



**Planning Commission**  
**12/18/2023**

Notice is hereby given of a regular meeting of the Planning Commission of the City of San Angelo to be held on December 18, 2023 at 9:00 AM at City Hall – East Mezzanine, 72 W. College Ave., San Angelo, Texas, for the purpose of considering the following agenda items.

**I. Call to Order**

**II. Consent Agenda**

The Commission may request for a Consent Agenda item to be moved to the Regular Agenda for presentation and public comment, otherwise the Consent Agenda will be considered in one vote. All items on the consent agenda have been recommended for approval by staff with no opposition received to date. Since some items on the Consent Agenda may require a public hearing, the Commission will accept public comment on any item on the Consent Agenda in one public hearing.

- A. Consider approving the meeting minutes from November 20, 2023.

**III. Regular Agenda**

**A. Subdivision Plats**

The Planning Commission has final authority for approval; appeals may be directed to City Council.

1. FP23-36 Stonewall Estates at Fairview: A request for a Final plat in the extraterritorial jurisdiction of the City of San Angelo called Stonewall Estates at Fairview being 39.351 acres totaling 23 lots. A variance request has been submitted for paving width on Whittington Loop and a variance to paving request for Fairview Rd a major collector.
2. RP23-37 Leal Subdivision Section Two: Request for a Residential replat to Leal Subdivision Section 2 is combining 6 RS-1 of the Exall Addition Block 31 lots 1-6 into zoning lots in one RS-1 lot being 0.961 Acres being renamed Leal Subdivision Section 2.

**B. Rezoning and Comprehensive Plan Amendments**

City Council has final authority for approval of rezonings and amendments to the Comprehensive Plan.

1. Z23-17: A Request for a zone change from Single Family Residential (RS-1) to Two Family Residential (RS-2) at 1212, 1210 & 1208 Roosevelt Street.

**C. Conditional Uses**

The Planning Commission has final authority for approval of conditional uses; appeals may be directed to the City Council.

1. CU23-53: Request to approve a Conditional Use to allow a Short-Term Rental located at 2301 Palms Court.
2. CU23-54: Request to approve a Conditional Use to allow a Short-Term Rental located at

322 S Van Buren Street.

3. CU23-56: Request to approve a Conditional Use to allow a Short Term Rental located at 1710 W Avenue H.
4. CU23-57: Request to approve a Conditional Use to allow a Short-Term Rental located at 306 N Monroe St.
5. CU22-19 Renewal: Request to renew a Conditional Use to allow the continued use of a Short-term Rental located at 2015 Beaty Circle.
6. CU22-23 Renewal: Request to renew a Conditional Use to allow the continued use of a Short-term Rental located at 1607 S Park St.
7. CU22-26 Renewal: Request to renew a Conditional Use to allow the continued use of a Short-Term Rental located at 2542 Baylor Avenue.

**D. Ordinance Amendments**

City Council has final authority for amendments to the zoning or subdivision ordinances.

1. Discussion on amendments to Section 406 of the Zoning Ordinance regarding Short-term Rentals.

**IV. Public Comment**

Issues or concerns not on the Regular Agenda may be raised by the public at this time. Citizens should speak from the podium, address all comments to the dais, begin by stating their name and address or Single Member District number, and limit their remarks to less than three minutes.

**V. Planning Director's Report**

**VI. Follow Up and Administrative Issues**

- A. Announcements and consideration of Future Agenda Items

**VII. Adjournment**

**CERTIFICATION**

I hereby certify that the above notice of meeting was posted on the bulletin board at the City Hall of the City of San Angelo, Texas

  
\_\_\_\_\_  
Aaron Vannoy, Assistant Director of Planning  
and Development Services

All agenda items are subject to action. The Planning Commission reserves the right to consider business out of posted order.

In compliance with the Americans with Disabilities Act, the City of San Angelo will provide for reasonable accommodations for persons attending board or commission meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please contact the ADA Coordinator at 325-657-4407 for request, or by completing a request form online at [cosatx.us/ada](http://cosatx.us/ada).





**RECORD OF MINUTES**  
**CITY OF SAN ANGELO, TX**  
**PLANNING COMMISSION**  
**MONDAY, November 20, 2023, 9:00 A.M.**

**Board Present:** Travis Stribling, Chairman  
Luke Uherik, Vice Chairman  
Trinidad Aguirre  
Brittany Davis  
Michelle Miller  
Kandi Pool  
Joe Self

**Staff Present:** Rick Weise, Assistant City Manager  
Aaron Vannoy, Asst. Director, Planning and Development Services  
Brandon Dyson, Asst. City Attorney  
Sherry Bailey, Principal Planner  
Rae Lineberry, Planner I  
Austin Reed, Planning Technician  
Olga Trueman, Planning Technician

**I. Call to Order**

Chair Stribling called the meeting to order at 9:06 am, recognized a quorum of 7, and called for the consent agenda.

**II. Consent Agenda**

The Commission may request for a Consent Agenda item to be moved to the Regular Agenda for presentation and public comment, otherwise the Consent Agenda will be considered in one vote. All items on the consent agenda have been recommended for approval by staff with no opposition received to date. Since some items on the Consent Agenda may require a public hearing, the Commission will accept public comment on any item on the Consent Agenda in one public hearing.

- A. Meeting minutes** - Consideration of approval for the October 16, 2023 Planning Commission meeting minutes.
- B. RP23-36: San Angelo Gateway Addition** - A request for approval of a replat of Lot one Block two of the San Angelo Gateway Addition Section one into three light manufacturing lots totaling 28.64 acres in the San Angelo Industrial Park.
- C. FP23-34: Catarina Court** - A request for approval of a final plat of Meridian North Section four that will create 21 residential lots along Slayde St. and Catarina Ct.
- D. PP23-13 & FP23-35: Odell Estates** - A request for approval to preliminary plat Odell Estates Section one and final plat Odell Estates Section One Lot 1 for residential purposes in the extraterrestrial jurisdiction of the City of San Angelo.

The Chair opened and closed public comment after none was raised.

*Commissioner Pool moved to **approve** the consent agenda, seconded by Joe Self. This motion carried 7-0.*

### III. Regular Agenda

#### A. Subdivision Plats

The Planning Commission has final authority for approval; appeals may be directed to City Council.

**1. RP23-33: Angelo Heights Addition** - A request for First Replat of Angelo Heights Addition, Block 178 being lots 7, 8, and 9 having Two Family (RS-2) zoning. A variance request to maintain the established right-of-way at 49' instead of 52' for a minor collector on N. Van Buren and a paving width variance to maintain the 30' of paving with curb and gutter instead of the minimum of 36' has been submitted.

Asst. Dir. Aaron Vannoy presented this request to the Commission. This case involves a residential lot out of the Central neighborhood that is being split into two, creating a double frontage lot. The applicant has already been to and received approval from the Zoning Board of Adjustment for a smaller than usual front setback. The applicant is now requesting two variances with the plat. Staff recommends approval of the request and its two variances with five conditions, which include extending utilities and the existing sewer easement.

The Chair opened for public comment.

Jack Downey, representing SKG Engineering, approached the podium. He offered to answer any questions that the Commission may have.

Having no questions, the Chair closed public comment.

*Brittany Davis gave a motion to **approve** as presented, seconded by Joe Self. This motion carried 7-0.*

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**2. RP23-34: Lake Nasworthy Addition** - First replat of Lots 44 and 45 in Block 3 Section 3 Group Red Bluff of the Lake Nasworthy Addition with Single Family Residential (RS-1) zoning. A variance request has been made for no additional paving.

Aaron Vannoy presented this request to the Commission, which concerns the combining of two lots in the Nasworthy neighborhood into one. There is a sizable amount of city-owned land between the property and the road, where the applicant is seeking one paving variance. Given that the replat will not increase traffic, staff recommends approval of the replat and its variance.

The Chair opened public comment.

Blake, representing the engineering firm, approached the podium and offered to answer any questions.

The Chair closed public comment.

*Brittany Davis gave a motion to **approve** as presented. Vice Chair Uherik seconded this motion, which then passed 7-0.*

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## **B. Conditional Uses**

The Planning Commission has final authority for approval of conditional uses; appeals may be directed to the City Council.

### **1. CU22-21: 2517 Junius St** - A request for a renewal of a Conditional Use for a Short-term Rental at 2517 Junius Street.

Principal Planner Sherry Bailey presented the request - the first renewal of a short-term rental out of Angelo Heights. The applicant had a late start on inspections and has only been operating for a portion of their initial year as a result. No mailed responses were received. Given the timeline of operation, staff is recommending that this renewal be for one year instead of the usual two.

The Chair asked exactly how long the property has been operating, to which Bailey responded around three to four months.

The Chair opened for public comment.

Andrea Salazar, applicant, approached the podium. She explained that they began operating in March (8 months prior), and that the late start was from preparing & furnishing the property. She requested the Commission grant the renewal for the full two years. The Chair asked for an estimate of how many times the property has been rented. Ms. Salazar provided activity logs to the Commission demonstrating a substantial number of stays.

As requested by the Chair, Sherry Bailey explained staff's process in ensuring responsible operation through checking with Police, Code Enforcement, and surrounding property owners. She also mentioned that staff's benchmark for operation is the time that an applicant obtains their Certificate of Occupancy, which in this case was as late as August.

Commissioner Self asked if it was possible to adjust the renewal timeframe from the recommended one year to the two years. This was affirmed. Trinidad Aguirre raised an issue with how often the Commission is seeing applicants who have had late starts towards operation within their initial one-year timeline.

*Brittany Davis gave a motion to **approve** the request with a **two-year renewal**. Michelle Miller seconded this motion, which then passed 7-0.*

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### **2. CU23-50: 2183 Gun Club Rd** - A request for a renewal of a Conditional Use for a Short-term Rental located at 2183 Gun Club Rd.

Planner Rae Lineberry presented the request to the Commission. This property, located at Lake Nasworthy, has been operating as a short-term rental since 2017. Zero mailed responses were received. Staff is recommending approval.

The Chair opened and closed public comment to no response.

The Chair asked about the gap in the property's renewals. The original conditional use was obtained in 2017 but expired in 2018. In 2020, a new conditional use was obtained. This was renewed at one year in 2021 and is now seeking renewal after their first two-year period. Lineberry explained that, in 2017, the applicant was not aware that short-term rental conditional uses expired or that there was a renewal

process. After learning of such in 2020, the applicant sought a new conditional use.

*Vice Chair Uherik moved to **approve**, seconded by Davis. The motion passed 7-0.*

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**3. CU23-51: 999 Knickerbocker Rd** - A request for approval of a Conditional Use to allow Retail Sales and Service Use (small equipment sales, lawnmowers and golf carts) in a Light Manufacturing (ML) Zoning District located at 999 Knickerbocker Rd.

Principal Planner Sherry Bailey presented this request. The subject property and surrounding area are zoned as Light Manufacturing, likely because of its proximity to the railroad – although it functions predominantly as a commercial area. The proposed business will make use of outdoor storage/display and has historically been an area of exterior display. As a condition, staff would recommend not surpassing the standards of Heavy Commercial zoning.

The Chair asked what the front setback along Knickerbocker should be. Bailey responded that the setback should be the standard 25 feet. It is acknowledged that the existing improvements are well within that setback, but they always have been & will be allowed to remain there.

The Chair opened public comment.

Kailey Ward, representing the applicant, approached the podium. She explained that the reasoning for being within the front setback is that the building predates the widening of Knickerbocker Road. She was asked if they would be servicing the golf carts at the location, to which she answered that most servicing would occur at their other location within town. Commissioner Davis asked why the conditional use was necessary if no servicing occurs, to which Principal Planner Bailey responded that retail sales within Light Manufacturing require a conditional use. The Chair expressed the desire for some sort of “buffer” so that there is not an immediate line of golf carts on Knickerbocker. Kailey Ward again spoke, mentioning that there is a fence on the side/back of the property along Knickerbocker where they would keep product locked up.

*Brittany Davis gave a motion to **approve** as presented. This was seconded by Joe Self. This motion carried 7-0.*

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**4. CU23-52: 2849 E Houston Harte Rd** - A request for a Conditional Use to allow a cell tower in General Commercial Zoning District located at 2849 E Houston Harte Rd.

Planner Rae Lineberry presented to the Commission this request from near the Paulann neighborhood. Verizon intends to construct a cell tower on a vacant plot of land in CG zoning, where it would not be allowed by right. There is a residential area several hundred feet behind where the tower was visualized. One response was received in support.

The Chair opened public comment.

Charles Becker asked if there would be any guidewires on the tower or if it was freestanding. Ariel Stouder, representing the applicant, answered that there would be no guidewires as it is a self-support tower designed to collapse upon itself. The Chair asked how tall the tower would be, to which she answered 190 feet. Becker asked if there would be a curb cut along Houston Harte. Asst. Dir. Vannoy answered that access from Houston Harte is probably envisioned, but that it is ultimately a Texas Department of Transportation road.



The Chair closed public comment.

The Chair expressed concern about the cell tower occupying what could be valuable frontage along Houston Harte in the future. He asked how far the tower was from the road, but this was not clear. Lineberry answered that it may not be able to be moved back much further as there is a separation requirement between telecommunication towers and residential areas. Commissioner Aguirre provided that, upon his experience in other cities, that this is a suitable location for a cell tower. Aaron Vannoy mentioned that there is a required 50-foot minimum setback from the road.

*Brittany Davis gave a motion to **approve** as presented, seconded by Joe Self. This motion passed 7-0.*

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#### **C. Rezoning and Comprehensive Plan Amendments**

City Council has final authority for approval of rezonings and amendments to the Comprehensive Plan.

**1. Z23-15: 1182 E Gas Plant Rd A** - request for a zone change from Heavy Commercial (CH) Zoning District to Light Manufacturing (ML) Zoning District at 1182 E. Gas Plant Rd.

Principal Planner Sherry Bailey presented the request. The applying business is expanding their services and will require multiple 16,000-gallon storage tanks within the existing building – Light Manufacturing zoning will make way for this kind of volume. This product is not combustible, explosive, corrosive, or poisonous. The request is compatible with the Comprehensive Plan and staff are recommending approval.

The Chair opened public comment.

Michael Looney with the San Angelo Chamber of Commerce spoke of the business' background, growth, and importance to San Angelo. He offered to answer any questions, but there were none.

*Davis moved to **approve**, seconded by Michelle Miller. The motion passed 7-0.*

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#### **D. Ordinance Amendments**

City Council has final authority for amendments to the zoning or subdivision ordinances.

**1. Short-term Rentals** - Discussion on amendments to Section 406 of the Zoning Ordinance regarding Short-term Rentals.

Planner Rae Lineberry presented the discussion, which is a continuation from the previous month's hearing. Chairman Stribling found it best to move through the list of changes one-by-one to give the Commission time to comment on each. The first change involved replacing the mention of a "license" required to a more-accurate "conditional use", which was found to be sensible by the Commission.

A discussion then began about one of the other changes: removing the requirement for a Change of Occupancy and replacing it with a round of inspections. Charlie Kemp, the building official, was invited to speak on this change. She cited confusion between Building Permits and Fire Prevention, as they work under different codes. This results in Fire Prevention treating each prospective STR as a commercial business, which tends to be strenuous. Applicants will be instructed to seek these inspections before their conditional use. These changes combined aim to expedite the application process and cut down on time spent not operating during the initial year.

The next change seeks to re-structure the expiration/renewal text as to have all short-term rentals renew at the first of January each year. Ideally, renewals will be automatic unless there is grounds for revocation. It is asked whether there will be a fee associated with renewal, to which Asst. City Manager Rick Weise answered that there should be. As pointed out by Commissioner Self, this does mean that someone receiving their permit in December will be required to renew that next month – which is something they should be aware of upfront. Commissioner Davis asked how existing properties would be notified of these changes. Lineberry says there will be a joint Planning Commission-City Council meeting to discuss the changes and that the newspaper would be an avenue for notification. Commissioner Aguirre asked if there had been consideration of a “soft compliance” around January 31<sup>st</sup> as to accommodate for potential error from both sides. Aaron Vannoy acknowledged this and mentioned that Code Compliance already presents grace periods in some areas which could be applied here.

Vice Chair Uherik asked about revocation, which Lineberry shifted the discussion towards that subject. Grounds for revocation include citations and number and severity of neighbor complaints. Asst. City Attorney Brandon Dyson helped highlight what a minor complaint may be – where a call is made but nothing precipitates from. The Chair suggested that any member of the public who experiences issues with neighbors use their cell phones to log and document their evidence. The Chair also expressed the desire for enforcement towards those who choose to never register, come into compliance, or pay their hotel occupancy taxes. Uherik asked about specificity on the number of complaints or violations that would result in penalty. Dyson says that this threshold was left discretionary, but that it could easily be specified if desired.

Moving on, Rae Lineberry presented some changes to operator information. Contact information will still need to be provided, and a local operator will still be required. Operator contact information will be made available on a city-sponsored website. Operator name & phone number will also need to be posted on-site. The Chair asked if there is a penalty associated with having outdated operator information, which Lineberry confirmed.

The 500-foot distance provision between short-term rentals is being maintained, and it is also being specified that this is not able to be varied by the Zoning Board of Adjustment. The separation requirement is only applicable in “RS” zoning, meaning RS-1, RS-2, and RS-3. Commercial areas and low-rise multifamily districts are exempt from the 500-foot provision. Aguirre asked if there was a requirement for time-to-operate in the scenario that an owner is holding up other applicants within 500 feet but is inactive. Lineberry says that multiple months of zero hotel taxes (indicating no operation) becomes grounds for review & revocation. Aguirre mentions that this eliminates the possibility of a property owner obtaining a “short-term rental” solely as a means to prevent others in the area from doing the same.

When discussing separation from schools, the current proposition holds that the 500-foot required distance is measured from property line of short-term rental to the nearest fenced area or “used” building of a public school. The definition of a “used building” and “public school” was clarified by staff. The required separation from school to short-term rental is required across all zoning. Commissioner Miller sought clarification on whether Angelo State University would contribute to these separations as currently defined. Presumably, this was not intended, so staff responds that they will look closer at definitions.

The 30-day appeal window is being shortened to 15 days as to narrow the window that applicants must wait before being able to operate. The wording was amended to clarify that any citizen is able to appeal.

Finally, staff removed requirements that have been disallowed by court-cases, such as restrictions on outdoor gatherings and those pertaining to road pavement width.

Lineberry asked if the Commission was okay with introducing these changes to City Council at the next month, or if they would prefer to hear it on their own once more. The Commission was fine with moving

to the City Council next. Some discussion ensued about the city's enforcement policies and opportunities. The Chair suggested collaborating with hosting websites such as Airbnb in ensuring compliance, which Lineberry said is something other municipalities have explored to some success.

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#### **IV. Public Comment**

Issues or concerns not on the Regular Agenda may be raised by the public at this time. Citizens should speak from the podium, address all comments to the dais, begin by stating their name and address or Single Member District number, and limit their remarks to less than three minutes.

The Chair opened and closed public comment after none was raised.

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#### **V. Planning Director's Report**

- A. Discussion** - potential expansion of the Open Structure overlay to include approximately 200 homes located along Catalina Dr, Cordell Dr, Louise Dr, Eunice Dr, Erine Dr and Nueces Dr. North of Edmund Blvd.

Assistant Director Aaron Vannoy presented this report to the Commission. The subject area out of the Angelo Heights neighborhood holds as many as fourteen open structures that require compliance. The first couple of these structures were heard at the Zoning Board of Adjustments, where the Board expressed the desire to extend the Open Structure Overlay Zone. Out of these structures, some would conform to the requirements of the overlay zone as-is, whereas others would still require a variance.

Vannoy presented a few photographs of existing open structures as examples for what would theoretically comply if the overlay was extended. The Commission found that it would only make sense to extend the area if looking at the entire zone, and that there was no significant difference between the houses on both sides of the zone's border.

Vannoy answered that there is no motion required at the time, and that this is to keep the Commission informed and to gather opinions before they bring them a full case in the future.

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#### **VI. Follow-up and Administrative Issues**

**A. Announcements and Consideration of Future Agenda Items**

The next regular meeting of the Planning Commission is scheduled to begin at 9:00 a.m. on **December 18, 2023** at the East Mezzanine of City Hall, 72 W College Avenue, San Angelo, Texas.

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#### **VII. Adjournment**

*Brittany Davis moved to adjourn, seconded by Joe Self. The meeting adjourned at 11:08 am.*

All agenda items are subject to action. The Planning Commission reserves the right to consider business out of posted order.

