

**CITY OF SHAVANO PARK  
PLANNING & ZONING COMMISSION MEETING  
CITY HALL, COUNCIL CHAMBERS  
900 SADDLETREE COURT, SHAVANO PARK, TEXAS 78231  
July 7, 2021**

**6:30 P.M.**

**This notice is posted pursuant to the Texas Open Meetings Act. Notice hereby given that the Planning & Zoning Commission of the City of Shavano Park, Texas will conduct a Regular Meeting on Wednesday, July 7, 2021 6:30 p.m. at 900 Saddletree Court, Shavano Park City Council Chambers.**

Livestream Viewing. The meeting will be livestreamed and available to watch via the YouTube website or app from your computer, tablet or smartphone at: <https://youtu.be/8wrfgeM6ss4>

The meeting agenda and agenda packet are posted online at [www.shavanopark.org](http://www.shavanopark.org).

**AGENDA**

1. Call to order
2. Vote under Section 36-69 of the Shavano Park City Code (“Code”) concerning a finding that each of the items following item 2 on the agenda are “planning issues” or otherwise prescribed Planning & Zoning Commission duties under 36-69(l) of the Code or the severance of one or more of such items for an individual vote on such item or items.
3. The Planning and Zoning Commission welcomes “Citizens to be Heard.” If you wish to speak, you must follow these guidelines. **As a courtesy to your fellow citizens and out of respect to our fellow citizens, we request that if you wish to speak that you follow these guidelines.**
  - Pursuant to Resolution No. R-2019-011 citizens are given three minutes (3:00) to speak during “Citizens to be Heard.”
  - Members of the public may only speak once and cannot pass the individual’s time allotment to someone else
  - Direct your comments to the entire Commission, not to an individual member
  - Show the Commission members the same respect and courtesy that you expect to be shown to you

The Chairman will rule any disruptive behavior, including shouting or derogatory statements or comments, out of order. Continuation of this type of behavior could result in a request by the Mayor that the individual leave the meeting, and if refused, an order of removal. In compliance with the Texas Open Meetings Act, no member of the Commission may deliberate on citizen comments for items not on the agenda. (Attorney General Opinion – JC 0169)
4. Consent Agenda:
  - A. Approval - Planning & Zoning Commission minutes, June 2, 2021.
5. Public Hearing - Possible City of Shavano Park ownership takeover of several Bitterblue owned greenbelts in the City

6. Discussion / action - Possible City of Shavano Park ownership takeover of several Bitterblue, Inc. owned greenbelts in the City - City Manager
7. Public Hearing - Possible amendments to the table of allowed zoning uses under Chapter 36 – Zoning, Article VI. Tables and amendments clarifying MXD Zoning District language in Section 36-41
8. Discussion / action – Possible amendments to the table of allowed zoning uses under Chapter 36 – Zoning, Article VI. Tables and amendments clarifying MXD Zoning District language in Section 36-41 - City Manager
9. Report / update - City Council items considered at previous City Council meetings and discussion concerning the same - City Manager
10. **Chairman Announcements:**
  - A. Advise members to contact City staff to add new or old agenda items.
  - B. Advise members of pending agenda items, as follows:
    - i. August – Possible Zoning Table of Allowed Use Amendments
11. **Adjournment**

**Accessibility Statement:**

The City of Shavano Park City Hall is wheelchair accessible. The entry ramp is located in the front of the building. Accessible parking spaces are also available in the front and sides of the building. Sign interpretative services for meetings must be made 48 hours in advance of the meeting. Call the A.D.A. Coordinator at 817-447-5400 or TDD 1-800-735-2989.

**Decorum Required:**

Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

**Action by Commission Authorized:**

The Planning and Zoning Commission may vote and/or act upon any item within this Agenda. The Commission reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.

**Executive Sessions Authorized:**

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

**Attendance by Other Elected or Appointed Officials:**

It is anticipated that members of City Council or other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the governing body of the above named Shavano Park Planning and Zoning Commission is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin boards, of the City Hall of said City Shavano Park, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on this the 28 of May 2021 at 10:09 a.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

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Trish Nichols  
City Secretary

## Minutes

### 1. **Call to order**

Vice-Chairman Laws called the meeting to order at 6:30 p.m.

PRESENT:

ABSENT:

Kerry Dike

Damon Perrin

Shawn Fitzpatrick

Michael Janssen

Carla Laws

Jason Linahan

Vicky Maisel

Bill Simmons

William Stipek

- ### 2. **Vote under Section 36-69 of the Shavano Park City Code (“Code”) concerning a finding that each of the items following item 2 on the agenda are “planning issues” or otherwise prescribed Planning & Zoning Commission duties under 36-69(l) of the Code or the severance of one or more of such items for an individual vote on such item or items.**

Upon a motion made by Commissioner Maisel, and a second made by Commissioner Janssen, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to approve the agenda as it was provided as Planning & Zoning Commission issues. The motion carried.

### 3. **Citizens to be Heard.**

No one signed up to address the Planning & Zoning Commission.

### 4. **Consent Agenda:**

Approval - Planning & Zoning Commission minutes, May 5th, 2021.

Upon a motion made by Commissioner Janssen, and a second made by Commissioner Fitzpatrick, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to approve the Planning & Zoning Commission minutes of May 5th, 2021 as presented. The motion carried.

### 5. **Discussion / action - Nomination and appointment of Chairman & Vice-Chairman.**

Upon a motion made by Commissioner Maisel to nominate Carla Laws to serve as Chairman and a second by Commissioner Janssen, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to approve the appointment of Carla Laws as Chairman. The motion carried.

Upon a motion made by Commissioner Maisel to nominate Shawn Fitzpatrick to serve as Vice-Chairman and a second by Commissioner Janssen, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to approve the appointment of Shawn Fitzpatrick as Chairman. The motion carried.

**6. Discussion / action - Final Subdivision Plat & Replat of Pond Hill Garden Villas Unit 2 being a total of 8.641 acre tract of land out of a 46.94 acre tract described as Tract 3 in a Deed to Rogers Shavano Park Unit 18/19, LTD., and partially platted as Lot 1700, Block 21, 1604/Pond Hill Restaurant - City Manager**

City Manager Hill presented an overview of the preliminary subdivision Plat & Replat of Pond Hill Garden Villas Unit 2. The Commissioners asked questions and discussed the plat with the developer Laddie Denton, Bitterblue, Inc. and their engineer Caleb Chance from Pape-Dawson Engineers.

Upon a motion by Commissioner Janssen, and a second by Commissioner Stipek, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to approve the Final Subdivision Plat & Replat of Pond Hill Garden Villas Unit 2 being a total of 8.641 acre tract of land out of a 46.94 acre tract described as Tract 3 in a Deed to Rogers Shavano Park Unit 18/19, LTD., and partially platted as Lot 1700, Block 21, 1604/Pond Hill Restaurant. The motion carried.

**7. Discussion - Possible action City of Shavano Park ownership takeover of several Bitterblue owned greenbelts in the City**

City Manager Hill presented an overview of the City of Shavano Park taking ownership of several Bitterblue owned greenbelts in the city. The Commissioners asked questions and discussed the Bitterblue owned greenbelts with the developer Laddie Denton, Bitterblue, Inc. The Commissioners consensus was to schedule this item for the July Planning & Zoning Commission meeting for further discussion/action.

**8. Discussion / action - Possible amendments to the table of allowed zoning uses under Chapter 36 – Zoning, Article VI. Tables and amendments clarifying MXD Zoning District language in Section 36-41 - City Manager**

City Manager Hill presented an overview of possible amendments to the table of zoning uses under Chapter 36 – Zoning, Article VI. Tables and amendments clarifying MXD Zoning District language in Section 36-41. The tables of allowed uses will be brought back to the July Planning & Zoning Commissioner for further discussion/action.

