

**CITY OF SHAVANO PARK  
PLANNING & ZONING COMMISSION MEETING  
CITY HALL, COUNCIL CHAMBERS  
900 SADDLETREE COURT, SHAVANO PARK, TEXAS 78231  
October 2, 2019**

**6:30 P.M.**

**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. Citizens to be heard – Rules for Citizen’s Comments: The Planning & Zoning Commission welcomes citizen participation and comments at all of their meetings. As a courtesy to your fellow citizens and out of respect to Board members; we request that if you wish to speak that you follow these guidelines.
  - A. Direct your comments to the entire Board, not to an individual member;
  - B. Limit your discussion to one or two issues that you wish to address rather than a generalized statement; and
  - C. Show the Board the same respect and courtesy that you expect to be shown to you.
  - D. As stated in Resolution No. 04-11, residents are given three (3) minutes to speak during Citizens to be heard. Residents are only allowed to speak once and cannot pass their time allotment to someone else.

The Presiding Officer 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 Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

**Note:** The Commission may not debate any non-agenda issue, nor may any action be taken on any non-agenda issue at this time; however, the Board may present any factual response to items brought up by citizens [Attorney General Opinion – JC 0169]

4. Consent Agenda:
  - A. Approval – Planning & Zoning Commission minutes, September 4, 2019
5. Nomination and appointment of Chairman
6. Nomination and appointment of Vice-chairman
7. Discussion – Welcome new members and thanks to departing members and information on open meeting and open records training – Chairman

8. Discussion / action – Possible approval of Preliminary Plat of Subdivision Plat Napier Park Unit-3 (Planned Unit Development), a 4.0 acre tract of land out of that 289.5 acre tract described in deed to Rogers Shavano Park Unit 18/19, LTD. – City Manager
9. Public Hearing – A public hearing to receive comments from members of the public regarding the proposed rezoning of property legally described as County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) from B-2 Business and Office District to a Planned Unit Development (PUD) zoning district with B-2 Business and Office base district with the following exceptions: Minimum Parking Requirement, Maximum Building Height, Rear Setback Requirement, Side Setback Requirement, Front Landscape Buffer Requirement and Rear Landscape Buffer Requirement
10. Discussion / action – Possible recommendation to rezone the property legally described as County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) from B-2 Business and Office District to a Planned Unit Development (PUD) zoning district with B-2 Business and Office base district - City Manager
11. Public Hearing – A public hearing to receive comments from members of the public regarding the proposed granting a Special Use Permit to the property legally described as County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) for an Assisted Living Facility (CC) use in B-2 Business and Office District zoning category
12. Discussion / action – Possible recommendation of granting a Special Use Permit to the property legally described as County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) for an Assisted Living Facility (CC) use in B-2 Business and Office District zoning category- City Manager
13. Public Hearing – A public hearing to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances clarifying & establishing definitions for building setback lines, porches, porte cocheres and front yards and establishing that open porches and porte cocheres are allowed to extend from the primary residence into the front setback under certain conditions
14. Discussion / action – Possible amendments to the City of Shavano Park Code of Ordinances clarifying & establishing definitions for building setback lines, porches, porte cocheres and front yards and establishing that open porches and porte cocheres are allowed to extend from the primary residence into the front setback under certain conditions - City Manager
15. Discussion / action – Proposed amendments to Chapter 28 – Subdivisions regarding changes in plat procedures - City Manager
16. Discussion – Possible amendments to Chapter 24 – Signs regarding banner signs and allowed signage in residential and business zoning districts - City Manager
17. Report / update - City Council items considered at previous City Council meetings and discussion concerning the same - City Manager
18. **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. November, 2019 - Review of City Policy #15 Public Information Act update in accordance with new Texas Senate Bill 944
- ii. November, 2019 – Public Hearing & action item for possible amendments to Chapter 24 – Signs regarding banner signs and allowed signage in residential and business zoning districts.
- iii. November, 2019 – Public Hearing & action item for proposed rezoning of the commercial property located at the intersection of Huebner Road and Lockhill Selma Road to a PUD and discussion concerning same.
- iv. November, 2019 – Possible amendments to the City of Shavano Park Code of Ordinances regarding building construction material requirements to comply with H.B. 2439.
- v. TBD’ed - Amendments to Chapter 36 regarding MXD & PUD site plan approval to comply with the 30-day shot clocks from Texas Legislature
- vi. February, 2020 – Semiannual presentation by Denton Communities regarding residential and commercial development in Shavano Park and surrounding areas and discussion concerning the same.

## 19. 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 28th day of September at 11:45 a.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

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Zina Tedford  
City Secretary

1. **Call to order**

Chairman Janssen called the meeting to order at 6:30 p.m.

PRESENT:

ABSENT:

Konrad Kuykendall  
Albert Aleman  
Carla Laws  
Jason Linahan  
William Stipek  
Michael Janssen  
Carlos Ortiz  
Bill Simmons  
Kerry Dike

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 Linahan and a second made by Commissioner Ortiz, 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 citizens signed up to be heard.

4. **Consent Agenda:**

**A. Approval - Planning & Zoning Commission minutes, August 7, 2019**

Upon a motion made by Commissioner Laws and a second made by Commissioner Stipek, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to approve the Planning & Zoning Commission August 7, 2019 minutes as presented. The motion carried.

5. **Discussion – Possible amendments to Chapter 36 – Zoning and Chapter 32 – Traffic and Vehicles to clarify if port cochere, porches and other entryway features are allowed in residential front setbacks – City Manager Hill.**

Assistant to the City Manager Leeth presented possible amendments to Chapter 36 – Zoning and Chapter 32 – Traffic and Vehicles to clarify if porte cocheres, porches and other entryway features are allowed in residential front setbacks. The Commissioners requested staff to review and possibly expand the definitions of porte cochere and porch and present any changes at a future meeting.

6. **Discussion / update – Presentation regarding potential rezoning of the commercial property located at the intersection of Huebner Road and Lockhill Selma Road to a PUD and discussion concerning same – City Manager Hill.**

City Manager Hill presented an update regarding potential rezoning of the commercial property located at the intersection of Huebner Road and Lockhill Selma Road to a PUD

7. **Discussion / update – Presentation on the status of the proposed improvements and conditions for access to the Salado Creek Greenway from Cliffside Drive as directed by City Council and discussions concerning same – City Manager Hill.**

Public Works Director Peterson presented an update on proposed improvement and conditions for access to the Salado Creek Greenway from Cliffside Drive.

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

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

9. **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. October, 2019 – Welcome to new commissioners and thank you departing members.
- ii. October, 2019 – Nomination and appointment of Chairman.
- iii. October, 2019 – Nomination and appointment of Vice-chairman.
- iv. February, 2020 – Semiannual presentation by Denton Communities regarding residential and commercial development in Shavano Park and surrounding areas and discussion concerning the same.

10. **Adjournment**

Upon a motion made by Commissioner Dike and a second made by Commissioner Simmons, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to adjourn the meeting. The meeting adjourned at 7:45 p.m.

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Chairman

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ZINA TEDFORD  
City Secretary

## PLANNING AND ZONING STAFF SUMMARY

Meeting Date: October 2, 2019

Agenda item: 8

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

Discussion / action – Possible approval of Subdivision Plat Napier Park Unit-3 (Planned Unit Development), a 4.0 acre tract of land out of that 289.5 acre tract described in deed to Rogers Shavano Park Unit 18/19, LTD. – City Manager

X

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

- 1) 8a Preliminary Plat
- 2) 8b Preliminary Plat Checklist
- 3) 8c Napier Park lot Exhibit
- 4) 8d Engineer Review Letter
- 5) 8e Pape-Dawson Response Letter

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**BACKGROUND / HISTORY:** On September 20, 2019 City Staff met with Pape-Dawson Engineering for a plat conference to kick-off the City staff and City Engineer *Administrative Completeness Review*.

On September 25, 2019 the City Engineer completed their administrative completeness review of the preliminary plat and provided 8 comments to be addressed before review by the Planning & Zoning Commission (attachment 8d).

On September 26, 2019 the City staff completed their administrative completeness review of the preliminary plat with no comments.

On September 26, 2019 Pape-Dawson resubmitted the Preliminary Plat with City Engineer comments fully addressed (attachment 8e).

On September 28, 2019 the Preliminary Plat was officially filed.

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**DISCUSSION:** This plat is the third plat in the Napier Park Planned Unit Development (PUD) subdivision. The property is currently zoned a PUD with a B-2 base zoning district. This preliminary plat would establish 3 new lots in Napier Park totaling 4.0 acres.

Note that Staff and City Engineer concerns regarding the Unit-1, Unit-2 and Unit-3 plats and their compliance with the approved PUD site map lead to the City staff and City Engineer requiring an update of the PUD be submitted before Napier Park Unit-4 Plat is submitted.

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**COURSES OF ACTION:** Approve, conditionally approve or disapprove preliminary plat.

**NOTE 1:** The Planning & Zoning Commission has until Monday, October 28, 2019 to approve, conditional approve or disapprove the plat (30 days). If by Monday, October 28, 2019 the preliminary plat is not approved, then the plat will be auto-approved per Texas law.

**NOTE 2:** Per Texas Law, if conditionally approved or disapproved the Commission must provide explanation in writing to the applicant. Once the applicant provides a written response the Commission has 15 days to call a special meeting to consider the written response from the applicant per Texas law.

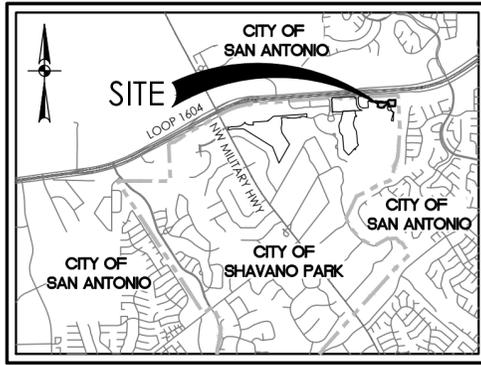
**NOTE 3:** The Planning & Zoning Commission is now the final approval authority for all plats in the City of Shavano Park per Ordinance O-2019-012 approved by City Council at the September 23, 2019 meeting. Once approved, the plat will be presented to City Council for review at a regularly scheduled City Council meeting.

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**FINANCIAL IMPACT:** N/A

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**MOTION REQUESTED:** Approve Preliminary Plat of Subdivision Plat Napier Park Unit-3 (Planned Unit Development), a 4.0 acre tract of land out of that 289.5 acre tract described in deed to Rogers Shavano Park Unit 18/19, LTD.



LOCATION MAP  
NOT-TO-SCALE

**LEGEND**

- DPR DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS
- OPR OFFICIAL PUBLIC RECORDS (OFFICIAL PUBLIC RECORDS OF REAL PROPERTY) OF BEXAR COUNTY, TEXAS
- PR PLAT RECORDS OF BEXAR COUNTY, TEXAS
- (PUD) PLANNED UNIT DEVELOPMENT
- CB COUNTY BLOCK
- (SURVEYOR) FOUND 1/2" IRON ROD (UNLESS NOTED OTHERWISE)
- o SET 1/2" IRON ROD
- 1140 EXISTING CONTOURS
- 1140 PROPOSED CONTOURS
- ③ 10' GAS, ELECTRIC, TELEPHONE AND CABLE TV EASEMENT
- ⑪ 10' BUILDING SETBACK LINE
- ① VARIABLE WIDTH GAS, ELECTRIC, TELEPHONE, CATV AND WATER EASEMENT (VOLUME 10010, PAGES 292-297 OPR)
- ② 16' WATER EASEMENT (SHAVANO PARK, UNIT-19B PHASE V (PUD) (VOLUME 9706, PAGES 45-46 DPR)
- ③ VARIABLE WIDTH GAS, ELECTRIC, TELEPHONE, CATV AND WATER EASEMENT (VOLUME 10010, PAGES 292-297 OPR)
- ④ VARIABLE WIDTH GAS, ELECTRIC, TELEPHONE, CATV AND WATER EASEMENT (VOLUME 10010, PAGES 312-319 OPR)
- ⑤ VARIABLE WIDTH SANITARY SEWER EASEMENT (VOLUME 11465, PAGE 1216-1222 OPR)
- ⑥ 16' WATER EASEMENT (SHAVANO PARK, UNIT-19B PHASE V (PUD) (VOLUME 9706, PAGES 45-46 DPR)

**SURVEYOR'S NOTES:**

- PROPERTY CORNERS ARE MONUMENTED WITH CAP OR DISK MARKED "PAPE-DAWSON" UNLESS NOTED OTHERWISE.
- COORDINATES SHOWN ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (CORS 1996) FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE SOUTH CENTRAL ZONE DISPLAYED IN GRID VALUES DERIVED FROM THE NGS COOPERATIVE CORPS NETWORK.
- DIMENSIONS SHOWN ARE SURFACE.
- BEARINGS ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (CORS 1996), FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE SOUTH CENTRAL ZONE.

**INGRESS/EGRESS:**

NO STRUCTURE, FENCES, WALLS, OR OTHER OBSTRUCTIONS SHALL BE PLACED WITHIN THE LIMITS OF THE INGRESS/EGRESS EASEMENT SHOWN ON THIS PLAT.

**SAWS AQUIFER:**

THIS SUBDIVISION IS WITHIN THE EDWARDS AQUIFER RECHARGE ZONE. DEVELOPMENT WITHIN THIS SUBDIVISION IS SUBJECT TO CHAPTER 34, ARTICLE VI, DIVISION 6 OF THE SAN ANTONIO CITY CODE ENTITLED "AQUIFER RECHARGE ZONE AND WATERSHED PROTECTION," OR THE LATEST REVISIONS THEREOF. ANY REGULATED ACTIVITY MUST COMPLY WITH ALL FEDERAL, STATE AND LOCAL REGULATIONS RELATING TO DEVELOPMENT WITHIN THE EDWARDS AQUIFER RECHARGE ZONE.

**SAWS HIGH PRESSURE:**

A PORTION OF THE TRACT IS BELOW THE GROUND ELEVATION OF 985 FEET WHERE THE STATIC PRESSURE WILL NORMALLY EXCEED 80 PSI. AT ALL SUCH LOCATIONS, THE OWNER OR BUILDER SHALL INSTALL AT EACH LOT, ON THE CUSTOMER'S SIDE OF THE METER, AN APPROVED TYPE PRESSURE REGULATOR IN CONFORMANCE WITH THE PLUMBING CODE OF THE CITY OF SAN ANTONIO.

**SAWS IMPACT FEE:**

WATER AND/OR WASTEWATER IMPACT FEES WERE NOT PAID AT THE TIME OF PLATTING FOR THIS PLAT. ALL IMPACT FEES MUST BE PAID PRIOR TO WATER METER SET AND/OR WASTEWATER SERVICE CONNECTION.

**SAWS WASTEWATER EDU:**

THE NUMBER OF WASTEWATER EQUIVALENT DWELLING UNITS (EDU'S) PAID FOR THIS SUBDIVISION PLAT ARE KEPT ON FILE UNDER THE PLAT NUMBER AT THE SAN ANTONIO WATER SYSTEM.

**CPS/SAWS/COSA UTILITY:**

1. THE CITY OF SAN ANTONIO AS PART OF ITS ELECTRIC, GAS, WATER, AND WASTEWATER SYSTEMS - CITY PUBLIC SERVICE BOARD (CPS ENERGY) AND SAN ANTONIO WATER SYSTEM (SAWS) - IS HEREBY DEDICATED EASEMENTS AND RIGHTS-OF-WAY FOR UTILITY, TRANSMISSION AND DISTRIBUTION INFRASTRUCTURE AND SERVICE FACILITIES IN THE AREAS DESIGNATED ON THIS PLAT AS "ELECTRIC EASEMENT," "ANCHOR EASEMENT," "SERVICE EASEMENT," "OVERHANG EASEMENT," "UTILITY EASEMENT," "GAS EASEMENT," "TRANSFORMER EASEMENT," "WATER EASEMENT," "SANITARY SEWER EASEMENT" AND/OR "RECYCLED WATER EASEMENT" FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, RECONSTRUCTING, MAINTAINING, REMOVING, INSPECTING, PATROLLING, AND ERECTING UTILITY INFRASTRUCTURE AND SERVICE FACILITIES FOR THE REASONS DESCRIBED ABOVE. CPS ENERGY AND SAWS SHALL ALSO HAVE THE RIGHT TO RELOCATE SAID INFRASTRUCTURE AND SERVICE FACILITIES WITHIN EASEMENT AND RIGHT-OF-WAY AREAS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS OVER GRANITOR'S ADJACENT LANDS FOR THE PURPOSE OF ACCESSING SUCH INFRASTRUCTURE AND SERVICE FACILITIES AND THE RIGHT TO REMOVE FROM SAID LANDS ALL TREES OR PARTS THEREOF, OR OTHER OBSTRUCTIONS WHICH ENDANGER OR MAY INTERFERE WITH THE EFFICIENCY OF WATER, SEWER, GAS, AND/OR ELECTRIC INFRASTRUCTURE AND SERVICE FACILITIES. NO BUILDING, STRUCTURE, CONCRETE SLABS, OR WALLS WILL BE PLACED WITHIN EASEMENT AREAS WITHOUT AN ENCROACHMENT AGREEMENT WITH THE RESPECTIVE UTILITY.

2. ANY CPS ENERGY OR SAWS MONETARY LOSS RESULTING FROM MODIFICATIONS REQUIRED OF CPS ENERGY OR SAWS INFRASTRUCTURE AND SERVICE FACILITIES, LOCATED WITHIN SAID EASEMENTS, DUE TO GRADE CHANGES OR GROUND ELEVATION ALTERATIONS SHALL BE CHARGED TO THE PERSON OR PERSONS DEEMED RESPONSIBLE FOR SAID GRADE CHANGES OR GROUND ELEVATION ALTERATIONS.

3. THIS PLAT DOES NOT AMEND, ALTER, RELEASE OR OTHERWISE AFFECT ANY EXISTING ELECTRIC, GAS, WATER, SEWER, DRAINAGE, TELEPHONE, CABLE TV EASEMENTS OR ANY OTHER EASEMENTS FOR UTILITIES UNLESS THE CHANGES TO SUCH EASEMENTS ARE DESCRIBED HEREON.

**BASE ZONING EXCEPTION NOTE:**

THIS PLAT DOES NOT MEET THE FOLLOWING REQUIREMENTS OF THE BASE ZONING DISTRICT OF B2.

- 36-39(2)(b): OTHER USE REGULATIONS. SEE TABLE NO 6;
- VARIABLE O-1, B-1, AND B-2 ZONING DISTRICT FRONT SETBACK.
- REDUCED O-1, B-1, AND B-2 ZONING DISTRICT REAR SETBACK.

STATE OF TEXAS  
COUNTY OF BEXAR

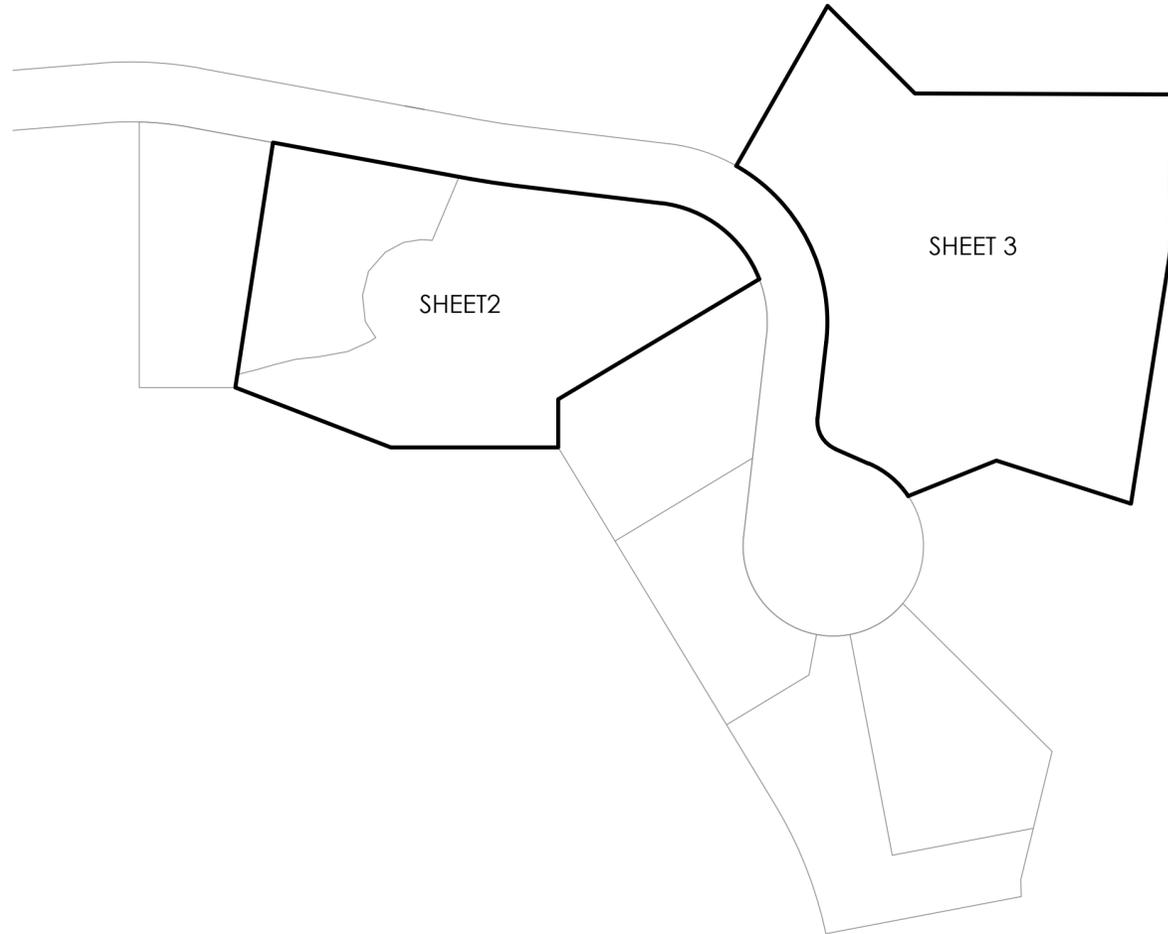
I HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT TO THE MATTERS OF STREETS, LOTS AND DRAINAGE LAYOUT. TO THE BEST OF MY KNOWLEDGE THIS PLAT CONFORMS TO ALL REQUIREMENTS OF THE UNIFIED DEVELOPMENT CODE, EXCEPT FOR THOSE VARIANCES GRANTED BY THE SAN ANTONIO PLANNING COMMISSION.

\_\_\_\_\_  
LICENSED PROFESSIONAL ENGINEER

STATE OF TEXAS  
COUNTY OF BEXAR

I HEREBY CERTIFY THAT THE ABOVE PLAT CONFORMS TO THE MINIMUM STANDARDS SET FORTH BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND BY: PAPE-DAWSON ENGINEERS, INC.

\_\_\_\_\_  
REGISTERED PROFESSIONAL LAND SURVEYOR



LINE #	BEARING	LENGTH
L1	S04°11'53"E	40.17'
L2	N89°49'58"W	8.93'
L3	S77°05'45"W	15.08'
L4	S57°20'16"W	17.16'
L5	S37°06'21"W	21.38'
L6	S09°36'07"W	20.67'
L7	S10°09'58"E	22.00'
L8	S37°23'19"E	15.99'
L9	S52°56'36"W	5.97'
L10	S61°15'55"W	20.33'
L11	S75°43'39"W	24.16'
L12	S79°37'56"W	18.91'
L13	S71°33'11"W	19.26'
L14	S89°48'20"W	13.70'
L15	S71°56'23"W	17.70'
L16	N04°29'37"E	11.01'
L17	S83°45'24"E	9.57'
L18	S02°46'36"W	22.59'
L19	N70°24'02"W	30.55'
L20	N02°17'14"E	63.59'

CURVE #	RADIUS	DELTA	CHORD BEARING	CHORD	LENGTH
C1	625.00'	003°35'45"	S85°33'16"E	39.22'	39.22'
C2	100.00'	062°06'00"	S56°18'09"E	103.16'	108.38'
C3	75.00'	032°47'06"	N54°28'52"W	42.33'	42.92'
C4	25.00'	072°41'16"	N34°03'24"W	29.63'	31.72'
C5	150.00'	066°50'42"	N31°08'07"W	165.24'	175.00'

SUBDIVISION PLAT  
OF  
**NAPIER PARK, UNIT-3 (PUD)**

A 1.71 ACRE TRACT OF LAND OUT OF A 289.5 ACRE TRACT DESCRIBED IN DEED TO ROGERS SHAVANO PARK UNIT 18/19, LTD. RECORDED IN VOLUME 12007, PAGE 2490, OF THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS, IN THE CITY OF SHAVANO PARK, BEXAR COUNTY, TEXAS, OUT OF THE REFUGIO VARGAS, SURVEY NUMBER 80, ABSTRACT NUMBER 781, IN COUNTY BLOCK 4787 OF BEXAR COUNTY, TEXAS.



SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.375.9000  
TBPB FIRM REGISTRATION #470 | TBPFS FIRM REGISTRATION #10028900  
DATE OF PREPARATION: September 18, 2019

STATE OF TEXAS  
COUNTY OF BEXAR

THE OWNER OF LAND SHOWN ON THIS PLAT, IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, DEDICATES TO THE USE OF THE PUBLIC, EXCEPT AREAS IDENTIFIED AS PRIVATE OR PART OF AN ENCLAVE OR PLANNED UNIT DEVELOPMENT, FOREVER ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

OWNER/DEVELOPER: LLOYD A. DENTON, JR.  
ROGERS SHAVANO PARK UNIT 18/19, LTD.  
11 LYNN BATTS LANE, SUITE 100  
SAN ANTONIO, TEXAS 78218  
(210) 828-6131

STATE OF TEXAS  
COUNTY OF BEXAR

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED LLOYD A. DENTON, JR., KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, BEXAR COUNTY, TEXAS

THIS PLAT OF \_\_\_\_\_ NAPIER PARK, UNIT-3 \_\_\_\_\_ HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF SHAVANO PARK, TEXAS, AND IS HEREBY APPROVED BY SUCH PLANNING AND ZONING COMMISSION.

DATED: THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_.

BY: \_\_\_\_\_  
CHAIRMAN

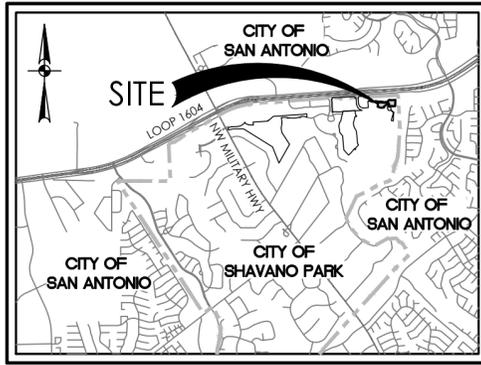
BY: \_\_\_\_\_  
CITY CLERK

THIS PLAT OF \_\_\_\_\_ NAPIER PARK, UNIT-3 \_\_\_\_\_ HAS BEEN SUBMITTED TO AND CONSIDERED BY THE CITY COUNCIL OF THE CITY OF SHAVANO PARK, TEXAS, AND IS HEREBY APPROVED BY SUCH CITY COUNCIL.

DATED: THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_.

BY: \_\_\_\_\_  
MAYOR

BY: \_\_\_\_\_  
CITY CLERK



LOCATION MAP  
NOT-TO-SCALE

**SAWS IMPACT FEE:**

WATER AND/OR WASTEWATER IMPACT FEES WERE NOT PAID AT THE TIME OF PLATTING FOR THIS PLAT. ALL IMPACT FEES MUST BE PAID PRIOR TO WATER METER SET AND/OR WASTEWATER SERVICE CONNECTION.

**SAWS WASTEWATER EDU:**

THE NUMBER OF WASTEWATER EQUIVALENT DWELLING UNITS (EDU'S) PAID FOR THIS SUBDIVISION PLAT ARE KEPT ON FILE UNDER THE PLAT NUMBER AT THE SAN ANTONIO WATER SYSTEM.

**CPS/SAWS/COSA UTILITY:**

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2. ANY CPS ENERGY OR SAWS MONETARY LOSS RESULTING FROM MODIFICATIONS REQUIRED OF CPS ENERGY OR SAWS INFRASTRUCTURE AND SERVICE FACILITIES, LOCATED WITHIN SAID EASEMENTS, DUE TO GRADE CHANGES OR GROUND ELEVATION ALTERATIONS SHALL BE CHARGED TO THE PERSON OR PERSONS DEEMED RESPONSIBLE FOR SAID GRADE CHANGES OR GROUND ELEVATION ALTERATIONS.

3. THIS PLAT DOES NOT AMEND, ALTER, RELEASE OR OTHERWISE AFFECT ANY EXISTING ELECTRIC, GAS, WATER, SEWER, DRAINAGE, TELEPHONE, CABLE TV EASEMENTS OR ANY OTHER EASEMENTS FOR UTILITIES UNLESS THE CHANGES TO SUCH EASEMENTS ARE DESCRIBED HEREON.

STATE OF TEXAS  
COUNTY OF BEXAR

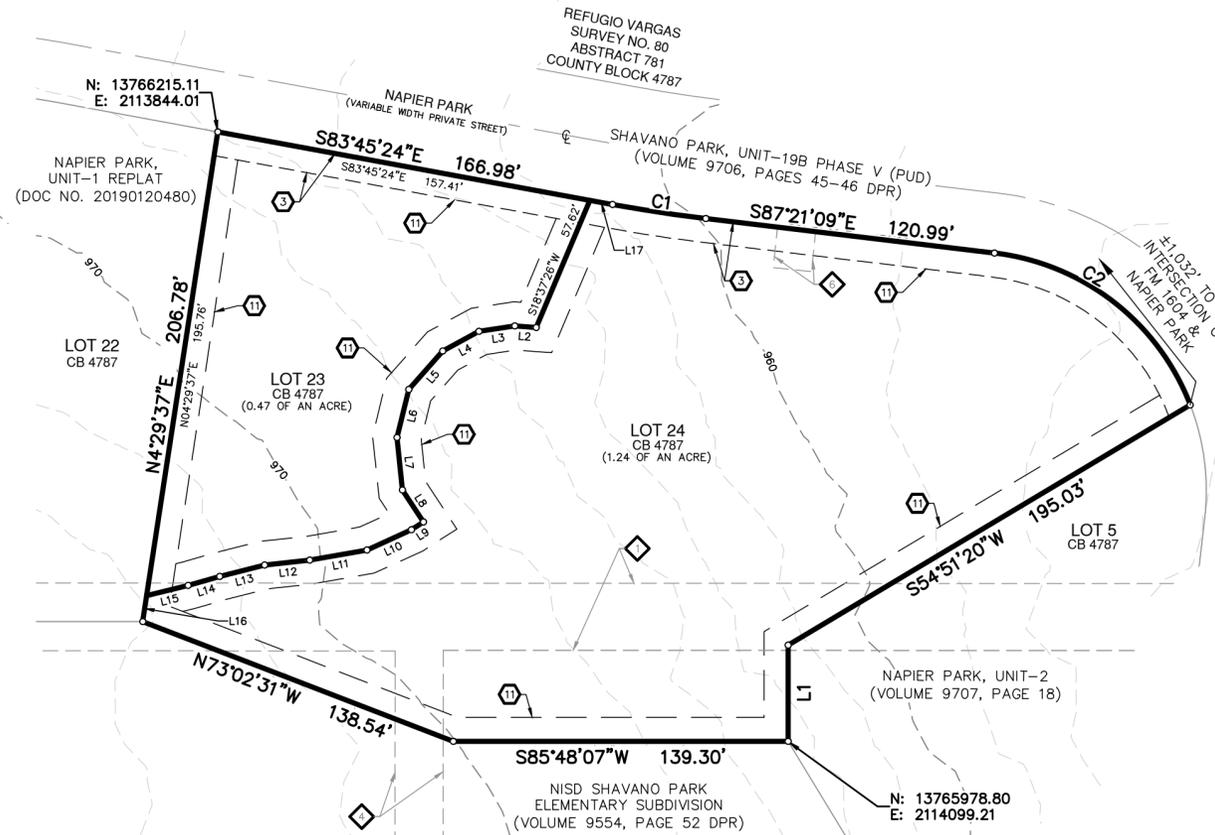
I HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT TO THE MATTERS OF STREETS, LOTS AND DRAINAGE LAYOUT. TO THE BEST OF MY KNOWLEDGE THIS PLAT CONFORMS TO ALL REQUIREMENTS OF THE UNIFIED DEVELOPMENT CODE, EXCEPT FOR THOSE VARIANCES GRANTED BY THE SAN ANTONIO PLANNING COMMISSION.

\_\_\_\_\_  
LICENSED PROFESSIONAL ENGINEER

STATE OF TEXAS  
COUNTY OF BEXAR

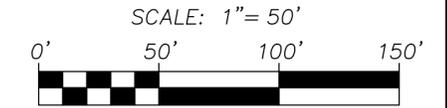
I HEREBY CERTIFY THAT THE ABOVE PLAT CONFORMS TO THE MINIMUM STANDARDS SET FORTH BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND BY: PAPE-DAWSON ENGINEERS, INC.

\_\_\_\_\_  
REGISTERED PROFESSIONAL LAND SURVEYOR



SUBDIVISION PLAT  
OF  
**NAPIER PARK, UNIT-3 (PUD)**

A 1.71 ACRE TRACT OF LAND OUT OF A 289.5 ACRE TRACT DESCRIBED IN DEED TO ROGERS SHAVANO PARK UNIT 18/19, LTD. RECORDED IN VOLUME 12007, PAGE 2490, OF THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS, IN THE CITY OF SHAVANO PARK, BEXAR COUNTY, TEXAS, OUT OF THE REFUGIO VARGAS, SURVEY NUMBER 80, ABSTRACT NUMBER 781, IN COUNTY BLOCK 4787 OF BEXAR COUNTY, TEXAS.



**PAPE-DAWSON ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.375.9000  
TBP E FIRM REGISTRATION #470 | TBP L S FIRM REGISTRATION #10028800  
DATE OF PREPARATION: September 18, 2019

STATE OF TEXAS  
COUNTY OF BEXAR

THE OWNER OF LAND SHOWN ON THIS PLAT, IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, DEDICATES TO THE USE OF THE PUBLIC, EXCEPT AREAS IDENTIFIED AS PRIVATE OR PART OF AN ENCLAVE OR PLANNED UNIT DEVELOPMENT, FOREVER ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

OWNER/DEVELOPER: LLOYD A. DENTON, JR.  
ROGERS SHAVANO PARK UNIT 18/19, LTD.  
11 LYNN BATTS LANE, SUITE 100  
SAN ANTONIO, TEXAS 78218  
(210) 828-6131

STATE OF TEXAS  
COUNTY OF BEXAR

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED LLOYD A. DENTON, JR., KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, BEXAR COUNTY, TEXAS

THIS PLAT OF \_\_\_\_\_ NAPIER PARK, UNIT-3 \_\_\_\_\_ HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF SHAVANO PARK, TEXAS, AND IS HEREBY APPROVED BY SUCH PLANNING AND ZONING COMMISSION.  
DATED: THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_.

BY: \_\_\_\_\_  
CHAIRMAN

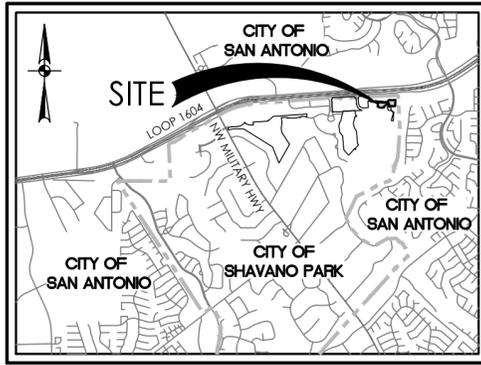
BY: \_\_\_\_\_  
CITY CLERK

THIS PLAT OF \_\_\_\_\_ NAPIER PARK, UNIT-3 \_\_\_\_\_ HAS BEEN SUBMITTED TO AND CONSIDERED BY THE CITY COUNCIL OF THE CITY OF SHAVANO PARK, TEXAS, AND IS HEREBY APPROVED BY SUCH CITY COUNCIL.  
DATED: THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_.