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**PLANNING COMMISSION – December 18, 2023**  
**STAFF REPORT**



|                                                                                                                                                                                                                                                                                                                                                                            |                |                                            |              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------------------|--------------|
| <b>APPLICATION TYPE:</b>                                                                                                                                                                                                                                                                                                                                                   |                | <b>CASE:</b>                               |              |
| Final Plat                                                                                                                                                                                                                                                                                                                                                                 |                | FP23-36 Stonewall Estates at Fairview.     |              |
| <b>SYNOPSIS:</b>                                                                                                                                                                                                                                                                                                                                                           |                |                                            |              |
| The applicant has applied to create 23 tracts each being over 1acres in size along Fairview School Road and a newly created road called Whittington Loop. This project is in the Extraterritorial Jurisdiction area with a total land area of 39.351 acres between Fair view School Road and Hwy 87 South. Note, there is not proposed frontage or access to Hwy 87 South. |                |                                            |              |
| <b>LOCATION:</b>                                                                                                                                                                                                                                                                                                                                                           |                | <b>LEGAL DESCRIPTION:</b>                  |              |
| Approximately 3000 Blk of Fairview School Rd.                                                                                                                                                                                                                                                                                                                              |                | A-8013 S-0074 Survey: J FARR, 82.430 ACRES |              |
| <b>SM DISTRICT / NEIGHBORHOOD:</b>                                                                                                                                                                                                                                                                                                                                         | <b>ZONING:</b> | <b>FUTURE LAND USE:</b>                    | <b>SIZE:</b> |
| Extraterritorial Jurisdiction                                                                                                                                                                                                                                                                                                                                              | None           | Rural                                      | 39.351 acres |
| <b>THOROUGHFARE PLAN:</b>                                                                                                                                                                                                                                                                                                                                                  |                |                                            |              |
| <i>Fairview School Rd.</i> – major collector.                                                                                                                                                                                                                                                                                                                              |                |                                            |              |
| <b>STAFF RECOMMENDATION:</b>                                                                                                                                                                                                                                                                                                                                               |                |                                            |              |
| Staff recommends <b>APPROVAL</b> A-8013 S-0074 Survey: J FARR, 82.430 ACRES with 7 conditions as well as approval of the two variance requests for paving width on Fairview Rd and Whittington Loop.                                                                                                                                                                       |                |                                            |              |
| <b>PROPERTY OWNER/PETITIONER:</b>                                                                                                                                                                                                                                                                                                                                          |                |                                            |              |
| Owner: Misty and Juan Leal<br>Petitioner: SKG Engineering, LLC                                                                                                                                                                                                                                                                                                             |                |                                            |              |
| <b>STAFF CONTACT:</b>                                                                                                                                                                                                                                                                                                                                                      |                |                                            |              |
| Aaron Vannoy<br>Assistant Director of Planning and Development Services<br>(325) 657-4210, Extension 1542<br><a href="mailto:Aaron.vannoy@cosatx.us">Aaron.vannoy@cosatx.us</a>                                                                                                                                                                                            |                |                                            |              |

**Conformity with Comprehensive Plan and Purpose Statements:** The proposed final plat will create 23 housing tracts of greater than an acre in size and will include a new interior street.

**Recommendation:** *A-8013 S-0074 Survey: J FARR, 82.430 ACRES with 7 conditions and recommends the approval of the 2 variance requests for Paving Width on Fairview School Rd and Whittington Loop*

#### Conditions

1. Prior to plat recordation, a drainage study shall be submitted. [Chapter 12, Planning and Development, Sec 12.05.001; Stormwater Design Manual, Sec 2.13] If public improvements are deemed necessary by this study, submit construction plan and profile sheets for approval [ including streets ]. [Chapter 12, Planning and Development, Sec 12.05.001; Stormwater Design Manual, Sec 2.13] Alternatively, submit a request to the City Engineer for approval to defer the requirement to a later stage of development. [Chapter 12, Planning and Development, Sec. 12.05.004]
2. Prior to plat recordation, provide a site plan showing existing structures and existing septic systems, and specifying the water source, to the Tom Green County Environmental Health Department. A suitability study must also be submitted. For more information, contact Pam Weishuhn at 325-658-1038. Provide City staff with approval. [Title 30 TAC Chapter 285, Health and Safety Code Chapter 366]
3. Prior to plat recordation, submit a revised plat, on which is illustrated the dedication of 5 feet on the south side of the right-of-way for Fairview School Rd being 1/2 the required increment to increase total right of way to the 70 ft minimum for a Major Collector Road [Land Development and Subdivision Ordinance, Chapter 10.III.A.1]
4. Prior to plat recordation, prepare & submit plans for required improvements to Fairview School Rd., a Major Collector by half the additional increment necessary to comprise the minimum total pavement width; 48 feet with curb & gutter and a sidewalk. [Land Development and Subdivision Ordinance, Chapter 9 & 10]. The existing pavement width is approximately 16 feet requiring @ 16 feet additional width on the south side. Alternatively; (1) submit a financial guarantee ensuring the completion of these improvements within a 36 month period [Land Development and Subdivision Ordinance, Chapter 6] or (2) obtain a variance from the Planning Commission [Land Development and Subdivision Ordinance, Chapter 1.IV].
5. Prior to plat recordation, prepare and submit plans for approval, illustrating the required construction of all internal streets, meeting the requirements for a local roadway with a minimum 40 feet of pavement with no sidewalk, or 36 feet of pavement width with a 4-foot-wide sidewalk (minimum) on one side. [Land Development and Subdivision Ordinance, Chapter 10]. Once plans are approved, construct street to City specifications [Land Development and Subdivision Ordinance, Chapter 10]. Alternatively, submit a financial guarantee ensuring the completion of these improvements within a 36 month period [Land Development

A second alternative would be to obtain approval of a variance from the Planning Commission [Land Development and Subdivision Ordinance, Chapter 1.IV]

6. Prior to plat recordation, provide a copy of the Tom Green County Appraisal District certification indicating there are no delinquent taxes on the subject property of this subdivision. [Land Development and Subdivision Ordinance, Chapter 7]

7. Alternate Water Sources

Provide City staff with official correspondence from leadership of the Water Supply Corporation, indicating the Corporations ability and willingness to provide water service to each of the lots shown on the proposed final plat.

**Attachments:**

Aerial Map

Final Plat

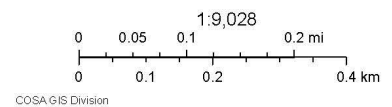
Aerial Map

Stonewall Estates



12/12/2023, 2:34:56 PM

 Parcels





A.C. BROOME  
SURVEY NO. 96 1/2  
ABSTRACT No. 5964

S.P. R.R. CO.  
BLOCK 11  
SURVEY NO. 96  
ABSTRACT NO. 7367

FAIRVIEW SCHOOL ROAD  
60' in use as R.O.W.

REF.: 2,000 Ac.  
Vol. 623, Pg. 217 DR

REF.: 2,400 Ac.  
Vol. 620, Pg. 567 DR

S.P. R.R. CO.  
BLOCK 11  
SURVEY NO. 75  
ABSTRACT NO. 1972

REF.: Whittington Estates  
Section 2  
Cabinet H, Slide 76 PR

REF.: 10,972 Ac.  
Vol. 530, Pg. 263 OPR  
Tract A

REF.: 2,022 Ac.  
Instr. 703011 OPR  
Tract Four

## STONEWALL ESTATES AT FAIRVIEW

Tom Green County, Texas.

OWNER/DEVELOPER: PAINT ROCK INVESTORS 1879, LLC.

DESCRIPTION: Being 39.351 acres of land out of S.P. R.R. Co. Block 11, Survey No. 75, Abstract No. 1972 and S.P. R.R. Co. Block 11, Survey No. 74, Abstract No. 8013, Tom Green County, Texas and being all of that certain 32.15 acre tract described and recorded in Exhibit "B" of Volume 894, Page 548, Official Public Records of Tom Green County, Texas and all of that certain 8.84 acre tract described and recorded in Volume 841, Page 70, Official Public Records of Real Property of Tom Green County, Texas.

ACKNOWLEDGEMENT/DEDICATION  
We, Paint Rock Investors 1879, LLC, do hereby adopt this plat as the subdivision of our property and dedicate for the use of the public the streets and easements shown hereon.

David R. Currie  
Manager

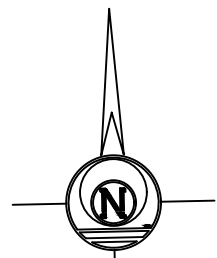
STATE OF TEXAS  
COUNTY OF TOM GREEN  
This instrument was acknowledged before me on \_\_\_\_\_  
by David R. Currie in the capacity shown.

Notary Public, State of Texas

Preliminary, this document  
shall not be recorded for any  
purpose and shall not be used  
or viewed or relied upon as a  
final survey document.

SURVEYOR'S CERTIFICATE  
Know all men by these presents: that I, Russell T. Gully RPLS, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that corner monuments shown hereon were properly placed, under my supervision, in accordance with the rules for land subdivision by the City Council of the City of San Angelo, and I further certify that the tract of land herein platted lies within the city limits of the City of San Angelo, Texas.

23-E-0015



SCALE: 1"= 100'  
0 50 100 200  
GRAPHIC SCALE : FEET

NOTE : Bearings shown hereon are based on Texas Coordinate System of 1983 - Central Zone. Distances shown are surface horizontal.

This Plat is Filed in Cabinet \_\_\_\_ Slide \_\_\_\_  
Plat Records of Tom Green County, Texas.

Field Notes are filed as Instrument No. \_\_\_\_\_  
Official Public Records, Tom Green County, Texas.

**SKG**  
ENGINEERING, LLC

706 SOUTH ABE STREET  
SAN ANGELO, TEXAS 76903  
Firm No. 10102400  
www.skgc.com

PHONE: 325.655.1285  
FAX: 325.657.8189

A 15' unobstructed drainage and utility easement is hereby dedicated on both sides of the Whittington Loop and the south side of Fairview School Road.

A perpetual blanket drainage easement is hereby dedicated for the purpose of allowing stormwater to be discharged onto, over, and across the lots shown hereon. This blanket drainage easement shall not preclude the construction of buildings or improvements or the impounding of stormwater on said lots provided that such does not prohibit the enjoyment of the blanket drainage easement granted. Each lot owner(s) shall be responsible for managing and allowing for the passage of stormwater onto, over, and across said lot(s).

### LEGEND:

- Found 1/2" Iron Pipe or Rod (unless otherwise noted)
- Set 1/2" Iron Rod with Cap
- PROPERTY LINES
- ADJACENT PROPERTY LINE
- - - - - EASEMENT/BUILDING SETBACK LINE
- SURVEY LINE

PLANNING COMMISSION  
Approved for recording this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_, City Planning  
Commission of San Angelo, Texas.

By: \_\_\_\_\_  
Chairman  
\_\_\_\_\_  
Secretary

DEPARTMENT OF PUBLIC WORKS  
Approved for recording this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

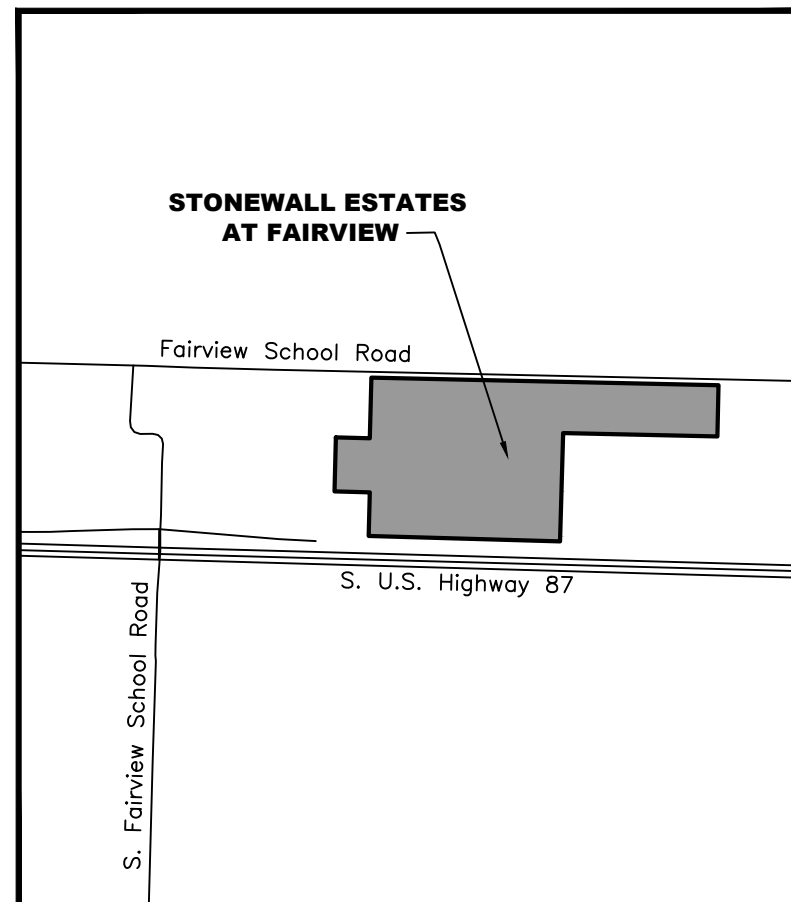
By: \_\_\_\_\_  
Director of Public Works

DEPARTMENT OF WATER UTILITIES  
Approved for recording this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Director of Water Utilities

COUNTY CLERK  
Filed for record this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ @ \_\_\_\_\_  
County Clerk of Tom Green Co., Tx.

By: \_\_\_\_\_



VICINITY MAP

**PLANNING COMMISSION – December 18, 2023**  
**STAFF REPORT**



|                                                                                                                                                                                                                                                 |                      |                                                                                |              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|--------------------------------------------------------------------------------|--------------|
| <b>APPLICATION TYPE:</b>                                                                                                                                                                                                                        |                      | <b>CASE:</b>                                                                   |              |
| Replat RP23-37                                                                                                                                                                                                                                  |                      | RP23-37 Leal Subdivision Sec Two, replat of Exall Addition Block 31, lots 1-6. |              |
| <b>SYNOPSIS:</b>                                                                                                                                                                                                                                |                      |                                                                                |              |
| The applicant has applied to replat to combine 6 lots into one large lot with frontage along the east side Armstrong St between future 24 <sup>th</sup> street and 23 <sup>rd</sup> street with one existing house in the RS-1 zoning district. |                      |                                                                                |              |
| <b>LOCATION:</b>                                                                                                                                                                                                                                |                      | <b>LEGAL DESCRIPTION:</b>                                                      |              |
| 2308 Armstrong St.                                                                                                                                                                                                                              |                      | Lot: 1-6 Exall addition Block 31                                               |              |
| <b>SM DISTRICT / NEIGHBORHOOD:</b>                                                                                                                                                                                                              | <b>ZONING:</b>       | <b>FUTURE LAND USE:</b>                                                        | <b>SIZE:</b> |
| SMD: 4 – Lucy Gonzales<br>Neighborhood – Paulann                                                                                                                                                                                                | Single Family – RS-1 | Neighborhood                                                                   | 0.964 acres  |
| <b>THOROUGHFARE PLAN:</b>                                                                                                                                                                                                                       |                      |                                                                                |              |
| <b>Armstrong Street</b> – In this portion of Armstrong street is classified as a minor collector and is TXDOT owned. Right of Way is measured at 80' and paving width is 69'.                                                                   |                      |                                                                                |              |
| <b>STAFF RECOMMENDATION:</b>                                                                                                                                                                                                                    |                      |                                                                                |              |
| Staff recommends <b>APPROVAL</b> Leal Subdivision Sec Two, replat of Exall Addition Block 31, lots 1-6 with 1 conditions and 2 notes.                                                                                                           |                      |                                                                                |              |
| <b>PROPERTY OWNER/PETITIONER:</b>                                                                                                                                                                                                               |                      |                                                                                |              |
| Owner: Misty and Juan Leal<br>Petitioner: SKG Engineering, LLC                                                                                                                                                                                  |                      |                                                                                |              |
| <b>STAFF CONTACT:</b>                                                                                                                                                                                                                           |                      |                                                                                |              |
| Aaron Vannoy<br>Assistant Director of Planning and<br>Development Services<br>(325) 657-4210, Extension 1542<br><a href="mailto:Aaron.vannoy@cosatx.us">Aaron.vannoy@cosatx.us</a>                                                              |                      |                                                                                |              |

**Conformity with Comprehensive Plan and Purpose Statements:** The proposed replat will create 1 commercial lot. The property is current zoning Heavy Commercial (CH) but has requested Neighborhood Commercial (CN) zoning consistent with the neighborhood policies of the 2009 Update to the City Comprehensive Plan. The replat will conform to the purpose statements outlined in Chapter 2 of the Land Development and Subdivision Ordinance (LDSO).

Current property has water and wastewater services. Water is along Armstrong and at the rear of the property through the alleyway to the south. Wastewater is within the alleyway to the South. Future development north and east of this property within the Leal Preliminary Plat would trigger a dedication of Right-of-way and paving of 24<sup>th</sup> street.

**Recommendation:** *Staff recommends APPROVAL Leal Subdivision Sec Two, replat of Exall Addition Block 31, lots 1-6 with 1 conditions and 2 notes.*

Condition

1. Submit a copy of the Tom Green County Appraisal District certification indicating there are no delinquent taxes on the subject property of this subdivision.

Notes

1. There is access easement (Leal Addition Preliminary Plat) with the to the north of the property is designed to be dedicated ROW in the future for 24th street, therefore the setbacks along the north property line will be interpreted as needing to be 25' back from the property line in the future.
2. It appears there is current access to the Lot from Armstrong. Please note this is TXDOT ROW and Roadway if additional access is requested TXDOT must approve.

**Attachments:**

Aerial Map  
Final Plat



Aerial Map

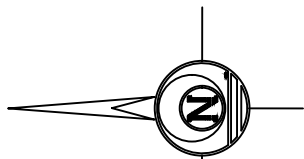


**Aerial Map**  
**FP23-38: Leal Subdivision Sec 2**  
Council District: #4 Lucy Gonzales  
Neighborhood: Paulann

Subject Properties: —

Scale: 0 0.01 0.02 0.03 0.04 Miles

N



SCALE: 1"= 60'

0 30 60 120  
GRAPHIC SCALE : FEET

BEARINGS RECITED HEREON ARE  
BASED ON THE PLAT OF RECORD.

**LEGEND:**

- Found  $\frac{1}{2}$ " Iron Pipe or Rod  
(unless otherwise noted)
- Set  $\frac{1}{2}$ " Iron Rod with Cap

**PLANNING COMMISSION**

Approved for recording this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_, City Planning  
Commission of San Angelo, Texas.

By: \_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

**DEPARTMENT OF WATER UTILITIES**

Approved for recording this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Director of Water Utilities

**DEPARTMENT OF PUBLIC WORKS**

Approved for recording this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Director of Public Works

REF.: Remainder of 6.60 Ac. Tr.  
R. B. Longbotham Survey No. 27,  
Abstract. No. 5735  
Vol. 995, Pg. 838 O.P.R.R.P.

EAST 297.75'

WEST 299.96' 20' Alley

23RD STREET  
100' R.O.W.

HOLCOMB STREET

80' R.O.W.

SOUTH 140.00'

1A  
BLOCK

25' Building Line

$L=140.02'$   
 $R=5,689.58'$   
 $\Delta=1^{\circ}24'36''$   
 $L.C.=N00^{\circ}54'23''E$   
 $140.02'$

ARMSTRONG STREET (TX. HIGHWAY 208)

80' R.O.W.

## LEAL SUBDIVISION SECTION TWO

City of San Angelo, Tom Green County, Texas.

OWNER: Jose Leal and Mallory Leal

DESCRIPTION: Being all of Lots 1, 2, 3, 4, 5 and 6, Block  
31, Exall Addition according to the plat recorded in Volume U,  
Page 492, Deed Records of Tom Green County, Texas.

**ACKNOWLEDGEMENT/DEDICATION**

We, Jose Leal and Mallory Leal, do hereby adopt this plat  
as the subdivision of our property.

\_\_\_\_\_  
Jose Leal  
Owner

\_\_\_\_\_  
Mallory Leal  
Owner

**STATE OF TEXAS**

**COUNTY OF TOM GREEN**

This instrument was acknowledged before  
me on \_\_\_\_\_  
by Jose Leal and Mallory Leal in the capacity shown.

\_\_\_\_\_  
Notary Public, State of Texas

Preliminary, this document  
shall not be recorded for any  
purpose and shall not be used  
or viewed or relied upon as a  
final survey document.

**SURVEYOR'S CERTIFICATE**

Know all men by these presents: that I,  
Russell T. Gully RPLS, do hereby  
certify that I prepared this plat from an  
actual and accurate survey of the land  
and that corner monuments shown  
hereon were properly placed, under my  
supervision, in accordance with the  
rules for land subdivision by the City  
Council of the City of San Angelo; and I  
further certify that the tract of land  
herein platted lies within the city limits  
of the City of San Angelo, Texas.

