hired or expects to be hired to perform any of the activities so described on Exhibit A.

Code of Conduct Certification attached to this agreement must be signed by elected officials, employees, consultants, or agents to the City. (See attachment A-1)

SECTION VIII Religious Activities

The City and County both agree that none of the funds expended or activities undertaken shall be used in support of any sectarian or religious activity, nor shall any building or structure funded under this program be used for sectarian or religious activities.

SECTION IX Real and Property Assets

The City and County agree that any property, real or personal, duly acquired with CDBG funds allocated to City shall become property of the City and shall be afforded the same maintenance and protection as other City property. City and County further agree that any real or personal property acquired shall be done in accordance with 24 CFR 570.606, 24 CFR 85 and/or any other federal rules or regulations as may apply.

City agrees not to purchase any real or personal assets unless so permitted by the County and such procurement shall be done in accordance with 24 CFR 570.606, 24 CFR 85 and/or any other federal rules or regulations as may apply.

The City agrees to maintain any real or personal asset in a prudent manner so as to ensure its useful life and to protect the federal government's interest in such real or personal asset from the perils of fire, storm, flood or theft through insurance coverage in the amount as may be deemed prudent by County. Failure to secure such protection shall be cause for termination of this agreement.

Any asset acquired or improved in part or in whole with CDBG funds must be used in an activity that is eligible and meets one of the national objectives listed in 24 CFR 570.208. Any asset acquired or improved in part or in whole with CDBG funds in excess of \$ 25,000 must be used for the CDBG activity so planned including the beneficiaries of such use. Any change in use or beneficiaries must be subject to the citizen participation requirements and approved by the County.

Should any use of an asset not qualify as meeting one of the national objectives or is not an eligible use under 24 CFR 570.200, the City shall reimburse the County the amount of the current fair market value of the asset less any portion thereof attributable to expenditures of non-CDBG funds in the acquisition or improvement of the asset.

The above requirements attributed to assets over \$25,000 shall remain in force for a period of five years after the final closeout of the County's participation in the Urban County Program. The disposition of any asset improved or acquired in part or in whole with CDBG funds by the City must be done with prior approval of the County and the County shall be reimbursed for the asset, if sold, in the full amount of the disposed value of the asset. The County may, at its option, request that such asset be transferred to the County if the asset is no longer being used to meet one of the national objectives or in any case where the City no longer uses the asset for its intended use.

SECTION X

Jurisdiction

The City and County agree to accept the jurisdiction of the Department of Housing and Urban Development in matters relating to the proper administration of programs and the proper expenditure of CDBG funds.

The City and County agree that the County is responsible for the proper administration of programs and the proper expenditure of CDBG funds and recognize that the County will be responsible for audit or programmatic findings or exceptions made by the HUD or any other agency that may exercise jurisdiction over HUD or any other agency that may exercise jurisdiction over HUD funds or programs.

In cases of an audit finding or exception based on action or inaction, representation or misrepresentation of the City, the City agrees to resolve such audit finding or exception for and on behalf of the County. Remedial actions that may be taken for the resolution of an audit finding or exception are defined in 24 CFR 570.910 and include the withholding of funds to the City for any outstanding finding(s) or exception(s). (See Exhibit-E)

The City understands and agrees this Interlocal Agreement shall remain in full force and effect until the Department of Housing and Urban Development has closed this Program Year [\(B-24-UC-48-0501\)](#) and accepted any resolutions to any and all audit or programmatic finding(s) or concern(s).

SECTION XI

Payment Requests and Program Income

The City agrees to follow administrative directions from the County in the areas of documenting and processing payment requests. The City further agrees to allow the County to make all payments and to account for all program income from any of its CDBG activities that may generate program income as outlined in this Section.

The City and County agree that program income generated from any approved CDBG project shall be retained by the City as long as such City provides the County by the 15th of each month, an accounting as may be required by the County of program income earned, retained, and expended by the City. The City shall be allowed to use the program income for the same or similar activities as generated the program income. Failure of the City to report program income as required shall cause the County to require all program income to be recovered by the County.

SECTION XII

Section 108 Loan Guarantee

County and City both agree that they may implement certain eligible activities as outlined in 24 CFR 570.703 with loan funds from the Section 108 Loan Guarantee Program as described in 24 CFR 570.700-709 approved and adopted November 6, 1991 (Vol. 56, No. 215 Federal Register).

The County and City will be allowed to submit an application for such funds per funding year in an amount less than three times its current allocation. Should the City or County submit more than one application during any combination of years, the cumulative amount of loan funds requested shall not exceed the total amount of five years of the current allocation. The City agrees that it will bear the full expense of obtaining Section 108 financing for the period of the repayment of Section 108 funds.

The County and City agree that they will maintain a legal binding relationship with each other under the terms of this Agreement and all previously signed Cooperation Agreement if the City wishes to participate in the Section 108 Loan Guarantee Program for the full term of the Section 108 Loan Agreement. The City agrees to pledge its current and future CDBG allocation and other security consideration as may be required, depending on the project risk, as security for the Section 108 Loan and such security pledge shall not bind or affect other cities' allocation in the Urban County Program.

Such legal binding relationship and security pledge shall remain in full force and effect for the full term of the Section 108 Loan Guarantee agreement and this agreement shall survive for the term of the Section 108 Loan. Details of any current Section 108 loan are included herein as Exhibit C, if applicable.

SECTION XIII

Legal Action

The City agrees to notify the County when a problem arises that may lead to any legal action or claim against the City and/or County. The City agrees to furnish to the County any information with respect to such action or claim. The City agrees not to take any action with respect to any legal matter or claim sought against the City and/or County without advice and consent of the County.

SECTION XIV

Suspension and Termination

City understands that this agreement may be suspended or terminated in accordance with 24 CFR 85.43 if the City materially fails to comply with the provisions of this agreement or the provisions so listed on Exhibits A through E. Termination for convenience may be implemented in accordance to the provisions listed in 24 CFR 85.44.

SECTION XV

Changes or Amendments

The City agrees to notify the County on any changes or amendments that it may desire or need to carry out the CDBG program in its area. All changes or amendments must first obtain approval from the County prior to implementation. All changes or amendments must conform to all federal rules and regulations applicable to the CDBG program.

SECTION XVI

Essential Powers

The City agrees that the County has the essential powers to implement any aspect of those activities identified in the 2023-2027 Five-Year Consolidated Plan & Strategy inclusive of specific projects identified in the annual One-Year Action Plan and subsequent amendments. The City further agrees to allow the County the authority to initiate, undertake and implement said projects within its jurisdictional boundaries without further notice to City by County for all projects identified in the 2023-2027 Five-Year Consolidated Plan & Strategy, Annual Action Plan and subsequent amendments to the Plans herein incorporated by reference.

Approved and signed this _____ Day of _____, 2024.

ATTEST:

Arturo Guajardo, Jr.
County Clerk

Richard F. Cortez,
Hidalgo County Judge

ATTEST:

City Secretary

Mayor

APPROVED AS TO FORM
Hidalgo County Criminal District Attorney's Office
Toribio "Terry" Palacios

By: _____
Victor M. Garza, Asst. District Attorney

Date: _____

The following Exhibits are incorporated into the 2024 Interlocal Agreement:

Exhibit A	2024 Proposed Activities
Exhibit A-1	Code of Conduct Enforcement
Exhibit B	Urban County Program Matrix
Exhibit C	Section 108 Loan Guarantee Program
Exhibit D	CDBG Regulations and other Program Requirements
Exhibit E	Audit Finding or Exceptions

Exhibit A

2024 Proposed Activities

2024	SAN JUAN	\$284,266.00
21A Exempt 58.34 (a)(3)	GENERAL PROGRAM ADMINISTRATION Funds shall be used for expenses related to compliance with CDBG requirements including but not limited to advertisements, postings and coordinating eligible related projects. Location: City Hall 709 S. Nebraska Ave., San Juan, Texas 78589	3,000.00
03K Cat. Subj. to 58.5(a) (1) Converts to Exempt	STREET IMPROVEMENTS Project consists of street paving (overlay) within the City of San Juan to include but not limited to the adjacent/abutting streets within the same general vicinity. Other expenditure include professional engineering services, surveying, geotechnical and construction material testing fees, and advertisement as they pertain to project completion. Locations: Gardenia Drive (From San Martin Street to Eldora Road), San Martin Drive (from Gardenia Drive to the Irrigation District Canal). Census Data: 0218.06 (01) National Objective: 55.12% LMA Goal Outcome Indicator: 4445 Beneficiary Type: People	274,266.00
05M Exempt 58.34 (a)(4)	HEALTH SERVICES – Nuestra Clínica Del Valle Project expenditures include reimbursement of expenses associated with medical services and procedures to include but not limited to, dental services, support services of pharmacy, radiology, laboratory, subspecialty referral, for the low income and uninsured residents of the San Juan area. Location: 801 W. 1st St., San Juan, TX 78589 National Objective: LMC Goal Outcome Indicator: 75 Beneficiary Type: People	7,000.00

Exhibit A-1

Code of Conduct Certifications

CODE OF CONDUCT

No employee, officer or agent of the **County of Hidalgo-Urban County Program, sub-grantee or subrecipient** shall participate in selection or in the award or administration of a contract or conduct business with a vendor if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- A. *the employee, officer or any agent*
- B. *any member of his immediate family*
- C. *his or her partner*
- D. *an organization which employs or is about to employ, any of the above, has a financial or other interest in the firm selected for award.*

The *Urban County Program's , sub-grantee or subrecipient, officers, employees or agents* shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, or vendors or potential vendors. Depending on gravity, violation of this Code of Conduct could result in dismissal, probation or suspension of officers, employees or agents involved or termination of contractual agreements with subrecipients.

Non-disclosure Policy

No disclosure of verbal or written price quotations shall be made by any *Urban County Program* employee, sub-grantee or subrecipient. Violation of the nondisclosure policy shall be subject to disciplinary action as provided by the *County of Hidalgo* or termination of contractual agreements when a subrecipient/sub-grantee employee is involved.

Personal Interest

No member of the *Hidalgo County Commissioners* or any officer or employee of the *Urban County Program, sub-grantee or subrecipient* shall have a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract or in the sale to the *Urban County Program, sub-grantee or subrecipient* or to a contractor supplying the *Urban County Program, sub-grantee or subrecipient* of any land or rights or interest in any land, material, supplies, or services, or in any matter in which he acts for the *Urban County Program*. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the *Urban County Program, sub-grantee or subrecipient* found guilty shall thereby forfeit his or her office. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the *Urban County Program, sub-grantee or subrecipient* shall render the contract voidable by the *Urban County Director or the board of Commissioners*.

Employee, Officer, or Agent Acknowledgment

Print or Type Name and Position/Title

Entity/Organization Name

Date

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No employee, officer or agent of the ***County of Hidalgo-Urban County Program, sub-grantee or subrecipient*** shall participate in selection or in the award or administration of a contract or conduct business with a vendor if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- A. ***the employee, officer or any agent***
- B. ***any member of his immediate family***
- C. ***his or her partner***
- D. ***an organization which employs or is about to employ, any of the above, has a financial or other interest in the firm selected for award.***

The *Urban County Program's , sub-grantee or subrecipient, officers, employees or agents* shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, or vendors or potential vendors. Depending on gravity, violation of this Code of Conduct could result in dismissal, probation or suspension of officers, employees or agents involved or termination of contractual agreements with subrecipients.

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Personal Interest

No member of the *Hidalgo County Commissioners* or any officer or employee of the *Urban County Program, sub-grantee or subrecipient* shall have a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract or in the sale to the *Urban County Program, sub-grantee or subrecipient* or to a contractor supplying the *Urban County Program, sub-grantee or subrecipient* of any land or rights or interest in any land, material, supplies, or services, or in any matter in which he acts for the *Urban County Program*. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the *Urban County Program, sub-grantee or subrecipient* found guilty shall thereby forfeit his or her office. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the *Urban County Program, sub-grantee or subrecipient* shall render the contract voidable by the *Urban County Director or the board of Commissioners*.

Employee, Officer, or Agent Acknowledgment

Print or Type Name and Position/Title

Entity/Organization Name

Date

CODE OF CONDUCT

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- A. ***the employee, officer or any agent***
- B. ***any member of his immediate family***
- C. ***his or her partner***
- D. ***an organization which employs or is about to employ, any of the above, has a financial or other interest in the firm selected for award.***

The *Urban County Program's* , ***sub-grantee or subrecipient***, officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, or vendors or potential vendors. Depending on gravity, violation of this Code of Conduct could result in dismissal, probation or suspension of officers, employees or agents involved or termination of contractual agreements with subrecipients.

Non-disclosure Policy

No disclosure of verbal or written price quotations shall be made by any *Urban County Program* employee, sub-grantee or subrecipient. Violation of the nondisclosure policy shall be subject to disciplinary action as provided by the *County of Hidalgo* or termination of contractual agreements when a subrecipient/sub-grantee employee is involved.

Personal Interest

No member of the *Hidalgo County Commissioners* or any officer or employee of the *Urban County Program*, ***sub-grantee or subrecipient*** shall have a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract or in the sale to the *Urban County Program*, ***sub-grantee or subrecipient*** or to a contractor supplying the *Urban County Program*, ***sub-grantee or subrecipient*** of any land or rights or interest in any land, material, supplies, or services, or in any matter in which he acts for the *Urban County Program*. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the *Urban County Program*, ***sub-grantee or subrecipient*** found guilty shall thereby forfeit his or her office. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the *Urban County Program*, ***sub-grantee or subrecipient*** shall render the contract voidable by the *Urban County Director* or the *board of Commissioners*.

Employee, Officer, or Agent Acknowledgment

Print or Type Name and Position/Title

Entity/Organization Name

Date

CODE OF CONDUCT

No employee, officer or agent of the *County of Hidalgo-Urban County Program, sub-grantee or subrecipient* shall participate in selection or in the award or administration of a contract or conduct business with a vendor if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- A. *the employee, officer or any agent*
- B. *any member of his immediate family*
- C. *his or her partner*
- D. *an organization which employs or is about to employ, any of the above, has a financial or other interest in the firm selected for award.*

The *Urban County Program's , sub-grantee or subrecipient, officers, employees or agents* shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, or vendors or potential vendors. Depending on gravity, violation of this Code of Conduct could result in dismissal, probation or suspension of officers, employees or agents involved or termination of contractual agreements with subrecipients.

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Print or Type Name and Position/Title

Entity/Organization Name

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- A. ***the employee, officer or any agent***
- B. ***any member of his immediate family***
- C. ***his or her partner***
- D. ***an organization which employs or is about to employ, any of the above, has a financial or other interest in the firm selected for award.***

The ***Urban County Program's , sub-grantee or subrecipient, officers, employees or agents*** shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, or vendors or potential vendors. Depending on gravity, violation of this Code of Conduct could result in dismissal, probation or suspension of officers, employees or agents involved or termination of contractual agreements with subrecipients.

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No disclosure of verbal or written price quotations shall be made by any ***Urban County Program*** employee, sub-grantee or subrecipient. Violation of the nondisclosure policy shall be subject to disciplinary action as provided by the ***County of Hidalgo*** or termination of contractual agreements when a subrecipient/sub-grantee employee is involved.

Personal Interest

No member of the ***Hidalgo County Commissioners*** or any officer or employee of the ***Urban County Program, sub-grantee or subrecipient*** shall have a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract or in the sale to the ***Urban County Program, sub-grantee or subrecipient*** or to a contractor supplying the ***Urban County Program, sub-grantee or subrecipient*** of any land or rights or interest in any land, material, supplies, or services, or in any matter in which he acts for the ***Urban County Program***. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the ***Urban County Program, sub-grantee or subrecipient*** found guilty shall thereby forfeit his or her office. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the ***Urban County Program, sub-grantee or subrecipient*** shall render the contract voidable by the ***Urban County Director or the board of Commissioners***.

Employee, Officer, or Agent Acknowledgment

Print or Type Name and Position/Title

Entity/Organization Name

Date

Exhibit B

Urban County Matrix

Pre-Bid Activities

Development of Annual Workplan

This activity is a city responsibility with the county involvement only as is necessary to assure that the individual activities meet one of the three national objectives.

Revisions or Amendments to Annual Workplan

Same as above (only two amendments allowed per fiscal year)

Eligibility Test on Activities

This is a county responsibility working with the cities to assure all activities meet one of the three national objectives. The County will assure that the 51 percent benefit to low and moderate income persons can be verified and that the activities are eligible for funding. The county may request an eligibility determination from HUD should a difference of opinion arise between the City and the County.

Public Hearings

This responsibility will be a shared responsibility between the Cities and the County. In accordance with the adopted Citizen Participation Plan, the Cities will conduct a public hearing in their respective Cities after public notice. The County will then have a second public hearing at the County level on the county-wide workplan, after public notice.

Environmental Assessment

This is a County responsibility with concurrence and assistance by the Cities. The County will determine what level of clearance is needed and will do noise, hazard, historical, floodplain, etc. assessments as may be needed with as much city input as possible. The County Judge will consider the “do nothing” alternative after consultation with the respective Mayors. The County Judge and or UCP Staff will direct all mitigation efforts if necessary. The County Judge will sign all environmental assessment reviews and findings. (A County Signatory may be appointed: UCP Director)

Advertise for Professional Services

This is a County responsibility whereby the County will advertise once a year for all professional services through a statement of qualifications process. The County will provide all data concerning proposed activities and type of services needed. This list will be sent to all Cities so that the Cities may decide on the professional services as they see the need for the services. Should a city need services not available from the list (UC-1 List) of Professional Services, the City shall advertise for the service after consulting with the Urban County Program staff.

Selection of Professional Services Provider

This is a City and County shared responsibility, based on the Texas Local Government code and other applicable laws and regulations. County will make sure that the provider is not a contractor's debarred list by consulting with the System for Award Management (SAM) website (www.sam.gov), prior to recommendation for awarding a contractor to Hidalgo County Commissioner's Court.

Execute Professional Contracts

The City will negotiate the Professional Service Contract, and submit a Best and Final Offer (BAFO) along with Scope of Services, Project Cost Estimate, Certificate of Debarment, CIQ Form and IRS W-9 Form. The County will prepare the Professional Contract Agreement documents and submit to Hidalgo County Commissioner's Court for approval of contract. Any modifications to the County contracts require prior approval of the County Legal Department. Once approved, the County will forward the contracts to the Professional Service Provider for proper signatures, they will return to the County for the County's execution and County will issue Notice to Proceed.

Review of Preliminary Drawings

This is a city responsibility.

Solicit Davis-Bacon Wage Rates

This is a County responsibility. The County will obtain wage rates from HUD for specific projects and will forward wage rates to the respective Cities and the Professional Service Provider to include in the bid specification packages.

Review and Approval of Final Plans and Specifications

This is a City responsibility where by the Mayor's signature will be required on all plans and specifications prior to bidding. Final plans should be forwarded to Urban County Program office prior to bid advertisement for compliance check.

Advertise for Construction Bid

This is a County responsibility. The County will advertise for all construction projects and will instruct bidders as to the availability of plans and specs, (to be picked up at Professional Service Provider's choice of location), and will advise bidders as to who will accept bids. (Hidalgo County Purchasing Department – any given Wednesday at 9:30am)

Pre-Bid Conference

This is a County responsibility. County will conduct a pre-bid conference if necessary at the Urban County program Conference Room, accompanied by the Professional Service Provider and the project's respective City.

Bid Activities

Ten Day Wage Rate Check

This is a County responsibility. Ten days prior to any bid opening, the County will ascertain as to the applicability of the wage rate in the bid documents. Should the wage rate change all appropriate engineers will be notified and instructed to change wage rates.

Accept Construction Bids

This is a County Purchasing Department responsibility. The Hidalgo County Purchasing Department will accept bids as per the conditions set forth in the specification handbook.

Accept and Tabulate Bids

This is a County Purchasing Department responsibility with an Urban County, City, and Professional Service Provider representative at bid opening. The respective Professional Service Provider will review the bids received and make their recommendation to the Urban County Program.

Research Apparent Low Bidder

This is a shared responsibility. The respective Professional Service Provider will research and review apartment low bidder's past performances and their bids. The Urban County program will research the list of Debarred Contractor's and make a finding in the regard.

Bid Recommendation

This is a City responsibility. The respective Professional Service Provider will recommend the lowest and most responsible bid to the City. The city will send a recommendation to the County. County will request approval by Hidalgo County Commissioner's Court for approval of contract.

Contract Award

The County upon approval by Hidalgo County Commissioner's Court will prepare the contract documents and forward them to the approved Contractor for execution.

Pre-Construction Activities

Construction Contract and Bonds

This is a shared responsibility. The Professional Service Provider will coordinate the execution of construction contracts to include Insurance, Payment and Performance Bonds. Once they receive four (4) original set of construction contracts they will submit to the County for execution. Any modifications to the construction contracts require prior review by Legal Department and approval by Hidalgo County Commissioner's Court.

Pre-Construction Conference

The Urban County Program will conduct a Pre-construction conference to inform the contractor of the various federal regulations such as Affirmative Action, Section 3 Compliance, and Davis-Bacon Wage Compliance. The Pre-construction conference will be held at the Urban County Program

Conference Room, with the city and professional service provider representatives present. Once contracts are signed, County will prepare and issue a Notice to Proceed.

Document Posting and Construction Signs

This is a shared responsibility. The city and Professional Service Provider will ensure itself that the appropriate documents are posted at the site and that the construction sign is erected.

Construction Activities

Davis-Bacon Compliance

This is a shared responsibility. The City may be asked to conduct wage rate employee interviews. The County will conduct wage rate interviews and review wage rates on payroll reports submitted with request for payments.

Periodic Project Inspections

This is a shared responsibility. The City, County, and Professional Service Providers will conduct periodic site inspections of the project site.

Payment Request Approval

This is a shared responsibility. The Professional Service Provider will review and sign off on request for payments and forward RFP to the City for signature and approval, and forward the final RFP to the County for review and approval of payment.

Change Orders

This is a shared responsibility. Professional Service Provider will recommend any change orders after negotiating said change order with the contractor. All change orders must have City's approval prior to submission to County for review and approval.

Contract Amendment

This is a shared responsibility. The City will recommend any contract amendments to the County. County will consider and take appropriate action to approve or deny the contract amendment if necessary.

Final Payment Approval

This is a shared responsibility. The City and Professional Service Provider will conduct final project site inspections to ensure that construction has been completed as per plans and specifications prior to submitting final request for payment recommendation to the County. County will ensure that all applicable laws and regulations have been complied with. County will review wage rate compliance, release of liens, certification of construction completion, warranty certification and other pertinent documents.

Exhibit C

Section 108 Loan Guarantee Program

Introduction

Section 108 is the loan guarantee provision of the Community Development Block Grant (CDBG) program. Section 108 provides communities with a source of financing for economic development, housing rehabilitation, public facilities, and large-scale physical development projects. This makes it one of the most potent and important public investment tools that HUD offers to local governments. It allows them to transform a small portion of their CDBG funds into federally guaranteed loans large enough to pursue physical and economic revitalization projects that can renew entire neighborhoods. Such public investment is often needed to inspire private economic activity, providing the initial resources or simply the confidence that private firms and individuals may need to invest in distressed areas. Section 108 loans are not risk-free, however; local governments borrowing funds guaranteed by Section 108 must pledge their current and future CDBG allocations to cover the loan amount as security for the loan.

Regulations governing the Section 108 program may be found at [24 CFR 570](#), Subpart M, Loan Guarantees.

Eligible Applicants

Eligible applicants include the following public entities:

- metropolitan cities and urban counties (i.e. CDBG entitlement recipients);
- nonentitlement communities that are assisted in the submission of applications by States that administer the CDBG program; and
- nonentitlement communities eligible to receive CDBG funds under the HUD-Administered Small Cities CDBG program (Hawaii). The public entity may be the borrower or it may designate a public agency as the borrower.