BY: \_\_\_\_\_  
MAYOR

BY: \_\_\_\_\_  
CITY CLERK

NAPIER PARK, UNIT-3 (PUD) Civil Job No. 7118-89; Survey Job No. 7118-75 Date: Sep 18, 2019, 2:33pm User: lid, orlos File: P:\18\89\Design\Civil\Plot\711889 - Unit-3.dwg



LOCATION MAP  
NOT-TO-SCALE

**SAWS IMPACT FEE:**

WATER AND/OR WASTEWATER IMPACT FEES WERE NOT PAID AT THE TIME OF PLATTING FOR THIS PLAT. ALL IMPACT FEES MUST BE PAID PRIOR TO WATER METER SET AND/OR WASTEWATER SERVICE CONNECTION.

**SAWS WASTEWATER EDU:**

THE NUMBER OF WASTEWATER EQUIVALENT DWELLING UNITS (EDU'S) PAID FOR THIS SUBDIVISION PLAT ARE KEPT ON FILE UNDER THE PLAT NUMBER AT THE SAN ANTONIO WATER SYSTEM.

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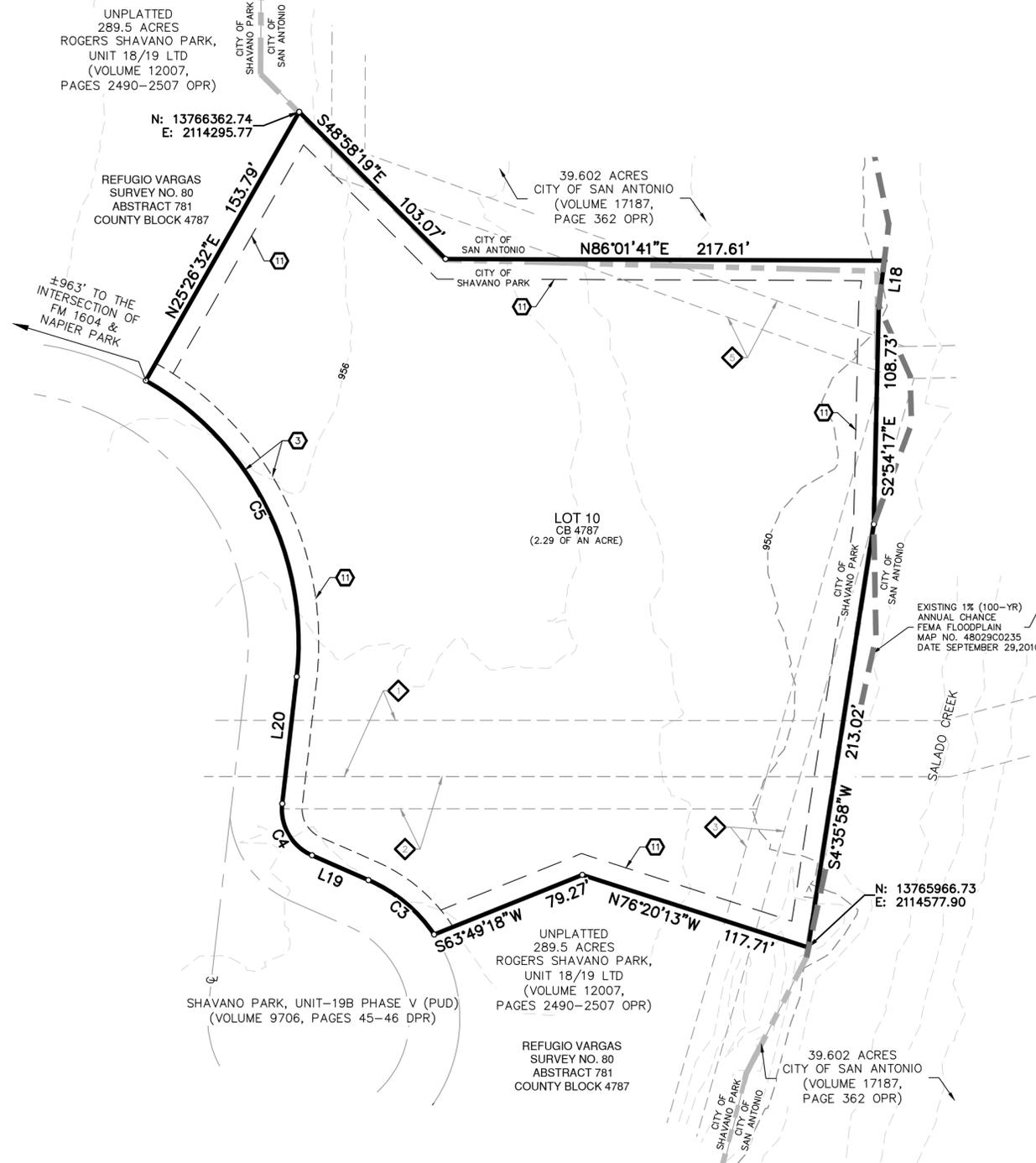
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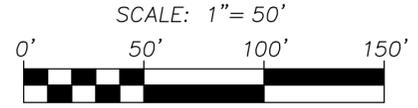
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DATED: THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_\_.

BY: \_\_\_\_\_  
CHAIRMAN

BY: \_\_\_\_\_  
CITY CLERK

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BY: \_\_\_\_\_  
MAYOR

BY: \_\_\_\_\_  
CITY CLERK

NAPIER PARK, UNIT-3 (PUD) Civil Job No. 7118-89; Survey Job No. 7118-75 Date: Sep 18, 2019, 2:37pm User: lbj\_arias File: P:\18\89\Design\Civil\Plot\PL711889 - Unit-3.dwg

## CITY OF SHAVANO PARK Preliminary Plat Submittal Checklist

This checklist is to be completed by the developer or his representative and submitted with the preliminary plat and accompanying data. If any areas are incomplete, the plat will not be accepted. Any items labeled N/A must be explained in writing. Shavano Park City Council has asked that all plats be submitted to the City with a brief description of the purpose of the plat or re-plat. Also requested is that an electronic version be sent to the City Secretary at [ztedford@shavanopark.org](mailto:ztedford@shavanopark.org). This checklist does not supersede the City of Shavano Park Development Ordinances.

Name of Subdivision:	<u>Napier Park, Unit-3 (PUD)</u>
Proposed Use of Property:	<u>Commercial</u>
Property Description: (Lot & block, address or location)	<u>Lots 10, 23 &amp; 24, CB 4787</u> <u>0.2 miles south of the Loop 1604 and Napier Park Intersection</u>

Owner Name:	<u>Rogers Shavano Park Unit 18/19, LTD</u>	Engineer Name:	<u>Pape-Dawson Engineers, Inc</u>
Address:	<u>11 Lynn Batts Lane, Suite 100</u> <u>San Antonio, TX 78218</u>	Address:	<u>2000 NW Loop 410</u> <u>San Antonio, TX 78213</u>
Phone:	<u>(210) 828-6131</u>	Phone:	<u>(210) 375-9000</u>
Fax:	<u></u>	Fax:	<u>(210) 375-9010</u>
Email:	<u>laddiedenton@bitterblue.com</u>	Email:	<u>alowry@pape-dawson.com</u>

Current Zoning:	<u>B-2</u>	Total Acreage:	<u>4.00</u>
Total Platting Fees: (Coordinate with Staff)	<u></u>	Developable Acreage:	<u>3.06</u>
		Greenbelts & Drainage Acreage:	<u>0</u>

S.A.W.S. Sewer	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Septic System	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
S.A.W.S. Water	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Shavano Park Water	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

	Yes	No	N/A
1. This is an original plat of property	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. This is a replat of an existing plat	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. If item 1 was answered "No," then:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. this is a vacate and replat	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. this is a replat with out vacating	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. this is an amending plat	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. this is a minor plat	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. If item 1 was answered "No," a copy of the original plat is included in the submittal	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. The plat is of a Planned Unit Development District (PUD)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. If item 5 was answered "Yes" then include on plat PUD development standards that differ from the base zoning district development standards and include "PUD" in the subdivision name	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7.	Is a digital copy of plans, plat, forms, and/or letter included in the submittal?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The following items pertain to the proposed preliminary drawing:		Yes	No	N/A
8.	This subdivision is one phase of a larger development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	If item 5 was answered "Yes," a PUD plan is included in this submittal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Some portion of this property is located over the Edwards Recharge Zone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	If Item 10 was answered "Yes," a Water Pollution Abatement Plan (WPAP) has been prepared for this site	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12.	This site requires offsite drainage or utility improvements	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13.	If item 12 was answered "Yes," 3 copies of the construction plans are included with cost estimate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14.	The plat is drawn on an 18"x 24" sheet (not a 24"x 36" sheet as incorrectly stated on City Code)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15.	15 Folded copies of the plat are included	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.	The plat contains the names, addresses, and Contact information of the owner and engineer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17.	The plat shows complete bearings and distances on all lot line and easements	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18.	The plat shows the location of the subject property in relation to an original survey corner or public street intersection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19.	The plat illustrates and identifies all adjacent properties including recording information	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20.	The plat contains the total acreage being platted and individual lot acreage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21.	The plat shows location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements, or other public right-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22.	The plat shows location, dimensions, description and name of all existing or recorded residential lots, parks, public areas, and other sites within or contiguous with the subdivision	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23.	The plat shows location, dimensions, description, and name of all proposed streets, alleys, parks, public areas reservations, easements or other rights-of-way, blocks, lots and other sites within the subdivision	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The following items pertain to the proposed preliminary drawing:		Yes	No	N/A
24.	The plat shows the date of preparation, scale of plat and North arrow	✓	___	___
25.	The plat shows the topographical information with contour lines on a basis of two (2) vertical feet in terrain with an average slope of five percent (5%)	✓	___	___
26.	The plat shows a number or letter to identify each lot or site and each block. Said number shall be coordinated by the developer with the Clerk of Bexar County to prevent duplication	✓	___	___
27.	The plat shows front building setback lines on all lots and sites. Side yard building setback lines at street intersection and crosswalk ways and rear building setback lines.	✓	___	___
28.	The plat addresses the required landscape buffer in accordance with Table 6 of the Code of Ordinances	✓	___	___
29.	The plat shows location map at a scale of not more than 4000 feet to an inch which shall show existing adjacent subdivisions and major streets	✓	___	___
30.	The plat shows existing flood plain boundaries	✓	___	___
31.	The proposed platted property is compliant with current zoning regulations	✓	___	___

**I certify that the above statements are true to the best of my knowledge and I further certify that I have read the City of Shavano Park Development Ordinances and this plat meets said ordinances except as notes.**

Submitted by:  Date: 9/19/19  
 Accepted by:  Date: 9/20/19

-----  
City Staff Reviewed

City Secretary: \_\_\_\_\_ Date: \_\_\_\_\_  
 Fire Marshal:  Date: 26, SEPT. 2019  
 Public Works / Water Director:  Date: 9-26-19



September 25, 2019

City of Shavano Park  
Permitting Department  
Attn: Marisa Knuffke  
900 Saddletree Court  
San Antonio, Texas 78231

Re: Plan Review Comments  
Napier Park, Unit 3 (PUD)

Staff;

We have completed our review of the referenced Preliminary Plat of Napier Park unit 3 PUD by Pape-Dawson Engineers. We have the following comments that need to be addressed during the final plat process:

1. Sheet 1 of 3: SAWS HIGH PRESSURE note indicates a portion of the plat is above elevation 985 which is not accurate, all lots will require PRVs.
2. Sheet 1 of 3: BASE ZONING EXCEPTION note indicates the property is zoned B2 but is actually a PUD zoning.
3. Sheet 1-3 of 3: The description of the subdivision includes "a 1.71 ac tract of land out of a 289.5 ac tract..." but the acreage of lot 10 is 2.29 ac, lot 23 is 0.47 and lot 24 is 1.24 ac. for a total of 4.00 ac.
4. Sheet 2 of 3: During the preliminary plat conference, it was indicated that the curve like lot line will create the buffer line for a sensitive feature indicated on a TCEQ approved WPAP. Please provide at least a digital copy of the WPAP for the final plat process so the City can ensure the intent of the WPAP is followed. If there is a restrictive buffer around a sensitive feature the limits of the buffer should be indicated in accordance with section 28-42(7)(a) of the Shavano Code.
5. Sheet 2 of 3: In accordance with Section 28-42(7)(a) the variable width gas, electric, telephone, catv, and water easement (vol 10010, pp 292-297 OPR) should be located with dimensions to proposed platted property lines.
6. Sheet 3 of 3: In accordance with Section 28-42(7)(a) the variable width gas, electric, telephone, catv, and water easement (vol10010, pp 292-297 OPR) should be located with dimensions to proposed platted property lines.
7. Sheet 3 of 3: indicates a portion of the City of San Antonio city limits crosses the NE corner of Lot 10, if this is the case the final platting process must also be submitted through the City of San Antonio process for that portion of the lot.
8. The City Engineer signature block is missing.

Our review of the plat does not relieve or release the Engineer, Architect or Surveyor of Record or from complying with any and all the requirements of the local, state, and federal rules and regulations or guidelines impacting this project. If you require additional information, please contact our office.

Sincerely,



Rick Gray, P.E., CFM  
Plan Reviewer for the City of Shavano Park



On behalf of the:





September 26, 2019

Mr. Curtis Leeth  
City of Shavano Park  
900 Saddletree Court  
San Antonio, TX 78231

Re: Plat Revision  
Napier Park, Unit-3 (PUD)

Dear Mr. Leeth:

We are submitting this letter and attachments to address Mr. Rick Gray's questions and comments about the Napier Park, Unit-3 (PUD) dated September 25th, 2019. No changes or additions were made other than those addressing said comments.

1. Sheet 1 of 3: SAWS HIGH PRESSURE note indicates a portion of the plat is above the elevation 985 which is not accurate, all lots will require PRVs.

**Response:** *We understand all three lots will require PRVs since they are below elevation 985, however this is a standard SAWS note they require on our plat.*

2. Sheet 1 of 3: BASE ZONING EXCEPTION note indicates the property is zoned B2 but is actually a PUD zoning.

**Response:** *We revised the note to indicate this plat is part of a PUD to provide more clarity.*

3. Sheet 1-3 of 3: The description of the subdivision includes "a 1.71 ac tract of land out of a 289.5 ac tract..." but the acreage of lot 10 is 2.29 ac, lot 23 is 0.47 and lot 24 is 1.24 ac. For a total of 4.00 ac.

**Response:** *The description of the subdivision has been revised accordingly.*

4. Sheet 2 of 3: During the preliminary plat conference, it was indicated that the curve like lot line will create the buffer line for a sensitive feature indicated on a TCEQ approved WPAP. Please provide at least a digital copy of the WPAP for the final plat process so the City can ensure the intent of the WPAP is followed. If there is a restrictive buffer around a sensitive feature the limits of the buffer should be indicated in accordance with section 28-42(7)(a) of the Shavano Code.

**Response:** *The Lot 23/24 lot line does not create a buffer around the sensitive feature. The lot line was drawn this way to keep the sensitive feature entirely within Lot 24. We have added a buffer zone easement on Lot 24 to encompass the*

TBPE Firm Registration #470 | TBPLS Firm Registration #10028800

San Antonio | Austin | Houston | Fort Worth | Dallas

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2000 NW Loop 410, San Antonio, TX 78213 T: 210.375.9000 [www.Pape-Dawson.com](http://www.Pape-Dawson.com)

*feature. The WPAP for this plat was approved on October 24, 2014. We will provide the TCEQ WPAP approval letter with the final plat submittal, as indicated on the Shavano Park final plat checklist.*

5. Sheet 2 of 3: In accordance with Section 28-42(7)(a) the variable width gas, electric, telephone, catv, and water easement (vol 10010, pg 292-297 OPR) should be located with dimensions to proposed platted property lines.

**Response:** *We have revised the plat to include the requested dimensions.*

6. Sheet 3 of 3: In accordance with Section 28-42(7)(a) the variable width gas, electric, telephone, catv, and water easement (vol 10010, pg 292-297 OPR) should be located with dimensions to proposed platted property lines.

**Response:** *The boundary of Lot 10 has been revised and no longer includes the variable width gas, electric, telephone, catv, and water easement within the lot.*

7. Sheet 3 of 3: indicates a portion of the City of San Antonio city limits crosses the NE corner of Lot 10, if this is the case the final platting process must also be submitted through the City of San Antonio process for that portion of the lot.

**Response:** *The city limit line has been revised on the plat to follow the property boundary. We have included the boundary surveys and deeds that determined the city limit line for reference.*

8. The City Engineer signature block is missing.

**Response:** *The City Engineer signature block has been added to the plat.*

If you have questions or require any additional information, please do not hesitate to contact our office at your earliest convenience.

Sincerely,  
Pape-Dawson Engineers, Inc.



Andrew Lowry, P.E.  
Project Manager

## PLANNING AND ZONING STAFF SUMMARY

Meeting Date: October 2, 2019

Agenda item: 9 / 10

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

8. Public Hearing – A public hearing to receive comments from members of the public regarding the proposed rezoning of property legally described as County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) from B-2 Business and Office District to a Planned Unit Development (PUD) zoning district with B-2 Business and Office base district with the following exceptions: Minimum Parking Requirement, Maximum Building Height, Rear Setback Requirement, Side Setback Requirement, Front Landscape Buffer Requirement and Rear Landscape Buffer Requirement.

9. Discussion / action – Possible rezoning of property legally described as County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) from B-2 Business and Office District to a Planned Unit Development (PUD) zoning district with B-2 Business and Office base district - City Manager

X

### **Attachments for Reference:**

- 1) 9a Brookdale PUD & SUP Request
- 2) 9b PUD Exceptions for Ordinance
- 3) Engr Letter

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**BACKGROUND / HISTORY:** The Brookdale Shavano Park Assisted Living Community at 4096 De Zavala Road was built in 1999 and was the first commercial building in Shavano Park. The construction was initiated while the property was still in the ETJ and was completed after the City Annexed the property in April 1999. It is likely that the City had not established a comprehensive zoning code for office and business properties.

This summer, the City received a zoning verification request for the property and during review staff noted that the property did not have a special use permit for an assisted living facility (CC) use. The property is currently zoned B-2 Business and Office District.

On September 11, 2019, staff received a Planned Unit Development (PUD) with B-2 base district rezoning request for 4096 De Zavala Road from the property owner, S-H Twenty-One Properties, LLC.

In addition this letter requested the authorizing of a special use permit for the Assisted Living Facility (CC) use – this will be considered by the Commission on agenda items 11 and 12.

On September 18, 2019, staff provided paper notice and mailed notices to all properties within 500 feet as required by the City of Shavano Park Code of Ordinances.

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**DISCUSSION:** After review by staff and S-H Twenty-One Properties, LLC, it is concluded property has six non-conforming uses of the B-2 Business and Office Zoning District. The property owner is therefore requesting approval of these non-conforming uses to the following B-2 zoning regulations:

**Chapter 36. - ZONING, ARTICLE VI, Table No. 6 Other District Setbacks and Other Limitations:**

1. *Minimum Parking Requirement – Exception to allow reduced parking ratio from 1/200 square feet to 1/670 square feet (158 spaces to 47 spaces with current building size).*
2. *Maximum Building Height – Exception to allow increased building height from 45 feet to 46 feet.*
3. *Rear Setback Requirement – Exception to allow reduced rear building setback from 100 feet to 39.14 feet.*
4. *Side Setback Requirement – Exception to allow reduced side building setback from 53.6 feet to 20.5 feet.*
5. *Front Buffer Requirement – Exception to allow reduced front landscape buffer from 40 feet to 32 feet.*
6. *Rear Buffer Requirement – Exception to allow reduced rear landscape buffer from 30 feet to 10 feet.*

Staff note that these exceptions are not for a new proposed construction but to bring a legally non-conforming structure in the City into conformance with the City’s zoning regulations. The property and business has been operating since 2000 without any significant issues. These exceptions are presented in Ordinance form in attachment 9b.

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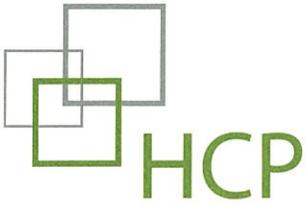
**COURSES OF ACTION:** Recommend approval of rezoning 4096 De Zavala Road from B-2 Business and Office District to a Planned Unit Development (PUD) zoning district with B-2 Business and Office base district; or alternatively decline and provide further guidance to staff.

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**FINANCIAL IMPACT:** N/A

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**MOTION REQUESTED:** Recommend approval of recommendation to City Council for rezoning 4096 De Zavala Road from B-2 Business and Office District to a Planned Unit Development (PUD) zoning district with B-2 Business and Office base district.



September 11, 2019

Bill Hill, City Manager  
City of Shavano Park  
900 Saddletree Court  
Shavano Park, TX 78231

Re: Planned Unit Development Rezoning and Special Use Permit Requests for the Brookdale Shavano Park Assisted Living Facility Located at 4096 De Zavala Road, Shavano Park, Texas

Dear Mr. Hill,

S-H TWENTY-ONE PROPERTIES, LLC is the owner of the Brookdale Shavano Park Assisted Living Community (“Community”) at 4096 De Zavala Road (“Property”). The Property is located within the boundaries of the City of Shavano Park (“City”). We are proud to say that the Community has been open and operating within Shavano Park for the past 20 years. As you are aware, the Community was built in conformance with City requirements at the time of construction.

Due to City initiated modification to Code, the Property is no longer properly zoned for assisted facility uses. The Property is zoned “B-2” Business District. Per the Shavano Park Code of Ordinances (“Code”), an Assisted Living Facility now requires a Special Use Permit (“SUP”). Additionally, the existing buildings do not conform with all “B-2” lot and building development standards, such as setbacks, height, and minimum parking. While the Community is legally operating as a non-conforming use, it is our desire to bring the use and improvements into conformance with the Code. With this in mind, please accept this letter as our formal request to: 1) rezone the Property to Planned Unit Development (“PUD”) district; and 2) authorize the assisted living facility at the Property through an SUP.

The purpose of the PUD request is to allow for development standards that differ from those of the Property’s current “B-2” zoning. As previously noted, this request is to bring the improvements that currently exist on the Property into conformance with current Code. We are requesting the following variances from “B-2” standards be included with the PUD, all of which are further detailed in the attached site plan:

**Chapter 36. - ZONING, ARTICLE VI, Table No. 6 Other District Setbacks and Other Limitations:**

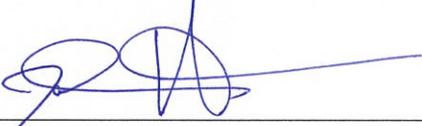
1. *Minimum Parking Requirement – Exception to allow reduced parking ratio from 1/200 square feet to 1/670 square feet (158 spaces to 47 spaces with current building size).*

2. *Maximum Building Height – Exception to allow increased building height from 45 feet to 46 feet.*
3. *Rear Setback Requirement – Exception to allow reduced rear building setback from 100 feet to 39.14 feet.*
4. *Side Setback Requirement – Exception to allow reduced side building setback from 53.6 feet to 20.5 feet.*
5. *Front Buffer Requirement – Exception to allow reduced front landscape buffer from 40 feet to 32 feet.*
6. *Rear Buffer Requirement – Exception to allow reduced rear landscape buffer from 30 feet to 10 feet.*

Please schedule both the PUD rezoning and SUP request for the October 2, 2019 Planning and Zoning Commission hearing, followed by City Council as soon as possible thereafter. Additionally, S-H TWENTY-ONE PROPERTIES, LLC authorizes Kaufman & Killen, Inc. to represent us in the processing of the PUD and SUP requests and at the public hearings. If you have any further questions please do not hesitate to contact me at (949) 407-0499/[jweiss@HCPI.com](mailto:jweiss@HCPI.com), Daniel Bruce at (949) 407-0468/[dbruce@HCPI.com](mailto:dbruce@HCPI.com), or Ashley Farrimond with Kaufman & Killen, Inc. at (210) 448-9981/[ashley@kk-lawfirm.com](mailto:ashley@kk-lawfirm.com).

Sincerely,

**S-H TWENTY-ONE PROPERTIES, LLC,**  
a Delaware limited liability company

By:   
Name: Joshua D. Weiss

Title: Vice President

cc: Curtis Leeth, Assistant to City Manager  
Talley J. Williams, Metcalfe Wolff Stuart & Williams LLP

**attached:**

- 1) Site Plan/Detail Plan for Property
- 2) Bexar County Appraisal District Information
- 3) Deed

**ITEMS CORRESPONDING TO SCHEDULE B**

1. The following restrictive covenants of record identified below:  
Any covenants, conditions or restrictions indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin are hereby deleted to the extent such covenants, conditions or restrictions violate 42 USC 3604 (g). Restrictions contained in the plat recorded in Volume 9538, Pages 66-69, of the Deed and Plat Records, of Bexar County, Texas; and Restrictive covenants imposed in the Instrument recorded under Volume 7752, Page 1938, of the Real Property Records, of Bexar County, Texas.  
**NOT SHOWN, IT IS A BLANKET ITEM**

10. The following matters and all terms of the documents creating or offering evidence of the matters:  
e. A 30 foot building setback line along the Lockhill-Selma Road property line as set forth on the recorded plat and dedication.  
**THIS ITEM IS PLOTTED AND SHOWN HEREON.**

f. A 30 foot building setback line along the DeZavala Road property line as set forth on the recorded plat and dedication.  
**THIS ITEM IS PLOTTED AND SHOWN HEREON.**

g. Easement as shown on the recorded plat and dedication:  
Purpose: Gas, Electric, Telephone and Cable TV Easement  
Location: 14' along the Lockhill-Selma Road property line  
**THIS EASEMENT IS PLOTTED AND SHOWN HEREON.**

h. Easement as shown on the recorded plat and dedication:  
Purpose: Sanitary Sewer, Gas, Electric, Telephone and Cable TV Easement  
Location: 16' along the DeZavala Road property line  
**THIS EASEMENT IS PLOTTED AND SHOWN HEREON.**

i. Easement as shown on the recorded plat and dedication:  
Purpose: Wall and Landscaping Easement  
Location: 10' along the most Northeasterly and most Southeasterly property lines  
**THIS EASEMENT IS PLOTTED AND SHOWN HEREON.**

j. Easement:  
To: City of San Antonio  
Recorded: November 22, 2000 in Volume 8650, Page 1457, of the Real Property Records, of Bexar County, Texas.  
Purpose: Electric Easement  
**THIS EASEMENT IS PLOTTED AND SHOWN HEREON.**

k. Pollution Abatement Plan referenced by Affidavit as recorded November 02, 1994 in Volume 6249, Page 24, of the Real Property Records, of Bexar County, Texas.  
**NOT SHOWN, IT IS A BLANKET ITEM**

l. Deed Recordation Affidavit concerning Edwards Aquifer Protection Plan as set forth in Instrument recorded October 02, 2001 as Volume 9075, Page 558, of the Real Property of Bexar County, Texas.  
**NOT SHOWN, IT IS A BLANKET ITEM**

n. Terms, conditions and stipulations contained in Agreement:  
Recorded: February 15, 2005 in Volume 11227, Page 1942, Official Public Records, Bexar County, Texas.  
Type: Easement and Memorandum of Agreement  
**NOT SHOWN, IT IS A BLANKET AGREEMENT**

o. Terms, conditions and stipulations contained in Agreement:  
Recorded: September 26, 2011 in Volume 15150, Page 2300, Official Public Records, Bexar County, Texas.  
Type: License and Memorandum of Agreement  
**NOT SHOWN, IT IS A BLANKET AGREEMENT**

**ZONING INFORMATION**

**THE SURVEYED PROPERTY IS ZONED "B-2" - BUSINESS DISTRICT**

**FRONT SETBACK: 80'**  
**STREET SIDE SETBACK: 80'**  
**SIDE SETBACK: 25'**  
**REAR SETBACK: 100'**

**HEIGHT RESTRICTIONS: 45'**

**PARKING REQUIREMENTS (FORMULA): 1 SPACE PER 200 SQ.FT. OF GFA**  
**351 SPACES REQUIRED**

**THE ZONING INFORMATION SHOWN ABOVE WAS OBTAINED FROM PZR ZONING REPORT DATED JULY 30, 2019, SITE NO. 130760-1, PURSUANT TO TABLE A 6A.**

**VICINITY MAP - NOT TO SCALE**



**MISCELLANEOUS NOTES**

- (MN1)** SURVEY PERFORMED BY: BOCK AND CLARK CORPORATION, AN NV5 COMPANY, 501 THOMSON PARK DRIVE, CRANBERRY TOWNSHIP, PA 16066 PHONE: (800) 787-8394 FAX: (724) 934-0062 BYRON.HOWELL@NV5.COM
- (MN2)** THIS SURVEY IS CERTIFIED TO DATE OF FIELD SURVEY, NOT DATE OF SIGNATURE, NOT VALID UNLESS SIGNED, DATED AND STAMPED WITH SURVEYOR'S SEAL.
- (MN3)** TABLE A 2: AN ADDRESS OF 4096 DE ZAVALA ROAD WAS POSTED ON THE SURVEYED PROPERTY.
- (MN4)** TABLE A 4: THE SURVEYED PROPERTY CONTAINS AN AREA OF 3.50± ACRES (152,580± SQUARE FEET), MORE OR LESS.
- (MN5)** TABLE A 6b: THE INFORMATION SHOWN HEREON WAS TAKEN FROM THE REFERENCED RECORDED PLAN(S) AND MAY NOT BE THE CURRENT STANDARD OR HOW THE STANDARD IS INTERPRETED BY THE TOWNSHIP, COUNTY AND STATE. THE SETBACKS SHOWN (IF ANY) MAY NOT REFLECT THE ZONING REQUIREMENTS AT THE TIME OF CONSTRUCTION, IF ANY WERE REQUIRED AT THAT TIME
- (MN6)** TABLE A 8: ONLY OBSERVABLE SURFACE AND ABOVE GROUND STRUCTURES WERE LOCATED. NO UNDERGROUND IMPROVEMENTS, SUCH AS FOUNDATION FOOTINGS, WERE LOCATED, SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY, ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.
- (MN7)** TABLE A 9: THERE ARE 43 STRIPED REGULAR PARKING SPACES AND 4 STRIPED HANDICAPPED PARKING SPACES FOR A TOTAL OF 47 STRIPED PARKING SPACES ON THE SURVEYED PROPERTY.
- (MN8)** TABLE A 16: AT THE TIME OF SURVEY, THERE WAS NO OBSERVABLE EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION, BUILDING ADDITIONS.
- (MN9)** TABLE A 17: AT THE TIME OF SURVEY, THE SURVEYOR WAS UNAWARE OF ANY PROPOSED CHANGES IN STREET RIGHT OF WAY LINES OR OBSERVABLE EVIDENCE OF STREET OR SIDEWALK REPAIRS.
- (MN10)** TABLE A 18: THE SURVEYOR WAS NOT PROVIDED ANY DOCUMENTATION, WAS NOT MADE AWARE AND DID NOT OBSERVE ANY GROUND MARKINGS ON THE SURVEYED PROPERTY WITH REGARDS TO WETLANDS ON THE SURVEYED PROPERTY, NO ENVIRONMENTAL ASSESSMENT OR AUDIT WAS PERFORMED ON THE SURVEYED PROPERTY BY THE SURVEYOR.
- (MN11)** TABLE A 19: THERE ARE NO PLOTTABLE OFFSITE EASEMENTS OR SERVITUDE THAT WERE DISCLOSED IN THE RECORD DOCUMENTS PROVIDED TO THE SURVEYOR OR WERE OBSERVED IN THE PROCESS OF CONDUCTING THE SURVEY.
- (MN12)** THE SURVEYED PROPERTY HAS ACCESS TO DE ZAVALA ROAD AND LOCKHILL-SELMA ROAD, BOTH DEDICATED PUBLIC RIGHT-OF-WAY(S), AS SHOWN HEREON.
- (MN13)** OWNERSHIP OF FENCES, IF ANY, WAS NOT DETERMINED UNDER THE SCOPE OF THIS SURVEY. THERE ARE NO GAPS, GORES, OVERLAPS OR HIATUS INHERENT TO THE SURVEYED PROPERTY BASED ON THE FIELD SURVEY PERFORMED AND THE TITLE COMMITMENTS PROVIDED.
- (MN14)** BEARINGS SHOWN HEREON ARE BASED ON THE SOUTHEAST RIGHT OF WAY LINE OF DE ZAVALA ROAD TO BEAR N 52° 47' 03" E, AS SHOWN HEREON.
- (MN15)** THIS SURVEY IS NOT INTENDED FOR CONSTRUCTION OR CONSTRUCTION DESIGN PURPOSES.
- (MN17)** THIS SURVEY CONFORMS TO THE TEXAS SOCIETY OF PROFESSIONAL SURVEYORS FOR A BOUNDARY SURVEY UNDER CATAGORY 1-A URBAN SURVEY.
- (MN18)** CALCULATED SQUARE FOOTAGE OF THE BUILDING DOES NOT ACCOUNT FOR THE THICKNESS OF WALLS AND INTERIOR FRAMING AND IS NOT TO BE USED FOR THE INTERIOR SQUARE FOOTAGE CALCULATION.
- (MN19)** SURVEYOR NOT LIABLE FOR UTILITIES OBSTRUCTED OR COVERED FROM VIEW.
- (MN20)** THIS SURVEY IS BASED UPON THE TITLE COMMITMENT REFERENCED HEREON, THE SURVEYOR IS NOT RESPONSIBLE FOR DOCUMENTS OF RECORD NOT INCLUDED IN THE COMMITMENT PROVIDED.
- (MN21)** ENTRY INTO SANITARY AND STORM STRUCTURES REQUIRES A CONFINED SPACE PERMIT WHICH IS NOT INCLUDED IN THE SCOPE OF WORK.
- (MN22)** AT THE TIME OF SURVEY, THERE WAS NO OBSERVABLE EVIDENCE OF SITE USE AS A BURIAL GROUND OR CEMETERY.
- (MN23)** BUILDING HEIGHT DOES NOT TAKE IN TO ACCOUNT HEIGHT OF PARAPET WALLS.
- (MN24)** ONLY VISIBLE ABOVE GROUND EVIDENCE OF IMPROVEMENTS AND UTILITIES WERE LOCATED BY SURVEYOR. UNDERGROUND UTILITIES SHOWN HEREON PER RECORD INFORMATION.

**RECORD DESCRIPTION**

BEING LOT 1650, A REPLAT & SUBDIVISION PLAT OF SHAVANO PARK, UNIT-10F, BEXAR COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN VOLUME 9538, PAGES 66-69, DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS.

THE LANDS SURVEYED, SHOWN AND DESCRIBED HEREON ARE THE SAME LANDS AS DESCRIBED IN THE TITLE COMMITMENT PROVIDED BY FIRST AMERICAN TITLE INSURANCE COMPANY, COMMITMENT NO. NCS-958886-02-SA1, DATED APRIL 17, 2019.

**LEGEND OF SYMBOLS & ABBREVIATIONS**

- POWER POLE
- LIGHT POLE
- GUY WIRE
- TRAFFIC SIGNAL BOX
- SIGNAL LIGHT POLE
- SIGNAL LIGHT
- ELECTRIC MANHOLE
- ELECTRIC METER
- ELECTRIC VAULT
- TRANSFORMER
- AIR CONDITIONER UNIT
- TELEPHONE MANHOLE
- TELEPHONE PEDESTAL
- CABLE BOX
- STORM DRAIN MANHOLE
- STORM DRAIN INLET
- STORM PIPE
- GREASE TRAP
- #5 REBAR WITH B/C CAP SET UNLESS OTHERWISE NOTED
- SANITARY MANHOLE
- CLEAN OUT
- GAS MANHOLE
- GAS VALVE
- GAS METER
- HANDICAPPED PARKING
- MITERED END SECTION
- BENCHMARK
- (R) RECORD
- (M) MEASURED
- (C) CALCULATED
- VOL VOLUME
- PG PAGE
- O.R. OFFICIAL RECORDS
- P.B. PLAT BOOK
- CMP CORRUGATED METAL PIPE
- CONCRETE HATCH
- OH OVERHEAD WIRES
- E UNDERGROUND ELECTRIC LINE
- GAS GAS LINE
- W WATER LINE
- SD STORM DRAIN LINE
- S SEWER LINE

**FLOOD NOTE**

PURSUANT TO TABLE A 3, DEPICTED BY SCALED MAP LOCATION AND GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE X OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 48029C 0230 G, WHICH BEARS AN EFFECTIVE DATE OF SEPTEMBER 29, 2010 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA, AS SHOWN ON THE FEMA WEBSITE (HTTP://MSC.FEMA.GOV) BY FIRMETTE CREATED ON JULY 24, 2019. WE HAVE LEARNED THIS COMMUNITY DOES CURRENTLY PARTICIPATE IN THE PROGRAM, NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE NEEDED TO VERIFY THIS DETERMINATION OR APPLY FOR A VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

**PROJECT REVISION RECORD**

DATE	DESCRIPTION	DATE	DESCRIPTION
7/25/2019	FIRST DRAFT		
8/7/2019	NETWORK COMMENTS		
FIELD WORK: JM	DRAFTED: BRM	CHECKED BY: BH	FB & PG:

**SIGNIFICANT OBSERVATIONS**

- A** OVERHANG EXTENDS OVER SETBACK LINE BY 1.2±
- B** BUILDING EXTENDS OVER SETBACK LINE BY 48.6±

**LEGAL**

THE USE OF THIS DOCUMENT'S FORMAT IS STRICTLY PROHIBITED AND CONTINGENT UPON THE WRITTEN CONSENT AND PERMISSION OF BOCK & CLARK CORPORATION, AN NV5 COMPANY, © 2019 BOCK AND CLARK CORPORATION, AN NV5 COMPANY

THIS SURVEY WAS PREPARED FOR THE PURPOSE OF THIS REAL ESTATE TRANSACTION ONLY AND NO FURTHER PARTIES OTHER THAN THOSE CERTIFIED ABOVE SHALL RELY ON IT FOR ANY OTHER PURPOSE OR TRANSACTION

**ALTA/NSPS LAND TITLE SURVEY**

for  
**Brookdale Shavano Park**  
NV5 Project No. 201903015, 001  
4096 De Zavala Rd, San Antonio, TX 78249

based upon Title Commitment No. NCS-958886-02-SA1  
of First American Title Insurance Company  
bearing an effective date of April 17, 2019 @ 8:00 a.m.