**9. Report / update - City Council items considered at previous City Council meetings and discussion concerning the same - City Manager**

City Manager Hill provided an overview of items considered at the previous City Council Meeting.

**10. Chairman Announcements:**

- A. Advise members to contact City staff to add new or old agenda items.
- B. Advise members of pending agenda items, as follows:
  - i. July – Possible City of Shavano Park ownership takeover of several Bitterblue owned greenbelts in the City
  - ii. July – Possible Zoning Table of Allowed Use Amendments

**11. Adjournment**

Upon a motion made by Commissioner Dike and a second made by Commissioner Janssen, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to adjourn the meeting at 7:36 pm. The motion carried.

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Carla Laws Chairman

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Trish Nichols City Secretary

## PLANNING AND ZONING STAFF SUMMARY

Meeting Date: July 7, 2021

Agenda item: 5 / 6

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

5. Public Hearing - Possible City of Shavano Park ownership takeover of several Bitterblue, Inc. owned greenbelts in the City

6. Discussion / action - Possible City of Shavano Park ownership takeover of several Bitterblue owned greenbelts in the City – City Manager

X

**Attachments for Reference:** 1) 5a Greenbelt Exhibits

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**BACKGROUND / HISTORY:** In April 2021, Bitterblue approached City staff about potential City interest in taking ownership of Bitterblue-owned greenbelt tracts throughout the City. Bitterblue is nearing the end of development in Shavano Park and do not want these miscellaneous tracts of land (almost all are entirely undevelopable and in floodplain). Laddie @ Bitterblue explained:

1. Over the last several years, we have been working to clean up the miscellaneous tracts which have been mistakenly or defacto left in development entity ownership over the last 70 years. This is a function of:
  - a. I am the only one left with the background or history of the past.
  - b. Most of the ownership entities no longer exist or are totally moribund and non-functional.
  - c. The tracts end up being essentially abandoned.

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**DISCUSSION:** **Updates highlighted.** Bitterblue proposes deeding (at no cost) to the City 6 greenbelts to the City. See Attachment 7a for the exhibits, but in brief the 6 greenbelts are:

1. A 5.7050 acre tract of flood plain (Olmos Creek basin) between Harvard Oak street of Shavano Creek and Painted Post / Pepper Bush of Old Shavano Park (West). Valued at \$2,100.
2. A 6.8950 acre tract of flood plain (Olmos Creek basin) between Box Oak street of Shavano Creek and Happy Trail of Shavano Esates. Valued at \$100.
3. A 11.3395 acre tract of flood plain between Pond Hill Business / Willow Wood and West Mossy Cup of Old Shavano Park (West). Valued at \$36,220.

4. A 1.4275 acre tract of flood plain between Willow Wood and the “Shavano Park” Business Park (not in City limits). Valued at \$15,550. Note - The City sidewalk between Pond Hill and Lockhill-Selma runs through this tract.
5. A 12.4169 acre tract of flood plain north of Talmadge Lane of Bentley Manor. Valued at \$48,680. Note – the City sidewalk between Pond Hill and Lockhill-Selma and the berm constructed to protect Bentley Manor from storm water runoff coming from Lockhill-Selma both sit on this tract.
6. A 0.2415 acre tract of land that is a long narrow parcel of land just behind the Bentley Manor property lines (generally between the rock wall / fence and the floodwater berm. Valued at \$100. Staff confirmed with Pape-Dawson (who created the plat) that the lot is a filtration lot for storm water runoff from the adjacent residential lots to the water quality basin in the greenbelt. Its creation was required by TCEQ and it is a no-build lot. Staff recommend this lot also be taken over by the City along with the other 5 greenbelt lots.

Data on acreage and valuations taken from Bexar County Appraisal District. Figures are more up to date than in the Exhibits.

Bitterblue also explained that any drainage basins on these properties are deeded responsibility to the nearby Home Owners’ Association (HOA) or Commercial Owners’ Association (COA). The City would not be taking over responsibility to maintain any drainage basins.

City staff estimates the required maintenance of these easements is a minimal burden to staff. Staff see no downside to owning these tracts, but many potential upsides:

If the City take ownership of these greenbelts the City would have control over them. City could ensure they are maintained (drainage ways kept clear of obstructions), City could ensure the greenbelts are not parceled out, sold or otherwise developed, and could ensure the tracts do not become a spot for squatters or illicit activities that abandoned properties can sometimes become. Like all City-owned property the City will be responsible for maintenance and management of the properties, but these tasks are to be minimal and will be limited only to infrequent & basic drainage way maintenance.

The areas in discussion are primarily storm water runoff basins and are adjacent to both residential and commercial development. All three topics are addressed in the 2018 Town Plan, which was drafted by the P&Z. Staff wishes to hear Planning & Zoning input on this proposal from Bitterblue. With P&Z input, staff will address with City Council.

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**COURSES OF ACTION:** Recommend to City Council the acceptance of the 6 lots from Bitterblue; or decline and provide guidance to staff.

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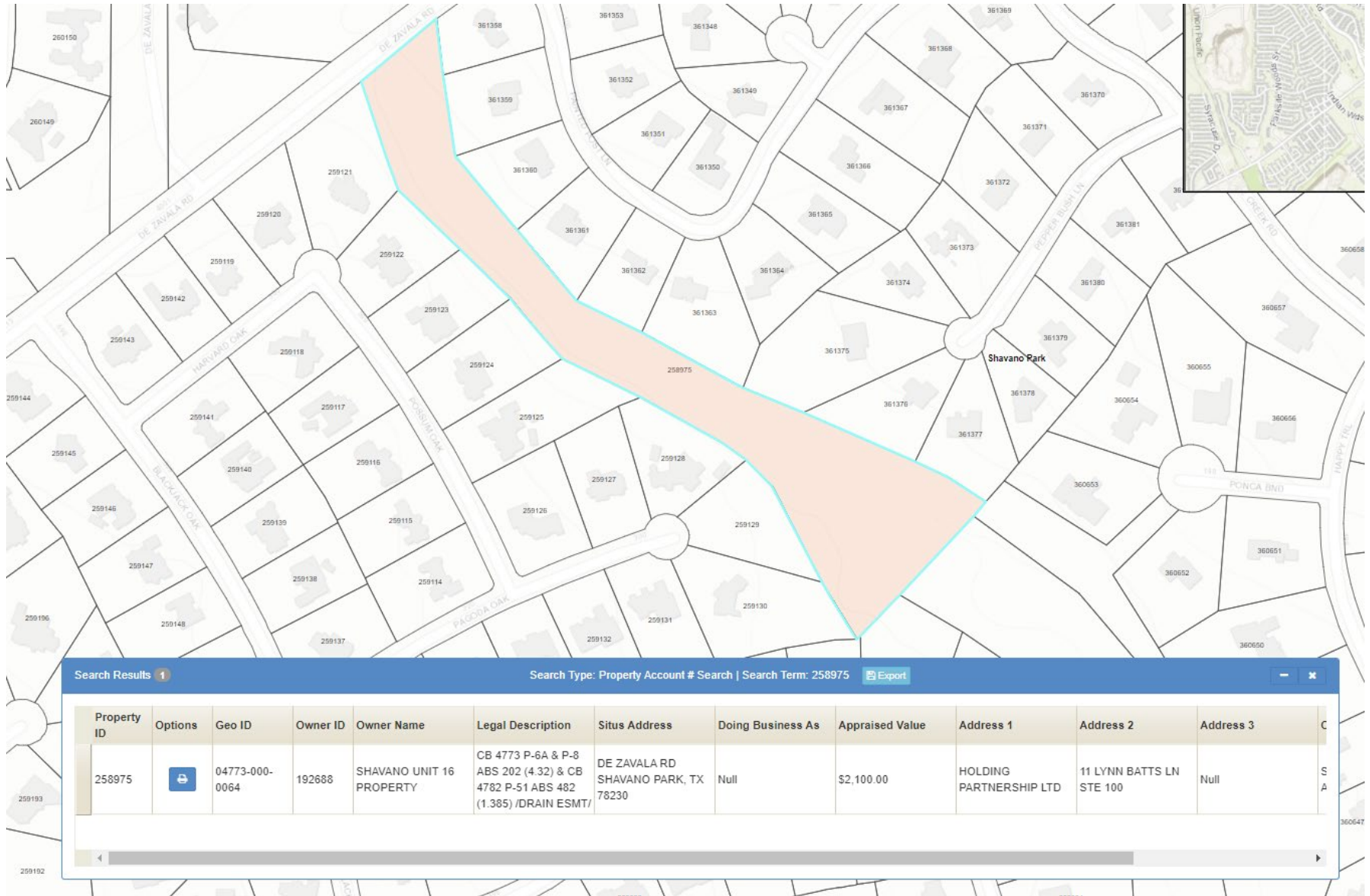