23-S-1343

**SKG**

**ENGINEERING, LLC**

**SURVEYING • ENVIRONMENTAL • LAB/CMT**

706 SOUTH ABE STREET  
SAN ANGELO, TEXAS 76903  
Firm No. 10102400  
www.skge.com

PHONE: 325.655.1288  
FAX: 325.657.8189

**PLANNING COMMISSION – December 18, 2023****STAFF REPORT***City Council First Reading January 16, 2024**City Council Second Reading February 6, 2024*

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                       |                         |              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|-------------------------|--------------|
| <b>APPLICATION TYPE:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>CASE:</b>                                                          |                         |              |
| Rezoning                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 1212, 1210, & 1208 Roosevelt (previously 1227, 1223 & 1219 Roosevelt) |                         |              |
| <b>SYNOPSIS:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                       |                         |              |
| The applicant's has submitted a zone changed to go from Single Family Residential (RS-1) to Two Family Residential (RS-2) 1212, 1210, 1208 Roosevelt. The owner wants to build duplex dwelling on these three lots and will be requesting rezoning for Lot B1 west of these properties to RS-2 to build additional duplexes in this little neighborhood. That project will require platting. This area is backed up against (RM-1) Low Rise Multiple family to the west and south, with Single Family to the east and north. |                                                                       |                         |              |
| <b>LOCATION:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>LEGAL DESCRIPTION:</b>                                             |                         |              |
| Northwest of the Roosevelt St & S Buchanan St. intersection                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Denny Addition Section Two, Blk 1, Lots 5, 6, & 7                     |                         |              |
| <b>SM DISTRICT / NEIGHBORHOOD:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>ZONING:</b>                                                        | <b>FUTURE LAND USE:</b> | <b>SIZE:</b> |
| SMD #3 – Harry Thomas Neighborhood: Ft. Concho East                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | RS-1                                                                  | Neighborhood            | .886 acre    |
| <b>THOROUGHFARE PLAN:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                       |                         |              |
| <ul style="list-style-type: none"><li>Existing Local Road 80 ft. of R-O-W; 40 ft. pavement – meets minimum for existing roads</li></ul>                                                                                                                                                                                                                                                                                                                                                                                      |                                                                       |                         |              |
| <b>NOTIFICATIONS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                       |                         |              |
| 17 notices were mailed out. None have been received either for or against at this time.                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                       |                         |              |
| <b>STAFF RECOMMENDATION:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                       |                         |              |
| Staff recommends <b>APPROVAL</b> of the rezoning from Single Family Residential (RS-1) to Two Family Residential (R-2)                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                       |                         |              |
| <b>PROPERTY OWNER/PETITIONER:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                       |                         |              |
| Owner: Chris Trevino<br>Local Contact: A'Lisa Denney                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                       |                         |              |
| <b>STAFF CONTACT:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                       |                         |              |
| Sherry Bailey<br>Principal Planner<br>(325) 657-4210, Extension 1546<br><a href="mailto:sherry.bailey@cosatx.us">sherry.bailey@cosatx.us</a>                                                                                                                                                                                                                                                                                                                                                                                 |                                                                       |                         |              |



**Information:**

This property is east of the downtown area and just north of the river. It is in the older area of the town where the streets are smaller and shorter and the lots generally smaller. Most of the area is developed, although the large lot to the west of this area is still rural in nature and a couple of horses are kept on the property. The area is wooded. There are a mix of land uses in the area with multifamily, single family and commercial fairly close. Any time you drive in the area you see children and walkers. It is an active residential area.

**Planning Commission evaluation of appropriateness.**

Section 213(G) of the Zoning Ordinance requires that the Planning Commission and City Council consider, at minimum, seven (7) factors in determining the appropriateness of any rezoning request as outlined in #1 through #7 below:

1. **Compatible with Plans and Policies.** *Whether the proposed amendment is compatible with the Comprehensive Plan and any other land use policies adopted by the Planning Commission or City Council.*  
The property proposed to be rezoned is in the single family (RS-1) zoning district. The Comprehensive Plan has the area as Neighborhood. Rezoning to Two family residential (RS-2) is in keeping with the Neighborhood Land Use designation in the City's Comprehensive Plan, updated in 2009.
2. **Consistent with Zoning Ordinance.** *Whether and the extent to which the proposed amendment would conflict with any portion of this Zoning Ordinance.* As proposed, the lot will meet the requirements for RS-2 zoning.
3. **Compatible with Surrounding Area.** *Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.* The rezoning is generally compatible with the surrounding area as outlined in the Comprehensive Plan mentioned above. If rezoned, the lot will be adjacent to Low Rise Multifamily (RM-1) zoning to the west and south across the street. There is Single Family (RS-1) to the east and north. To a little further to the north and the east there is additional multifamily and commercial.
4. **Changed Conditions.** *Whether and the extent to which there are changed conditions that require an amendment.* The applicant wants to develop smaller duplexes on these lots since the lots are larger and can easily accommodate RS-2 housing.
5. **Effect on Natural Environment.** *Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment, including but not limited to water and air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.* Staff does not anticipate any adverse environmental affects at this time.
6. **Community Need.** *Whether and the extent to which the proposed amendment addresses a demonstrated community need.* Staff believes there is a need for this type of product particularly in this area. There are few duplexes in this neighborhood.
7. **Development Patterns.** *Whether and the extent to which the proposed amendment would result in a logical and orderly pattern of urban development in the community.* This development is a logical

progression of houses and services.

**Recommendation:**

**Staff recommends APPROVAL of the rezoning request.**

**Attachments:**

Notification Map

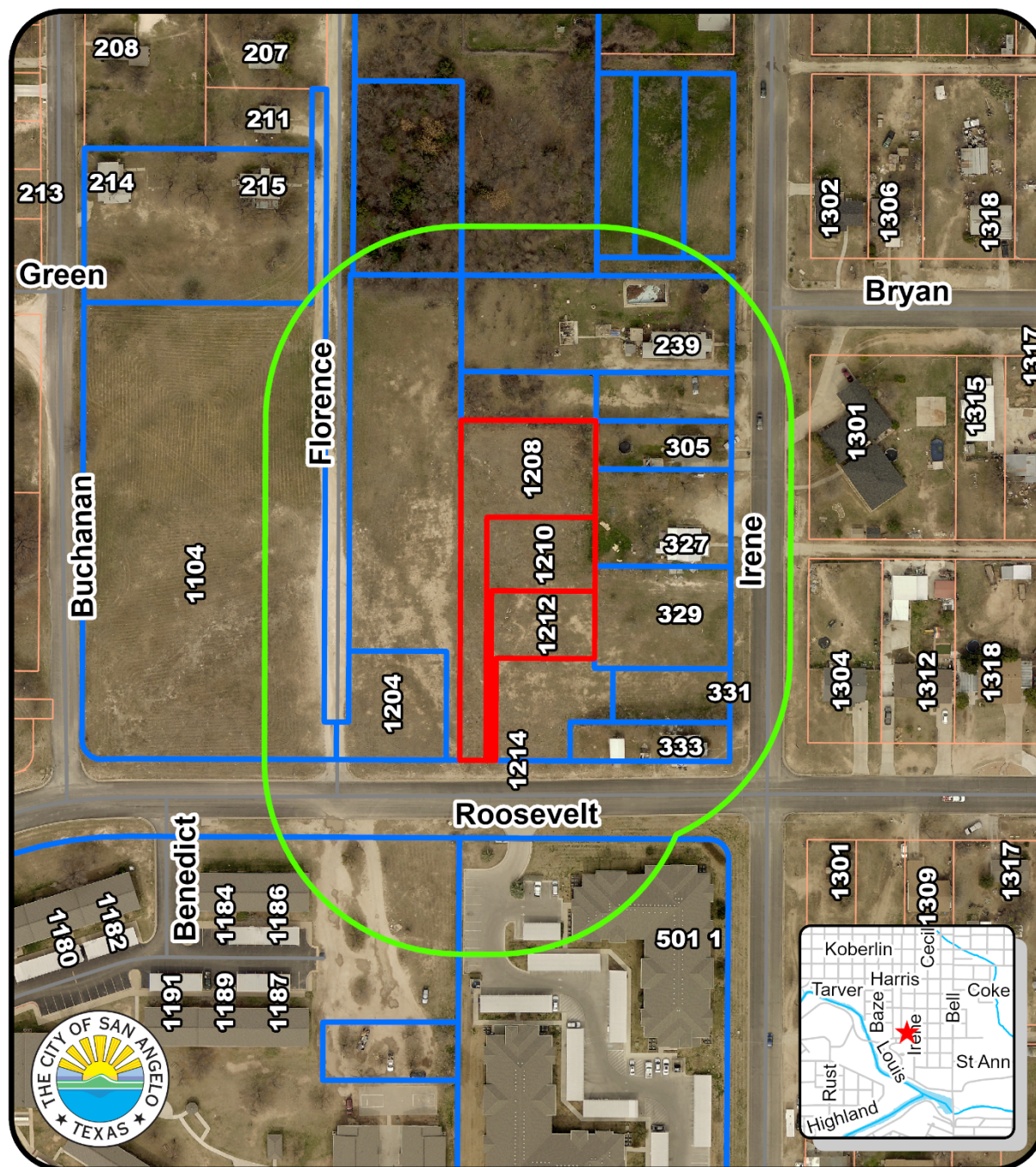
Aerial Map

Zoning Map

Final Plat



## Notification Map



### 200' Notification Map Z23-17: 1212 Roosevelt

Council District: #3 Harry Thomas  
Neighborhood: Ft. Concho East

Scale: 0 0.010.01 0.03 0.04 0.06 Miles

Subject Properties:



200' Buffer:

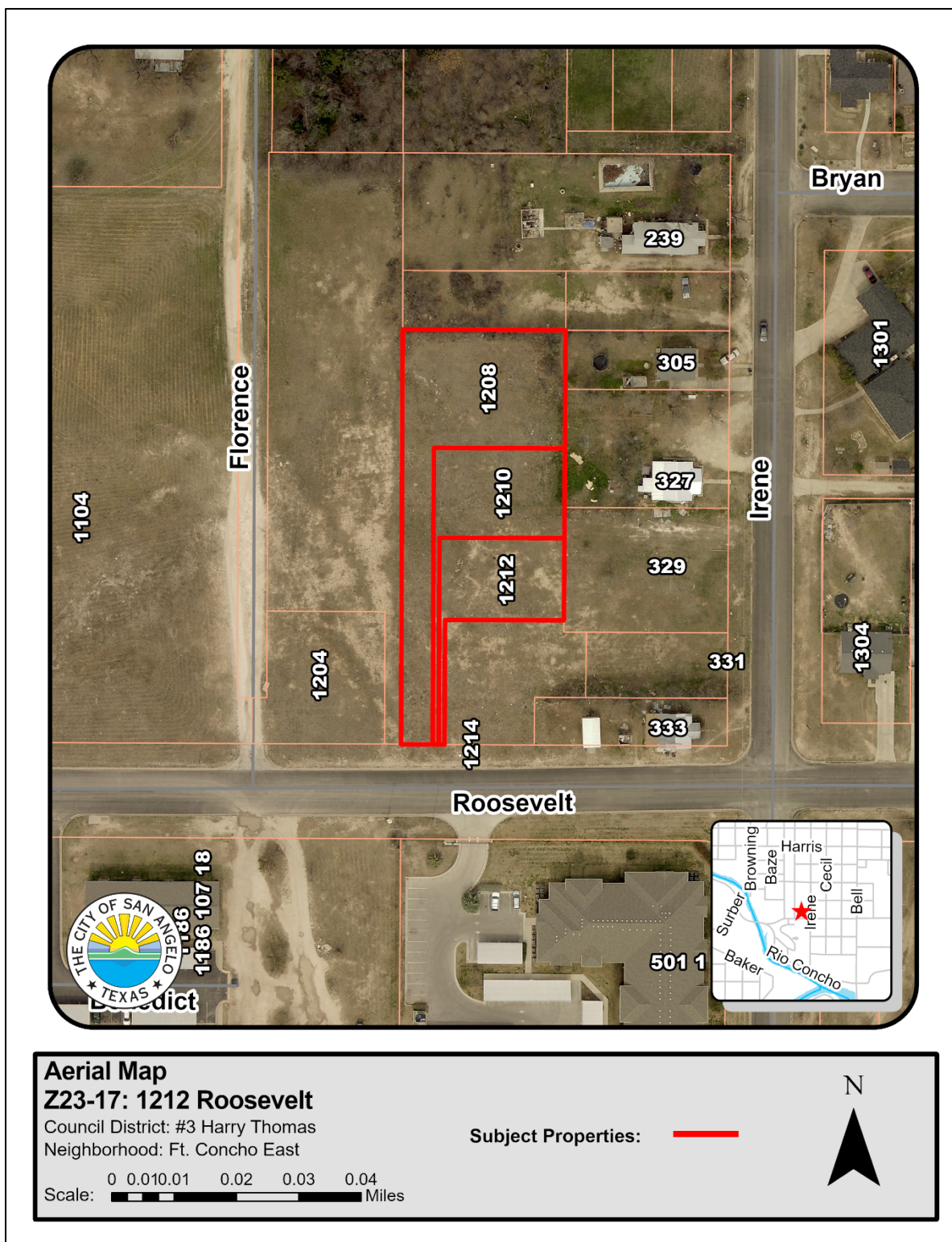


Notified Properties:

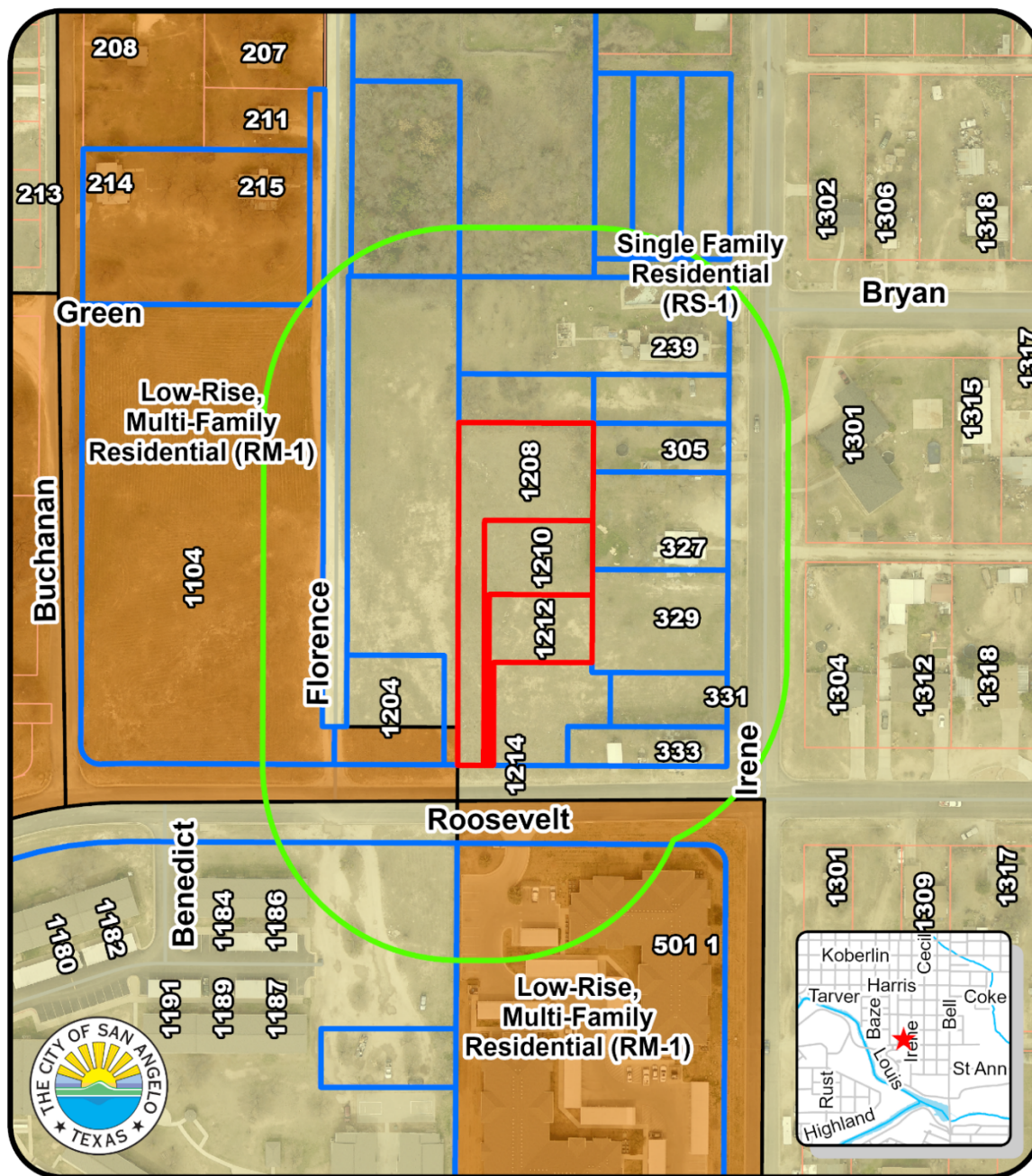




## Aerial Map



## Zoning Map



### Zoning Map

#### Z23-17: 1212 Roosevelt

Council District: #3 Harry Thomas

Neighborhood: Ft. Concho East

Scale: 0 0.010.01 0.03 0.04 0.06 Miles

Subject Properties: —

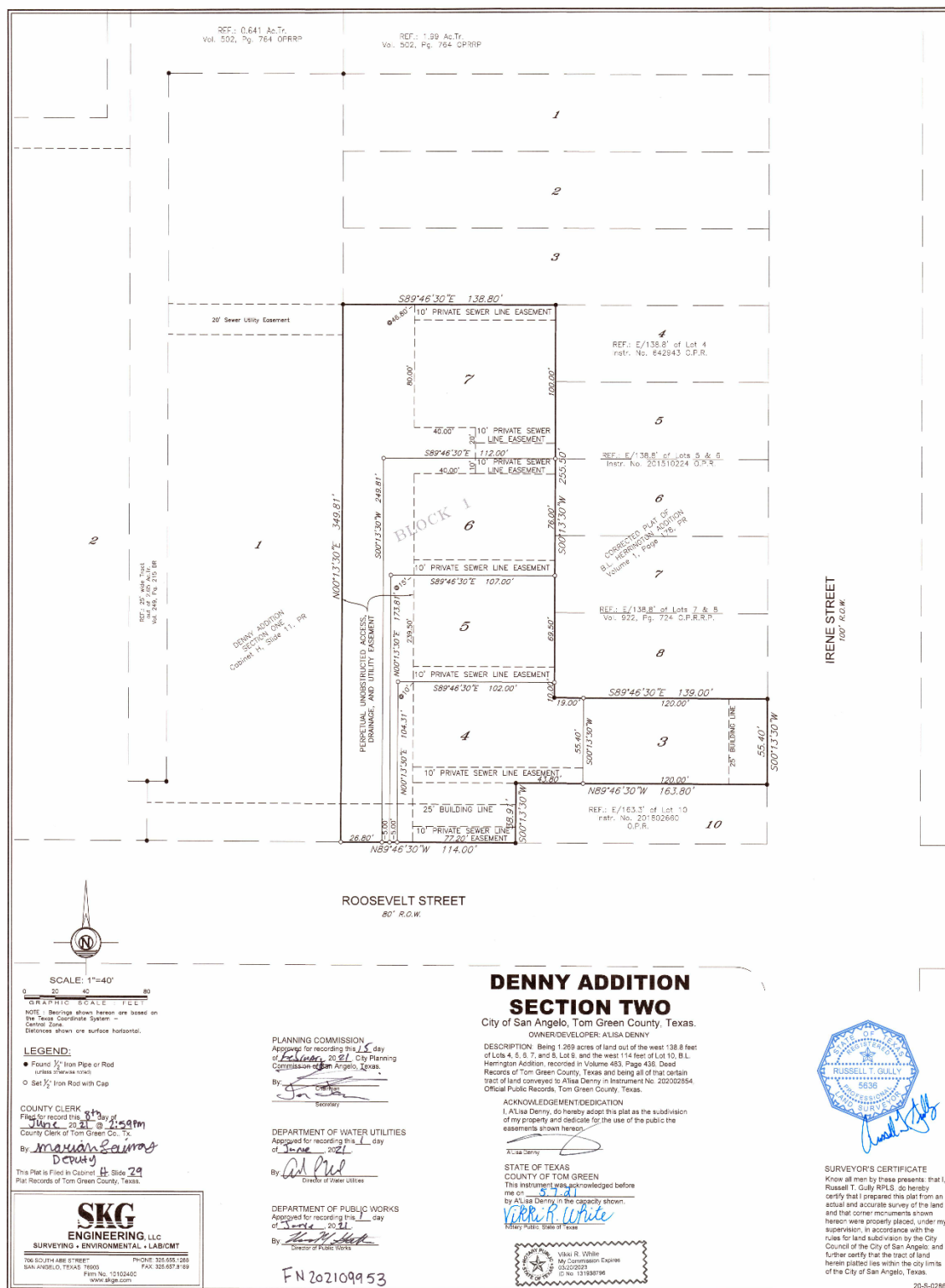
200' Buffer: —

Notified Properties: —

N





[illegible]

# MEMO



Commented [VA1]:

## Meeting

**Date:** December 18, 2023

**To:** Planning Commission

**From:** Sherry L. Bailey  
Principal Planner, City of San Angelo

**Request:** CU23-53: 2301 Palms Court, Short-Term Rental request,  
District 1, Tommy Hiebert; Nasworthy Neighborhood

**Background:** 2301 Palms Court applied for a Conditional Use for a short-term rental in October 2023. The applicant believes this home is compatible as a short-term rental as it is on Lake Nasworthy and has access to the lake. The applicant reviewed the checklist and signed off on those requirements. However, staff has received a copy of the CC & R's that apply to this property. Although the City does not enforce CC & R's we were asked to make them available to the Commission and we are doing so.