Eligible Activities

Activities eligible for Section 108 financing include:

- economic development activities eligible under CDBG;
- acquisition of real property;
- rehabilitation of publicly owned real property;
- housing rehabilitation eligible under CDBG;
- construction, reconstruction, or installation of public facilities (including street, sidewalk, and other site improvements);
- related relocation, clearance, and site improvements;
- payment of interest on the guaranteed loan and issuance costs of public offerings;
- debt service reserves;
- public works and site improvements in colonias; and
- in limited circumstances, housing construction as part of community economic development, Housing Development Grant, or Nehemiah Housing Opportunity Grant programs.

For purposes of determining eligibility, the CDBG rules and requirements apply. As with the CDBG program, all projects and activities must either principally benefit low- and moderate-income persons, aid in the elimination or prevention of slums and blight, or meet urgent needs of the community.

Maximum Commitment Amount

Commitments are limited as follows:

1. Entitlement public entities. An entitlement public entity may apply for up to five times the public entity's latest approved CDBG entitlement amount, minus any outstanding Section 108 commitments and/or principal balances of Section 108 loans.
2. State assisted public entities. A nonentitlement public entity may apply for up to five times the latest approved CDBG amount received by its State, minus any outstanding Section 108 commitments and/or principal balances on Section 108 loans for which the State has pledged its CDBG funds as security.
3. Nonentitlement public entities eligible under the HUD administered Small Cities Program. For a public entity in Hawaii, the maximum commitment amount is five times the public entity's latest grant under 24 CFR 570, Subpart F, minus any outstanding Section 108 commitments and/or principal balances on Section 108 loans.

Loan Details

Security: The principal security for the loan guarantee is a pledge by the applicant public entity or the State (in the case of a nonentitlement public entity) of its current and future CDBG funds. Additional security will also be required to assure repayment of guaranteed obligations. The additional security requirements will be determined on a case-by-case basis, but could include assets financed by the guaranteed loan.

Repayment: The maximum repayment period for a Section 108 loan is twenty years. HUD has the ability to structure the principal amortization to match the needs of the project and borrower. Each annual principal amount will have a separate interest rate associated with it.

Financing Source: Section 108 obligations are financed through underwritten public offerings. Financing between public offerings is provided through an interim lending facility established by HUD.

Interest Rates: Interest rates on interim borrowing are priced at the 3 month London Interbank Offered (LIBO) rate plus 20 basis points (0.2%). Permanent financing is pegged to yields on U.S. Treasury obligations of similar maturity to the principal amount. A small additional basis point spread, depending on maturity, will be added to the Treasury yield to determine the actual rate.

Default: To date, there has been no default under Section 108 resulting in a repayment by HUD. In the event of default requiring a payment, HUD would continue to make payments on the loan in accordance with its terms. The source of payments by HUD pursuant to its guarantee would almost always be pledged CDBG funds. However, HUD does have borrowing authority with the U.S. Treasury if the pledged funds are insufficient.

For More Information visit www.hud.gov

Source: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/108

Exhibit D

CDBG Regulations and Other Program Requirements

Subpart A—General Provisions

SOURCE: 53 FR 34437, Sept. 6, 1988, unless otherwise noted.

§ 570.1 *Purpose and primary objective.*

(a) This part describes policies and procedures applicable to the following programs authorized under title I of the Housing and Community Development Act of 1974, as amended:

- (1) Entitlement grants program (subpart D);
- (2) Nonentitlement Funds: HUD-administered Small Cities and Insular Area programs (subpart F);
- (3) State program: State-administered CDBG nonentitlement funds (subpart I);
- (4) Special Purpose Grants (subpart E);
- (5) Urban Development Action Grant program (subpart G); and
- (6) Loan Guarantees (subpart M).

(b) Subparts A, C, J, K, and O apply to all programs in paragraph (a) except as modified or limited under the provisions of these subparts or the applicable program regulations. In the application of the subparts to Special Purpose Grants or the Urban Development Action Grant program, the reference to funds in the form of grants in the term “*CDBG funds*”, as defined in § 570.3, shall mean the grant funds under those programs. The subparts do not apply to the State program (subpart I) except to the extent expressly referred to.

(c) The primary objective of the programs authorized under title I of the Housing and Community Development Act of 1974, as amended, is described in section 101(c) of the Act (42 U.S.C. 5301(c)).

[53 FR 34437, Sept. 6, 1988, as amended at 56 FR 56126, Oct. 31, 1991; 61 FR 11475, Mar. 20, 1996; 69 FR 32778, June 10, 2004]

§ 570.3 *Definitions.*

The terms *HUD* and *Secretary* are defined in 24 CFR part 5. All of the following definitions in this section that rely on data from the United States Bureau of the Census shall rely upon the data available from the latest decennial census.

Act means title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 *et seq.*).

Age of housing means the number of year-round housing units, as further defined in section 102(a)(11) of the Act.

Applicant means a State or unit of general local government that makes application pursuant to the provisions of subpart E, F, G or M.

Buildings for the general conduct of government shall have the meaning provided in section 102(a)(21) of the Act.

CDBG funds means Community Development Block Grant funds, including funds received in the form of grants under subpart D, F, or § 570.405 of this part, funds awarded under section 108(q) of the Housing and Community Development Act of 1974, loans guaranteed under subpart M of this part, urban renewal surplus grant funds, and program income as defined in § 570.500(a).

Chief executive officer of a State or unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the "chief executive officer" of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; and the official designated pursuant to law by the governing body of a unit of general local government.

City means the following:

(1) For purposes of Entitlement Community Development Block Grant and Urban Development Action Grant eligibility:

(i) Any unit of general local government that is classified as a municipality by the United States Bureau of the Census, or

(ii) Any other unit of general local government that is a town or township and that, in the determination of the Secretary:

(A) Possesses powers and performs functions comparable to those associated with municipalities;

(B) Is closely settled (except that the Secretary may reduce or waive this requirement on a case by case basis for the purposes of the Action Grant program); and

(C) Contains within its boundaries no incorporated places as defined by the United States Bureau of the Census that have not entered into cooperation agreements with the town or township for a period covering at least 3 years to undertake or assist in the undertaking of essential community development and housing assistance activities. The determination of eligibility of a town or township to qualify as a city will be based on information available from the United States Bureau of the Census and information provided by the town or township and its included units of general local government.

(2) For purposes of Urban Development Action Grant eligibility only, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the counties of Kauai, Maui, and Hawaii in the State of Hawaii, and Indian tribes that are eligible recipients under the State and Local Government Fiscal Assistance Act of 1972 and located on reservations in Oklahoma as determined by the Secretary of the Interior or in Alaskan Native Villages.

Community Development Financial Institution has the same meaning as used in the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 note).

Consolidated plan. The plan prepared in accordance with 24 CFR part 91, which describes needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs, including the CDBG program. An approved consolidated plan means a consolidated plan that has been approved by HUD in accordance with 24 CFR part 91.

Discretionary grant means a grant made from the various Special Purpose Grants in accordance with subpart E of this part.

Entitlement amount means the amount of funds which a metropolitan city is entitled to receive under the Entitlement grant program, as determined by formula set forth in section 106 of the Act.

Extent of growth lag shall have the meaning provided in section 102(a)(12) of the Act.

Extent of housing overcrowding shall have the meaning provided in section 102(a)(10) of the Act.

Extent of poverty means the number of persons whose incomes are below the poverty level based on data compiled and published by the United States Bureau of the Census available from the latest census referable to the same point or period in time and the latest reports from the Office of Management and Budget. For purposes of this part, the Secretary has determined that it is neither feasible nor appropriate to make adjustments at this time in the computations of “extent of poverty” for regional or area variations in income and cost of living.

Family refers to the definition of “family” in 24 CFR 5.403.

Household means all persons occupying a housing unit. The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.

Income. For the purpose of determining whether a family or household is low- and moderate-income under subpart C of this part, grantees may select any of the three definitions listed below for each activity, except that integrally related activities of the same type and qualifying under the same paragraph of § 570.208(a) shall use the same definition of income. The option to choose a definition does not apply to activities that qualify under § 570.208(a)(1) (Area benefit activities), except when the recipient carries out a survey under § 570.208(a)(1)(vi). Activities qualifying under § 570.208(a)(1) generally must use the area income data supplied to recipients by HUD. The three definitions are as follows:

(1)(i) “Annual income” as defined under the Section 8 Housing Assistance Payments program at 24 CFR 813.106 (except that if the CDBG assistance being provided is homeowner rehabilitation under § 570.202, the value of the homeowner's primary residence may be excluded from any calculation of Net Family Assets); or

(ii) Annual income as reported under the Census long-form for the most recent available decennial Census. This definition includes:

(A) Wages, salaries, tips, commissions, etc.;

(B) Self-employment income from own nonfarm business, including proprietorships and partnerships;

(C) Farm self-employment income;

(D) Interest, dividends, net rental income, or income from estates or trusts;

(E) Social Security or railroad retirement;

(F) Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance or public welfare programs;

(G) Retirement, survivor, or disability pensions; and

(H) Any other sources of income received regularly, including Veterans' (VA) payments, unemployment compensation, and alimony; or

(iii) Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 for individual Federal annual income tax purposes.

(2) Estimate the annual income of a family or household by projecting the prevailing rate of income of each person at the time assistance is provided for the individual, family, or household (as applicable). Estimated annual income shall include income from all family or household members, as applicable. Income or asset enhancement derived from the CDBG-assisted activity shall not be considered in calculating estimated annual income.

Insular area shall have the meaning provided in section 102(a)(24) of the Act.

Low- and moderate-income household means a household having an income equal to or less than the Section 8 low-income limit established by HUD.

Low- and moderate-income person means a member of a family having an income equal to or less than the Section 8 low-income limit established by HUD. Unrelated individuals will be considered as one-person families for this purpose.

Low-income household means a household having an income equal to or less than the Section 8 very low-income limit established by HUD.

Low-income person means a member of a family that has an income equal to or less than the Section 8 very low-income limit established by HUD. Unrelated individuals shall be considered as one-person families for this purpose.

Metropolitan area shall have the meaning provided in section 102(a)(3) of the Act.

Metropolitan city shall have the meaning provided in section 102(a)(4) of the Act except that the term "central city" is replaced by "principal city."

Microenterprise shall have the meaning provided in section 102(a)(22) of the Act.

Moderate-income household means a household having an income equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit, established by HUD.

Moderate-income person means a member of a family that has an income equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit, established by HUD. Unrelated individuals shall be considered as one-person families for this purpose.

Nonentitlement amount means the amount of funds which is allocated for use in a State's nonentitlement areas as determined by formula set forth in section 106 of the Act.

Nonentitlement area shall have the meaning provided in section 102(a)(7) of the Act.

Population means the total resident population based on data compiled and published by the United States Bureau of the Census available from the latest census or which has been upgraded by the Bureau to reflect the changes resulting from the Boundary and Annexation Survey, new incorporations and consolidations of governments pursuant to § 570.4, and which reflects, where applicable, changes resulting from the Bureau's latest population determination through its estimating technique using natural changes (birth and death) and net migration, and is referable to the same point or period in time.

Small business means a business that meets the criteria set forth in section 3(a) of the Small Business Act (15 U.S.C. 631, 636, 637).

State shall have the meaning provided in section 102(a)(2) of the Act.

Unit of general local government shall have the meaning provided in section 102(a)(1) of the Act.

Urban county shall have the meaning provided in section 102(a)(6) of the Act. For the purposes of this definition, HUD will determine whether the county's combined population contains the required percentage of low- and moderate-income persons by identifying the number of persons that resided in applicable areas and units of general local government based on data from the most recent decennial census, and using income limits that would have applied for the year in which that census was taken.

Urban Development Action Grant (UDAG) means a grant made by the Secretary pursuant to section 119 of the Act and subpart G of this part.

[53 FR 34437, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 56 FR 56126, Oct. 31, 1991; 60 FR 1915, 1943, Jan. 5, 1995; 60 FR 56909, Nov. 9, 1995; 61 FR 5209, Feb. 9, 1996; 61 FR 11475, Mar. 20, 1996; 61 FR 18674, Apr. 29, 1996; 68 FR 69582, Dec. 12, 2003; 69 FR 32778, June 10, 2004; 77 FR 5675, Feb. 3, 2012]

§ 570.4 Allocation of funds.

(a) The determination of eligibility of units of general local government to receive entitlement grants, the entitlement amounts, the allocation of appropriated funds to States for use in nonentitlement areas, the reallocation of funds, the allocation of appropriated funds to insular areas, and the allocation of appropriated funds for discretionary grants under the Secretary's Fund shall be governed by the policies and procedures described in sections 106 and 107 of the Act, as appropriate.

(b) The definitions in § 570.3 shall govern in applying the policies and procedures described in sections 106 and 107 of the Act.

(c) In determining eligibility for entitlement and in allocating funds under section 106 of the Act for any federal fiscal year, HUD will recognize corporate status and geographical boundaries and the status of metropolitan areas and principal cities effective as of July 1 preceding such federal fiscal year, subject to the following limitations:

(1) With respect to corporate status as certified by the applicable State and available for processing by the Census Bureau as of such date;

(2) With respect to boundary changes or annexations, as are used by the Census Bureau in preparing population estimates for all general purpose governmental units and are available for processing by the Census Bureau as of such date, except that any such boundary changes or annexations which result in the population of a unit of general local government reaching or exceeding 50,000 shall be recognized for this purpose whether or not such changes are used by the Census Bureau in preparing such population estimates; and

(3) With respect to the status of Metropolitan Statistical Areas and principal cities, as officially designated by the Office of Management and Budget as of such date.

(d) In determining whether a county qualifies as an urban county, and in computing entitlement amounts for urban counties, the demographic values of population, poverty, housing overcrowding, and age of housing of any Indian tribes located within the county shall be excluded. In allocating amounts to States for use in nonentitlement areas, the demographic values of population, poverty, housing overcrowding and age of housing of all Indian tribes located in all non-entitled areas shall be excluded. It is recognized that all such

data on Indian tribes are not generally available from the United States Bureau of the Census and that missing portions of data will have to be estimated. In accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the data's point or period of time and shall use the best judgement possible in adjusting such data to reflect the same point or period of time as the overall data from which the Indian tribes are being deducted, so that such deduction shall not create an imbalance with those overall data.

(e) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.509, Grant closeout procedures, shall be considered as funds available for reallocation unless the appropriation under which the funds were provided to the Department has lapsed.

[53 FR 34437, Sept. 6, 1988, as amended at 68 FR 69582, Dec. 12, 2003; 69 FR 32778, June 10, 2004]

§ 570.5 Waivers.

HUD's authority for the waiver of regulations and for the suspension of requirements to address damage in a Presidentially declared disaster area is described in 24 CFR part 5 and in section 122 of the Act, respectively.

[61 FR 11476, Mar. 20, 1996]

Subpart B [Reserved]

Subpart C—Eligible Activities

SOURCE: 53 FR 34439, Sept. 6, 1988, unless otherwise noted.

§ 570.200 General policies.

(a) *Determination of eligibility.* An activity may be assisted in whole or in part with CDBG funds only if all of the following requirements are met:

(1) *Compliance with section 105 of the Act.* Each activity must meet the eligibility requirements of section 105 of the Act as further defined in this subpart.

(2) *Compliance with national objectives.* Grant recipients under the Entitlement and HUD-administered Small Cities programs and recipients of insular area funds under section 106 of the Act must certify that their projected use of funds has been developed so as to give maximum feasible priority to activities which will carry out one of the national objectives of benefit to low- and moderate-income families or aid in the prevention or elimination of slums or blight. The projected use of funds may also include activities that the recipient certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. Consistent with the foregoing, each recipient under the Entitlement or HUD-administered Small Cities programs, and each recipient of insular area funds under section 106 of the Act must ensure and maintain evidence that each of its activities assisted with CDBG funds meets one of the three national objectives as contained in its certification. Criteria for determining whether an activity addresses one or more of these objectives are found in § 570.208.

(3) *Compliance with the primary objective.* The primary objective of the Act is described in section 101(c) of the Act. Consistent with this objective, entitlement recipients, non-entitlement CDBG grantees in Hawaii, and recipients of insular area funds under section 106 of the Act must ensure that, over a period of time specified in their certification not to exceed three years, not less than 70 percent of the aggregate of CDBG fund expenditures shall be for activities meeting the criteria under § 570.208(a) or under § 570.208(d)(5) or (6) for benefiting low- and moderate-income persons. For grants under section 107 of the Act, insular area recipients must meet this requirement for each separate grant. See § 570.420(d)(3) for additional discussion

of the primary objective requirement for insular areas funded under section 106 of the Act. The requirements for the HUD-administered Small Cities program in New York are at § 570.420(d)(2). In determining the percentage of funds expended for such activities:

(i) Cost of administration and planning eligible under § 570.205 and § 570.206 will be assumed to benefit low and moderate income persons in the same proportion as the remainder of the CDBG funds and, accordingly shall be excluded from the calculation;

(ii) Funds deducted by HUD for repayment of urban renewal temporary loans pursuant to § 570.802(b) shall be excluded;

(iii) Funds expended for the repayment of loans guaranteed under the provisions of subpart M shall also be excluded;

(iv) Funds expended for the acquisition, new construction or rehabilitation of property for housing that qualifies under § 570.208(a)(3) shall be counted for this purpose but shall be limited to an amount determined by multiplying the total cost (including CDBG and non-CDBG costs) of the acquisition, construction or rehabilitation by the percent of units in such housing to be occupied by low and moderate income persons.

(v) Funds expended for any other activities qualifying under § 570.208(a) shall be counted for this purpose in their entirety.

(4) *Compliance with environmental review procedures.* The environmental review procedures set forth at 24 CFR part 58 must be completed for each activity (or project as defined in 24 CFR part 58), as applicable.

(5) *Cost principles.* Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with 2 CFR PART 200 ¹ All items of cost listed in Attachment B of these Circulars that require prior Federal agency approval are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in Attachment A of such circulars and are otherwise eligible under this subpart C, except for the following:

¹ These circulars are available from the American Communities Center by calling the following toll-free numbers: (800) 998-9999 or (800) 483-2209 (TDD).

(i) Depreciation methods for fixed assets shall not be changed without HUD's specific approval or, if charged through a cost allocation plan, the Federal cognizant agency.

(ii) Fines and penalties (including punitive damages) are unallowable costs to the CDBG program.

(iii) Pre-award costs are limited to those authorized under paragraph (h) of this section.

(b) *Special policies governing facilities.* The following special policies apply to:

(1) *Facilities containing both eligible and ineligible uses.* A public facility otherwise eligible for assistance under the CDBG program may be provided with CDBG funds even if it is part of a multiple use building containing ineligible uses, if:

(i) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and

(ii) The recipient can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

Allowable costs are limited to those attributable to the eligible portion of the building or facility.

(2) *Fees for use of facilities.* Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges such as excessive membership fees, which will have the effect of precluding low and moderate income persons from using the facilities, are not permitted.

(c) *Special assessments under the CDBG program.* The following policies relate to special assessments under the CDBG program:

(1) *Definition of special assessment.* The term “special assessment” means the recovery of the capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, or a one-time charge made as a condition of access to a public improvement. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes, and does not include periodic charges based on the use of a public improvement, such as water or sewer user charges, even if such charges include the recovery of all or some portion of the capital costs of the public improvement.

(2) *Special assessments to recover capital costs.* Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:

(i) Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate income. Such assessments constitute program income.

(ii) Special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to pay the special assessment in behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate income persons if the grant recipient certifies that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.

(3) *Public improvements not initially assisted with CDBG funds.* The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments provided:

(i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this part including environmental, citizen participation and Davis-Bacon requirements;

(ii) The installation of the public improvement meets a criterion for national objectives in § 570.208(a)(1), (b), or (c); and

(iii) The requirements of § 570.200(c)(2)(ii) are met.

(d) *Consultant activities.* Consulting services are eligible for assistance under this part for professional assistance in program planning, development of community development objectives, and other general professional guidance relating to program execution. The use of consultants is governed by the following:

(1) *Employer-employee type of relationship.* No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with CDBG funds. In no event, however, shall such compensation exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation.

(2) *Independent contractor relationship.* Consultant services provided under an independent contractor relationship are governed by the procurement requirements in 24 CFR 85.36, and are not subject to the compensation limitation of Level IV of the Executive Schedule.

(e) *Recipient determinations required as a condition of eligibility.* In several instances under this subpart, the eligibility of an activity depends on a special local determination. Recipients shall maintain documentation of all such determinations. A written determination is required for any activity carried out under the authority of §§ 570.201(f), 570.201(i)(2), 570.201(p), 570.201(q), 570.202(b)(3), 570.206(f), 570.209, 570.210, and 570.309.

(f) *Means of carrying out eligible activities.* (1) Activities eligible under this subpart, other than those authorized under § 570.204(a), may be undertaken, subject to local law:

(i) By the recipient through:

(A) Its employees, or

(B) Procurement contracts governed by the requirements of 24 CFR 85.36; or

(ii) Through loans or grants under agreements with subrecipients, as defined at § 570.500(c); or

(iii) By one or more public agencies, including existing local public agencies, that are designated by the chief executive officer of the recipient.

(2) Activities made eligible under § 570.204(a) may only be undertaken by entities specified in that section.

(g) *Limitation on planning and administrative costs.* No more than 20 percent of the sum of any grant, plus program income, shall be expended for planning and program administrative costs, as defined in §§ 570.205 and 570.206, respectively. Recipients of entitlement grants under subpart D of this part shall conform with this requirement by limiting the amount of CDBG funds obligated for planning plus administration during each program year to an amount no greater than 20 percent of the sum of its entitlement grant made for that program year (if any) plus the program income received by the recipient and its subrecipients (if any) during that program year.

(h) *Reimbursement for pre-award costs.* The effective date of the grant agreement is the program year start date or the date that the consolidated plan is received by HUD, whichever is later. For a Section 108 loan guarantee, the effective date of the grant agreement is the date of HUD execution of the grant agreement amendment for the particular loan guarantee commitment.

(1) Prior to the effective date of the grant agreement, a recipient may incur costs or may authorize a subrecipient to incur costs, and then after the effective date of the grant agreement pay for those costs using its CDBG funds, provided that:

(i) The activity for which the costs are being incurred is included, prior to the costs being incurred, in a consolidated plan action plan, an amended consolidated plan action plan, or an application under subpart M of this part, except that a new entitlement grantee preparing to receive its first allocation of CDBG funds may incur costs necessary to develop its consolidated plan and undertake other administrative actions necessary to receive its first grant, prior to the costs being included in its consolidated plan;

(ii) Citizens are advised of the extent to which these pre-award costs will affect future grants;

(iii) The costs and activities funded are in compliance with the requirements of this part and with the Environmental Review Procedures stated in 24 CFR part 58;

(iv) The activity for which payment is being made complies with the statutory and regulatory provisions in effect at the time the costs are paid for with CDBG funds;

(v) CDBG payment will be made during a time no longer than the next two program years following the effective date of the grant agreement or amendment in which the activity is first included; and

(vi) The total amount of pre-award costs to be paid during any program year pursuant to this provision is no more than the greater of 25 percent of the amount of the grant made for that year or \$300,000.

(2) Upon the written request of the recipient, HUD may authorize payment of pre-award costs for activities that do not meet the criteria at paragraph (h)(1)(v) or (h)(1)(vi) of this section, if HUD determines, in writing, that there is good cause for granting an exception upon consideration of the following factors, as applicable:

(i) Whether granting the authority would result in a significant contribution to the goals and purposes of the CDBG program;

(ii) Whether failure to grant the authority would result in undue hardship to the recipient or beneficiaries of the activity;

(iii) Whether granting the authority would not result in a violation of a statutory provision or any other regulatory provision;

(iv) Whether circumstances are clearly beyond the recipient's control; or

(v) Any other relevant considerations.

(i) *Urban Development Action Grant.* Grant assistance may be provided with Urban Development Action Grant funds, subject to the provisions of subpart G, for:

(1) Activities eligible for assistance under this subpart; and

(2) Notwithstanding the provisions of § 570.207, such other activities as the Secretary may determine to be consistent with the purposes of the Urban Development Action Grant program.

(j) *Faith-based activities.* (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(3) A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) CDBG funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition,

construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in this part. Sanctuaries, chapels, or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85).

(6) If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.