**Surveyor's Certification**

To: PAL Shavano Park Owner, LLC, a Delaware limited liability company; First American Title Insurance Company, and Bock & Clark Corporation, an NV5 Company.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6a, 6b, 7a, 7b1, 7c, 8, 9, 13, 14, 16, 17, 18, 19, and 20 of Table A thereof. The field work was completed on July 17, 2019.

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE

BYRON D. HOWELL  
REGISTRATION NO. 6048  
IN THE STATE OF TEXAS  
EXPIRATION DATE: 12-31-2019  
FIRM REGISTRATION NUMBER 10116902  
DATE OF FIELD SURVEY: JULY 17, 2019  
DATE OF LAST REVISION: AUGUST 12, 2019  
NETWORK PROJECT NO. 201903015-001 RLS

SHEET 1 OF 2

**Bock & Clark Corporation**  
an NV5 Company



**Transaction Services 1-800-SURVEYS (787-8397)**  
3550 W. Market Street, Suite 200, Akron, Ohio 44333  
www.BockandClark.com maywehelpyou@bockandclark.com www.NV5.com

**SURVEY • ZONING • ENVIRONMENTAL • ASSESSMENT**





# Bexar CAD

## Property Search Results > 259150 S-H TWENTY-ONE PROPERTIES LLC for Year 2019

Tax Year: 2019

### Property

#### Account

Property ID:	259150	Legal Description:	CB 4773A BLK LOT 1650 (SHAVANO PARK UT-16F)
Geographic ID:	04773-100-1650	Zoning:	OCL
Type:	Real	Agent Code:	60709
Property Use Code:	154		
Property Use Description:	MULTI-RES RETIREMENT COMPLEX		

#### Protest

Protest Status:  
Informal Date:  
Formal Date:

#### Location

Address:	4096 DE ZAVALA RD SAN ANTONIO, TX 78249	Mapsco:	515B7
Neighborhood:	NBHD code13990	Map ID:	
Neighborhood CD:	13990		

#### Owner

Name:	S-H TWENTY-ONE PROPERTIES LLC	Owner ID:	3040675
Mailing Address:	1920 MAIN ST STE 1200 IRVINE, CA 92614-7230	% Ownership:	100.0000000000%

Exemptions:

### Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$4,919,490	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$1,980,510	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
-----			
(=) Market Value:	=	\$6,900,000	
(-) Ag or Timber Use Value Reduction:	-	\$0	
-----			
(=) Appraised Value:	=	\$6,900,000	
(-) HS Cap:	-	\$0	
-----			
(=) Assessed Value:	=	\$6,900,000	

## Taxing Jurisdiction

Owner: S-H TWENTY-ONE PROPERTIES LLC

% Ownership: 100.0000000000%

Total Value: \$6,900,000

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
06	BEXAR CO RD & FLOOD	0.023668	\$6,900,000	\$6,900,000	\$1,633.09
08	SA RIVER AUTH	0.018580	\$6,900,000	\$6,900,000	\$1,282.02
09	ALAMO COM COLLEGE	0.149150	\$6,900,000	\$6,900,000	\$10,291.35
10	UNIV HEALTH SYSTEM	0.276235	\$6,900,000	\$6,900,000	\$19,060.22
11	BEXAR COUNTY	0.277429	\$6,900,000	\$6,900,000	\$19,142.60
36	CITY OF SHAVANO PARK	0.287742	\$6,900,000	\$6,900,000	\$19,854.20
56	NORTHSIDE ISD	1.375500	\$6,900,000	\$6,900,000	\$94,909.50
CAD	BEXAR APPRAISAL DISTRICT	0.000000	\$6,900,000	\$6,900,000	\$0.00
Total Tax Rate:		2.408304			
Taxes w/Current Exemptions:					\$166,172.98
Taxes w/o Exemptions:					\$166,172.98

## Improvement / Building

<b>Improvement #1:</b>	Commercial	State Code:	F1	Living Area:	50974.0 sqft	Value: \$3,963,565
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Type	Description	Class CD	Exterior Wall	Year Built	SQFT
150	RETIREMENT HOME	D - V	SN	1999	18536.0
150	RETIREMENT HOME	D - V	SN	1999	15941.0
150	RETIREMENT HOME	D - V	SN	1999	16497.0

<b>Improvement #2:</b>	Commercial	State Code:	F1	Living Area:	11988.0 sqft	Value: \$920,995
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Type	Description	Class CD	Exterior Wall	Year Built	SQFT
150	RETIREMENT HOME	D - V	SN	1999	11988.0

<b>Improvement #3:</b>	Commercial	State Code:	F1	Living Area:	sqft	Value: \$26,104
------------------------	------------	-------------	----	--------------	------	-----------------

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
ASP	Asphalt	* - A		0	17000.0

<b>Improvement #4:</b>	Commercial	State Code:	F1	Living Area:	sqft	Value: \$5,438
------------------------	------------	-------------	----	--------------	------	----------------

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
CON	Concrete	* - A		0	2200.0

<b>Improvement #5:</b>	Commercial	State Code:	F1	Living Area:	sqft	Value: \$3,388
------------------------	------------	-------------	----	--------------	------	----------------

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
------	-------------	----------	---------------	------------	------

FEN

Fence

S - A

0

360.0

## Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	PAD	Commercial Pad	3.5028	152581.97	0.00	0.00	\$1,980,510	\$0

## Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2020	N/A	N/A	N/A	N/A	N/A	N/A
2019	\$4,919,490	\$1,980,510	0	6,900,000	\$0	\$6,900,000
2018	\$3,952,470	\$1,922,530	0	5,875,000	\$0	\$5,875,000
2017	\$4,146,130	\$1,853,870	0	6,000,000	\$0	\$6,000,000
2016	\$4,089,790	\$1,785,210	0	5,875,000	\$0	\$5,875,000

## Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	12/1/2016	CD	Correction Deed	SHAVANO PARK HCP LLC	S-H TWENTY- ONE PROPERTIES LLC	18235	447	20160237238
2	12/1/2016	GWD	General Warranty Deed	SHAVANO PARK HCP LLC	S-H TWENTY- ONE PROPERTIES LLC	18234	0327	20160236844
3	9/24/2008	GWD	General Warranty Deed	TEXAS HCP HOLDING LP	SHAVANO PARK HCP LLC	13697	0740	20080211819

**2020 data current as of Aug 30 2019 1:33AM.**

**2019 and prior year data current as of Aug 2 2019 5:52PM**

**For property information, contact (210) 242-2432 or (210) 224-8511 or email.**

**For website information, contact (210) 242-2500.**

**RECORDING REQUESTED BY:**

FIRST AMERICAN TITLE COMPANY  
NATIONAL COMMERCIAL SERVICES

**WHEN RECORDED MAIL TO:**

Paul, Weiss, Rifkind, Wharton, & Garrison LLP  
Attn: Salvatore Gogliormella  
1285 Avenue of the Americas  
New York, New York 10019-6064

NCS-823422-02

**THIS SPACE FOR RECORDER'S USE ONLY**

**GENERAL WARRANTY DEED**

THIS INSTRUMENT FILED FOR RECORD BY  
FIRST AMERICAN TITLE COMPANY AS AN ACCOMMODATION  
ONLY IT HAS NOT BEEN EXAMINED AS TO ITS EXECUTION  
OR AS TO ITS EFFECTS UPON THE TITLE

**\*\*GENERAL WARRANTY DEED BEING RE-RECORDED TO ADD EFFECTIVE DATE\*\***

FIRST AMERICAN  
TITLE COMPANY  
NATIONAL COMMERCIAL SERVICES  
1285 AVENUE OF THE AMERICAS  
NEW YORK, NY 10019-6064



under the bed of any highway, avenue, street, road, alley, easement or right-of-way, open or proposed, in, on, across, abutting or adjacent to the Property and any and all awards made, or to be made in lieu thereof, for damage by reason of change in grade of any such highway, avenue, street, road, alley, easement, or right-of-way.

**TO HAVE AND TO HOLD** the above described premises, together with all and singular the rights and appurtenances thereto in any wise belonging, unto the above named Grantee and Grantee's heirs, successors and assigns forever. Grantor does bind Grantor and Grantor's heirs, successors and assigns to **WARRANT AND DEFEND**, all and singular, the Property unto the immediate Grantee only (and only so long as no controlling (direct or indirect) interest in Grantee is transferred) against every person whomsoever, lawfully claiming or to claim the same, or any part thereof. Notwithstanding the foregoing, Grantor's liability hereunder shall be limited to the net amount of proceeds of insurance available under the Title Policy which are or may become due and payable to Grantor as an insured thereunder and which arise from or relate to the above described premises.

Dated this 29th day of November, 2016 but effective as of the 01 day of DECEMBER, 2016.

SHAVANO PARK HCP, LLC,  
a Delaware limited liability company

By:   
Name: Kendall K. Young  
Title: Executive Vice President

**ACKNOWLEDGMENT**

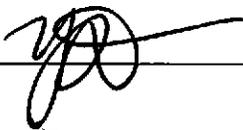
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

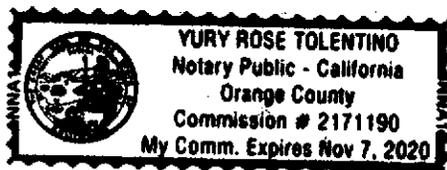
State of California        )  
County of Orange        )

On November 29, 2016 before me, Yury Rose Tolentino, Notary Public, personally appeared Kendall K. Young, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

  
\_\_\_\_\_



Doc# 20160236844  
# Pages 4  
12/01/2016 2:52PM  
e-Filed & e-Recorded in the  
Official Public Records of  
BEXAR COUNTY  
GERARD C. RICKHOFF  
COUNTY CLERK  
Fees \$34.00

STATE OF TEXAS  
COUNTY OF BEXAR  
This is to Certify that this document  
was e-FILED and e-RECORDED in the Official  
Public Records of Bexar County, Texas  
on this date and time stamped thereon.  
12/01/2016 2:52PM  
COUNTY CLERK, BEXAR COUNTY TEXAS



*Gerard C. Rickhoff*

Doc# 20160237238  
# Pages 6  
12/02/2016 9:59AM  
e-Filed & e-Recorded in the  
Official Public Records of  
BEXAR COUNTY  
GERARD C. RICKHOFF  
COUNTY CLERK  
Fees \$42.00

STATE OF TEXAS  
COUNTY OF BEXAR  
This is to Certify that this document  
was e-FILED and e-RECORDED in the Official  
Public Records of Bexar County, Texas  
on this date and time stamped thereon.  
12/02/2016 9:59AM  
COUNTY CLERK, BEXAR COUNTY TEXAS



*Gerard C. Rickhoff*

## SECTION I

**THAT** the Zoning Map of the City of Shavano Park is hereby amended by rezoning County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) from B-2 Business and Office District to a Planned Unit Development (PUD) zoning district with B-2 Business and Office base district, as more particularly described with regulations in the attached Exhibit "A"; and

**THAT** the Planned Unit Development (PUD) zoning district with B-2 Business and Office base district shall adopt the following development standard exceptions:

1. Parking Ratio:
  - a. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 zoning Parking Stall Ratio requirement from 1:200 square feet.
  - b. Allow up to 1:670 square feet parking stall ratio.
2. Building Height:
  - a. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 zoning building height limitation of 45 feet.
  - b. Allow Building height up to 46 feet.
3. Rear Building Setback:
  - a. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 zoning rear setback requirement of 100 feet.
  - b. Allow rear setback of 39.14 feet.
4. Side Building Setback:
  - a. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 zoning side setback requirement of 53.6 feet.
  - b. Allow side setback of 20.5 feet.
5. Front Landscape Buffer
  - a. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 zoning front landscape buffer requirement of 40 feet.
  - b. Allow front landscape buffer of 32 feet.
6. Rear Landscape Buffer
  - a. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 rear landscape buffer requirement of 30 feet.
  - b. Allow rear landscape buffer of 10 feet.

September 25, 2019

City of Shavano Park  
Permitting Department  
Attn: Marisa Knuffke  
900 Saddletree Court  
San Antonio, Texas 78231

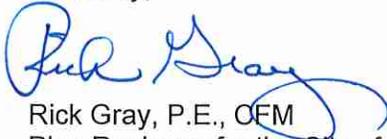
Re: Plan Review Comments  
Brookdale (PUD) - Rezoning

Staff;

We have completed our review of the rezoning request submitted by S-H Twenty-one Properties, LLC.. We find that the rezoning request for the Brookdale Assisted Living Facility located at 4096 De Zavala Rd, Shavano Park Tx. generally conform to the City of Shavano Park's Ordinances and have no additional engineering comments.

Our review of the plat does not relieve or release the Engineer, Architect or Surveyor of Record or from complying with any and all the requirements of the local, state, and federal rules and regulations or guidelines impacting this project. If you require additional information, please contact our office.

Sincerely,



Rick Gray, P.E., CFM  
Plan Reviewer for the City of Shavano Park



On behalf of the:



M:\622101\01\Reviews\City Plan Review\190925 Brookdale PUD rezoning\19925 Brookdale PUD rezoning.docx

## PLANNING AND ZONING STAFF SUMMARY

Meeting Date: October 2, 2019

Agenda item: 11 / 12

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

11. Public Hearing – A public hearing to receive comments from members of the public regarding the proposed granting a Special Use Permit to the property legally described as County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) for an Assisted Living Facility (CC) use in B-2 Business and Office District zoning category.

12. Discussion / action – Possible recommendation of granting a Special Use Permit to the property legally described as County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) for an Assisted Living Facility (CC) use in B-2 Business and Office District zoning category- City Manager

X

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

- 1) 11a Brookdale PUD & SUP Request (Ltr only)
- 2) 11b Special Use Permit language

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**BACKGROUND / HISTORY:** The Brookdale Shavano Park Assisted Living Community at 4096 De Zavala Road has been in business in the City since 1999 (Originally, built as the “Homewood Residence of Shavano Park”). This summer the City received a zoning verification request for the property and during review staff noted that the property did not have a special use permit for an assisted living facility (CC) use. The property is currently zoned B-2 Business and Office District.

On September 11, 2019, staff received a request for granting of a Special Use Permit for an Assisted Living Facility (CC) use for 4096 De Zavala Road from the property owner, S-H Twenty-One Properties, LLC.

In addition, this letter requested the rezoning 4096 De Zavala Road from B-2 Business and Office District to a Planned Unit Development (PUD) zoning district with B-2 Business and Office base district – this was considered by the Commission on agenda items 8 and 9.

On September 18, 2019, staff provided paper notice for this public hearing as required by the City of Shavano Park Code of Ordinances.

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**DISCUSSION:** After review by staff it is concluded a special use permit for an assisted living facility (CC) was never authorized for the property (these zoning regulations did not exist when it was built).

Staff note that these exceptions are not for a new proposed use but to bring a legally non-conforming use in the City into conformance with the City's zoning regulations. The special use permit language is presented in draft ordinance form in attachment 8b.

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**COURSES OF ACTION:** Recommend granting a Special Use Permit to the property legally described as County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) for an Assisted Living Facility (CC) use in B-2 Business and Office District zoning category; or alternatively decline and provide further guidance to staff.

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**FINANCIAL IMPACT:** N/A

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**MOTION REQUESTED:** Recommend granting a Special Use Permit to the property legally described as County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd) for an Assisted Living Facility (CC) use in B-2 Business and Office District zoning category.



September 11, 2019

Bill Hill, City Manager  
City of Shavano Park  
900 Saddletree Court  
Shavano Park, TX 78231

Re: Planned Unit Development Rezoning and Special Use Permit Requests for the Brookdale Shavano Park Assisted Living Facility Located at 4096 De Zavala Road, Shavano Park, Texas

Dear Mr. Hill,

S-H TWENTY-ONE PROPERTIES, LLC is the owner of the Brookdale Shavano Park Assisted Living Community (“Community”) at 4096 De Zavala Road (“Property”). The Property is located within the boundaries of the City of Shavano Park (“City”). We are proud to say that the Community has been open and operating within Shavano Park for the past 20 years. As you are aware, the Community was built in conformance with City requirements at the time of construction.

Due to City initiated modification to Code, the Property is no longer properly zoned for assisted facility uses. The Property is zoned “B-2” Business District. Per the Shavano Park Code of Ordinances (“Code”), an Assisted Living Facility now requires a Special Use Permit (“SUP”). Additionally, the existing buildings do not conform with all “B-2” lot and building development standards, such as setbacks, height, and minimum parking. While the Community is legally operating as a non-conforming use, it is our desire to bring the use and improvements into conformance with the Code. With this in mind, please accept this letter as our formal request to: 1) rezone the Property to Planned Unit Development (“PUD”) district; and 2) authorize the assisted living facility at the Property through an SUP.

The purpose of the PUD request is to allow for development standards that differ from those of the Property’s current “B-2” zoning. As previously noted, this request is to bring the improvements that currently exist on the Property into conformance with current Code. We are requesting the following variances from “B-2” standards be included with the PUD, all of which are further detailed in the attached site plan:

**Chapter 36. - ZONING, ARTICLE VI, Table No. 6 Other District Setbacks and Other Limitations:**

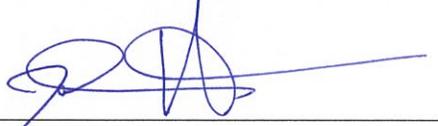
1. *Minimum Parking Requirement – Exception to allow reduced parking ratio from 1/200 square feet to 1/670 square feet (158 spaces to 47 spaces with current building size).*

2. *Maximum Building Height – Exception to allow increased building height from 45 feet to 46 feet.*
3. *Rear Setback Requirement – Exception to allow reduced rear building setback from 100 feet to 39.14 feet.*
4. *Side Setback Requirement – Exception to allow reduced side building setback from 53.6 feet to 20.5 feet.*
5. *Front Buffer Requirement – Exception to allow reduced front landscape buffer from 40 feet to 32 feet.*
6. *Rear Buffer Requirement – Exception to allow reduced rear landscape buffer from 30 feet to 10 feet.*

Please schedule both the PUD rezoning and SUP request for the October 2, 2019 Planning and Zoning Commission hearing, followed by City Council as soon as possible thereafter. Additionally, S-H TWENTY-ONE PROPERTIES, LLC authorizes Kaufman & Killen, Inc. to represent us in the processing of the PUD and SUP requests and at the public hearings. If you have any further questions please do not hesitate to contact me at (949) 407-0499/[jweiss@HCPI.com](mailto:jweiss@HCPI.com), Daniel Bruce at (949) 407-0468/[dbruce@HCPI.com](mailto:dbruce@HCPI.com), or Ashley Farrimond with Kaufman & Killen, Inc. at (210) 448-9981/[ashley@kk-lawfirm.com](mailto:ashley@kk-lawfirm.com).

Sincerely,

**S-H TWENTY-ONE PROPERTIES, LLC,**  
a Delaware limited liability company

By:   
Name: Joshua D. Weiss

Title: Vice President

cc: Curtis Leeth, Assistant to City Manager  
Talley J. Williams, Metcalfe Wolff Stuart & Williams LLP

**attached:**

- 1) Site Plan/Detail Plan for Property
- 2) Bexar County Appraisal District Information
- 3) Deed

## **SECTION II**

**THAT** a special use permit for an Assisted Living Facility (CC) use is hereby granted for County Block 4773A, Lot 1650, Shavano Park Unit-16F (4096 De Zavala Rd).

## PLANNING AND ZONING STAFF SUMMARY

Meeting Date: October 2, 2019

Agenda item: 13 / 14

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

13. Public Hearing – A public hearing to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances clarifying & establishing definitions for building setback lines, porches, porte cocheres and front yards and establishing that open porches and porte cocheres are allowed to extend from the primary residence into the front setback under certain conditions

14. Discussion / action – Possible amendments to the City of Shavano Park Code of Ordinances clarifying & establishing definitions for building setback lines, porches, porte cocheres and front yards and establishing that open porches and porte cocheres are allowed to extend from the primary residence into the front setback under certain conditions - City Manager



**Attachments for Reference:** 1) 13a Proposed Amendments

2) 13b Memo – Front Setbacks & Entryway Features

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### **BACKGROUND / HISTORY:**

Recently staff received a permit request for a covered entryway over the door of a primary residence. The proposed covered entryway extended into the setback and language from our Code permitted this. During review, however, staff noted inconsistencies and unclear language regarding if a porte cochere, porch, covered entryway and other entryway features are allowed to extend from the front setback of a residential lot.

---

### **DISCUSSION:**

Staff prepared a Memo analyzing the inconsistencies in the City's Codes in attachment 6b. This memo shows that the definition for *Front Yard* are inconsistent between Chapters 32 and 36 and that code is not explicit in whether a porte cochere, porch, covered entryway or other entryway feature is allowed into the front setback. The provisions of Chapter 36 only put distance limitations on how far a porte cochere or porch may extend from the building.

Staff has prepared proposed amendments to Chapters 32 and 36 to alleviate the inconsistencies. Key proposed amendments are pasted in below. (see attachment 12a for full code with proposed amendments).

*Building setback line* means the line within a lot property defining the minimum horizontal distance between a building and the ~~adjacent street and/or~~ property line. Building setback lines include front, rear and side setbacks that are measured from the front, rear and side property lines.

*Front yard* means an area extending along the whole length of the front property lot line between the side property lot lines, and being the minimum horizontal distance between the property street line and the main building and any projections portion thereof from, other than any ~~steps~~, open porch or porte cochere.

*Porch* means a covered area at the entrance of a building and serving as an outdoor living area. Porches generally have a separate roof and sometimes include guardrails or screens. An open porch is a porch that is open on a minimum of three sides without screens.

*Porte cochere* means a roofed structure extending from the entrance of a building over an adjacent driveway and sheltering those getting in or out of vehicles. A porte cochere must be attached to the main building, remain open on three sides and cannot extend more than 25 feet from the main building. A porte cochere located at the front of a residence shall not be used for long-term storage of vehicles and is not considered a carport.

(6) Entryway Features and the Front Setback. Porches or porte cocheres at the front of a residence are only allowed to extend from the primary residence into the front setback under the following conditions:

- a. A porte cochere must be attached to the main building, remain open on three sides and ~~must shall~~ not project more than 25 feet ~~from the main building~~ into the front setback. See Section 36-1 for full definition of a porte cochere.
- b. Only an open porch that is open on a minimum of three sides and no wider than 25 feet may project into the front setback. ~~An open porch must shall~~ not project more than ten feet into the front setback ~~from the main building.~~ See Section 36-1 for full definition of a porch.

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**COURSES OF ACTION:** Make a recommendation that City Council approve amendments to Chapters 32 and 36 or provide staff further guidance.

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**FINANCIAL IMPACT:** N/A

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**MOTION REQUESTED:** Approve amendments to the City of Shavano Park Code of Ordinances as presented clarifying & establishing definitions for building setback lines, porches, porte cocheres and front yards and establishing that open porches and porte cocheres are allowed to extend from the primary residence into the front setback under certain conditions

Proposed amendments to clarify front setbacks in relation to entryway features  
Deletion edits are in red, new edits are in blue.

## Chapter 28 – SUBDIVISIONS, Article I. – IN GENERAL

...

### Sec. 6-91. - Garages and carports.

(a) *Garages.*

- (1) In A-1, A-2, A-3, A-4, and A-5 PUD Single-Family Residential Districts, a minimum two-car garage shall be provided for at each residence. Residential garage doors are not to exceed ten feet zero inches in height. An additional garage may be provided as an accessory building pursuant to regulations in section 36-36(a)(2). No garage shall open onto any street, roadway or cul-de-sac unless the lot in question fronts two streets which will allow the garage to face the street perpendicular to the front of the residential structure. All attached garages shall be rear or 90-degree side loaded. Conversion of an existing garage to another use shall be permitted only where replacement garage space is provided. Doors on secondary garages for the purpose of storing recreational vehicles may be of a height necessary to store the vehicle. Detached garages shall conform to building setback lines and structural regulations and may or may not face the street (final decision is the Building Official's decisions but may not be substantially visible from the street).
- (2) In a CE Single-Family Cottage Estates Residential District, a minimum two-car garage shall be provided for at each residence. Substitution of another type of structure (accessory building, workshop, storage building, etc.) for an existing garage shall not be permitted; however, an additional garage may be provided as an accessory building pursuant to regulations in section 36-36(a)(2). Conversion of an existing garage to another use shall be permitted only where replacement garage space is provided.

- (b) *Carports.* Carports may not, under any circumstances, be substituted for garage space. No carport in A-1, A-2, A-3, A-4, and A-5 PUD Single-Family Residential Districts may open on any street, roadway or cul-de-sac. In situations where a lot fronts two streets and the garage opens to the street perpendicular to the front of the structure, no carport will be allowed. All carports shall conform to all building setback lines, structural regulations and be rear or 90-degree loaded. All carports must be built in conjunction with existing garage space and not as freestanding structures. A porte cochere is not considered a Carport.

## Chapter 28 – SUBDIVISIONS, Article I. – IN GENERAL

...

### Sec. 28-6. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

*Alley* means a minor public right-of-way not intended to provide the primary means of access to abutting lots, and which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a public or private alley, and affords only secondary means of access to property abutting thereon.

*Building setback line* means the line within a ~~lot property~~ defining the minimum horizontal distance between a building and the ~~adjacent street and/or~~ property line. Building setback lines include front, rear and side setbacks that are measured from the front, rear and side property lines.

*Cul-de-sac* means a street having but one outlet to another street, and terminated on the opposite end by a vehicular turnaround.

*Dead-end street* means a street, other than a cul-de-sac, with only one outlet.

*Drainage easement* means an interest in land granted the City, to the public generally, for the construction, use, and maintenance of drainage facilities across, over, and under the private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said drainage facilities.

*Drainage right-of-way* means a public right-of-way granted to the City, to the public generally, for the construction, use and maintenance of drainage facilities across, over and under said public right-of-way.

*Engineer* means a person duly authorized and properly registered under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering as evidenced by a current Texas Engineer's Seal.

*Lot* means an undivided tract or parcel of land having frontage on a public or private street and which is, or in the future may be, offered for sale, conveyance, transfer or improvement; or which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

*Non-access easement* means easement across which vehicular access is prohibited.

*Office* means any office referred to in this chapter by title means the person employed or appointed by the City in that position, or his duly authorized representative.

*Pavement width* means the portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the face of curbs.

*Person* means any individual, association, firm, corporation, governmental agency, or political subdivision.

*Planned residential development (PRD)* means a tract of land under the control of a developer, developed in compliance with the performance standards set out in these regulations. A PRD is developed in one or more phases as a single, predominantly residential entity.

*Planned unit development (PUD)* means a tract of land developed for residential, office, and commercial uses, or a combination thereof, according to a plan as a single entity that protects adjacent properties, in compliance with these regulations.

*Plat* means a complete and exact plan for the subdivision of a tract of land into lots for building purposes, which, if approved, may be submitted to the County Clerk for recording.

*Private drainage easement* means an interest in, and granted to, the City and to the public generally, for the use of a watercourse, drainageway, natural channel or stream across private property. Maintenance of said private drainage is a responsibility of the property owner.

*Private streets* means any non-public right-of-way used for vehicular access and constructed and maintained by a private entity.

*Reserve strip* means any unplatted parcel of land that prevents access to platted property.

*Safety lane* means a designated area on an approved plat which has a primary purpose of providing access for safety vehicles in any development where public streets do not adequately provide such access.

*Street* means a public or private right-of-way, however designated, which provide vehicular access to adjacent land. A "street" includes a public or private thoroughfare or highway, as well as alley ways.

- (1) A secondary street primarily provides vehicular circulation to various sections of the City.
- (2) A collector street primarily provides circulation within neighborhoods, to carry traffic from minor streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.
- (3) A marginal access street is a street which is parallel to and adjacent to an arterial street, which primarily provides access to abutting properties and protection from through traffic.
- (4) A minor street is one used primarily for access to abutting residential property.

*Subdivider* means any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner of land sought to be subdivided.

*Subdivision* means a division of any tract of land situated within corporate limits, or within or partly within the extraterritorial jurisdiction of the City, into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition of any town or City, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. The term "subdivision" includes re-subdivision.

*Surveyor* means a licensed State land surveyor or a registered professional land surveyor, as authorized by the State statutes to practice the profession of surveying, as evidenced by a valid State seal.

*Utility easement* means an interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over and under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

## Chapter 32 – TRAFFIC AND VEHICLES, Article II. - STOPPING, STANDING AND PARKING

### Sec. 32-19. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*A-1 District* means single-family residential, one-acre minimum lots.

*All weather surface* means concrete, asphalt, concrete or brick pavers, compacted gravel base, compacted road base, interlocking pavers, or any similar materials approved by the City.

*Compact parking space* means a parking space that is designated for use by compact vehicles with minimum dimensions of eight feet in width and 16 feet in length. Compact parking spaces are not an allowed use in any zoning district and will only be considered through a planned unit development as described under section 36-40.

*Driveway* means an area surfaced with concrete, asphalt or similar all-weather material and shall lead from an authorized curb cut (or if there is no curb cut from the City street) to a garage, carport, or required parking space.

*Front yard* means an area extending along the whole length of the front ~~property lot~~ line between the side ~~property lot~~ lines, and being the minimum horizontal distance between the ~~property street~~ line and the main building and any ~~projections portion thereof from~~, other than any ~~steps, open porch~~ or porte cochere.

*Motor vehicle* means any titled or previously titled vehicle.

*Parking space* means an area surfaced with concrete, asphalt, or similar all-weather material being not less than ten feet by 20 feet, enclosed or unenclosed, that is sufficient in size to store, at minimum, one motorized vehicle together with a driveway connecting the parking space with the street or alley and permitting ingress and egress. For all nonresidential parking spaces, the parking space size shall not be less than nine feet by 18 feet.

*Rear yard* means an area extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building sidewall and projections therefrom, other than any steps or open porch.

*Side yard* means an area extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building sidewall and projections therefrom, other than any steps or open porch.

## Chapter 36 – ZONING, Article I. – IN GENERAL

### Sec. 36-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning; terms not expressly defined herein are to be construed in accordance with customary usage in municipal planning and engineering practices:

*Accessory building or use* means an enclosed four-wall building or use customarily incident to a principal building or principal use; and is subordinate in area, extent and purpose to the comfort, convenience and necessity of occupants of the principal building or principal use served; and contributes to the comfort, convenience and necessity of and is located on the same building lot as the principal building or principal use served. An accessory use may be part of the principal building.

*Administrative official* means any official designated to perform administrative functions that involve, relate to and/or have an effect on this chapter.

*Alley* means a minor public right-of-way not intended to provide the primary means of access to abutting lots and, which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a public or private alley and affords only secondary means of access to property abutting thereon.

*Assisted living facility* means an establishment under Tex. Health and Safety Code Ch. 247 that furnishes food and shelter to four or more persons who are unrelated to the proprietor of the establishment and provides personal care services. Types of assisted living facilities as established by the State of Texas are as follows:

- (1) *Type A*. In a Type A facility, a resident:
  - a. Must be physically and mentally capable of evacuating the facility unassisted. This may include mobile or ambulatory persons such as those who are in wheelchairs or electric carts and have the capacity to transfer and evacuate themselves in an emergency;
  - b. Does not require routine attendance during nighttime sleeping hours; and
  - c. Must be capable of following directions under emergency conditions.
- (2) *Type B*. In a Type B facility, a resident may:
  - a. Require staff assistance to evacuate;
  - b. Be incapable of following directions under emergency conditions;
  - c. Require attendance during nighttime sleeping hours; or
  - d. Not be permanently bedfast, but may require assistance in transferring to and from a wheelchair.

*Basement* means a story, wholly or partly, at least 50 percent, measured from floor to ceiling, below the average level of the ground surrounding the building. A basement or cellar is not counted when measuring the height of a building.

*Block* means an area within the City enclosed by streets and occupied by or intended for buildings.

*Board* , unless otherwise specified, means the Board of Adjustment of the City of Shavano Park.

*Breezeway* means a covered passage one standard story in height connecting a main building and an accessory building.

*Building line* or *setback* means the line within a lot defining the minimum horizontal distance between a building and the ~~adjacent street and/or~~ property line. [Building setback lines include front, rear and side setbacks that are measured from the front, rear and side property lines.](#)

*Building lot* or *lot* means an undivided tract or parcel of land having frontage on a public or private street and which is, or in the future may be offered for sale, conveyance, transfer or improvement; or which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

*Carport* means a covered parking area that is open on two or more sides.

*CC uses* means uses approved by the City Council, after Planning and Zoning Commission hearings, permitting specific uses as authorized in the district and prescribing conditions of such use.

*Commercial vehicle* means any motor vehicle or piece of equipment one ton and over designed for or used primarily in connection with a commercial business enterprise.

*Commission* means the Planning and Zoning Commission of the City of Shavano Park, Texas.

*Community Homes for Disabled Persons* as used in this Chapter shall mean a shared residential living arrangement which provides a family type environment for up six persons with disabilities, supervised by no more than two primary care givers and qualifies as a Community Home under Tex. Human Resources Code § 123.004, as amended.

- (1) As used in this section "person with a disability" means a person whose ability to care for himself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the person has:
  - a. An orthopedic, visual, speech, or hearing impairment;
  - b. Alzheimer's disease;
  - c. Pre-senile dementia;
  - d. Cerebral palsy;
  - e. Epilepsy;

- f. Muscular dystrophy;
- g. Multiple sclerosis;
- h. Cancer;
- i. Heart disease;
- j. Diabetes;
- k. Mental retardation;
- l. Autism; or
- m. Emotional illness.

*Compact parking space* means a parking space that is designated for use by compact vehicles with minimum dimensions of eight feet in width and 16 feet in length. Compact parking spaces are not an allowed use in any zoning district and will only be considered through a Planned Unit Development as described under section 36-40.

*Constructed landscape structures* means any element of nature that would normally be found in a natural state but is artificially created for the purposes of adding the natural element as a feature to a yard.

*Convenience Store* means a retail store with inside grocery and small convenience sales and may include outdoor pay at the pump gasoline sales and stand-alone self-service car wash.

*Court* means an open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard, or other permanently open space.

~~*Covered Entryway* means a roofed structure extending from the entrance of a building to act as a shelter for those entering and exiting the building.~~

*Covered vehicle/equipment* means any vehicle or equipment covered with a cover or tarp type material with or without framework.

*District* means a geographical zoned area of the City, that has regulations governing the height, numbers of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of yards, courts and other open spaces; population density and the location and use of buildings, other structures and land.

*Dwelling, single-family*, means a building containing only one dwelling unit and occupied by only one family. The term does not include a mobile home.

*Dwelling unit* means a structure or portion of a structure which is arranged, occupied or intended to be occupied as human living quarters.

*Family* means any number of individuals living together as a single housekeeping unit, in which not more than two individuals are unrelated by blood, marriage or adoption.