**Notification:** 15 notices were mailed out to property owners within 200 feet. We have received four notices in opposition, one outside of the 200 ft. and one in favor.

**Information:** This request meets all the ordinance requirements including two paved parking spaces. However, this property is being advertised on both AirBNB and VRBO and reservations taken, before receiving approval.

## Planning Commission Requested Action:

Staff is recommending **DENIAL** in this case since the applicant is already taking reservations without receiving approval and being inspected. If the Planning Commission approves the Conditional Use to allow the property at **2301 Palms Court** to operate as a Short-Term Rental, staff recommends the following **three conditions of approval**.

- Maintain the two off-street parking
- Obtain a change of occupancy from Permits & Inspections
- Obtain a fire inspection annually

At this time the approval would be good for one year.



## 200' Notification Map

**CU23-53 - 2301 Palms Ct**

Council District: #1 Tommy Hiebert

Neighbourhood: Nasworthy

Scale: 0 0.03 0.06 0.09 0.12 Miles

Subject Properties:



200' Buffer:



Notified Properties:



N









12/4/2023

**Subject: Objections to Conditional Use Application CU23-53 at 2301 Palms Ct**

Dear Members of the Planning Division,

As a resident of 2326 Palms Ct, I am compelled to express my serious concerns regarding the proposed rezoning of 2301 Palms Ct to a Conditional Short-Term Rental under application CU23-53. I believe this proposal is not only detrimental to the community's welfare but also stands in direct violation of our neighborhood's deed restrictions, which all homeowners are legally obliged to uphold. These restrictions explicitly state, *"No Plot shall be used for any purpose except for the erection and maintenance thereon of a dwelling designed for the occupancy of a single family... No Plot shall be used in whole or in part for any commercial purpose or for any purpose inconsistent with a private dwelling house use."* The transformation of a residential property into a short-term rental contravenes these covenants, thereby undermining the legal framework established to preserve our community's residential character.

The deed restrictions were enacted with the intent to maintain a stable, cohesive community environment. The introduction of short-term rentals would disrupt this balance, leading to a decline in community engagement and undermining the neighborhood's social fabric. Moreover, the high turnover associated with short-term rentals poses significant security risks, which is in direct opposition to our community's aim of maintaining a safe and secure environment for all residents. The inability to recognize neighbors makes it challenging to identify unusual or suspicious activities. In residential areas where families reside, this raises considerable safety concerns. The anonymity afforded to short-term renters can, unfortunately, make these properties attractive to individuals with nefarious intentions, as has been evidenced in other cities where short-term rentals are prevalent. Additionally, the increased traffic and parking congestion resulting from short-term rentals would place undue strain on our infrastructure, which is designed for residential, not commercial, use. The potential increase in noise and disturbances from short-term rentals directly contradicts our community's aim for peaceful and quiet enjoyment, as outlined in the deed restrictions. Furthermore, the presence of a short-term rental property could negatively impact property values, going against the intent of our deed restrictions to ensure a stable and uniform residential character.

It is important to note that, as stipulated in our deed restrictions, specifically in "Section 12. Right to Enforce," homeowners reserve the right to legally enforce these restrictions. The implications of non-compliance with these restrictions could result in legal actions taken by homeowners to preserve the integrity and character of our neighborhood. I, along with other concerned residents, am prepared to consider this course of action, if necessary, to ensure that our deed restrictions are upheld and our community's interests are protected.

In conclusion, I strongly urge the Planning Commission to reconsider the approval of application CU23-53. Upholding the deed restrictions is not only a legal obligation but also a moral imperative to maintain the character and quality of life in our neighborhood. Thank you for your attention to these critical matters.

Sincerely,



Dr. Albert Nwabueze  
2326 Palms Ct  
San Angelo, TX 76904-1569

COVENANTS AND RESTRICTIONS  
OF  
THE PALMS  
CITY OF SAN ANGELO,  
TOM GREEN COUNTY

Psalm 100 Development, LLC of Tom Green County, Texas (hereinafter called the "Declarant"), does hereby adopt the Plat filed for record in Plat Cabinet G, Slide 254, Plat Cabinet Records, Tom Green County, Texas.

And Psalm 100 Development, LLC does hereby declare that the following property shall be held and shall be conveyed subject to the reservations, restrictions and covenants hereinafter set forth, to-wit:

**THE PALMS, SECTION ONE, CITY OF SAN ANGELO, TOM GREEN COUNTY, TEXAS,** BEING filed for record in Plat Cabinet G, Slide 254, Plat Cabinet Records, Tom Green County, Texas.

Section 1. **Definitions.** The terms defined in this section shall, for all purposes of the hereinafter provisions of this instrument, have the meanings herein specified, unless the context otherwise requires.

- (a) "Articles" shall mean and refer to the Articles of Incorporation of the Association, as the same may be from time to time duly amended or modified.
- (b) "Assessment" or "Assessments" shall mean and refer individually or collectively to the Annual Assessments, the Special Assessments, the Special Group Assessments and the Individual Assessments, where the context requires.
- (c) "Association" shall mean and refer to THE PALMS HOME OWNER ASSOCIATION, INC., a to-be-formed, non-profit Texas corporation which will have the power, duty and responsibility of administering and enforcing these restrictions and covenants and otherwise maintaining and enhancing the quality of life for the Plot Owners of The Palms, Section One and future sections of The Palms that adopt these Covenants and Restrictions.
- (d) "Board" shall mean and refer to the Board of Directors of the Association.
- (e) "Bylaws" shall mean and refer to the Bylaws of the Association, as adopted and amended from time to time in accordance with the provisions thereof.
- (f) "Charges" shall mean and refer to charges imposed against an Owner delinquent in the payment of his/her/its Assessments, including, but not limited to the "fines" as described in Section 30 hereof.
- (g) "City" shall mean the City of San Angelo.
- (h) "Class A Member" shall mean each Owner of a Plot.

- (i) "Class B Member" shall mean Declarant.
- (j) "Declarant" shall mean and refer to PSALM 100 DEVELOPMENT, LLC or any entity which may be assigned the rights of Declarant pursuant to a written assignment executed by the then present Declarant and recorded in the Records. In addition, in the event an entity obtains title to all of the Plots then owned by Declarant as a result of foreclosure of any mortgage or deed in lieu thereof, such entity may elect to become Declarant by a written election recorded in the Records. No Person merely purchasing one or more Plots from PSALM 100 DEVELOPMENT, LLC or its successor or assigns in the ordinary course of business shall be considered a "Declarant".
- (k) "Development Period" shall mean a period commencing on the date of the recording of these covenants and restrictions in the Records and continuing thereafter until and ending on the earlier of (a) the date of the sale by Declarant of the last Plot owned by Declarant, (b) the date Declarant voluntarily terminates its Class B Member status by recording a written notice of such termination in the Records or (c) December 31, 2027.
- (l) "Dwelling" shall mean and refer to any building or portion of a building situated upon a Plot which is designed and intended as a place where a person or persons lives.
- (m) "Individual Assessments" shall mean and refer to the assessments that may be from time to time imposed upon an individual Owner in accordance with the provisions of Section 18(c) hereof.
- (n) "Managing Agent" shall mean and refer to any Person who has been designated or engaged by the Board to manage the affairs of the Association, to the extent the Board elects to make such designation.
- (o) "Maximum Lawful Rate" shall mean and refer to the lesser of (a) the maximum lawful rate of interest permitted to be charged from time to time for the use or forbearance of money by applicable law, or (b) eighteen percent (18%) per annum.
- (p) "Member" shall mean and refer to each Owner.
- (q) "Owner" shall mean and refer to the holder(s) of record title to the fee simple interest of any Plot whether or not such holder(s) actually reside(s) on any part of the Plot.
- (r) "Payment and Performance Lien" shall mean and refer to the lien described within Sections 25 and 26 below.
- (s) "Person" shall mean an individual, partnership, joint venture, corporation, limited liability company, joint stock company, trust (including a business trust), unincorporated association or other entity, or a government or any political subdivision or agency thereof.

- (t) "Plat" shall mean the plat of the Property as mentioned above.
- (u) "Plot" shall mean an entire numbered Plot as shown on the Plat and as included in the above described property or a Declarant-approved combination of one or more of said Plots or parts of said Plots. Declarant may refuse to approve a splitting or combination of said Plots.
- (v) "Records" shall mean the Official Public Records of Tom Green County, Texas, including the Map, Plat, and/or Cabinet Records of Tom Green County, Texas.
- (w) "Special Assessments" shall mean and refer to assessments imposed upon Owners for capital improvements or unusual or emergency matters, in accordance with the provisions of Section 20(c) hereof.
- (x) "Special Group Assessment" shall mean and refer to assessments imposed upon certain of the Owners for capital improvements or unusual or emergency matters, in accordance with the provisions of Section 20(c) hereof.
- (y) "Trustee" shall mean any entity or person selected by the Association from time to time to act as trustee in connection with the Association's enforcement of remedies.

**Section 2. Single-Family Dwellings.** No Plot shall be used for any purpose except for the erection and maintenance thereon of a dwelling designed for the occupancy of a single family and reasonable and customary accessory structures not designed or used for living quarters except by domestic help or extended family living or working on the premises. Plots reserved in their entirety as an easement or common area shall be exempt from the requirement for a dwelling. No Plot shall be used in whole or in part for any commercial purpose or for any purpose inconsistent with a private dwelling house use. No ready-built homes, prefabricated homes, manufactured homes or mobile homes shall be placed on any Plot.

**Section 3. Restrictions and Requirements.**

- (a) All dwellings shall be constructed to front the dedicated streets or access easements on which the Plot fronts, and no garages of a dwelling shall front or have door openings front the dedicated streets or access easements.
- (b) No dwelling or accessory structure shall be created or maintained nearer than twenty-five feet (25') or as shown on the Plat of Record from the front line of any Plot.
- (c) No dwelling or accessory structure shall be erected or maintained nearer than five feet (5') from the side line of any Plot.
- (d) Dwellings constructed on any Plot shall contain at least 2,100 square feet of heated and/or air conditioned living space exclusive of garages, porches and outbuildings. The minimum exterior wall plate height of a dwelling shall be

no less than nine feet (9'). All dwellings shall contain a garage capable of housing at least two automobiles.

- (e) Eighty percent (80%) of the total exterior wall surface area of each dwelling or accessory structure shall be rock, stucco, synthetic stucco, stone, architectural stone, doors, or windows unless otherwise approved by Declarant in writing. Brick is limited to be not more than 15% of the total exterior wall surface.
- (f) Accessory structure(s) or dwellings any nearer than sixty feet (60') to the rear lot line adjacent to Lake Nasworthy shall have a total building footprint less than 1,000 square feet and shall have a width to length ratio between 1.0 to 1.2. A single covered deck level is permitted above the first floor with a minimum of 80% of the wall space open at four feet (4') above deck level.
- (g) No fence, wall or hedge, shall be erected or maintained on any Plot any nearer to any street or access easement than the building setback line as shown on the Plat. On any Plot where a fence or wall is constructed it shall be out of cedar, steel, aluminum, stone, stucco, or other material approved by the Declarant. No chainlink or netwire fencing shall be permitted on any Plot. No fence, wall, or hedge greater than four feet (4') in height shall be placed or permitted to remain on any Plot nearer than sixty feet (60') to the rear lot line adjacent to Lake Nasworthy.
- (h) No animals shall be raised or kept on any Plot except usual household pets numbering not more than three.
- (i) No sign shall be erected or maintained on any Plot except a "for sale", "for rent", or "builder" sign not exceeding six square feet in size or a sign owned by the Declarant.
- (j) No radio, television or other aerial shall extend more than six feet (6') above the highest point of the roof of any building and no such aerial shall be maintained on any Plot not containing a dwelling.
- (k) No satellite dish shall be located and/or installed on any Plot or on any improvements located on any Plot any nearer to any front street or access easement than 20 feet (20') behind the front of the dwelling.
- (l) No Plot conveyed by the Declarant shall be used for the dumping or storage of rubbish, trash, rubble, surplus soil or rocks, inoperative vehicles, inoperative boats, etc. All garbage and other waste shall be kept in containers and promptly removed from the Plot.
- (m) No trailer, recreational vehicle, all-terrain vehicle, camper, or boat on a trailer shall be parked, stored or maintained on any Plot any nearer than Forty feet (40') from the front line of any Plot or nearer to a side boundary than the side-line set back or nearer than sixty feet (60') to the rear lot line adjacent to Lake Nasworthy.



- (n) All registered vehicles shall be parked on streets or paved driveways and no unregistered vehicle shall be parked and be visible on any Plot or street for more than two days. No vehicle which is inoperative and visible shall be parked on any Plot or street for more than three days.
- (o) No major work shall be performed on any vehicle, boat, motorcycle or other motor vehicle on any Plot that is visible from the street.
- (p) Each Plot shall be mowed, maintained, and kept free of trash by its owner. If a Plot is not mowed and maintained, the Declarant shall have the right to mow and maintain the Plot at the owner's expense.
- (q) The Plot owner shall plant and maintain a minimum of two trees in the front yard and two trees in the backyard a minimum of 10 feet in height within 90 days of receiving the certification of occupancy from the City of San Angelo. The common name of trees considered to meet this requirement are: Bur Oak, Texas Red Oak, Live Oak, Cedar Elm, Chinese Pistachio, and Desert Fan Palm.
- (r) No chemicals of any kind shall be stored nearer than seventy-five feet (75') from standard Lake elevation 1872.2 feet (NAD 27) of Lake Nasworthy; provided, however gasoline for boat use may be stored therein in accordance with all laws, ordinances, rules and regulations, whether promulgated by the City of San Angelo, The State of Texas, or the U.S. Government.
- (s) No gas or oil well drilling, development, or refining, and no mineral quarrying or mining operations of any kind shall be permitted on any Plot.
- (t) Should a hedge, shrub, tree, flower or other planting be so placed, or afterwards, grown, so as to encroach upon adjoining property, such encroachment shall be removed upon request of the owner of the adjoining property.
- (u) At no time shall a recreational vehicle, camper, travel trailer, tent or similar equipment be used as a temporary or permanent living arrangement on any Plot, easement, or street for more than five days in any three month period.

**Section 4. Lake Nasworthy.** All Plots adjacent to Lake Nasworthy, with access to, or with water frontage shall be responsible to construct and maintain a retaining wall, piling, or other bank stabilization measures as approved by the Declarant and the City.

**Section 5. Water and Sewer System.** All residential dwellings located on Plots subject to these restrictions and covenants shall be connected to the City water and sewer system.

**Section 6. Natural Gas or Propane Tanks.** Residential dwellings located on Plots subject to these restrictions and covenants may be connected to a franchised natural gas delivery system or propane tank. Propane tanks shall be buried below grade or screened so as not to be visible from the street, access easement, or lake.

Section 7. **Architectural and Structural Review.** No dwelling, accessory structure or fence shall be erected or maintained on any Plot until the building plans and specifications and a Plot plan showing the proposed location of same, have been approved by the Declarant in writing. All accessory structures must be finished with the similar type of material as was used on the exterior of the dwelling, shall have a similar roof pitch as the dwelling and shall be consistent in look or style with the look or style of the dwelling. In reviewing building plans, the Declarant shall consider type, over-all suitability, and architecture of the proposed placement of the Plot, the structural soundness of proposed building materials and particularly the architectural and esthetic qualities of proposed building materials and the height relationships of all improvements. This section shall be applicable to initial construction and to alterations, changes and additions at any time subsequently made.

Section 8. **Sidewalks and Driveways.** The owner of each Plot shall install, maintain, and repair concrete sidewalks and driveways on said Plot in the manner consistent with its initial construction. If the sidewalk or driveway is not maintained in a functional manner, the Declarant shall have the right to maintain or repair the sidewalk at the Plot owner's expense.

Section 9. **Easements Reserved.** No building or other permanent structure shall be erected or maintained within areas designed on the Plat as utility, access, and/or drainage easements, but fences, concrete flatwork, and plantings approved by the Declarant may be maintained on Plots within such areas upon the understanding that such uses shall always be subject to and shall not interfere with, the prior rights created and granted by such easements. The owner of the Plot shall be responsible for maintaining the surface of all easements. The Declarant and/or assigns shall not be liable for any damage to improvements located within any easement.

Section 10. **Stormwater Pollution Prevention.** The owner of each Plot that is considered to be a construction site shall, in all aspects, be responsible for being in compliance with Texas Commission on Environmental Quality, TPDES Construction General Permit No. TXR150000 and The City of San Angelo's stormwater regulations. The Declarant will bear no responsibility for compliance of said Plot.

Section 11. **Duration.** These covenants and restrictions shall continue in force until December 31, 2036, and thereafter for successive ten-year periods, unless an instrument signed by a 75% majority of the then Plot owners has been recorded in the Official Public Records of Real Property of Tom Green County, Texas, agreeing to release or change said covenants in whole or in part.

Section 12. **Right to Enforce.** These covenants and restrictions shall run with the land and shall be binding upon the Declarant and all parties claiming by, through and under the Declarant, and all such parties shall be taken to hold title subject to, and to agree and covenant with the Declarant and with each other to observe these covenants and restrictions. In addition to any ordinary legal action for damages, the Declarant, the Association, and/or any owners of a Plot shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to otherwise enforce the observance of these covenants and restrictions. No failure or delay in enforcing these covenants and restrictions shall be deemed to be a waiver of any violation thereof. The

Declarant shall not be personally liable for any decision or action or failure to act under or pursuant to these covenants and restrictions.

Section 13. **General.**

- (a) notwithstanding any other provision hereof, Declarant reserves the right (upon the application and request of the owner of any Plot) to waive, vary or amend (by an appropriate letter to that effect addressed and delivered to such applicant owner by Declarant) the application of any of these covenants and restrictions to such Plot if, in the sole discretion of the Declarant, such action be necessary to relieve an undue hardship and permit sound development to occur. Declarant also reserves the right:
  - (1) to redivide or replat any of the property shown on the Plat at anytime if owned by the Declarant, and
  - (2) to change the location of streets and easements prior to the time the same be actually opened for public use or availed of by the public or by public utilities. In no case, however, shall any such waiver, variance, amendment or change
    - a. deprive any owner of a Plot to reasonable access to such Plot;
    - b. reduce the frontage or depth of any Plot by more than 80 percent (80%) as shown on the Plat; or
    - c. reduce the square feet living space requirement of Section 3(d) hereof to less than 1,900 square feet for dwelling constructed on any Plot shown on the Plat.
- (b) No additional covenants and restrictions imposed by the Declarant in any contract or deed in respect to any Plot shall modify or vary the general development plan as herein set out.
- (c) The invalidation by any court of any reservations, covenant and restriction set forth herein or in any contract or deed executed by Declarant shall not impair the full force and effect of any other reservations, covenant or restriction.
- (d) The provisions hereof are hereby made a part of each contract and deed in respect of any Plot to the same effect as if fully set forth therein, and each such contract and deed shall be conclusively held to be executed, delivered and accepted upon and subject to the provisions and conditions herein set forth.
- (e) Declarant may at any time appoint a committee of one or more persons to exercise any or all of the discretionary rights and powers reserved herein by Declarant.
- (f) Declarant may assign to any person or corporation any or all rights, powers,

reservations, easements, and privileges herein reserved by and to Declarant and any such assignee shall have the same right to assign.

#### Section 14. **Membership**

- (a) Each and every Owner of each and every Plot shall automatically be a Member of the Association subsequent to its creation. Membership of an Owner in the Association shall be appurtenant to and may not be separated from the interest of such Owner in and to any portion of a Plot. Ownership of any Plot shall be the sole qualification for being a Member; however, a Member's privileges may be regulated or suspended as provided in these covenants and restrictions, the Bylaws or the rules and regulations promulgated by the Board. Any Person who holds an interest in and to all or any part of a Plot merely as security for the performance of an obligation shall not be a Member.
- (b) During the Development Period, the Association shall have two (2) classes of Members:
  - Class A:** The Class A Members shall be all Owners of Plots (other than Declarant during the Development Period).
  - Class B:** The Class B Member shall be Declarant.
- (c) Upon the expiration of the Development Period, the Class B membership shall terminate, and thereafter the Association shall have one (1) class of Members (the Class A Members).

