CITY OF SHAVANO PARK PLANNING & ZONING COMMISSION MEETING CITY HALL, COUNCIL CHAMBERS 900 SADDLETREE COURT, SHAVANO PARK, TEXAS 78231 November 6, 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(1) of the Code or the severance of one or more of such items for an individual vote on such item or items.
- 3. The Planning and Zoning Commission welcomes "Citizens to be Heard." If you wish to speak, you must follow these guidelines. As a courtesy to your fellow citizens and out of respect to our fellow citizens, we request that if you wish to speak that you follow these guidelines.
 - Pursuant to Resolution No. R-2019-011 citizens are given three minutes (3:00) to speak during "Citizens to be Heard."
 - Members of the public may only speak once and cannot pass the individual's time allotment to someone else
 - Direct your comments to the entire Commission, not to an individual member
 - Show the Commission members the same respect and courtesy that you expect to be shown to you

The Chairman will rule any disruptive behavior, including shouting or derogatory statements or comments, out of order. Continuation of this type of behavior could result in a request by the Mayor that the individual leave the meeting, and if refused, an order of removal. In compliance with the Texas Open Meetings Act, no member of the Commission may deliberate on citizen comments for items not on the agenda. (Attorney General Opinion – JC 0169)

- 4. Consent Agenda:
 - A. Approval Planning & Zoning Commission minutes, October 2, 2019
- 5. Public Hearing The purpose of the public hearing is to receive comments from members of the public regarding the proposed rezoning of three properties at the corner of Lockhill-Selma and Huebner Roads legally described as Lots 1813A, 1813B and 1814 of County Block 5938, Shavano Park Subdivision Unit-16A-1 from B-2 Business and Office District (Lots 1813A and 1813B) and A-2 Single Family Residential District (Lot 1814) to a single Planned Unit Development (PUD) zoning district with B-2 Business and Office base district with the following exceptions:
 - Minimum Parking Requirement
 - Allowed number of, size, electrical display and sign face size of monument signs
 - Allowed size of wall signs
 - Rear / Side Setback Requirements

- Rear / Front Landscape Buffer Requirements
- 6. Discussion / action proposed rezoning of three properties at the corner of Lockhill-Selma and Huebner Roads legally described as Lots 1813A, 1813B and 1814 of County Block 5938, Shavano Park Subdivision Unit-16A-1 from B-2 Business and Office District (Lots 1813A and 1813B) and A-2 Single Family Residential District (Lot 1814) to a single Planned Unit Development (PUD) zoning district with B-2 Business and Office base district City Manager.
- 7. Public Hearing The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances, including changes to Chapters 36 Zoning and 6 Buildings and Building Regulations, to ensure building material regulations for residential and commercial building construction are in compliance with House Bill 2439 from the 86th Texas Legislature.
- 8. Discussion / action Possible amendments to the City of Shavano Park Code of Ordinances, Chapters 36 Zoning and 6 Buildings and Building Regulations, to ensure building material regulations for residential and commercial building construction are in compliance with House Bill 2439 of the 86th Texas Legislature City Manager.
- 9. Public Hearing The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances, Chapter 36 Zoning, expanding who can appeal administrative decisions on projects or applications to the Zoning Board of Adjustment in compliance with House Bill 2497 of the 86th Texas Legislature.
- 10. Discussion / action Possible amendments to the City of Shavano Park Code of Ordinances, Chapter 36 Zoning, expanding who can appeal administrative decisions on projects or applications to the Zoning Board of Adjustment in compliance with House Bill 2497 of the 86th Texas Legislature City Manager.
- 11. Public Hearing The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances, Chapter 24 Signs, regarding banner signs, monument signs and allowed signage in residential and business zoning districts.
- 12. Discussion / action Possible amendments to the City of Shavano Park Code of Ordinances, Chapter 24 Signs, regarding banner signs, monument signs and allowed signage in residential and business zoning districts. Possible Executive Session pursuant to Texas Government Code, § 551.071, Consultation with Attorney City Manager.
- 13. Discussion Review of City Policy #15 Public Information Act update in accordance with new Texas Senate Bill 944 City Manager / City Attorney
- 14. Report / update City Council items considered at previous City Council meetings and discussion concerning the same City Manager