*Farm* means an area of five acres or more, which is used for growing, for personal use, customary farm products such as vegetables, fruits, trees, and grain (not for profit) and their storage on the area, as well as the raising thereon of customary farm poultry and farm animals, such as horses, cattle, and sheep, and including dairy farms with the necessary accessory uses for treating and storing the produce; provided, however, that the operation of such accessory use shall be secondary to that of the normal activities.

*Fence* means a freestanding structure of metal, masonry, or wood, or any combination thereof, resting on or partially buried in the ground and rising above ground level, and used for confinement, screening, landscaping, or partition purposes, but which does not pose a threat to public safety or health.

*Garage, attached*, means a structure designed to house motor vehicles and is attached to the main dwelling house either as an integral part thereof or by a connection such as a breezeway.

*Gross floor area* means the total interior area of a building lying within the outside dimensions of the building at each floor level, excluding, however, the floor area of basements or attics not used for residential or commercial purposes.

*Height*. The "height" of a building or portion of a building shall be measured from the average finished ground level to the highest point of the roof's surface if a flat surface; or to the deck line of mansard roofs; or to the mean height level between eaves and ridge for hip and gable roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, ornamental cupolas, domes or spires, parapet walls not exceeding four feet in height, and basements.

*Home occupations* means any occupation or activity that is clearly incidental and secondary to the use of the premises for dwelling purposes.

*Landscaping* means any plant material, including, but not limited to, grass, ground covers, shrubs, vines, hedges, trees or palms; and nonliving durable material commonly used in landscaping, including, but not limited to, rocks, pebbles, sand, walls or fences, but excluding permanent, nonporous paving, except for pedestrian walkways.

*Long-term rental* means a rental of real property for a period of 90 or more consecutive days whereby the owner of the real property and tenant have entered into a written rental or lease agreement in which the tenant acquires the right to reside in the single-family residence for a period of 90 or more days and in which the tenant is required to pay the owner periodic monthly based rent for the privilege of residing in the residence, including a fractional payment for the first and/or last month of such residence. In the event an owner sells such property to a new owner and immediately following the sale date the selling party continues to occupy such real property as a single-family dwelling, then notwithstanding the rental period and payment terms, such occupancy shall be deemed a long-term rental. In the event a written rental or lease agreement authorizes a tenant to sublease real property and a tenant enters into a sublease agreement, such tenant shall be treated as the owner when applying this definition. Except as provided above, all rental or lease agreements shall be treated as short-term rentals.

*Lot means* land occupied or to be occupied by a building, its accessory building, and including such open spaces as are required under this chapter, and having its principal frontage upon a public or private street; or an area of land designated as a lot on a plat of a subdivision recorded pursuant to statutes of the State of Texas with the County Clerk of Bexar County, Texas; or, an area of land in single ownership described by metes and bounds upon a deed recorded or registered with the Bexar County Clerk.

*Manufactured home* means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. Manufactured homes shall only be allowed to be placed in a manufactured home park.

*Mobile home* means a structure constructed before June 15, 1976; built on a permanent chassis; designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; transportable in one or more sections; and in the traveling mode, at least eight body feet in width or at least 40 feet in length or, when erected on site, at least 320 square feet. The structure includes the plumbing, heating, air conditioning, and electrical systems of the home.

*Nonconforming use* means the use of any building, structure, or land that is prohibited by any zoning, building, or other regulatory ordinance, but which lawfully existed prior to the effective date of such ordinance.

*Open storage* means the storage of any equipment, machinery, commodities, raw or, semi-finished materials, and building materials, not accessory to a residential use, which is visible from any point on the building lot line when viewed from ground level to six feet above ground level.

*Parking space* means an area surfaced with concrete, asphalt, or similar all-weather material being not less than ten feet by 20 feet, enclosed or unenclosed, that is sufficient in size to store, at minimum, one motorized vehicle together with a driveway connecting the parking space with the street or alley and permitting ingress and egress. For all nonresidential parking spaces, the parking space size shall not be less than nine feet by 18 feet.

*Porch* means a covered area at the entrance of a building and serving as an outdoor living area. Porches generally have a separate roof and sometimes include guardrails or screens. An open porch is a porch that is open on a minimum of three sides without screens.

*Portable building* means a building designed and built to be movable rather than permanently located. See section 6-95 for portable building regulations. All portable buildings not meeting the requirements of section 6-95 will be regulated as accessory building(s).

*Portable construction building* means a structure transportable in one or more sections, which is built on a permanent chassis and is used solely as a construction office with or without a permanent foundation when connected to the required utilities. The structure shall not provide for and shall not be used as a temporary or permanent dwelling unit.

*Portable on-demand storage structures* means any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements. See section 36-45 for portable on-demand storage structure regulations.

*Porte cochere* means a roofed structure extending from the entrance of a building over an adjacent driveway and sheltering those getting in or out of vehicles. A porte cochere must be attached to the main building, remain open on three sides and cannot extend more than 30 feet from the main building. A porte cochere located at the front of a residence shall not be used for long-term storage of vehicles and is not considered a carport.

*Recreational vehicle* means a vehicle or piece of equipment designed or intended for recreational use, including but not limited to all terrain vehicles, airplanes, golf carts, boats, floats, camping or travel trailers, motor homes, detachable travel equipment of a type adaptable to light duty trucks, boat trailers, utility trailers over eight feet in length, and other equipment or vehicles of similar nature.

*Religious, cultural and fraternal activity* means a use or building owned or maintained by organized religious organizations or nonprofit associations for social, civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship.

*Screening device.* A "screening device" shall consist of a barrier of stone, brick (pierced or block), uniformly colored wood, or other permanent affixed material of quality character, density, and acceptable design, where the solid area equals at least 65 percent of the wall surface, including an entrance gate or gates. Such screening device shall be regularly maintained.

*Short-term rental* means a rental of real property for a period shorter than 90 consecutive days. Except as specifically permitted under the definition of long-term rental, short-term rental of real property is considered for all purposes a commercial use of real property. Short-term rental includes vacation rentals and similar uses as well as rental for a period during which renters pay the owner, or such other person with authority to lease the property, a fee to stay in the residence or other structure.

*Sign.* The definition of signs is set forth in Ordinance No. 100-02-07, City of Shavano Park Sign Ordinance, as may be amended from time to time.

*Single-family residence* means a structure designed for use as one dwelling unit and actually used for permanent or seasonal occupation by the owner, the owner's family or long term rental tenant under a written long-term rental agreement as a principal

residence where the owner, owner's family or long term rental tenant intends to maintain a permanent or long-term residence. Short-term rentals are expressly excluded from this definition and shall not constitute single-family residential use.

*Street* means a public or private right-of-way, however designated, which provides vehicular access to adjacent land.

*Street line* means the dividing line between a lot, tract or parcel of land, and a contiguous street.

*Use* means the purpose or activity for which the land, or structures thereon is designed, arranged or intended, to be occupied or used, or for which it is occupied, maintained, rented or leased.

*Yard, front,* means an area ~~a yard~~ extending along the whole length of the front property ~~lot~~ line between the side property ~~lot~~ lines, and being the minimum horizontal distance between the property ~~street~~ line and the main building or any portion ~~projections~~ thereof, other than any ~~steps, planter boxes, and~~ open porch or porte cochere.

*Yard, rear,* means a yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projections thereof, other than any steps, balcony or open porch.

*Yard, side,* means a yard extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building sidewall or projections thereof, except any steps, balcony or open porch.

*Zoning district map* means the map or maps delineating the boundaries of an area within each zoning district which map are incorporated into this chapter as part hereof by reference thereto, as amended from time to time in accordance with this chapter.

...

### **Sec. 36-36. - A-1, A-2, A-3, A-4 and A-5 PUD Single-Family Residential Districts.**

(a) *Use regulations.* In A-1, A-2, A-3, A-4 and A-5 PUD Single-Family Residential Districts, no land shall be used and no building shall be erected for or converted to any use other than:

- (1) Single-family residence.
- (2) Accessory buildings.
  - a. Size limitations.
    - i. The gross floor area of all accessory buildings shall not occupy more than 20 percent of the rear yard.
    - ii. In no case shall any accessory building be built closer than ten feet to the principal main building. The height of an accessory building shall not exceed one story.

- b. An unattached garage, as described in section 36-36(e) and section 6-91 is regulated as an accessory building.
- (3) Portable construction buildings under the following conditions:
- a. Authorization may be issued by the City Building Official to permit a portable construction building to be temporarily located on a lot upon which a building permit has been previously issued for construction of any building or structure.
  - b. A certificate of occupancy related to construction shall not be issued by the City Building Official until the portable construction building has been removed from the premises and further, that the certificate of occupancy shall not be issued until the electrical connection which served the portable construction building has been removed from the lot in question.
  - c. A temporary permit issued pursuant to this section shall be void upon issuance of the certificate of occupancy, or 12 months after issuance of the building permit, whichever time is shorter.
  - d. In any case in which construction is not completed within the 12-month period, the City Building Official, after due consideration and determination that active construction is being accomplished, may issue an extension of time for the temporary permit, not to exceed a six-month period.
- (4) Swimming pools pursuant to all applicable City regulations.
- (5) Private tennis courts pursuant to all applicable City regulations.
- (6) [Entryway Features and the Front Setback. Porches or porte cocheres at the front of a residence are only allowed to extend from the primary residence into the front setback under the following conditions:](#)
- [a. A porte cochere must be attached to the main building, remain open on three sides and ~~must shall~~ not project more than 25 feet ~~from the main building into the front setback.~~ See Section 36-1 for full definition of a porte cochere.](#)
  - [b. Only an open porch that is open on a minimum of three sides and no wider than 25 feet may project into the front setback. ~~An open porch must shall~~ not project more than ten feet ~~into the front setback from the main building.~~ See Section 36-1 for full definition of a porch.](#)
- (b) *Storage or parking of recreational/commercial and covered vehicles/equipment.* Storage or parking of recreational/commercial and covered vehicles/equipment is prohibited in all residential districts. This restriction and the following requirements do not apply when any such vehicle is used for the primary transportation of the owner:
- (1) Storage or parking of recreational/commercial and covered vehicles/equipment is allowed when such vehicles and equipment is placed within a completely enclosed/building on any residential lot;

- (2) Any such vehicle eight feet or less in height may be placed on a residential lot behind the dwelling unit to include side setbacks, if properly screened from the view from the front property line by either a fence or screening device; or
  - (3) Any such vehicle greater than eight feet in height may be placed on a residential lot that is greater than 0.7 acre if properly screened from view by a fence that is at least eight feet in height or a screening device. The vehicle must be placed behind the front face of the dwelling unit. Side and rear setbacks may be used provided that a five-foot side and rear setback be maintained at all times.
  - (4) Properly permitted recreational vehicles and boats are excepted from the regulations of this subsection. A recreational vehicle or boat is properly permitted if the owner of a recreational vehicle or boat is issued a recreational vehicle or boat storage permit ("RVBSP") by the City prior to 90 days after approval of this ordinance by the City Council. RVBSPs are nontransferable and may be issued to an owner of [a] recreational vehicle including owners with residential lots of less than one acre upon receipt of the following:
    - a. A completed, signed, RVBSP application;
    - b. Documentary proof that the recreational vehicle or boat was purchased prior to January 1, 2011;
    - c. A copy of the recreational vehicle's title; indicating owner and homeowner are the same;
    - d. Proof of insurance for the recreational vehicle if applicable;
    - e. The RVBSP can be transferred to a replacement recreational vehicle or boat, only when the new or replacement recreational vehicle or boat does not exceed the size in length and height of the original recreational vehicle or boat being replaced; and
    - f. An administrative processing fee in the amount of \$10.00 for the original RVBSP or to transfer it to a replacement recreational vehicle or boat.
- (c) *Other use regulations.* See Table No. 1.
- (d) *Exterior architectural features.* Each new structure must possess an exterior in keeping with the residence and general atmosphere of the surrounding area.
- (1) *Exterior walls in A-1 Districts.* Exterior walls of residences in areas zoned in A-1 shall have a minimum of 60 percent masonry, exclusive of openings.
  - (2) *Exterior walls A-2, A-3, A-4 and A-5 PUD.* Exterior walls of residences shall have a minimum of 75 percent masonry, exclusive of openings. Perm stone or asbestos shingles, concrete block and cinder block, and metal exterior wall coverings, are not acceptable except that concrete and cinder blocks may be used structurally if faced with rock, brick or stucco in accordance with the International Building Code most recently adopted by the City of Shavano Park.
- (e) *Garages and carports.*

- (1) *Garages.* A minimum two-car garage shall be provided at each residence. Residential garage doors are not to exceed ten feet in height. An additional garage may be provided as an accessory building pursuant to regulations in section 36-36(a). No garage shall open onto any street, roadway or cul-de-sac unless the lot in question fronts two streets which will allow the garage to face the street perpendicular to the front of the residential structure. All attached garages shall be rear or 90-degree side loaded. Conversion of an existing garage to another use shall be permitted only where replacement garage space is provided. Doors on secondary garages for the purpose of storing recreational vehicles may be of a height necessary to store the vehicle. Detached garages shall conform to building setback lines and structural regulations and may or may not face the street (final decision is the Building Official's decision), but may not be substantially visible from the street.
  - (2) *Carports.* Carports may not, under any circumstances, be substituted for garage space. No carport may open on any street, roadway or cul-de-sac. In situations where a lot fronts two streets and the garage opens to the street perpendicular to the front of the structure, no carport will be allowed. All carports shall conform to all building setback lines, structural regulations and be rear or 90-degree loaded. All carports must be built in conjunction with existing garage space and not as freestanding structures. [A porte cochere is not considered a Carport.](#)
- (f) *Fences.*
- (1) Front fencing past the front edge of a residence or building is only allowed in an A-1 zoning district.
  - (2) Front fencing in A-2 zoning shall not be past the front edge of the residence or building.
  - (3) Side and rear fencing is allowed in all districts provided they meet the following criteria, including front fences:
    - a. Fences not more than eight feet in height are permitted and shall be constructed of masonry, brick or stone, wood, concrete, or wrought iron. In A-1 District, chainlink and hog-wire style fences are additionally permitted.
    - b. On a corner lot, no shrubbery, when mature with a height greater than 18 inches, may be planted within the area created by a straight line connecting two points that are respectively 30 feet along the side and front property lines from a street intersection.
    - c. Fences must be constructed in such a way that does not change the natural drainage of water.
    - d. Except in A-1 District and Unit 19 (Huntington Subdivision) A-1 PUD District, fencing shall not be permitted beyond the front face of the residence. Front driveway gates shall have at least a minimum of a 12-foot opening. In A-1 District and excluding Unit 19 (Huntington Subdivision) A-1 PUD, no one shall construct fencing beyond the front face of the residence in a manner that

impedes the view of persons beyond the residence's property line. In no event shall a base footer exceed 36 inches.

- e. No shrubbery, when mature height is greater than 18 inches may be within three feet of a fire hydrant.
  - f. Front fences must not encompass any fire hydrant that may be present.
  - g. For any property within the City limits with a property line abutting one or more of the City streets known as Lockhill Selma Road, NW Military Hwy., De Zavala Road and Huebner Road (where such property presently has a solid wall along or parallel to one or more of such streets at the property line), such property owner may not construct a gate or other opening on such property line. Any property with an existing gate on property lines described above is considered a non-conforming use and may continue to exist.
- (g) *Height regulations.* No residential building shall exceed the maximum vertical height specified in Tables 1, 2 and 6 of this chapter, and no residential building shall have more than two livable stories.
- (h) *Portable buildings.* Except in A-I District, a single unattached portable building (movable) constructed of light metal, wood or fiberglass used for storage only, not greater than 200 square feet in size may be erected in the rear yard providing the building is suitably screened from adjacent property, is not used temporarily or permanently as a habitation, is unattached and to a solid foundation. The highest point of the building may not exceed 12 feet from foundation. No portable building higher than eight feet in height measured from grade level base foundation to the buildings highest point shall be permitted in the building setbacks. In A-I District no more than two unattached portable buildings described in this subsection shall be permitted.
- (i) *Certain equipment allowed in setbacks.* Notwithstanding any other provision found within the City of Shavano Park Code of Ordinances, HVAC equipment and pool equipment are allowed within setbacks, so long as an unobstructed width of five feet exists to allow for emergency services access.

## Memo

### Are Porte Cochere, Porches, and other entryway features allowed in Residential front setbacks?

**Issue:** There is confusion whether or not Porte Cochere, Porches and other entryway features are allowed by City Ordinance to extend from the primary residence into the front setback of a residential lot.

**Analysis:** *Staff interpretation is that Porte Cochere, Porches and other entryway features are allowed to extend into the front setback.* In addition, staff notes that there is inconsistency in City Ordinances creating the confusion. Staff recommends amendments to Chapter 36 and 32 to ensure these regulations are consistent and transparent.

**Code Review:** Analysis is in [Blue](#).

The City's Code references Front Yard / Setbacks and Porte Cochere, Porches and other entryway features in both Chapters 32 and 36. In Chapter 36 – Zoning, the City defines both a *Building Setback* and *Front Yard* and establishes additional regulations.

#### Chapter 36 – ZONING, Article I. – IN GENERAL

##### Section 36-1. – Definitions

...

*Building line or setback* means the line within a lot defining the minimum horizontal distance between **a building** and the adjacent street and/or property line.

This definition could be interpreted to mean that the front setback extends to **the front face of the building** regardless of any protrusions (such as a Porch). It could also be interpreted that a protrusion (like a porch) itself extends the front face of the building. In this case, steps, planters, a porch, or a porte cochere would not be allowed extend into the front setback.

...

*Yard, front,* means a yard extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line **and the main building** or any projections thereof, **other than any steps, planter boxes, and open porch or porte cochere.**

This definition for *Front Yard* allows a variety of entryway features to extend into the front yard. However, the *Front Yard* definition does not state if a *Front Yard* is the same as a *Front Setback*. Definition uses the same verbiage "minimum horizontal distance the main building" like the *Building Setback definition* but adds the qualifier "or any projections thereof." The

qualifier (other than ...) seems to authorize four (4) specific protrusions. The fact that steps (stairs, porches, and porte cocheres) leading up to the main building are routinely within the front setback across the entire city, would indicate the authors of the ordinance intended to allow these protrusions within the front setback. In fact, one home measures, the front face of the building is placed exactly on the front setback line. However, there are several stairs that lead from ground level to the main entrance door and these stairs already protrude into the front setback

**Sec. 36-36. - A-1, A-2, A-3, A-4 and A-5 PUD Single-Family Residential Districts.**

...

(6) A porte cochere must be attached to the main building, remain open on three sides and must not project more than 25 feet from the main building. A porch must not project more than ten feet from the main building.

The Zoning Chapter also establishes limitations on how far a porte cochere or a porch may extend from the main residence. This regulation makes no mention if the extension is allowable into the front setback, but one interpretation is that by establishing a size limitation, the ordinance was intended to allow this protrusion into the front setback. This raises the questions as to why would a size limitation be created if a protrusion was not allowed in the front setback?

**Chapter 32 – TRAFFIC AND VEHICLES, Article I. – IN GENERAL**

**Section 32-19. – Definitions.**

...

*Front yard* means an area extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building and any projections therefrom, other than any steps, open porch or porte cochere.

...

Chapter 32 also defines *Front Yard*, but is not consistent with Chapter 36's definition in several ways (differences in red). Chapter 32 definition adds the qualifier "or any projections thereof" just like Chapter 36. It does not clearly state if a *Front Yard* is the same as *Front Setback*.

### **Chapter 36**

*Yard, front*, means a **yard** extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building or any projections **thereof**, other than any steps, **planter boxes**, and open porch or porte cochere.

### **Chapter 32**

*Front yard* means an **area** extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the street line and the main building and any projections **therefrom**, other than any steps, open porch or porte cochere.

## PLANNING & ZONING STAFF SUMMARY

Meeting Date: October 2, 2019

Agenda item: 15

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

#### **6.15. Discussion / action – Proposed amendments to Chapter 28 – Subdivisions regarding changes in plat procedures - City Manager**

X

**Attachments for Reference:**

a) 15a Track Changes

b) 15b Ordinance O-2019-012

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**BACKGROUND / HISTORY:** This summer the 86<sup>th</sup> Texas Legislature approved House Bill 3167 (attachment 3167) which adopted strict 30-day approval “shot clocks” of all plats and plans (among other changes) for all Texas cities.

In addition, during review it was noted that the LGC 214 allows for one approval authority (in our case either the P&Z or the City Council).

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**DISCUSSION:** On September 23, 2019 City Council administratively approved Ordinance O-2019-012, making it effective immediately. This Ordinance amends Plat procedures to comply with H.B. 3167 and makes the Planning & Zoning Commission the final approval authority of all plat actions, with City Council only accepting a plat action from the Commission. This removes City Council as the formal governing body approving plat actions. With this change all subsequent response refiling requirements are handled with the Commission rather than with City Council. P&Z approved plats will be presented to City Council for review and acceptance during a regularly scheduled City Council meeting. In theory, City Council may review a preliminary plat after P&Z approval and if they have concerns or questions, Council can make them known and ask P&Z to consider the concerns or questions during the approval of the final plat.

City Council administratively approved the following major amendments to comply with H.B. 3167:

1. A new plat approval process timeline, which is:
  - 1: 30 day shot clock for approval of a plat action (plats are auto-approved unless given written disapproval before time expires)
  - 2: If disapproved, there is a 15 day shot clock for governing body to respond to an applicant’s written response.
  - 3: If the response is disapproved the applicant can refile.

- 4: Both Preliminary and Final Plat reviews have separate 30-day shot clocks
- 2. Defines a “filing date” as date of agenda posting for P&Z consideration of the plat (starting the 30-day shot clock)
- 3. Creates an *Administrative Completeness Review* to be conducted before the shot clock begins for City Engineer / City Staff to review plats
- 4. Two new public notice timelines for Re-plats; (1) without variances and (2) with variances

As a final note, City Council administratively approved the following amendments as housekeeping edits:

1. Deletes Letter of Credit as acceptable guarantee for site improvements after plat approval (letter of credits are not a secure bond)
2. Deletes definition for *Planned Residential Development* (there is no such zoning designation in the City)
3. Clarifies setbacks prescribed under Section 28-81 are only for plats in the City’s ETJ (existing wording was confusing)

**Summary:** The impact of H.B. 3167 on the City is expected to be minimal. First, there is little undeveloped land left in the City’s jurisdiction and only a handful of new plats are expected in the coming months and years. Second, the proposed amendments will have little impact on the City and our already streamlined process for approving plats. Like H.B. 3167, current City ordinances require 30-days for Planning & Zoning and City Council to act on a preliminary plat or final plat.

The new complexity will be during conditional approvals or disapprovals of plat actions. Under H.B. 3167 conditional approvals or disapprovals will require written reasons and potentially special meetings by the Planning & Zoning Commission.

For this reason staff recommended and City Council administratively approved Planning and Zoning Commission as the final approval authority for plat actions.

**NOTE:** Any variance to a plat must first be approved by City Council before it can be considered by the Planning and Zoning Commission.

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**COURSES OF ACTION:** This is not an action item.

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**FINANCIAL IMPACT:** N/A

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**MOTION REQUESTED:** This is not an action item.

## Chapter 28 – SUBDIVISIONS

### ARTICLE I. - IN GENERAL

Sec. 28-1. - Short title.

This chapter, along with its attachments, exhibits and amendments, shall be known as the "Subdivision Ordinance" of the City of Shavano Park.

Sec. 28-2. - Jurisdiction.

- (a) The owner of a tract of land located within the limits of the City or in the extraterritorial jurisdiction of the City who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract under this section includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this section does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated. This ordinance also applies to the creation of one legal lot when done so through platting.
- (b) No person shall create a subdivision of land within the corporate limits of the City, or within its extraterritorial jurisdiction, without complying with the provisions of this chapter. All plats and subdivisions of any such land shall conform to the rules and regulations herein set forth.

Sec. 28-3. - Extraterritorial jurisdiction.

All ordinances governing plats and subdivisions of land within the City's jurisdiction to promote health, safety, and general welfare of the City and the safe, orderly, and healthful development of the City, are hereby extended and made applicable in the extraterritorial jurisdiction of the City in accordance with ch. 42 of the Texas Local Government Code and ch. 212 of the Texas Local Government Code.

Sec. 28-4. - Interpretation and purpose.

- (a) The interpretations and application of the provisions of this chapter shall be deemed to be minimal in nature, and whenever the principles, standards or requirements of any other applicable provision of other ordinances of the City which are higher or more restrictive, the latter shall control; and when circumstances warrant, as determined by the City Council, the City Council shall have the authority to impose more restrictive conditions to this chapter.
- (b) The purpose of this chapter is to achieve orderly urban development through land subdivision; to promote and develop the utilization of land to ensure the best possible

community environment in accordance with a comprehensive plan of the City; to provide for adequate municipal services and safe streets; and to protect and promote the public health, safety and general welfare.

Sec. 28-5. - Adoption of legislative grant of power.

The ordinance from which this chapter is derived is adopted under the authority of the Constitution and laws of the State, including particularly Tex. Local Government Code ch. 212.

Sec. 28-6. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

*Alley* means a minor public right-of-way not intended to provide the primary means of access to abutting lots, and which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a public or private alley, and affords only secondary means of access to property abutting thereon.

~~Administratively~~ *Completeness Review* means a review by the City staff and City Engineer to ensure all submittals are in full compliance with the City of Shavano Park Code of Ordinances, state law and federal law as applicable. The term "Administratively Review" is included in this definition.

*Applicant* means any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "applicant" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner of land sought to be subdivided.

*Application* means a written request to the City for an approval required by this Chapter that contains all information required by this Chapter and that has been deemed administratively complete by the City.

*Building setback line* means the line within a property defining the minimum horizontal distance between a building and the adjacent street and/or property line.

*Cul-de-sac* means a street having but one outlet to another street, and terminated on the opposite end by a vehicular turnaround.

*Dead-end street* means a street, other than a cul-de-sac, with only one outlet.

*Drainage easement* means an interest in land granted the City, to the public generally, for the construction, use, and maintenance of drainage facilities across, over, and under the private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said drainage facilities.

*Drainage right-of-way* means a public right-of-way granted to the City, to the public generally, for the construction, use and maintenance of drainage facilities across, over and under said public right-of-way.

*Engineer* means a person duly authorized and properly registered under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering as evidenced by a current Texas Engineer's Seal.

*Filed or to File* means the date a plat is administratively complete and ready for consideration for approval by the Planning and Zoning Commission. The official filed date will be when an agenda is posted on City Hall bulletin board for a Planning and Zoning Commission meeting where the plat action will be considered for approval.

*Foundation*: means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

*Lot* means an undivided tract or parcel of land having frontage on a public or private street and which is, or in the future may be, offered for sale, conveyance, transfer or improvement; or which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

*Non-access easement* means easement across which vehicular access is prohibited.

*Office* means any office referred to in this chapter by title means the person employed or appointed by the City in that position, or his duly authorized representative.

*Pavement width* means the portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the face of curbs.

*Person* means any individual, association, firm, corporation, governmental agency, or political subdivision.

~~*Planned residential development (PRD)* means a tract of land under the control of a developer, developed in compliance with the performance standards set out in these regulations. A PRD is developed in one or more phases as a single, predominantly residential entity.~~

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*Planned unit development (PUD)* means a tract of land developed for residential, office, and commercial uses, or a combination thereof, according to a plan as a single entity that protects adjacent properties, in compliance with these regulations.

*Plat* means a complete and exact plan for the subdivision of a tract of land into lots for building purposes, which, if approved, may be submitted to the County Clerk for recording.

*Amended or Amending Plat:* A revised plat correcting minor errors or making limited changes to the original final plat or as otherwise defined by Chapter 212 of the Texas Local Government Code.

*Final Plat:* The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat of any lot, tract or parcel of land shall be recorded in the land records of Hays County, Texas. An Amending Plat and replats are also final plats.

*Major Plat:* All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat that requires the construction of a new street (or portion thereof), on-site drainage facilities, or the extension of a municipal facility as required by this or any other City ordinance.

*Minor Plat:* A subdivision resulting in four (4) or fewer lots or Units, provided that the plat is for conveyance purposes only with no development or construction of roads or public improvements proposed, and provided that the plat does not create any new easements for public facilities, nor the extension of any municipal utility facilities to serve any lot within the subdivision.

*Preliminary Plat:* The graphic expression of the proposed overall plan for subdividing, improving and developing a tract, showing in plain view the proposed street and lot layout, easements, dedications and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development.

*Replating or Replat:* This is the resubdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract. Replats eliminate the prior plats as to the area replatted.

*Private drainage easement* means an interest in, and granted to, the City and to the public generally, for the use of a watercourse, drainageway, natural channel or stream across private property. Maintenance of said private drainage is a responsibility of the property owner.

*Private streets* means any non-public right-of-way used for vehicular access and constructed and maintained by a private entity.

*Reserve strip* means any unplatted parcel of land that prevents access to platted property.

*Safety lane* means a designated area on an approved plat which has a primary purpose of providing access for safety vehicles in any development where public streets do not adequately provide such access.

*Street* means a public or private right-of-way, however designated, which provide vehicular access to adjacent land. A "street" includes a public or private thoroughfare or highway, as well as alley ways.

- (1) A secondary street primarily provides vehicular circulation to various sections of the City.
- (2) A collector street primarily provides circulation within neighborhoods, to carry traffic from minor streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.
- (3) A marginal access street is a street which is parallel to and adjacent to an arterial street, which primarily provides access to abutting properties and protection from through traffic.
- (4) A minor street is one used primarily for access to abutting residential property.

~~*Subdivider* means any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner of land sought to be subdivided.~~

*Subdivision* means a division of any tract of land situated within corporate limits, or within or partly within the extraterritorial jurisdiction of the City, into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition of any town or City, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. The term "subdivision" includes re-subdivision.

*Surveyor* means a licensed State land surveyor or a registered professional land surveyor, as authorized by the State statutes to practice the profession of surveying, as evidenced by a valid State seal.

*Utility easement* means an interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over and under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

Sec. 28-7. - Enforcement.

In addition to any other remedy provided by law, the City and its agents shall have the right to:

- (1) Enjoin the violation or threatened violation of this chapter by the owner of a tract of land by injunction issued by a court of competent jurisdiction; or
- (2) Recover damages from the owner of a tract of land in an amount adequate for the City to undertake any construction or other activity necessary to bring about compliance with this chapter. The reference in this section to "owner of a tract of land" does not include the owner of an individual lot in a subdivided tract of land.

Sec. 28-8. - General conditions and restrictions.

- (a) It is unlawful for the County Clerk to receive or record any such plan, plat or replat, unless and until the same shall be approved by the City.
- (b) No plat will be approved with a septic system unless the system is approved by the City in the location indicated on the plat.
- (c) No permit will be issued for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein have not been complied with in full.
- (d) The City will not permit the repair, maintenance, installation or construction of any streets or public utility services in any subdivision for which a final plat has not been approved nor in which the standards contained herein or referred to herein have not been complied with in full.
- (e) The connection of water, sewer, electricity, gas and other utility services to a subdivision shall be in accordance with the provisions of section 28-44(7).
- (f) On behalf of the City, the City's Attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this chapter or the standards referred to herein with respect to any violation thereof which occurs within the City, within the extraterritorial jurisdiction of the City, as determined under the Municipal Annexation Act, or within any area subject to all or a part of the provisions of this chapter.
- (g) If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, the City Council shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and citing the fact that the provisions of subsections (a) through (e) of this section will apply to the subdivision and the lots therein, the City Secretary shall, when directed by the City Council, cause a certified copy of such resolution under the corporate seal of the City to be filed in the deed records of the County. If full compliance and final plat approval are secured after the filing of such resolution, the City Secretary shall forthwith file an instrument in the deed records of the County nullifying the previously recorded instrument.

- (h) The provisions of this section shall not be construed to prohibit the issuance of permits for any lots upon which a residential building exists and was in existence prior to passage of this chapter; nor to prohibit the repair, maintenance, or installation of any street or public utility services for, to or abutting any lot, the last recorded conveyance of which prior to passage of the ordinance from which this chapter is derived was by metes and bounds, and/or any subdivision or lot therein, recorded or unrecorded, which subdivision or lot was in existence prior to the passage of the ordinance from which this chapter is derived.
- (i) Dedication and maintenance of streets. Disapproval of a plat by the ~~City Council~~ [Planning and Zoning Commission](#) shall be deemed a refusal by the City to accept the offered dedication shown thereon. Approval of a plat shall not be deemed an acceptance of the proposed dedications and shall not impose any duty upon the City concerning the maintenance of or improvements of any such dedicated parts until the proper authorities of the City have actually appropriated the same by entry, use or improvements. It shall be unlawful for any officer or employee of the City to maintain the streets in a subdivision, and the City will not accept or maintain said streets, unless and until such streets have been surfaced, the required utilities and drainage facilities have been installed and such improvements have been accepted in writing by the City and the City Engineer. Each street dedication shall specifically state in all capital letters ten font bold print (1) if the City is responsible for maintenance, repairs and utilities costs associated with lighting fixtures, and if the City will be responsible, (2) the annual estimated cost thereof. In the absence of such language, all cost and responsibility for lighting fixture maintenance, repairs and utilities costs shall be retained by the developer or its designee.

Sec. 28-9. - Variances by Council.

[An applicant who requests a variance from the regulations of this Chapter must submit their request to the City Council for approval before filing the plat action with the Planning & Zoning Commission.](#) The City Council may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the City Council shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the finding herein below required, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance shall be granted unless the City Council finds:

- (1) That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this chapter. Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial

justice done. Pecuniary hardship to the [subdividerapplicant](#), standing alone, shall not be deemed to constitute undue hardship;

- (2) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area;
- (3) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of this land;
- (4) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- (5) That the application fee has been paid in accordance with the City fee schedule.

Sec. 28-10. - Authority of City Engineer.

The City Engineer is hereby authorized and directed to promulgate rules, regulations standards and specifications for the construction, installation, design, location and arrangement of streets, curbs, street lights, street signs, alleys, utility layouts, utility easements, gates for utility easements, sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, septic tanks, water wells, monuments, criteria for drainage easement requirements, drainage facilities, and crosswalk ways. He shall recommend to the City Council any changes to be made. No such rules, regulations, standards and specifications shall conflict with this chapter or any other ordinance of the City. All such improvements shall be constructed, installed, designed, located and arranged by the [subdividerapplicant](#) in accordance with such rules, regulations, standards and specifications in Appendix A to this chapter.

Sec. 28-11. ~~SubdividerApplicant's~~ responsibility for costs.

The responsibility for all costs of the in-place improvements as required by this chapter shall be borne by the [subdividerapplicant](#).

Secs. 28-12—28-40. - Reserved.

**ARTICLE II. - PLAT PROCEDURE**

Sec. 28-41. - Preliminary conference.

Prior to the official filing of a [any preliminary](#) plat, the [subdividerapplicant](#) shall consult with and present proposed plan of subdivision to the City staff for comments and advice on the procedures, specifications and standards required by the City for the subdivision of land. This preliminary conference [begins the administrative by completeness review by City staff and the City Engineer is not part of the City staff 60-day review of the subdivider's proposed preliminary plat pursuant to section 28-42\(h\).](#)

Sec. 28-42. - Preliminary plat and data.