[53 FR 34439, Sept. 6, 1988, as amended at 54 FR 47031, Nov. 8, 1989; 57 FR 27119, June 17, 1992; 60 FR 1943, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 60 FR 56910, Nov. 9, 1995; 61 FR 11476, Mar. 20, 1996; 61 FR 18674, Apr. 29, 1996; 65 FR 70215, Nov. 21, 2000; 68 FR 56404, Sept. 30, 2003; 69 FR 32778, June 10, 2004; 70 FR 76369, Dec. 23, 2005; 72 FR 46370, Aug. 17, 2007]

§ 570.201 Basic eligible activities.

CDBG funds may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by the recipient, or other public or private nonprofit entity, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of § 570.207.

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.504.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in § 570.207(a), carried out by the recipient or other public or private nonprofit entities. (However, activities under this paragraph may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public facilities and improvements, including those provided for in § 570.207(a)(1).) In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and not subject to the prohibition of new housing construction described in § 570.207(b)(3). Such facilities include shelters for the homeless; convalescent homes; hospitals, nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in § 570.204 may acquire title to public facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in § 570.200(b).

(d) *Clearance and remediation activities.* Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites and remediation of known or suspected environmental contamination. Demolition of HUD-assisted or HUD-owned housing units may be undertaken only with the prior approval of HUD. Remediation may include project-specific environmental assessment costs not otherwise eligible under § 570.205.

(e) *Public services.* Provision of public services (including labor, supplies, and materials) including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare (but excluding the provision of income payments identified under § 570.207(b)(4)), homebuyer down payment assistance, or recreational needs. To be eligible for CDBG assistance, a public service must be either a new service or a quantifiable increase in the level of an existing service above that which has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the State in which it is located) in the 12 calendar months before the submission of the action plan. (An exception to this requirement may be made if HUD determines that any decrease in the level of a service was the result of events not within the control of the unit of general local government.) The amount of CDBG funds used for public services shall not exceed paragraphs (e) (1) or (2) of this section, as applicable:

(1) The amount of CDBG funds used for public services shall not exceed 15 percent of each grant, except that for entitlement grants made under subpart D of this part, the amount shall not exceed 15 percent of the grant plus 15 percent of program income, as defined in § 570.500(a). For entitlement grants under subpart D of this part, compliance is based on limiting the amount of CDBG funds obligated for public service activities in each program year to an amount no greater than 15 percent of the entitlement grant made for that program year plus 15 percent of the program income received during the grantee's immediately preceding program year.

(2) A recipient which obligated more CDBG funds for public services than 15 percent of its grant funded from Federal fiscal year 1982 or 1983 appropriations (excluding program income and any assistance received under Public Law 98-8), may obligate more CDBG funds than allowable under paragraph (e)(1) of this section, so long as the total amount obligated in any program year does not exceed:

(i) For an entitlement grantee, 15% of the program income it received during the preceding program year; plus

(ii) A portion of the grant received for the program year which is the highest of the following amounts:

(A) The amount determined by applying the percentage of the grant it obligated for public services in the 1982 program year against the grant for its current program year;

(B) The amount determined by applying the percentage of the grant it obligated for public services in the 1983 program year against the grant for its current program year;

(C) The amount of funds it obligated for public services in the 1982 program year; or,

(D) The amount of funds it obligated for public services in the 1983 program year.

(f) *Interim assistance.* (1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings; and

(ii) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

(i) The activities specified in paragraph (f)(1) of this section, except for the repair of parks and playgrounds;

(ii) The clearance of streets, including snow removal and similar activities, and

(iii) The improvement of private properties.

(3) All activities authorized under paragraph (f)(2) of this section are limited to the extent necessary to alleviate emergency conditions.

(g) *Payment of non-Federal share.* Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible and in compliance with applicable requirements under this subpart.

(h) *Urban renewal completion.* Payment of the cost of completing an urban renewal project funded under title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.801.

(i) *Relocation.* Relocation payments and other assistance for permanently and temporarily relocated individuals families, businesses, nonprofit organizations, and farm operations where the assistance is (1) required under the provisions of § 570.606 (b) or (c); or (2) determined by the grantee to be appropriate under the provisions of § 570.606(d).

(j) *Loss of rental income.* Payments to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of individuals and families displaced by program activities assisted under this part.

(k) *Housing services.* Housing services, as provided in section 105(a)(21) of the Act (42 U.S.C. 5305(a)(21)).

(l) *Privately owned utilities.* CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

(m) *Construction of housing.* CDBG funds may be used for the construction of housing assisted under section 17 of the United States Housing Act of 1937.

(n) *Homeownership assistance.* CDBG funds may be used to provide direct homeownership assistance to low- or moderate-income households in accordance with section 105(a) of the Act.

(o)(1) The provision of assistance either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients) to facilitate economic development by:

(i) Providing credit, including, but not limited to, grants, loans, loan guarantees, and other forms of financial support, for the establishment, stabilization, and expansion of microenterprises;

(ii) Providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises; and

(iii) Providing general support, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, to owners of microenterprises and persons developing microenterprises.

(2) Services provided this paragraph (o) shall not be subject to the restrictions on public services contained in paragraph (e) of this section.

(3) For purposes of this paragraph (o), “persons developing microenterprises” means such persons who have expressed interest and who are, or after an initial screening process are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed.

(4) Assistance under this paragraph (o) may also include training, technical assistance, or other support services to increase the capacity of the recipient or subrecipient to carry out the activities under this paragraph (o).

(p) *Technical assistance.* Provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities. (The recipient must determine, prior to the provision of the assistance, that the activity for which it is attempting to build capacity would be eligible for assistance under this subpart C, and that the national objective claimed by the grantee for this assistance can reasonably be expected to be met once the entity has received the technical assistance and undertakes the activity.) Capacity building for private or public entities (including grantees) for other purposes may be eligible under § 570.205.

(q) *Assistance to institutions of higher education.* Provision of assistance by the recipient to institutions of higher education when the grantee determines that such an institution has demonstrated a capacity to carry out eligible activities under this subpart C.

[53 FR 34439, Sept. 6, 1988, as amended at 53 FR 31239, Aug. 17, 1988; 55 FR 29308, July 18, 1990; 57 FR 27119, June 17, 1992; 60 FR 1943, Jan. 5, 1995; 60 FR 56911, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996; 65 FR 70215, Nov. 21, 2000; 67 FR 47213, July 17, 2002; 71 FR 30034, May 24, 2006]

§ 570.202 *Eligible rehabilitation and preservation activities.*

(a) *Types of buildings and improvements eligible for rehabilitation assistance.* CDBG funds may be used to finance the rehabilitation of:

(1) Privately owned buildings and improvements for residential purposes; improvements to a single-family residential property which is also used as a place of business, which are required in order to operate the business, need not be considered to be rehabilitation of a commercial or industrial building, if the improvements also provide general benefit to the residential occupants of the building;

(2) Low-income public housing and other publicly owned residential buildings and improvements;

(3) Publicly or privately owned commercial or industrial buildings, except that the rehabilitation of such buildings owned by a private for-profit business is limited to improvement to the exterior of the building, abatement of asbestos hazards, lead-based paint hazard evaluation and reduction, and the correction of code violations;

(4) Nonprofit-owned nonresidential buildings and improvements not eligible under § 570.201(c); and

(5) Manufactured housing when such housing constitutes part of the community's permanent housing stock.

(b) *Types of assistance.* CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section, except that rehabilitation of commercial or industrial buildings is limited as described in paragraph (a)(3) of this section.

(1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes;

(2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancement of existing structures and improvements, abatement of asbestos hazards (and other contaminants) in buildings and improvements that may be undertaken singly, or in combination;

(3) Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds if such financing is determined by the recipient to be necessary or appropriate to achieve the locality's community development objectives;

(4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;

(5) Improvements to increase the efficient use of water through such means as water savings faucets and shower heads and repair of water leaks;

(6) Connection of residential structures to water distribution lines or local sewer collection lines;

(7) For rehabilitation carried out with CDBG funds, costs of:

(i) Initial homeowner warranty premiums;

(ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and

(iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to § 570.605.

(8) Costs of acquiring tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation;

(9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, under section 810 of the Act, or under section 17 of the United States Housing Act of 1937;

(10) Assistance for the rehabilitation of housing under section 17 of the United States Housing Act of 1937; and

(11) Improvements designed to remove material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to buildings and improvements eligible for assistance under paragraph (a) of this section.

(c) *Code enforcement.* Costs incurred for inspection for code violations and enforcement of codes (e.g., salaries and related expenses of code enforcement inspectors and legal proceedings, but not including the cost of correcting the violations) in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.

(d) *Historic preservation.* CDBG funds may be used for the rehabilitation, preservation or restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local inventory of historic places, or designated as a State or local landmark or historic district by appropriate law

or ordinance. Historic preservation, however, is not authorized for buildings for the general conduct of government.

(e) *Renovation of closed buildings.* CDBG funds may be used to renovate closed buildings, such as closed school buildings, for use as an eligible public facility or to rehabilitate such buildings for housing.

(f) *Lead-based paint activities.* Lead-based paint activities pursuant to § 570.608.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1944, Jan. 5, 1995; 60 FR 56911, Nov. 9, 1995; 64 FR 50225, Sept. 15, 1999; 71 FR 30035, May 24, 2006]

§ 570.203 *Special economic development activities.*

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart that may be carried out as part of an economic development project. Guidelines for selecting activities to assist under this paragraph are provided at § 570.209. The recipient must ensure that the appropriate level of public benefit will be derived pursuant to those guidelines before obligating funds under this authority. Special activities authorized under this section do not include assistance for the construction of new housing. Activities eligible under this section may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination. Special economic development activities include:

(a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.

(b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible in § 570.207(a). In selecting businesses to assist under this authority, the recipient shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods.

(c) Economic development services in connection with activities eligible under this section, including, but not limited to, outreach efforts to market available forms of assistance; screening of applicants; reviewing and underwriting applications for assistance; preparation of all necessary agreements; management of assisted activities; and the screening, referral, and placement of applicants for employment opportunities generated by CDBG-eligible economic development activities, including the costs of providing necessary training for persons filling those positions.

[53 FR 34439, Sept. 6, 1988, as amended at 60 FR 1944, Jan. 5, 1995; 71 FR 30035, May 24, 2006]

§ 570.204 *Special activities by Community-Based Development Organizations (CBDOs).*

(a) *Eligible activities.* The recipient may provide CDBG funds as grants or loans to any CBDO qualified under this section to carry out a neighborhood revitalization, community economic development, or energy conservation project. The funded project activities may include those listed as eligible under this subpart, and, except as described in paragraph (b) of this section, activities not otherwise listed as eligible under this subpart. For purposes of qualifying as a project under paragraphs (a)(1), (a)(2), and (a)(3) of this section, the funded activity or activities may be considered either alone or in concert with other project activities either being carried out or for which funding has been committed. For purposes of this section:

(1) Neighborhood revitalization project includes activities of sufficient size and scope to have an impact on the decline of a geographic location within the jurisdiction of a unit of general local government (but not the

entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or the entire jurisdiction of a unit of general local government which is under 25,000 population;

(2) Community economic development project includes activities that increase economic opportunity, principally for persons of low- and moderate-income, or that stimulate or retain businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address a lack of affordable housing accessible to existing or planned jobs and those activities specified at 24 CFR 91.1(a)(1)(iii); activities under this paragraph may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination;

(3) Energy conservation project includes activities that address energy conservation, principally for the benefit of the residents of the recipient's jurisdiction; and

(4) To carry out a project means that the CBDO undertakes the funded activities directly or through contract with an entity other than the grantee, or through the provision of financial assistance for activities in which it retains a direct and controlling involvement and responsibilities.

(b) *Ineligible activities.* Notwithstanding that CBDOs may carry out activities that are not otherwise eligible under this subpart, this section does not authorize:

(1) Carrying out an activity described as ineligible in § 570.207(a);

(2) Carrying out public services that do not meet the requirements of § 570.201(e), except that:

(i) Services carried out under this section that are specifically designed to increase economic opportunities through job training and placement and other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services; and

(ii) Services of any type carried out under this section pursuant to a strategy approved by HUD under the provisions of 24 CFR 91.215(e) shall not be subject to the limitations in § 570.201(e)(1) or (2), as applicable;

(3) Providing assistance to activities that would otherwise be eligible under § 570.203 that do not meet the requirements of § 570.209; or

(4) Carrying out an activity that would otherwise be eligible under § 570.205 or § 570.206, but that would result in the recipient's exceeding the spending limitation in § 570.200(g).

(c) *Eligible CBDOs.* (1) A CBDO qualifying under this section is an organization which has the following characteristics:

(i) Is an association or corporation organized under State or local law to engage in community development activities (which may include housing and economic development activities) primarily within an identified geographic area of operation within the jurisdiction of the recipient, or in the case of an urban county, the jurisdiction of the county; and

(ii) Has as its primary purpose the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of persons of low and moderate income; and

(iii) May be either non-profit or for-profit, provided any monetary profits to its shareholders or members must be only incidental to its operations; and

(iv) Maintains at least 51 percent of its governing body's membership for low- and moderate-income residents of its geographic area of operation, owners or senior officers of private establishments and other institutions

located in and serving its geographic area of operation, or representatives of low- and moderate-income neighborhood organizations located in its geographic area of operation; and

(v) Is not an agency or instrumentality of the recipient and does not permit more than one-third of the membership of its governing body to be appointed by, or to consist of, elected or other public officials or employees or officials of an ineligible entity (even though such persons may be otherwise qualified under paragraph (c)(1)(iv) of this section); and

(vi) Except as otherwise authorized in paragraph (c)(1)(v) of this section, requires the members of its governing body to be nominated and approved by the general membership of the organization, or by its permanent governing body; and

(vii) Is not subject to requirements under which its assets revert to the recipient upon dissolution; and

(viii) Is free to contract for goods and services from vendors of its own choosing.

(2) A CBDO that does not meet the criteria in paragraph (c)(1) of this section may also qualify as an eligible entity under this section if it meets one of the following requirements:

(i) Is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making; or

(ii) Is an SBA approved Section 501 State Development Company or Section 502 Local Development Company, or an SBA Certified Section 503 Company under the Small Business Investment Act of 1958, as amended; or

(iii) Is a Community Housing Development Organization (CHDO) under 24 CFR 92.2, designated as a CHDO by the HOME Investment Partnerships program participating jurisdiction, with a geographic area of operation of no more than one neighborhood, and has received HOME funds under 24 CFR 92.300 or is expected to receive HOME funds as described in and documented in accordance with 24 CFR 92.300(e).

(3) A CBDO that does not qualify under paragraph (c)(1) or (2) of this section may also be determined to qualify as an eligible entity under this section if the recipient demonstrates to the satisfaction of HUD, through the provision of information regarding the organization's charter and by-laws, that the organization is sufficiently similar in purpose, function, and scope to those entities qualifying under paragraph (c)(1) or (2) of this section.

[60 FR 1944, Jan. 5, 1995, as amended at 71 FR 30035, May 24, 2006]

§ 570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.

(a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including, but not limited to:

(1) Comprehensive plans;

(2) Community development plans;

(3) Functional plans, in areas such as:

(i) Housing, including the development of a consolidated plan;

- (ii) Land use and urban environmental design;
- (iii) Economic development;
- (iv) Open space and recreation;
- (v) Energy use and conservation;
- (vi) Floodplain and wetlands management in accordance with the requirements of Executive Orders 11988 and 11990;
- (vii) Transportation;
- (viii) Utilities; and
- (ix) Historic preservation.

(4) Other plans and studies such as:

- (i) Small area and neighborhood plans;
- (ii) Capital improvements programs;
- (iii) Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under §§ 570.201-570.204);
- (iv) The reasonable costs of general environmental, urban environmental design and historic preservation studies; and general environmental assessment- and remediation-oriented planning related to properties with known or suspected environmental contamination. However, costs necessary to comply with 24 CFR part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part, are eligible as part of the cost of such activities under §§ 570.201-570.204. Costs for such specific assessments and clearances may also be incurred under this paragraph but would then be considered planning costs for the purposes of § 570.200(g);
- (v) Strategies and action programs to implement plans, including the development of codes, ordinances and regulations;
- (vi) Support of clearinghouse functions, such as those specified in Executive Order 12372; and
- (vii) Analysis of impediments to fair housing choice.
- (viii) Developing an inventory of properties with known or suspected environmental contamination.

(5) [Reserved]

(6) Policy—planning—management—capacity building activities which will enable the recipient to:

- (1) Determine its needs;
- (2) Set long-term goals and short-term objectives, including those related to urban environmental design;

- (3) Devise programs and activities to meet these goals and objectives;
- (4) Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and
- (5) Carry out management, coordination and monitoring of activities necessary for effective planning implementation, but excluding the costs necessary to implement such plans.

[53 FR 34439, Sept. 6, 1988, as amended at 56 FR 56127, Oct. 31, 1991; 60 FR 1915, Jan. 5, 1995; 71 FR 30035, May 24, 2006]

§ 570.206 *Program administrative costs.*

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities assisted in whole or in part with funds provided under this part and, where applicable, housing activities (described in paragraph (g) of this section) covered in the recipient's housing assistance plan. This does not include staff and overhead costs directly related to carrying out activities eligible under § 570.201 through § 570.204, since those costs are eligible as part of such activities.

(a) *General management, oversight and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation. Such costs include, but are not necessarily limited to, necessary expenditures for the following:

(1) Salaries, wages, and related costs of the recipient's staff, the staff of local public agencies, or other staff engaged in program administration. In charging costs to this category the recipient may either include the entire salary, wages, and related costs allocable to the program of each person whose *primary* responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes *any* program administration assignments. The recipient may use only one of these methods during the program year (or the grant period for grants under subpart F). Program administration includes the following types of assignments:

- (i) Providing local officials and citizens with information about the program;
- (ii) Preparing program budgets and schedules, and amendments thereto;
- (iii) Developing systems for assuring compliance with program requirements;
- (iv) Developing interagency agreements and agreements with subrecipients and contractors to carry out program activities;
- (v) Monitoring program activities for progress and compliance with program requirements;
- (vi) Preparing reports and other documents related to the program for submission to HUD;
- (vii) Coordinating the resolution of audit and monitoring findings;
- (viii) Evaluating program results against stated objectives; and
- (ix) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraph (a)(1)(i) through (viii) of this section.

(2) Travel costs incurred for official business in carrying out the program;

(3) Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services; and

(4) Other costs for goods and services required for administration of the program, including such goods and services as rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space.

(b) *Public information.* The provisions of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of activities being assisted with CDBG funds.

(c) *Fair housing activities.* Provision of fair housing services designed to further the fair housing objectives of the Fair Housing Act (42 U.S.C. 3601-20) by making all persons, without regard to race, color, religion, sex, national origin, familial status or handicap, aware of the range of housing opportunities available to them; other fair housing enforcement, education, and outreach activities; and other activities designed to further the housing objective of avoiding undue concentrations of assisted persons in areas containing a high proportion of low and moderate income persons.

(d) [Reserved]

(e) *Indirect costs.* Indirect costs may be charged to the CDBG program under a cost allocation plan prepared in accordance with 2 CFR PART 200 as applicable.

(f) *Submission of applications for federal programs.* Preparation of documents required for submission to HUD to receive funds under the CDBG and UDAG programs. In addition, CDBG funds may be used to prepare applications for other Federal programs where the recipient determines that such activities are necessary or appropriate to achieve its community development objectives.

(g) *Administrative expenses to facilitate housing.* CDBG funds may be used for necessary administrative expenses in planning or obtaining financing for housing as follows: for entitlement recipients, assistance authorized by this paragraph is limited to units which are identified in the recipient's HUD approved housing assistance plan; for HUD-administered small cities recipients, assistance authorized by the paragraph is limited to facilitating the purchase or occupancy of existing units which are to be occupied by low and moderate income households, or the construction of rental or owner units where at least 20 percent of the units in each project will be occupied at affordable rents/costs by low and moderate income persons. Examples of eligible actions are as follows:

(1) The cost of conducting preliminary surveys and analysis of market needs;

(2) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation, and "sketch drawings," but excluding architectural, engineering, and other details ordinarily required for construction purposes, such as structural, electrical, plumbing, and mechanical details;

(3) Reasonable costs associated with development of applications for mortgage and insured loan commitments, including commitment fees, and of applications and proposals under the Section 8 Housing Assistance Payments Program pursuant to 24 CFR parts 880-883;

(4) Fees associated with processing of applications for mortgage or insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA);

(5) The cost of issuance and administration of mortgage revenue bonds used to finance the acquisition, rehabilitation or construction of housing, but excluding costs associated with the payment or guarantee of the principal or interest on such bonds; and

(6) Special outreach activities which result in greater landlord participation in Section 8 Housing Assistance Payments Program-Existing Housing or similar programs for low and moderate income persons.

(h) *Section 17 of the United States Housing Act of 1937.* Reasonable costs equivalent to those described in paragraphs (a), (b), (e) and (f) of this section for overall program management of the Rental Rehabilitation and Housing Development programs authorized under section 17 of the United States Housing Act of 1937, whether or not such activities are otherwise assisted with funds provided under this part.

(i) Whether or not such activities are otherwise assisted by funds provided under this part, reasonable costs equivalent to those described in paragraphs (a), (b), (e), and (f) of this section for overall program management of:

(1) A Federally designated Empowerment Zone or Enterprise Community; and

(2) The HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 note).

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 54 FR 37411, Sept. 8, 1989; 60 FR 56912, Nov. 9, 1995; 69 FR 32778, June 10, 2004]

§ 570.207 *Ineligible activities.*

The general rule is that any activity that is not authorized under the provisions of §§ 570.201-570.206 is ineligible to be assisted with CDBG funds. This section identifies specific activities that are ineligible and provides guidance in determining the eligibility of other activities frequently associated with housing and community development.

(a) The following activities may not be assisted with CDBG funds:

(1) *Buildings or portions thereof, used for the general conduct of government* as defined at § 570.3(d) cannot be assisted with CDBG funds. This does not include, however, the removal of architectural barriers under § 570.201(c) involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective described in § 570.208.

(2) *General government expenses.* Except as otherwise specifically authorized in this subpart or under 2 CFR PART 200—expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

(3) *Political activities.* CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

(b) The following activities may not be assisted with CDBG funds unless authorized under provisions of § 570.203 or as otherwise specifically noted herein or when carried out by an entity under the provisions of § 570.204.

(1) *Purchase of equipment.* The purchase of equipment with CDBG funds is generally ineligible.

(i) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to 2 CFR PART 200 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible under § 570.201(c).

(ii) *Fire protection equipment.* Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible under § 570.201(c).

(iii) *Furnishings and personal property.* The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with 2 CFR PART 200 as applicable) for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service pursuant to § 570.201(e).

(2) *Operating and maintenance expenses.* The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible under § 570.201(e), even if no other costs of providing such a service are assisted with such funds. Examples of ineligible operating and maintenance expenses are:

(i) Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with a disabilities, parking and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and

(ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

(3) *New housing construction.* For the purpose of this paragraph, activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing pre-construction costs set forth in § 570.206(g), are not considered as activities to subsidize or assist new residential construction. CDBG funds may not be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction, except:

(i) As provided under the last resort housing provisions set forth in 24 CFR part 42;

(ii) As authorized under § 570.201(m) or (n);

(iii) When carried out by an entity pursuant to § 570.204(a);

(4) *Income payments.* The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, “income payments” means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 56912, Nov. 9, 1995; 65 FR 70215, Nov. 21, 2000]

§ 570.208 *Criteria for national objectives.*

The following criteria shall be used to determine whether a CDBG-assisted activity complies with one or more of the national objectives as required under § 570.200(a)(2):

(a) *Activities benefiting low- and moderate-income persons.* Activities meeting the criteria in paragraph (a) (1), (2), (3), or (4) of this section as applicable, will be considered to benefit low and moderate income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. (The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate income persons to the exclusion of low income persons.)

(1) *Area benefit activities.* (i) An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.