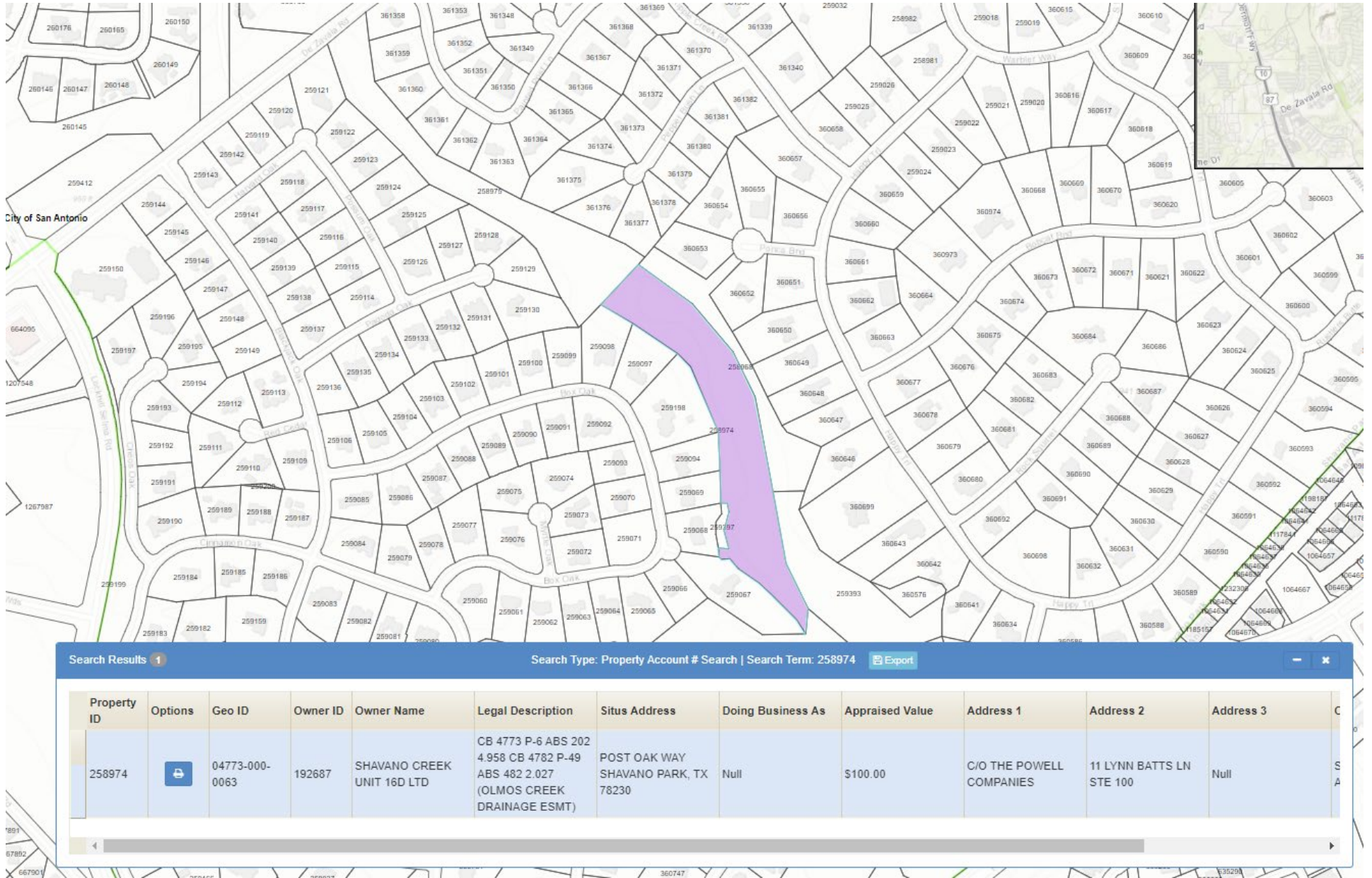
**FINANCIAL IMPACT:** N/A; Greenbelts would be deeded to City at no cost.

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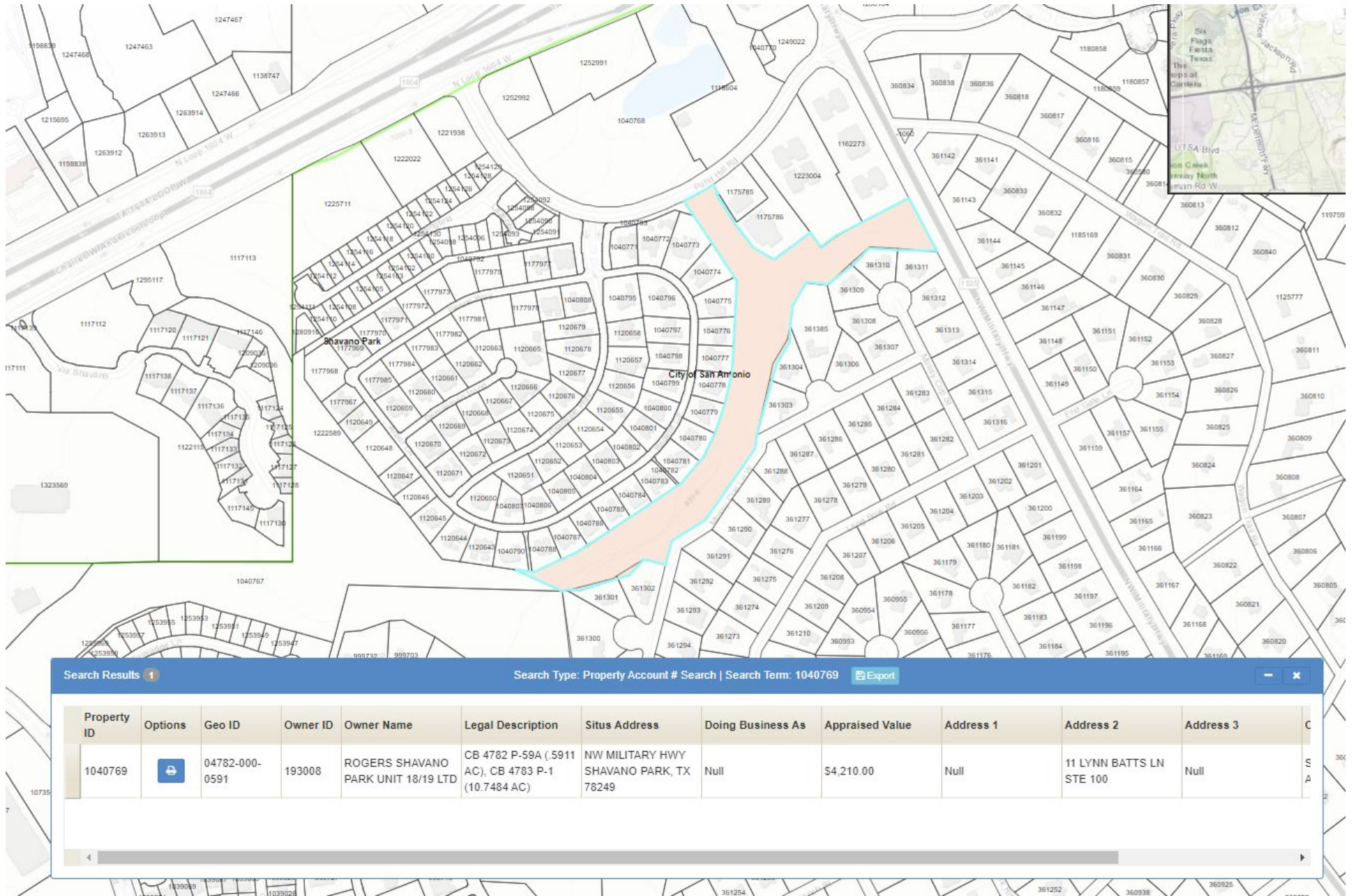
**MOTION REQUESTED:** Recommend to City Council the acceptance of the 6 lots from Bitterblue.