- (a) *General.* The [subdividerapplicant](#) shall cause to be prepared a preliminary plat by a licensed engineer or surveyor in accordance with this chapter. Under no circumstances may a preliminary plat be ~~submitted~~ [filed](#) for final [plat](#) approval.
- (b) *Filing fee.* Each preliminary plat shall be accompanied by a filing fee as established by the City Council from time to time. In addition, a deposit to cover the costs of the City Engineer and any other professional consultant the City may contract to [administratively review](#) ~~approve~~ the plat ~~may be required~~ [will be made](#).
- (c) *Overall preliminary layout plat of larger tract of a master plan.* Where the proposed subdivision constitutes a unit of a larger tract owned by the [subdividerapplicant](#) which he intends to subsequently subdivide as additional units of the same subdivision, the subdivision plat shall be accompanied by a layout of the entire area showing the tentative layout of streets, blocks and drainage for such area. The overall layout, or Master Plan, if approved by the City shall be attached to and filed with a copy of the approved subdivision plat in the permanent files of the City. Thereafter, fractional plats of subsequent units of such subdivision must be [filed](#) ~~submitted~~ for preliminary plat approval, and shall conform to such approved overall layout on the plat. The [subdividerapplicant](#) may request that the original approved Master Plan be amended and reapproved.
- (d) *Copies required.* The [subdividerapplicant](#) shall ~~file~~ [submit](#) the applicable number of black or blue line copies of the plat with the City staff.
- (e) *Preliminary fees.* Said preliminary plat shall be accompanied by all plat administration and filing fees, which are established from time to time by the City Council.
- (f) *Form and content.* The preliminary plat shall be drawn on sheets 24 inches wide and 36 inches long, with a binding margin of not less than 2½ inches on the left side of the sheet and margins on the other three sides of not less than three-eighths inches. The plat shall be drawn to scale of 100 feet to one inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:
- (1) Names and addresses of the [subdividerapplicant](#), record owner, and engineer or surveyor.
  - (2) Describe the subdivision by metes and bounds.
  - (3) Locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey or which it is a part.
  - (4) Proposed name of the subdivision, which shall not have the same spelling as, or be pronounced similar to, the name of any other subdivision located within the City or within five miles of the City.
  - (5) Names of contiguous subdivisions and or indication of whether or not contiguous properties are platted.
  - (6) Subdivision boundary lines, indicated by heavy lines, the dimensions of the subdivision, and the approximate acreage of the subdivision.
  - (7) Existing sites as follows:
    - a. The location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within

the subdivision, intersecting or contiguous with its boundaries or forming such boundaries.

b. The location, dimensions, description and name of all existing or recorded residential lots, parks, public areas, and other sites within or contiguous with the subdivision.

c. The location and dimensions of all existing improvements on the property to be platted, including buildings, utilities and parking areas.

(8) The location, dimensions, description and name of all proposed streets, alleys, parks, public areas, reservations, easements or other right-of-way, blocks, lots and other sites within the subdivision.

(9) Date of preparation, scale of plat and north arrow.

(10) Topographical information shall include contour lines on a basis of two vertical feet in terrain with an average slope of five percent.

(11) A number or letter to identify each lot or site and each block. Said number shall be coordinated by the developer with the County Clerk to prevent duplication.

(12) Front building setback lines on all lots and sites.

(13) Side yard building setback lines at street intersections and crosswalk ways.

(14) Location map at a scale of not more than 4,000 feet to an inch which shall show existing adjacent subdivisions and major streets.

(g) *Accompanying data.*

(1) Proposed master plan of all of developer's property when subdivision is a part of a larger tract which shall be prepared using the same scale as the preliminary plat showing:

a. Existing and proposed subdivisions, including streets, lots, parks and drainage easements and rights-of-way.

b. Location of City limits line, the outer border of the City's extraterritorial jurisdiction, and zoning boundaries, if they lie within the vicinity map.

c. The general drainage plan, flow line of existing watercourses, existing drainage structures, ultimate destination of water, and floodplain boundaries.

(2) A letter of authorization from the owner of the land area to be platted, acknowledging that the plat request is being filed with the City and authorizing said engineer and/or surveyor to act in his behalf.

(3) A letter from the owner or engineer/surveyor acting in his behalf requesting any and all variances from this chapter which might be proposed.

(4) Construction plans and cost estimates for any and all off-site improvements proposed and/or required as a condition for approval of said plat as set out in section 28-44(2)a through e.

(h) *Processing of preliminary plat.*

(1) The City staff will ~~administratively~~ review the preliminary plat ~~for administrative completeness~~ as to its conformity ~~with the City of Shavano Park Code of Ordinances, state law and federal law as applicable, with zoning districts and the standards and specifications set forth herein or referred to herein.~~ This step does not constitute the ~~submission-filing~~ of a formal application for approval of the preliminary plat, nor does it necessitate the filing fee to be paid at this time.

- ~~(2) The subdivider shall file the preliminary plat accompanied by a filing fee as well as any deposits as established by the City Council from time to time within 60 days after the preliminary plat is submitted, the City staff will approve or disapprove such plat or conditionally approve it with modifications. If it is disapproved or conditionally approved with modifications by the City staff, the City staff shall inform the subdivider, in writing, of the reasons at the time such action is taken.~~
- (23) If the preliminary plat is ~~approved or conditionally approved with modifications~~found to be administratively complete, it can then be ~~submitted filed~~ to the Planning and Zoning Commission and the City Council. A preliminary plat will require the approval of ~~both~~ the Planning and Zoning Commission and ~~acceptance by~~ the City Council before the ~~subdivider~~applicant can ~~submit file~~ the final plat to the Planning and Zoning Commission and the City Council for their approval.
- (43) The Planning and Zoning Commission may ~~disapprove~~ee, ~~approve~~ee or conditionally approve with modifications the preliminary plat. The Planning & Zoning Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.
- ~~(5) The Planning and Zoning Commission shall act on the preliminary plat within 30 days after the date the preliminary plat is filed with the Commission. A preliminary plat is considered approved by the Planning and Zoning Commission unless it is disapproved within the 30-day period.~~
- (46) If the Planning and Zoning Commission ~~disapproves~~, ~~approves~~, or conditionally approves with modifications the preliminary plat, and the ~~subdivider~~applicant elects to continue, ~~and submit~~ the preliminary plat will be considered for approval by the ~~City Council~~Planning and Zoning Commission, the subdivider shall file the preliminary plat accompanied by a filing fee as well as any deposits as established by the City Council from time to time.
- ~~(7)-(75) Any preliminary plat that is approved or conditionally approved shall be sent to the City Council for acceptance. may disapprove, approve or conditionally approve with modifications the preliminary plat.~~
- (86) After a conditional approval or disapproval by ~~either the Planning & Zoning Commission or City Council~~, the applicant may submit to ~~either municipal authority the City~~ a written response that satisfies each condition for the conditional approval or disapproval provided.
- (97) After receipt of the applicant's response, the city will then have up to fifteen (15) days to approve or disapprove the Plat application. The municipal authority that receives such a written response shall determine whether to approve or disapprove the applicant's preliminary plat not later than the 15th date the response was submitted.
- (108) ~~The municipal authority~~Planning and Zoning Commission shall approve a previously conditionally approved or disapproved preliminary plat if the

response adequately addresses each condition of the conditional approval or each reason for the disapproval.

~~(1189)~~ The ~~City Council~~Planning and Zoning Commission shall act on the preliminary plat within 30 days after the date the preliminary plat is filed with the ~~City Council~~. A preliminary plat is considered approved ~~by the City Council~~ unless it is disapproved within the 30-day period.

~~(1209)~~ Approval or conditional approval of a preliminary plat by the Planning and Zoning Commission ~~and the City Council~~ shall be deemed an expression of approval of the layout ~~filed shown submitted~~ on the preliminary plat in order to proceed with the design of streets, water, sewer and other required improvements and utilities and to the preparation of the final plat. Approval or conditional approval of a preliminary plat shall not constitute approval of the final plat, automatically or otherwise.

~~(1130)~~ Approval or conditional approval of a preliminary plat shall be effective for one year unless reviewed by the City Engineer at the request of the City in light of new or significant information which would necessitate a revision of the preliminary plat. If the City Engineer should deem changes in a preliminary plat are necessary as defined above, ~~the City Engineer~~ shall so inform the City staff, who shall so inform the subdivider applicant, in writing.

~~(1244)~~ If no development has occurred which would affect the proposed plat after one year of effective approval, the ~~Planning and Zoning Commission and~~ City Council may, upon the application of the subdivider applicant, extend the approval an additional six months.

(13) Any plat that is disapproved after the City has reviewed the response in the form of an amended application may be refiled at any time as a new plat application.

(14) Any preliminary plat which is approved or conditionally approved by the Planning and Zoning Commission shall be forwarded to the City Council for acceptance.

Sec. 28-43. - Standards for approval.

The Planning and Zoning Commission ~~and the City Council~~ shall approve a preliminary plat if:

- (1) The preliminary plat conforms to the general plan of the City and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
- (2) The preliminary plat conforms to the general plan for the extension of the City and its roads, streets, and public highways within the City and its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
- (3) The preliminary plat conforms to the provisions of this chapter.

Sec. 28-44. - Final plat and accompanying data.

If the preliminary plat is approved or conditionally approved with modifications, and the subdivider applicant elects to continue, the subdivider applicant must submit the final

plat and accompanying data (together with applicable required filing fees and deposits) ~~as to City staff, the Planning and Zoning Commission and the City Council for their respective approvals pursuant to the process~~ outlined in subsection (3) of this section.

(1) *Form and content of plat.*

- a. The final plat shall conform to the preliminary plat as conditionally approved by the City incorporating any and all changes, modifications, alterations, corrections and conditions recommended by the City Engineer.
- b. The final plat shall be on sheets 18 inches wide and 24 inches long and 2½ inches on the left side of the street, and margins of not less than three-eighths inches on the other three sides. The plat shall be drawn at a scale of 100 feet to one inch. Where more than one sheet is necessary to accommodate the entire computed area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.
- c. The final plat shall be submitted in ten copies, together with the original, and shall contain all of the features required for preliminary plats in section 28-42(f) and shall also include the following:
  - 1. The exact location, dimensions, names and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, computed area, and central angle, tangent distance and length of all curves, where appropriate.
  - 2. The exact location, dimensions, description and name of all proposed streets, alleys, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots, monuments, and other sites within the subdivision with accurate dimensions, bearing or deflecting angles and radii, area and central angles, tangent distance and length of all curves, where appropriate. All lot corners shall be marked with one-half inch diameter x two feet long iron pins.
  - 3. Owner's Acknowledgement as follows:

STATE OF TEXAS	X
COUNTY OF BEXAR	X

The owner of the land shown on this plat, and whose name is subscribed hereto, and in person or through a duly authorized agent, dedicates to the City of Shavano Park, Texas, for the use of the public forever all streets, alleys, parks, watercourses, drains, easements, and the water and sewer lines in all of the aforesaid public places and all other public places thereon shown for the purpose and consideration therein express.

_____	
Owner	

STATE OF TEXAS	X
COUNTY OF BEXAR	X

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

_____	
Notary Public, State of Texas	

4. Certification of the Surveyor responsible for surveying the subdivision area, attesting to its accuracy:

STATE OF TEXAS	X
COUNTY OF BEXAR	X

I hereby certify that this plat is true and correct and was prepared from an actual survey of the property made under my supervision on the ground.

_____	
Registered Professional Surveyor	

(Surveyor's Seal)

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

_____	
Notary Public, State of Texas	

5. A certificate by the engineer responsible for the preparation of the final plat and supporting data, attesting to its accuracy:

STATE OF TEXAS	X
COUNTY OF BEXAR	X

I hereby certify that proper engineering consideration has been given this plat to the matters of streets, lots, and drainage layout.

_____	
-------	--

Registered Professional Surveyor	
----------------------------------	--

(Engineer's Seal)

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

_____	
Notary Public, State of Texas	

6. Certification by City Engineer:

The City Engineer of the City of Shavano Park hereby certifies that this subdivision plat conforms to all requirements of the subdivision regulations of the City as to which his approval is required.

_____	
City Engineer	

7. Approval of the Planning and Zoning Commission of the City

This plat of \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ has been submitted to and considered by the Planning and Zoning Commission of the City of Shavano Park, Texas, and is hereby approved by such Planning and Zoning Commission.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, 19 \_\_\_\_\_.

By:	_____
	Chairman
By:	_____
	City Secretary

8. ~~Acceptance~~Approval of by the City Council of the City

This plat of \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ has been submitted to and considered by the City Council of the City of Shavano Park, Texas, and is hereby ~~approved~~ accepted by such City Council.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, 19 \_\_\_\_\_.

By:	_____
	Mayor
By:	_____
	City Secretary

STATE OF TEXAS	X
COUNTY OF BEXAR	X

I, \_\_\_\_\_, COUNTY CLERK OF SAID COUNTY, DO HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN MY OFFICE, OF THE \_\_\_\_\_ DAY OF \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, A.D. 19 \_\_\_\_\_ AT \_\_\_\_\_ .M. IN THE RECORDS OF \_\_\_\_\_ OF SAID COUNTY, IN BOOK VOLUME \_\_\_\_\_ ON PAGE \_\_\_\_\_ .  
 IN TESTIMONY WHEREOF, WITNESS MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ A.D. 19 \_\_\_\_\_ .

	County Clerk
	Bexar County, Texas
By:	_____
	Deputy

(2) *Accompanying data.* All plans and calculations shall bear the seal of an engineer and, where applicable, all trenches in excess of five feet in depth at construction sites in the City and its extraterritorial jurisdiction must be construed and operated in accordance with OSHA standards. When filed, the final plat shall be accompanied by the following site improvement data:

- a. *Streets, alleys, sidewalks, crosswalk ways.* Three copies of plans and profiles of all streets, alleys and plans for sidewalks and crosswalk ways and three copies of construction specifications and of detailed cost estimates which shall include a 15 percent contingency. Plans are to be drawn at a scale of one inch equals 50 feet, longitudinal, and one inch equals five inches, vertical. Bench marks using USGS data are required.
- b. *Sanitary sewers.*
  - 1. Three copies of plans and profiles of proposed sanitary sewer lines indicating type, sizes, depths, and grades of lines. Plan shall be to a scale of at least 100 feet to an inch with contours and scaled lot dimensions as on plat and shall show existing as well as proposed sewers.
  - 2. When a separate sewer system or treatment plant is proposed, three copies of proposed plans.
  - 3. Two copies of construction specifications and detailed cost estimates.
- c. *Septic system.* When sewer service for the proposed plat is to be so provided by septic tanks, written approval by the appropriate public agency having installation permit and operation control jurisdiction. Such written approval shall state that approval for septic tank systems for each proposed property is granted and installation permits will be issued for same upon request after plat recordation.

- d. *Recharge zone.* When a sewer or septic system is proposed within the recharge zone of the Edwards Aquifer within the City or its extraterritorial jurisdiction, written approval as required by the appropriate State agency having review and enforcement authority jurisdiction regarding the Texas Administrative Code, 31 TAC §§ 331.1—331.11 or the latest revision thereof regulating such systems.
- e. *Water lines.*
1. Three copies of plans of all proposed water lines and fire hydrants, showing type and sized of the lines. The plan shall be prepared at a scale of at least 100 feet to an inch and shall contain scaled lot dimensions as shown on the plat.
  2. When a separate water system is planned, three copies of the plans, including water lines and hydrants.
  3. Two copies of construction specifications and detailed cost estimates.
- f. *Storm drainage.*
1. Three copies of the storm drainage plan, prepared to scale of 100 feet to an inch and with the same contours and scaled lot sizes as shown on the plat. All street widths and grades shall be indicated, and runoff figures shall be indicated on the outlet and inlet side of all drainage ditches and storm sewers and, at request of City Engineer, at all points in the street at changes of grade or where the water enters another street or storm sewer or drainage ditch. Drainage easements shall be indicated.
  2. A general location map of the subdivision showing the entire watershed (U.S.G.S. Quadrangle is satisfactory).
  3. Calculations showing the anticipated stormwater flow, including watershed area, percent runoff, and time of concentration. When a drainage ditch or storm sewer is proposed calculations shall be submitted, showing basis for design.
  4. When a drainage channel or storm sewer is proposed, three copies of complete plans, profiles, and specifications shall be submitted, showing complete construction details.
  5. When conditions upstream or downstream form a proposed channel or storm sewer do not permit maximum design flow, high water marks based on 100-year frequency shall be indicated, based upon existing conditions.
- g. *Additional requirements.*
1. Tax certificates from the City, the School District and the County which indicate that all ad valorem taxed have been paid up to and including the current year on all land included within the final plat.
  2. Letters of certification by the proper authorized official of each public utility company or board involved to be inscribed on the respective utility layouts required herein certifying approval of the same by said utility company or board.

3. A letter from the [subdividerapplicant](#) authorizing the City to file the plat for record.
  4. A performance agreement in a format as described in this chapter and which is sufficient to guarantee the [subdividerapplicant](#) will complete any and all required improvements within two years after approval of such plat.
- (3) *Processing final plat.*
- a. As soon as practicable after the [preliminary plat subdivider](#) is ~~notified by the City staff of the~~ [approved](#) or conditionally [approved](#) with modifications ~~of the preliminary plat~~, the [subdividerapplicant](#) shall submit to the City staff the proposed final plat of the subdivision or portion thereof ~~for Administrative~~ [Completeness Review](#).
  - b. If desired by the [subdividerapplicant](#) and approved by the ~~City Engineer, Planning and Zoning Commission and City Council~~, the final plat may constitute only that portion of the approved preliminary plan which he proposes to record and develop. However, such portion shall conform to all the requirements of this chapter.
  - c. Except as hereinafter provided, no final plat will be considered unless a preliminary plat has been ~~filed submitted~~ and approved or conditionally approved with modifications. ~~If, however, an approved plat has been duly recorded and the subdivider wished to increase the size of the lots by combining two or more lots or by combining one lot with a portion of the adjacent lot in such manner that no portion of a lot remains smaller than the original lots, submission of an additional preliminary plat will not be necessary.~~
  - d. A final plat of an approved or conditionally approved preliminary plat or a portion thereof shall be submitted to the City staff for ~~their~~ [an administratively completeness](#) review of the plat ~~for compliance with all plat requirements including but limited to design of streets, water, sewer and other required improvements and utilities~~ within 12 months of the date of approval or conditional approval with modifications of the preliminary plat; otherwise, the approval of the City shall become null and void, unless an extension of time is applied for and granted by the Planning and Zoning Commission ~~and the City Council~~.
  - e. ~~The City staff will administratively review the final plat for administrative completeness as to its conformity with the City of Shavano Park Code of Ordinances, state law and federal law as applicable. This step does not constitute the filing of a formal application for approval of the preliminary final plat, nor does it necessitate the filing fee to be paid at this time. Within 30 days after the proposed final plat is submitted to the City staff, the City staff will approve or disapprove such plat. If it is disapproved by the City staff, the City staff shall inform the subdivider, in writing, of the reasons at the time such action is taken.~~

- f. If the final plat is considered administrative ~~completene~~ completeness, it can then be filed to the Planning and Zoning Commission. A final plat will require the approval of the Planning and Zoning Commission and the acceptance by the City Council before the applicant can record the plat.
- ~~g. If the preliminary plat is approved and the subdivider elects to continue and submit the final plat to the Planning and Zoning Commission, the subdivider shall file the final plat accompanied by a filing fee as well as any deposits as established by the City Council from time to time.~~
- ~~hg.~~ hg. The Planning and Zoning Commission may disapprove, ~~or~~ approve, or conditionally approve the final plat.
- ~~i. The Planning and Zoning Commission shall act on the final plat within 30 days after the date the final plat is filed with the Commission. A final plat is considered approved by the Planning and Zoning Commission unless it is disapproved within the 30-day period.~~
- ~~hj.~~ hj. If the Planning and Zoning Commission approves the final plat, and the ~~subdivider~~ applicant elects to continue, ~~and submit~~ the final plat will be submitted for acceptance to the City Council, ~~the subdivider shall file the final plat accompanied by a filing fee as well as any deposits as established by the City Council from time to time.~~
- ~~ik.~~ ik. Any final plat that is approved shall be sent to the City Council for acceptance. ~~The City Council may disapprove or approve the final plat.~~
- ~~jl.~~ jl. After a disapproval by ~~either~~ the Planning & Zoning Commission ~~or City Council,~~ the applicant may submit to ~~either municipal authority~~ the City a written response that satisfies each condition for the conditional approval or disapproval provided.
- ~~km.~~ km. After receipt of the applicant's response, the Ceity will then have up to fifteen (15) days to approve or disapprove the Plat application. ~~The municipal authority that receives such a written response shall determine whether to approve or disapprove the applicant's preliminary plat not later than the 15th date the response was submitted.~~
- ~~ln.~~ ln. ~~The municipal authority~~ City shall approve a previously disapproved preliminary final plat if the response adequately addresses each reason for the disapproval.
- ~~me.~~ me. The Planning and Zoning Commission shall act on the final plat within 30 days after the date the final plat is has been filed. After approval or conditional approval of a final plat by the Planning and Zoning Commission the final plat shall be forwarded to the City Council for acceptance. A final plat is considered approved by the City unless it is disapproved within the 30-day period.
- ~~ne.~~ ne. If the final plat is disapproved, the City shall inform the ~~subdivider~~ applicant in writing of the reasons at the time such action is taken if the ~~subdivider~~ applicant requests the reasons in writing.
- ~~on.~~ on. After the final plat has been approved and ~~subdivider~~ applicant has performed as prescribed in Section 28-49 for the purpose of insuring

construction of all site improvements required by this chapter (including water and sewer service facilities, but excluding gas and electric lines), the City Council shall cause the final plat to be recorded with the County Clerk. No plat shall be filed for record without written consent of the subdividerapplicant. If the subdividerapplicant fails to give such written consent, the City Council may cancel such approval.

~~pe.~~ Payment of all platting fees as established by the City Council from time to time is required by the City before final plat approval.

q. Any plat that is disapproved after the city has reviewed the response in the form of an amended application may be refiled at any time as a new plat application.

(4) *Certificates and record of approval.*

a. If a final plat is approved, the Planning and Zoning Commission and the City Council giving the approval and acceptance of plat shall each endorse the final plat with a certificate indicating the approval. The first certificate must be signed by the Chairman of the Planning and Zoning Commission and attested by the City Secretary. The second certificate must be signed by the Mayor or Mayor Pro Tem and the City Secretary.

b. If ~~either or both~~ the Planning and Zoning Commission ~~and City Council~~ fails to act on a final plat within the prescribed period, the Planning and Zoning Commission and/or the City Council on request shall issue a certificate stating the date the final plat was filed and that the Planning and Zoning Commission ~~and/or the City Council~~ failed to act on the final plat within the period. This certificate is effective in place of the certificate required by subsection (4)a of this section.

c. Both the Planning and Zoning Commission and the City Council shall maintain a record of each application made to each body and the action taken on it. On request of an owner of an affected tract, the Planning and Zoning Commission and the City Council shall each certify the reasons for the action taken on an application.

(5) *Standards for approval.* The Planning and Zoning Commission ~~and the City Council~~ shall approve a final plat if:

a. The final plat conforms to the general plan of the City and its current and future streets, alleys, parks, playgrounds, and public utility facilities;

b. The final plat conforms to the general plan for the extension of the City and its roads, streets, and public highways within the City and its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and

c. The final plat conforms to the provisions of this chapter.

(6) *Certification regarding compliance with plat requirements.*

a. For the purposes of this subsection, land is considered to be within the jurisdiction of the City if the land is located within the City limits or in the extraterritorial jurisdiction of the City.

- b. On the approval of the final plat by the Planning and Zoning Commission ~~and the City Council~~, the City ~~staff -Council~~ shall ~~issue to~~notify the person applying for the approval a certificate stating the final plat has been reviewed and approved by the Planning and Zoning Commission and accepted by the City Council.
- c. On the written request of an owner of land, an entity that provides utility service or the City Council shall make the following determinations regarding the owner's land or the land in which the entity or City Council is interested that is located within the jurisdiction of the City:
  1. Whether a plat is required under this chapter for the land; and
  2. If a plat is required, whether it has been prepared and whether it has been reviewed and approved by the Planning and Zoning Commission and accepted by the City Council.
- d. The request made under subsection (6)c of this section must identify the land that is the subject of the request.
- e. If the City Council determines under subsection (6)c of this section that a plat is not required, the City Council shall issue to the requesting party a written certification of that determination. If the City Council determines that a plat is required and that the plat has been prepared and has been reviewed and approved by the Planning and Zoning Commission and accepted -the City Council, the City Council shall issue to the requesting party a written certification of that determination.
- f. The City Council shall make its determination within 20 days after the date it receives the request under subsection (6)c of this section and shall issue the certificate, if appropriate, within ten days after the date the determination is made.

(7) *Connection of utilities.*

- a. Except as provided by subsection (7)c of this section, an entity described by subsection (7)b of this section may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under subsection (6) of this section.
- b. The prohibition established by subsection (7)a of this section applies only to:
  1. A municipality and officials of a municipality that provided water, sewer, electricity, gas, or other utility service;
  2. A municipally owned or municipally operated utility that provides any of those services;
  3. A public utility that provides any of those services;
  4. A water supply or sewer service corporation organized and operating under chapter 76, Acts of the 43rd Legislature, 1st called session, 1933 (Tex. Civil Statutes, art. 1434a), that provides any of those services;
  5. A county that provides any of those services; and
  6. A special district or authority created by or under State law that provides any of those services.

- c. An entity described by subsection (7)b of this section may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under subsection (6) of this section, if:
  - 1. The land is covered by a development plat approved under Tex. Local Government Code ch. 212, subch. B or under an ordinance or rule relating to the development plat;
  - 2. The land was first served or connected with service by an entity described by subsection (7)b.1, 2 or 3 of this section before September 1, 1987;
  - 3. The land was first served or connected with service by an entity described by subsection (7)b.4, 5 or 6 of this section before September 1, 1989;
  - 4. The City Council issues a certificate stating that:
    - (i) The land, before September 1, 1995, was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract;
    - (ii) The land is located in a subdivision in which the entity has previously provided service;
    - (iii) The land is located outside the limits of the City;
    - (iv) The land is located in an "affected county" as that term is defined by Tex. Local Government Code § 232.021; and
    - (v) Construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997.
- d. An entity described by subsection (7)b of this section may provide utility service to land described by subsection (7)c.4 of this section only if the person requesting service:
  - 1. Is not the land's subdividerapplicant or the subdividerapplicant's agent; and
  - 2. Provides to the entity a certificate described by subsection (7)c.4 of this section.
- e. A person requesting service may obtain a certificate under subsection (7)c.4 of this section only if the person provides to the Planning and Zoning Commission and the City Council either:
  - 1. A copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 1995, and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997; or
  - 2. A notarized affidavit by the person requesting service that states that the property was sold or conveyed to that person before September 1, 1995, and that construction of a residence on the land, evidenced by at

least the existence of a completed foundation, was begun on or before May 1, 1997.

- f. On request, the Planning and Zoning Commission and the City Council shall provide to the Attorney General and any appropriate local, county, or State law enforcement official a copy of any document on which the Planning and Zoning Commission and the City Council relied in determining the legality of providing service.
- g. This subsection (7) may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against an [subdividerapplicant](#) for a violation of a State or local law, regardless of the date on which the violation occurred.
- ~~h. In this subsection (7):~~
  - ~~1. The term "foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.~~
  - ~~2. The term "subdividerapplicant" means an individual, firm, corporation, or other legal entity that owns any interest in land and that directly or indirectly subdivides land into lots as part of a common promotional plan in the ordinary course of business.~~

Sec. 28-45. - Vacating a plat.

- (a) The force and effect of a recorded plat may be destroyed by properly executing and recording an instrument declaring such plat to be vacated. The instrument shall be substantially in the same form as the applicable Vacating Declaration, which is on file in the office of the City Secretary. The executed Vacating Declaration shall be filed with the Planning and Zoning Commission and the City Council together with seven copies of the plat to be vacated, and following approval by the Planning and Zoning Commission and [acceptance by the](#) City Council, filed in the deed records of the County.
- (b) If the Vacating Declaration is filed with the Planning and Zoning Commission and the City Council prior to the sale of any lot on the plat being vacated, a declaration in substantially the same form as the declaration Form A on file in the City Secretary's office must be signed and acknowledged by the proprietors of the land covered by the plat being vacated.
- (c) In cases where lots have been sold, the plat or any part thereof may be vacated upon the execution and recordation of a declaration in substantially the same form as the declaration Form B on file in the City Secretary's office. Such declaration requires the signature and acknowledgment of all of the owners of lots in the plat being vacated.
- (d) Upon filing the Vacating Declaration, a filing fee shall be paid in addition to the required recordation fee. Such fees shall be as established by the City Council from time to time.
- (e) The resubdivision of the land that is covered by a plat that is vacated shall be platted in the same as is prescribed by these regulations for an original plat.

- (1) A copy of the applicable Vacating Declaration shall be ~~filed submitted~~ with the resubdivision plat.
- (2) In addition, the resubdivision plat shall be annotated as follows:  
 "The area being resubdivided in this plat had been previously platted on a plat which is recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Bexar County Plat and Deed Records, and was vacated through a Vacated Declaration being recorded on the same date as this resubdivision plat."
- (f) If the ~~subdivider~~applicant so desires, the Vacating Declaration and the resubdivision plat may be filed and processes simultaneously.

Sec. 28-46. - Replatting without vacating a previous plat.

- (a) *Conditions.* A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat under the following conditions:
  - (1) The replat must be signed and acknowledged by only the owners of the property being replatted.
  - (2) The replat does not attempt to alter, amend or remove any covenants or restrictions.
  - (3) The replat must be approved by the Planning and Zoning Commission and ~~accepted by~~ the City Council, ~~after respective public hearings in relation thereto at which interested parties and citizens shall have had an opportunity to be heard.~~
- (b) *Additional conditions.* In addition to the provisions of subsection (a) of this section:
  - (1) If during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to not more than two dwelling units per lot; or
  - (2) If any lot in the preceding plat was limited by deed restrictions to residential use for not more than two dwelling units per lot, the procedures outlined in subsection (c) of this section shall be followed before the approval of the Planning and Zoning Commission and the City Council can be given.

(c) ~~Administrative~~ Completeness Review.

- (1) Prior to the official filing of a replat, the requesting person shall consult with and present proposed replat to the City staff for comments and advice on the procedures, specifications and standards required by the City for the subdivision of land. This preliminary conference begins the ~~administrative~~ completeness review by City staff and the City Engineer.
- (2) The applicant shall provide to the City Manager written notice of intention to file with the Planning and Zoning Commission and the City Council a replat to which the conditions stated in subsection (b)(1) or (2) of this section apply. The requesting person shall provide to City staff the replat fee as established by the City Council from time to time; a map of the preceding plat annotated with a 500-foot radius around the area proposed to be replatted and indicating any areas which were previously vacated or replatted; and a list of the names and addresses of the owners of lots that are in the original subdivision and that are within 500 feet of the lot or lots to be replatted (as indicated on the most recently approved

City ad valorem tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved County tax roll of the property upon which the replat is requested). The list shall be signed by the applicant, notarized, and dated. In lieu of providing the property owner names and addresses, the applicant may elect to have City staff prepare the list upon payment of the notification list fee established by the City Council from time to time.

(de) Procedures for Replat without variance or exception. If the ~~conditions stated in subsection (b)(1) or (2) of this section apply to a~~ proposed replat ~~does not require a variance or exception~~, the following procedures and specifications in addition to those contained elsewhere in this chapter shall apply:

(1) If it is determined during the ~~Administrative~~ ~~Completeness~~ Review that the proposed replat does not require a variance or exception, the City Manager shall not later than the 15th day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 500 feet of the lot or lots to be replatted according to the most recent municipality or county tax roll.

(2) If the replat is considered ~~administratively complete~~, it can then be filed. A replat will require the approval of ~~both~~ the Planning and Zoning Commission and ~~acceptance of~~ the City Council.

(e) Procedures for Replat requiring a variance or exception. If it is determined during the ~~Administrative~~ ~~Completeness~~ Review that the proposed replat requires a variance or exception, the following procedures and specifications in addition to those contained elsewhere in this chapter shall apply:

(1) The subdivider shall provide to the City Manager written notice of intention to file with the Planning and Zoning Commission and the City Council a replat to which the conditions stated in subsection (b)(1) or (2) of this section apply. The notice shall be accompanied by the replat fee as established by the City Council from time to time; a map of the preceding plat annotated with a 500-foot radius around the area proposed to be replatted and indicating any areas which were previously vacated or replatted; and a list of the names and addresses of the owners of lots that are in the original subdivision and that are within 500 feet of the lot or lots to be replatted (as indicated on the most recently approved City ad valorem tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved County tax roll of the property upon which the replat is requested). The list shall be signed by the subdivider, notarized, and dated. In lieu of providing the property owner names and addresses, the applicant may elect to have City staff prepare the list upon payment of the notification list fee established by the City Council from time to time.

(12) The City Manager shall provide notice of the public hearing ~~required in subsection (a)(3) of this section~~ prior to the 15th day before the date of the scheduled hearing by publication in an official paper or a paper of general circulation in the County.

(23) Additionally, the City Manager shall provide written notice, with a copy of Tex. Local Government Code § 212.015~~(e)~~, as amended, attached, to the owners of lots on the preceding plat and that are within 500 feet of the lot or lots which are intended to be replatted. The written notice shall be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or a postal depository within the City limits, prior to the 15th day before the scheduled date of the public hearing.

(34) If the proposed replat requires a variance and written protests, signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 500 feet from that area, but within the original subdivision, are filed with the Planning and Zoning Commission and the City Council prior to or at the public hearing referred to in the notice, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the Planning and Zoning Commission ~~and the City Council~~. In computing the percentage of land area within 500 feet of the property to be replatted, the area of streets and alleys shall be included.

(4) ~~If the replat is considered administratively complete, it can then be filed. A replat will require the approval of both the Planning and Zoning Commission and acceptance by the City Council.~~

(5) In approving a replat which was protested in accordance with subsection (c)(3) of this section, the Planning and Zoning Commission and the City Council may require that the name of the replat be the same as the original subdivision. In such instances, the replatted area shall continue to be considered as part of the original subdivision for future notification purposes.

(f) Certificates and record of approval.

~~(6) The proposed replat, must be filed with the Planning and Zoning Commission and the City Council within six months of the date of each public hearing. If the replat is not filed within six months of each public hearing, a new public hearing shall be required at each level.~~

(17) ~~Additionally,~~ the replat will be annotated with a certificate, substantially in the same form as the applicable certificate; Form "C," "D," or "E," available from the city.

(28) In addition, the replat shall be annotated generally as follows:

"The area being replatted had been previously platted on a plat which is recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Bexar County Plat and Deed Records."

~~(g)~~ *Exception.* Compliance with subsection ~~(ee)~~(34) of this section is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single-family residential use by notation on the last legally recorded plat or in the legally recorded deed restrictions applicable to such plat.

Sec. 28-47. - Amending a plat.

(a) Administrative amended plat. Subject to the following requirements, an administrative amended plat may be issued without the approval of the Planning and Zoning Commission and the City Council.

(1) An administrative amended plat shall meet all of the informational and procedural requirements set forth for a final plat, including the required number of copies of the plat, a completed application form, and the required application fee.

- (2) Upon receipt of a favorable recommendation for approval from the City Engineer, the City Manager may approve an amending plat which may be recorded and is controlling over the preceding or final plat without vacation of that plat if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this subsection.
- a. The procedures for administrative amended plats shall apply only if the sole purpose of the amending plat is to:
    1. Correct an error in a course or distance shown on the preceding plat;
    2. Add a course or distance that was omitted on the preceding plat;
    3. Correct an error in a real property description shown on the preceding plat;
    4. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
    5. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
    6. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats; or
    7. Correct an error in courses and distances of lot lines between two adjacent lots if:
      - (i) Both lot owners join in the application for amending the plat;
      - (ii) Neither lot is abolished;
      - (iii) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
      - (iv) The amendment does not have a material adverse effect on the property rights of the owners in the plat.
  - b. An applicant wishing to amend an approved plat shall file with the City Manager the administrative amended plat, together with a copy of the plat being amended and a statement detailing the amendments being proposed for their consideration and approval under this subsection.
- (3) The City Manager may approve administrative amended plats. The City Manager may, for any reason, elect to present the administrative amended plat to the Planning and Zoning Commission and the City Council for consideration and approval. Any decision made on the administrative amended plat by the City Manager shall be approval of the plat. Should the City Manager refuse to approve the administrative amended plat, then the plat shall be referred to the Planning and Zoning Commission and the City Council for review and approval within the time period required by state law.
- (4) Upon the City Manager approving a Plat as provided for herein the City Manager shall, no later than 60 days after the approval, provide the Planning and Zoning Commission written notice of the approval.

(5) An amended plat shall be approved, conditionally approved, or disapproved within thirty (30) days after the filing has been determined to be administratively complete by the City Manager. If the amended plat is disapproved or approved with conditions, the applicant may submit responses to the reason for disapproval or conditional approval. Once responses are submitted by the applicant, the City shall have fifteen (15) days to approve, disapprove, or conditionally approve the amended plat. If the amended plat is disapproved, the applicant may refile.

(b) Other amended plats. Subject to the following requirements, the Planning and Zoning Commission and the City Council may approve and issue an amending plat which may be recorded and is controlling over the preceding or final plat without vacation of that plat if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this subsection.