#### Section 15. **Transfers**

- (a) The membership of an Owner may not be severed from or in any way transferred, pledged, mortgaged or alienated except upon the sale or assignment of such Owner's interest in such Owner's Plot and then only to the purchaser or assignee as the new Owner of the Plot in question. Each Owner shall notify the Association of any transfer or assignment of the fee title to his/her/its Plot. Such transfer shall automatically operate to transfer the membership to the new Owner thereof.
- (b) Within a reasonable period of time following the recordation in the public records of a deed to any Plot, the Owner of such Plot shall have the affirmative duty and obligation to provide to the Association (and thereafter to revise and update, within fifteen (15) days after any material change has occurred) various items of information reasonably requested by the Association, including, but not limited to, (i) the full name and address of the Owner; (ii) the full name of each individual family member who resides within the Dwelling Unit of such Owner; (iii) the business address, occupation and telephone numbers of such Owner; (iv) the description and license plate number of each automobile owned or used by such Owner (or those residing with such Owner) and brought within the Plots; (v) the name, address and telephone numbers of other local individuals who can be

contacted (in the event the Owner cannot be located) in case of an emergency; and (vi) such other information as may be reasonably requested from time to time by the Association. In the event any Owner fails, neglects or refuses to so provide, revise and update such information, then the Association may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner shall become automatically jointly and severally liable to promptly reimburse the Association for all reasonable costs and expenses incurred in so doing.

#### Section 16. Voting Rights

- (a) During the Development Period, the Class A Members and the Class B Member shall constitute the voting Members of the Association. Class A Members in good standing (as defined below) shall be entitled to cast one (1) vote per Plot. Where more than one (1) Owner owns and holds a record fee interest in a Plot, such Owner(s) may divide and cast portions of the one (1) vote as they decide, but in no event shall any one (1) Plot yield more than one (1) vote. The Class B Member shall be entitled to cast eight (8) votes for each Plot, except with respect to matters covered by Sections 20(g) and 21 hereof, for which the Class B Member shall be entitled to cast only one (1) vote for each Plot.
- (b) Following the expiration of the Development Period, the Class A Members shall constitute the sole voting Members of the Association. Class A Members in good standing shall be entitled to cast one (1) vote per Plot. Where more than one (1) Owner owns and holds a record fee interest in a Plot, such Owner(s) may divide and cast portions of the one (1) vote as they decide, but in no event shall any one (1) Plot yield more than one (1) vote.
- (c) Any Member shall not be in "good standing" if such Person is: (i) in violation of any portion of these covenants and restrictions, the recommendation by Declarant applicable to the plans and specifications for his/her/its Plot, or any rule or regulation promulgated by the Board and/or any portion of the City's zoning ordinance; or (ii) delinquent in the full, complete and timely payment of any Assessment or Charge which is levied, payable or collectible pursuant to the provisions of these covenants and restrictions, the Bylaws or any rule or regulation promulgated by the Board. The voting rights of any Member who is not in good standing may be suspended by the Board for any period during which such Member remains not in good standing. Prior to suspending a Member's voting rights for failure to maintain good standing, the Board shall provide the Member with a written notice of each violation affecting the Member's good standing and an opportunity to cure such violations. If, after receiving notice of a violation, the Member does not cure the violation and return to good standing within thirty (30) days of the date of notice, the Board may suspend the Member's voting rights without further notice.
- (d) The Board may make such rules and regulations, consistent with the terms of these covenants and restrictions and the Bylaws, as it deems advisable, for:
  - (i) any meeting of Members; (ii) proof of membership in the Association; (iii)



the status of good standing; (iv) evidence of right to vote; (v) the appointment and duties of examiners and inspectors of votes; (vi) the procedures for actual voting in person or by proxy; (vii) registration of Members for voting purposes; and (viii) such other matters concerning the conduct of meetings and voting as the Board shall deem fit.

**Section 17. Notice: Voting Procedures; Meetings** Quorum, notice and voting requirements of and pertaining to the Association may be set forth within the Articles and Bylaws, as either or both may be amended from time to time, and shall be in accordance with permitted Texas law. During the Development Period, from time to time, as and when determined necessary by the Board, the Board may call and schedule a meeting of the Members. From and after the expiration of the Development Period, the Members shall meet annually to deal with and vote on matters relating to the business of the Association, as directed by the Board, including the election of the Directors.

**Section 18. Creation of the Lien and Personal Obligation of Assessments** Subject to Section 20(c) below, Declarant, for each Plot owned by it during any period following the expiration of the Development Period, hereby covenants and agrees, and each subsequent Owner of any Plot, by acceptance of a Deed therefor, whether or not reference to the covenants shall be so expressed in any such Deed or other conveyance, shall be deemed to have covenanted and agreed (and such covenant and agreement shall be deemed to constitute a portion of the purchase money and consideration for acquisition of the Plot so as to have affected the purchase price) to pay to the Association (or to an independent entity or agency which may be designated by the Association to receive such monies):

- (a) regular Annual Assessments;
- (b) Special Assessments, and, to the extent applicable, Special Group Assessments, to be fixed, established and collected from time to time as hereinafter provided; and
- (c) Individual Assessments and fines levied against individual Members to reimburse the Association for (i) extra or unusual costs incurred for items such as (but not limited to) (A) maintenance and repairs to portions of the Plots required to be made as a result of the willful or negligent acts of the individual Member; or (B) the remedy, cure or minimizing of problems caused by, or as a result of, violations of these covenants and restrictions by a Member; and (ii) costs incurred relating to or resulting from violations by individual Members of rules and regulations pertaining to the Association.

The Annual, Special, Special Group, and Individual Assessments, together with such late charges, interest and costs of collection thereof as are hereinafter provided, shall be a charge running with the land and shall be a continuing lien upon each Plot against which each such Assessment is made and shall also be the continuing personal obligation of the then-existing Owner of such Plot at the time when the Assessment fell due. Subject to applicable state law, each Owner shall be directly liable and responsible to the Association for the acts, conduct and omission of such Owner and its respective Guests, invitees and employees, associated with the Dwelling Unit(s) or improvements located on such Owner's Plot.

**Section 19. Purposes of Assessments** The Assessments levied by the Association shall be used for the purposes of promoting the comfort, health, recreation, safety, convenience, welfare and quality of life of the Members of the Association and in supplementing some services and facilities normally provided by or associated with governmental or quasi-governmental entities, and otherwise for the operation of the Association, including, but not limited to or for: (i) carrying out the duties of the Board as set forth in these covenants and restrictions; (ii) carrying out the other various matters set forth or envisioned herein; and (iii) for any matter or thing designated by the City in connection with any zoning, subdivision, platting, building, development or occupancy requirements. The items and areas described above are not intended to be exhaustive but merely illustrative.

**Section 20. Basis and Amount of Annual Assessments**

- (a) Regular Annual Assessments, Special Assessments and Special Group Assessments shall be borne one hundred percent (100%) by the Class A Members and, if applicable, Declarant.
- (b) Notwithstanding the foregoing, until the end of the expiration of the Development Period, Declarant shall not be liable for Annual Assessments for any Plots owned by it. In lieu thereof, during the Development Period, Declarant shall be responsible for all expenses actually incurred by the Association, in excess of the Annual Assessments. Notwithstanding the foregoing, in the event the Association incurs any expense not ordinarily anticipated in the day-to-day management and operation of the Association, including but not limited to expenses incurred in connection with lawsuits against the Association, or incurred in connection with damage to property, or injury or death to any person, which are not covered by insurance proceeds, the liability of Declarant for such expenses shall not exceed the amount that Declarant would be required to pay if it were liable for Annual Assessments as any other Owner, and any excess, amounts payable by the Association shall be assessed to all Owners, including Declarant. From and after the expiration of the Development Period, to the extent that Declarant owns one (1) or more Plots, Declarant shall pay regular Annual Assessments in the same manner as the other Owners of Plots. In the event Declarant fails to pay any sums by this paragraph (b), there shall exist a self executing and continuing Performance Lien and equitable charge against each Plot owned by Declarant or the Association shall be entitled to exercise the remedies contemplated in Section 26 below.
- (d) The regular Annual Assessments relating to any common properties for the current Fiscal Year shall be established, assessed, included in and covered by the regular Annual Assessments to be imposed upon Owners of Plots pursuant to subparagraph (f) below.
- (e) In determining each regular Annual Assessment, the Board shall separately assess each Plot in the manner herein provided, and each Plot shall be charged with and subjected to a lien for the amount of such separate Assessment which shall be deemed the "Annual Assessment" with respect to such Plot.

- (f) The initial Annual Assessments for the initial calendar year shall be pursuant to a budget prepared by the Declarant upon Declarant's projections of reasonable expenses to be incurred in that initial calendar year. Thereafter, the Board may be permitted at any time during the term of these covenants and restrictions to increase the regular Annual Assessment for each Plot without a vote of the Members from Fiscal Year to Fiscal Year, but such an adjustment shall not exceed twenty-five percent (25 %) of the previous Fiscal Year's regular Annual Assessment assessed against the Plots in question.
- (g) The maximum Annual Assessment may not be otherwise increased beyond the restrictions set forth in subparagraph (f) above without the approval of at least fifty-one percent (51%) of the Class A Members at a meeting or meetings called for that purpose with at least fifty percent (50%) of the Class A Members (or their proxies) present, after adequate notice.
- (h) Following the expiration of the Development Period, the Board shall not take formal action on the Annual Assessment more than once in any Fiscal Year. Each and every meeting of the Board in which final action is taken on an Annual Assessment, Special Assessment or Special Group Assessment shall be open to Owners.
- (i) In addition to regular Annual Assessments, Special Assessments, Special Group Assessments and Individual Assessments, each Owner of a Plot (other than the initial, bona fide developer or homebuilder) shall be obligated, at the time of the purchase of the Plot by such Owner and simultaneously therewith, to pay the Association the sum of One Hundred Dollars (\$100.00) as a one-time acquisition and transfer fee to supplement the funds of the Association. Declarant may defer collection of this one-time acquisition and transfer fee for certain Plots purchased for resale until such resale.

**Section 21. Special Assessments** In addition to the regular Annual Assessments authorized by Section 20 hereof, the Association may levy in any Fiscal Year a Special Assessment, applicable to that Fiscal Year only, for the purpose of (a) defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any common properties Declarant may later dedicate to the Plots, including any necessary fixtures and personal property related thereto, or (b) defraying, in whole or in part, the cost of any extraordinary, unusual or emergency matters (including, without limitation, those matters arising out of litigation and/or judgments). Prior to the expiration of the Development Period, any Special Assessment in respect to dedication of and any improvements to common properties must have the affirmative vote of Declarant and at least two-thirds (2/3's) of the Class A Members, and such assessment shall be payable by all Owners, including Declarant. From and after the expiration of the Development Period, any Special Assessment must have the affirmative approval of at least two-thirds (2/3's) of the Class A Members at a meeting or meetings called for that purpose with at least thirty percent (30%) of the Class A Members (or their proxies) present, after adequate notice.

**Section 22. Special Group Assessments** Where any such funds are required

for the purpose of (a) defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, including any necessary fixtures and personal property related thereto, or (b) defraying, in whole or in part, the cost of any extraordinary, unusual or emergency matters (including, without limitation, those matters arising out of litigation and/or judgments) upon a portion of the Plots restricted to the common use and enjoyment of the Owners of Plots sharing a common interest, separate and apart from the interest of all of the Owners of Plots, then the Board shall be permitted to levy a Special Group Assessment against only the Plots in that group. These Special Group Assessments shall be levied in the same manner as hereinbefore provided for Special Assessments, except that the voting Members shall be comprised only of Owners of Plots to be affected by the Special Group Assessment.

**Section 23. Rate of Assessments** Prior to the expiration of the Development Period, regular Annual Assessments, Special Assessments, and, to the extent of the affected Plots only, Special Group Assessments in respect to Plots must be fixed at a uniform rate for all Plots, unless otherwise approved by Declarant. From and after the expiration of the Development Period, regular Annual Assessments, Special Assessments, and, to the extent of the affected Plots only, Special Group Assessments in respect to Plots must be fixed at a uniform rate for all Plots, unless otherwise approved by at least two-thirds (2/3rds) of the members of the Board.

**Section 24. Due Dates of Assessments** Once Declarant has established a budget for the Annual Assessments and has notified all Plot Owners as to the initial date when such Annual Assessments first become due and payable, the Annual Assessment shall be due and payable in full in advance on the first day of each Fiscal Year and shall, if not paid within thirty (30) consecutive calendar days thereafter, automatically become delinquent. The Board shall use reasonable efforts to provide each Owner with an invoice statement of the appropriate amount due, but any failure to provide such a notice shall not relieve any Owner of the obligation established by the preceding sentence. The Board may (but is not required to), however, prescribe time-price differential payment schedules which would permit the collection of an amount greater than the Annual Assessment on a semi-annual, quarterly or monthly basis provided that the creditworthiness of Owner was acceptable to the Board and the inconvenience to the staff of the Association for additional invoicing and collection efforts was minimized or eliminated. The Board may further prescribe (a) procedures for collecting advance regular Annual Assessments from new Owners out of "closing transactions" and (b) different procedures for collecting Assessments from Owners who have had a recent history of being untimely in the payment of Assessments. Written notice of the applicable Assessment shall be furnished in a timely manner by the Board to every Owner by mail.

**Section 25. Effect of Non-Payment of Assessment; the Personal Obligation of Owner; the Lien in Respect to a Plot; and Remedies of Association**

- (a) Effective as of, and from and after the filing and recordation of these covenants and restrictions, there shall exist a self-executing and continuing contract Payment and Performance Lien and equitable charge on each Plot to secure the full and timely payment of each and all Assessments and all other Charges and monetary amounts and performance obligations due hereunder with respect to the Plots, including the obligations of Declarant under Section 20(c) hereof. Such lien shall be at all times superior to any claim of

homestead by or in any Owner of a Plot. If any Assessment or Charge or other monetary amount or any part thereof is not paid by the Owner of a Plot on the date(s) when due, then the unpaid amount of the Assessment or Charge or other monetary amount shall (after the passage of any stated grace period) be considered delinquent and shall, together with any late charge and interest thereon at the Maximum Lawful Rate and costs of collection thereof, become a continuing debt secured by the self-executing Payment and Performance Lien on the Plot of the non-paying Owner which shall bind such Plot in the hands of the Owner and the Owner's heirs, executors, administrators, devisees, personal representatives, successors and assigns. The Association shall have the right to reject partial payments of an unpaid Assessment or other monetary obligation and demand the full payment thereof. The personal obligation of the then-existing Owner to pay such Assessment or other monetary obligation shall remain the Owner's personal obligation and shall not pass to the Owner's successors in title unless expressly assumed by them. However, the lien for unpaid Assessments or other monetary obligation shall be unaffected by any sale, conveyance or transfer of a Plot and shall continue in full force and effect.

- (b) No Owner may waive or otherwise escape liability for any Assessment or other monetary obligation provided herein by abandonment of his/her/its Plot. No diminution or abatement of Assessments or other monetary obligation shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such Assessments or other monetary obligation being a separate and independent covenant on the part of each Owner.
- (c) The Association may also give written notification to the holder(s) of any mortgage on the Plot of the non-paying Owner of such Owner's default in paying any Assessment or Charge or other monetary obligation, particularly where the Association has theretofore been furnished in writing with the correct name and address of the holder(s) of such mortgage, and a written request to receive such notification.
- (d) If any Assessment or Charge or other monetary obligation or part thereof not paid when due, the Association shall have the right and option to impose a late charge (but only to the extent permitted by applicable law) to cover the additional administrative costs involved in handling the account and/or to reflect any time-price differential assessment schedule adopted by the Association. The unpaid amount of any such delinquent Assessment or Charge or other monetary obligation shall bear interest from and after the date when due at the Maximum Lawful Rate until fully paid. The Association may, at its election, retain the services of an attorney to review, monitor and/or collect unpaid Assessments or Charges and delinquent accounts, and there shall also be added to the amount of any unpaid

Assessment or Charge or any delinquent account any and all reasonable attorneys' fees and other costs of collection incurred by the Association.

- (e) In respect to the Plots, the Association may, at its discretion, but subject to all applicable debt collection statutes, prepare and file a lien affidavit in the Records which specifically identifies the unpaid Assessments or Charges or other monetary obligation. Each owner consents to these procedures and authorizes the Board to undertake such measures for the general benefit of the Association.
- (f) All agreements between any Owner and the Association and/or Declarant, whether now existing or hereafter arising and whether written or oral and whether implied or otherwise, are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid, or agreed to be paid, to the Association and/or Declarant or for the payment or performance of any covenant or obligation contained herein or in any other document exceed the maximum amount permissible under applicable law. If from any circumstance whatsoever fulfillment of any provision hereof or of such other document at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstance the Association and/or Declarant should ever receive an amount deemed interest by applicable law which shall exceed the Maximum Lawful Rate, such amount which would be excessive interest shall be applied to the reduction of the actual base assessment amount or principal amount owing hereunder and other indebtedness of Owner to the Association and/or Declarant and not to the payment of interest of, if such excessive interest exceeds the unpaid balance of the actual Annual Assessment due and such other indebtedness, the excess shall be refunded to Owner in question. All sums paid or agreed to be paid by any Owner for the use, forbearance or detention of any indebtedness to the Association and/or Declarant shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the interest charged, collected or received on account of such indebtedness is never more than the maximum amount permitted by applicable law. The terms and provisions of this subparagraph (f) shall control and supersede every other provision of all agreements between any Owner and the Association and/or Declarant.

**Section 26. Power of Sale in Respect to Plots**

- (a) The lien covering the Plots described within Section 25 above is and shall be a contract Payment and Performance Lien. Each Owner of a Plot, for the purpose of better securing each and all monetary obligations described within these covenants and restrictions and in consideration of the benefits received and to be received by virtue of the ownership of its Plot, by acceptance of its Deed, is deemed to have granted, sold and conveyed unto the Trustee, such Owner's Plot, to have and to hold such Plot, together with the rights, privileges and appurtenances thereto belonging unto the Trustee, and to its substitutes or successors, forever. Each Owner, by its acceptance of the Deed



is deemed to have bound himself and/or herself and/or itself, and his or her or its heirs, executors, administrators, devisees, personal representatives, successors and assigns to warrant and forever defend such Owner's Plot unto the Trustee, its substitutes or successors and assigns, forever, against the claim, or claims of all Persons claiming or to claim the same or any part thereof.

- (b) This conveyance by Owners of the Plots is made in trust to secure payment by Owners of all Plots of each and all Assessments and other obligations prescribed by these covenants and restrictions to and for the benefit of the Association, as the beneficiary. In the event of default in the payment of any obligation hereby secured, in accordance with the terms thereof, then and in such event, the Association may elect to declare the entire indebtedness hereby secured with all interest accrued thereon and all other sums hereby secured due and payable (subject, however, to the notice and cure provisions set forth in Section 51.002 of the Texas Property Code), and in the event of default in the payment of such indebtedness when due or declared due, it shall thereupon, or at any time thereafter, be the duty of the Trustee, or its successor or substitute as hereinafter provided, at the request of the Association (which request is hereby conclusively presumed), to enforce this trust; and after advertising the time, place and terms of the sale of the Plot then subject to the lien hereof, and mailing and filing notices as required by Section 51.002, Texas Property Code, as then amended, and otherwise complying with that statute, the Trustee shall sell the Plot of the non-paying Owner, then subject to the lien hereof, at public auction in accordance with such notices on the first Tuesday in any month between the hours of ten o'clock A.M. and four o'clock P.M., to the highest bidder for cash, selling all of the Plot then subject to the lien hereof as an entirety or in such parcels as the Trustee acting may elect, and make due conveyance to the purchaser or purchasers (the "Purchaser" or "Purchasers" herein), with general warranty binding upon Owner, his or her or its heirs, executors, administrators, devisees, personal representatives, successors and assigns; and out of the money arising from such sale, the Trustee acting shall pay first, all the expenses of advertising the sale and making the conveyance, including a reasonable commission to itself, which commission shall be due and owing in addition to the attorney's fees herein provided for, and then to the Association the full amount of principal, interest, attorney's fees and other charges due and unpaid on such indebtedness secured hereby, rendering the balance of the sales price, if any, to Owner, his or her or its heirs, executors, administrators, devisees, personal representatives, successors and assigns and/or to any other lien holders (if so required by applicable law); and the recitals in the conveyance to the Purchaser or Purchasers shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to such sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against Owner, his or her or its heirs, executors, administrators, devisees, personal representatives, successors and assigns.
- (c) It is agreed that in the event foreclosure of the Performance and Payment Lien hereunder is commenced by the Trustee, or its substitute or successor,

the Association may at any time before the sale of the Plot of the non-paying Owner direct the Trustee to abandon the sale, and may then institute suit for the collection of such indebtedness and for the foreclosure of the contract Payment and Performance Lien created hereby. It is further agreed that if the Association should institute a suit for the collection thereof and/or for a foreclosure of the contract Payment and Performance Lien created hereby, that the Association may at any time before the entry of a final judgment in such suit dismiss the same, and require the Trustee, its substitute or successor, to sell the Plot of the non-paying Owner in accordance with the provisions of this Section 26. The Association, if it is the highest bidder, shall have the right to purchase at any sale of the Plot in question and to have the amount for which such Plot is sold credited on the debt then owing. The Association in any event is hereby authorized to appoint a substitute Trustee, or a successor Trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor Trustee; and the authority hereby conferred shall extend to the appointment of other successor and substitute Trustees successively until the indebtedness hereby secured has been paid in full, or until the Plot of the non-paying Owner is sold hereunder, and each substitute and successor Trustee shall succeed to all of the rights and powers of the original Trustee named herein. In the event any sale is made of the Plot of the non-paying Owner, or any portion thereof, under the terms of this Section 26, owner, his or her or its heirs, executors, administrators, devisees, personal representatives, successors and assigns, shall forthwith upon the making of such sale surrender and deliver possession of the Plot so sold to the Purchaser or Purchasers at such sale, and in the event of Owner's failure to do so, Owner shall thereupon from and after the making of such sale be and continue as a tenant at will of such Purchaser or Purchasers, and in the event of Owner's failure to surrender possession of the Plot in question upon demand, the Purchaser or Purchasers, his or her or its or their heirs, executors, administrators, devisees, personal representatives, successors and assigns, shall be entitled to institute and maintain an action for forcible detainer of the Plot of the non-paying Owner in the Justice of the Peace Court in the Justice Precinct in which such Plot, or any part thereof, is situated. The foreclosure of the continuing contract Payment and Performance Lien on any one or more occasions shall not remove, replace, impair or extinguish the same continuing Payment and Performance Lien from securing all obligations arising from and after the date of foreclosure.