## For Discussion --- Tracts owned by Bitterblue entities









Search Results 1

Search Type: Property Account # Search | Search Term: 1040769

Export

Property ID	Options	Geo ID	Owner ID	Owner Name	Legal Description	Situs Address	Doing Business As	Appraised Value	Address 1	Address 2	Address 3
1040769		04782-000-0591	193008	ROGERS SHAVANO PARK UNIT 18/19 LTD	CB 4782 P-59A (.5911 AC), CB 4783 P-1 (10.7484 AC)	NW MILITARY HWY 78249	Null	\$4,210.00	Null	11 LYNN BATTS LN STE 100	Null





Search Results 1

Search Type: Property Account # Search | Search Term: 1222589

Export

Close

Property ID	Options	Geo ID	Owner ID	Owner Name	Legal Description	Situs Address	Doing Business As	Appraised Value	Address 1	Address 2	Address 3
1222589		04782-000-0593	193008	ROGERS SHAVANO	CB 4782 P-59C ABS 482	POND HILL RD TX	Null	\$120.00	Null	11 LYNN BATTS LN STE 100	Null



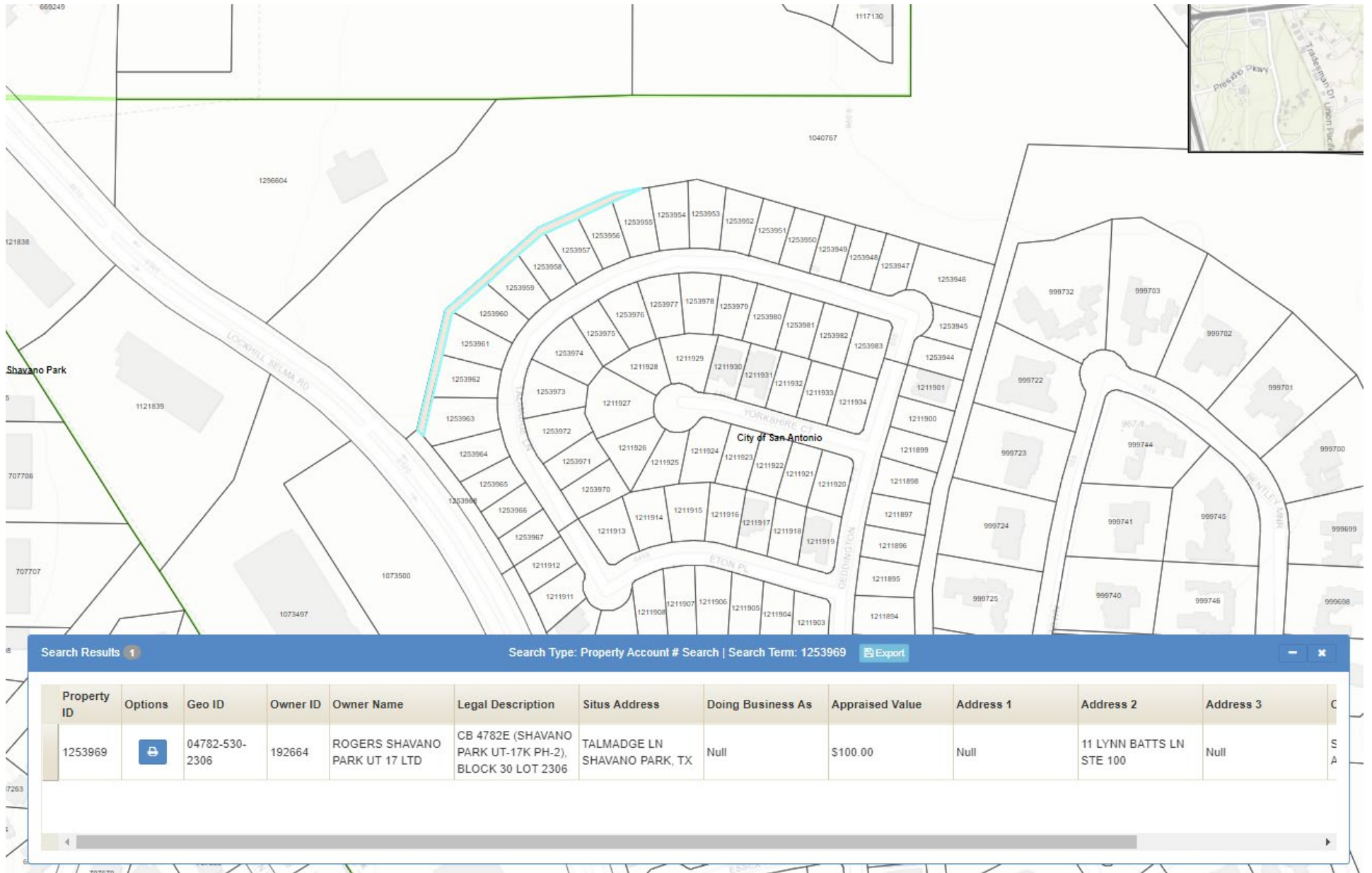


Search Results 1

Search Type: Property Account # Search | Search Term: 1040767

Export

Property ID	Options	Geo ID	Owner ID	Owner Name	Legal Description	Situs Address	Doing Business As	Appraised Value	Address 1	Address 2	Address 3	C
1040767		04782-000-0600	192664	ROGERS SHAVANO PARK UT 17 LTD	CB 4782 P-60 (FORMERLY P-17C) (12.4169 AC)	LOCKHILL SELMA RD SHAVANO PARK, TX 78249	Null	\$5,100.00	Null	11 LYNN BATTS LN STE 100	Null	S A



## PLANNING AND ZONING STAFF SUMMARY

Meeting Date: July 7, 2021

Agenda item: 7 & 8

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

7. Public Hearing - Possible amendments to the table of allowed zoning uses under Chapter 36 – Zoning, Article VI. Tables and amendments clarifying MXD Zoning District language in Section 36-41

8. Discussion / action – Possible amendments to the table of allowed zoning uses under Chapter 36 – Zoning, Article VI. Tables and amendments clarifying MXD Zoning District language in Section 36-41 - City Manager

X

#### **Attachments for Reference:**

- 1) 7a Possible Draft Amendments (TRACK CHANGES)
- 2) 7b Possible *Mobile Food Court* regulations

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**BACKGROUND / HISTORY:** **UPDATES** The City of Shavano Park regulates allowed uses by zoning district under Chapter 36, Article VI. – Tables. The Commission periodically reviews the Table of Uses, especially in regards to the commercial zoning districts, to ensure that allowed uses remain compatible with the ongoing development of the City.