(1) The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:

- a. Amend a plat described in subsection (a)(2)a.;
- b. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- c. Relocate one or more lot lines between one or more adjacent lots if:
  1. The owners of all those lots join in the application for amending the plat;
  2. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
  3. The amendment does not increase the number of lots;
- d. Make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
  1. The changes do not affect applicable zoning and other regulations of the City;
  2. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
  3. The area covered by the changes is located in an area that the Planning and Zoning Commission and the City Council has approved, after a public hearing, as a residential improvement area; or
- e. Replat one or more lots fronting on an existing street if:
  1. The owners of all those lots join in the application for amending the plat;
  2. The amendment does not attempt to remove recorded covenants or restrictions;
  3. The amendment does not increase the number of lots; and
  4. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(2) ~~An subdivider applicant or other applicant~~ wishing to amend an approved plat shall file with the Planning and Zoning Commission and the City Council the amending plat, together with a copy of the plat being amended and a statement detailing

the amendments being proposed for their consideration and approval under this subsection.

- (c) Notice, a public hearing, and the approval of other lot owners is not required for the approval and issuance of an amending plat.
- (d) Except as provided above, no changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after approval has been given by the Planning and Zoning Commission and accepted by the City Council unless such changes, modifications, or revisions are first filed submitted to and approved by the Planning and Zoning Commission and accepted by the City Council.
- (e) The amended plat shall be entitled and clearly state that it is an "amended plat," and it shall include a detailed "purpose for amended plat" statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the City and filed at the county. It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.
- (f) The amending plat shall be filed in the county in the same manner as prescribed for a final plat, and approval of an amending plat shall expire if all filing materials are not submitted to the City within 30 days of approval.
- (g) Filing fees.
  - (1) A filing fee as established by the City Council from time to time shall be paid to the City at the time the administrative amended plat is filed with the City Manager.
  - (2) A filing fee as established by the City Council from time to time shall be paid to the City at the time the amending plat is filed with the Planning and Zoning Commission, reduced by any fee paid under paragraphs (g)(1) or subsection 28-48(d).
  - (3) A filing fee established by the City Council from time to time shall also be paid to the City at the time an amending plat of any kind is filed with the City Council.
  - (4) If the plat being amended has been recorded, the additional recordation fee shall also be deposited with the City.

Sec. 28-48. - Minor plats.

- (a) Minor plats. Subject to the following requirements, a minor plat may be issued without the approval of the Planning and Zoning Commission and the City Council.
  - (1) A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, including the required number of copies of the plat, a completed application form, and the required application fee.
  - (2) A minor plat is a subdivision or development plat resulting in four or fewer lots in a commercial Planned Unit Development District or Mixed-Use District and provided that the plat does not create any new street nor necessitate the extension of any municipal facilities, except sidewalks, as determined by the City Engineer to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be adequately served by all required city utilities, and all lots will have frontage on a public roadway.

(3) An [subdivider/applicant](#) wishing to amend an approved plat shall file with the City Manager the minor plat, together with a copy of the plat being amended and a statement detailing the amendments being proposed for their consideration and approval under this subsection. A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by all items required by the City Manager, including the required number of copies of the plat, and a completed application form.

(4) Upon receipt of a favorable recommendation for approval by the City Engineer, the City Manager may approve, or approve with conditions a minor plat, or may for any reason elect to present the minor plat to the Planning and Zoning Commission and the City Council for consideration. Should the City Manager refuse to approve the minor plat, then the plat shall be referred to the Planning and Zoning Commission and City Council for review and approval within the time period required by state law.

(5) A minor plat shall be approved, conditionally approved, or disapproved within thirty (30) days after the filing has been determined to be administratively complete by the City Manager. If the minor plat is disapproved or approved with conditions, the applicant may submit responses to the reason for disapproval or conditional approval. Once responses are submitted by the applicant, the City shall have fifteen (15) days to approve, disapprove, or conditionally approve the minor plat. If the minor plat is disapproved, the applicant may refile.

(b) The minor plat shall be entitled and clearly state that it is a "minor plat."

(c) The minor plat shall be filed at the county in the same manner as prescribed for a final plat, and approval of a minor plat shall expire if all filing materials are not submitted to the city within 30 days of approval.

(d) A filing fee as established by the City Council from time to time shall be paid to the City at the time the minor plat is filed with the City Manager.

Sec. 28-49. - Performance agreement.

(a) *Instrument.* When site improvements (other than gas and electric lines) are involved in a plat, an instrument to ensure construction of all site improvements required by these regulations shall be executed by the [subdivider/applicant](#) and filed with the City together with the plat. Such instrument shall be in substantially the same form as the instrument set out in Appendix C.

(b) *Time extension.* No extension to the time limitations set out in such instrument shall be granted by the City Council unless and until the applicant shall have justified such request for extension in writing. The request for time extension must be submitted to the City at least 30 days prior to the time limit set out in the performance agreement. If the City finds that development constraints (excluding pecuniary hardship) justify such a request, a time extension may be granted by the City.

(1) *Sidewalk improvements.* A time extension up to a maximum of three years for completion of sidewalks may be granted by the commission if a sidewalk plan indicating the uncompleted sidewalks and a time schedule for sidewalk

completion is submitted. The sidewalk plan will be submitted for review and approval with the request.

- (2) *All other site improvements.* A maximum one year time extension for completion of site improvements other than sidewalks may be granted by the City if the applicant shows as evidence of good faith performance that the required site improvements are at least 75 percent completed at the time of request.
- (c) *Guarantee.* A guarantee, in an amount sufficient to cover the cost of the remaining site improvements, shall be required if necessary in order for such extension to be granted. Such guarantee must be filed within 30 days of the granting of the extension or the extension shall become null and void. Should the granting of such extension require the filing of any instruments, the fees for recording such instruments shall be paid by the [subdividerapplicant](#) to the City.

Sec. 28-50. - Guarantee of performance.

- (a) An approved plat may be filed for record before the required site improvements are completed if one of the following guarantees of performance is filed with the City within three years after the plat has been approved by the City:

- (1) *Performance bond.*

- a. A performance bond will be executed by a surety company licensed to do business in the State in an amount equal to the cost estimate, as approved by the City Engineer, of all uncompleted and unaccepted improvements required by these regulations (other than gas and electric lines), with the condition that the [subdividerapplicant](#) shall complete such improvements and have them accepted by the City Engineer within three years from the date of plat approval. The performance bond properly executed shall be substantially on the same form as performance bond set out in Appendix C to the ordinance from which this chapter is derived and on file in the City Secretary's office.

- b. The City Manager is authorized to sign the bond instrument on behalf of the City and the City Attorney shall approve the same as to form.

- (2) *Trust agreement.* The [subdividerapplicant](#) shall cause to be placed in a trust account on deposit in a bank or trust company or with a qualified escrow agent selected by the [subdividerapplicant](#) and approved by the City Engineer a sum of money equal to the cost estimate, as approved by the City Engineer, of all uncompleted and unaccepted site improvements (other than gas and electric lines) required by these regulations. The trust account shall be established by agreement which shall be substantially in the same form as the trust agreement set out below. The City Engineer is authorized to sign the agreement on behalf of the City and the City Attorney shall approve same as to form.

~~(3) *Letter of credit.* The [subdividerapplicant](#) shall provide an irrevocable letter of credit in an amount equal to the cost estimate, as approved by the City Engineer, of all uncompleted and unaccepted site improvements (other than gas and electrical lines) required by these regulations. The letter of credit, properly executed, shall be substantially in the same form as the letter of credit set out in~~

~~Appendix C to the ordinance from which this chapter is derived and on file in the City Secretary's office. The City Engineer is authorized to sign the agreement on behalf of the City and the City Attorney shall approve same as to form.~~

- (34) *Cash or cashier's check.* The [subdividerapplicant](#) shall provide to the City cash or a cashier's check in an amount equal to the cost estimate, as approved by the City Engineer, of all uncompleted and unacceptable site improvements (other than gas and electric lines) required by these regulations. Upon completion of the required site improvements and their acceptance by the City Engineer, the amount will be refunded to the [subdividerapplicant](#) by the City.
- (b) When an [an subdividerapplicant](#) has given security in any of the forms herein provided, and when 50 percent of the required site improvements have been completed and have been accepted by the City Engineer, or whenever any segment or segments of the required site improvements have been completed and have been accepted by the City Engineer, the [subdividerapplicant](#) may substitute for the original guarantee a new guarantee in an amount equal to the cost of the remaining site improvements. The cost estimate shall be approved by the City Engineer. Such new guarantee need not be in the same form as the original guarantee so long as such guarantee is one that is listed in subsection (a) of this section. However, in no event shall the substitution of one security for another in any way change or modify the terms and conditions of the performance agreement or the obligation of the subdivision as specified in the performance bond.
- (c) Supplementary guarantees may be required as follows:
- (1) One year from the date of plat recordation and annually thereafter until the expiration of the three year period from the date of plat approval, the City Engineer shall review the estimated cost of completing such site improvements as are not then completed and determine the adequacy of the existing performance guarantee. Should the City Engineer determine that the sum set out in the performance guarantee is inadequate to provide for the completion of the uncompleted site improvements at the then prevailing construction costs, he shall require a substitute guarantee to cover the newly estimated cost or a supplemental guarantee to cover the additional sum needed for completion.
  - (2) If an [an subdividerapplicant](#) submits an original performance guarantee after a period of two years has elapsed from the date on which a plat was approved by the City, the actual cost estimate of completing the uncompleted site improvements shall be increased by an amount, based upon a locally recognized construction cost index as approved by the City Engineer, required to cover an estimated inflationary increase in the cost during the duration of the period covered by the performance guarantee.

Sec. 28-51. - Liability of [subdividerapplicant](#).

- (a) An [An subdividerapplicant](#) shall be held liable to the City for the completion of all site improvements required by these regulations until such time as the improvements shall have been actually completed and accepted by the City.

- (b) If the construction of site improvements has been guaranteed by a form of security described in section 28-49(a), and such improvements have not been completed and accepted by the City within the time period prescribed by these regulations, the City, after written notification has been given to the [subdividerapplicant](#), shall take such action as may be required to cause payment to be made to the City of the amounts of money secured by a guarantee of performance. Such amounts of money shall be used by the City to finance the completion of the required improvements.
- (c) In the event that the amounts of money referred to above are insufficient to finance the completion of the required improvements, the City shall so notify the [subdividerapplicant](#) in writing and shall require the [subdividerapplicant](#) either to complete the improvements without delay or to make available to the City the amount of money required to finance their completion. Should the [subdividerapplicant](#) fail to do either of the above and such failure is not due to strikes, riots, acts of God, acts of public enemy, injunction or other court action, or any other cause similar to those enumerated beyond the [subdividerapplicant](#)'s control, the City shall refer the matter to the City's Attorney for such action as the City's Attorney may deem appropriate to compel the [subdividerapplicant](#) to comply with the provisions of the performance agreement entered into by the [subdividerapplicant](#) as a condition precedent to the approval of the plat by the City, or to pursue any other remedy which may be available to the City. Further, until such time as the required site improvements have been completed and accepted by the City, the City shall refuse to accept from such [subdividerapplicant](#) a performance guarantee under any form which is related to the plat of a subdivision, subsequently filed with the City, in which such [subdividerapplicant](#) has a principal or subsidiary interest. Such a plat, once it has been approved by the City, may be recorded only in the manner prescribed in this chapter.
- (d) The provisions of this section shall not apply if an [subdividerapplicant](#) is prevented from completing and having accepted such required site improvements within the prescribed time by reason of strikes, riots, acts of God, acts of the public enemy, injunction or other cause similar to those enumerated beyond the [subdividerapplicant](#)'s reasonable control. The [subdividerapplicant](#) shall be entitled to an extension of time equal to the time of such delay which shall be fixed by written certification made by the City. It is expressly declared that no such allowance of time will be made unless claimed by the [subdividerapplicant](#) and allowed and certified in writing by the City at the end period of such delay.

Secs. 28-52—28-75. - Reserved.

### **ARTICLE III. - SUBDIVISION DESIGN STANDARDS**

Sec. 28-76. - Provisions for future subdivision.

If a tract is subdivided larger than minimal lot size, such parcels shall be arranged to allow the opening of future streets and logical further subdivision.

Sec. 28-77. - Reserve strips prohibited.

There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use. It shall be the responsibility of the [subdividerapplicant](#)/developer/owner of land being platted or replatted that there are no reserve strips controlling access to land dedicated or intended to be dedicated to public use.

Sec. 28-78. - Site improvements.

Streets, alleys, sidewalks and other site improvements required under the provisions of this chapter to be installed in subdivisions by the [subdividerapplicant](#) shall conform to the specifications of this chapter and to the then current policies and regulations of the City, or other approved utility districts or agencies involved with reference to payment for such installations, refunds, credits and other financial arrangements. Requirements for sidewalk and curbs are waived if individual lot size exceeds seven-tenths acre or greater.

Sec. 28-79. - Neighborhood delivery and collection box units.

- (a) The [subdividerapplicant](#) shall coordinate with the U.S. Postal Service for the location and placement of neighborhood delivery and collection box units by the postal service.
- (b) The location of the neighborhood delivery and collection box units shall be shown on the utility layout and approved by the City.

Sec. 28-80. - Blocks.

The length, width and shape of lots shall be such as to:

- (1) Provide adequate building sites suitable to the special needs of the type of use contemplated.
- (2) Accommodate lots of the size and dimensions required by the City's zoning ordinance.
- (3) Provide for convenient access, circulation, control and safety of street traffic.
- (4) Give due regard to the limitations and opportunities of topography and drainage.

Sec. 28-81. - Residential lots.

- (a) *General layout.* The size, width, depth, shape and orientation of lots shall be appropriate for the neighborhood in which the subdivisions is located, and for the type of development and use contemplated. The area of the lots shall be in accordance with the City's zoning ordinance.
- (b) *Lot dimensions.*
  - (1) Lots shall be rectangular in-so-far as practicable. The minimum area of a single-family residential lot served by a private sewer system shall be not less than seven-tenths of an acre in size. The minimum area of a single-family residential lot served by a public sewer system shall not be less than the area specified in the City's zoning ordinance.

- (2) The placing of residential lots facing directly upon a major street shall be avoided, unless lots face upon a marginal access street parallel to such major street. Lots should side or back to major streets and other depreciating land uses.
- (3) The placing of lots at right angles to each other (with rear and side lots adjacent) shall be avoided.
- (4) Side lot lines shall be as nearly perpendicular as practicable to the street the lot faces, or radial to a curved street or cul-de-sac.
- (5) Radial residential lots shall be at least 150 feet wide at the building lines.
- (6) The shortest distance between the intersection of the front building or setback line with the side building lines shall be not less than 80 feet.
- (7) The minimum distance from the front to rear property lines shall be not less than 200 feet measured normal to a line intersecting the two front corners.
- (8) The included angle of the side property lines to the front property line at their intersection with the front property line shall be not more than 120 degrees nor less than 60 degrees.
- (9) The shortest distance between the intersections of the front property line with the side property lines shall be not less than 60 feet.
- (10) The minimum building line set backs for properties in the extraterritorial jurisdiction shall be measured parallel to their respective property lines shall be as specified in the City's zoning ordinance in this subsection:
  - a. Front building line shall be set back 80 feet minimum except for cul-de-sac lots.
  - b. Front building line for cul-de-sac lots shall be set back 50 feet minimum.
  - c. Side building lines shall be set back 30 feet minimum.
  - d. Rear building lines shall be set back 30 feet minimum.
- (c) *Building lines.* Minimum front, side and rear building setback lines shall be shown on all plats and shall not be less than required by the Chapter 36. – ZONING. City's zoning ordinance for properties in the city limits.
- (d) *Access.*
  - (1) Every lot shall have adequate access to a public street by direct frontage on such street of no less than 150 feet.
  - (2) No road or other access to such property shall be closer than 150 feet of the back property line of developed land.
- (e) *Orientation.* Residential lots shall be oriented to take advantage of topography, and the best relationship to the overall design of the neighborhood and to minimize the effects of the surrounding depreciating land uses.
  - (1) Where a residential lot backs up to a railroad right-of-way, high pressure gas lines, or any other land use which may have a depreciating effect on a residential property, and where no marginal access street or other street is provided at the rear of such lot, additional depth shall be required, not to exceed a total of 150 feet. Where a lot sides to any of the above, appropriate additional width shall be required. A planting screen or access buffer easement shall be provided along the line of lots abutting such traffic artery or other disadvantageous land use in accordance with the City's zoning ordinance.

- (2) Depth and width of properties laid out for other than residential purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

Sec. 28-82. - Land suitability.

- (a) Every lot shall contain a suitable building site.
- (b) The City may disapprove a plat if the City finds the land to be unsuitable for development due to natural/environmental conditions which may pose a danger to health, safety, or property. Natural/environmental conditions which may render land unsuitable for development include, but are not limited to, flooding, steep slopes, unstable soils, or the presence of a sanitary landfill site. In disapproving a plat, the City shall incorporate its findings, together with the specific facts upon which the findings are based, into the official minutes of the meeting at which the plat is considered.

Sec. 28-83. - Drainage facilities.

Drainage facilities shall be provided and constructed as specified in Appendix A to this chapter.

Secs. 28-84—28-109. - Reserved.

**ORDINANCE NO. O-2019-012**

**AN ORDINANCE AMENDING CHAPTER 28 – SUBDIVISIONS, ARTICLES I – III TO ESTABLISH THE PLANNING AND ZONING COMMISSION AS APPROVAL AUTHORITY FOR PLAT ACTONS, DEFINING A FILING DATE AND ESTABLISHING PLAT PROCEDURES IN COMPLIANCE WITH HOUSE BILL 3167 OF THE 86<sup>TH</sup> TEXAS LEGISLATURE; PROVIDING A CUMULATIVE & CONFLICTS CLAUSE, PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council of the City of - (“City Council”) seeks to promote the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality, including its extraterritorial jurisdiction; and

**WHEREAS**, the City Council finds that haphazard laying out of lots and erratic dedication of public infrastructure is harmful to the environment and quality of life; and

**WHEREAS**, the City Council acknowledges that subdivision controls are based on the land registration system, and that land registration is a privilege that local governments such as - have the power to grant or withhold based on compliance with reasonable conditions; and

**WHEREAS**, the City Council’s regulation of development is based on the government’s legitimate interests in promoting orderly development, insuring that subdivisions are constructed safely, and protecting the future owners from inadequate police and fire protection, inadequate drainage, and unsanitary conditions; and

**WHEREAS**, the City Council has determined that reasonable rules and regulations governing subdivision plats are necessary to maintain water quality, ensure traffic safety, protect the region’s livability, and preserve property values; and

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

**WHEREAS**, pursuant to Chapter 212 of the Texas Local Government Code, the City has the authority to adopt rules governing plats and subdivisions of land; and

**WHEREAS**, pursuant to House Bill 3167 (86<sup>TH</sup> Texas Legislature), the City is required to limit review periods to an extent making some notice, hearings, and review by appointed and elected bodies infeasible; and

**WHEREAS**, the City has determined that amending its ordinance related to subdivisions is required by state law; and

**WHEREAS**, the City Council finds that it is necessary and proper for the good government, peace or order of the City of - to adopt an ordinance regulating the subdivision and platting of land.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHAVANO PARK, TEXAS:**

**I**

**CODE AMENDMENT**

Chapter 28- SUBDIVISIONS, Article I. – IN GENERAL, of the City of Shavano Park Code of Ordinances is hereby amended to read as follows:

Sec. 28-1. - Short title.

This chapter, along with its attachments, exhibits and amendments, shall be known as the "Subdivision Ordinance" of the City of Shavano Park.

Sec. 28-2. - Jurisdiction.

- (a) The owner of a tract of land located within the limits of the City or in the extraterritorial jurisdiction of the City who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract under this section includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this section does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated. This ordinance also applies to the creation of one legal lot when done so through platting.
- (b) No person shall create a subdivision of land within the corporate limits of the City, or within its extraterritorial jurisdiction, without complying with the provisions of this chapter. All plats and subdivisions of any such land shall conform to the rules and regulations herein set forth.

Sec. 28-3. - Extraterritorial jurisdiction.

All ordinances governing plats and subdivisions of land within the City's jurisdiction to promote health, safety, and general welfare of the City and the safe, orderly, and healthful development of the City, are hereby extended and made applicable in the extraterritorial jurisdiction of the City in accordance with ch. 42 of the Texas Local Government Code and ch. 212 of the Texas Local Government Code.

Sec. 28-4. - Interpretation and purpose.

- (a) The interpretations and application of the provisions of this chapter shall be deemed to be minimal in nature, and whenever the principles, standards or requirements of any other applicable provision of other ordinances of the City which are higher or more restrictive, the latter shall control; and when circumstances warrant, as determined by the City Council, the City Council shall have the authority to impose more restrictive conditions to this chapter.
- (b) The purpose of this chapter is to achieve orderly urban development through land subdivision; to promote and develop the utilization of land to ensure the best possible community environment in accordance with a comprehensive plan of the City; to provide for adequate municipal services and safe streets; and to protect and promote the public health, safety and general welfare.

Sec. 28-5. - Adoption of legislative grant of power.

The ordinance from which this chapter is derived is adopted under the authority of the Constitution and laws of the State, including particularly Tex. Local Government Code ch. 212.

Sec. 28-6. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

*Alley* means a minor public right-of-way not intended to provide the primary means of access to abutting lots, and which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a public or private alley, and affords only secondary means of access to property abutting thereon.

*Administrative Completeness Review* means a review by the City staff and City Engineer to ensure all submittals are in full compliance with the City of Shavano Park Code of Ordinances, state law and federal law as applicable. The term "Administratively Review" is included in this definition.

*Applicant* means any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the

term "applicant" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner of land sought to be subdivided.

*Application* means a written request to the City for an approval required by this Chapter that contains all information required by this Chapter and that has been deemed administratively complete by the City.

*Building setback line* means the line within a property defining the minimum horizontal distance between a building and the adjacent street and/or property line.

*Cul-de-sac* means a street having but one outlet to another street, and terminated on the opposite end by a vehicular turnaround.

*Dead-end street* means a street, other than a cul-de-sac, with only one outlet.

*Drainage easement* means an interest in land granted the City, to the public generally, for the construction, use, and maintenance of drainage facilities across, over, and under the private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said drainage facilities.

*Drainage right-of-way* means a public right-of-way granted to the City, to the public generally, for the construction, use and maintenance of drainage facilities across, over and under said public right-of-way.

*Engineer* means a person duly authorized and properly registered under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering as evidenced by a current Texas Engineer's Seal.

*Filed* or to *File* means the date a plat is administratively complete and ready for consideration for approval by the Planning and Zoning Commission. The official filed date will be when an agenda is posted on City Hall bulletin board for a Planning and Zoning Commission meeting where the plat action will be considered for approval.

*Foundation* means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

*Lot* means an undivided tract or parcel of land having frontage on a public or private street and which is, or in the future may be, offered for sale, conveyance, transfer or improvement; or which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

*Non-access easement* means easement across which vehicular access is prohibited.

*Office* means any office referred to in this chapter by title means the person employed or appointed by the City in that position, or his duly authorized representative.

*Pavement width* means the portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the face of curbs.

*Person* means any individual, association, firm, corporation, governmental agency, or political subdivision.

*Planned unit development (PUD)* means a tract of land developed for residential, office, and commercial uses, or a combination thereof, according to a plan as a single entity that protects adjacent properties, in compliance with these regulations.

*Plat* means a complete and exact plan for the subdivision of a tract of land into lots for building purposes, which, if approved, may be submitted to the County Clerk for recording.

*Amended or Amending Plat* means a revised plat correcting minor errors or making limited changes to the original final plat or as otherwise defined by Chapter 212 of the Texas Local Government Code.

*Final Plat* means the one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat of any lot, tract or parcel of land shall be recorded in the land records of Hays County, Texas. An Amending Plat and replats are also final plats.

*Major Plat* means plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat that requires the construction of a new street (or portion thereof), on-site drainage facilities, or the extension of a municipal facility as required by this or any other City ordinance.

*Minor Plat* means a subdivision resulting in four (4) or fewer lots or Units, provided that the plat is for conveyance purposes only with no development or construction of roads or public improvements proposed, and provided that the plat does not create any new easements for public facilities, nor the extension of any municipal utility facilities to serve any lot within the subdivision.

*Preliminary Plat* means the graphic expression of the proposed overall plan for subdividing, improving and developing a tract, showing in plain view the proposed street and lot layout, easements, dedications and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development.

*Replating or Replat* means this is the resubdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract. Replats eliminate the prior plats as to the area replatted.

*Private drainage easement* means an interest in, and granted to, the City and to the public generally, for the use of a watercourse, drainageway, natural channel or stream across private property. Maintenance of said private drainage is a responsibility of the property owner.

*Private streets* means any non-public right-of-way used for vehicular access and constructed and maintained by a private entity.

*Reserve strip* means any unplatted parcel of land that prevents access to platted property.

*Safety lane* means a designated area on an approved plat which has a primary purpose of providing access for safety vehicles in any development where public streets do not adequately provide such access.

*Street* means a public or private right-of-way, however designated, which provide vehicular access to adjacent land. A "street" includes a public or private thoroughfare or highway, as well as alley ways.

- (1) A secondary street primarily provides vehicular circulation to various sections of the City.
- (2) A collector street primarily provides circulation within neighborhoods, to carry traffic from minor streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.
- (3) A marginal access street is a street which is parallel to and adjacent to an arterial street, which primarily provides access to abutting properties and protection from through traffic.
- (4) A minor street is one used primarily for access to abutting residential property.

*Subdivision* means a division of any tract of land situated within corporate limits, or within or partly within the extraterritorial jurisdiction of the City, into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition of any town or City, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. The term "subdivision" includes re-subdivision.

*Surveyor* means a licensed State land surveyor or a registered professional land surveyor, as authorized by the State statutes to practice the profession of surveying, as evidenced by a valid State seal.

*Utility easement* means an interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over and under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

Sec. 28-7. - Enforcement.

In addition to any other remedy provided by law, the City and its agents shall have the right to:

- (1) Enjoin the violation or threatened violation of this chapter by the owner of a tract of land by injunction issued by a court of competent jurisdiction; or
- (2) Recover damages from the owner of a tract of land in an amount adequate for the City to undertake any construction or other activity necessary to bring about compliance with this chapter. The reference in this section to "owner of a tract of land" does not include the owner of an individual lot in a subdivided tract of land.

Sec. 28-8. - General conditions and restrictions.

- (a) It is unlawful for the County Clerk to receive or record any such plan, plat or replat, unless and until the same shall be approved by the City.
- (b) No plat will be approved with a septic system unless the system is approved by the City in the location indicated on the plat.
- (c) No permit will be issued for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein have not been complied with in full.
- (d) The City will not permit the repair, maintenance, installation or construction of any streets or public utility services in any subdivision for which a final plat has not been approved nor in which the standards contained herein or referred to herein have not been complied with in full.
- (e) The connection of water, sewer, electricity, gas and other utility services to a subdivision shall be in accordance with the provisions of section 28-44(7).
- (f) On behalf of the City, the City's Attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this chapter or the standards referred to herein with respect to any violation thereof which occurs within the City, within the extraterritorial jurisdiction of the City, as determined under the Municipal Annexation Act, or within any area subject to all or a part of the provisions of this chapter.
- (g) If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full,

the City Council shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and citing the fact that the provisions of subsections (a) through (e) of this section will apply to the subdivision and the lots therein, the City Secretary shall, when directed by the City Council, cause a certified copy of such resolution under the corporate seal of the City to be filed in the deed records of the County. If full compliance and final plat approval are secured after the filing of such resolution, the City Secretary shall forthwith file an instrument in the deed records of the County nullifying the previously recorded instrument.

- (h) The provisions of this section shall not be construed to prohibit the issuance of permits for any lots upon which a residential building exists and was in existence prior to passage of this chapter; nor to prohibit the repair, maintenance, or installation of any street or public utility services for, to or abutting any lot, the last recorded conveyance of which prior to passage of the ordinance from which this chapter is derived was by metes and bounds, and/or any subdivision or lot therein, recorded or unrecorded, which subdivision or lot was in existence prior to the passage of the ordinance from which this chapter is derived.
- (i) Dedication and maintenance of streets. Disapproval of a plat by the Planning and Zoning Commission shall be deemed a refusal by the City to accept the offered dedication shown thereon. Approval of a plat shall not be deemed an acceptance of the proposed dedications and shall not impose any duty upon the City concerning the maintenance of or improvements of any such dedicated parts until the proper authorities of the City have actually appropriated the same by entry, use or improvements. It shall be unlawful for any officer or employee of the City to maintain the streets in a subdivision, and the City will not accept or maintain said streets, unless and until such streets have been surfaced, the required utilities and drainage facilities have been installed and such improvements have been accepted in writing by the City and the City Engineer. Each street dedication shall specifically state in all capital letters ten font bold print (1) if the City is responsible for maintenance, repairs and utilities costs associated with lighting fixtures, and if the City will be responsible, (2) the annual estimated cost thereof. In the absence of such language, all cost and responsibility for lighting fixture maintenance, repairs and utilities costs shall be retained by the developer or its designee.

#### Sec. 28-9. - Variances by Council.

An applicant who requests a variance from the regulations of this Chapter must submit their request to the City Council for approval before filing the plat action with the Planning & Zoning Commission. The City Council may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the City Council shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the finding herein below required, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic

conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance shall be granted unless the City Council finds:

- (1) That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this chapter. Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship;
- (2) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area;
- (3) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of this land;
- (4) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- (5) That the application fee has been paid in accordance with the City fee schedule.

#### Sec. 28-10. - Authority of City Engineer.

The City Engineer is hereby authorized and directed to promulgate rules, regulations standards and specifications for the construction, installation, design, location and arrangement of streets, curbs, street lights, street signs, alleys, utility layouts, utility easements, gates for utility easements, sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, septic tanks, water wells, monuments, criteria for drainage easement requirements, drainage facilities, and crosswalk ways. He shall recommend to the City Council any changes to be made. No such rules, regulations, standards and specifications shall conflict with this chapter or any other ordinance of the City. All such improvements shall be constructed, installed, designed, located and arranged by the applicant in accordance with such rules, regulations, standards and specifications in Appendix A to this chapter.

#### Sec. 28-11. – Applicant's responsibility for costs.

The responsibility for all costs of the in-place improvements as required by this chapter shall be borne by the applicant.

#### Sec. 28-12—28-40. – Reserved

## II

### CODE AMENDMENT

Chapter 28 – SUBDIVISIONS, Article II. – PLAT PROCEDURES, of the City of Shavano Park Code of Ordinances is hereby amended to read as follows:

Sec. 28-41. - Preliminary conference.

Prior to the official filing of a any plat, the applicant shall consult with and present proposed plan of subdivision to the City staff for comments and advice on the procedures, specifications and standards required by the City for the subdivision of land. This preliminary conference begins the administrative completeness review by City staff and the City Engineer.

Sec. 28-42. - Preliminary plat and data.

- (a) *General.* The applicant shall cause to be prepared a preliminary plat by a licensed engineer or surveyor in accordance with this chapter. Under no circumstances may a preliminary plat be filed for final plat approval.
- (b) *Filing fee.* Each preliminary plat shall be accompanied by a filing fee as established by the City Council from time to time. In addition, a deposit to cover the costs of the City Engineer and any other professional consultant the City may contract to administratively review the plat may be required.
- (c) *Overall preliminary layout plat of larger tract of a master plan.* Where the proposed subdivision constitutes a unit of a larger tract owned by the applicant which he intends to subsequently subdivide as additional units of the same subdivision, the subdivision plat shall be accompanied by a layout of the entire area showing the tentative layout of streets, blocks and drainage for such area. The overall layout, or Master Plan, if approved by the City shall be attached to and filed with a copy of the approved subdivision plat in the permanent files of the City. Thereafter, fractional plats of subsequent units of such subdivision must be filed for preliminary plat approval, and shall conform to such approved overall layout on the plat. The applicant may request that the original approved Master Plan be amended and reapproved.
- (d) *Copies required.* The applicant shall submit the applicable number of black or blue line copies of the plat with the City staff.
- (e) *Preliminary fees.* Said preliminary plat shall be accompanied by all plat administration and filing fees, which are established from time to time by the City Council.
- (f) *Form and content.* The preliminary plat shall be drawn on sheets 24 inches wide and 36 inches long, with a binding margin of not less than 2½ inches on the left side of the sheet and margins on the other three sided of not less than three-eighths inches. The plat shall be drawn to scale of 100 feet to one inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:
  - (1) Names and addresses of the applicant, record owner, and engineer or surveyor.
  - (2) Describe the subdivision by metes and bounds.

- (3) Locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey or which it is a part.
  - (4) Proposed name of the subdivision, which shall not have the same spelling as, or be pronounced similar to, the name of any other subdivision located within the City or within five miles of the City.
  - (5) Names of contiguous subdivisions and or indication of whether or not contiguous properties are platted.
  - (6) Subdivision boundary lines, indicated by heavy lines, the dimensions of the subdivision, and the approximate acreage of the subdivision.
  - (7) Existing sites as follows:
    - a. The location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries.
    - b. The location, dimensions, description and name of all existing or recorded residential lots, parks, public areas, and other sites within or contiguous with the subdivision.
    - c. The location and dimensions of all existing improvements on the property to be platted, including buildings, utilities and parking areas.
  - (8) The location, dimensions, description and name of all proposed streets, alleys, parks, public areas, reservations, easements or other right-of-way, blocks, lots and other sites within the subdivision.
  - (9) Date of preparation, scale of plat and north arrow.
  - (10) Topographical information shall include contour lines on a basis of two vertical feet in terrain with an average slope of five percent.
  - (11) A number or letter to identify each lot or site and each block. Said number shall be coordinated by the developer with the County Clerk to prevent duplication.
  - (12) Front building setback lines on all lots and sites.
  - (13) Side yard building setback lines at street intersections and crosswalk ways.
  - (14) Location map at a scale of not more than 4,000 feet to an inch which shall show existing adjacent subdivisions and major streets.
- (g) *Accompanying data.*
- (1) Proposed master plan of all of developer's property when subdivision is a part of a larger tract which shall be prepared using the same scale as the preliminary plat showing:
    - a. Existing and proposed subdivisions, including streets, lots, parks and drainage easements and rights-of-way.
    - b. Location of City limits line, the outer border of the City's extraterritorial jurisdiction, and zoning boundaries, if they lie within the vicinity map.
    - c. The general drainage plan, flow line of existing watercourses, existing drainage structures, ultimate destination of water, and floodplain boundaries.
  - (2) A letter of authorization from the owner of the land area to be platted, acknowledging that the plat request is being filed with the City and authorizing said engineer and/or surveyor to act in his behalf.

- (3) A letter from the owner or engineer/surveyor acting in his behalf requesting any and all variances from this chapter which might be proposed.
  - (4) Construction plans and cost estimates for any and all off-site improvements proposed and/or required as a condition for approval of said plat as set out in section 28-44(2)a through e.
- (h) *Processing of preliminary plat.*
- (1) The City staff will review the preliminary plat for administrative completeness as to its conformity with the City of Shavano Park Code of Ordinances, state law and federal law as applicable. This step does not constitute the filing of a formal application for approval of the preliminary plat, nor does it necessitate the filing fee to be paid at this time.
  - (2) If the preliminary plat is found to be administratively complete, it can then be filed. A preliminary plat will require the approval of the Planning and Zoning Commission and acceptance by the City Council before the applicant can file the final plat.
  - (3) The Planning and Zoning Commission may disapprove, approve or conditionally approve with modifications the preliminary plat. The Planning & Zoning Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.
  - (4) If the Planning and Zoning Commission disapproves, approves, or conditionally approves with modifications the preliminary plat, and the applicant elects to continue, the preliminary plat will be considered for approval by the Planning and Zoning Commission.
  - (5) Any preliminary plat that is approved or conditionally approved shall be sent to the City Council for acceptance.
  - (6) After a conditional approval or disapproval by the Planning & Zoning Commission, the applicant may submit to the City a written response that satisfies each condition for the conditional approval or disapproval provided.
  - (7) After receipt of the applicant's response, the city will then have up to fifteen (15) days to approve or disapprove the Plat application.
  - (8) The Planning and Zoning Commission shall approve a previously conditionally approved or disapproved preliminary plat if the response adequately addresses each condition of the conditional approval or each reason for the disapproval.
  - (9) The Planning and Zoning Commission shall act on the preliminary plat within 30 days after the date the preliminary plat is filed with the City. A preliminary plat is considered approved unless it is disapproved within the 30-day period.
  - (10) Approval or conditional approval of a preliminary plat by the Planning and Zoning Commission shall be deemed an expression of approval of the layout shown on the preliminary plat in order to proceed with the design of streets, water, sewer and other required improvements and utilities and to the preparation of the final plat. Approval or conditional approval of a preliminary plat shall not constitute approval of the final plat, automatically or otherwise.