15. 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. December, 2019 Possible action item for possible amendments to Chapter 24 Signs regarding banner signs and allowed signage in residential and business zoning districts.
- ii. December, 2019 Amendments to Chapter 36 regarding MXD & PUD site plan approval to comply with the 30-day shot clocks from Texas Legislature.
- iii. February, 2020 Semiannual presentation by Denton Communities regarding residential and commercial development in Shavano Park and surrounding areas and discussion concerning the same.

16. **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 31st day of October at 3:50 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Zina Tedford City Secretary

1. Call to order

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

PRESENT: **ABSENT:**

Konrad Kuykendall

Albert Aleman

Carla Laws

Jason Linahan

William Stipek

Bill Simmons

Kerry Dike

Shawn Fitzpatrick

Damon Perrin

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(1) 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 Laws and a second made by Commissioner Linahan, 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.

Citizens to be heard

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

4. **Consent Agenda:**

Approval – Planning & Zoning Commission minutes, September 4, 2019 Upon a motion made by Commissioner Simmons 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 September 4, 2019 minutes as presented. The motion carried.

Nomination and appointment of Chairman

Upon a motion made by Commissioner Dike and a second made by Commissioner Stipek, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to appoint Albert (Buddy) Aleman as Chairman. The motion carried.

6. Nomination and appointment of Vice-chairman

Upon a motion made by Commissioner Simmons and a second made by Commissioner Stipek, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to appoint Carla Laws as Vice-Chairman. The motion carried.

7. Discussion – Welcome new members and thanks to departing members and information on open meeting and open records training - Chairman

Chairman Aleman welcomed all new members and thanked the departing members for their contributions service to the Planning & Zoning Commission.

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

Upon a motion made by Commissioner Laws and a second made by Commissioner Linahan, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to approve the 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. The motion carried.

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

Public hearing opened at 6:39 p.m.

City Manager Hill presented an overview of 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.

Public hearing closed at 6:45 p.m.

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

Upon a motion made by Commissioner Perrin and a second made by Commissioner Simmons, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to approve 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. The motion carried.

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

Public hearing opened at 6:48 p.m.

Public hearing closed at 6:50 p.m.

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

Upon a motion made by Commissioner Laws and a second made by Commissioner Linahan, the Planning & Zoning Commission voted eight (8) for and none (0) opposed to approve 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 The motion carried.

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

Public hearing opened at 6:51 p.m.

City Manager Hill presented an overview of the 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.

Public hearing closed at 6:58 p.m.

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

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 approve 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 with changes discussed. The motion carried.

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

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City Manager Hill discussed the proposed amendments to – Proposed amendments to Chapter 28 – Subdivisions regarding changes in plat procedures as outlined in HB 3167 approved during the 86th Legislative Session.

16. Discussion – Possible amendments to Chapter 24 – Signs regarding banner signs and allowed signage in residential and business zoning districts - City Manager

City Manager provide a brief overview of the upcoming discussion regarding possible amendments to Chapter 24 – Signs regarding banner signs and allowed signage in residential and business zoning districts.

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

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

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**

Upon a motion made by Commissioner Dike and a second made by Commissioner Linahan, the Planning & Zoning Commission voted (8) for and none (0) opposed to adjourn the meeting. The meeting adjourned at 7:52 p.m.