The last time the Commission review the Table of Uses was in 2017, which ultimately resulted in Ordinance O-2017-009, attached as item 7b.

#### **For newer members:**

- Items marked **(CC)** mean the use requires a special use permit approved by Planning & Zoning & City Council after a public hearing.
- The commercial uses are setup as O-1 being the “lightest” commercial uses, with B-1 being “medium” commercial uses, and B-2 being the “heavier” commercial uses. The business zoning districts build on top of each other: all uses in O-1 are allowed in B-1, and again all O-1 AND B-1 uses are allowed in B-2. If a use is moved or added to O-1 for example it would be allowed in all business zoning districts.

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**DISCUSSION:** For the July meeting staff prepared draft amendments using feedback from The Commission at the June 2 meeting and proposed amendments from Chairman Laws and Commissioners Janssen and Linahan. Track Changes include:



- Amendments clarifying MXD front setback language [from Commissioner Janssen]
- Adds MXD setback and area regulations to the Table No. 6 [from Commissioner Janssen]
- Proposes some clarifying language for Banks/savings and loan use
  - o Proposes CC use for Bank drive thrus ONLY in O-1 (lighter commercial), but explicitly allows in B-1/B-2 [from Commissioner Linahan]

- Proposes defining *Mobile Food Courts* and allowing *Mobile Food Courts* in B-1/B-2. *Mobile food court means a parcel of land where two or more mobile food establishments congregate to offer food or beverages for sale to the public as the principal use and permanent use of the land. This definition shall not be interpreted to include a congregation of mobile food establishment as a secondary, accessory use, and/or temporary use on existing commercially developed land.*

If P&Z wants additional specific regulations for *Mobile Food Courts* then staff propose amending Chapter 8 – BUSINESS AND BUSINESS REGULATIONS to create a new subsection under Article III. – FOOD AND FOOD ESTABLISHMENTS (or create new article). Staff took regulations from New Braunfels and “Shavano-ized” it for P&Z review as attachment 7b. This draft is an initial draft only and will be further refined should City Council adopt the proposed regulations.

- Numerous minor edits/tweaks to allow uses from Chairman Laws. Highlights:
  - o Delete all the individual medical services and combine into 1 Clinic use
  - o Delete Boutique Hotel (redundant)
  - o Delete Movie Rental (obsolete)
  - o Delete Luggage sales and service (redundant)
  - o Delete Optical goods, retail store (redundant)
  - o Delete Churches, combine Churches into religious activity (redundant/confusing)
  - o Delete Photographic equipment and supplies, retail store (redundant)
  - o Delete Altering/repairing of apparel (redundant)
  - o Clarify sports courts allowed both outdoor/indoor (confusing)

With the pandemic coming to a close, business development is picking back up. Many both inside and outside the business community are wondering what the “new normal” in many markets will look like. Staff have had several discussions with Bitterblue and other commercial developers about possible future businesses in the City. They include (broadly):

- A full bar with rotating food truck concept
- A credit union with emphasis on drive-thru banking services
- A pet store

- A Mexican restaurant
- A “high-end” tattoo parlor
- A “high-end” boxing & exercise gym
- Beauty services (injections, skin / hair treatments, powder brows)
- A “high end” private night club

Staff offer these as only as examples of the types of developments from the local business community that have shown interest in operating within Shavano Park.

Staff does recommend the Commission make one change to the Table of Uses: Allow banks and financial institutions to provide drive thru services without the requirement for a special use permit.

Drive thru services are how almost all banking services have been handled the past year amid the pandemic and staff consultation with developers is that no bank institution that serves the general public would build a building without a drive thru. The requirement for a special use permit (with public hearings) for a banking drive thru therefore seems burdensome.

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**COURSES OF ACTION:** Discuss possible amendments to the Table of Uses and finalize P&Z recommendations; or, give further guidance to staff.

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**FINANCIAL IMPACT:** N/A

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**MOTION REQUESTED:**

Approve proposed amendments to the table of allowed zoning uses under Chapter 36 – Zoning, Article VI. Tables and amendments clarifying MXD Zoning District language in Section 36-41

## Chapter 8 – BUSINESS AND BUSINESS REGULATIONS, Article III.- FOOD AND FOOD ESTABLISHMENTS

### Sec. 144-5.26. Mobile food courts.

5.26-1. Purpose. Establish development and operational standards for outdoor food venues so as to minimize potential negative impacts on surrounding property while enhancing additional dining experiences within the community.

### 5.26-2. Definitions.

Mobile food court. A "mobile food court" is a parcel of land where two or more mobile food establishments congregate to offer food or beverages for sale to the public as the principal use and permanent use of the land. This definition shall not be interpreted to include a congregation of mobile food establishment as a secondary, accessory use, and/or temporary use on existing commercially developed land.

Mobile food unit. A "mobile food unit" is a business that serves food or beverages from a self contained unit, either motorized or in a trailer on wheels, and conducts all or part of its operations on premises other than its own and is readily movable, without disassembling, for transport to another location. The term "mobile food unit" shall not include individual non-motorized vending carts.

### 5.26-3. Reserved.

### 5.26-4. Mobile food court location.

(a) Mobile food courts shall be permitted in those zoning districts allowing restaurant/prepared food sales.

(b) Each mobile food court shall be located at least 150 feet away from any one- or two-family use or one- or two-family district, measured from property line to property line.

(c) All activity must occur on private property outside of the public right-of-way unless the city has executed a license agreement authorizing such activity.

(d) Mobile food units shall be allowed to change out daily.

### 5.26-5. Site development standards.

(a) No more than ten individual mobile food units are permitted per mobile food court site.

(b) All setback requirements in the underlying zoning district shall be adhered to. No mobile food unit, structures associated with the mobile food court, nor any associated seating areas shall be located in a required zoning setback, buffer yard, access easement, drainage easement, floodplain, driveway, utility easement and/or fire lane(s).

(c) There shall be at least ten feet of clearance between all individual mobile food units and all permanent, accessory or non-accessory structures.

(d) Each mobile food unit shall be located on an all weather surface pad as approved by the building official or the city engineer.

(e) Vehicular drive-through service of food and/or beverages shall not be permitted unless permitted in the underlying zoning district. Compliance with additional drive-through requirements as specified within the City's Code of Ordinances is required.

(f) All mobile food unit related activity, such as seating, must occur within 25 feet from the associated mobile food unit or within a communal arrangement serving all of the mobile food units.

(g) All mobile food units and related activities must be located in compliance with the city's adopted fire code standards regarding the storage or dispensing of flammable combustible liquid or gas.

(h) The placement of the mobile food unit shall not impede traffic nor visually impair any motor vehicle operation within a parking lot, driveway or street.

(i) A fire lane shall be provided within a mobile food court as required in the city's adopted fire code.