- (113) Approval or conditional approval of a preliminary plat shall be effective for one year unless reviewed by the City Engineer at the request of the City in light of new or significant information which would necessitate a revision of the preliminary plat. If the City Engineer should deem changes in a preliminary plat are necessary as defined above, the City Engineer shall so inform the City staff, who shall so inform the applicant, in writing.
- (124) If no development has occurred which would affect the proposed plat after one year of effective approval, the City Council may, upon the application of the applicant, extend the approval an additional six months.
- (13) Any plat that is disapproved after the City has reviewed the response in the form of an amended application may be refiled at any time as a new plat application.
- (14) Any preliminary plat which is approved or conditionally approved by the Planning and Zoning Commission shall be forwarded to the City Council for acceptance.

Sec. 28-43. - Standards for approval.

The Planning and Zoning Commission shall approve a preliminary plat if:

- (1) The preliminary plat conforms to the general plan of the City and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
- (2) The preliminary plat conforms to the general plan for the extension of the City and its roads, streets, and public highways within the City and its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
- (3) The preliminary plat conforms to the provisions of this chapter.

Sec. 28-44. - Final plat and accompanying data.

If the preliminary plat is approved or conditionally approved with modifications, and the applicant elects to continue, the applicant must submit the final plat and accompanying data (together with applicable required filing fees and deposits) as outlined in subsection (3) of this section.

(1) *Form and content of plat.*

- a. The final plat shall conform to the preliminary plat as conditionally approved by the City incorporating any and all changes, modifications, alterations, corrections and conditions recommended by the City Engineer.
- b. The final plat shall be on sheets 18 inches wide and 24 inches long and 2½ inches on the left side of the street, and margins of not less than three-eighths inches on the other three sides. The plat shall be drawn at a scale of 100 feet to one inch. Where more than one sheet is necessary to accommodate the entire computed area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.
- c. The final plat shall be submitted in ten copies, together with the original, and shall contain all of the features required for preliminary plats in section 28-42(f) and shall also include the following:

1. The exact location, dimensions, names and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, computed area, and central angle, tangent distance and length of all curves, where appropriate.
2. The exact location, dimensions, description and name of all proposed streets, alleys, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots, monuments, and other sites within the subdivision with accurate dimensions, bearing or deflecting angles and radii, area and central angles, tangent distance and length of all curves, where appropriate. All lot corners shall be marked with one-half inch diameter x two feet long iron pins.
3. Owner's Acknowledgement as follows:

STATE OF TEXAS	X
COUNTY OF BEXAR	X

The owner of the land shown on this plat, and whose name is subscribed hereto, and in person or through a duly authorized agent, dedicates to the City of Shavano Park, Texas, for the use of the public forever all streets, alleys, parks, watercourses, drains, easements, and the water and sewer lines in all of the aforesaid public places and all other public places thereon shown for the purpose and consideration therein express.

_____	
Owner	

STATE OF TEXAS	X
COUNTY OF BEXAR	X

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

_____	
Notary Public, State of Texas	

4. Certification of the Surveyor responsible for surveying the subdivision area, attesting to its accuracy:

STATE OF TEXAS	X
COUNTY OF BEXAR	X

I hereby certify that this plat is true and correct and was prepared from an actual survey of the property made under my supervision on the ground.

_____	
Registered Professional Surveyor	

(Surveyor's Seal)

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

_____	
Notary Public, State of Texas	

5. A certificate by the engineer responsible for the preparation of the final plat and supporting data, attesting to its accuracy:

STATE OF TEXAS	X
COUNTY OF BEXAR	X

I hereby certify that proper engineering consideration has been given this plat to the matters of streets, lots, and drainage layout.

_____	
Registered Professional Surveyor	

(Engineer's Seal)

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

_____	
Notary Public, State of Texas	

6. Certification by City Engineer:

The City Engineer of the City of Shavano Park hereby certifies that this subdivision plat conforms to all requirements of the subdivision regulations of the City as to which his approval is required.

_____	
City Engineer	

7. Approval of the Planning and Zoning Commission of the City  
 This plat of \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ has been submitted to and considered by the Planning and Zoning Commission of the City of Shavano Park, Texas, and is hereby approved by such Planning and Zoning Commission.  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, 19 \_\_\_\_\_.

By:	_____
	Chairman
By:	_____
	City Secretary

8. Acceptance by the City Council of the City  
 This plat of \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ has been submitted to and considered by the City Council of the City of Shavano Park, Texas, and is hereby accepted by such City Council.  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, 19 \_\_\_\_\_.

By:	_____
	Mayor
By:	_____
	City Secretary

STATE OF TEXAS	X
COUNTY OF BEXAR	X

I, \_\_\_\_\_, COUNTY CLERK OF SAID COUNTY, DO HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN MY OFFICE, OF THE \_\_\_\_\_ DAY OF \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, A.D. 19 \_\_\_\_\_ AT \_\_\_\_\_ .M. IN THE RECORDS OF \_\_\_\_\_ OF SAID COUNTY, IN BOOK VOLUME \_\_\_\_\_ ON PAGE \_\_\_\_\_.  
 IN TESTIMONY WHEREOF, WITNESS MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ A.D. 19 \_\_\_\_\_.

	County Clerk
	Bexar County, Texas
By:	_____

- (2) *Accompanying data.* All plans and calculations shall bear the seal of an engineer and, where applicable, all trenches in excess of five feet in depth at construction sites in the City and its extraterritorial jurisdiction must be construed and operated in accordance with OSHA standards. When filed, the final plat shall be accompanied by the following site improvement data:
- a. *Streets, alleys, sidewalks, crosswalk ways.* Three copies of plans and profiles of all streets, alleys and plans for sidewalks and crosswalk ways and three copies of construction specifications and of detailed cost estimates which shall include a 15 percent contingency. Plans are to be drawn at a scale of one inch equals 50 feet, longitudinal, and one inch equals five inches, vertical. Bench marks using USGS data are required.
  - b. *Sanitary sewers.*
    1. Three copies of plans and profiles of proposed sanitary sewer lines indicating type, sizes, depths, and grades of lines. Plan shall be to a scale of at least 100 feet to an inch with contours and scaled lot dimensions as on plat and shall show existing as well as proposed sewers.
    2. When a separate sewer system or treatment plant is proposed, three copies of proposed plans.
    3. Two copies of construction specifications and detailed cost estimates.
  - c. *Septic system.* When sewer service for the proposed plat is to be so provided by septic tanks, written approval by the appropriate public agency having installation permit and operation control jurisdiction. Such written approval shall state that approval for septic tank systems for each proposed property is granted and installation permits will be issued for same upon request after plat recordation.
  - d. *Recharge zone.* When a sewer or septic system is proposed within the recharge zone of the Edwards Aquifer within the City or its extraterritorial jurisdiction, written approval as required by the appropriate State agency having review and enforcement authority jurisdiction regarding the Texas Administrative Code, 31 TAC §§ 331.1—331.11 or the latest revision thereof regulating such systems.
  - e. *Water lines.*
    1. Three copies of plans of all proposed water lines and fire hydrants, showing type and sized of the lines. The plan shall be prepared at a scale of at least 100 feet to an inch and shall contain scaled lot dimensions as shown on the plat.
    2. When a separate water system is planned, three copies of the plans, including water lines and hydrants.
    3. Two copies of construction specifications and detailed cost estimates.
  - f. *Storm drainage.*
    1. Three copies of the storm drainage plan, prepared to scale of 100 feet to an inch and with the same contours and scaled lot sizes as shown on the

plat. All street widths and grades shall be indicated, and runoff figures shall be indicated on the outlet and inlet side of all drainage ditches and storm sewers and, at request of City Engineer, at all points in the street at changes of grade or where the water enters another street or storm sewer or drainage ditch. Drainage easements shall be indicated.

2. A general location map of the subdivision showing the entire watershed (U.S.G.S. Quadrangle is satisfactory).
  3. Calculations showing the anticipated stormwater flow, including watershed area, percent runoff, and time of concentration. When a drainage ditch or storm sewer is proposed calculations shall be submitted, showing basis for design.
  4. When a drainage channel or storm sewer is proposed, three copies of complete plans, profiles, and specifications shall be submitted, showing complete construction details.
  5. When conditions upstream or downstream form a proposed channel or storm sewer do not permit maximum design flow, high water marks based on 100-year frequency shall be indicated, based upon existing conditions.
- g. *Additional requirements.*
1. Tax certificates from the City, the School District and the County which indicate that all ad valorem taxes have been paid up to and including the current year on all land included within the final plat.
  2. Letters of certification by the proper authorized official of each public utility company or board involved to be inscribed on the respective utility layouts required herein certifying approval of the same by said utility company or board.
  3. A letter from the applicant authorizing the City to file the plat for record.
  4. A performance agreement in a format as described in this chapter and which is sufficient to guarantee the applicant will complete any and all required improvements within two years after approval of such plat.

(3) *Processing final plat.*

- a. As soon as practicable after the preliminary plat is approved or conditionally approved with modifications, the applicant shall submit to the City staff the proposed final plat of the subdivision or portion thereof for Administrative Completeness Review.
- b. If desired by the applicant and approved by the Planning and Zoning Commission, the final plat may constitute only that portion of the approved preliminary plan which he proposes to record and develop. However, such portion shall conform to all the requirements of this chapter.
- c. Except as hereinafter provided, no final plat will be considered unless a preliminary plat has been filed and approved or conditionally approved with modifications.
- d. A final plat of an approved or conditionally approved preliminary plat or a portion thereof shall be submitted to the City staff for an administrative

completeness review of the plat within 12 months of the date of approval or conditional approval with modifications of the preliminary plat; otherwise, the approval of the City shall become null and void, unless an extension of time is applied for and granted by the Planning and Zoning Commission.

- e. The City staff will review the final plat for administrative completeness as to its conformity with the City of Shavano Park Code of Ordinances, state law and federal law as applicable. This step does not constitute the filing of a formal application for approval of the final plat, nor does it necessitate the filing fee to be paid at this time.
- f. If the final plat is considered administrative complete, it can then be filed to the Planning and Zoning Commission. A final plat will require the approval of the Planning and Zoning Commission and the acceptance by the City Council before the applicant can record the plat.
- g. The Planning and Zoning Commission may disapprove, approve, or conditionally approve the final plat.
- h. If the Planning and Zoning Commission approves the final plat, and the applicant elects to continue, the final plat will be submitted for acceptance to the City Council.
- i. Any final plat that is approved shall be sent to the City Council for acceptance.
- j. After a disapproval by the Planning & Zoning Commission the applicant may submit to the City a written response that satisfies each condition for the conditional approval or disapproval provided.
- k. After receipt of the applicant's response, the City will then have up to fifteen (15) days to approve or disapprove the Plat application.
- l. The City shall approve a previously disapproved final plat if the response adequately addresses each reason for the disapproval.
- m. The Planning and Zoning Commission shall act on the final plat within 30 days after the date the final plat is has been filed. After approval or conditional approval of a final plat by the Planning and Zoning Commission the final plat shall be forwarded to the City Council for acceptance. A final plat is considered approved by the City unless it is disapproved within the 30-day period.
- n. If the final plat is disapproved, the City shall inform the applicant in writing of the reasons at the time such action is taken if the applicant requests the reasons in writing.
- o. After the final plat has been approved and applicant has performed as prescribed in Section 28-49 for the purpose of insuring construction of all site improvements required by this chapter (including water and sewer service facilities, but excluding gas and electric lines), the City Council shall cause the final plat to be recorded with the County Clerk. No plat shall be filed for record without written consent of the applicant. If the applicant fails to give such written consent, the City Council may cancel such approval.

- p. Payment of all platting fees as established by the City Council from time to time is required by the City before final plat approval.
- q. Any plat that is disapproved after the city has reviewed the response in the form of an amended application may be refiled at any time as a new plat application.

(4) *Certificates and record of approval.*

- a. If a final plat is approved, the Planning and Zoning Commission and the City Council giving the approval and acceptance of plat shall each endorse the final plat with a certificate indicating the approval. The first certificate must be signed by the Chairman of the Planning and Zoning Commission and attested by the City Secretary. The second certificate must be signed by the Mayor or Mayor Pro Tem and the City Secretary.
- b. If the Planning and Zoning Commission fails to act on a final plat within the prescribed period, the Planning and Zoning Commission shall issue a certificate stating the date the final plat was filed and that the Planning and Zoning Commission failed to act on the final plat within the period. This certificate is effective in place of the certificate required by subsection (4)a of this section.
- c. Both the Planning and Zoning Commission and the City Council shall maintain a record of each application made to each body and the action taken on it. On request of an owner of an affected tract, the Planning and Zoning Commission and the City Council shall each certify the reasons for the action taken on an application.

(5) *Standards for approval.* The Planning and Zoning Commission shall approve a final plat if:

- a. The final plat conforms to the general plan of the City and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
- b. The final plat conforms to the general plan for the extension of the City and its roads, streets, and public highways within the City and its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
- c. The final plat conforms to the provisions of this chapter.

(6) *Certification regarding compliance with plat requirements.*

- a. For the purposes of this subsection, land is considered to be within the jurisdiction of the City if the land is located within the City limits or in the extraterritorial jurisdiction of the City.
- b. On the approval of the final plat by the Planning and Zoning Commission, the City staff shall notify the person applying for the approval a certificate stating the final plat has been reviewed and approved by the Planning and Zoning Commission and accepted by the City Council.
- c. On the written request of an owner of land, an entity that provides utility service or the City Council shall make the following determinations regarding the owner's land or the land in which the entity or City Council is interested that is located within the jurisdiction of the City:

1. Whether a plat is required under this chapter for the land; and
  2. If a plat is required, whether it has been prepared and whether it has been reviewed and approved by the Planning and Zoning Commission and accepted by the City Council.
- d. The request made under subsection (6)c of this section must identify the land that is the subject of the request.
  - e. If the City Council determines under subsection (6)c of this section that a plat is not required, the City Council shall issue to the requesting party a written certification of that determination. If the City Council determines that a plat is required and that the plat has been prepared and has been reviewed and approved by the Planning and Zoning Commission and accepted the City Council, the City Council shall issue to the requesting party a written certification of that determination.
  - f. The City Council shall make its determination within 20 days after the date it receives the request under subsection (6)c of this section and shall issue the certificate, if appropriate, within ten days after the date the determination is made.

(7) *Connection of utilities.*

- a. Except as provided by subsection (7)c of this section, an entity described by subsection (7)b of this section may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under subsection (6) of this section.
- b. The prohibition established by subsection (7)a of this section applies only to:
  1. A municipality and officials of a municipality that provided water, sewer, electricity, gas, or other utility service;
  2. A municipally owned or municipally operated utility that provides any of those services;
  3. A public utility that provides any of those services;
  4. A water supply or sewer service corporation organized and operating under chapter 76, Acts of the 43rd Legislature, 1st called session, 1933 (Tex. Civil Statutes, art. 1434a), that provides any of those services;
  5. A county that provides any of those services; and
  6. A special district or authority created by or under State law that provides any of those services.
- c. An entity described by subsection (7)b of this section may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under subsection (6) of this section, if:
  1. The land is covered by a development plat approved under Tex. Local Government Code ch. 212, subch. B or under an ordinance or rule relating to the development plat;

2. The land was first served or connected with service by an entity described by subsection (7)b.1, 2 or 3 of this section before September 1, 1987;
3. The land was first served or connected with service by an entity described by subsection (7)b.4, 5 or 6 of this section before September 1, 1989;
4. The City Council issues a certificate stating that:
  - (i) The land, before September 1, 1995, was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract;
  - (ii) The land is located in a subdivision in which the entity has previously provided service;
  - (iii) The land is located outside the limits of the City;
  - (iv) The land is located in an "affected county" as that term is defined by Tex. Local Government Code § 232.021; and
  - (v) Construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997.
- d. An entity described by subsection (7)b of this section may provide utility service to land described by subsection (7)c.4 of this section only if the person requesting service:
  1. Is not the land's applicant or the applicant's agent; and
  2. Provides to the entity a certificate described by subsection (7)c.4 of this section.
- e. A person requesting service may obtain a certificate under subsection (7)c.4 of this section only if the person provides to the Planning and Zoning Commission and the City Council either:
  1. A copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 1995, and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997; or
  2. A notarized affidavit by the person requesting service that states that the property was sold or conveyed to that person before September 1, 1995, and that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997.
- f. On request, the Planning and Zoning Commission and the City Council shall provide to the Attorney General and any appropriate local, county, or State law enforcement official a copy of any document on which the Planning and Zoning Commission and the City Council relied in determining the legality of providing service.

- g. This subsection (7) may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against an applicant for a violation of a State or local law, regardless of the date on which the violation occurred.

Sec. 28-45. - Vacating a plat.

- (a) The force and effect of a recorded plat may be destroyed by properly executing and recording an instrument declaring such plat to be vacated. The instrument shall be substantially in the same form as the applicable Vacating Declaration, which is on file in the office of the City Secretary. The executed Vacating Declaration shall be filed with the Planning and Zoning Commission and the City Council together with seven copies of the plat to be vacated, and following approval by the Planning and Zoning Commission and acceptance by the City Council, filed in the deed records of the County.
- (b) If the Vacating Declaration is filed with the Planning and Zoning Commission and the City Council prior to the sale of any lot on the plat being vacated, a declaration in substantially the same form as the declaration Form A on file in the City Secretary's office must be signed and acknowledged by the proprietors of the land covered by the plat being vacated.
- (c) In cases where lots have been sold, the plat or any part thereof may be vacated upon the execution and recordation of a declaration in substantially the same form as the declaration Form B on file in the City Secretary's office. Such declaration requires the signature and acknowledgment of all of the owners of lots in the plat being vacated.
- (d) Upon filing the Vacating Declaration, a filing fee shall be paid in addition to the required recordation fee. Such fees shall be as established by the City Council from time to time.
- (e) The resubdivision of the land that is covered by a plat that is vacated shall be platted in the same as is prescribed by these regulations for an original plat.
  - (1) A copy of the applicable Vacating Declaration shall be filed with the resubdivision plat.
  - (2) In addition, the resubdivision plat shall be annotated as follows:

"The area being resubdivided in this plat had been previously platted on a plat which is recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Bexar County Plat and Deed Records, and was vacated through a Vacated Declaration being recorded on the same date as this resubdivision plat."
- (f) If the applicant so desires, the Vacating Declaration and the resubdivision plat may be filed and processes simultaneously.

Sec. 28-46. - Replating without vacating a previous plat.

- (a) *Conditions.* A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat under the following conditions:
  - (1) The replat must be signed and acknowledged by only the owners of the property being replatted.

- (2) The replat does not attempt to alter, amend or remove any covenants or restrictions.
  - (3) The replat must be approved by the Planning and Zoning Commission and accepted by the City Council.
- (b) *Additional conditions.* In addition to the provisions of subsection (a) of this section:
- (1) If during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to not more than two dwelling units per lot; or
  - (2) If any lot in the preceding plat was limited by deed restrictions to residential use for not more than two dwelling units per lot, the procedures outlined in subsection (c) of this section shall be followed before the approval of the Planning and Zoning Commission and the City Council can be given.
- (c) *Administrative Completeness Review.*
- (1) Prior to the official filing of a replat, the requesting person shall consult with and present proposed replat to the City staff for comments and advice on the procedures, specifications and standards required by the City for the subdivision of land. This preliminary conference begins the administrative completeness review by City staff and the City Engineer.
  - (2) The applicant shall provide to the City Manager written notice of intention to file with the Planning and Zoning Commission and the City Council a replat to which the conditions stated in subsection (b)(1) or (2) of this section apply. The requesting person shall provide to City staff the replat fee as established by the City Council from time to time; a map of the preceding plat annotated with a 500-foot radius around the area proposed to be replatted and indicating any areas which were previously vacated or replatted; and a list of the names and addresses of the owners of lots that are in the original subdivision and that are within 500 feet of the lot or lots to be replatted (as indicated on the most recently approved City ad valorem tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved County tax roll of the property upon which the replat is requested). The list shall be signed by the applicant, notarized, and dated. In lieu of providing the property owner names and addresses, the applicant may elect to have City staff prepare the list upon payment of the notification list fee established by the City Council from time to time.
- (d) *Procedures for Replat without variance or exception.* If the proposed replat does not require a variance or exception, the following procedures and specifications in addition to those contained elsewhere in this chapter shall apply:
- (1) If it is determined during the Administrative Completeness Review that the proposed replat does not require a variance or exception, the City Manager shall not later than the 15th day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 500 feet of the lot or lots to be replatted according to the most recent municipality or county tax roll.

- (2) If the replat is considered administratively complete, it can then be filed. A replat will require the approval of the Planning and Zoning Commission and acceptance of the City Council.
- (e) *Procedures for Replat requiring a variance or exception.* If it is determined during the Administrative Completeness Review that the proposed replat requires a variance or exception, the following procedures and specifications in addition to those contained elsewhere in this chapter shall apply:
- (1) The City Manager shall provide notice of the public hearing prior to the 15th day before the date of the scheduled hearing by publication in an official paper or a paper of general circulation in the County.
  - (2) Additionally, the City Manager shall provide written notice, with a copy of Tex. Local Government Code § 212.015, as amended, attached, to the owners of lots on the preceding plat and that are within 500 feet of the lot or lots which are intended to be replatted. The written notice shall be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or a postal depository within the City limits, prior to the 15th day before the scheduled date of the public hearing.
  - (3) If the proposed replat requires a variance and written protests, signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 500 feet from that area, but within the original subdivision, are filed with the Planning and Zoning Commission and the City Council prior to or at the public hearing referred to in the notice, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the Planning and Zoning Commission. In computing the percentage of land area within 500 feet of the property to be replatted, the area of streets and alleys shall be included.
  - (4) If the replat is considered administratively complete, it can then be filed. A replat will require the approval of the Planning and Zoning Commission and acceptance by the City Council.
  - (5) In approving a replat which was protested in accordance with subsection (c)(3) of this section, the Planning and Zoning Commission and the City Council may require that the name of the replat be the same as the original subdivision. In such instances, the replatted area shall continue to be considered as part of the original subdivision for future notification purposes.
- (f) *Certificates and record of approval.*
- (1) The replat will be annotated with a certificate, substantially in the same form as the applicable certificate; Form "C," "D," or "E," available from the city.
  - (2) In addition, the replat shall be annotated generally as follows:

"The area being replatted had been previously platted on a plat which is recorded in Volume \_\_\_\_\_ , Page \_\_\_\_\_ , Bexar County Plat and Deed Records."
- (g) *Exception.* Compliance with subsection (e)(3) of this section is not required for approval of a replat of part of a preceding plat if the area to be replatted was

designated or reserved for other than single-family residential use by notation on the last legally recorded plat or in the legally recorded deed restrictions applicable to such plat.

Sec. 28-47. - Amending a plat.

(a) Administrative amended plat. Subject to the following requirements, an administrative amended plat may be issued without the approval of the Planning and Zoning Commission and the City Council.

(1) An administrative amended plat shall meet all of the informational and procedural requirements set forth for a final plat, including the required number of copies of the plat, a completed application form, and the required application fee.

(2) Upon receipt of a favorable recommendation for approval from the City Engineer, the City Manager may approve an amending plat which may be recorded and is controlling over the preceding or final plat without vacation of that plat if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this subsection.

a. The procedures for administrative amended plats shall apply only if the sole purpose of the amending plat is to:

1. Correct an error in a course or distance shown on the preceding plat;
2. Add a course or distance that was omitted on the preceding plat;
3. Correct an error in a real property description shown on the preceding plat;
4. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
5. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
6. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats; or
7. Correct an error in courses and distances of lot lines between two adjacent lots if:
  - (i) Both lot owners join in the application for amending the plat;
  - (ii) Neither lot is abolished;
  - (iii) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
  - (iv) The amendment does not have a material adverse effect on the property rights of the owners in the plat.

b. An applicant wishing to amend an approved plat shall file with the City Manager the administrative amended plat, together with a copy of the plat being amended and a statement detailing the amendments being proposed for their consideration and approval under this subsection.

- (3) The City Manager may approve administrative amended plats. The City Manager may, for any reason, elect to present the administrative amended plat to the Planning and Zoning Commission and the City Council for consideration and approval. Any decision made on the administrative amended plat by the City Manager shall be approval of the plat. Should the City Manager refuse to approve the administrative amended plat, then the plat shall be referred to the Planning and Zoning Commission and the City Council for review and approval within the time period required by state law.
  - (4) Upon the City Manager approving a Plat as provided for herein the City Manager shall, no later than 60 days after the approval, provide the Planning and Zoning Commission written notice of the approval.
  - (5) An amended plat shall be approved, conditionally approved, or disapproved within thirty (30) days after the filing has been determined to be administratively complete by the City Manager. If the amended plat is disapproved or approved with conditions, the applicant may submit responses to the reason for disapproval or conditional approval. Once responses are submitted by the applicant, the City shall have fifteen (15) days to approve, disapprove, or conditionally approve the amended plat. If the amended plat is disapproved, the applicant may refile.
- (b) Other amended plats. Subject to the following requirements, the Planning and Zoning Commission and the City Council may approve and issue an amending plat which may be recorded and is controlling over the preceding or final plat without vacation of that plat if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this subsection.
- (1) The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:
    - a. Amend a plat described in subsection (a)(2)a.;
    - b. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
    - c. Relocate one or more lot lines between one or more adjacent lots if:
      1. The owners of all those lots join in the application for amending the plat;
      2. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
      3. The amendment does not increase the number of lots;
    - d. Make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
      1. The changes do not affect applicable zoning and other regulations of the City;
      2. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and

3. The area covered by the changes is located in an area that the Planning and Zoning Commission and the City Council has approved, after a public hearing, as a residential improvement area; or
- e. Replat one or more lots fronting on an existing street if:
1. The owners of all those lots join in the application for amending the plat;
  2. The amendment does not attempt to remove recorded covenants or restrictions;
  3. The amendment does not increase the number of lots; and
  4. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (2) An applicant wishing to amend an approved plat shall file with the Planning and Zoning Commission and the City Council the amending plat, together with a copy of the plat being amended and a statement detailing the amendments being proposed for their consideration and approval under this subsection.
- (c) Notice, a public hearing, and the approval of other lot owners is not required for the approval and issuance of an amending plat.
- (d) Except as provided above, no changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after approval has been given by the Planning and Zoning Commission and accepted by the City Council unless such changes, modifications, or revisions are first filed to and approved by the Planning and Zoning Commission and accepted by the City Council.
- (e) The amended plat shall be entitled and clearly state that it is an "amended plat," and it shall include a detailed "purpose for amended plat" statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the City and filed at the county. It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.
- (f) The amending plat shall be filed in the county in the same manner as prescribed for a final plat, and approval of an amending plat shall expire if all filing materials are not submitted to the City within 30 days of approval.
- (g) Filing fees.
- (1) A filing fee as established by the City Council from time to time shall be paid to the City at the time the administrative amended plat is filed with the City Manager.
  - (2) A filing fee as established by the City Council from time to time shall be paid to the City at the time the amending plat is filed with the Planning and Zoning Commission, reduced by any fee paid under paragraphs (g)(1) or subsection 28-48(d).
  - (3) A filing fee established by the City Council from time to time shall also be paid to the City at the time an amending plat of any kind is filed with the City Council.
  - (4) If the plat being amended has been recorded, the additional recordation fee shall also be deposited with the City.

Sec. 28-48. - Minor plats.

- (a) Minor plats. Subject to the following requirements, a minor plat may be issued without the approval of the Planning and Zoning Commission and the City Council.
- (1) A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, including the required number of copies of the plat, a completed application form, and the required application fee.
  - (2) A minor plat is a subdivision or development plat resulting in four or fewer lots in a commercial Planned Unit Development District or Mixed-Use District and provided that the plat does not create any new street nor necessitate the extension of any municipal facilities, except sidewalks, as determined by the City Engineer to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be adequately served by all required city utilities, and all lots will have frontage on a public roadway.
  - (3) An applicant wishing to amend an approved plat shall file with the City Manager the minor plat, together with a copy of the plat being amended and a statement detailing the amendments being proposed for their consideration and approval under this subsection. A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by all items required by the City Manager, including the required number of copies of the plat, and a completed application form.
  - (4) Upon receipt of a favorable recommendation for approval by the City Engineer, the City Manager may approve, or approve with conditions a minor plat, or may for any reason elect to present the minor plat to the Planning and Zoning Commission and the City Council for consideration. Should the City Manager refuse to approve the minor plat, then the plat shall be referred to the Planning and Zoning Commission and City Council for review and approval within the time period required by state law.
  - (5) A minor plat shall be approved, conditionally approved, or disapproved within thirty (30) days after the filing has been determined to be administratively complete by the City Manager. If the minor plat is disapproved or approved with conditions, the applicant may submit responses to the reason for disapproval or conditional approval. Once responses are submitted by the applicant, the City shall have fifteen (15) days to approve, disapprove, or conditionally approve the minor plat. If the minor plat is disapproved, the applicant may refile.
- (b) The minor plat shall be entitled and clearly state that it is a "minor plat."
- (c) The minor plat shall be filed at the county in the same manner as prescribed for a final plat, and approval of a minor plat shall expire if all filing materials are not submitted to the city within 30 days of approval.
- (d) A filing fee as established by the City Council from time to time shall be paid to the City at the time the minor plat is filed with the City Manager.

Sec. 28-49. - Performance agreement.

- (a) *Instrument.* When site improvements (other than gas and electric lines) are involved in a plat, an instrument to ensure construction of all site improvements required by

these regulations shall be executed by the applicant and filed with the City together with the plat. Such instrument shall be in substantially the same form as the instrument set out in Appendix C.

- (b) *Time extension.* No extension to the time limitations set out in such instrument shall be granted by the City Council unless and until the applicant shall have justified such request for extension in writing. The request for time extension must be submitted to the City at least 30 days prior to the time limit set out in the performance agreement. If the City finds that development constraints (excluding pecuniary hardship) justify such a request, a time extension may be granted by the City.
  - (1) *Sidewalk improvements.* A time extension up to a maximum of three years for completion of sidewalks may be granted by the commission if a sidewalk plan indicating the uncompleted sidewalks and a time schedule for sidewalk completion is submitted. The sidewalk plan will be submitted for review and approval with the request.
  - (2) *All other site improvements.* A maximum one year time extension for completion of site improvements other than sidewalks may be granted by the City if the applicant shows as evidence of good faith performance that the required site improvements are at least 75 percent completed at the time of request.
- (c) *Guarantee.* A guarantee, in an amount sufficient to cover the cost of the remaining site improvements, shall be required if necessary in order for such extension to be granted. Such guarantee must be filed within 30 days of the granting of the extension or the extension shall become null and void. Should the granting of such extension require the filing of any instruments, the fees for recording such instruments shall be paid by the applicant to the City.

Sec. 28-50. - Guarantee of performance.

- (a) An approved plat may be filed for record before the required site improvements are completed if one of the following guarantees of performance is filed with the City within three years after the plat has been approved by the City:
  - (1) *Performance bond.*
    - a. A performance bond will be executed by a surety company licensed to do business in the State in an amount equal to the cost estimate, as approved by the City Engineer, of all uncompleted and unaccepted improvements required by these regulations (other than gas and electric lines), with the condition that the applicant shall complete such improvements and have them accepted by the City Engineer within three years from the date of plat approval. The performance bond properly executed shall be substantially on the same form as performance bond set out in Appendix C to the ordinance from which this chapter is derived and on file in the City Secretary's office.
    - b. The City Manager is authorized to sign the bond instrument on behalf of the City and the City Attorney shall approve the same as to form.
  - (2) *Trust agreement.* The applicant shall cause to be placed in a trust account on deposit in a bank or trust company or with a qualified escrow agent selected by the applicant and approved by the City Engineer a sum of money equal to the

cost estimate, as approved by the City Engineer, of all uncompleted and unaccepted site improvements (other than gas and electric lines) required by these regulations. The trust account shall be established by agreement which shall be substantially in the same form as the trust agreement set out below. The City Engineer is authorized to sign the agreement on behalf of the City and the City Attorney shall approve same as to form.

- (3) *Cash or cashier's check.* The applicant shall provide to the City cash or a cashier's check in an amount equal to the cost estimate, as approved by the City Engineer, of all uncompleted and unacceptable site improvements (other than gas and electric lines) required by these regulations. Upon completion of the required site improvements and their acceptance by the City Engineer, the amount will be refunded to the applicant by the City.
- (b) When an applicant has given security in any of the forms herein provided, and when 50 percent of the required site improvements have been completed and have been accepted by the City Engineer, or whenever any segment or segments of the required site improvements have been completed and have been accepted by the City Engineer, the applicant may substitute for the original guarantee a new guarantee in an amount equal to the cost of the remaining site improvements. The cost estimate shall be approved by the City Engineer. Such new guarantee need not be in the same form as the original guarantee so long as such guarantee is one that is listed in subsection (a) of this section. However, in no event shall the substitution of one security for another in any way change or modify the terms and conditions of the performance agreement or the obligation of the subdivision as specified in the performance bond.
  - (c) Supplementary guarantees may be required as follows:
    - (1) One year from the date of plat recordation and annually thereafter until the expiration of the three year period from the date of plat approval, the City Engineer shall review the estimated cost of completing such site improvements as are not then completed and determine the adequacy of the existing performance guarantee. Should the City Engineer determine that the sum set out in the performance guarantee is inadequate to provide for the completion of the uncompleted site improvements at the then prevailing construction costs, he shall require a substitute guarantee to cover the newly estimated cost or a supplemental guarantee to cover the additional sum needed for completion.
    - (2) If an applicant submits an original performance guarantee after a period of two years has elapsed from the date on which a plat was approved by the City, the actual cost estimate of completing the uncompleted site improvements shall be increased by an amount, based upon a locally recognized construction cost index as approved by the City Engineer, required to cover an estimated inflationary increase in the cost during the duration of the period covered by the performance guarantee.

Sec. 28-51. - Liability of applicant.

- (a) An applicant shall be held liable to the City for the completion of all site improvements required by these regulations until such time as the improvements shall have been actually completed and accepted by the City.
- (b) If the construction of site improvements has been guaranteed by a form of security described in section 28-49(a), and such improvements have not been completed and accepted by the City within the time period prescribed by these regulations, the City, after written notification has been given to the applicant, shall take such action as may be required to cause payment to be made to the City of the amounts of money secured by a guarantee of performance. Such amounts of money shall be used by the City to finance the completion of the required improvements.
- (c) In the event that the amounts of money referred to above are insufficient to finance the completion of the required improvements, the City shall so notify the applicant in writing and shall require the applicant either to complete the improvements without delay or to make available to the City the amount of money required to finance their completion. Should the applicant fail to do either of the above and such failure is not due to strikes, riots, acts of God, acts of public enemy, injunction or other court action, or any other cause similar to those enumerated beyond the applicant's control, the City shall refer the matter to the City's Attorney for such action as the City's Attorney may deem appropriate to compel the applicant to comply with the provisions of the performance agreement entered into by the applicant as a condition precedent to the approval of the plat by the City, or to pursue any other remedy which may be available to the City. Further, until such time as the required site improvements have been completed and accepted by the City, the City shall refuse to accept from such applicant a performance guarantee under any form which is related to the plat of a subdivision, subsequently filed with the City, in which such applicant has a principal or subsidiary interest. Such a plat, once it has been approved by the City, may be recorded only in the manner prescribed in this chapter.
- (d) The provisions of this section shall not apply if an applicant is prevented from completing and having accepted such required site improvements within the prescribed time by reason of strikes, riots, acts of God, acts of the public enemy, injunction or other cause similar to those enumerated beyond the applicant's reasonable control. The applicant shall be entitled to an extension of time equal to the time of such delay which shall be fixed by written certification made by the City. It is expressly declared that no such allowance of time will be made unless claimed by the applicant and allowed and certified in writing by the City at the end period of such delay.

Secs. 28-52—28-75. - Reserved.

### III

#### CODE AMENDMENT

Chapter 28 – SUBDIVISIONS, Article III. – SUBDIVISION DESIGN STANDARDS, of the City of Shavano Park Code of Ordinances is hereby amended to read as follows:

Sec. 28-76. - Provisions for future subdivision.

If a tract is subdivided larger than minimal lot size, such parcels shall be arranged to allow the opening of future streets and logical further subdivision.