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	ALBERT ALEMAN
	Chairman
ZINA TEDFORD	
City Secretary	

PLANNING & ZONING STAFF SUMMARY

Meeting Date: November 6, 2019 Agenda item: 5 / 6

Prepared by: Curtis Leeth Reviewed by: Bill Hill

AGENDA ITEM DESCRIPTION:

5. Public Hearing - The purpose of the public hearing is to receive comments from members of the public regarding the proposed rezoning of three properties at the corner of Lockhill-Selma and Huebner Roads legally described as Lots 1813A, 1813B and 1814 of County Block 5938, Shavano Park Subdivision Unit-16A-1 from B-2 Business and Office District (Lots 1813A and 1813B) and A-2 Single Family Residential District (Lot 1814) to a single Planned Unit Development (PUD) zoning district with B-2 Business and Office base district with the following exceptions:

- Minimum Parking Requirement
- Allowed number of, size, electrical display and sign face size of monument signs
- Allowed size of wall signs
- Rear / Side Setback Requirements
- Rear / Front Landscape Buffer Requirements
- **6. Discussion / action** proposed rezoning of three properties at the corner of Lockhill-Selma and Huebner Roads legally described as Lots 1813A, 1813B and 1814 of County Block 5938, Shavano Park Subdivision Unit-16A-1 from B-2 Business and Office District (Lots 1813A and 1813B) and A-2 Single Family Residential District (Lot 1814) to a single Planned Unit Development (PUD) zoning district with B-2 Business and Office base district City Manager.



Attachments for Reference:

- a) 6a Compiled PUD Exceptions by Lot
- b) 6b Advanced Smile PUD Request
- c) 6c Advanced Smile Site Plan
- d) 6d Fischer Neighborhood Market PUD Request
- e) 6e Fischer Neighborhood Market Site Plan
- f) 6f Luv-n-Care PUD Request
- g) 6g Luv-n-Care Site Plan

BACKGROUND / HISTORY:

This proposed rezoning will rezone three properties to a B-2 PUD. All three have been built and have been operating within Shavano Park and all three have non-conforming uses that exist.

Luv-N-Care was built in 2000 and the property was recently annexed into the City of Shavano Park. As a newly annexed property, the Shavano Park Code of Ordinance automatically zone all annexed property by default to A-2 Residential. The property should undergoing a rezoning action to be consist with its use.

Advance Smile was built and the property was annexed into the City of Shavano Park in 2014. In 2015, the property was rezoned to B-2. At the time, the City considered rezoning the property into a PUD to account for non-conforming uses, but did not due to the concerns related to all three properties.

The property of Fischer's Neighborhood Market was originally annexed in 2014 and the structures were built in 2016. In 2015, the property was rezoned to B-2. At the time, the City considered rezoning the property into a PUD to account for non-conforming uses, but did not due to the concerns related to all three properties.

The construction of office or commercial buildings on all three properties would have significant challenges in meeting the City's setback and landscaping requirements.

DISCUSSION: On July 17, 2019 the City received a rezoning request to B-2 PUD from Fischer Neighborhood Market (Lot 1813B). On October 15, 2019 the City received a rezoning request to B-2 PUD from Luv-n-Care (Lot 1814). On October 18, 2019 the City received a rezoning request to B-2 PUD from Advanced Smile Care (Lot 1813A). The City has been working with all three property owners to rezone this property all at once since we received the original request from Fischer's.

All requests for exceptions to the B-2 Zoning District are currently existing with either no apparent issues or no available remedies except two.

- 1) **Fischer's Monument Signs**. Nooner's original sign permit and request was for 75 square feet of sign facing. This would allow for property sized signage for gas sales and to allow additional signage for the tenant. This permit request was denied as the exception had not been approved in a zoning action. The existing monument sign was built to comply with the City's monument regulations (sign face is 50 square feet), with the idea that they would secure approval in the future to build the remaining signage. The monument base was built with an extension so that in the future the owner could expand the sign facing to allow additional signage for the tenant (current tenant is Tri-County Meat Market). This PUD request letter asks for City Approval to expand this sign face up to 100 sq ft. Their actual requirement for approval is only 75 sq ft and therefore staff has drafted the exceptions for approval at 75 sq ft instead of 100 sq ft. See attached photo in the PUD request.
- 2) **Luv-N-Care**. Requests approval for the use of digital signage on their existing monument signs. They cite the challenges associated with communicating messages regarding current and planned activities. They cite the positive feedback and example that the City of Shavano Park is using at the City Hall monument.