(j) All lighting associated with the occupancy shall comply with sections 82-14 through 82-20 of chapter 82, Offenses and miscellaneous.

(k) Accessible restroom facilities shall be provided within a permanent structure, excludes porta-potties and trailer toilets.

(l) Electrical service may be provided to the mobile food units by a permitted temporary electrical connection (or other permitted connection provided by an electric utility) or on-board generators. The use of on-board generators shall require sound absorbing devices used to contain or deflect noise from any external generator.

(m) A minimum of one 100-gallon garbage receptacle shall be provided for each mobile food unit. However, a sufficient quantity of garbage receptacles shall be provided and maintained so the mobile food court shall be free of trash, debris and litter at all times. The garbage

receptacles shall be maintained in compliance with the Texas Food Code Chapter 229, including:

- (i) Such receptacles are rodent-resistant. Unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside.
- (ii) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

5.26-6. Performance standards.

- (a) The visual and structural integrity of the mobile food establishment unit must be maintained continuously.
- (b) No outside sound amplifying equipment, or noisemakers, such as bells, horns, or whistles shall be permitted.
- (c) Mobile food establishment units providing food services shall be registered, inspected, and permitted by the city health department.
- (d) All signage shall comply with chapter 106, Signs.

1. For the purposes of on-premise signs, a mobile food court shall be allowed the following:

- (i) Freestanding sign(s) allowed in the underlying zoning district to identify the name of the mobile food court in compliance with chapter 106.
- (ii) One sandwich board per mobile food unit that must be placed within ten feet of the mobile food unit.
- (iii) Signs attached to the exterior of the mobile food unit, excluding roof signs, shall be considered wall signage and exempt from permitting.

2. Prohibited signs.

- (i) Temporary signs, including banners.
- (ii) Off-premise signs.
- (iii) Digital display signs.

(e) Mobile food unit off-street parking standards. A minimum of two parking spaces per mobile food unit or one parking space for each four seats for patron use, whichever is greater,

shall be required. Parking lots shall be constructed in accordance with section 5.1 of this chapter. Mobile food units may not be located within the parking lot.

(f) The noise level of mechanical equipment and generators used in association with a mobile food unit shall not violate the provisions of section 82-9 of chapter 82, Offenses and miscellaneous.

5.26-7. Permit required and procedures.

(a) A mobile food court permit shall be required to ensure conformance with the provisions of this section.

(b) Application for a mobile food court permit shall be presented to the building division on forms furnished by the city and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and specifications of proposed facilities as indicated in this section. Additional information to assist in determining compliance with this section may be required.

(1) The applicant should understand that a mobile food court permit is only a permit to indicate compliance with this section; a building permit and health permit must be obtained for the construction and operation of the identified improvements.

(2) The mobile food court permit application may be filed with the application for building permit or separately prior to application for building permit. When filed separately prior to application for building permit, three complete sets of plans, sealed by a Texas registered engineer, architect or land surveyor are required.

(3) The mobile food court permit application shall include the following information:

(i) Completed mobile food court permit application form.

(ii) A permit fee per appendix D of this Code.

5.26-8. Conflict. Where there is conflict between the code adopted in this section and any city, state, or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.

## ARTICLE I. – IN GENERAL

### Sec. 36-1. – Definitions

Add the following definitions:

Mobile food court means a parcel of land where two or more mobile food establishments congregate to offer food or beverages for sale to the public as the principal use and permanent use of the land. This definition shall not be interpreted to include a congregation of mobile food establishment as a secondary, accessory use, and/or temporary use on existing commercially developed land.

## ARTICLE II. – DISTRICTS

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### Sec. 36-41. - MXD—Mixed-Use District.

#### (a) Definitions:

As used herein the term "Density Single-Family Residential" shall refer to such uses as townhomes, condominiums, and garden homes, which are generally defined as, but not limited to, buildings containing one-family dwelling units erected as a single building or multiple buildings on a single lot. It may include horizontally-stacked dwelling units but shall in no event include apartments, which are generally defined as multi-family dwelling units at a density greater than 25 units per acre.

#### (b) *Use regulations:*

- (1) This district allows a combination of residential, office, and commercial uses, which may or may not be in the same building, and flexibility in the planning and construction of the development in accordance with an approved site plan that allows for a broad range of mixed uses.
- (2) All uses permitted in Tables 3, 4 and 5 shall be permitted in the MXD District, except that uses requiring City Council approval ("CC" uses) shall be permitted by right pursuant to an approved MXD site plan. Additionally, Density Single-Family residential uses shall be permitted pursuant to an approved MXD site plan.

#### (c) *Area regulations:* A MXD District shall only be permitted on tracts fronting on Texas State Highway Loop 1604 and which consist of a minimum of three acres in area.

#### (d) *Height, density, setbacks and other limitations:* A MXD District shall not be subject to the use, height, density, commercial intensity, setbacks, parking and other regulations of the City zoning regulations, currently codified as chapter 36 of the Code of Ordinances. The height, density, commercial intensity, setbacks, parking and other requirements shall be established

pursuant to an approved MXD site plan, provided, however, the following regulations shall apply:

- (1) A ten-foot minimum building setback shall be required where a non-single-family residential use within the MXD District abuts a single-family use or single-family zoning district.
  - (2) A 20-foot minimum front setback shall be required for front-load residential garages and a ten-foot minimum front setback shall be required for side-load residential garages.
  - (3) A ten-foot minimum building setback shall be required where any residential or nonresidential use abuts a public or private street.
  - (4) Exterior fences and walls shall be permitted along the property line of any residential use.
  - (5) All streets within a MXD District may be publicly accessible and may be located adjacent to the property line of any developed or undeveloped land, provided a minimum 30-foot buffer is installed when such street is adjacent to any residential rear property line. If streets are privately owned and maintained they may be gated.
  - (6) Parking on public streets shall only be permitted on one side of the street and shall not be permitted between the hours of 2:00 a.m. and 5:00 a.m., except that on-street cut-out parking shall be allowed at any time pursuant to an approved MXD site plan. Public streets are defined, for the purpose of this section, as that portion of the roadway and shoulder from the property line on one side of the street to the property line on the opposite side of the street.
  - (7) The height of any commercial or residential structure shall not exceed 45 feet unless authorized by an approved MXD site plan and serviceable by the Fire Department.
  - (8) Where residential areas are developed with private common areas and/or privately shared open space, a mandatory homeowner's association shall be created. The homeowner's association shall be responsible for maintenance and upkeep of all private common and shared areas within the boundaries of the residential development. Board composition, dues, and other procedural aspects of the homeowner's association shall be determined by the developer of the residential area.
  - (9) A minimum two-car garage shall be required for each density single-family residence and may be rear, side, or front loaded.
- (e) *MXD site plan:* A MXD site plan shall be approved by City Council as part of a rezoning to the MXD District and shall include:
- (1) Legal description and exhibit of the property on a scaled map sufficient to determine detail showing the area to be zoned MXD.
  - (2) The general location of all land use categories. Multiple categories may be designated where a lot or building is sited to include two or more categories of uses.