Sec. 28-77. - Reserve strips prohibited.

There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use. It shall be the responsibility of the applicant/developer/owner of land being platted or replatted that there are no reserve strips controlling access to land dedicated or intended to be dedicated to public use.

Sec. 28-78. - Site improvements.

Streets, alleys, sidewalks and other site improvements required under the provisions of this chapter to be installed in subdivisions by the applicant shall conform to the specifications of this chapter and to the then current policies and regulations of the City, or other approved utility districts or agencies involved with reference to payment for such installations, refunds, credits and other financial arrangements. Requirements for sidewalk and curbs are waived if individual lot size exceeds seven-tenths acre or greater.

Sec. 28-79. - Neighborhood delivery and collection box units.

- (a) The applicant shall coordinate with the U.S. Postal Service for the location and placement of neighborhood delivery and collection box units by the postal service.
- (b) The location of the neighborhood delivery and collection box units shall be shown on the utility layout and approved by the City.

Sec. 28-80. - Blocks.

The length, width and shape of lots shall be such as to:

- (1) Provide adequate building sites suitable to the special needs of the type of use contemplated.
- (2) Accommodate lots of the size and dimensions required by the City's zoning ordinance.
- (3) Provide for convenient access, circulation, control and safety of street traffic.
- (4) Give due regard to the limitations and opportunities of topography and drainage.

Sec. 28-81. - Residential lots.

(a) *General layout.* The size, width, depth, shape and orientation of lots shall be appropriate for the neighborhood in which the subdivisions is located, and for the type of development and use contemplated. The area of the lots shall be in accordance with the City's zoning ordinance.

(b) *Lot dimensions.*

(1) Lots shall be rectangular in-so-far as practicable. The minimum area of a single-family residential lot served by a private sewer system shall be not less than seven-tenths of an acre in size. The minimum area of a single-family residential lot served by a public sewer system shall not be less than the area specified in the City's zoning ordinance.

(2) The placing of residential lots facing directly upon a major street shall be avoided, unless lots face upon a marginal access street parallel to such major street. Lots should side or back to major streets and other depreciating land uses.

(3) The placing of lots at right angles to each other (with rear and side lots adjacent) shall be avoided.

(4) Side lot lines shall be as nearly perpendicular as practicable to the street the lot faces, or radial to a curved street or cul-de-sac.

(5) Radial residential lots shall be at least 150 feet wide at the building lines.

(6) The shortest distance between the intersection of the front building or setback line with the side building lines shall be not less than 80 feet.

(7) The minimum distance from the front to rear property lines shall be not less than 200 feet measured normal to a line intersecting the two front corners.

(8) The included angle of the side property lines to the front property line at their intersection with the front property line shall be not more than 120 degrees nor less than 60 degrees.

(9) The shortest distance between the intersections of the front property line with the side property lines shall be not less than 60 feet.

(10) The minimum building line set backs for properties in the extraterritorial jurisdiction shall be measured parallel to their respective property lines shall be as specified in this subsection:

a. Front building line shall be set back 80 feet minimum except for cul-de-sac lots.

b. Front building line for cul-de-sac lots shall be set back 50 feet minimum.

c. Side building lines shall be set back 30 feet minimum.

d. Rear building lines shall be set back 30 feet minimum. (c) *Building lines.* Minimum front, side and rear building setback lines shall be shown on all plats and shall not be less than required by the Chapter 36. – ZONING, City's zoning ordinance for properties in the city limits.

(d) *Access.*

(1) Every lot shall have adequate access to a public street by direct frontage on such street of no less than 150 feet.

(2) No road or other access to such property shall be closer than 150 feet of the back property line of developed land.

- (e) *Orientation.* Residential lots shall be oriented to take advantage of topography, and the best relationship to the overall design of the neighborhood and to minimize the effects of the surrounding depreciating land uses.
- (1) Where a residential lot backs up to a railroad right-of-way, high pressure gas lines, or any other land use which may have a depreciating effect on a residential property, and where no marginal access street or other street is provided at the rear of such lot, additional depth shall be required, not to exceed a total of 150 feet. Where a lot sides to any of the above, appropriate additional width shall be required. A planting screen or access buffer easement shall be provided along the line of lots abutting such traffic artery or other disadvantageous land use in accordance with the City's zoning ordinance.
  - (2) Depth and width of properties laid out for other than residential purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

Sec. 28-82. - Land suitability.

- (a) Every lot shall contain a suitable building site.
- (b) The City may disapprove a plat if the City finds the land to be unsuitable for development due to natural/environmental conditions which may pose a danger to health, safety, or property. Natural/environmental conditions which may render land unsuitable for development include, but are not limited to, flooding, steep slopes, unstable soils, or the presence of a sanitary landfill site. In disapproving a plat, the City shall incorporate its findings, together with the specific facts upon which the findings are based, into the official minutes of the meeting at which the plat is considered.

Sec. 28-83. - Drainage facilities.

Drainage facilities shall be provided and constructed as specified in Appendix A to this chapter.

#### **IV**

#### **CUMULATIVE CLAUSE**

That this ordinance shall be cumulative of all provisions of the City of Shavano Park, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

#### **V**

#### **SEVERABILITY**

That it is hereby declared to be the intention of the City Council of the City of Shavano Park that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance

should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, clause, sentence, paragraph or section.

**VI**

**PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

**VII**

**EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as required by State and Local law.

**PASSED AND APPROVED** on the first reading by the City Council of the City of Shavano Park this the 23rd day of September, 2019.

\_\_\_\_\_  
**ROBERT WERNER, MAYOR**

Attest: \_\_\_\_\_  
**ZINA TEDFORD, CITY SECRETARY**

## PLANNING AND ZONING STAFF SUMMARY

Meeting Date: October 2, 2019

Agenda item: 16

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

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### **AGENDA ITEM DESCRIPTION:**

16. Discussion – Possible amendments to Chapter 24 – Signs regarding banner signs and allowed signage in residential and business zoning districts - City Manager

X

**Attachments for Reference:**

1) 16a Sign Ordinance Amendments

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**BACKGROUND / HISTORY:** In 2016, the City made major revisions to the City’s sign code and created a sign policy for City property in light of 2015 Supreme Court *Reed v. Town of Gilbert* decision. In 2017, the City made further amendments to both the sign code and sign policy with regard to political signs.

Staff proposes new amendments to further legally strengthen the City’s sign code as advised by City’s Attorney. In addition, these amendments propose slightly more lenient signage in commercial zoning districts after feedback from business community since 2016 implementation of the revised sign code.

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**DISCUSSION:** All proposed amendments are presented in red under attachment 16a. A brief list of proposed changes:

#### *General*

- Numerous grammatical and syntax edits from former Chairman Janssen
- Sec. 24-1 – added definition for *Banner Sign*

#### *Commercial Districts*

- Sec. 24-5(1) – added 3 allowable signs totaling 120 ft<sup>2</sup> during construction
- Sec. 24-5(2) – deleted confusing phrase regarding 30 days from Certificate of Occupancy(C of O)
- Sec. 24-5(4) – Removed content based regulation of signs during building for sale/lease, increased allowable sign area from 40 to 60 ft<sup>2</sup>, added clause for lot facing 2 streets
- Sec. 24-5(5)(b) – Increased allowable sign areas by 20 ft<sup>2</sup> for multi-tenant buildings with interior access to individual businesses.
- Sec. 24-5(8) – Added new category of allowable directional & safety signs

#### *Residential Districts*

- Sec. 24-6(3) – Removed the “in encouragement” of student achievement language

- Sec. 24-(7) – Removed banner signs allowable for residential properties (limits allowable to HOAs and the City), removed time-of-year requirements, and added a size and height limitations to banner signs.

*Monument Signs*

- Sec. 24-10 – deleted monument sign section and moved language to Commercial and Residential zoning districts as appropriate.
- Complete re-write of Business Zoning District monument sign regulations to improve clarity and readability. All regulations in new proposed language match current regulations except 1:
  - Current code does not state a monument sign size limitation for signs fronting 1604. Staff propose a limitation of 60 feet consistent with other allowed signage in business districts.
  - Breakdown of the re-written monument sign regulations is as follows:
    - 1 sign per property, 2 allowed signs if property faces two streets
    - 1604 Frontage: 25 feet height, 60 square feet sign size limit
    - 1604 Frontage (and below elevation): 48 feet height limit (same sign size)
    - NW Military: 12 feet height limit, 55 square feet sign size limit
    - Everywhere Else: 10 feet height limit, 50 square feet sign size limit

Staff request to receive guidance from the Commission on proposed amendments before scheduling a Public Hearing for the November Planning & Zoning meeting.

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**COURSES OF ACTION:** Provide guidance to staff.

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**FINANCIAL IMPACT:** N/A

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**MOTION REQUESTED:** Not an action item.

## ARTICLE I. - IN GENERAL

### Sec. 24-1. - Purpose.

These regulations set forth by the City of Shavano Park, pursuant to its authority to regulate structures under Tex. Local Government Code ch. 211 and any authority it may have under Tex. Local Government Code ch. 216, combine the need to protect the public safety and welfare, the need to encourage pedestrian movement, the need for a well maintained and attractive community, and the need to adequately convey ideas, provide communication and identify features within the community. The provisions do not ensure or provide for every property or business owner's desired level of visibility for signs. The sign standards are intended to allow signs to have adequate visibility from streets and rights-of-way that abut a site, but not for visibility from streets and rights-of-way farther away. The regulations for signs and awnings have the following specific objectives:

- (1) To ensure that signs and awnings are designed, constructed, installed and maintained according to standards to safeguard life, health, property and public welfare and to eliminate excessive and/or confusing sign displays that create potential hazards to motorists, pedestrians and to property;
- (2) To allow and promote positive conditions for sign communication while at the same time restrict signs which create continuous visual clutter and hazards at public right-of-way intersections;
- (3) To reflect and support the desired character and development patterns of the various zoning districts in order to plan and promote an attractive environment;
- (4) To allow for adequate and effective signs in business and office districts, while preventing signs from dominating the appearance of the area, thereby encouraging a positive business atmosphere;
- (5) To establish a sign application and sign permit review process that effectively regulates issues pertaining to the location, placement and physical characteristics of signs in an effort to ensure compatibility with adjoining land uses, architecture and landscape; and
- (6) To provide for consistent, fair, and content neutral application and enforcement of regulations pertaining to signs and to ensure that the constitutionally guaranteed right of free speech is protected.

### Sec. 24-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Advertising bench* means any bench providing seating to the general public without charge, which may bear advertising.

*Animated or moving sign* means any sign, or part of a sign, which changes physical position or appearance by any movement or rotation or which gives the visual impression of such movement or rotation.

*Awning, canopy or marquee sign* means a sign that is mounted, painted on, or attached to, an awning, canopy, or marquee that is otherwise permitted by this chapter.

*Banner sign* means a sign made of fabric or any non-rigid material with no enclosing framework. Banner signs are specifically prohibited except as permitted in Sec. 24-7.

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*Back-to-back sign* means a structure containing two parallel signs whose faces are oriented in opposite directions and are spaced no more than ten feet apart.

*Bandit signs* shall mean any sign erected without the written permission of the land owner which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, utility poles, street signs, street furniture, stakes or fences or other objects, and any temporary sign which is attached to another sign. No sign owned or placed by the City, the State, or a public utility shall be considered a bandit sign. A bandit sign is considered trash and may be discarded in accordance with ~~section~~ Sec. 24-132.

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*Billboard* means any outdoor sign, display, device, figure, painting, drawing, message, placed, poster, structure or thing that is designed, intended, or used to advertise or inform.

*Billboard operator* means any person who installs, erects, services, maintains, alters, repairs or demolishes billboards.

*Bill posters* means advertising poster or handbill.

*Chief of Police* means the City's duly appointed Chief of Police.

*City* means the City of Shavano Park, Texas.

*City Code Compliance Officer* means one or more individuals duly appointed by the City to enforce City Code violations.

*Early voting period* means that period as prescribed by Tex. Elections Code § 85.001, as amended.

*Electric sign* means:

- (1) Any sign on which letters, figures, designs, or messages are formed or outlined by electric illumination, or by a transparent or translucent medium which is electrically illuminated, whether the illuminating device is contained within or on the sign, including digital signs illuminated by LCD, LED, plasma displays, projected images or any other illumination format;
- (2) Any outside building outlining;
- (3) Any interim decorative displays; and
- (4) Any gas tube window outlining.

Any portable sign that has electrical components attached, connected to, or part of the sign, or support, whether electrified or not, shall be considered an electric sign and all provisions of this chapter pertaining to electric signs shall apply to such signs.

*Embellishments* means any feature such as a cutout, neon, or plastic letters, clock, electric device, or space extension, which is added to an outdoor advertising structure. All embellishments shall be included when measuring the sign area.

*Fireproof structure* means a sign constructed entirely of steel members including structural support for the sign face. The sign face and its support members shall be constructed of metal panels, and all electric signs on commercial property shall have a fireproof structure.

*Flashing sign* means any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever.

*Loop 1604 frontage* means and shall include all Loop 1604 frontage and access roads.

*Monument sign* means any sign that is a ground-mounted structure of masonry, rock, brick, stone or stucco. Monument signs shall ~~be made of at least have a minimum of 90 percent masonry materials such as rock, brick, stone or stucco.~~ Concrete and cinder blocks may be used structurally if faced with rock, brick or stucco in accordance with the International Building Code.

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~~*Municipal property* means property zoned as Municipal and Utility District and any other properties owned by the City. Except for signs authorized in advance by the City Council, no signs of any kind shall be posted on municipal property.~~

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*Neighborhood* means a distinct segment of the community, usually consisting of essentially similar housing stock, whose boundaries are defined by physical barriers such as major arterial streets and/or natural features such as creeks and rivers.

*On-premise sign* means a freestanding sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

*On-site sign* means a monument or pole/pylon sign that is located along the street frontage.

~~*Park or municipal property* means property classified as Park Area District, Municipal and Utility District and any other properties owned by the City. Except for signs permitted under subsection 24-4(3) and signs authorized in advance by the City Council, no signs of any kind may shall be posted in a on park or municipal property.~~

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*Pole sign* means any sign:

- (1) Supported by poles, uprights, or braces which are not concealed in an enclosed base but are permanently placed on or in the ground and wholly independent of any building for support, either single- or double-faced; or
- (2) Whose only structural support consists of exposed poles, posts, beams, or other devices mounted in the ground.

*Political sign* means any sign which is designated to influence the action of voters for the passage or defeat of a measure or candidate appearing on the ballot in connection with any national, state or local election.

*Portable sign* means any sign that is readily capable of being moved or removed, whether attached or affixed to the ground or any structure that is typically intended for temporary display. Portable signs include, but are not limited to:

- (1) Signs designed and constructed with a chassis or support with or without wheels;
- (2) Menu and "sandwich" board signs;
- (3) "A" and "T" frame signs;
- (4) Posters, flags or banners affixed to windows, fences, railings, overhangs, trees, hedges, or other structures or vegetation, except for pole-mounted community event banners;
- (5) Signs mounted upon vehicles parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in the normal day-to-day operation of the business, and except for signs advertising for sale the vehicle upon which the sign is mounted;
- (6) Searchlights; and
- (7) Inflatables.

For the purposes of this definition, no sign owned or placed by the City, the State, or a public utility shall be considered a portable sign.

*Private property* means all property other than public property, as defined herein.

*Prohibited neon* means any use of neon lighting other than for lettering or logos. For the purposes of this chapter, all uses of neon lighting shall be considered a sign.

*Public property* means property owned by, or dedicated to the City, or owned by, or dedicated to other governmental entities. Signs located on public property shall be governed by a separate City policy.

*Pylon sign* means any freestanding sign with visible support structures or with a support structure with a pole cover or pylon cover.

*Safety signs* mean signs owned, placed, or required by any governmental entity.

*Setback* means the area from property lines back to buildings. Signs posted within building setbacks should not be an obstruction to traffic vision.

*Sign* means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform.

*Sign area* means the entire advertising area of a sign excluding the framing, trim, molding and supporting structure. Sign area shall be measured from the highest, lowest and widest points in a rectangular or square format.

*Sign face* means that portion of the sign dedicated to the message, logo, name, etc. and the sign face may be of a different material than the monument it is on. If mounted

or located on a building structure, the sign face and its framing, trim molding and/or supporting structure shall not protrude above the premises and shall not be of such a character as to violate any other provisions of this chapter. Other than a monument sign, no sign face shall be deeper than two feet.

*Site* means a parcel of land developed for commercial use. A site may be a single platted lot, or may be a group of lots with a common or shared frontage.

*Voting period* means the period beginning with the early voting period and ending when the polls close or the last voter has voted, whichever is later. The voting period corresponds only with elections administered by Bexar County.

*Wall sign* shall mean any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign parallel to the surface of the wall of the building.

#### Sec. 24-3. - Prohibited signs.

Except as otherwise provided for in this chapter, it shall be unlawful to erect, display, maintain, or cause to be erected, displayed or maintained, on private property located in the City, any advertising bench, animated or moving sign, awning, canopy or marquee sign, back-to-back sign, bandit sign, billboard, bill poster, electric sign, embellishment, ~~flashing sign, monument sign, on-premise sign, prohibited neon, blinking,~~ rotating, animated, moving, flashing or intermittently illuminated sign, pole sign, portable sign, pylon sign, any sign protruding above the building roof line or parapet line, painted or Day-Glo colored sign, banner sign, valance or display constructed of cloth, canvas, light fabric, paper, pliable vinyl, plastic or other light material, wall sign, any sign placed in exchange for a monetary or bartered benefit, any sign, displaying any matter in which the dominant theme of the material taken as a whole appeals to the prurient interest in sex, or is patently offensive because it affronts contemporary community standards relating the description or representation of sexual matters, and is utterly without redeeming social value. Such action is hereby declared to be a public nuisance. Any sign not specifically listed as being allowed in this chapter is expressly prohibited.

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#### Sec. 24-4. - Grandfather provisions.

This chapter is not intended to require the relocation, reconstruction, or removal of a sign which is already in place at the time of the adoption of the ordinance from which this chapter is derived and which was erected in compliance with local ordinances, laws and regulations applicable at the time of its erection, to the extent that Tex. Local Government Code ch. 216 preempts the application of this chapter to those signs or to any signs otherwise approved pursuant to Ordinance [No.] 100-03-99, as amended from time to time, or by City Council approval, provided that all such signs are constructed in accordance with such approval. Nor shall this chapter apply to on-premise signs in the extraterritorial jurisdiction of the City, which are located in a county, which is exempt from regulation under Tex. Local Government Code ch. 216.

Sec. 24-5. - Non-nuisance signs in business and office districts.

The following signs are not deemed to be a public nuisance and may only be erected within the City limits in accordance with the following terms and conditions:

(1) Upon final construction permit approval, three signs may be erected temporarily on the approved plat or development, provided however, that such signs shall not exceed a total of 120 square feet in sign area and that no one sign exceeds 60 square feet in sign area, including its framing, trim and molding, and the signs shall be placed so as not to interfere with the occupancy or use of any neighboring lots. Such signs shall only be displayed during the time of active and ongoing building construction and shall be removed upon the issuance of the certificate of occupancy for the development.

**Commented [CL1]:** Allows "Coming Soon" / "Built By" / "Future home of" type signs during construction

(2) Beginning at the time of the issuance of the certificate of occupancy, a single sign may be erected temporarily on each approved plat or development, provided, however, that such sign shall not exceed 60 square feet in sign area, including its framing, trim and molding, and shall be placed so as not to interfere with the occupancy or use of the business or office development. All such signs shall only be displayed for a maximum of one continuous 90-day period beginning ~~no earlier than 30 days from the date of the issuance of the certificate of occupancy.~~

**Commented [CL2]:** Allows a post construction sign, but probably before business is fully opened sign, such as "coming soon" or "grand opening"

(3) Monument Signs. Monument signs shall be permitted subject to the following specifications:

a. In General. In business and office districts each property fronting a public or private street shall be allowed one monument sign. Properties fronting two public or private streets shall be allowed one monument sign on each street, for a total of 2 monument signs. Monument signs may have a "sign face" inserted into the structure provided the insert shall not exceed 75 percent of the average height and/or 90 percent of the average width of the structure. The sign face insert may be backlit or externally lit.

b. Monument signs fronting Loop 1604 frontage. Monument signs fronting Loop 1604 frontage shall not exceed 25 feet in height from the top of the sign to the ground. The sign face or insert of a monument sign shall not exceed 60 square feet of sign area per side.

For properties where the site elevation is below the adjacent driving lanes of Loop 1604, monument signs shall not exceed 25 feet in height as measured from the top of the sign to the adjacent elevation of the Loop 1604 driving lanes. nor shall such monument signs exceed 48 feet in height as measured from the top of the sign to the ground.

c. Monument signs fronting NW Military Highway. Monument signs front NW Military Highway shall not exceed 12 feet in height as measured from the top of the sign to the ground. The sign face or insert of a monument sign shall not exceed 55 feet of sign area per side.

d. Monument signs fronting any other road. Monument signs fronting any road other than Loop 1604 frontage or NW Military Highway shall not exceed 10 feet in height as measured from the top of the sign to the ground. The sign face or insert of a monument sign shall not exceed 50 square feet of sign area per side.

No monument sign shall be placed in such a manner that the total distance from the top of the sign to the ground exceeds the following specifications:

- a. ~~Signs fronting on any road other than Loop 1604 frontage roads and any part of Loop 1604 within 150 feet of any other City street shall not exceed ten feet from the top of the sign to the ground for lots with street frontage greater than 250 feet, and shall not exceed six feet in height for lots with a street frontage less than or equal to 250 feet.~~
- b. ~~Signs fronting on Loop 1604 frontage roads more than 150 feet from N.W. Military Drive shall have a minimum spacing of 150 feet and shall not exceed 25 feet from the top of the sign to the ground, except as expressly provided in section 24-11.~~
- c. ~~Signs fronting on Loop 1604 frontage roads that are more than 150 feet but less than 500 feet from N.W. Military Drive where the site elevation is below the adjacent driving lanes of Loop 1604 frontage roads, shall not exceed 25 feet in height as measured from the top of the sign to the adjacent elevation of the Loop 1604 driving lanes, nor shall it exceed 48 feet in height as measured from the top of the sign to the ground.~~

(43) During the period that a property is for sale, rent or lease a single on-premise sign of not more than 6040 square feet pertaining to the sale, rental, or lease of property zoned O-1, B-1, B-2, or MXD is permitted, provided such sign is located entirely within the property to which the sign appears, is not illuminated, and is removed within ten days after the sale, rental or lease has been consummated. Commercial lots fronting on two streets shall be allowed one sign of not more than 60 square feet facing each street.

(54) Multi-tenant buildings.

- a. Each multi-tenant building that has exterior access to each individual business may attach one wall sign, and one awning sign for each window and/or exterior door, as set forth in this subsection. This sign shall be compatible with the character of the premises upon which it is placed. Each sign shall require a permit, which may be obtained separately or within a building permit. Such signs shall not exceed an aggregate of 50 square feet of sign area per wall per business on up to two walls. ~~Signage for rear delivery identification shall not exceed five square feet per business.~~
- b. Each multi-tenant building that has interior access to individual businesses or office suites shall be permitted either:
  - 1. One wall sign not to exceed 120 square feet in sign area; or

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2. Up to three wall signs may be placed on one side of a building, and said signs shall not ~~collectively~~ exceed ~~140+20~~ square feet in sign area with no one sign exceeding 120 square feet in sign area; or
3. For a building over 30,000 square feet in area, up to five wall signs may be placed ~~on one side of a building on the building, and~~ said signs shall not ~~to~~ collectively exceed ~~220200~~ square feet in sign area ~~and no one sign may exceed 120 square feet in sign area~~ with no one sign exceeding 120 square feet in sign area.

~~(c.)~~ 24-8. All lit signs directed toward residential areas shall comply with ~~section Sec.~~

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~~(65)~~ Single-tenant buildings. Each single-tenant building ~~in the~~ may have one wall sign, and one awning sign for each window and/or exterior door, subject to the limitations of this section. Such signs shall not exceed an aggregate of 50 square feet of sign area per wall on up to three walls.

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~~(76)~~ Convenience stores. Each convenience store, as defined by ~~section Sec. 36-1~~ of the City of Shavano Park Code of Ordinances, may erect one monument sign with electric display that conforms with ~~section Sec. 24-10 24-5(3)~~. Convenience stores fronting on two streets shall be allowed one monument sign with electric display facing each street. The electric sign shall not be neon, blinking, rotating, animated, moving, flashing or intermittently illuminated.

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~~(8)~~ Safety & Directional Signs. Signs which point or direct a person or vehicle to a specific place or along a specific course in order to ensure the safe and orderly passage of vehicles and persons around the premises of a building, such as "entrance", "exit", "handicap access", "employee access only" or "patient drop off" are allowable provided they are less than six square feet in sign area and are limited to one sign per building entrance.

~~(97)~~ Permits.

- a. No non-nuisance signs in business or office districts shall be erected within the City unless a building permit for such sign has first been issued by the City's building official. The permit application shall be accompanied by engineered drawings and a site plan showing the proposed sign location.
- b. An electrical permit shall be required for any sign requiring the use of electricity in the operation of such sign.
- c. Before any permit is granted and before any work is begun, the person making such application for such sign permit shall pay to the City a fee in the amount as specified in the schedule of fees, as approved by the City Council.
- d. If the building official or his designee finds that the proposed sign conforms in all respects to this chapter he shall issue the permit; otherwise he shall deny it.

- e. Any permit that does not comply with the provisions of the chapter or which is issued in violation of any provision hereof, shall be void and no right or privilege whatsoever shall accrue thereunder.
- f. The ~~city manager~~ City Manager shall have the building official immediately inspect all permitted signs upon completion to determine compliance with the permit.
- g. No person may reconstruct, move, alter, modify or relocate any sign without first obtaining a sign permit from the City. However, merely changing the price of advertised goods or services is not deemed to be altering the sign, and shall not require an additional permit.

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Sec. 24-6. - Non-nuisance signs in residential zoning districts.

In A-1, A-2, A-3, A-4, A-5 PUD, MXD and CE zoning districts the following signs are hereby not deemed to be a public nuisance:

- (1) Upon final plat approval, a single sign may be erected temporarily on each approved plat or development, provided, however, that such sign shall not exceed 60 square feet in sign area, including its framing, trim and molding, and shall be placed so as not to interfere with the occupancy or use of any lots in the subdivision. All such signs shall be removed upon completion of the sale of 95 percent of the lots in the subdivision.
- (2) Each residential property may erect one sign on the property that conforms to the following requirements:
  - a. The sign cannot be displayed in such a manner that it can be visibly viewed from the public right-of-way for more than 60 days per calendar year;
  - b. The gross sign area shall not exceed six square feet in sign area including framing, trim and molding;
  - c. The sign shall not be higher than six feet above grade;
  - d. The sign shall not be placed on public property including a public easement or right-of-way; and
  - e. The sign cannot be an illuminated or backlit.
- (3) ~~In encouragement of the practice of recognizing achievements and student activities,~~ Each residential property may erect two signs that conform to the following requirements:
  - a. The signs cannot exceed four square feet in sign area, including framing, trim and molding;
  - b. Signs shall be placed within ten feet of the front facing of the primary residence;
  - c. Signs shall not be higher than four feet above grade;

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d. The sign cannot be an illuminated or backlit.

(4) During the period the residential property is listed for sale or lease, a sign may be erected on the property, subject to the restrictions noted in section Sec. 24-6(2)(b)–(e). Residential lots fronting on two streets shall be allowed one sign facing each street.

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(5) Signs during voting periods. During voting periods as defined in Sec. 24-2, each residential property may erect signs in addition to those described in section Sec. 24-6(2) and section Sec. 24-6(3), during voting periods, as defined in section 24-2, subject to the following restrictions:

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- a. No sign may shall be erected more than 60 days prior to the start of the voting period;
- b. All signs must shall be removed by 11:59 p.m. the day following the voting period;
- c. The total sign area of all voting period signs must shall be no more than 36 square feet, and no one sign shall be larger than 24 square feet;
- d. No voting period sign may shall be higher than six feet above grade; and
- e. The signs cannot shall not be illuminated or backlit.

Signs erected in violation of these regulations are considered a nuisance and may be removed by the City Manager or his/her designee.

(5) Neighborhood monument signs. Neighborhood monument signs may be erected on property owned by a property owner's association and shall be a maximum of ten feet in height and shall not exceed an average of six feet in width above the base, regardless of location.

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(6) Each residential property shall prominently display its address as to be easily legible from the adjacent street. Addresses and monuments displaying the address shall not constitute a sign in terms of limiting or eliminating the rights to a sign as allowed in other sections of this chapter.

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Sec. 24-7. - Banner signs.

Banner signs in residential zoning districts are allowed subject to the following requirements:

- (1) Banner signs may be erected by a property owners' associations as defined by the Texas Residential Property Owners Protection Act, but only on property owned by a property owner's association:-
- (2) Each property owner's association may erect one banner sign at each entrance for a period not to exceed 7 days per calendar year:-
- ~~(3) Each residential property owner may erect one banner sign.~~

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~~(4) No banner sign may be erected more than seven days prior to the first Tuesday in October.~~

~~(5) Banner signs must be removed by 11:59 p.m. the day following the first Tuesday in October.~~

~~(36)~~ Banner signs on public property shall be governed by a separate City policy, and-

~~(4) The total sign area of a banner sign shall be no larger than 24 square feet and shall not be located higher than four feet above grade.~~

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Sec. 24-8. - Exterior lighting and hours for business and building wall signs.

Exterior lighting of the building and building wall signs shall not exceed the maximum height of the building or wall sign. Lighting for signs fronting on any street other than streets adjacent to or abutting commercial property shall be turned off not later than 11:00 p.m. or one-half hour after the business is no longer open to the public, if later.

Sec. 24-9. - Displayed address of commercial property.

Each commercial establishment shall prominently display its address as to be easily legible from the adjacent street. Addresses and monuments displaying the address shall not constitute a sign in terms of limiting or eliminating the rights to a sign as allowed in other sections of this chapter.

~~Sec. 24-10. - Monument signs.~~

~~A monument sign may have a "sign face" inserted into the structure provided the insert shall not exceed 75 percent of the average height and/or 90 percent of the average width of the structure.~~

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~~(1) Each monument sign located along Loop 1604 frontage shall not exceed an average of 25 feet in width at the base and not exceed an average of 20 feet in width above the base. The base shall not be less than 75 percent of the average width of the sign. The base of the monument sign can include signage for commercial center identification. No canister within the Loop 1604 frontage monument sign shall exceed 150 square feet in area. The sign face insert may be backlit or externally lit.~~

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~~(2) Monument signs are allowed on the east and west side of N.W. Military Highway within 500 feet of the south right-of-way limits of Loop 1604. Only one monument sign will be allowed on each side of N.W. Military Highway. Monument signs located on N.W. Military Highway shall not exceed an average of 15 feet in width at the base and not exceed an average of ten feet in width above the base. Monument signs on N.W. Military Highway do not require that a base be constructed. If a base is constructed on the monument sign, the base can include signage for commercial center identification. The height of a monument sign on N.W. Military Highway shall not exceed 12 feet. No canister within the N.W.~~

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~~Military Highway monument shall exceed 55 square feet. The sign face insert may be backlit or externally lit.~~

~~(3) Each nonresidential lot fronting on a public or private street shall be allowed one multi-tenant on-premise monument sign, in addition to the wall signs referred to in section 24-4(4). Each nonresidential lot fronting on two public or private streets shall be allowed one monument sign on each street.~~

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~~(4) The sign face or insert of a monument sign shall not exceed 50 square feet of sign area per side, except on (a) Loop 1604 frontage and (b) N.W. Military Highway frontage within 500 feet of the south right-of-way limits of Loop 1604.~~

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~~(5) Neighborhood monument signs shall be a maximum of ten feet in height and not exceed an average of six feet in width above the base, regardless of location.~~

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Sec. 24-140. - City council sign approval.

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(a) On Loop 1604 frontage only, ~~and~~ more than 150 feet from N.W. Military Drive Highway, the City Council may, at its sole discretion, approve pole/pylon signs within the following parameters: one sign per site with a maximum height of 48 feet from the top of the sign to the site grade, but not to exceed 25 feet above the adjacent driving lane of Loop 1604. This sign may not exceed 150 square feet per side (two sides maximum) and may be allowed in place of, or in addition to, any signs allowed by other provisions of this chapter. On a corner lot that qualifies for two monument signs the total sign face allowance may be adjusted up to 70/30 for the major artery. (i.e. A total of 100 square feet of sign face may be allocated 70 square feet on Lockhill Selma Road and 30 square feet on DeZavala Road.) Such reallocation shall be at the sole discretion of the City Council.

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(b) The City Council reserves the right to establish policies governing signage on City property.

Sec. 24-121. - Authority to issue citation.

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The City Code Compliance Officer (or such other individual or classification of individuals as may be appointed by the City Council) may issue a citation requiring the removal, relocation, or reconstruction of any sign which does not meet the spacing, height, size and setback requirements of this chapter and other City ordinances for which the erection or construction was began on or after the effective date of the ordinance from which this chapter is derived. All safety signs shall be approved by the City Code Compliance Officer.

Sec. 24-132. - Removal of prohibited signs.

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Bandit signs may be removed and discarded without notice notwithstanding any conflicting regulation or requirement within this section.

Sec. 24-143. - Variances.

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- (a) *Purpose.* Any person, business, or other organization desiring to construct, continue to construct, reconstruct, place, install, relocate, alter, or use any sign which does not conform to the provisions of this chapter may make application to the Board of Adjustment for a variance to the provisions of this chapter.
- (b) *Application.* Application for a variance from the provisions of this chapter shall be made upon a form provided by the City Code Compliance Officer. The variance application shall include the application for a sign permit and shall also state the applicant's reasons for requesting the variance in accordance with the criteria set forth in this chapter.
- (c) *Fees.*
  - (1) The applicant shall pay the fee as prescribed in the most recent adopted fee schedule passed and approved by the City Council. The fee shall be nonrefundable. If work requiring a variance is begun/completed before obtaining approval for such variance, the owner of the property and/or the person/entity responsible for the commencement of such work shall request approval of an "after-the-fact" variance and pay triple the established, nonrefundable fee. Payment of such fee does not relieve the applicant from liability under the penalty provisions of this chapter.
  - (2) Acceptance of the increased fee by the City does not constitute any commitment or warranty to approve the variance requested, nor does it relieve any person/entity from fully complying with the requirements of this chapter. A stop work order shall be in effect until a decision on approval/denial is taken. Fees shall not be refunded if the request for variance is disapproved.
- (d) *Hearing.* Upon receipt of a variance application, the City Secretary shall set a date for hearing before the Board of Adjustment within 45 days of receipt of an administratively complete variance request.
- (e) *Standards for variances.* The Board of Adjustment may approve a variance only if it makes affirmative findings, reflected in the minutes of the Board of Adjustment's proceedings, as to all of the following:
  - (1) The variance will not authorize a type of sign which is specifically prohibited by the chapter;
  - (2) The variance is not contrary to the goals and objectives outlined by the City;
  - (3) The variance is not contrary to the public interest;
  - (4) Due to special conditions applying to the land, buildings, topography, vegetation, sign structures, or other unique matters on adjacent lots or within the adjacent right-of-way, a literal enforcement of this chapter would result in unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement. Financial or economic hardship alone will not satisfy this requirement;

- (5) The spirit and purpose of this chapter will be observed and substantial justice done; and
- (6) The applicant has not sought a variance from the City Council within the past 12 months.
- (f) *Conditions of variances.* The Board of Adjustment may impose such conditions or requirements in a variance as are necessary in the Board of Adjustment's judgment to achieve the fundamental purposes of this chapter. A violation of such conditions or requirements shall constitute a violation of this chapter. A variance, if granted, shall be for a specific event, use, or other applications of a business and shall not continue with the property. If a variance is granted and the sign so authorized is not substantially under construction within three months of the date of approval of the variance, the variance shall lapse and become of no force or effect.

Sec. 24-154. - Violations to be reported as nuisances.

Signs posted or placed in violation hereof are hereby declared to be public nuisances and such violations shall be reported promptly to the Chief of Police or City Code Compliance Officer.

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Sec. 24-165. - Provisions cumulative.

This chapter shall be cumulative of all provisions of ordinances of the City of Shavano Park, Texas, except where the provisions of this chapter are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this chapter to the extent that they are in conflict herewith are repealed.

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Secs. 24-176—24-50. - Reserved.

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