**Section 27. Subordination of the Lien** The lien on the Plots securing the payment of the Assessments and other obligations provided for herein shall be superior to any and all other charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon any Plot whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage or other instrument, except for:

- (a) bona-fide first mortgage or deed of trust liens for purchase money and/or improvement purposes placed against a Plot prior to the recording of a lien by the Association, including without limitation Institutional Mortgages, in which event the Association's lien shall automatically become subordinate and inferior to such first lien;

- (b) liens for taxes or other public charges as are by applicable law made superior to the Association's lien; and
- (c) such other liens about which the Board may, in the exercise of its reasonable discretion, elect to voluntarily subordinate the Association's lien; provided however, such subordination shall apply only to (i) the Assessments which have been due and payable prior to the foreclosure sale (whether public or private) of such Plot pursuant to the terms and conditions of any such first mortgage or deed of trust or tax lien; (ii) the permitted Payment and Performance Lien on the Plot alone and not on or to any easement appurtenant for use and enjoyment of any common properties. Such sale shall not relieve such Plot from liability for the amount of any Assessment thereafter becoming due nor from the lien of any such subsequent Assessment. Such subordination shall not apply where the first mortgage or deed of trust or tax lien is used as a device, scheme or artifice to evade the obligation to pay Assessments and/or to hinder the Association in performing its functions hereunder.

Section 28. **Exempt Property** Tract D, Tract E, and any Tract reserved in its entirety as an easement or common area shall be exempted from any Assessments or Charge created herein, save and except a Payment and Performance Lien which shall secure payment and performance of Declarant's obligations under Section 20(c) hereof and which shall encumber all of the Plots owned by Declarant during its period of ownership.

Section 29. **Constitution of the Board of Directors**

- (a) The affairs of the Association shall be managed by a Board consisting of three (3) individuals, each of whom shall be elected by a vote of Members.
- (b) The Directors need not be Members of the Association. Of the initial Board, one (1) Director shall be elected for a one (1) year term, one (1) Director shall be elected for a two (2) year term, and the remaining one (1) Director shall be elected for a three (3) year term. Other than the constitution of the initial Board, Directors shall be elected for two (2) year terms of office and shall serve until their respective successors are elected and qualified. Any vacancy which occurs in the Board, by reason of death, resignation, removal, or otherwise of a Director, may be filled at any meeting of the Board by the affirmative vote of a majority of the remaining Directors. Any Director elected to fill a vacancy shall serve in such capacity until the expiration of the term of the Director whose position he or she was elected to fill.

Section 30. **Powers and Duties**

- (a) The affairs of the Association shall be conducted by its Board. The Board, for the benefit of the Association and Members, may provide and may pay for, out of the Assessment fund(s) provided for in Article V above, costs and expenses incurred in connection with the affairs of the Association. If for any reason during the Development Period, the Board is not deemed authorized to act for and on behalf of the Association and Members, then Declarant may

exercise the powers and authority granted under this Section 30, to act for and on behalf of the Association and Members, and the Association shall reimburse Declarant for any and all reasonable expenses incurred in so acting.

- (b) The Board may provide and may pay for, out of the Assessment fund(s) provided for in Article V above, one or more of the following:
  - (i) Care, preservation and maintenance of any common properties and the furnishing and upkeep of any desired personal property for use in or on any common properties;
  - (ii) Recreational and social programs and activities for the general benefit of the Members and programs which are designed only for separately identifiable sub-groups of Members, such as (but not limited to) infants, adolescents, teenagers, students, mothers and senior citizens;
  - (iii) Supplementing (to the extent, if any, deemed necessary, appropriate and affordable by the Board) the police, fire, ambulance, garbage and trash collection and similar services within the Plots traditionally provided by local governmental agencies;
  - (iv) Taxes, insurance and utilities (including, without limitation, electricity, gas, water, sewer and telephone charges) which pertain to any common properties;
  - (iv) The services of any Person (including Declarant and any affiliates of Declarant) to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager of the Association, including the hiring and employment of one or more managers, secretarial, clerical, staff and support employees;
  - (v) Such fidelity bonds as the Board may determine to be advisable;
  - (vi) Legal and accounting services (including audit fees) and all costs and expenses reasonably incurred by the Board; and
  - (viii) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, taxes or Assessments which the Board is required to obtain or pay for pursuant to the terms of these covenants and restrictions or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of these covenants and restrictions.
- (c) The Board shall have the following additional rights, powers and duties:
  - (i) To execute all declarations of ownership for tax assessment purposes

with regard to any common properties owned by the Association;

- (ii) To enter into agreements or contracts with insurance companies, Taxing Authorities, the holders of first mortgage liens on individual Plots and utility companies with respect to (A) any taxes on any common properties, (B) monthly escrow and impound payments by a mortgagee regarding the assessment, collection and disbursement process, (C) utility installation, consumption and service matters, and D) the escrow or impounding of monies sufficient to timely pay the Annual Assessment applicable to any Plot;
- (iii) To borrow funds (including, without limitation, the borrowing of funds from Declarant and/or its affiliates) to pay costs of operation, secured by such assets of the Association as deemed appropriate by the lender and the Association;
- (iv) To enter into contracts, maintain one or more bank accounts and, generally, to have all the powers necessary or incidental to the operation and management of the Association;
- (iv) To protect or defend any common properties from loss or damage by suit or otherwise, to sue or defend in any court on behalf of the Association and to provide adequate reserves for repairs and replacements;
- (v) To make reasonable rules and regulations for the operation of any common properties and to amend them from time to time and to enter into concession agreements regarding food, beverage, vending and other products and services within the common properties;
- (vi) To prepare an annual operating budget and to make available for review by each Owner, upon the written request of an Owner desiring such review, at the Association offices within ninety (90) days after the end of each Fiscal Year an financial report;
- (vii) To adjust the amount, collect and use any insurance proceeds to repair damaged or replace lost property; if proceeds are insufficient to repair damaged or replace lost property; and to assess Owners in proportionate amounts to cover the deficiency;
- (ix) To provide adequate reserves for maintenance, repairs, operations, taxes and assessments for any common properties;
- (x) To engage the services of attorneys and accountants (including an annual audit) in connection the business of the Association; and
- (xi) To enforce the provisions of these covenants and restrictions and any rules made hereunder or by the Board and to enjoin and seek damages from any Owner for violation of such provisions or rules.

- (d) The Board is specifically authorized and empowered to establish (and to revise and amend from time to time) a monetary "fines" system which may include component steps such as warning citations, ticketing, due process hearings and appeals and a flat rate or discretionary range or geometric progression of fine amounts, which, when pronounced, shall constitute a permitted Individual Assessment secured by the continuing contract Payment and Performance Lien herein established.
- (e) The Association may (i) borrow monies from Declarant; (ii) lease equipment from Declarant; (iii) contract with Declarant concerning the provision of any personnel, labor, supplies, materials and services, provided such contract terms and conditions are (A) generally comparable (in terms of price, quality and timeliness) with those that might be otherwise obtained from unrelated third parties, and (B) as to professional management contracts, terminable by the Association at any time for any reason whatsoever and without penalty upon furnishing at least ninety (90) days advance notice thereof to Declarant. The Board shall not be required to solicit bids from unrelated third parties before entering into any contract with Declarant and the reasonable judgment and resolution of the Board to enter into any such contract with Declarant (absent fraud, gross negligence or willful misconduct) shall be final and conclusive and binding upon the Association and all of its Members.

**Section 31. Duties of the Board of Directors with Respect to Assessments**

- (a) In the event that the Board determines for any Fiscal Year to revise the amount or rate of the Annual Assessment established for the then current or prior Fiscal Year or to establish a Special Assessment or Special Group Assessment, the Board shall fix the amount of the Assessment in question against each Plot and the applicable due date(s) for each Assessment, at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Plots and Assessments applicable thereto which shall be kept in the office of the Association.
- (b) The Board shall, upon reasonable demand, furnish to any Owner originally liable for any Assessment, a certificate in writing signed by an officer of the Association or the Managing Agent, setting forth whether the Assessment in question has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificate.

**Section 32. Maintenance Contracts** The Board, on behalf of the Association, shall have full power and authority to contract with any owner (including, without limitation, Declarant) for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interests of the Association. Any contract entered into on behalf of the Association shall have a term not to exceed three (3) years and be terminable on thirty (30) days prior written notice.



Section 33. **Liability Limitations** Neither any Owner nor a Director nor the officers and managers of the Association, including the Managing Agent, shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association or for a tort of another Owner, whether such other Owner was acting on behalf of the Association or otherwise. Neither Declarant, the Association, its Directors, officers, managers, agents or employees shall be liable for any actual, incidental or consequential damages for failure to inspect any Plot or the improvements located thereon or portion thereof or for failure to repair or maintain the same. Declarant, the Association or any other Person liable to make such repairs or maintenance shall not be liable for any personal injury or other actual, incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any Plot or any improvement located thereon or portion thereof.

Section 34. **Reserve Funds** The Board may, at its option, establish reserve funds which may be maintained and accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts or any other recognized bookkeeping or tax procedures in order to better demonstrate that the amounts deposited therein are capital contributions and not net or taxable income to the Association.

Section 35. **Registered Sex Offenders** No registered sex offender (as defined in Chapter 62 of the Texas Code of Criminal Procedure and those certain provisions in the criminal codes applicable to sex offenders for each state in the United States of America) shall own or reside on any part of any Plot. Declarant and/or the Association may from time to time, at its own discretion, search the following online databases (as long as such databases continue to be in existence under their respective URL's listed below) to determine if any Owner or any person residing on any Plot owned by Owner, if such information has been furnished to Declarant and/or the Association by such Owner, is a registered sex offender in the State of Texas, or any other state in the United States of America, and found to be in violation of this restriction:

- <https://records.txdps.state.tx.us/soSearch/soSearch.cfm>
- [www.instantbackgroundchecks.us](http://www.instantbackgroundchecks.us)

The failure to comply with this restriction may, at the Association's option, subject the Owner to an individual assessment of \$1000.00 per day for each day that such Owner fails to comply with this restriction. The non-payment of such assessment can result in a lien against said Plot, which lien may be foreclosed on in order to collect such fine in accordance with the provisions of covenants and restrictions.

To help prevent future violations of this restriction, every Owner of a Plot shall also search the online databases listed above prior to selling each Plot to a prospective purchaser. Declarant and/or the Association shall not be obligated to provide any Owner or prospective purchaser (including any potential lender of prospective purchaser) an Estoppel Certificate or other letter evidencing Owner's current "good standing" under these covenants and restrictions until such Owner provides Declarant and/or the Association with a notarized affidavit evidencing that Owner has conducted the required searches under this Section 35.

DECLARANT ASSUMES NO LIABILITY FOR THE USE OR INTERPRETATION OF INFORMATION IN THESE COVENANTS AND RESTRICTIONS RELATING TO THE RESTRICTION PROVIDED UNDER THIS SECTION 35. THESE COVENANTS AND RESTRICTIONS AND ITS CONTENTS (INCLUDING, BUT NOT LIMITED TO THE RESTRICTION PROVIDED UNDER THIS SECTION 35) ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. EVERY PERSON WHO SUBMITS PLANS OR SPECIFICATIONS, AND EVERY OWNER OF EACH AND EVERY PLOT, AGREES THAT HE/SHE/IT WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, THE ASSOCIATION, THE ARC, THE BOARD, OR THE OFFICERS, MANAGERS, MEMBERS, EMPLOYEES AND AGENTS OF ANY OF THEM, TO RECOVER ANY SUCH DAMAGES BASED ON ANY PROVISION OF THESE COVENANTS AND RESTRICTIONS (INCLUDING, BUT NOT LIMITED TO, THIS SECTION 35) AND EACH AND EVERY OWNER HEREBY RELEASES, REMISES AND QUITCLAIMS ALL CLAIMS, DEMANDS AND CAUSES OF ACTION (INCLUDING, BUT NOT LIMITED TO, ANY POSSIBLE CLAIMS UNDER SECTIONS 209.009 AND 301.004 OF THE TEXAS PROPERTY CODE) ARISING OUT OF OR IN CONNECTION WITH ANY JUDGMENT, NEGLIGENCE OR NONFEASANCE AND HEREBY WAIVES THE PROVISIONS OF ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

**Section 36. Power of Attorney**

- (a) Except with respect to any matter set forth herein which requires the consent and/or approval of a certain number or percentage of Owners and such consent and/or approval is not obtained (for which the power of attorney granted herein shall not apply), and only during the term of the Development Period, each and every Owner hereby makes, constitutes and appoints Declarant as his/her/its true and lawful attorney-in-fact, coupled with an interest and irrevocable, for him/her/its and in his/her/its name, place and stead and for his/her/its use and benefit, to do the following:
- (i) to exercise, do or perform any act, right, power, duty or obligation whatsoever in connection with, arising out of, or relating to any matter whatsoever involving this Declaration and the Plots;
  - (ii) to sign, execute, acknowledge, deliver and record any and all instruments which modify, amend, change, enlarge, contract or abandon the terms within this declaration, or any part hereof, with such clause(s), recital(s), covenant(s), agreement(s) and restriction(s) as Declarant shall deem necessary, proper and expedient under the circumstances and conditions as may be then existing; and
  - (iii) to sign, execute, acknowledge, deliver and record any and all instruments which modify, amend, change, enlarge, contract or abandon the subdivision plat(s) of the Plots, or any part thereof, with

any easements and rights-of-way to be therein contained as Declarant shall deem necessary, proper and expedient under the conditions as may then be existing.

- (b) The rights, powers and authority of said attorney-in-fact to exercise any and all of the rights and powers herein granted shall commence and be in full force upon recordation of this Declaration in the Records and shall remain in full force and effect until the expiration of the Development Period, at which time such rights, powers and authority shall terminate.
- (c) Notwithstanding any other provision set forth herein, the provisions of paragraph (a) above cannot be amended or modified in any respect without the consent of Owners owning at least fifty-one percent (51%) of the Plots subject to this Declaration.

Section 37. **Amendments** The covenants and restrictions set forth herein are expressly subject to change, modification and/or deletion by means of amendment, at any time and from time to time, on the following basis:

- (a) During the Development Period (i) in response to any governmental or quasi-governmental guideline requisite or requirement, particularly with respect to those entities or agencies directly or indirectly involved in, or having an impact on, mortgage financing, mortgage insurance and/or reinsurance, or (ii) in respect to any amendments desired by Declarant, Declarant shall have the complete and unfettered right and privilege to amend, change, revise, modify or delete portions of these covenants and restrictions, and each and every Owner specifically and affirmatively authorizes and empowers Declarant, utilizing the attorney-in-fact status set forth in Section 36 above, to undertake, complete and consummate any and all such amendments, changes, revisions, modifications or deletions as Declarant (in its sole and absolute discretion) shall deem reasonable and appropriate.
- (b) From and after conclusion of the Development Period, these covenants and restrictions, other than amendments of a "material nature", may be amended or changed upon the express written consent of the Board, without the approval of any Owner.
- (c) Amendments of a "material nature" to the Declaration must be agreed to and approved, from and after the expiration of the Development Period, by Owners owning at least fifty-one percent (51%) of the Plots.
- (d) A substantive change to any provision dealing with or governing any of the following items will be considered an amendment of a "material nature":
  - (i) voting rights of any Member;
  - (ii) increases in Annual Assessments that raise the previous Annual Assessment amount by more than twenty-five percent (25%), liens securing the payment of Assessments, or subordination of liens securing the payment of Assessments, or materially and adversely

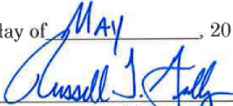
changing the method of determining the obligations in respect to Assessments, Charges or other monetary obligations which may be levied against an Owner;

- (iii) material reduction of reserves for maintenance, repair, and replacement of any common properties;
  - (iv) responsibility for maintenance and repairs;
  - (v) except as expressly permitted herein, convertibility of any Plot into common properties or vice versa;
  - (vi) the addition, annexation, or withdrawal of the property to or from the Plots, except as expressly permitted by the provisions of these covenants and restrictions hereof;
  - (vii) hazard or fidelity insurance requirements;
  - (viii) imposition of any restrictions on an Owner's right to sell or transfer his/her/its Plot;
  - (ix) restoration or repair (after a hazard damage or partial condemnation) of an common properties in a manner other than that specified herein; or
  - (x) any action to terminate the legal status of the Plots after substantial destruction or condemnation occurs or any action which materially and adversely alters the use of hazard insurance proceeds in respect to any losses to any common properties for any purpose other than the repair, replacement or reconstruction of any common properties.
- (e) A substantive change to any provision dealing with or governing any of the following items will be considered as "material", subject to the condition that any proposed action of the Association purportedly covered by the following must be material and adverse:
- (i) except as expressly permitted hereby, any act or omission to act seeking to abandon, partition, subdivide, encumber, sell or transfer an common properties which the Association owns, directly or indirectly (exclusive of the granting of easements for public utilities or for other public purposes consistent with the intended use of the Plots);
  - (ii) any act or omission to act changing, waiving or abandoning any scheme of regulations or enforcement thereof pertaining to the design or the exterior appearance as contemplated by these covenants and restrictions and maintenance of any common properties;
  - (iii) any act assigning any future income of the Association, including its right to receive Assessments; or

- (iv) failing to maintain fire and extended coverage insurance on assets owned by the Association, as required by these covenants and restrictions.
- (f) Additions or amendments to these covenants and restrictions such as the correction of a technical error or the clarification of a statement shall not be considered or construed as being "material," which amendment or amendments may be made by Declarant or the Board. Any and all amendments shall be duly recorded in the Records.

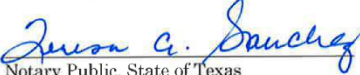
Section 38. **Severability** Each section, part, term or provision of these covenants and restrictions shall be considered severable, and if, for any reason, any section, part, term or provision herein or therein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation by a court or governmental agency having valid jurisdiction, such determination shall not impair the operation of or have any other effect on other sections, parts, terms or provisions of these covenants and restrictions, as applicable, as may remain otherwise intelligible, and the latter shall continue to be given full force and effect and bind the parties hereto and thereto, and said invalid sections, parts, terms or provisions shall not be deemed to be a part of these covenants and restrictions, as applicable.

EXECUTED as of this 10<sup>th</sup> day of May, 2017.

  
\_\_\_\_\_  
Russell T. Gully, Manager  
Psalm 100 Development, LLC

STATE OF TEXAS §  
COUNTY OF TOM GREEN §

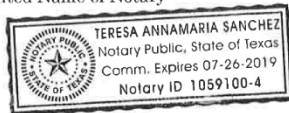
This instrument was acknowledged before me on May 10, 2017, by Russell T. Gully acting solely as the Manager as Psalm 100 Development, LLC.

  
\_\_\_\_\_  
Notary Public, State of Texas

My commission expires:

July 26, 2019

Teresa A. Sanchez  
Printed Name of Notary



CERTIFIED FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS



*Elizabeth McGill*

Elizabeth McGill County Clerk  
Tom Green County, Texas  
05/10/2017 10:23 AM  
Fee: \$120.00  
201706062 CVNT



# MEMO



## Meeting

**Date:** December 18, 2023

**To:** Planning Commission

**From:** Sherry L. Bailey  
Principal Planner, City of San Angelo

**Request:** CU23-54: 322 S Van Buren Street, Short-Term Rental request  
SMD#5 Karen Hesse Smith, Santa Rita Neighborhood

**Background:** 322 S Van Buren Street applied for a Conditional Use for a short-term rental in October 2023. The applicant believes this home is compatible as a short-term rental as it is surrounded by rental property and just a couple of blocks from W Beauregard Ave. and commercial shopping and restaurants.

**Notification:** 20 notices were mailed out to property owners within 200 feet. We have received one notice in favor and none in opposition.