Fischer's Wall Signs. Staff also notes that the Fischer's PUD request is asking for approval of a wall sign up to 125 sq ft. The total signage area of the existing signs is approximately 85 sq ft, but the City's ordinance requires the sign area to be measured using the longest and widest points of the sign. This equates to 17.57' x 7' = 124.25. Also, the 50 sq ft limitation applys to multitenant buildings with more than one entrance. Had the building only one entrance, the building would be authorized a total sign area of 120 sq ft.

Number of Fischer's Monument Signs. Fischer's PUD request is asking for approval of three monuments. This is because in addition to the two monument authorized for advertising the store, a third City of Shavano Park monument exists – built by the Nooner's as a welcome enhancement to the City.

Staff can address the remaining exceptions during the meeting.

On October 23, 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.

COURSES OF ACTION: Recommend approval of rezoning; or alternatively decline and provide further guidance to staff.

FINANCIAL IMPACT: N/A

MOTION REQUESTED: Recommend approval rezoning Lots 1813A, 1813B and 1814 of County Block 5938, Shavano Park Subdivision Unit-16A-1 to a Planned Unit Development (PUD) zoning district with B-2 Business and Office base district as presented with no exceptions.

SECTION I

THAT the Zoning Map of the City of Shavano Park is hereby amended by rezoning Lots 1813A, 1813B and 1814 of County Block 5938, Shavano Park Subdivision Unit-16A-1 from B-2 Business and Office District (Lots 1813A and 1813B) and A-2 Single Family Residential District (Lot 1814) to a single Planned Unit Development (PUD) zoning district with B-2 Business and Office base district, as more particularly described in the attached Exhibit "A"; and

SECTION II (ADVANCED SMILE CARE)

THAT the Planned Unit Development (PUD) zoning district with B-2 Business and Office base district shall adopt the following development standard exceptions for Lot 1813A, County Block 5938, Shavano Park Subdivision Unit-16A-1:

- 1. Side Setback
 - a. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 side setback requirement of 25 feet.
 - b. Allow side setback of 18 feet.
- 2. Rear Setback
 - a. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 rear setback requirement of 100 feet.
 - b. Allow rear setback of 68 feet.
- 3. 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 0 feet.

SECTION III (FISCHER NEIGHBORHOOD MARKET)

THAT the Planned Unit Development (PUD) zoning district with B-2 Business and Office base district shall adopt the following development standard exceptions for Lot 1813B, County Block 5938, Shavano Park Subdivision Unit-16A-1:

- 1. Rear setback
 - c. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 rear setback requirement of 15 feet.
 - d. Allow rear setback of 13 feet.

- 2. Rear Landscape Buffer
 - c. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 rear landscape buffer requirement of 15 feet.
 - d. Allow rear landscape buffer of 13 feet.
- 3. Wall Signs on Multi-tenant building
 - a. Exception from Chapter 24, Article I, Sec. 24-5(4)(a) aggregate sign size limitation of 50 square feet per wall.
 - b. Allow two 125 square feet wall signs one per wall.
- 4. Monument Sign Face
 - a. Exception from Chapter 24, Article I, Sec. 24-10(4)'s monument sign face size limitation of 50 square feet.
 - b. Allow monument sign face size of 75 square feet.
- 5. Number of Monument Signs
 - a. Exception from Chapter 24, Article I, Sec. 24-10(3)'s limitation of two monument signs for a nonresidential lot fronting two streets.
 - b. Allow up to three monument signs.