(ii) For metropolitan cities and urban counties, an activity that would otherwise qualify under § 570.208(a)(1)(i), except that the area served contains less than 51 percent low- and moderate-income residents, will also be considered to meet the objective of benefiting low- and moderate-income persons where the proportion of such persons in the area is within the highest quartile of all areas in the recipient's jurisdiction in terms of the degree of concentration of such persons. This exception is inapplicable to non-entitlement CDBG grants in Hawaii. In applying this exception, HUD will determine the lowest proportion a recipient may use to qualify an area for this purpose, as follows:

(A) All census block groups in the recipient's jurisdiction shall be rank ordered from the block group of highest proportion of low and moderate income persons to the block group with the lowest. For urban counties, the rank ordering shall cover the entire area constituting the urban county and shall not be done separately for each participating unit of general local government.

(B) In any case where the total number of a recipient's block groups does not divide evenly by four, the block group which would be fractionally divided between the highest and second quartiles shall be considered to be part of the highest quartile.

(C) The proportion of low and moderate income persons in the last census block group in the highest quartile shall be identified. Any service area located within the recipient's jurisdiction and having a proportion of low and moderate income persons at or above this level shall be considered to be within the highest quartile.

(D) If block group data are not available for the entire jurisdiction, other data acceptable to the Secretary may be used in the above calculations.

(iii) An activity to develop, establish, and operate for up to two years after the establishment of, a uniform emergency telephone number system serving an area having less than the percentage of low- and moderate-income residents required under paragraph (a)(1)(i) of this section or (as applicable) paragraph (a)(1)(ii) of this section, provided the recipient obtains prior HUD approval. To obtain such approval, the recipient must:

(A) Demonstrate that the system will contribute significantly to the safety of the residents of the area. The request for approval must include a list of the emergency services that will participate in the emergency telephone number system;

(B) Submit information that serves as a basis for HUD to determine whether at least 51 percent of the use of the system will be by low- and moderate-income persons. As available, the recipient must provide information that identifies the total number of calls actually received over the preceding 12-month period for each of the emergency services to be covered by the emergency telephone number system and relates those calls to the geographic segment (expressed as nearly as possible in terms of census tracts, block numbering areas, block groups, or combinations thereof that are contained within the segment) of the service area from which the calls were generated. In analyzing this data to meet the requirements of this section, HUD will assume that the distribution of income among the callers generally reflects the income characteristics of the general population residing in the same geographic area where the callers reside. If HUD can conclude that the users have primarily consisted of low- and moderate-income persons, no further submission is needed by

the recipient. If a recipient plans to make other submissions for this purpose, it may request that HUD review its planned methodology before expending the effort to acquire the information it expects to use to make its case;

(C) Demonstrate that other Federal funds received by the recipient are insufficient or unavailable for a uniform emergency telephone number system. For this purpose, the recipient must submit a statement explaining whether the lack of funds is due to the insufficiency of the amount of the available funds, restrictions on the use of such funds, or the prior commitment of funds by the recipient for other purposes; and

(D) Demonstrate that the percentage of the total costs of the system paid for by CDBG funds does not exceed the percentage of low- and moderate-income persons in the service area of the system. For this purpose, the recipient must include a description of the boundaries of the service area of the emergency telephone number system, the census divisions that fall within the boundaries of the service area (census tracts or block numbering areas), the total number of persons and the total number of low- and moderate-income persons within each census division, the percentage of low- and moderate-income persons within the service area, and the total cost of the system.

(iv) An activity for which the assistance to a public improvement that provides benefits to all the residents of an area is limited to paying special assessments (as defined in § 570.200(c)) levied against residential properties owned and occupied by persons of low and moderate income.

(v) For purposes of determining qualification under this criterion, activities of the same type that serve different areas will be considered separately on the basis of their individual service area.

(vi) In determining whether there is a sufficiently large percentage of low- and moderate-income persons residing in the area served by an activity to qualify under paragraph (a)(1) (i), (ii), or (vii) of this section, the most recently available decennial census information must be used to the fullest extent feasible, together with the section 8 income limits that would have applied at the time the income information was collected by the Census Bureau. Recipients that believe that the census data does not reflect current relative income levels in an area, or where census boundaries do not coincide sufficiently well with the service area of an activity, may conduct (or have conducted) a current survey of the residents of the area to determine the percent of such persons that are low and moderate income. HUD will accept information obtained through such surveys, to be used in lieu of the decennial census data, where it determines that the survey was conducted in such a manner that the results meet standards of statistical reliability that are comparable to that of the decennial census data for areas of similar size. Where there is substantial evidence that provides a clear basis to believe that the use of the decennial census data would substantially overstate the proportion of persons residing there that are low and moderate income, HUD may require that the recipient rebut such evidence in order to demonstrate compliance with section 105(c)(2) of the Act.

(vii) Activities meeting the requirements of paragraph (d)(5)(i) of this section may be considered to qualify under this paragraph, provided that the area covered by the strategy is either a Federally-designated Empowerment Zone or Enterprise Community or primarily residential and contains a percentage of low- and moderate-income residents that is no less than the percentage computed by HUD pursuant to paragraph (a)(1)(ii) of this section or 70 percent, whichever is less, but in no event less than 51 percent. Activities meeting the requirements of paragraph (d)(6)(i) of this section may also be considered to qualify under paragraph (a)(1) of this section.

(2) *Limited clientele activities.* (i) An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. (The following kinds of activities may not qualify under paragraph (a)(2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low- and moderate-income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2)(iv) of this section.) To qualify under paragraph (a)(2) of this section, the activity must meet one of the following tests:

(A) Benefit a clientele who are generally presumed to be principally low and moderate income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

(B) Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit; or

(C) Have income eligibility requirements which limit the activity exclusively to low and moderate income persons; or

(D) Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low and moderate income persons.

(ii) An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled" will be presumed to qualify under this criterion if it is restricted, to the extent practicable, to the removal of such barriers by assisting:

(A) The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under paragraph (a)(1) of this section;

(B) The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under paragraph (a)(1) or (4) of this section; or

(C) The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under paragraph (a)(3) of this section.

(iii) A microenterprise assistance activity carried out in accordance with the provisions of § 570.201(o) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are low- and moderate-income persons. For purposes of this paragraph, persons determined to be low and moderate income may be presumed to continue to qualify as such for up to a three-year period.

(iv) An activity designed to provide job training and placement and/or other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, in which the percentage of low- and moderate-income persons assisted is less than 51 percent may qualify under this paragraph in the following limited circumstance:

(A) In such cases where such training or provision of supportive services assists business(es), the only use of CDBG assistance for the project is to provide the job training and/or supportive services; and

(B) The proportion of the total cost of the project borne by CDBG funds is no greater than the proportion of the total number of persons assisted who are low or moderate income.

(3) *Housing activities.* An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the recipient, a subrecipient, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the

grouped buildings may be considered for this purpose as a single structure. Where housing activities being assisted meet the requirements of paragraph § 570.208 (d)(5)(ii) or (d)(6)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The recipient shall adopt and make public its standards for determining “affordable rents” for this purpose. The following shall also qualify under this criterion:

(i) When less than 51 percent of the units in a structure will be occupied by low and moderate income households, CDBG assistance may be provided in the following limited circumstances:

(A) The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project;

(B) Not less than 20 percent of the units will be occupied by low and moderate income households at affordable rents; and

(C) The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by low and moderate income households.

(ii) When CDBG funds are used to assist rehabilitation eligible under § 570.202(b)(9) or (10) in direct support of the recipient's Rental Rehabilitation program authorized under 24 CFR part 511, such funds shall be considered to benefit low and moderate income persons where not less than 51 percent of the units assisted, or to be assisted, by the recipient's Rental Rehabilitation program overall are for low and moderate income persons.

(iii) When CDBG funds are used for housing services eligible under § 570.201(k), such funds shall be considered to benefit low- and moderate-income persons if the housing units for which the services are provided are HOME-assisted and the requirements at 24 CFR 92.252 or 92.254 are met.

(4) *Job creation or retention activities.* An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate-income persons. To qualify under this paragraph, the activity must meet the following criteria:

(i) For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low- and moderate-income persons.

(ii) For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided:

(A) The job is known to be held by a low- or moderate-income person; or

(B) The job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low- or moderate-income person upon turnover.

(iii) Jobs that are not held or filled by a low- or moderate-income person may be considered to be available to low- and moderate-income persons for these purposes only if:

(A) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

(B) The recipient and the assisted business take actions to ensure that low- and moderate-income persons receive first consideration for filling such jobs.

(iv) For purposes of determining whether a job is held by or made available to a low- or moderate-income person, the person may be presumed to be a low- or moderate-income person if:

(A) He/she resides within a census tract (or block numbering area) that either:

(1) Meets the requirements of paragraph (a)(4)(v) of this section; or

(2) Has at least 70 percent of its residents who are low- and moderate-income persons; or

(B) The assisted business is located within a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within that census tract.

(v) A census tract (or block numbering area) qualifies for the presumptions permitted under paragraphs (a)(4)(iv)(A)(1) and (B) of this section if it is either part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following criteria:

(A) It has a poverty rate of at least 20 percent as determined by the most recently available decennial census information;

(B) It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and

(C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:

(1) All block groups in the census tract have poverty rates of at least 20 percent;

(2) The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

(3) Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

(vi) As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except:

(A) In certain cases such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses which locate on the property, provided such businesses are not otherwise assisted by CDBG funds.

(B) Where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses exclusively from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during each program year.

(C) Where CDBG funds are used by a recipient or subrecipient to provide technical assistance to businesses, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving technical assistance during each program year.

(D) Where CDBG funds are used for activities meeting the criteria listed at § 570.209(b)(2)(v), this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG

assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

(E) Where CDBG funds are used by a Community Development Financial Institution to carry out activities for the purpose of creating or retaining jobs, this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

(F) Where CDBG funds are used for public facilities or improvements which will result in the creation or retention of jobs by more than one business, this requirement may be met by aggregating the jobs created or retained by all such businesses as a result of the public facility or improvement.

(1) Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other businesses might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDBG funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.

(2) In any case where the cost per job to be created or retained (as determined under paragraph (a)(4)(vi)(F)(1) of this section) is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. This aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the facility/improvement between the date the recipient identifies the activity in its action plan under part 91 of this title and the date one year after the physical completion of the facility/improvement. In addition, the assisted activity must comply with the public benefit standards at § 570.209(b).

(b) *Activities which aid in the prevention or elimination of slums or blight.* Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(1) *Activities to address slums or blight on an area basis.* An activity will be considered to address prevention or elimination of slums or blight in an area if:

(i) The area, delineated by the recipient, meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;

(ii) The area also meets the conditions in either paragraph (A) or (B):

(A) At least 25 percent of properties throughout the area experience one or more of the following conditions:

(1) Physical deterioration of buildings or improvements;

(2) Abandonment of properties;

(3) Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;

(4) Significant declines in property values or abnormally low property values relative to other areas in the community; or

(5) Known or suspected environmental contamination.

(B) The public improvements throughout the area are in a general state of deterioration.

(iii) Documentation is to be maintained by the recipient on the boundaries of the area and the conditions and standards used that qualified the area at the time of its designation. The recipient shall establish definitions of the conditions listed at § 570.208(b)(1)(ii)(A), and maintain records to substantiate how the area met the slums or blighted criteria. The designation of an area as slum or blighted under this section is required to be re-determined every 10 years for continued qualification. Documentation must be retained pursuant to the recordkeeping requirements contained at § 570.506 (b)(8)(ii).

(iv) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area. Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard under local definition before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is undertaken. At a minimum, the local definition for this purpose must be such that buildings that it would render substandard would also fail to meet the housing quality standards for the Section 8 Housing Assistance Payments Program-Existing Housing (24 CFR 882.109).

(2) *Activities to address slums or blight on a spot basis.* The following activities may be undertaken on a spot basis to eliminate specific conditions of blight, physical decay, or environmental contamination that are not located in a slum or blighted area: acquisition; clearance; relocation; historic preservation; remediation of environmentally contaminated properties; or rehabilitation of buildings or improvements. However, rehabilitation must be limited to eliminating those conditions that are detrimental to public health and safety. If acquisition or relocation is undertaken, it must be a precursor to another eligible activity (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay, or environmental contamination.

(3) *Activities to address slums or blight in an urban renewal area.* An activity will be considered to address prevention or elimination of slums or blight in an urban renewal area if the activity is:

(i) Located within an urban renewal project area or Neighborhood Development Program (NDP) action area; i.e., an area in which funded activities were authorized under an urban renewal Loan and Grant Agreement or an annual NDP Funding Agreement, pursuant to title I of the Housing Act of 1949; and

(ii) Necessary to complete the urban renewal plan, as then in effect, including *initial* land redevelopment permitted by the plan.

NOTE: Despite the restrictions in (b) (1) and (2) of this section, any rehabilitation activity which benefits low and moderate income persons pursuant to paragraph (a)(3) of this section can be undertaken without regard to the area in which it is located or the extent or nature of rehabilitation assisted.

(c) *Activities designed to meet community development needs having a particular urgency.* In the absence of substantial evidence to the contrary, an activity will be considered to address this objective if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the recipient.

(d) *Additional criteria.* (1) Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses a national objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance which will eliminate specific conditions of blight or physical decay, the clearance activity shall be considered the actual use of the property. However, any subsequent use or disposition of the cleared property shall be treated as a "change of use" under § 570.505.

(2) Where the assisted activity is relocation assistance that the recipient is required to provide, such relocation assistance shall be considered to address the same national objective as is addressed by the displacing activity. Where the relocation assistance is voluntary on the part of the grantee the recipient may qualify the assistance either on the basis of the national objective addressed by the displacing activity or on the basis that the recipients of the relocation assistance are low and moderate income persons.

(3) In any case where the activity undertaken for the purpose of creating or retaining jobs is a public improvement and the area served is primarily residential, the activity must meet the requirements of paragraph (a)(1) of this section as well as those of paragraph (a)(4) of this section in order to qualify as benefiting low and moderate income persons.

(4) CDBG funds expended for planning and administrative costs under § 570.205 and § 570.206 will be considered to address the national objectives.

(5) Where the grantee has elected to prepare an area revitalization strategy pursuant to the authority of § 91.215(e) of this title and HUD has approved the strategy, the grantee may also elect the following options:

(i) Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and

(ii) All housing activities in the area for which, pursuant to the strategy, CDBG assistance is obligated during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

(6) Where CDBG-assisted activities are carried out by a Community Development Financial Institution whose charter limits its investment area to a primarily residential area consisting of at least 51 percent low- and moderate-income persons, the grantee may also elect the following options:

(i) Activities carried out by the Community Development Financial Institution for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and

(ii) All housing activities for which the Community Development Financial Institution obligates CDBG assistance during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

(7) Where an activity meeting the criteria at § 570.209(b)(2)(v) may also meet the requirements of either paragraph (d)(5)(i) or (d)(6)(i) of this section, the grantee may elect to qualify the activity under either the area benefit criteria at paragraph (a)(1)(vii) of this section or the job aggregation criteria at paragraph (a)(4)(vi)(D) of this section, but not both. Where an activity may meet the job aggregation criteria at both paragraphs (a)(4)(vi)(D) and (E) of this section, the grantee may elect to qualify the activity under either criterion, but not both.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 60 FR 56912, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996; 71 FR 30035, May 24, 2006; 72 FR 46370, Aug. 17, 2007]

§ 570.209 Guidelines for evaluating and selecting economic development projects.

The following guidelines are provided to assist the recipient to evaluate and select activities to be carried out for economic development purposes. Specifically, these guidelines are applicable to activities that are eligible for CDBG assistance under § 570.203. These guidelines also apply to activities carried out under the authority

of § 570.204 that would otherwise be eligible under § 570.203, were it not for the involvement of a Community-Based Development Organization (CBDO). (This would include activities where a CBDO makes loans to for-profit businesses.) These guidelines are composed of two components: guidelines for evaluating project costs and financial requirements; and standards for evaluating public benefit. The standards for evaluating public benefit are *mandatory*, but the guidelines for evaluating projects costs and financial requirements are not.

(a) *Guidelines and objectives for evaluating project costs and financial requirements.* HUD has developed guidelines that are designed to provide the recipient with a framework for financially underwriting and selecting CDBG-assisted economic development projects which are financially viable and will make the most effective use of the CDBG funds. These guidelines, also referred to as the underwriting guidelines, are published as appendix A to this part. The use of the underwriting guidelines published by HUD is not mandatory. However, grantees electing not to use these guidelines would be expected to conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business. Where appropriate, HUD's underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project, and in the case of a microenterprise or other small business to take into account the differences in the capacity and level of sophistication among businesses of differing sizes. Recipients are encouraged, when they develop their own programs and underwriting criteria, to also take these factors into account. The objectives of the underwriting guidelines are to ensure:

- (1) That project costs are reasonable;
- (2) That all sources of project financing are committed;
- (3) That to the extent practicable, CDBG funds are not substituted for non-Federal financial support;
- (4) That the project is financially feasible;
- (5) That to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and
- (6) That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

(b) *Standards for evaluating public benefit.* The grantee is responsible for making sure that at least a minimum level of public benefit is obtained from the expenditure of CDBG funds under the categories of eligibility governed by these guidelines. The standards set forth below identify the types of public benefit that will be recognized for this purpose and the minimum level of each that must be obtained for the amount of CDBG funds used. Unlike the guidelines for project costs and financial requirements covered under paragraph (a) of this section, the use of the standards for public benefit is mandatory. Certain public facilities and improvements eligible under § 570.201(c) of the regulations, which are undertaken for economic development purposes, are also subject to these standards, as specified in § 570.208(a)(4)(vi)(F)(2).

(1) *Standards for activities in the aggregate.* Activities covered by these guidelines must, in the aggregate, either:

- (i) Create or retain at least one full-time equivalent, permanent job per \$35,000 of CDBG funds used; or
- (ii) Provide goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the areas served by the assisted businesses amounts to at least one low- and moderate-income person per \$350 of CDBG funds used.

(2) *Applying the aggregate standards.* (i) A metropolitan city, an urban county, a non-entitlement CDBG grantee in Hawaii, or an Insular Area shall apply the aggregate standards under paragraph (b)(1) of this

section to all applicable activities for which CDBG funds are first obligated within each single CDBG program year, without regard to the source year of the funds used for the activities. For Insular Areas, the preceding sentence applies to grants received in program years after Fiscal Year 2004. A grantee under the HUD-administered Small Cities Program, or Insular Areas CDBG grants prior to Fiscal Year 2005, shall apply the aggregate standards under paragraph (b)(1) of this section to all funds obligated for applicable activities from a given grant; program income obligated for applicable activities will, for these purposes, be aggregated with the most recent open grant. For any time period in which a community has no open HUD-administered or Insular Areas grants, the aggregate standards shall be applied to all applicable activities for which program income is obligated during that period.

(ii) The grantee shall apply the aggregate standards to the number of jobs to be created/retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, the grantee may elect to count the activity under either the jobs standard or the area residents standard, but not both.

(iv) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the aggregate standards.

(v) Any activity subject to these guidelines which meets one or more of the following criteria may, at the grantee's option, be excluded from the aggregate standards described in paragraph (b)(1) of this section:

(A) Provides jobs exclusively for unemployed persons or participants in one or more of the following programs:

(1) Jobs Training Partnership Act (JTPA);

(2) Jobs Opportunities for Basic Skills (JOBS); or

(3) Aid to Families with Dependent Children (AFDC);

(B) Provides jobs predominantly for residents of Public and Indian Housing units;

(C) Provides jobs predominantly for homeless persons;

(D) Provides jobs predominantly for low-skilled, low- and moderate-income persons, where the business agrees to provide clear opportunities for promotion and economic advancement, such as through the provision of training;

(E) Provides jobs predominantly for persons residing within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(F) Provides assistance to business(es) that operate(s) within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(G) Stabilizes or revitalizes a neighborhood that has at least 70 percent of its residents who are low- and moderate-income;

(H) Provides assistance to a Community Development Financial Institution that serve an area that is predominantly low- and moderate-income persons;

(I) Provides assistance to a Community-Based Development Organization serving a neighborhood that has at least 70 percent of its residents who are low- and moderate-income;

(J) Provides employment opportunities that are an integral component of a project designed to promote spatial deconcentration of low- and moderate-income and minority persons;

(K) With prior HUD approval, provides substantial benefit to low-income persons through other innovative approaches;

(L) Provides services to the residents of an area pursuant to a strategy approved by HUD under the provisions of § 91.215(e) of this title;

(M) Creates or retains jobs through businesses assisted in an area pursuant to a strategy approved by HUD under the provisions of § 91.215(e) of this title.

(N) Directly involves the economic development or redevelopment of environmentally contaminated properties.

(3) *Standards for individual activities.* Any activity subject to these guidelines which falls into one or more of the following categories will be considered by HUD to provide insufficient public benefit, and therefore may under no circumstances be assisted with CDBG funds:

(i) The amount of CDBG assistance exceeds either of the following, as applicable:

(A) \$50,000 per full-time equivalent, permanent job created or retained; or

(B) \$1,000 per low- and moderate-income person to which goods or services are provided by the activity.

(ii) The activity consists of or includes any of the following:

(A) General promotion of the community as a whole (as opposed to the promotion of specific areas and programs);

(B) Assistance to professional sports teams;

(C) Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons;

(D) Acquisition of land for which the specific proposed use has not yet been identified; and

(E) Assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient.

(4) *Applying the individual activity standards.* (i) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, it will be disqualified only if the amount of CDBG assistance exceeds both of the amounts in paragraph (b)(3)(i) of this section.

(ii) The individual activity standards in paragraph (b)(3)(i) of this section shall be applied to the number of jobs to be created or retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the individual activity standards in paragraph (b)(3)(i) of this section.

(c) *Amendments to economic development projects after review determinations.* If, after the grantee enters into a contract to provide assistance to a project, the scope or financial elements of the project change to the extent that a significant contract amendment is appropriate, the project should be reevaluated under these and the recipient's guidelines. (This would include, for example, situations where the business requests a change in the amount or terms of assistance being provided, or an extension to the loan payment period required in the contract.) If a reevaluation of the project indicates that the financial elements and public benefit to be derived have also substantially changed, then the recipient should make appropriate adjustments in the amount, type, terms or conditions of CDBG assistance which has been offered, to reflect the impact of the substantial change. (For example, if a change in the project elements results in a substantial reduction of the total project costs, it may be appropriate for the recipient to reduce the amount of total CDBG assistance.) If the amount of CDBG assistance provided to the project is increased, the amended project must still comply with the public benefit standards under paragraph (b) of this section.

(d) *Documentation.* The grantee must maintain sufficient records to demonstrate the level of public benefit, based on the above standards, that is actually achieved upon completion of the CDBG-assisted economic development activity(ies) and how that compares to the level of such benefit anticipated when the CDBG assistance was obligated. If the grantee's actual results show a pattern of substantial variation from anticipated results, the grantee is expected to take all actions reasonably within its control to improve the accuracy of its projections. If the actual results demonstrate that the recipient has failed the public benefit standards, HUD may require the recipient to meet more stringent standards in future years as appropriate.

[60 FR 1947, Jan. 5, 1995, as amended at 60 FR 17445, Apr. 6, 1995; 71 FR 30035, May 24, 2006; 72 FR 12535, Mar. 15, 2007; 72 FR 46370, Aug. 17, 2007]

§ 570.210 Prohibition on use of assistance for employment relocation activities.

(a) *Prohibition.* CDBG funds may not be used to directly assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one LMA to another LMA if the relocation is likely to result in a significant loss of jobs in the LMA from which the relocation occurs.

(b) *Definitions.* The following definitions apply to this section:

(1) *Directly assist.* Directly assist means the provision of CDBG funds for activities pursuant to:

(i) § 570.203(b); or

(ii) §§ 570.201(a)-(d), 570.201(l), 570.203(a), or § 570.204 when the grantee, subrecipient, or, in the case of an activity carried out pursuant to § 570.204, a Community Based Development Organization (CDBO) enters into an agreement with a business to undertake one or more of these activities as a condition of the business relocating a facility, plant, or operation to the grantee's LMA. Provision of public facilities and indirect assistance that will provide benefit to multiple businesses does not fall under the definition of "directly assist," unless it includes the provision of infrastructure to aid a specific business that is the subject of an agreement with the specific assisted business.