- (3) The general location of all existing and proposed streets.
- (4) The proposed maximum heights, densities, commercial intensities, and parking ratios.
- (5) The following existing conditions, where applicable:
  - a. Topographic contours of ten feet or less.
  - b. Existing 100-year floodplain, floodway and major drainage ways.
  - c. Utilities, including water, wastewater and electric lines.
- (f) *Amendments to approved MXD site plan:*
  - (1) *Classification:* Amendments to a previously approved MXD site plan shall be classified as a minor or major amendment. Minor amendments may be administratively accepted. Within 20 working days after the filing of the proposed amendments, the City Manager or his/her designee shall provide a written response to the applicant indicating whether or not the revised MXD site plan has been approved as a minor amendment. All revisions to an approved MXD site plan not considered a major amendment shall be considered a minor amendment. Major amendments shall require a new application for rezoning and shall be processed in the same manner as the initial MXD site plan.
  - (2) *Major amendments—Applicability:* Increasing the area or intensity of nonresidential uses shall be considered a major amendment.

## ARTICLE VI. - TABLES

**Table No. 1**

**A-1, A-1 PUD, A-2, A-2 PUD, A-3, A-4 and A-5 PUD**

**Single-Family Dwelling Districts**

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**Table No. 2**

**CE Cottage Estates Residential District and MXD Mixed Use District**

- (a) *Specifications.* In a CE Cottage Estates Residential District, each residence shall have a minimum gross floor area of not less than 2,000 square feet.
- (b) *Height regulations.* No building shall exceed two stories in height and the permitted maximum vertical height shall not exceed 45 feet.
- (c) *Area regulations.*
  - (1) *Lot area.* All building lots in this district shall contain not less than 0.15 acres of land and have not less than 55 feet of average width per lot. The average width shall be calculated based on the linear width of such lot measured at the front property line and the rear property line. If any property line is curved, the measurement shall be based on a straight line running from the corners of such lot.

- (2) *Parking spaces.* Off-street parking space shall be provided on the lot to accommodate a minimum of two motor cars for each dwelling unit. For purposes of computing the required number of parking spaces for any improvements, no "parking space" located on public land, such as the public right-of-way of a street or alley, shall be included, except for parking in a utility or drainage easement area, whether public or private.
- (3) *Setback lines* for CE and CE-PUD (Bentley Manor Cottage Estates North) and CE-PUD (Bentley Manor Cottage Estates South):
  - a. Front: Minimum front setbacks shall be as follows:  
Front entry garages: 25 feet.  
20 feet - Cul-de-sac lots.  
Side entry garages: 15 feet; ten feet, cul-de-sac lots.
  - b. Side: Minimum side setbacks shall be ten feet on one side and zero feet on the side abutting an adjoining lot having a minimum ten-foot setback; provided that no side setback shall be required on any lot if there is at least a ten-foot separation between buildings with no side setback less than five feet.
  - c. Rear: The minimum rear setback shall be ten feet.
- (d) *CE-PUD Cottage Estates Planned Unit Development* (Willow Wood) (established by Ordinance 100-12-03).
  - (1) *Specifications.*
    - a. One story residence: minimum 2500 square feet.
    - b. Two story residence: minimum 3000 square feet.
  - (2) *Area regulations.*
    - a. Lot area. 15,000 square feet minimum lot size.
    - b. Setback lines.
      - 1. Front: 30 feet.
      - 2. Side: 40 feet additive total side set back with a minimum of ten feet on any one side.
      - 3. Rear: 21 feet.
- (e) *Mixed Use District* (see Section 36-41 for zoning regulations in full). The height, density, commercial intensity, setbacks, parking and other requirements shall be established pursuant to an approved MXD site plan, provided, however, the following regulations shall apply:
  - (1) A ten-foot minimum building setback shall be required where a non-single-family residential use within the MXD District abuts a single-family use or single-family zoning district.
  - (2) A 20-foot minimum front setback shall be required for front-load residential garages and a ten-foot minimum front setback shall be required for side-load residential garages.

- (3) A ten-foot minimum building setback shall be required where any residential or nonresidential use abuts a public or private street.
- (f) *Fences.*
- (1) *Fences in general.* All fences shall comply with the other applicable ordinances of the City.
  - (2) *Front fences.* Except where deed restrictions do not permit front fencing, front fencing shall be permitted. Front gates must be wide enough as to provide access for any and all emergency vehicles. Any front fence must not encompass any fire hydrant that may be present.
- (g) *Swimming pools.*
- (1) *Definitions.*
    - a. Swimming pools shall mean and include all in-ground pools, including swimming, wading and lap pools, and all in-ground and above-ground water spas.
    - b. Swimming pool edge shall mean the edge formed where the swimming pool water meets the adjacent wall of the swimming pool.
  - (2) *Restrictions.* The setback requirements set forth in Section C.3. above shall not apply to swimming pools in Unit 18 of the CE District and the following regulations shall apply. The pool edge shall be located no closer than:
    - a. Ten feet from the main residence building.
    - b. Ten feet from any side lot line.
    - c. The existing width of any easement located along or parallel to the rear property line unless a waiver is granted by the easement holder, but in no event closer than ten feet from the rear lot line.
    - d. Ten feet from the rear lot line if there are no easements adjacent to or parallel to the rear lot line.
    - e. Three feet from the rear lot line if the lot abuts a greenbelt or street right-of-way adjacent or parallel to the rear lot line.
    - f. Above ground water spas and other swimming pool appurtenances shall be limited to no more than 30 inches in height for all areas within the prescribed setbacks.

**Table No. 3**

**Table of Permitted Uses**

*O-1 Zoning Category*

Accounting

Architects

Attorneys

Banks, Credit Unions, and /Savings and Lloan Associations -- drive through facilities allowed (CC)

Brokerage services, investment, real estate or insurance

Chiropractor

Clinic, ~~L~~-dental, ~~or~~-medical, includes optometry, orthopedics, physical therapist and psychiatry

Consultants

Day care center, supplemental - caring for not more than 12 persons

Developers

Engineers

~~Brokerage services~~

General office uses

Insurance company and agents

Mortgage loan office

Office call center

Office data processing and management

~~Optician~~

~~Optometry services~~

~~Orthopedic services~~

~~Physical therapist~~

~~Real estate office~~

Software sales and service

~~Supplemental day care center - caring for not more than 12 persons~~

Tax preparation services

Telephone company - office use only

Travel agency

**Table No. 4**

**Table of Permitted Uses**

*B-1 Zoning Category*

As required by subsection 36-39(6)a. 1., all business activities, except for outdoor dining and Convenience Store activities (including outdoor pay at the pump gasoline sales and stand-alone self-service car wash), are required to be completely contained within an enclosed structure or court.

Any use permitted in O-1 Zoning Category, See Table No. 3

Antique store

~~Apothecary (drugstore)~~

Apparel and accessory store

Art gallery and/or museum

Bakery, retail store

Banks, Credit Unions, and Savings and Loan Associations - drive through facilities allowed

Bar/tavern

Barber/beauty ~~salon~~~~shop~~

~~Boutique hotel~~

Bookstore

Business machine shop

Cafeteria

Camera/photographic store, including equipment and supplies

Candy/nut/confectionery store

Catering shop

Convenience store, (CC)

Cosmetics sales

Day care/nursery school

Day spa

Dairy products, retail store

Drug store/pharmacy

Dry goods, retail store

Electric scooters sales and service

Fitness services 6,000 square feet or less

Floor covering (e.g. rug, carpet and tile), retail store

Florist, retail store

Fruit and produce store, retail store

~~Food store~~

Furniture sales, retail store

Gift shop

Gourmet shop, retail store

Grocery store, with alcoholic beverage sales

Hardware sales, retail store without outdoor display

Hobby supply store

Hotel/motel less than 45 feet in height

Hotel/motel over 45 feet in height (CC)

Interior decorating studio

Jewelry store

Laboratory, dental or medical

Laboratory, research and/or testing (CC)

Laundry/dry cleaning, pickup station only

Leather goods and luggage store sales and services

Liquor store

Locksmith

~~Luggage sales and service~~

Milliner (custom)