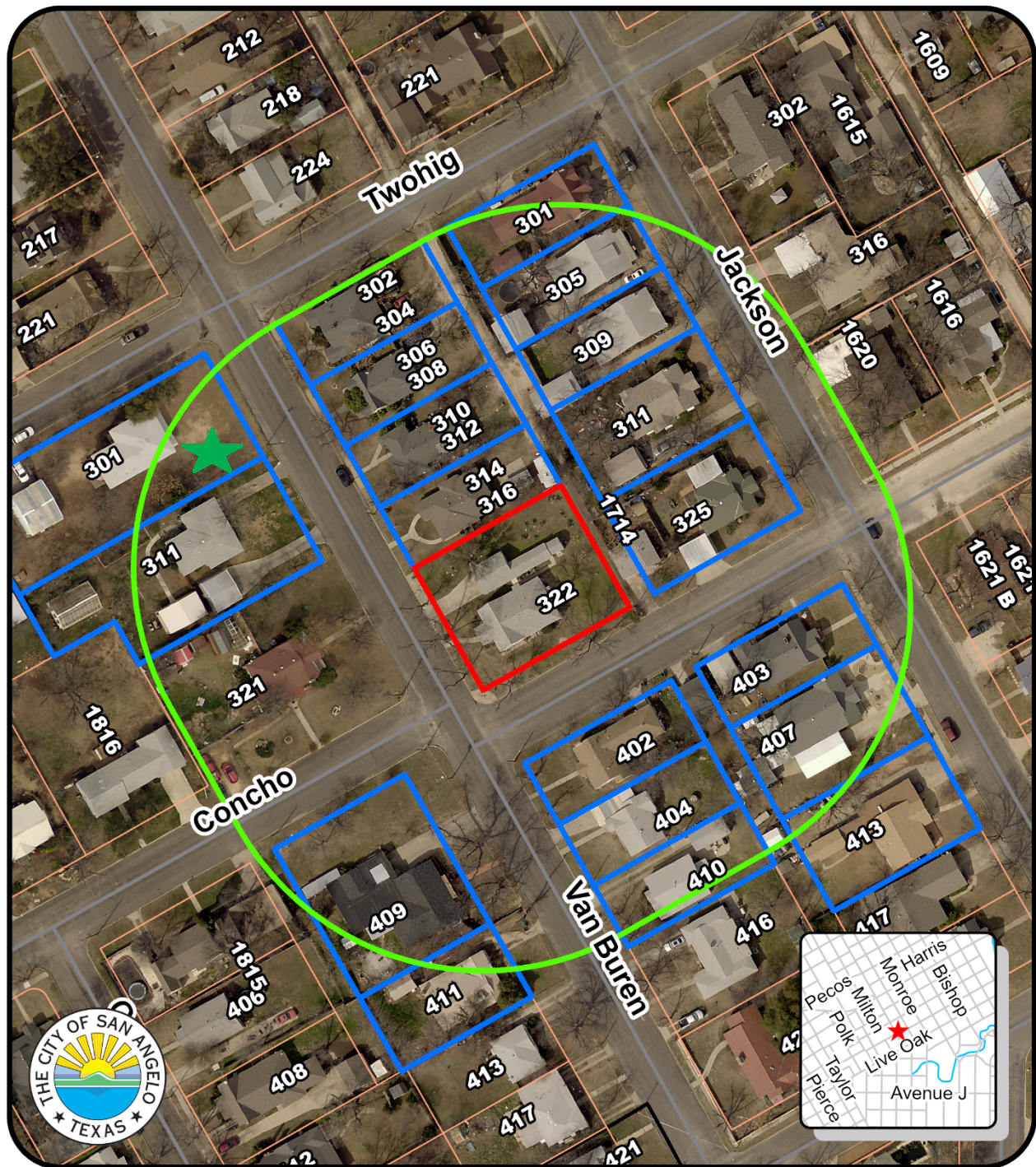
**Information:** This request meets all the ordinance requirements including two paved parking spaces. The nearest Short-Term Rental is 1,000 ft. away on S. Van Buren.

## **Planning Commission Requested Action:**

Staff is recommending **APPROVAL** of this request. If the Planning Commission approves the Conditional Use to allow the property at **322 S Van Buren Street** to operate as a Short-Term Rental staff recommends the following **three conditions of approval.**

- Maintain the two off-street parking
- Obtain a change of occupancy from Permits & Inspections
- Obtain a fire inspection annually

At this time the approval would be good for one year.



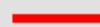
## 200' Notification Map

### CU23-54: 322 S Van Buren

Council District: #5 Karen Hesse Smith  
Neighborhood: Santa Rita

Scale: 0 0.010.01 0.02 0.03 0.04 Miles

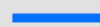
Subject Properties:



200' Buffer:



Notified Properties:



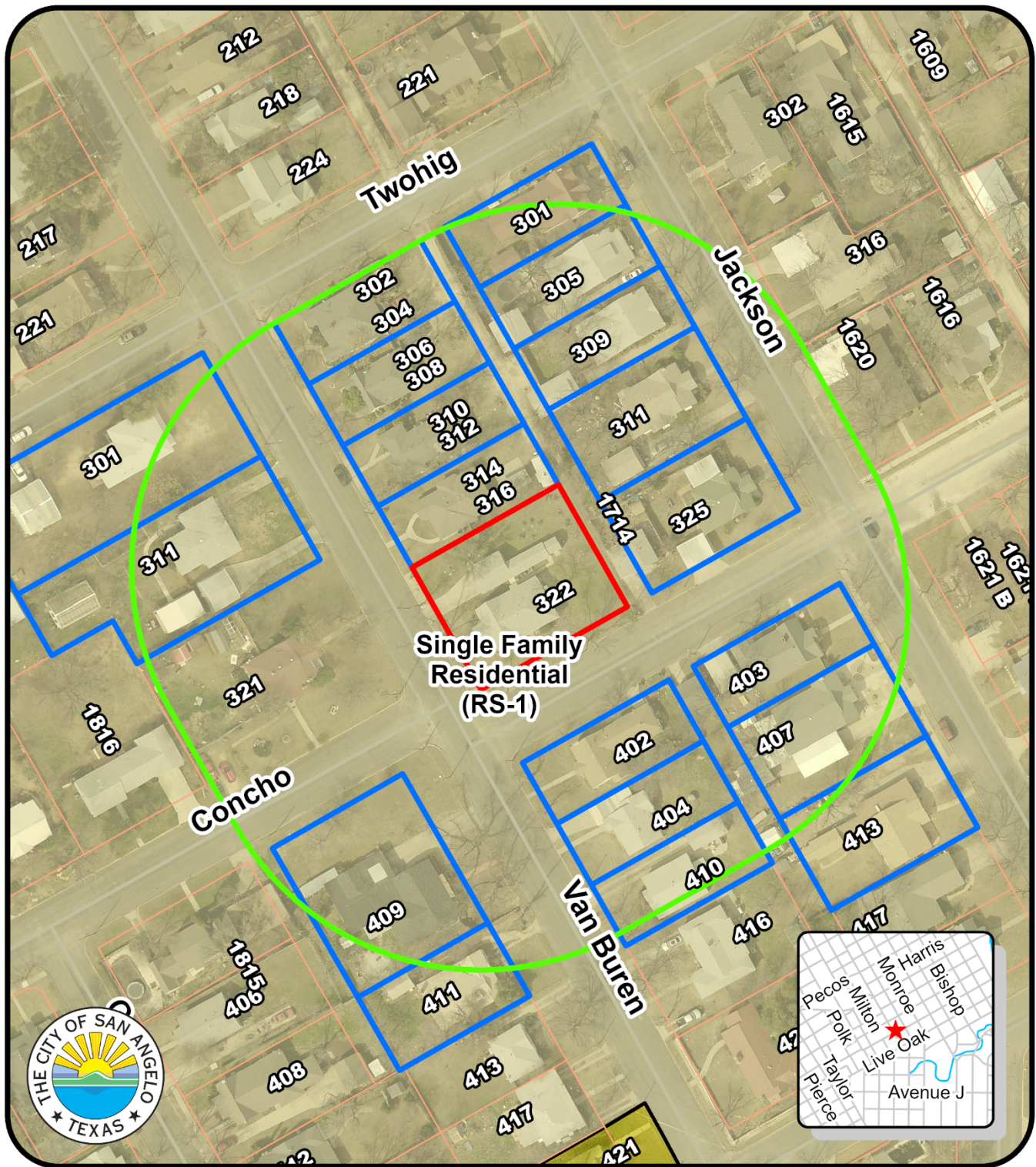
N











## Zoning Map

### CU23-54: 322 S Van Buren

Council District: #5 Karen Hesse Smith

Neighborhood: Santa Rita

Scale: 0 0.01 0.01 0.02 0.03 0.04 Miles

Subject Properties: —

200' Buffer: —

Notified Properties: —

N



# MEMO



## Meeting

**Date:** December 18, 2023

**To:** Planning Commission

**From:** Sherry L. Bailey  
Principal Planner, City of San Angelo

**Request:** CU23-56: 1710 W Ave H, Short-Term Rental request,  
SMD# 5, Karen Hesse Smith, Santa Rita Neighborhood

**Background:** 1710 W Ave H applied for a Conditional Use for a short-term rental in October 2023. The applicant believes this home is compatible as a short-term rental and it is no longer within 500 feet of another Short-Term Rental.

**Notification:** 21 notices were mailed out to property owners within 200 feet. We have received no comments in favor and none in opposition.

**Information:** This request meets all the ordinance requirements including two paved parking spaces. The nearest Short-Term Rental is over 500 feet away.

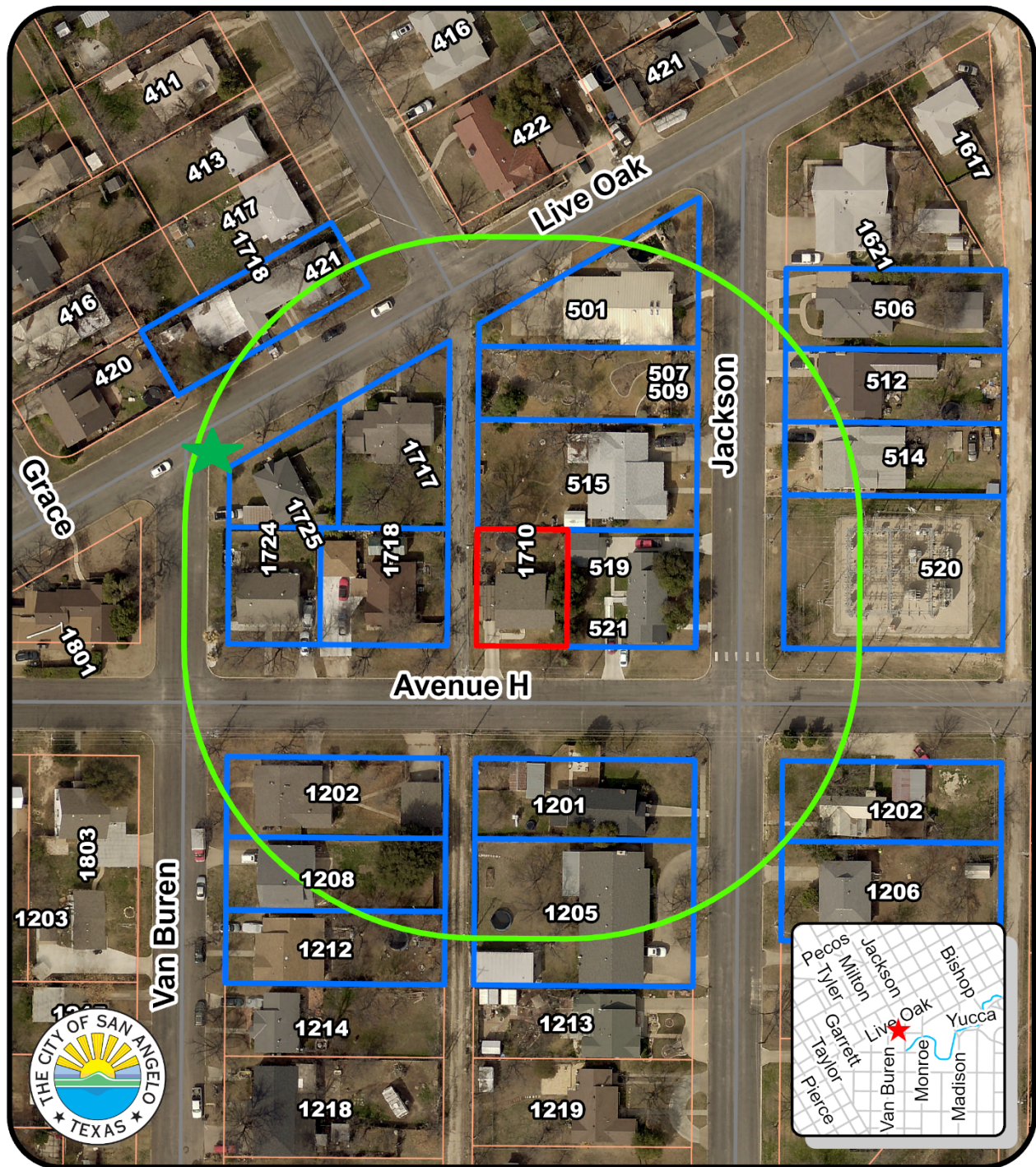
## **Planning Commission Requested Action:**

Staff is recommending **APPROVAL** of this request. If the Planning Commission approves the Conditional Use to allow the property at **1710 W Ave H** to operate as a Short-Term Rental staff recommends the following **three conditions of approval**.

- Maintain the two off-street parking
- Obtain a change of occupancy from Permits & Inspections
- Obtain a fire inspection annually

At this time the approval would be good for one year.





## 200' Notification Map

### CU23-56: 1710 W Avenue H

Council District: #5 Karen Hesse Smith  
Neighborhood: Santa Rita

Scale: 0 0.010.01 0.02 0.03 0.04 Miles

Subject Properties:



200' Buffer:



Notified Properties:



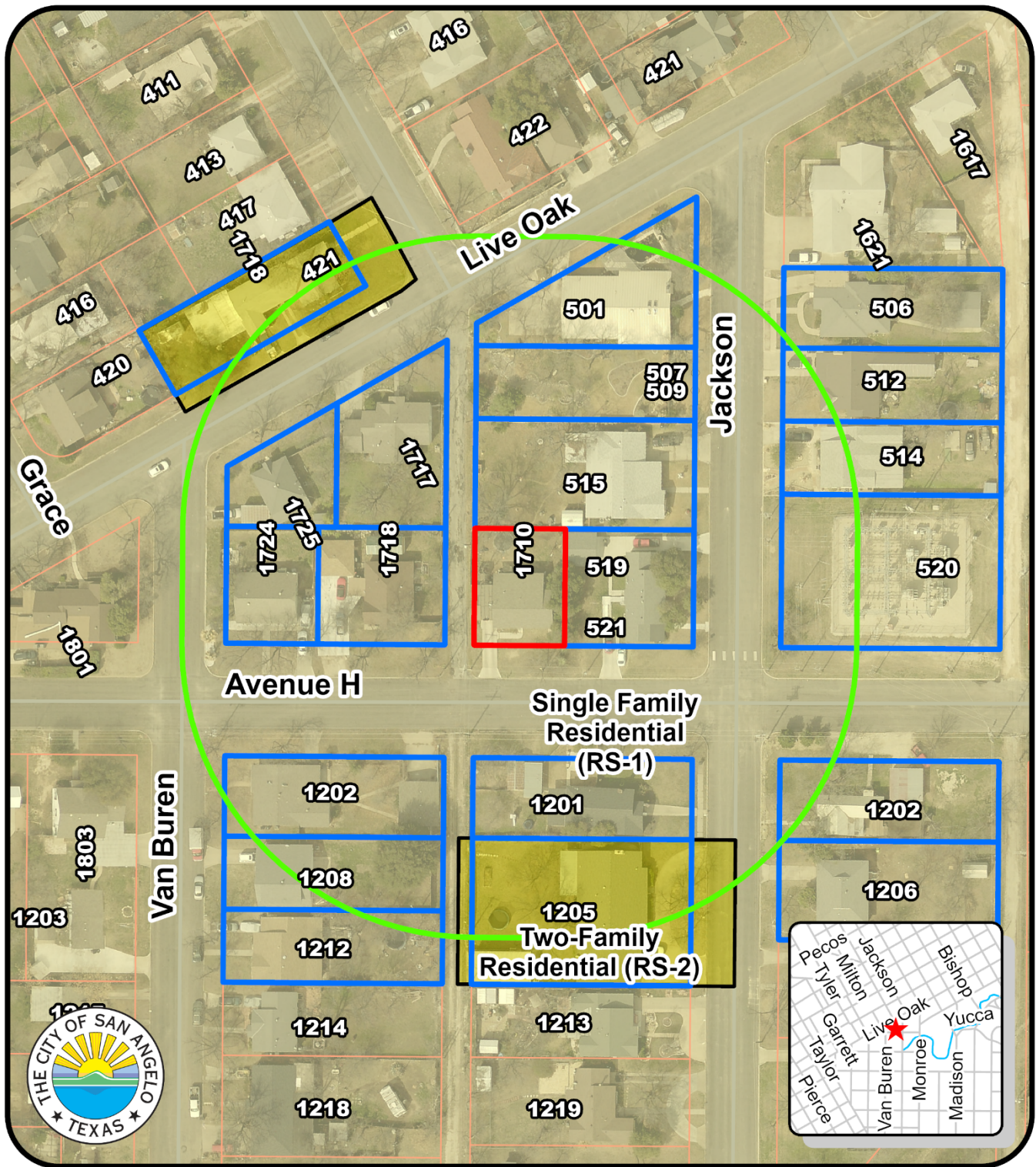
N











## Zoning Map

**CU23-56: 1710 W Avenue H**

Council District: #5 Karen Hesse Smith

Neighborhood: Santa Rita

Scale: 0 0.010.01 0.02 0.03 0.04 Miles

**Subject Properties:**

**200' Buffer:**

**Notified Properties:**

N



# MEMO



## Meeting

**Date:** December 18, 2023

**To:** Planning Commission

**From:** Rae Lineberry  
Planner, City of San Angelo

**Request:** Approval of a Conditional Use for a short-term rental within District 4, RS-2 zoning area.

**Background:** CU23-57 - A request for a Conditional Use for a short-term rental located at 306 N Monroe St.

**Notification:** 21 Notifications sent. Received 0 in opposition and 0 in favor.

### **Planning Commission Requested Action:**

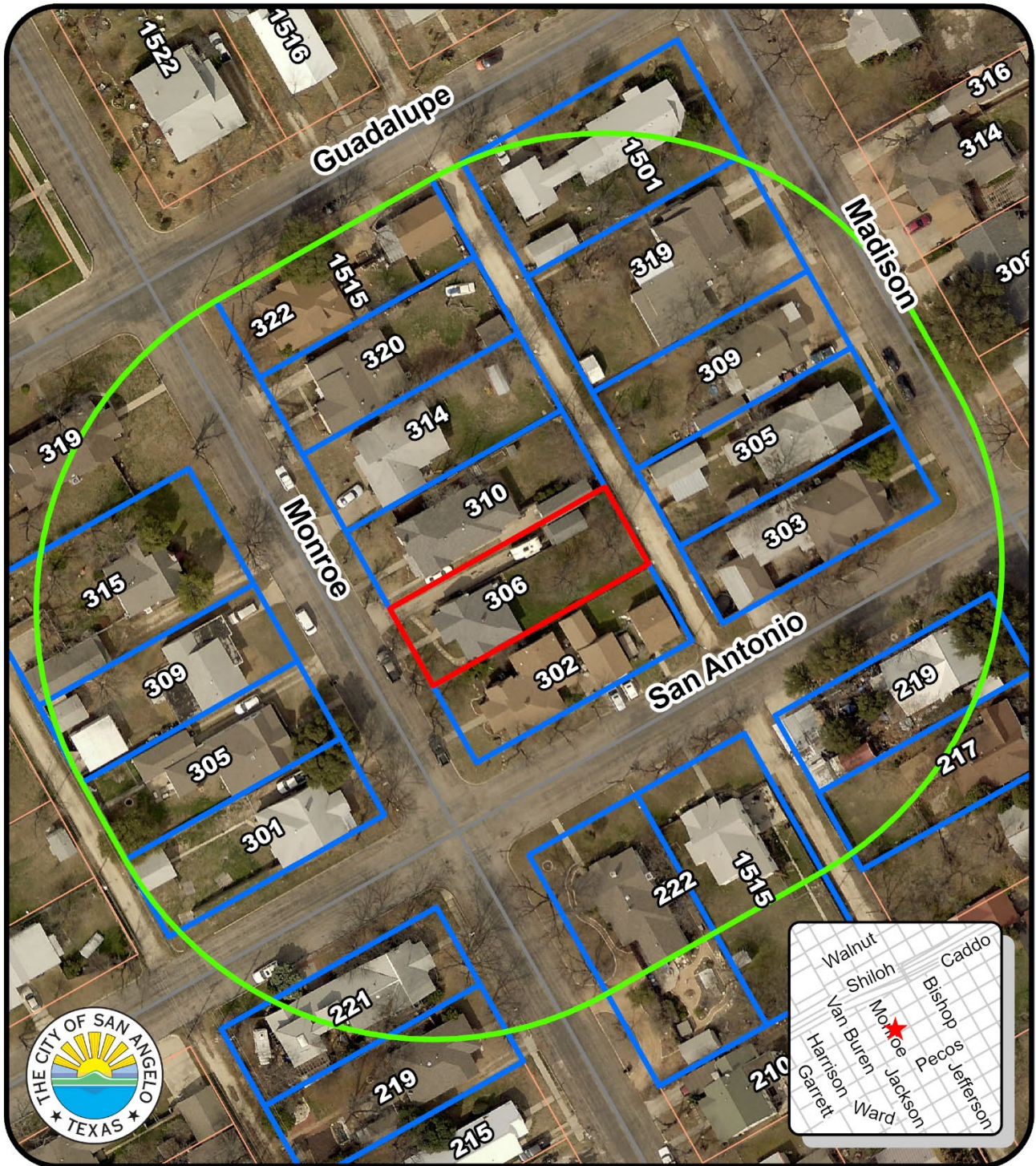
Staff recommends **APPROVAL** of a request for Conditional Use for a short-term rental located at 306 N Monroe with **three conditions of approval**.