(2) *Labor market area (LMA).* For metropolitan areas, an LMA is an area defined as such by the BLS. An LMA is an economically integrated geographic area within which individuals can live and find employment within a reasonable distance or can readily change employment without changing their place of residence. In addition, LMAs are non-overlapping and geographically exhaustive. For metropolitan areas, grantees must use employment data, as defined by the BLS, for the LMA in which the affected business is currently located and from which current jobs may be lost. For non-metropolitan areas, an LMA is either an area defined by

the BLS as an LMA, or a state may choose to combine non-metropolitan LMAs. States are required to define or reaffirm prior definitions of their LMAs on an annual basis and retain records to substantiate such areas prior to any business relocation that would be impacted by this rule. Metropolitan LMAs cannot be combined, nor can a non-metropolitan LMA be combined with a metropolitan LMA. For the HUD-administered Small Cities Program, each of the three participating counties in Hawaii will be considered to be its own LMA. Recipients of Fiscal Year 1999 Small Cities Program funding in New York will follow the requirements for State CDBG recipients.

(3) *Operation.* A business operation includes, but is not limited to, any equipment, employment opportunity, production capacity or product line of the business.

(4) *Significant loss of jobs.* (i) A loss of jobs is significant if: The number of jobs to be lost in the LMA in which the affected business is currently located is equal to or greater than one-tenth of one percent of the total number of persons in the labor force of that LMA; or in all cases, a loss of 500 or more jobs. Notwithstanding the aforementioned, a loss of 25 jobs or fewer does not constitute a significant loss of jobs.

(ii) A job is considered to be lost due to the provision of CDBG assistance if the job is relocated within three years of the provision of assistance to the business; or the time period within which jobs are to be created as specified by the agreement between the business and the recipient if it is longer than three years.

(c) *Written agreement.* Before directly assisting a business with CDBG funds, the recipient, subrecipient, or a CDBO (in the case of an activity carried out pursuant to § 570.204) shall sign a written agreement with the assisted business. The written agreement shall include:

(1) *Statement.* A statement from the assisted business as to whether the assisted activity will result in the relocation of any industrial or commercial plant, facility, or operation from one LMA to another, and, if so, the number of jobs that will be relocated from each LMA;

(2) *Required information.* If the assistance will not result in a relocation covered by this section, a certification from the assisted business that neither it, nor any of its subsidiaries, has plans to relocate jobs at the time the agreement is signed that would result in a significant job loss as defined in this rule; and

(3) *Reimbursement of assistance.* The agreement shall provide for reimbursement of any assistance provided to, or expended on behalf of, the business in the event that assistance results in a relocation prohibited under this section.

(d) *Assistance not covered by this section.* This section does not apply to:

(1) *Relocation assistance.* Relocation assistance required by the Uniform Assistance and Real Property Acquisition Policies Act of 1970, (URA) (42 U.S.C. 4601-4655);

(2) *Microenterprises.* Assistance to microenterprises as defined by Section 102(a)(22) of the Housing and Community Development Act of 1974; and

(3) *Arms-length transactions.* Assistance to a business that purchases business equipment, inventory, or other physical assets in an arms-length transaction, including the assets of an existing business, provided that the purchase does not result in the relocation of the sellers' business operation (including customer base or list, goodwill, product lines, or trade names) from one LMA to another LMA and does not produce a significant loss of jobs in the LMA from which the relocation occurs.

[70 FR 76369, Dec. 23, 2005]

Subpart K—Other Program Requirements

SOURCE: 53 FR 34456, Sept. 6, 1988, unless otherwise noted.

§ 570.600 *General.*

(a) This subpart K enumerates laws that the Secretary will treat as applicable to grants made under section 106 of the Act, other than grants to states made pursuant to section 106(d) of the Act, for purposes of the Secretary's determinations under section 104(e)(1) of the Act, including statutes expressly made applicable by the Act and certain other statutes and Executive Orders for which the Secretary has enforcement responsibility. This subpart K applies to grants made under the Insular Areas Program in § 570.405 and § 570.440 with the exception of § 570.612. The absence of mention herein of any other statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. For laws that the Secretary will treat as applicable to grants made to states under section 106(d) of the Act for purposes of the determination required to be made by the Secretary pursuant to section 104(e)(2) of the Act, see § 570.487.

(b) This subpart also sets forth certain additional program requirements which the Secretary has determined to be applicable to grants provided under the Act as a matter of administrative discretion.

(c) In addition to grants made pursuant to section 106(b) and 106(d)(2)(B) of the Act (subparts D and F, respectively), the requirements of this subpart K are applicable to grants made pursuant to sections 107 and 119 of the Act (subparts E and G, respectively), and to loans guaranteed pursuant to subpart M.

[53 FR 34456, Sept. 6, 1988, as amended at 61 FR 11477, Mar. 20, 1996; 72 FR 12536, Mar. 15, 2007]

§ 570.601 *Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; Executive Order 11063.*

(a) The following requirements apply according to sections 104(b) and 107 of the Act:

(1) Public Law 88-352, which is title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), and implementing regulations in 24 CFR part 1.

(2) Public Law 90-284, which is the Fair Housing Act (42 U.S.C. 3601-3620). In accordance with the Fair Housing Act, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act. Furthermore, in accordance with section 104(b)(2) of the Act, for each community receiving a grant under subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to assume the responsibility of fair housing planning by conducting an analysis to identify impediments to fair housing choice within its jurisdiction, taking appropriate actions to overcome the effects of any impediments identified through that analysis, and maintaining records reflecting the analysis and actions in this regard.

(b) Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652; 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing), and implementing regulations in 24 CFR part 107, also apply.

[61 FR 11477, Mar. 20, 1996]

§ 570.602 *Section 109 of the Act.*

Section 109 of the Act requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section

504 shall apply to programs or activities receiving Federal financial assistance under Title I programs. The policies and procedures necessary to ensure enforcement of section 109 are codified in 24 CFR part 6.

[64 FR 3802, Jan. 25, 1999]

§ 570.603 Labor standards.

(a) Section 110(a) of the Act contains labor standards that apply to non-volunteer labor financed in whole or in part with assistance received under the Act. In accordance with section 110(a) of the Act, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) also applies. However, these requirements apply to the rehabilitation of residential property only if such property contains not less than 8 units.

(b) The regulations in 24 CFR part 70 apply to the use of volunteers.

[61 FR 11477, Mar. 20, 1996]

§ 570.604 Environmental standards.

For purposes of section 104(g) of the Act, the regulations in 24 CFR part 58 specify the other provisions of law which further the purposes of the National Environmental Policy Act of 1969, and the procedures by which grantees must fulfill their environmental responsibilities. In certain cases, grantees assume these environmental review, decision making, and action responsibilities by execution of grant agreements with the Secretary.

[61 FR 11477, Mar. 20, 1996]

§ 570.605 National Flood Insurance Program.

Notwithstanding the date of HUD approval of the recipient's application (or, in the case of grants made under subpart D of this part or HUD-administered small cities recipients in Hawaii, the date of submission of the grantee's consolidated plan, in accordance with 24 CFR part 91), section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) and the regulations in 44 CFR parts 59 through 79 apply to funds provided under this part 570.

[61 FR 11477, Mar. 20, 1996]

§ 570.606 Displacement, relocation, acquisition, and replacement of housing.

(a) *General policy for minimizing displacement.* Consistent with the other goals and objectives of this part, grantees (or States or state recipients, as applicable) shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of activities assisted under this part.

(b) *Relocation assistance for displaced persons at URA levels.* (1) A displaced person shall be provided with relocation assistance at the levels described in, and in accordance with the requirements of 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).

(2) *Displaced person.* (i) For purposes of paragraph (b) of this section, the term “ *displaced person* ” means any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of

rehabilitation, demolition, or acquisition for an activity assisted under this part. A permanent, involuntary move for an assisted activity includes a permanent move from real property that is made:

(A) After notice by the grantee (or the state recipient, if applicable) to move permanently from the property, if the move occurs after the initial official submission to HUD (or the State, as applicable) for grant, loan, or loan guarantee funds under this part that are later provided or granted.

(B) After notice by the property owner to move permanently from the property, if the move occurs after the date of the submission of a request for financial assistance by the property owner (or person in control of the site) that is later approved for the requested activity.

(C) Before the date described in paragraph (b)(2)(i)(A) or (B) of this section, if either HUD or the grantee (or State, as applicable) determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity.

(D) After the “initiation of negotiations” if the person is the tenant-occupant of a dwelling unit and any one of the following three situations occurs:

(1) The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable decent, safe, and sanitary dwelling in the same building/complex upon the completion of the project, including a monthly rent that does not exceed the greater of the tenant's monthly rent and estimated average utility costs before the initiation of negotiations or 30 percent of the household's average monthly gross income; or

(2) The tenant is required to relocate temporarily for the activity but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary location and any increased housing costs, or other conditions of the temporary relocation are not reasonable; and the tenant does not return to the building/complex; or

(3) The tenant is required to move to another unit in the building/complex, but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

(ii) Notwithstanding the provisions of paragraph (b)(2)(i) of this section, the term “ *displaced person* -” does not include:

(A) A person who is evicted for cause based upon serious or repeated violations of material terms of the lease or occupancy agreement. To exclude a person on this basis, the grantee (or State or state recipient, as applicable) must determine that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance under this section;

(B) A person who moves into the property after the date of the notice described in paragraph (b)(2)(i)(A) or (B) of this section, but who received a written notice of the expected displacement before occupancy.

(C) A person who is not displaced as described in 49 CFR 24.2(g)(2).

(D) A person who the grantee (or State, as applicable) determines is not displaced as a direct result of the acquisition, rehabilitation, or demolition for an assisted activity. To exclude a person on this basis, HUD must concur in that determination.

(iii) A grantee (or State or state recipient, as applicable) may, at any time, request HUD to determine whether a person is a displaced person under this section.

(3) *Initiation of negotiations.* For purposes of determining the type of replacement housing assistance to be provided under paragraph (b) of this section, if the displacement is the direct result of privately undertaken rehabilitation, demolition, or acquisition of real property, the term “ *initiation of negotiations* ” means the

execution of the grant or loan agreement between the grantee (or State or state recipient, as applicable) and the person owning or controlling the real property.

(c) *Residential anti-displacement and relocation assistance plan.* The grantee shall comply with the requirements of 24 CFR part 42, subpart B.

(d) *Optional relocation assistance.* Under section 105(a)(11) of the Act, the grantee may provide (or the State may permit the state recipient to provide, as applicable) relocation payments and other relocation assistance to persons displaced by activities that are not subject to paragraph (b) or (c) of this section. The grantee may also provide (or the State may also permit the state recipient to provide, as applicable) relocation assistance to persons receiving assistance under paragraphs (b) or (c) of this section at levels in excess of those required by these paragraphs. Unless such assistance is provided under State or local law, the grantee (or state recipient, as applicable) shall provide such assistance only upon the basis of a written determination that the assistance is appropriate (see, e.g., 24 CFR 570.201(i), as applicable). The grantee (or state recipient, as applicable) must adopt a written policy available to the public that describes the relocation assistance that the grantee (or state recipient, as applicable) has elected to provide and that provides for equal relocation assistance within each class of displaced persons.

(e) *Acquisition of real property.* The acquisition of real property for an assisted activity is subject to 49 CFR part 24, subpart B.

(f) *Appeals.* If a person disagrees with the determination of the grantee (or the state recipient, as applicable) concerning the person's eligibility for, or the amount of, a relocation payment under this section, the person may file a written appeal of that determination with the grantee (or state recipient, as applicable). The appeal procedures to be followed are described in 49 CFR 24.10. In addition, a low- or moderate-income household that has been displaced from a dwelling may file a written request for review of the grantee's decision to the HUD Field Office. For purposes of the State CDBG program, a low- or moderate-income household may file a written request for review of the state recipient's decision with the State.

(g) *Responsibility of grantee or State.* (1) The grantee (or State, if applicable) is responsible for ensuring compliance with the requirements of this section, notwithstanding any third party's contractual obligation to the grantee to comply with the provisions of this section. For purposes of the State CDBG program, the State shall require state recipients to certify that they will comply with the requirements of this section.

(2) The cost of assistance required under this section may be paid from local public funds, funds provided under this part, or funds available from other sources.

(3) The grantee (or State and state recipient, as applicable) must maintain records in sufficient detail to demonstrate compliance with the provisions of this section.

(Approved by the Office of Management and Budget under OMB control number 2506-0102)

[61 FR 11477, Mar. 20, 1996, as amended at 61 FR 51760, Oct. 3, 1996]

§ 570.607 *Employment and contracting opportunities.*

To the extent that they are otherwise applicable, grantees shall comply with:

(a) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964-1965 Comp. p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and

(b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135.

[68 FR 56405, Sept. 30, 2003]

§ 570.608 Lead-based paint.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this part apply to activities under this program.

[64 FR 50226, Sept. 15, 1999]

§ 570.609 Use of debarred, suspended or ineligible contractors or subrecipients.

The requirements set forth in 24 CFR part 5 apply to this program.

[61 FR 5209, Feb. 9, 1996]

§ 570.610 Uniform administrative requirements and cost principles.

The recipient, its agencies or instrumentalities, and subrecipients shall comply with the policies, guidelines, and requirements of 24 CFR part 85 and 2 CFR PART 200 as applicable, as they relate to the acceptance and use of Federal funds under this part. The applicable sections of 24 CFR parts 84 and 85 are set forth at § 570.502.

² See footnote 1 at § 570.200(a)(5).

[60 FR 56916, Nov. 9, 1995]

§ 570.611 Conflict of interest.

(a) *Applicability.* (1) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, shall apply.

(2) In all cases not governed by 24 CFR 85.36 and 84.42, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to § 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to § 570.203, 570.204, 570.455, or 570.703(i)).

(b) *Conflicts prohibited.* The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.

(d) *Exceptions.* Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

(1) *Threshold requirements.* HUD will consider an exception only after the recipient has provided the following documentation:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(2) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

[60 FR 56916, Nov. 9, 1995]

§ 570.612 Executive Order 12372.

(a) *General.* Executive Order 12372, Intergovernmental Review of Federal Programs, and the Department's implementing regulations at 24 CFR part 52, allow each State to establish its own process for review and comment on proposed Federal financial assistance programs.

(b) *Applicability.* Executive Order 12372 applies to the CDBG Entitlement program and the UDAG program. The Executive Order applies to all activities proposed to be assisted under UDAG, but it applies to the Entitlement program only where a grantee proposes to use funds for the planning or construction

(reconstruction or installation) of water or sewer facilities. Such facilities include storm sewers as well as all sanitary sewers, but do not include water and sewer lines connecting a structure to the lines in the public right-of-way or easement. It is the responsibility of the grantee to initiate the Executive Order review process if it proposes to use its CDBG or UDAG funds for activities subject to review.

§ 570.613 Eligibility restrictions for certain resident aliens.

(a) *Restriction.* Certain newly legalized aliens, as described in 24 CFR part 49, are not eligible to apply for benefits under covered activities funded by the programs listed in paragraph (e) of this section. “Benefits” under this section means financial assistance, public services, jobs and access to new or rehabilitated housing and other facilities made available under covered activities funded by programs listed in paragraph (e) of this section. “Benefits” do not include relocation services and payments to which displacees are entitled by law.

(b) *Covered activities.* “Covered activities” under this section means activities meeting the requirements of § 570.208(a) that either:

(1) Have income eligibility requirements limiting the benefits exclusively to low and moderate income persons; or

(2) Are targeted geographically or otherwise to primarily benefit low and moderate income persons (excluding activities serving the public at large, such as sewers, roads, sidewalks, and parks), and that provide benefits to persons on the basis of an application.

(c) *Limitation on coverage.* The restrictions under this section apply only to applicants for new benefits not being received by covered resident aliens as of the effective date of this section.

(d) *Compliance.* Compliance can be accomplished by obtaining certification as provided in 24 CFR 49.20.

(e) *Programs affected.* (1) The Community Development Block Grant program for small cities, administered under subpart F of part 570 of this title until closeout of the recipient's grant.

(2) The Community Development Block Grant program for entitlement grants, administered under subpart D of part 570 of this title.

(3) The Community Development Block Grant program for States, administered under subpart I of part 570 of this title until closeout of the unit of general local government's grant by the State.

(4) The Urban Development Action Grants program, administered under subpart G of part 570 of this title until closeout of the recipient's grant.

[55 FR 18494, May 2, 1990]

§ 570.614 Architectural Barriers Act and the Americans with Disabilities Act.

(a) The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of “residential structure” as defined in 24 CFR 40.2 or the definition of “building” as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

(b) The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

[60 FR 56917, Nov. 9, 1995]

UPDATE: Effective March 2015

2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance supersedes, consolidates and streamlines requirements from 8 OMB Circulars referenced in Exhibit D - CDBG Regulations and Other Program Requirements:

A - 21	A - 110
A - 87	A - 122
A - 89	A - 133
A - 102	A - 50

To view Notice SD-2015-01 Issued by the U.S. Department of Housing and Urban Development, please visit the following link:

www.hudexchange.info/resources/documents/Notice-DC-2015-01-Transition-to-2-CFR-Part-200-Guidance.pdf

Exhibit E

Audit Findings or Exceptions

(N/A - No audit findings or exceptions)

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Discussion and Possible Action on the Selection of a Project and Funds Distribution for Hidalgo County Urban County Program FY 2025-2026 Funds. [Monica Gomez, Interim Director of Planning]

STAFF COMMENTS AND RECOMMENDATIONS:

It is a time to select a project for the Urban County Program FY 2025-2026 funds. Based on the areas of eligibility and based on street conditions, staff recommends that the funding be used for the repaving of San Francisco Street from Guadalupe Drive to Santa Fe Drive, San Cristobal Street from Guadalupe Drive to Sgt. Leonel Trevino Road and Santa Fe Street from San Francisco Street and San Ramon Street. San Francisco Street does not have curb and gutter at the entrance of the subdivision. Staff will work with the project engineer to try to incorporate curb and gutter as a part of the repaving if feasible.

For Fiscal Year 37 (2024) the City of San Juan was awarded with a total of \$294,597.00 in funds. \$3,000.00 was used for General Administration, \$284,597.00 for Street Improvements and \$7,000.00 for Health Services.

At the public hearing held on October 22, 2024, two entities requested funds through the CDBG for this coming fiscal year 2025-2026. Amigos del Valle, Inc requested \$10,000.00 to deliver home meals to 9 eligible citizens for 165 days. Nuestra Clinica del Valle, Inc. is requesting \$10,000.00 to provide medical, dental and behavioral services to 75 uninsured and economically disadvantaged adults and children from San Juan. The Little Club Youth Foundation is requesting a \$35,000.00 to serve 75 children in our community to enrich the lives of youth aged 18 and under, ensuring they have access to opportunities that empower them to reach their full potential.

RECOMMENDATION:

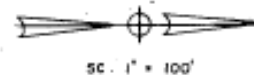
Staff recommends allocating funds as recommended by the San Juan City Commission.

PREPARED BY:

Monica Gomez,
Interim Director of
Planning

APPROVED BY:

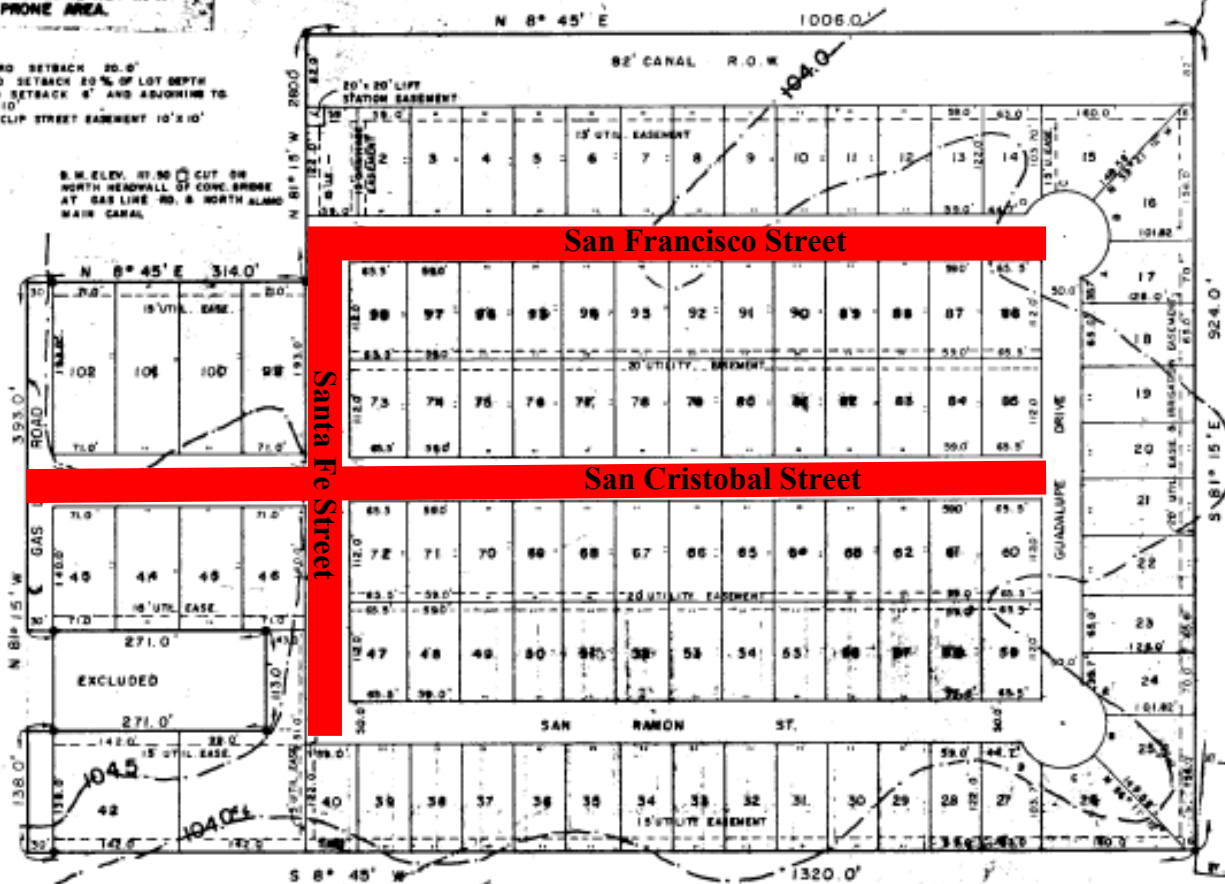
Benjamin Arjona, City
Manager

[illegible]

ZONE "C".
THIS PROPERTY IS NOT IN A
FLOOD PRONE AREA.

- NOTE
1. FRONTYARD SETBACK 20.0'
 2. REARYARD SETBACK 20% OF LOT DEPTH
 3. SIDEYARD SETBACK 8' AND ADJOINING TO STREET 10'
 4. CORNER CLIP STREET EASEMENT 10' X 10'

B.W. ELEV. 87.50 CUT ON
NORTH HEADWALL OF CONC. BRIDGE
AT GAS LINE RD. & NORTH ALA.
MAIN CANAL



CURVE DATA

- A** $R = 30.0^\circ$
 $\delta = 49^\circ 37' 43''$
 $L = 43.09$
- B** $R = 30.0^\circ$
 $\delta = 57^\circ 48' 28''$
 $L = 50.16$
- C** $R = 30.0^\circ$
 $\delta = 72^\circ 33' 31''$
 $L = 63.62$
- D** $R = 30.0^\circ$
 $\delta = 29^\circ 38' 54''$
 $L = 28.43$

1545:1

FILED

MAR 2 1 1951

WILMAN TRUMP LTD. CO.
MILLERS COUNTY, GA.