Mobile food court

~~Movie rental~~

Music store

~~Nursery school/day care~~

Nursery (plant sales) - retail

Office equipment/supply store, retail store

~~Optical goods, retail store~~

Pet grooming, small animals only with no overnight boarding

Pet shop, no outdoor boarding

~~Photographic equipment and supplies, retail store~~

Picture framing

Postal center

Pottery studio

Religious, cultural and fraternal activity up to 5,000 square feet (includes Churches)

Restaurant

Schools up to 5,000 square feet

~~Second hand merchandise, retail store~~

Self defense instruction

Shoe repair

Shoe sales, retail store

Short-term in-patient surgical center - a facility in which the average in-patient length of stay shall not exceed 96 hours (CC)

Sporting goods, retail store

Stamp and coin sales, retail store

Stationary sales, retail store

Tailor shop

Thrift shop, second hand merchandise, retail store

Tobacco store

Toy store

Trophy sales

Variety store, retail store

Watch repair

Weight loss/reducing salon

## **Table No. 5**

### **Table of Permitted Uses**

#### *B-2 Zoning Category*

As required by subsection 36-39(7)a. 1., all business activities, except for outdoor dining and Convenience Store activities (including outdoor pay at the pump gasoline sales and stand-alone self-service car wash), are required to be completely contained within an enclosed structure or court.

Any use permitted in B-1 Zoning Category, see Table No. 4

Air conditioner sales, retail store

~~Altering/repairing of apparel~~

Animal clinic, no outdoor boarding

Appliance repair



Appliance sales, retail store

Assisted Living Facility (CC)

Auto rental — pick up and drop off only (CC)

Bicycle repair and sales

~~Churches~~

Club — private (including meeting hall) (CC)

Copy and photostatting shop, dry copy processes only

Department store

Electronic equipment repair

Funeral home, (CC)

Fitness services greater than 6,000 square feet, (CC)

Hardware sales, retail store with outdoor display (screened from public view) (CC)

Miniature golf, indoor only (CC)

Office service facilities, rear-loading only, no outside storage

Paint and wallpaper store, retail store

Pawnshops that are licensed to transact business by the Consumer Credit Commissioner under the Texas Pawnshop Act (article 5069-51.01 et seq., Vernon's Texas Civil Statutes) - No Special permit is required for this use.

Personal storage facility - rock wall, full screened (CC)

Radio and/or television station - without transmission tower (CC)

Reception hall/meeting facility

Recreational facility, neighborhood only (CC)

Religious, cultural and fraternal activity over 5,000 square feet (includes Churches)

~~Rug, carpet and tile store—retail store~~

Schools over 5,000 square feet

Skating rink, (CC)

Short-term in-patient surgical center - a facility in which the average in-patient length of stay shall not exceed 96 hours

Tennis, basketball, volleyball, racquetball or handball courts (outdoor and indoor)

Theater — no more than 12 screens or stages (CC)

**Table No. 6**  
**Other District Setbacks and Other Limitations**

1. <u>General O-1, B-1, and B-2 Zoning District Front Setback.</u> For lots in zoning districts O-1, B-1 and B-2, an 80-foot front setback is required for a lot with a depth of 600 feet or more.
2. <u>Optional Adjustment to O-1, B-1, and B-2 Zoning District Front Setback.</u> For lots in zoning districts O-1, B-1 and B-2, the front setback line may be reduced by 25 percent if the front landscape buffer is increased to 100 percent of the front setback; provided, however, that in no event will the front setback be less than 25 feet, nor will the front landscape buffer be less than 25 feet.
3. <u>Variable O-1, B-1, and B-2 Zoning District Front Setback.</u> For lots in zoning districts O-1, B-1 and B-2 with less than 600 feet of depth, the front setback will be prorated on the basis of actual depth (e.g., a lot 300 feet deep (50 percent of 600 feet) will require a 40-foot setback (50 percent of 80 feet)), and the front setback may be further reduced by increasing the front landscape buffer as provided above (e.g., 40-foot front setback may be reduced 25 percent to 30 feet if the front landscape buffer is increased to 100 percent of the 30-foot setback).
4. <u>Corner Lots.</u> Corner lots shall maintain a front setback of 80 feet and a side/rear setback of 80 feet on the lot side abutting the side street, as if the lot had two frontages. The front and side/rear setbacks for corner lots shall be subject to adjustment as provided in Notes 2 and 3 above.
5. <u>Variable B-1, and B-2 Zoning District Side Setback.</u> For lots in zoning districts B-1 and B-2 that do not directly abut a residential use or residential zoning district, the above side setback requirement shall be reduced to 15 feet, which may be accomplished by shared setbacks or by placement of a setback on only one lot.
6. <u>Variable Greenbelt O-1, B-1, and B-2 Zoning District Rear Setback.</u> In zoning districts O-1, B-1, and B-2, the rear setback requirement shall be satisfied if the lot abuts a greenbelt of 100 feet or more. If a lot abuts a greenbelt of less than 100 feet, the actual width of the greenbelt shall be included in and correspondingly reduce the required 100-foot setback (e.g., if a lot abuts a 50-foot greenbelt, the rear setback requirement shall be reduced to 50 feet). No rear setback or rear landscape buffer shall be required for any lot that abuts a dedicated easement of 75 feet or more, on which permanent, habitable structures are not permitted:
7. <u>Reduced O-1, B-1, and B-2 Zoning District Rear Setback.</u> In zoning districts O-1, B-1, and B-2, the above provided rear setbacks and landscape buffers shall only apply to lots that abut or are separated by a street from a residential use, residential zoning district or greenbelt that abuts a residential use or residential zoning district. For lots that do not abut (including those separated

by a street from such use or district) a residential use, residential zoning district or greenbelt that abuts a residential use or residential zoning district, the rear setback shall be reduced to not less than 15 feet, and for a lot in a B-1 and B-2 zoning district that does not face a street, the rear landscape buffer shall be eliminated.

8. Mixed-Use District Setbacks. Setbacks shall be determined by an approved MXD Site Plan, with the following minimum setback standards: A ten-foot minimum building setback shall be required where a non-single-family residential use within the MXD District abuts a single-family use or single-family zoning district. A 20-foot minimum front setback shall be required for front-load residential garages and a ten-foot minimum front setback shall be required for side-load residential garages. A ten-foot minimum building setback shall be required where any residential or nonresidential use abuts a public or private street. See Section 36-41 for full district regulations.

98. Area Regulation. Except as permitted in Single-Family Cottage Estates Residential District (CE District) or Mixed-Use District (MXD), the buildings on any one lot must not cover more than one-third of the entire area of the lot.

<i>District</i>	<i>Height Limitation (in feet)</i>	<i>Parking Stall Ratio (in feet)</i>	<i>Rear Setback (in feet)</i>	<i>Side Setback (in feet)</i>	<i>Landscape Buffer</i>	
					<i>Front Yard (in feet)</i>	<i>Rear Yard (in feet)</i>
"M-U"— Municipal/Utility	50'	1/200s.f.	50'	25'	40'	40'
"O-1"—Office District	45'	1/300 s.f.	100'	25'	40'	30'
"B-1"—Business District	45'	1/200 s.f.	100'	25'	40'	30'
"B-2"—Business District	45'	1/200 s.f.	100'	25'	40'	30'
<u>"MXD"—Mixed- Used District</u>	<u>45'</u>	<u>Determined by Site Plan</u>	<u>Determined by Site Plan</u>	<u>Determined by Site Plan</u>	<u>Determined by Site Plan</u>	<u>Determined by Site Plan</u>