- Maintain two (2) paved off-street parking
- Obtain a change of occupancy from Permits & Inspections
- Obtain a fire inspection annually

### **Front of house**







## 200' Notification Map

### CU23-57: 306 N Monroe

Council District: #4 Lucy Gonzales  
Neighborhood: Central

Scale: 0 0.01 0.02 0.03 0.04 Miles

Subject Properties: —

200' Buffer: —

Notified Properties: —

N



**From:** [Arielle Plesant](#)  
**To:** [\\*Planning](#)  
**Subject:** CASE#: CU23-57  
**Date:** Thursday, December 7, 2023 8:36:04 AM

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**CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.**

Good morning,

Please use this email for indication that we are in favor of short term rental use located at 306 N Monroe St.

Thank you,  
Arielle and Joshua Plesant

This message (including any attachments) is intended only for the use of the individual or entity to which it is addressed and may contain information that is non-public, proprietary, privileged, confidential, and may constitute attorney work product or be exempt from disclosure under one or more of the following sections of the Texas Public Information Act: SECS. 552.101, 552.103 or 552.107. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, notify us immediately by telephone and (i) destroy this message if a facsimile or (ii) delete this message immediately if this is an electronic communication. Thank you.



# MEMO



## Meeting

**Date:** December 18, 2023

**To:** Planning Commission

**From:** Rae Lineberry  
Planner, City of San Angelo

**Request:** Renewal of a short-term rental within District 1, RS-1 zoning

**Background:** CU22-19 Renewal - A request to renew a Conditional Use for a short-term rental located at 2015 Beaty Circle. A conditional use for a short-term rental was approved in December 2022 and this will be their first renewal. There have been no code violations or police reports/disturbances reported. They have provided proof of hotel tax payments.

**Notification:** 7 Notifications sent. Received 0 in opposition and 0 in favor.

### **Planning Commission Requested Action:**

Staff recommends **APPROVAL** of a request for a short-term rental renewal located at 2015 Beaty Circle with **three conditions of approval**.

- Maintain two off-street parking spaces
- Maintain a change of occupancy from Permits & Inspections
- Obtain a fire inspection annually

### **Front of house**





**200' Notification Map**  
**CU22-19: 2015 Beaty Circle**

Council District: #1 Tommy Hiebert

Neighborhood: Nasworthy

Scale: 0 0.01 0.02 0.03 0.04 Miles

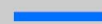
Subject Properties:



200' Buffer:



Notified Properties:



N





For the PLANNING COMMISSION  
Please call (325) 657-4210 if you have any questions about this notice.

**CASE #: CU22-19- Renewal**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: STEVENS TERRY N & TINA M  
Address: PO BOX 1721

Mailing To: ATTN: Planning and Development Services  
52 W. College Ave  
San Angelo TX 76903

Email: [planning@cosatx.us](mailto:planning@cosatx.us)

I am in favor ☐

I am opposed ☒

- 2nd time this month

Additional Comments:

Why do you not ask us about  
Debbie Wilson @ 2013 Beauty Circle??  
No respect for property tax paying  
neighbors.

Signature: \_\_\_\_\_

*Terry N. Stevens*  
*Quinn Stevens*

For the PLANNING COMMISSION  
Please call (325) 657-4210 if you have any questions about this notice.

**CASE #: CU22-19- Renewal**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: BEATY COVE INVESTMENTS LLC  
Address: 1813 COX LN

Mailing To: ATTN: Planning and Development Services  
52 W. College Ave  
San Angelo TX 76903

Email: [planning@cosatx.us](mailto:planning@cosatx.us)

I am in favor ☒

I am opposed ☐

Additional Comments:

There has never been any issues with any of  
The guests staying at this short-term rental.

Signature: \_\_\_\_\_

*[Signature]*

# MEMO

**Meeting**

**Date:** December 18, 2023

**To:** Planning Commission

**From:** Rae Lineberry  
Planner, City of San Angelo

**Request:** Renewal of a short-term rental within District 5, RS-1 zoning

**Background:** CU22-26 Renewal - A request to renew a Conditional Use for a short-term rental located at 1607 S Park. A conditional use for a short-term rental was approved and this will be their first renewal. There have been no code violations or police reports/disturbances reported. They have provided proof of hotel tax payments.

**Notification:** 23 Notifications sent. Received 0 in opposition and 0 in favor.

**Planning Commission Requested Action:**

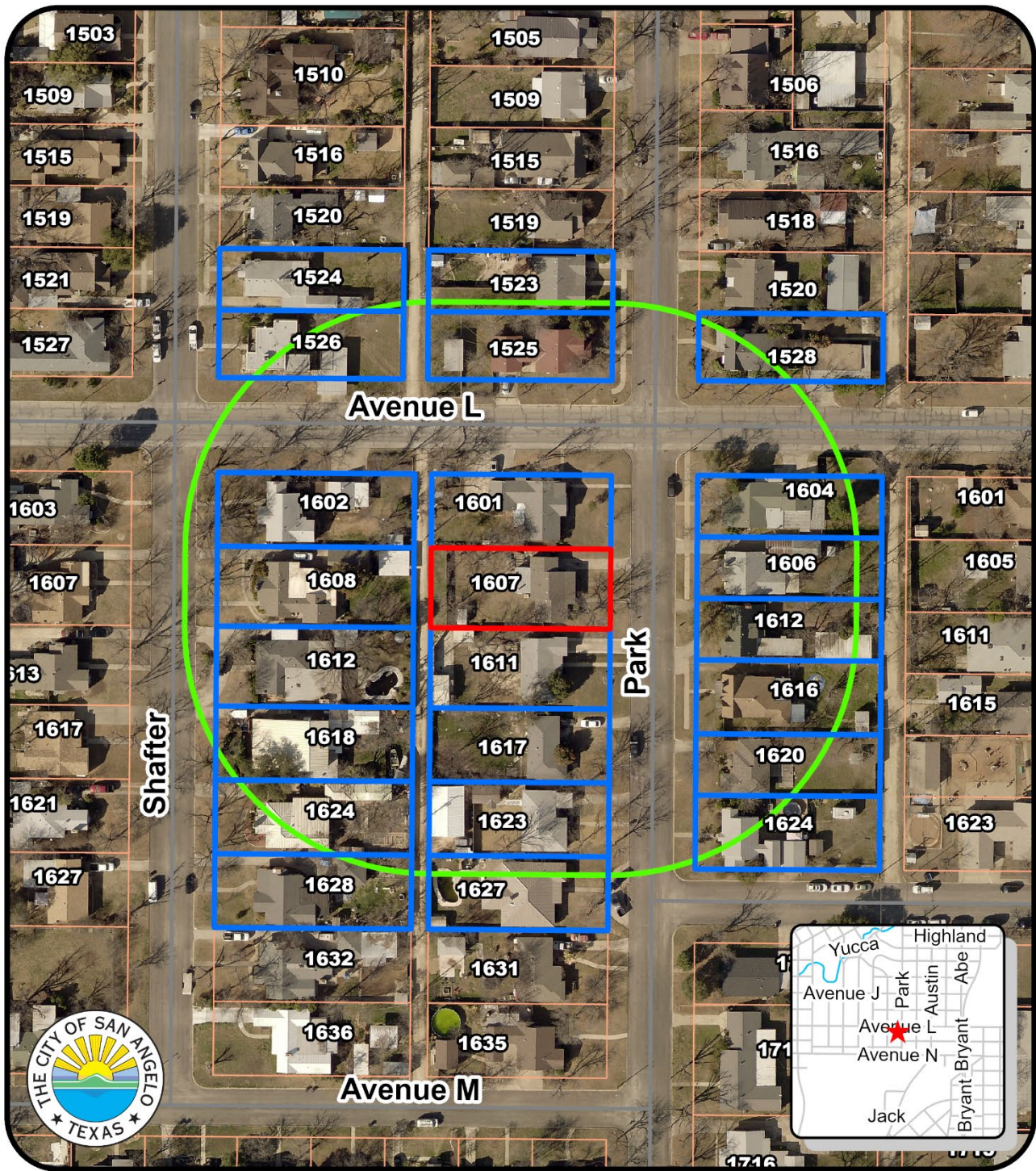
Staff recommends **APPROVAL** of a request for a short-term rental renewal located at 1607 S Park St with **three conditions of approval**.

- Maintain two off-street parking spaces
- Maintain a change of occupancy from Permits & Inspections
- Obtain a fire inspection annually

**Front of house**







## 200' Notification Map CU22-23: 1607 S Park

Council District: #5 Karen Hesse Smith  
Neighborhood: Santa Rita

Scale: 0 0.01 0.02 0.03 0.04 Miles

**Subject Properties:**

**200' Buffer:**

**Notified Properties:**



For the PLANNING COMMISSION

Please call (325) 657-4210 if you have any questions about this notice.

**CASE #: CU22-23- Renewal**

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: DOUG & LAURIE PROPERTIES LLC

Address: 3225 WALNUT HILL DR

Mailing To: ATTN: Planning and Development Services  
52 W. College Ave  
San Angelo TX 76903

Email: [planning@cosatx.us](mailto:planning@cosatx.us)

I am in favor ☒

I am opposed ☐

Additional Comments:

Signature: Laurie Robinson



# MEMO



## Meeting

**Date:** December 18, 2023

**To:** Planning Commission

**From:** Sherry L. Bailey  
Principal Planner, City of San Angelo

**Request:** Renewal of a short-term rental, CU22-26. 2542 Baylor Ave., RS-1 zoning  
SMD#5, Karen Hesse Smith, Santa Rita Neighborhood

**Background:** CU22-26 Renewal - A request to renew a Conditional Use for a short-term rental located at 2542 Baylor Ave.. A conditional use for a short-term rental was approved in November 2022 and they received their Certificate of Occupancy October 2023. There have been no code violations or police reports/disturbances reported. They have made one payment and provided confirmation of hotel tax payment.

**Notification:** 24 Notifications sent. Received 0 in opposition and 0 in favor.

### **Planning Commission Requested Action:**

Staff recommends **APPROVAL** of a request for a short-term rental renewal located at 2542 Baylor Ave. with **three conditions of approval**.

- Maintain two off-street parking spaces
- Maintain a change of occupancy from Permits & Inspections
- Obtain a fire inspection annually

### **Front of house**









# MEMO

**Meeting**

**Date:** December 18, 2023

**To:** Planning Commission, City of San Angelo

**From:** Planning Division, City of San Angelo

**Request:** Discuss and provide guidance on amending Section 406 of the City Ordinance regarding Short-term Rentals.

**Background:** Recent discussions on Short Term Rental (STR) requests prompted the City Council to request that staff revisit the current regulations regarding STRs. In addition, recent court cases have limited how City's in Texas can regulate STRs and these proposed changes incorporate that direction. After working with the Planning Commission, below is a summary of items removed or changed:

- Remove the reference to a license required and instead refer to the required Conditional Use.
- Re-worded expiration and renewal text to have all renew at the same time each year (Section A.2).
- Removed requirement for the owner to provide operator information in a 200ft notice area. Staff is still required to provide operator information in any notices being sent out and the owner is still required to post the information in a common area of the house (Section A.3).
- Re-worded having an STR within 500 of another in RS zoned areas only and to include how its measured and that it is not variable (Section B.3).
- Added a prohibition on an STR within 500 feet of fenced area or closest building that is utilized for educational purposes of an elementary or secondary public school and included a provision that this is not variable by the Zoning Board of Adjustment (Section B.4).
- Added and clarified the process and requirements for appeals to the City Council and shortened appeal period to 15 days (instead of 30 days) (Section D.1).
- Replaced requirement for a Change of Occupancy (C.O.) with a required inspection checklist for safety items that must be passed before a conditional use is approved (Section D.3 & 4).
- Added failure to comply section (Section D.6).
- Eliminated requirements that are no longer allowed, including limits on outdoor gatherings and the requirement that an STR must be on a road with at least 30' of pavement width.

**Attachments:**

Clean copy of the proposed ordinance with all proposed changes.

**Sec. 406. Bed and Breakfast Establishments and Short-Term Rentals**

Specific use standards applicable to a bed and breakfast and short-term rentals are:

A. *General Standards.* In all zoning districts, the following will be required:

1. The operator of a Bed and Breakfast or a Short-Term Rental must obtain a Conditional Use approval from the Planning Commission, by submitting an application form approved by the Director of Planning and Development Services.
2. A Conditional Use approved under this section shall be valid until the 31<sup>st</sup> of January immediately following the date of initial approval and shall thereafter automatically renew for subsequent one-year periods unless revoked by the Planning Commission in accordance with Subsection (D)(6) below. Regardless of the date of initial approval or last renewal, the next renewal date of a Conditional Use approved prior to the adoption of this amended ordinance shall be January 31, 2025.
3. The application shall designate an "Operator" who must reside in Tom Green County, Texas and shall furnish a telephone number for the operator. The Operator name and phone number shall be furnished in the notice to owners of real property as required by Section 201 of this Zoning Ordinance. The Operator of a Bed and Breakfast or a Short-Term Rental must post conspicuously in the common area of each unit (1) the name and contact information of the operator, and (2) restrictions on noise as set out in Section 8.01.005 of the San Angelo Code of Ordinances. If the Operator's contact information subsequently changes, the Operator shall provide the City with written notice of any new contact information.
4. The operator shall keep a current guest register in compliance with the state code.
5. For the purposes of determining privacy fence requirements, a Bed and Breakfast or a Short-Term Rental will always be considered a residential use.
6. On a residentially zoned property, all lighting shall be directed toward the establishment and not at surrounding neighbors.
7. A minimum of two paved off-street parking spaces, plus one additional off-street parking space per separately rented guest room, shall be provided on the same lot or tract of land as the establishment, except in the CBD zoning district as outlined in Section 511.A.1 of this Zoning Ordinance.
8. Neither a Bed and Breakfast nor Short-Term Rental establishment may be operated on a city-owned property that is leased for residential purposes.

B. *Standards for a Short-Term Rental.* In addition to the requirements in Section 406.A, the following shall apply on the premises of a Short-Term Rental establishment.

1. Meal service may not be provided.
2. Camping Units are prohibited on the premises of a Short-Term Rental establishment on a residentially zoned property.
3. A Short-term Rental use may not be located on a lot that is within 500 feet of a lot on which another Short-term Rental use is located within a RS-1, RS-2 or RS-3 zoning area. This shall be measured from property line to property line, based on the two closest points, and shall not be varied by the Zoning Board of Adjustment. The restrictions contained in this subsection B(3) shall not affect any property which already has an approved Conditional Use for a Short-term Rental prior to the adoption of this amended ordinance.
4. A Short-Term Rental use may not be located on a lot that is within 500 feet of a fenced area or to the closest building of an elementary or secondary public school. Measurements shall be taken from the two closest points as applicable. Only those school buildings that are utilized for educational activities and regularly occupied by students shall be considered for purposes of the distance limitation. This

## Exhibit A: Amendments to Section 406 of the Zoning Ordinance

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restriction shall not be varied by the Zoning Board of Adjustment. The restrictions contained in this subsection B(4) shall not affect any property which already has an approved Conditional Use for a Short-term Rental prior to adoption of this amended ordinance.

- C. *Standards for a Bed and Breakfast.* In addition to the requirements in Section 406.A, the following shall apply to a Bed and Breakfast establishment:
1. On a residentially zoned property, a maximum of four guest rooms shall be permitted in any one Bed and Breakfast establishment.
  2. No food preparation, except beverages, shall be permitted within individual guest rooms. Meal service may only be provided to overnight guests.
  3. Preparation and service of food for guests shall conform to all applicable regulations of the State of Texas and the City of San Angelo.
  4. On a residentially zoned property, the operator of the Bed and Breakfast shall be a full-time resident of the dwelling unit in which the Bed and Breakfast establishment is housed and shall remain onsite when the unit is occupied by guests.
  5. On a residentially zoned property, on-site sales will be permitted only as an accessory use to the Bed and Breakfast establishment; said sales will be limited to Bed and Breakfast guests only; no other sales not otherwise permitted in the zoning district shall be permitted on the premises of a Bed and Breakfast establishment.
  6. No exterior evidence of the Bed and Breakfast shall be allowed, except for one sign, no larger than six square feet, which is not internally lit.
- D. *Appeals, Registration, Inspections, and Enforcement.*
1. The applicant or any citizen may appeal a decision of the Planning Commission to the City Council by submitting a written request to the Planning Director within fifteen (15) days of the decision of the Planning Commission. The appeal must be sworn and must identify each alleged point of error, facts and evidence supporting the appeal, and reasons why the action of the Planning Commission should be modified or reversed. City Council shall hear the appeal no later than thirty (30) days after the request is submitted to the Planning Director. City Council may affirm, modify, or reverse a decision of the Planning Commission. Appeal of the City Council's decision shall be made within thirty (30) days of the final action by City Council, to a state District Court of competent jurisdiction in Tom Green County.
  2. All Bed and Breakfast and Short-Term Rental establishments must be registered with the State of Texas and the City of San Angelo for the purpose of Hotel Occupancy Tax prior to operating.
  3. Prior to consideration by the Planning Commission for Conditional Use approval, a Bed and Breakfast or Short-Term Rental establishment shall be required to submit to and pass a safety inspection by the City Building Official. The City Building Official shall establish a comprehensive checklist of all inspection criteria and publish the same on the City's website. Additionally, the inspection criteria shall be provided to applicants as part of the application for a Bed and Breakfast or Short-Term Rental. At a minimum the inspection criteria shall address requirements for working smoke detectors, carbon monoxide detectors, fire extinguishers, working hot water heaters, posting of a 9-1-1 address and posting of an exit plan for the establishment.
  4. After initial approval, the owner shall obtain and comply with an annual safety inspection by the City Building Official's office. Additional inspections may be conducted by the City Building Official upon modification of the establishment in a manner affecting the health and safety of occupants, or to investigate complaints filed regarding the condition of the establishment with respect to health and safety.
  5. The offering of a dwelling unit for Bed and Breakfast rental or Short-Term Rental, or the solicitation for such rental, creates a rebuttable presumption of such use.

## **Exhibit A: Amendments to Section 406 of the Zoning Ordinance**

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6. Failure to comply with federal, state, and local law related to the operation of the establishment may result in suspension or revocation of the Conditional Use approval as determined by the Planning Commission. A public hearing on suspension or revocation shall be held in the same manner and in accordance with the same procedures required for initial approval of a Conditional Use. Appeal of a suspension or revocation may be made in the same manner as described in subsection (D)(1) above. In suspending or revoking a Conditional Use approval, the Planning Commission may consider the following:
  - i. The severity, number, and disposition of citations or criminal complaints related to the operation of the establishment and filed against an owner, operator, or any occupant.
  - ii. The severity, number, and disposition of minor complaints submitted by neighbors or other interested persons related to the operation of the establishment. A “minor complaint” shall mean a complaint documented in writing at or near the time of the alleged conduct being complained of, that is supported by facts and evidence, and that is submitted to the appropriate authority having jurisdiction over such complaint. Examples of minor complaints include police calls for service that do not result in issuance of a citation, and notices of violation issued by code enforcement that likewise do not result in a citation.
  - iii. Failure to timely report and remit hotel occupancy taxes.
  - iv. Hotel tax reports reflecting no reported revenue for two or more quarters during any twelve-month period. It shall be a defense to suspension or revocation on this basis if the establishment owner or Operator provides prior written notice to the City Planning Department that the establishment has temporarily ceased operations due to repair or renovations.
  - v. Failure to submit to safety inspections and operate in accordance with the inspection checklist promulgated by the City Building Official.
  - vi. Relevant support materials provided by City staff or the respondent, public testimony provided at the hearing, or any other information that demonstrates the degree to which the owner, Operator, or an occupant has endangered public health, safety, or welfare.
7. To the extent of any conflict between this Section 406 and any other provision of the Zoning Ordinance, this Section 406 shall control with respect Conditional Uses for Bed and Breakfast and Short-Term Rentals.