LOS LAURELES ESTATES
SAN JUAN, TEXAS

STATE OF TEXAS,
COUNTY OF BIRMINGHAM:

HOW ALL MEN BY THESE PRESENTS:

THAT I, Quangdong Pao 149, INC., OWNER, OF THE LANDS HEREIN DESCRIBED, HAVING CAUSED SAME TO BE SURVEYED BY WENCHY ACCEPT, ADAPT AND APPROVE THE ACCOMPANYING MAP OF SAID SUBDIVISION OF SAID LANDS AND DO HEREBY GRANT TO THE PUBLIC USE OF AND AS EASEMENT INTO THE STREETS AND ALLEYS SHOWN THEREON. THESE ARE RESERVED OVER, UNDER, AND ACROSS THE STREETS AND ALLEYS SHOWN THEREON, EASEMENTS FOR WATER, SEWER, TELEPHONE, TELEGRAPH, ELECTRIC LINES, AND OTHER PUBLIC UTILITIES. SUCH GRANTMENTS ARE RESERVED TO THE CITY OF SAN JUAN ON THOSE TO WHOM SAID CITY HAS DESIGNATED GRANT PROROGUE.

SECTOR 1 PRESIDENT

STATE OF TEXAS,
COUNTY OF HENDON.

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED Hector
GUGERA KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE
FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME FOR THE
PURPOSE AND CONSIDERATIONS THEREIN STATED.

SIXE UNDER MY HAND AND SEAL OF OFFICE THIS THE 14 DAY OF



APPROVAL BY PLANNING AND ZONING COMMISSION:

1. ALBERTO MUÑOZ, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION,
HEREBY CERTIFY THAT THE SUBDIVISION PLAT CONFORMS TO REQUIREMENTS OF THE SUBDIVISION
REGULATION OF THE CITY OF SAN JUAN.

Notarize
NOTARY PUBLIC IN AND FOR
MIDLAND COUNTY, TEXAS
MY COMMISSION EXPIRES SEP. 30, 1992

APPENDIX

DATE

APPROVED AND ACCEPTED BY THE CITY COMMISSION OF THE CITY OF SAN JUAN, TEXAS, ON THIS
THE 2 DAY OF Feb. 1970.

Abstract

Arthur Rosenberg
CHIEF, NEW YORK

1. NOW CERTIFY, P.T. A (REGISTERED PROFESSIONAL ENGINEER/REGISTERED PUBLIC SURVEYOR) DO HEREBY CERTIFY THE FOREGOING PLAT TO BE A TRUE AND CORRECT REPRESENTATION OF THE SUBDIVISION OF THE LANDS HEREON DESCRIBED AS SURVEYED ON THE GROUND AND SUBMITTED UPON IN DISSECTION.



MR. CARIA, P.E.
 PE PROFESSIONAL ENGINEER # 20486
 PS PUBLIC SURVEYOR # 7888

-3-87

Recorded in Book 26 Page 1
of the plat records of Wichita
County, Texas
Johnson and Hunt, Inc.
County Clerk

STATE OF TEXAS
COUNTY OF HILL

THE PLAN IS HEREBY APPROVED BY HIGHLAND COUNTY PROBATIONARY DISTRICT NO. 1. SUBJECT TO THE CONDITION THAT IF SUBSTANTIATION FROM SAID DISTRICT IS OBTAINED TO THE INDIVIDUAL LOTS IN SAID SUBDIVISION, PERMISSION SHALL BE MADE FOR APPROPRIATE EASEMENTS FOR THE INSTALLATION OF NECESSARY SUBSTANTIATION FACILITIES TO SUCH LOTS FROM THE CLOSEST WATER MAINS AND SEWER LINES. THE DISTRICT OFFICER SHALL BE RESPONSIBLE FOR THE DETERMINATION OF THE NECESSARY SUBSTANTIATION DELIVERY POINT AND IT SHALL BE THE RESPONSIBILITY OF THE OWNER OF THE PROPERTY TO OBTAIN THE NECESSARY EASEMENTS FROM THE ADJACENT PROPERTY OWNERS.

Approved December 7, 1967
J. R. Moore
JUDGE, ST. LOUIS COUNTY JUDICIAL CIRCUIT

NOE GARZA ENGINEERS - MCALLEN TEXAS

687-4201



LOS LAURELES ESTATES





LOS LAURELES ESTATES SUBDIVISION
Street Improvements Project FY 38 (2025)
SAN FRANCISCO STREET





**LOS LAURELES ESTATES SUBDIVISION
Street Improvements Project FY 38 (2025)
SAN CRISTOBAL STREET**





LOS LAURELES ESTATES SUBDIVISION
Street Improvements Project FY 38 (2025)
SANTA FE STREET





212 W. 18th St.
Mission, Texas 78572

Phone: (956) 213-9400

Fax: (956) 213-8119

www.advrgv.org

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Representative, City of San Juan

Jesse Jackson
Commissioner, City of Donna

Frank Morales
Commissioner, City of Harlingen

Mario Tijerina
Commissioner, Willacy County

Juan J. Barrios
Banking / Finance

Executive Director - Amigos Del Valle, Inc. Executive Director
ALEJANDRO GUERRA



October 1, 2024

Mr. Benjamin Arjona
City Manager
City of San Juan
709 S. Nebraska
San Juan, TX 78589

Re: Letter of request for CDBG Funds FY 2025-2026

Dear Mr. Arjona,

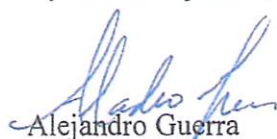
Amigos Del Valle, Inc. is respectfully requesting \$10,000 in CDBG funds for Fiscal Year 2025-2026. These funds will continue to be utilized to provide home delivered meals to 09 eligible citizens for 165 days that reside within the City of San Juan area.

With your continued financial support, we will be able to continue providing much needed meals to the homebound seniors to assist them to continue living as healthy, independent, productive and self-sufficient lives as possible.

Please be assured that we are very grateful for your proven generous, valuable financial and moral support for our agency's projects throughout our forty-nine (49) years of experience.

If you have any questions or concerns, please do not hesitate to contact us at (956)213-9400 or by email:

Alejandro Guerra, Executive Director: aguerra@advrgv.org
Dianira Gonzalez, Nutrition Coordinator: dgonzalez@advrgv.org
Ayssa DeAlejandro, Nutrition clerk: adealejandro@advrgv.org


Alejandro Guerra

AG/AD



NUESTRA CLINICA DEL VALLE, INC.

ADMINISTRATIVE OFFICES
P.O. BOX 1689 PHARR, TEXAS 78577
956-787-8915

October 15, 2024

Mayor Mario Garza
City of San Juan
709 S. Nebraska
San Juan, TX 78589

Dear Mayor Garza:

Please accept this as Nuestra Clinica del Valle's letter of intent to seek funds in the amount of \$10,000 from Urban County/CDBG funds for program year 38 (2025-2026).

Nuestra Clinica del Valle, Inc. (NCDV) will provide medical, dental and behavioral services to uninsured, economically disadvantaged residents in the City of San Juan. NCDV will provide medical, dental and behavioral services to 75 adults and children who would otherwise have no access to these services.

Please contact our office regarding additional information required in order to expedite our request.

Sincerely,



Lucy Torres
Chief Executive Officer

1518 E. Santa Rosa Ave.
Edcouch, TX 78538
956-262-1363

1500 First Street
Mercedes, TX 78570
956-565-3191

611 N. Bryan Rd.
Mission, TX 78572
956-580-3303

105 South 10th Street
Donna, TX 78537
956-464-5809

801 W. 1st Street
San Juan, TX 78589
956-787-0787

201 S. Los Ebanos
Alton, TX 78574
956-519-1800

300 N. 86th St.
San Carlos, TX 78539
956-287-8850

600 N. Garza, Suite A
RGC, Tex. 78582
956-487-0846

2891 E. Grant St.
Roma, Texas 78584
956-849-2100

2900 Raul Longoria
San Juan, TX 78589
956-781-6077

806 W. 3rd St
San Juan, Texas 78589
956-787-0787



THE LITTLE CLUB YOUTH FOUNDATION

October 09, 2024
Monica Gomez
City of San Juan
512 S Nebraska Ave,
San Juan, TX 78589

I am reaching out on behalf of The Little Club Youth Foundation, a vital lifeline for children and families in the City of San Juan. We are requesting \$35,000 in CDBG Funds for Fiscal Year 2025-2026 through the Urban County Program to sustain our transformative programs for low- to moderate-income families. As a 501(c)(3) nonprofit organization, we are proud to serve 75 children in our community, offering them essential resources and unwavering support to help them thrive. Our foundation is committed to enriching the lives of youth aged 18 and under, ensuring they have access to opportunities that empower them to reach their full potential.

At The Little Club Youth Foundation, our mission is to empower youth through safe, supportive spaces that promote education, health, and social development. Our dedicated staff oversee a variety of essential services, including educational programs, mentorship, and recreational activities. They play a pivotal role not only in delivering these services but also in overseeing the daily reporting process to ensure that each child's progress is monitored and celebrated. Their commitment to our children is the heartbeat of our foundation.

To continue our mission and effectively serve our community, we seek funding assistance to cover the following expenditures:

Salaries and Fringe Benefits for Staff: \$19,000: Our dedicated staff members are the guiding lights for the children we serve. They lead programs that foster creativity, build self-esteem, and promote critical thinking. The Little Club Youth Foundation will only charge for the hours worked with qualified beneficiaries, ensuring that funds are utilized effectively. This transparency helps us track each child's development and make informed decisions about their care and support.

Supplies and Equipment for Activities: \$15,000: Many of the children in our community face limited opportunities for engaging activities at home. This funding will provide essential supplies and equipment for a variety of enriching experiences, including interactive games that promote health and exercise. We also aim to incorporate technology into our programs, providing children with access to educational tools that enhance their learning and prepare them for a tech-driven world. By incorporating fun, physical activities such as team sports, dance classes, and active play, we not only encourage healthy lifestyles but also foster a sense of belonging and community among the children. Our commitment is to create an environment where every child can discover their potential, build confidence, and form meaningful connections. Each day spent in our programs is a chance for these kids to laugh, learn, and thrive.

Outreach Materials: \$1,000: To expand our outreach efforts, we are dedicated to reaching families in need throughout our community. This funding will support the creation and distribution of materials that inform families about our services. We actively participate in community events, collaborate with local organizations, and engage with schools to ensure that every family knows how to access the support available to them. Together, we can break down barriers and open doors to opportunity.

**1601 W Griffin Pkwy
Mission, Texas 78572**

Phone No.: (956) 607-1549

Email: thelittleclubyouthfoundation@gmail.com



THE LITTLE CLUB YOUTH FOUNDATION

In total, we are seeking \$35,000 to enhance our ability to serve low- to moderate-income families in the San Juan area, ensuring that children receive the educational support and resources they require to thrive. We genuinely appreciate any level of support the City of San Juan can provide. Our various locations across Hidalgo County work tirelessly to create a network of resources and services that uplift our communities.

Thank you for considering our heartfelt request. Together, we can make a lasting impact on the lives of the children and families we serve, creating a brighter future in our community. I would be happy to meet with you to discuss this proposal further or provide any additional information needed.

Warm regards,

Krystal Sital,
President
The Little Club Youth Foundation

1601 W Griffin Pkwy
Mission, Texas 78572

Phone No.: (956) 607-1549

Email: thelittleclubyouthfoundation@gmail.com

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Discussion and Possible Action to Request Assistance from the Health and Environmental Services within the San Juan City Limits. [Monica Gomez, Interim Director of Planning]

STAFF COMMENTS AND RECOMMENDATIONS:

The City of San Juan is requesting assistance from the Hidalgo County Health Department to conduct Food Establishment Inspections within the city limits in accordance to Chapter 437 of the Texas Health and Safety Code and the Hidalgo County Health and Human Services Environmental Health Division Rules. The Hidalgo County Health Department will be in charge of conducting health inspections of restaurants and businesses that require it.

According to the City of San Juan Ordinance 2019-04, health inspection fees are based on the number of employees that each business has:

- Temporary permits, not to exceed 14 days - \$25.00
- Establishment employing ten employees or less - \$100.00
- Establishment employing eleven to twenty employees - \$125.00
- Establishment employing twenty-one or more employees - \$150.00
- Follow-up Inspection Fee- \$25.00

On October 17, 2024, a letter was submitted to the Honorable Richard Cortez, County Judge, and Eduardo Olivarez, Hidalgo County Health & Human Services Administrator, requesting assistance with the Food Establishment Inspections. The Hidalgo County Health Department is working on an Interlocal Agreement with the City of San Juan to start assisting the city.

RECOMMENDATION:

Staff is recommending approval of this item in order to move forward with the Health Inspections within the City Limits of San Juan.

PREPARED BY:

Monica Gomez,
Interim Director of
Planning

APPROVED BY:

Benjamin Arjona, City
Manager



Mayor: Mario Garza
Mayor Pro-Tem: Marco "Markie" Villegas
Commissioners: Leonardo "Lenny" Sanchez
Ernesto "Neto" Guajardo
Jesus "Jesse" Ramirez

October 17, 2024

The Honorable Richard Cortez, County Judge
Eduardo Olivarez, Hidalgo County Health & Human Services Administrator
1304 South 25th Street
Edinburg, TX 78542

Re: Health / Environmental Services for the City of San Juan

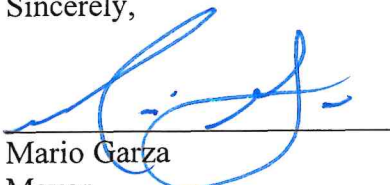
To whom it may concern,

Please allow this letter to serve as written notification that the City of San Juan is requesting assistance with the Health and Environmental Services within our city limits. The City of San Juan conducts approximately thirty (30) health inspections monthly and fees varies depending on the number of employees. According to Ordinance 2019-04 fees are the follows:

1. Temporary permit, not to exceed 14 days - \$25.00
2. Establishments employing ten employees or less - \$100.00
3. Establishments employing eleven to twenty employees - \$125.00
4. Establishments employing twenty -one or more employees - \$150.00
5. Follow up Inspection Fee - \$25.00

If you have any questions, please contact Planning Department (956) 223-2200.

Sincerely,



Mario Garza
Mayor
City of San Juan

512 S. Nebraska Ave. • San Juan, Texas 78589-2649
Phone: (956) 223-2200 • Fax: (956) 787-5978

ORDINANCE NO. 2019-04

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF THE CITY OF SAN JUAN, TEXAS, BY ADDING ARTICLE 4.11 FOOD ESTABLISHMENT REGULATIONS TO CHAPTER 4 BUSINESS REGULATIONS TO PROVIDE FOR THE REGULATION OF FOOD ESTABLISHMENTS INCLUDING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, AND TEMPORARY FOOD ESTABLISHMENTS, AND FOOD HANDLERS AND PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PUBLICATION; PROVIDING FOR CODIFICATION; AND PROVIDING FOR A REPEALER CLAUSE.

WHEREAS, it is the desire of the City of San Juan to adopt in all respects, the regulation of food establishments and standards on food sanitation; and

WHEREAS, the adoption of these rules is done to facilitate the proper inspection activities of food service and retail food store establishments within the corporate limits of San Juan and to protect the public safety, health and general welfare of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAN JUAN, TEXAS:

SECTION I: AMENDMENT. The Code of Ordinances of the City of San Juan, Texas is hereby amended by adding Article 4.11 Food Establishment Regulations to Chapter 4 Business Regulations and shall read in its entirety as follows:

ARTICLE 4.11 FOOD ESTABLISHMENT REGULATIONS

DIVISION 1. IN GENERAL

Sec. 4.11.100 Enforcement.

These sections of this article shall be enforced by the health inspector, or his/her designated representative, in accordance with the interpretations thereof, and provided further, that where the provisions of the laws of the State of Texas are in conflict with such compliance provisions, the state law shall govern and shall control the interpretation given any of the provisions of this article. This ordinance is intended for further the public's health, safety, and welfare.

DIVISION 2. FOOD ESTABLISHMENTS

Sec. 4.11.200 Adoption of Texas Food Establishment Rules.

- A. The City of San Juan adopts by reference the provisions of the current rules or rules as amended by The Executive Commissioner of the Health and Human Services Commission found in Title 25 Texas Administrative Code, Chapter 228, regarding the regulation of food establishments in this jurisdiction.

- B. Definitions: The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized agent or employee means the employees of the regulatory authority.

Food establishment means food service establishment, a retail food store, a temporary food establishment.

Municipality of San Juan in this article shall be understood to refer to the City of San Juan.

Regulatory authority means the City of San Juan Health Division.

State rules means the state rules found in Title 25 Texas Administrative Code, Chapter 228. These rules are also known as the Texas Food Establishment Rules.

Sec. 4.11.201 Permits and Exemptions.

- A. A person may not operate any food establishment without a permit issued by the regulatory authority. Permits are not transferable from one location to another location, except as otherwise permitted by this ordinance. A valid permit must be posted in or on every food establishment regulated by this article.
- B. A food establishment operated solely by a non-profit organization is exempt from the permitting requirements of this article, but is not exempt from compliance with the state rules. The regulatory authority may require any information necessary to determine whether an organization is non-profit for purpose of this exemption.

Sec. 4.11.202 Application for Permit and Fees.

- A. Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.
- B. Prior to approval of an initial permit or the renewal of an existing permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or the renewal of a permit.

C. The following fee schedule applies to permits issued under this article:

1. Temporary permit, not to exceed 14 days.....\$25.00
2. Establishments employing (10) ten employees or less.....\$100.00
3. Establishments employing eleven to twenty employees.....\$125.00
4. Establishments employing twenty-one or more employees....\$150.00
5. Follow up Inspection Fee.....\$25.00

Sec. 4.11.203 Inspections.

- A. Inspection Frequency: An inspection of a food or retail food service establishment shall be performed at least once every six (6) months. Additional inspection of food or retail food service establishment shall be performed as often as necessary for the enforcement of these rules.
- B. Access: The city health inspector, after proper identification, shall be permitted to enter any food service or retail food establishment at any reasonable time, for the purpose of making inspections to determine compliance with these rules. The health inspector shall be permitted to examine the records of the establishments to obtain information pertaining to food and supplies purchased, received, or uses, or to persons employed.

Sec. 4.11.204 Review of Plans.

- A. Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the regulatory authority for review before work is begun. Extensive remodeling means that 20 % or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans, construction of material of work areas, the type and model of proposed fixed equipment and facilities. The plans and specifications must be followed in construction, remodeling or conversion.
- B. Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

Sec. 4.11.205 Suspension of Permit.

- A. The regulatory authority may, without warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of the notice required by subsection (b) of this section. When a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.
- B. Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for hearing is filed within ten days. If no written

request for hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

Sec. 4.11.206 Revocation of Permit.

- A. The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for the interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reasons for which the permit is subject to revocation and that the permits shall be revoked at the end of ten days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten-day period.
- B. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

Sec. 4.11.207 Administrative Fees.

- A. A notice as required in these rules is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notices shall be filed in the records of the regulatory authority.
- B. The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.

DIVISION 3. FOOD HANDLERS

Sec. 4.11.300 Definition & Adoption of Food Service Sanitation Code.

- A. The definition as set out in Texas Food Establishment Rules, Texas Administrative Code, Title 25, Chapter 229, shall be given the same meaning as if it set out herein.
- B. For the purpose of regulating food service establishments, the current rules or rules amended by the Texas Department of State Health Services found in Texas Administrative Code Title 25, Chapter 229, Rule 229.172-Rule 229.178 regarding the regulations of food establishments is hereby adopted and made part of this article as if fully set out in this article, and the provisions thereof shall govern all matters covered therein within the city, except those provisions which may be in conflict with other provisions of this Code. A copy of such administrative code is on file in the city secretary's office.

Sec. 4.11.301 Permit Required; Transfer Prohibited; Posting; Temporary Permit.

- A. It shall be unlawful for any person to operate a food establishment or retail food store within the city without a valid permit issued by the regulatory authority of the city. Only a person who complies with provisions of this article shall be entitled to receive and retain such a permit.
- B. Permits shall not be transferable from one person to another person or from one food establishment or retail food store to another such establishment or retail food store.
- C. A valid permit shall be posted in a conspicuous place in every food establishment and retail food store.
- D. Permits for temporary food service establishments shall be issued for a period of time not to exceed 14 days.

Sec. 4.11.302 Food Handlers Application; Inspection by Health Division; Issuance Fee.

- A. Application. Any person desiring to operate a food service establishment or retail food store within the city shall submit a written application for such permit on forms to be provided by the city health division. Such application shall include the following information:
 - (i) The applicant's full name, office address and telephone number, including address and telephone of the home office, if any, and whether such applicant is an individual, firm or corporation; and., if a partnership, the names, addresses and telephone numbers of the general and/or limited partners.
 - (ii) The location and type of food establishment or retail food store; markets that offer only fresh fruits and vegetables for sale, food vending machines, or religious or charitable organization's bake sales.

Sec. 4.11.303 Issuance.

- A. A food manager's permit may be issued by any state, municipality, agency or school of instruction whose food manager's certificate program of certification has been accredited by the Texas Department of Health. The certificate shall provide evidence that the applicant attended and satisfactorily completed a course of instruction. Such course shall include, as a minimum, not less than 15 hours of training, the contents of which cover minimum essential knowledge of safe food handling practices, the biological basis of food borne infection and transmission, the safe preparation, handling and storage of food by all employees found in food service operations. The permit shall be issued and be on a form designed by the regulatory authority and shall remain the property of the regulatory authority if revoked.

B. A graduate of an institution of higher education who has completed all requirements for an associates or high degree in hotel and restaurant management may be issued a permit without taking the food manager's course upon providing satisfactory proof of graduation from an approved school. A dietician currently registered by A.D.A. and licensed by the Texas State Board of Examiners of Dieticians may be issued a permit without taking the food manager's course upon providing satisfactory proof of current license and registration.

C. A fee of \$15.00 will be charged for each food manager's permit issued by the health division.

Sec. 4.11.304 Term.

A food manager's permit shall be valid for a period of three years from the date of course completion certification, unless said permit is sooner revoked by the health inspector. A permit issued to a dietician shall be valid for three years from the date of issuance.

Sec. 4.11.305 Revocation.

The city health inspector may revoke or suspend a food manger's permit upon a material violation of food service sanitation ordinances, rules or regulations. Notice of revocation of a food manger's permit shall be by written notice to the permittee, send or delivered to address or location of the food establishment or that of the permittee, and after affording the permittee an opportunity for hearing before the city manager.

Sec. 4.11.306 Food Handling Certification.

A. The definitions as set out in Texas Food Establishment Rule, Texas Administrative Code Title 25, Chapter 229, Rule 229.178.

B. Certification. It shall be unlawful for any employee of a food establishment to begin work without obtaining a food handling certification. A minimum of two hours of food sanitation training is required every two years to ensure employee performance of their duties in accordance with food service sanitation ordinances, rules and regulations.

C. This training shall be an approved regulatory authority course. The certificate shall provide evidence that the applicant attended and satisfactorily completed a course of instruction. A fee of \$15.00 will be charged for each food handler permit issued by the regulatory authority. The City of San Juan requires a City of San Juan Health Division issued I.D. card permit. A food handler's food handling certification permit shall be valid for a period of two years from date of issuance, unless the city health inspector sooner revokes permit.

D. Posting. Each food handler's food handling certification permit shall be posted at all times, filed or otherwise readily available for viewing by the health inspector or a designated representative.

Sec. 4.11.307 Revocation.

The city health inspector may revoke or suspend a food handler's food handling certificate permit upon a material violation of food service sanitation ordinances, rules or regulations. Notice of revocation of a food handler's food handling certification permit shall be by written notice to the permittee, sent or delivered to the address or location of the food establishment or that of the permittee, and after affording the permittee and opportunity for a hearing before the city manager.

Sec. 4.11.308 Remedies.

- A. Any person who violates a provision of these rules or any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules or any responsible officer of that permit holder or those persons shall be fined not more than \$1,000.
- B. The regulatory authority may seek to enjoin violations of these rules.

SECTION II: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision and such holding shall not affect the validity of the remaining parts of this ordinance.

SECTION III: EFFECTIVE DATE. This ordinance shall take effect after a second reading, where it is read, considered and adopted by the City Commission and where in such second reading is not made until fifteen (15) days has passed after its first reading.

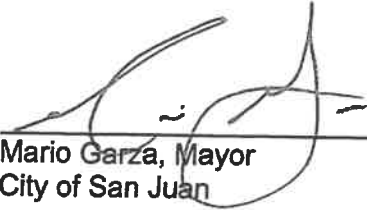
SECTION IV. PUBLICATION. The City Secretary of the City of San Juan is hereby authorized and directed to cause the caption of this ordinance to be published in a newspaper having general circulation in San Juan, Texas.

SECTION V. CODIFICATION. The City Secretary is hereby directed to cause this Ordinance to be codified in the Code of Ordinances of the City of San Juan, Texas.

SECTION VI. REPEALER CLAUSE. This Ordinance shall be cumulative of all other ordinances dealing with the same subject and any provision of any ordinance in direct conflict with any provision of this Ordinance is hereby repealed and the provisions of this Ordinance shall supersede any provisions in conflict herewith; all provisions of any other ordinance not in conflict herewith shall remain in full force and effect.

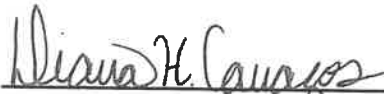
READ, PASSED AND APPROVED ON FIRST READING at a regular meeting of the City Commission of the City of San Juan, Texas, at which a quorum was present and which was held in accordance with Vernon's Texas Codes Annotated, Government Code, Section 551.041 on the 8th day of January, 2019.

READ, PASSED AND APPROVED IN SECOND READING at a regular meeting of the City Commission of the City of San Juan, Texas, at which a quorum was present and which was held in accordance with Vernon's Texas Codes Annotated, Government Code, Section 551.041 on the 12th day of February, 2019.



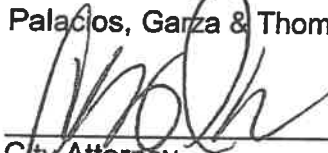
Mario Garza, Mayor
City of San Juan

ATTEST:



Diana Cavazos, City Secretary
City of San Juan

APPROVED BY:
Palacios, Garza & Thomson, P.C.



City Attorney



Monica Gomez <mgomez@sjtx.us>

City of San Juan

Eduardo Olivarez <eduardo.olivarez@hchd.org>

Mon, Sep 23, 2024 at 3:12 PM

To: Monica Gomez <mgomez@sjtx.us>

Cc: Richard Cortez <richard.cortez@co.hidalgo.tx.us>, Dairen Sarmiento <Dairen.sarmiento@hchd.org>, Guillermo Palacios <guillermo.palacios@hchd.org>, Martin Ramirez <martin.ramirez@hchd.org>, Miguel Escaname <mike.escaname@hchd.org>, Jose Gonzalez <jose.gonzalez@hchd.org>, Jennifer Alvarez <jennifer.alvarez@hchd.org>

Ms. Gomez,

Per our telephone conversation, I am following up with you in regards to the City's request to assist with Health / Environmental services within your municipality. We would need a written request addressed to our County Judge, the Honorable Richard Cortez, and to Eduardo Olivarez, Hidalgo County Health & Human Services Administrator, requesting assistance. Please add within the body of the correspondence the exact type of assistance you will need, such as the following...

- the average number of Health Inspections / OSSF Inspections per month
- the current fees for your various inspections and permits per month
- documentation showing City Council action in regards to the status of the City Health Department
- anticipated start date
- the establishment of an MOU / ILA

We have attached an example of an agreement; however, this was for assistance involving OSSF inspections, you would have to modify it to include health inspections and OSSF. Please include all the above individuals listed on the email header during your response.

We look forward to assisting you within our means.

Have a Blessed Day.



Eduardo "Eddie" Olivarez
Chief Administrative Officer
1304 South 25th Ave.
Edinburg, Texas 78542
956 383 8858
eduardo.olivarez@hchd.org



Monica Gomez <mgomez@sjtx.us>

Health Inspections and

Martin Ramirez <martin.ramirez@hchd.org>

Wed, Nov 6, 2024 at 10:40 AM

To: Monica Gomez <mgomez@sjtx.us>

Cc: Antonio Jaramillo <ajaramillo@sjtx.us>, Guillermo Palacios <guillermo.palacios@hchd.org>, Dairen Sarmiento <Dairen.sarmiento@hchd.org>, Robert Vina <robert.vina@da.co.hidalgo.tx.us>, Victor Garza <victor.garza@da.co.hidalgo.tx.us>, Jose Gonzalez <jose.gonzalez@hchd.org>

Good Morning Ms. Gomez. Hope all is well with you. We met with our legal department and we are ready to start doing inspections within the city limits of San Juan. They asked that we get with you concerning the items below that we are requesting of you.

- Place on your agenda that as per the City's request, the Hidalgo County Health and Human Services Department will conduct Food Establishment Inspections within its municipal jurisdiction in accordance with chapter 437 of the Texas Health and Safety Code and the Hidalgo County Health and Human Services Environmental Health Division Rules.
- Advise food establishments that the County will be conducting inspections.
- Ask that the City provide a point of contact of Food Establishment Inspection related issues with the city.

On our part we will be placing an acknowledgement on our Commissioner Court's agenda that the Health Department will be starting to conduct Food Establishment Inspections in the City of San Juan.

[Quoted text hidden]

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Discussion and Possible Action Authorizing the City Manager to Accept Grant Funding Through the Border Zone Fire Department (BZFD) for an Amount of \$135,937.50. [Tirso Garza, Fire Chief]

STAFF COMMENTS AND RECOMMENDATIONS:

The Office of the Governor (OG) announced grant funding through the Border Zone Fire Department (BZFD) program to support professional fire departments along the Texas-Mexico border region. These funds will provide specialized equipment and maintenance to support emergency services associated with the execution of border security activities.

The San Juan Fire Department was granted two Rescue boats to use along the Rio Grande River for the amount of \$67,968.75 each for a total amount of \$135,937.50. The department is seeking authorization to increase the account to purchase the items. The total cost of the reimbursement will be under the Border Zone Fire Department Program that has been approved and qualified for the cost reimbursement.

RECOMMENDATION:

Authorizing the City Manager to Accept Grant Funding through the Border Zone Fire Department (BZFD) for an amount of \$135,937.50.

PREPARED BY:

Tirso Garza, Fire
Chief

APPROVED BY:

Benjamin Arjona, City
Manager

Statement of Grant Award (SOGA)

The Statement of Grant Award is the official notice of award from the Office of the Governor (OOG). This Grant Agreement and all terms, conditions, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and all other State of Texas agencies and any other agencies, departments, divisions, governmental entities, public corporations, and other entities which shall be successors to each of the Parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the Parties hereto.

The approved project narrative and budget for this award are reflected in eGrants on the 'Narrative' and 'Budget/Details' tabs. By accepting the Grant Award in eGrants, the Grantee agrees to strictly comply with the requirements and obligations of this Grant Agreement including any and all applicable federal and state statutes, regulations, policies, guidelines and requirements. In instances where conflicting requirements apply to a Grantee, the more restrictive requirement applies.

The Grant Agreement includes the Statement of Grant Award; the OOG Grantee Conditions and Responsibilities; the Grant Application in eGrants; and the other identified documents in the Grant Application and Grant Award, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code, Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code, and the Texas Grant Management Standards (TxGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made, and for federal funding, the Funding Announcement or Solicitation under which the OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice, the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. The OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the Grantee.

By clicking on the 'Accept' button within the 'Accept Award' tab, the Grantee accepts the responsibility for the grant project, agrees and certifies compliance with the requirements outlined in the Grant Agreement, including all provisions incorporated herein, and agrees with the following conditions of grant funding. The grantee's funds will not be released until the grantee has satisfied the requirements of the following Condition(s) of Funding and Other Fund-Specific Requirement(s), if any, cited below:

Grant Number:	5221001	Award Amount:	\$135,937.50
Date Awarded:	11/4/2024	Grantee Cash Match:	\$0.00
Grant Period:	09/01/2024 - 08/31/2025	Grantee In Kind Match:	\$0.00
Liquidation Date:	11/29/2025	Grantee GPI:	\$0.00
Program Fund:	BF-Border Zone Fire Departments (BZFD)	Total Project Cost:	\$135,937.50
Grantee Name:	San Juan, City Of		
Project Title:	Border Zone		
Grant Manager:	James Ziehl		
Unique Entity Identifier (UEI):	VALRBEGEKC8		

CFDA:	N/A
Federal Awarding Agency:	N/A - State Funds
Federal Award Date:	N/A - State Funds
Federal/State Award ID Number:	2025-BF-ST-0001
Total Federal Award/State Funds Appropriated:	\$3,000,000.00
Pass Thru Entity Name:	Texas Office of the Governor – Homeland Security Grants Division (HSGD)
Is the Award R&D:	No
Federal/State Award Description:	N/A - State Funds

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Discussion on Issues Regarding Lucky Drive Street.

STAFF COMMENTS AND RECOMMENDATIONS:

Discussion and update on issues regarding Lucky Drive, a private street.

RECOMMENDATION:

Proceed as recommended by the City Commission.

PREPARED BY:

Benjamin Arjona,
City Manager

APPROVED BY:

Benjamin Arjona, City
Manager

AGENDA ITEM AND RECOMMENDATION SUMMARY
CITY COMMISSION REGULAR MEETING
NOVEMBER 12, 2024

Consider Second and Final Reading of the Ordinance to Amend Appendix "A", Unified Development Code, Chapter 2, Article IV, Section 11, Expressway Corridor District by Modifying Subsection 11.03 Definitions and Subsection 11.04 Zoning Use Chart to Authorize the Use of Automobile Sales Corridor District. [Monica Gomez, Interim Director of Planning]

STAFF COMMENTS AND RECOMMENDATIONS:

The Expressway Corridor Master Plan was adopted by the City of San Juan on February 14, 2017, giving the city a new vision for future development and redevelopment along the San Juan Expressway Corridor. The Expressway Corridor Ordinance has specific language on what uses will be allowed by right and what uses will be allowed with a conditional use permit.

The City of San Juan approved a couple of amendments to the Expressway Corridor Master Plan. The first amendment was approved on November 14, 2017 to allow car wash facilities. Second amendment was approved on June 14, 2022 to allow only retail along the Expressway Corridor. Now, we are proposing another amendment to allow car dealership as requested by the San Juan Economic Development Corporation.

RECOMMENDATION:

Staff recommends approval of the amendment as presented.

PREPARED BY:

Monica Gomez,
Interim Director of
Planning

APPROVED BY:

Benjamin Arjona, City
Manager

MEETING DATES:
PLANNING AND ZONING COMMISSION – 10/03/2024
CITY COMMISSION – 10/08/2024
DATE PREPARED – 09/30/2024

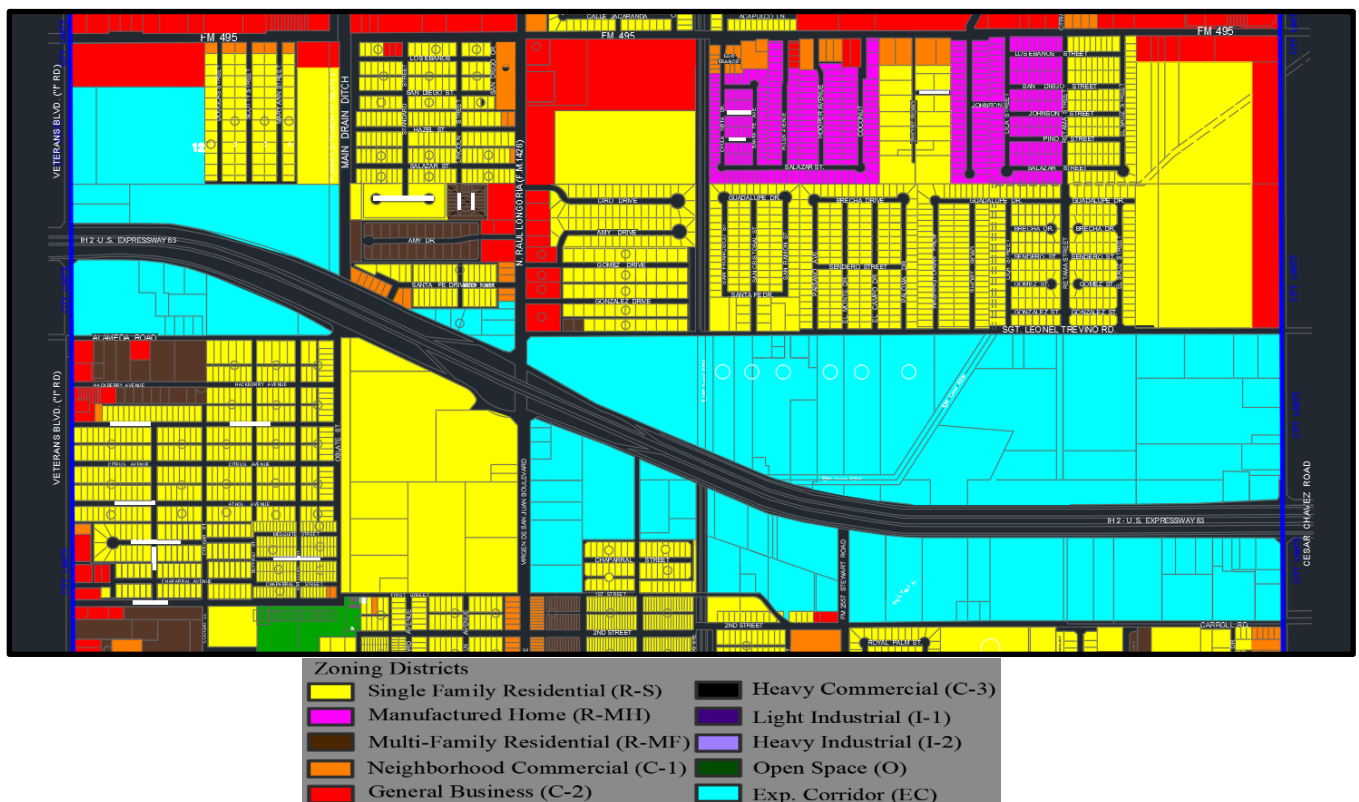
PAGE 1

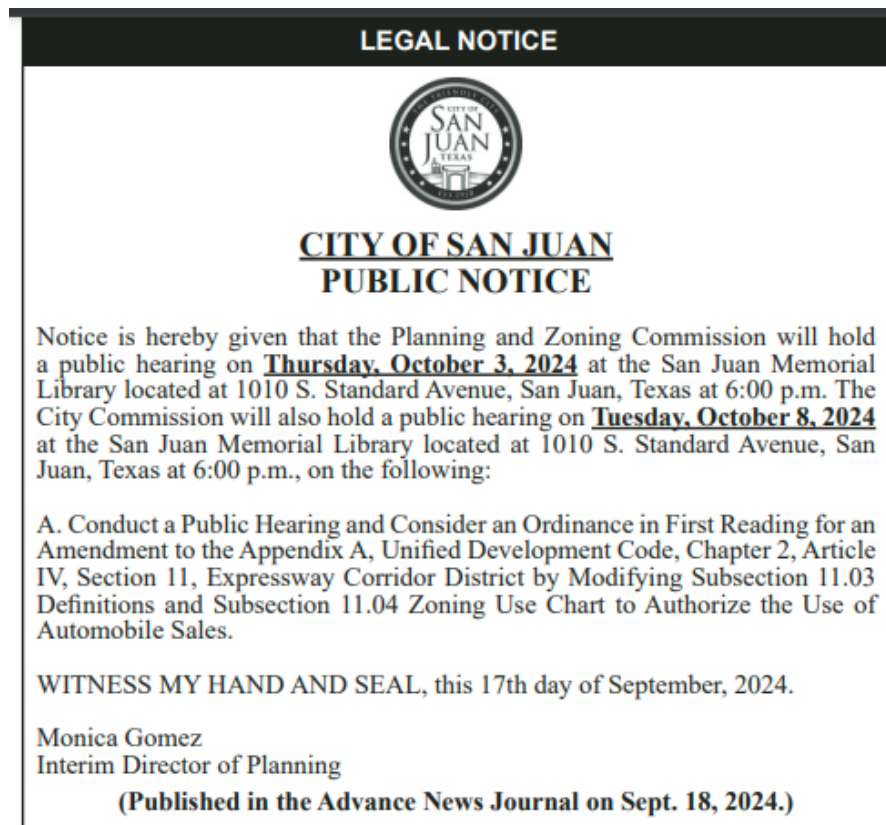
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A notice of the public hearing was on the Advance Newspaper on September 18, 2024.

Staff recommends approval of the amendment as presented.





FINAL RESOLUTION OF REQUEST & COMMENTS:

P&Z – 10/03/2024 Commissioner Cardenas made a motion to approve the amendment to the Expressway Corridor District as presented by staff. Commissioner Mancillas seconded the motion. Motion passed unanimously with a 6-0 vote.

Ms. Gomez explained the memorandum attached to the packet. She said that the expressway corridor district is a zoning that was approved in February 14, 2017, to redevelopment the area along the expressway by allowing some businesses by use or thru a conditional use permit. She mentioned that the Expressway Corridor Master Plan has been amended on November 14, 2017, to allow car wash facilities and June 14, 2022, to allow only retail. The San Juan EDC is requesting another amendment to allow car dealerships. Staff recommends approval of this amendment and car dealerships would be approved through a conditional use permit. Ms. Gomez made reference to the zoning map showing the Expressway Corridor District area and ordinance showing the amendment in yellow. A notice of the public notice was on the newspaper and no comments were received.

Chairwoman Castillo asked about the staff's recommendation. Ms. Gomez responded the staff recommends approval of the amendment but the approval of the car dealerships will be thru a conditional use permit.

Commissioner Yzaguirre asked if the amendment is to allow only luxury cars.

Commissioner Castillo requested a definition of luxury cars in the ordinance.

Commissioner Cardenas asked if this amendment would apply to the tire shop that was denied previously.

Ms. Gomez responded that tire shop is more like repair and maintenance, mechanic shop. This amendment is new and preowned automobile sales.



ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JUAN, TEXAS AMENDING THE CODE OF ORDINANCES AT APPENDIX "A", UNIFIED DEVELOPMENT CODE, CHAPTER 2 – ZONING REGULATIONS, ARTICLE IV – DISTRICT USE AND AREA REGULATIONS, SECTION 11: EXPRESSWAY CORRIDOR DISTRICT BY AMENDING SUCH SECTION TO AUTHORIZE THE USE OF RETAIL ESTABLISHMENTS ONLY: INCLUSION IN THE SAN JUAN CODE OF ORDINANCES; INCORPORATION OF OTHER ORDINANCES; REPEALING CONFLICTING ORDINANCES AND EFFECTIVE DATE.

WHEREAS, an Expressway Corridor Study was performed and recommendations made to create a new special purpose district to encourage new and redevelopment of the properties along US Expressway 83/IH2 frontages; and

WHEREAS, The City of San Juan desires to create more economic development opportunities along the freeway corridor; and

WHEREAS, the Planning and Zoning Commission and the San Juan Economic Development Corporation held a joint workshop; and

WHEREAS, after a public hearing and discussion, the Planning and Zoning Commission recommends the creation of the new zoning district.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAN JUAN, TEXAS, THAT:

SECTION 11.00: EXPRESSWAY CORRIDOR DISTRICT

SECTION 11.01: PURPOSE

The Expressway Corridor District (ECD) is a *special purpose* district created to identify uses and regulations for properties adjacent to and in the proximity of the US 83/IH2. These regulations are intended to encourage new and appropriate uses and design, and to protect existing uses that will benefit the City of San Juan. This district is intended to support businesses that complement each other and to be a destination in the Rio Grande Valley for shopping, entertainment, and employment.

Except as hereinafter provided no building or structure shall be erected, reconstructed, or structurally altered and no premises shall be used except in conformity with the regulations prescribed for the district.

The following district regulations replace the current uses as a distinct new district. Where there is any ambiguity, the Planning and Zoning Commission, upon the recommendation of Staff, will be the deciding body, and if appropriate, a recommendation will be forwarded to the City Commission.

SECTION 11.02: DISTRICT USES:

(a) Uses Permitted By Right - The uses as shown in the following Zoning Use Chart are permitted by right and are subject to the restrictions of this district. In general, definitions are defined by terms in general use or in Appendix A, Unified Development Chapter 1, Article III. Definitions of uses specific to this District are found in Section 11.03 of Appendix A, Unified Development Code.

~~(b) Conditional Uses - As identified in the Zoning Use Chart, some uses may be considered when it is shown that such a use in a specified location will comply with all the conditions and standards for the location or operation for the use. The conditions shall be specified and recommended by the Planning and Zoning Commission and approved by the City Commission. Appendix A, Chapter 2, Article VIII, Conditional Use defines the process in for conditional uses that are listed in the following Zoning Use Chart.~~

(c) Nonconforming Uses - With the creation of the new Expressway Corridor District (ECD) some current land and building uses may become existing nonconforming uses. They will not be required to close or relocate, however they become subject to the requirements and regulations in Appendix A, Chapter 2, Article VII, Nonconforming Uses.

SECTION 11.03: DEFINITIONS

In addition to the definitions in Appendix A, Unified Development Code, Chapter 1, Article III, Definitions, the following definitions apply specifically to this district.

The following definitions are to be used in the application of this district. They are terms that are accepted in standard planning and zoning usage. If a word or term is not defined herein, a definition from a dictionary in general usage shall be applied.

Antique shop: An establishment offering for sale articles such as glass, china, furniture or similar furnishing or decorations which have value and significance as a result of age, design or sentiment.

Automobile Sales: The use of land and buildings primarily for the display, sale, lease, and rental of new or pre-owned automobiles (may include utility vehicles, light trucks and vans) and including vehicle preparation, warranty and repair work as an accessory use. Vehicles that are wrecked or require additional repair work shall be screened from view.

Bakery or confectionery shop (retail): A place for baking or selling baked goods, or a place for preparing, cooking, making or selling candy or other sweets.

~~*Bank or Credit Union:* A facility which has as its primary purpose the custody, loan, exchange or issue of money, the extension of credit and the transmission of funds, including drive-in facilities and automatic teller machines.~~

~~*Bar, lounge or tavern:* An establishment, the primary activity of which is the sale and consumption on the premises of beer, wine or other alcoholic beverages, and where any food service is secondary~~

~~alcoholic beverages and where the sale of said beverages constitute more than fifty [percent] (50%) of the business income of that establishment.~~

Barber or beauty shop: A facility licensed by the state where hair cutting, hair dressing, shaving, trimming beards, facials, manicures, tanning or related services are performed.

Buffer: A permanent natural or landscaped area serving to separate two (2) different land uses or developments. It may be in the form of a strip of land lying parallel and adjacent to a property line common to a dissimilar use of a more restrictive nature. The purpose of this buffer is to provide for minimum livability and maximum required visual screening and physical separation of uses of a dissimilar nature.

Carwash facility: A semi-enclosed structure for washing automobiles with automatic application of cleaners, brushes, rinse water, and heat for drying. May include manually operated exterior located vacuuming equipment and detailing operations.

Day spa: A facility for personal services including hair care, manicure, pedicure, waxing, and tanning. If the spa services include massages, the use must comply with the following definition.

Massage establishment: Any place of business in which massage therapy is practiced by a massage therapist, as defined by Texas Law. "Massage therapy", as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub shower, or cabinet baths. Equivalent terms for massage therapy are massage, therapeutic massage, massage technology, myotherapy, or any derivation of those terms. The terms "therapy" and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law. Also see definition of Health Studio.

~~Florist flower or plant shop: A facility for the retail sale of cut or uncut flowers and ornamental plants and accessory items. Enclosure of use required.~~

Furniture store: A retail facility displaying and selling new furniture, and may include appliances such as radios, televisions, stereos, refrigerators, and stoves.

~~Hardware store: A retail facility for selling cutlery, tools, utensils, screws, nails and similar items.~~

~~Health studio or fitness center: An indoor facility operating for a profit to promote physical fitness or weight control.~~

Hobby shop: An establishment for the retail sale of hobby supplies such as model kits, art equipment and materials.

Home center: A facility which retails appliances, fixtures, building materials and other similar items for the maintenance and improvement of residential structures.

Hospital: An institution licensed by the state that provides health services primarily for human inpatient, medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are an integral part of the facilities.

Hotel: A building or a group of buildings under one ownership containing six (6) or more sleeping rooms occupied, intended or designed to be occupied as the temporary abiding place for persons who are lodged with or without meals for compensation, but not including a hospital or recreational vehicle camping area.

Jewelry store: A facility which retails watches, rings, bracelets, necklaces and similar items.

Landscape service: A facility for the design and implementation of design of residential and business landscaping. This facility does not include the storage of landscape materials in bulk form as well as the required machinery or equipment for installation.

Library, art gallery or studio, museum: An establishment for the loan or display of books, or objects of art or science which is sponsored by a public or quasi-public agency and which institution is open and available to the general public.

Live-Work: A dwelling unit that is a combination of the residence and place of commercial business or studio and may be found in mixed-use developments.

Microbrewery: A limited production brewery, typically producing specialty beers and often selling its products only locally.

Mixed-use development: Development projects that combine residential with nonresidential uses in the same building or building site area as a means to create an active street life, enhance the vitality of businesses, and reduce the need for automobile travel; provide a meaningful blend of residential and nonresidential uses that enhances and builds upon the city's commercial base; provide additional housing options for people, including but not limited to, young professionals and older people, who want to live near their workplace and/or near retail and other nonresidential uses; and encourages consolidation of small parcels into viable, block-size mixed-use development in designated areas; while ensuring on-site compatibility of residential and nonresidential uses. There are two generally recognized types of mixed use:

Horizontal Mixed-Use Blocks: Combines single-use buildings on distinct parcels in a range of land uses within one block. In more urban areas, this approach avoids the financing and coding complexities of vertical layered uses while achieving the goal of placemaking that is made possible by bringing together complementary uses in one place. In less urban areas, horizontal mixed-use offers the advantage of sharing utilities and amenities while providing an easier to build and entitle mix of uses within a walkable block circumscribed by thoroughfares.

~~Vertical Mixed-Use Building:~~ Combines different uses in the same building. Lower floors should have more public uses with more private uses on the upper floors. For example, the ground floor could have retail, second floor and up having professional offices, and uppermost floors being some form of residential, such as flats or a hotel. In more urban areas, an entire block or neighborhood may be composed of vertical mixed-use buildings.

~~Mortuary or funeral service:~~ A facility where deceased bodies are prepared for burial and kept until burial, and where funeral services may be conducted. A crematorium may be part of the services provided by a full service funeral home operation with a conditional use permit.

~~Newspaper, magazine, book or stationery store:~~ A facility for the sale of books, pamphlets, paper, pens, ink and associated items; not involving wholesale distribution.

~~Nonconformance:~~ A lawful condition of a structure or land which does not conform to the regulations of the zoning district in which it is situated. This may include but is not limited to a failure to conform to use, height, area, coverage, or off-street parking requirements established prior to the adoption of the Zoning ordinance or annexation into the city.

~~Nonconforming Use:~~ A use, activity, structure or a parcel of land occupied by a land use activity that was lawful prior to the adoption, revision or amendment of the Zoning Ordinance, but fails to conform to the regulations of this Zoning Ordinance and the district in which it is situated and which has been identified as a nonconforming use.

~~Office equipment sales and service:~~ A facility for the display, sales, service or repair of equipment, machines or computers typically utilized in daily activities of offices.

~~Office, general or professional:~~ A place for the regular transaction of business, but not to include the occupation by retail sales, transfer of manufactured goods or storage of commodities.

~~Office, showroom and warehouse:~~ A facility for mixed use with the following characteristics:

- (a) — A showroom for display of product lines including items for user purchase;
- (b) — Storage or warehouse facilities and occupies not more than sixty (60) percent of the gross floor area of the structure(s);
- (c) — A principal office of the business;
- (d) — Sales to contractors or other businesses installing or delivering to consumer and user;
- (e) — A facility, combining office and warehouse functions in a single structure.

~~Offsite:~~ Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant.

On premises: Inside a building or on the area of land that it is on, [sic]

Open Space: Any parcel or area of land or water essentially unimproved and set aside, dedicated or reserved for resource protection, public or private use and enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space shall not include land occupied by nonrecreational structures, roads, street rights-of-way, parking lots, land reserved for future parking, or any portion of required minimum lot areas as required by this Ordinance.

~~Open storage: The storage of any equipment, machinery, commodities, raw semi-finished or finished materials, and building materials, which is visible from any public street.~~

~~Optical shop: A facility for a dealer in optical items or for correcting vision.~~

Paint and wallpaper store: A facility for selling paints, painting equipment and wallpaper.

Parking space: A paved area, enclosed or unenclosed, sufficient in size to store one automobile together with a paved driveway connecting the parking space with a street or alley and permitting ingress or egress of an automobile.

Parking, commercial lot or garage: A facility for temporary storage of motorized or wheeled vehicles.

~~Personal services: Establishments primarily engaged in providing services the care of a person's personal needs and include laundry, dry cleaning, beauty shops, barbershops, shoe repair, reducing salon, health clubs, and clothing rental services.~~

~~Pet shop: A facility for the display and sale of small animals, fish and birds and pets, such as dogs, cats, parakeets, goldfish, tropical fish or canaries, without involving commercial boarding or treating of any animal, fish or bird.~~

~~Pet supply and pet grooming: An indoor facility that sells pet food and supplies and may include grooming area.~~

Pharmacy or drugstore: A facility for preparing, preserving, compounding and dispensing drugs and medicines; and may include the display and sale of other merchandise such as cosmetics, notions, fountain services and similar items.

~~Photography studio: A facility for taking and processing pictures, not a bulk processing plant.~~

~~Plant nursery: A facility for the sale or rental of plants and other landscaping or gardening supplies and the equipment used in the installation or maintenance thereof.~~

Restaurant or cafe with drive-in/thru service: An establishment which by design of physical facilities or by the type of service and packaging permits or encourages the purchase of prepared, ready-to-eat foods for consumption on or off the premises and which does permit consumption on the

premises in motor vehicles. A conditional use may be required for the drive thru to ensure adequate stacking and speaker location.

Restaurant or cafe without drive-in/thru service: An establishment where food is available to the general public primarily for consumption within a structure on the premises or which by design of physical facilities or by type of service and packaging permits or encourages the purchase of prepared, ready-to-eat foods intended for consumption off the premises, and where the consumption of food in motor vehicles on the premises is neither permitted nor encouraged. May include covered or uncovered patio seating.

Retail: An establishment engaged in the selling or rental of goods or merchandise to the general public for personal use or household consumption.

~~Seasonal and temporary sales, outside: An activity conducted involving sales of merchandise customarily sold within the principal structure and those sales by transient users permitted in the district. This activity shall be deemed to be an extension of the principal use of the land and subject to bulk, area and parking regulations. Displays may be located within approved temporary structures or as open display.~~

Shopping center: A group of unified commercial establishments built on a site which is planned, developed, owned, and managed as an operating unit related in its location, size, and type of shops to the trade area that the unit serves with customer and employee parking provided on-site.

Sporting goods store: A retail establishment selling athletic uniforms, sport clothing and sporting equipment.

~~Studio (art, music, speech, drama, dance or other artistic endeavors): A facility for instruction, counseling or coaching in the arts, and for the development of person skills or talents. This includes but is not limited to graphic, performing and literary arts limited to instruction, counseling or coaching.~~

~~Tailor: A shop to alter, repair, fabricate or fashion garments.~~

Technology sales and service: A retail shop which sells and services digital devices including computers, cell phones, video equipment, [.]

~~Theater, not drive-in type: A facility for presenting movies and live performances to an audience inside an enclosed structure.~~

~~Travel agency: A business engaged in selling or arranging transportation, trips or tours for individuals or groups.~~

Veterinary clinic: A medical facility where animals are given medical care. Long-term boarding is not allowed in this district, but short-term or overnight stays related to medical procedures is permitted. No breeding or laboratory uses are permitted.

Wine Bar: Is a tavern-like business focusing on only selling wine, rather than liquor or beer. A typical feature of many wine bars is a wide selection of wines available by the glass and small portion food service.

SECTION 11.04 ZONING USE CHART		
<u>Uses</u>	<u>Permitted by Right</u> <u>P</u>	<u>Conditional Use</u> <u>C</u>
<u>Automotive</u>		
Automobile, new and preowned sales		<u>C</u>
<u>Automobile, preowned sales</u>		<u>C</u>
<u>Automotive supply</u>		<u>C</u>
<u>Automobile service center</u>		<u>C</u>
<u>New Tire sales and service</u>		<u>C</u>
<u>Vehicle rental</u>		<u>C</u>
<u>Retail (free standing or in center)</u>		
<u>Antique shop</u>	<u>P</u>	
<u>Bakery, ice cream, or confectionery shop</u>	<u>P</u>	
<u>Cellphone/computer/technology sales and service</u>	<u>P</u>	
<u>Clothing store (men's, ladies', and children's including shoes and other apparel)</u>	<u>P</u>	
<u>Convenience store</u>	<u>P</u>	
<u>Convenience store fuel islands</u>		<u>C</u>
<u>Florist shop</u>	<u>P</u>	
<u>Home furnishings/Furniture store</u>	<u>P</u>	
<u>Hardware store</u>	<u>P</u>	
<u>Hobby shop</u>	<u>P</u>	
<u>Jewelry store</u>	<u>P</u>	
<u>Office equipment sales/service</u>	<u>P</u>	
<u>Paint and wallpaper store</u>	<u>P</u>	
<u>Pharmacy or drugstore</u>	<u>P</u>	
<u>Sporting goods store</u>	<u>P</u>	
<u>Shopping center up to and including 30,000 square feet</u>	<u>P</u>	
<u>Shopping center 30,000 to 75,000 square feet</u>	<u>P</u>	
<u>Shopping center greater than 75,000 square feet</u>		<u>C</u>
<u>Grocery store</u>		<u>C</u>
<u>Big box including grocery and home improvement (over 100,000 square feet)</u>		<u>C</u>
<u>Eating and Drinking Establishments</u>		
<u>Restaurant or cafe without drive-in service, with covered patio</u>	<u>P</u>	
<u>Restaurant or cafe drive-in/thru service</u>		<u>C</u>
<u>Bar, Lounge, Tavern or Cantina</u>		<u>C</u>
<u>Coffee shop</u>	<u>P</u>	
<u>Delicatessen/ Specialty foods</u>	<u>P</u>	

SECTION 11.04 ZONING USE CHART		
<u>Uses</u>	<u>Permitted by Right P</u>	<u>Conditional Use C</u>
<u>Microbrewery</u>		<u>C</u>
<u>Wine bar</u>		<u>C</u>
<u>Personal Services</u>		
<u>Day Spa</u>	<u>P</u>	
<u>Fitness Center/Health Club</u>	<u>P</u>	
<u>Dry cleaning/Laundry (drop off and pick-up only)</u>	<u>P</u>	
<u>Barber or beauty shop</u>	<u>P</u>	
<u>Nail salon</u>	<u>P</u>	
<u>Shoe repair</u>	<u>P</u>	
<u>Alterations and Tailor</u>	<u>P</u>	
<u>Medical and Care facilities</u>		
<u>Clinic: medical, dental, optical, chiropractor, health care services</u>	<u>P</u>	
<u>Emergency/medical ambulatory care facility (limited overnight stays)</u>	<u>P</u>	
<u>Hospital</u>	<u>P</u>	
<u>Optician, Optical shop</u>	<u>P</u>	
<u>Pharmacy or drugstore</u>	<u>P</u>	
<u>Lodging*</u>		
<u>Hotel</u>	<u>P</u>	
<u>Live/work</u>		<u>C</u>
<u>Multifamily – apartments and condominiums</u>		<u>C</u>
<u>Assisted Living</u>		<u>C</u>
<u>Nursing Home (licensed)</u>		<u>C</u>
<u>Mixed Use Development*</u>		
<u>Retail/Residential</u>		<u>C</u>
<u>Retail/ Live-Work/Residential</u>		<u>C</u>
<u>Residential/Retail/Office</u>		<u>C</u>
<u>*Planned Unit Development encouraged</u>		
<u>Office, Professional</u>		
<u>Office building</u>	<u>P</u>	
<u>Attorney, Engineer, Architect, Landscape architect, Insurance, Financial advisor, Travel agent</u>	<u>P</u>	
<u>Bank or credit union</u>	<u>P</u>	
<u>Pet</u>		
<u>Veterinary office without boarding except for medical need, no outside runs</u>	<u>P</u>	
<u>Veterinary Clinic with boarding and outside runs</u>		<u>C</u>
<u>Pet Supplies</u>	<u>P</u>	
<u>Pet Grooming (no boarding)</u>	<u>P</u>	
<u>Outdoor Equipment and Supplies</u>		
<u>Plant nursery</u>		<u>C</u>
<u>Landscape and garden supplies</u>		<u>C</u>

SECTION 11.04 ZONING USE CHART		
<u>Uses</u>	<u>Permitted by Right P</u>	<u>Conditional Use C</u>
<u>Seasonal/temporary sales</u>		<u>C</u>
<u>Lawn, garden, and play structures</u>		<u>C</u>
<u>Miscellaneous</u>		
<u>Office/showroom/warehouse</u>	<u>P</u>	
<u>Light Manufacturing in conjunction with Office/showroom/warehouse</u>		<u>C</u>
<u>Mortuary</u>		<u>C</u>
<u>Open space/Plaza</u>	<u>P</u>	
<u>Library, art gallery, studio, museum</u>	<u>P</u>	
<u>Theater</u>	<u>P</u>	
<u>Bike Racks</u>	<u>P</u>	
<u>Automobile charging station</u>		<u>C</u>
<u>ATM (free standing)</u>		<u>C</u>
<u>Public and Private Utilities</u>		
<u>City infrastructure (water, waste water, drainage, fire, police)</u>	<u>P</u>	
<u>Government offices</u>	<u>P</u>	
<u>Private Utilities (telephone, cable)</u>	<u>P</u>	
<u>Cell and telecommunications towers</u>		<u>C</u>

**SECTION 11.10: ADDITIONAL STANDARDS FOR CONDOMINIUM OR
MULTIFAMILY/APARTMENT DEVELOPMENT:**

(a) For condominium or multifamily/apartment development, the additional standards shall apply:

- (1) Dwelling-unit buildings shall be located and oriented to screen all parking areas from view of adjoining uses, including roadways.
- (2) Dwelling-unit buildings shall transition in height from lower to higher from the perimeter to the interior of the development. The taller buildings in the development shall be located in the interior part of the development.
- (3) Buildings with up to two-story dwelling units may be located around the perimeters of the development, except that three-story buildings will be allowed around perimeters if they are part of buildings that include both two and three stories.

~~(4) — Long uninterrupted expanses of building facades are prohibited. Articulation is required through the use of jogs, projections or retreats in the building walls, windows, balconies, entryways and bays.~~

~~(5) — All building entries adjacent to a street shall be pedestrian-scaled and shall include two or more of the following architectural treatments:~~

- ~~i. — distinctive doorways;~~
- ~~ii. — distinctive entry canopies or awnings;~~
- ~~iii. — projected or recessed entry bays; porches;~~
- ~~iv. — changes in paving material, texture, or color;~~
- ~~v. — landscaping providing entry focal points;~~
- ~~vi. — fountains;~~
- ~~vii. — decorative benches;~~
- ~~viii. — ornamental glazing,[:]~~
- ~~ix. — railings,[:] and~~
- ~~x. — balustrades.~~

~~(6) — Stairs, hallways, and elevators shall be located within buildings and structures and not on the exterior of buildings and structures. No more than 25 percent of front doors to units shall be located on the exterior of the buildings.~~

~~(7) — Garages may be attached, detached, the first floor of a multistory residence or multistory freestanding structures. If freestanding parking structures are used, such structures shall be located so as to be easily accessible to the buildings in which the dwelling units they service are located.~~

~~(8) — The exteriors of freestanding multistory parking structures shall have architecturally designed masonry panels.~~

~~(9) — Garage doors of attached garages shall not comprise more than 60 percent of the total length of a building's frontage, with no more than six such garage doors in succession on a building.~~

~~(10) — No more than four detached garages shall be located side-by-side.~~

~~(11) — Any carport section shall be limited to housing no more than six vehicles, up to a maximum of 120 feet in length, including enclosed storage areas.~~

~~(12) — At least one garage with square footage sufficient to house a minimum of two seven-foot by 18-foot automobiles in addition to normal yard maintenance equipment shall be provided for each condominium unit.~~

~~(13) — The square footage for garages for a multifamily development shall be of adequate square footage to house a minimum of one seven-foot by 18-foot automobile.~~

~~(14) — At least 50 percent of the required total number of parking spaces shall be provided within covered parking such as garages or carports.~~

SECTION 11.11: ADDITIONAL STANDARDS FOR HOTEL DEVELOPMENT:

The following additional standards shall apply to hotel development:

(a) Long uninterrupted expanses of building facades are prohibited. Articulation is required through the use of jogs, projections or retreats in the building walls, windows, balconies, entryways and bays.

(1) All building entries adjacent to a street shall be pedestrian-scaled and shall include two or more of the following architectural treatments:

- i. distinctive doorways;
- ii. distinctive entry canopies or awnings;
- iii. projected or recessed entry bays; porches;
- iv. changes in paving material, texture, or color;
- v. landscaping providing entry focal points;
- vi. fountains;
- vii. decorative benches;
- viii. ornamental glazing,[:]
- ix. railings,[:] and
- x. balustrades.

(2) Stairs, hallways, and elevators shall be located within buildings and structures and not on the exterior of buildings and structures.

- (3) Guestrooms may be accessible only through interior corridors.
- (4) Excluding windows and doors, a minimum of 50 percent of the exterior of buildings shall consist of architectural approved building materials in this zoning district ordinance[.]
- (5) If freestanding parking structures are used, such structures shall be located so as to be easily accessible to the buildings in which the guestrooms they service are located.
- (6) The exteriors of freestanding multistory parking structures shall have architecturally-designed masonry panels.
- (7) Outdoor delivery or service areas within view of any right-of-way or residential area shall be screened from view by masonry walls.
- (8) Outdoor recreational space within view of any right-of-way or residential area shall be screened from view by a combination of fencing and landscaping. The use of chain link fencing materials shall not satisfy the requirements for screening outdoor recreational space.

SECTION 11.13: ADDITIONAL REQUIREMENTS FOR CARWASH FACILITIES:

- (a) There shall be a 10,000-linear foot minimum separation between carwash facilities for properties with frontage along IH2/US Expressway 83. The distance shall be measured by a direct line from the corner of one property to the corner of another property.

~~SECTION 12.00: SPECIAL USE REGULATIONS:~~

~~Any person or entity may make application to the City Commission for a special use permit for special use described below.~~

~~SECTION 12.01: APPLICATION FEE:~~

~~Said application must be accompanied by an application fee.~~

~~SECTION 12.02: SPECIAL USE PERMIT:~~

~~(a) — The City Commission by an affirmative two-thirds vote may grant a special use permit for the following special uses in any district as qualified for which they are otherwise prohibited by this Code; and may impose appropriate conditions and safeguards, including a specified period of time for the permit. The City Commission shall have great discretion.~~

- ~~(1) — Airport, landing field, or landing strip for aircraft;~~
- ~~(2) — Amusement park, but not within 300 feet of any “R” District;~~

- (3) — ~~Circus or carnival grounds, but not within 300 feet of any “R” District;~~
- (4) — ~~Commercial, recreational, or amusement development for temporary, seasonal or other limited periods but not within 300 feet of any “R” District;~~
- (5) — ~~Hospital, clinic or institution;~~
- (6) — ~~Office building or a civic, religious or charitable organization, conducting activities primarily by mail and not handling merchandise or rendering services on site.[:]~~
- (7) — ~~Privately operated community building or recreation field;~~
- (8) — ~~Any public or government building, including public or denominational schools;~~
- (9) — ~~Radio or television broadcasting tower or station;~~
- (10) — ~~In accordance with the Texas Alcoholic Beverage Code on-premises consumption of alcoholic beverages, including beer;~~
- (11) — ~~Drive-in theaters;~~
- (12) — ~~Neighborhood grocery stores, provided they are located on a corner lot, with total floor area not to exceed two thousand five hundred (2,500) square feet, display signs not to exceed the height of the average roofline of the neighborhood and to be switched on no earlier than 6:00 a.m. and switched off no later than 11:00 p.m.; or~~
- (13) — ~~Planned Unit Development.~~

~~(b) — The owner shall file with the Planning and Zoning Commission a proposed site plan and detailed description of the structures to be erected, the other facilities of the project and the land uses involved. In addition, the applicant shall furnish such other information as the Planning and Zoning Commission may reasonably require. In acting upon the application, the Planning and Zoning Commission may alter setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules and density and intensity limits. It may also recommend to the City Commission uses not permitted in the district where the lot is located, providing such uses are desirable or convenient for users of the lot as developed or the immediate neighborhood, and provided that such uses are planned so as to assure that they will not materially alter the existing character of the neighborhood.~~

~~(c) — A special permit granted by the City Commission under the provisions above shall be considered as an amendment to the zoning regulation as applicable to such property. In granting such permit the City Commission may impose conditions which shall be complied with by the applicant before any final public utility connection may be made with such building or property, and such conditions shall not be construed as conditions precedent to the granting of the special permit or the change in zoning of said property, but shall be considered a precedent of such final public utility connections.~~

~~(d) — Before authorization of any of the above special uses, the request shall be referred to the Planning and Zoning Commission for study and a written report concerning:~~

~~(1) — the conformance of the proposed use to the overall objectives of the Comprehensive Plan; and~~

~~(2) — the character and development of the neighborhood.~~

SECTION 12.03: HEARINGS:

~~Public hearings shall be held before the Planning and Zoning Commission and the City Commission. Notices and publications of the time and place for which shall conform to the procedure prescribed in Article VIII[-.]~~

SECTION 12.04: TEMPORARY BUILDINGS:

~~Temporary buildings used only in connection with construction work may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work.~~

SECTION 12.05: RAILROADS AND UTILITIES:

~~Existing railroads and utilities including telephone service may continue to be operated and maintained in dwelling and commercial districts but no new railroad or utility structure other than the usual poles, wires and underground utilities shall be established in such districts except when so authorized by the Zoning Board of Adjustments.~~

SECTION 12.06: LEGAL NONCONFORMING STRUCTURE:

~~On any lot of record on which there is a conforming structure which is considered “legal nonconforming” due to the nonconformity of other structures on, or adjacent to this lot, the otherwise conforming structure may be altered or enlarged, provided such alteration or enlargement does not in itself create a nonconforming use or increase any hazardous condition.~~

~~(Ordinance 17-13 adopted 6/27/17)~~

SECTION II. REPEALER CLAUSE. This Ordinance shall be cumulative of all other ordinances dealing with the same subject and any provision of any ordinance in direct conflict with any provision of this Ordinance is hereby repealed and the provisions of this Ordinance shall supersede any provisions in conflict herewith; all provisions of any other ordinance not in conflict herewith shall remain in full force and effect.

SECTION III. SAVINGS CLAUSE. If any section, part, or provision of this ordinance is declared unconstitutional or invalid, by a court of competent jurisdiction, then, in that event, it is expressly provided, and it is the intention of the City Commission in passing this ordinance that its

parts shall be severable and all other parts of this ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION IV. CODIFICATION CLAUSE. The provisions of Section I of this Ordinance are to be published in the location indicated in the Code of Ordinances of the City of San Juan, Texas, as soon as practicable.

SECTION V. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

READ, CONSIDERED, PASSED AND APPROVED on first reading at a regular meeting of the City Commission of the City of San Juan, Texas, at which a quorum was present and which was held in accordance with Vernon's Texas Codes Ann., Government Code, Section 551.041, on the 22nd day of October, 2024.

READ, CONSIDERED, PASSED AND APPROVED on second and final reading at a regular meeting of the City Commission of the City of San Juan, Texas, at which a quorum was present and which was held in accordance with Vernon's Texas Codes Ann., Government Code, Section 551.041, on the 12th day of November, 2024.

CITY OF SAN JUAN

**MARIO GARZA
MAYOR**

ATTEST:

APPROVED BY:
Palacios, Garza & Thompson, P.C.

**BRENDA ESCALANTE
CITY SECRETARY**

CITY ATTORNEY