SECTION IV (LUV-N-CARE)

THAT the Planned Unit Development (PUD) zoning district with B-2 Business and Office base district shall adopt the following development standard exceptions for Lot 1814, County Block 5938, Shavano Park Subdivision Unit-16A-1:

- 1. Side setback:
 - c. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 side setback requirement of 25 feet.
 - d. Allow side setback of 14 feet.
- 2. Rear Setback:
 - a. Exception from Chapter 36, Article VI, Table No. 6, item 8's B-2 rear setback requirement of 100 feet.
 - b. Allow rear setback of 7 feet.
- 3. 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 7 feet.
- 4. 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 0 feet.
- 5. 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 1:334 square feet parking stall ratio.
- 6. Monument Sign with Electric Display: Exception to allow one monument sign per entrance with electric display that otherwise conforms to the City's monument sign regulations under Chapter 24.



Sedation · Cosmetic · General Dentistry

October 18, 2019

Mr. Bill Hill City Manager City of Shavano Park 900 Saddletree Court Shavano Park, Texas 78231

RE: 3829 Lockhill-Selma Road, Shavano Park, TX 78230, County Block 5938, Lot 1813A, Shavano Park Subdivision Unit-16A-1 Rezoning Request

Mr. Hill,

Attached hereto is our requesting consideration of the proposed rezoning of County Block 5938, Lot 1813A, Shavano Park Subdivision Unit-16A-1 located at 3829 Lockhill-Selma Road within the City of Shavano Park, Texas. The requested re-zoning would change the subject development's current zoning of "B-2 Business and Office" to "B-2 Planned Unit Development."

The proposed re-zoning request is made to obtain approval of exceptions to the following items outlined within the City of Shavano Park, Texas Code of Ordinances:

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

- 1. Minimum side setback Exception to reduce side building setback from 25 ft to 18 ft.
- 2. Minimum rear setback Exception to reduce rear building setback from 100 ft to 68 ft.
- 3. Minimum rear landscape buffer Exception to rear landscape buffer to reduce from 30 ft to 0 ft.

Should there be questions or the requirement of any additional information, please feel free to contact our office.

Sincerely

Jason V. Kboudi, DDS

LEGAL DESCRIPTION A 1.043 ACRE TRACT OUT OF A 3.080 ACRE TRACT OF LAND, LOT 1813A, COUNTY BLOCK 5938, SHAVANO PARK SUBDIVISION UNIT 16A-1 RECORDED IN VOLUME ####, PAGE ##, DEED AND PLAT RECORDS, BEXAR COUNTY, TEXAS BENCHMARKS BM1: SQUARE 'X' ON A CONCRETE CURB TO THE NORTH CORNER OF THE LOT ±26' NORTH EAST FROM AN EXISTING 1/2" CORNER IRON ROD AT ELEVATION = 986.21' SET BY KFW SURVEYING. M2: SQUARE 'X' ON A CONCRETE CURB TO THE EAST CORNER OF THE LOT ±25' SOUTH EAST FROM AN EXISTING 1/2" CORNER IRON ROD ACROSS AN EXISTING SHARED DRIVEWAY AT ELEVATION = 991.51' SET BY KFW SURVEYING. COORDINATION NOTE: . CONTACT TWC (TIME WARNER CABLE) TO COORDINATE CABLE TV SERVICE. 2. CONFIRM REQUIREMENTS AND COORDINATE WITH CPS (CITY PUBLIC SERVICE) FOR INSPECTIONS AND CONDUIT SIZES FOR PRIMARY AND SECONDARY ELECTRICAL SERVICES. (210)-353-2256.

4. CONTRACTOR TO COORDINATE WITH CPS (CITY PUBLIC SERVICE) TO PLAN GAS SERVICES. (210)-353-2256. 5. CONTRACTOR TO COORDINATE WITH SAWS (SAN ANTONIO WATER SYSTEM) TO PLAN SANITARY SEWER AND WATER SERVICES. (210)-704-7297. 6. CONTRACTOR SHALL CONTACT 1-800-DIG-TESS A MINIMUM OF 48 HOURS PRIOR TO THE START OF CONSTRUCTION.

HANDICAP STALLS REQUIRED FOR 56 STALLS

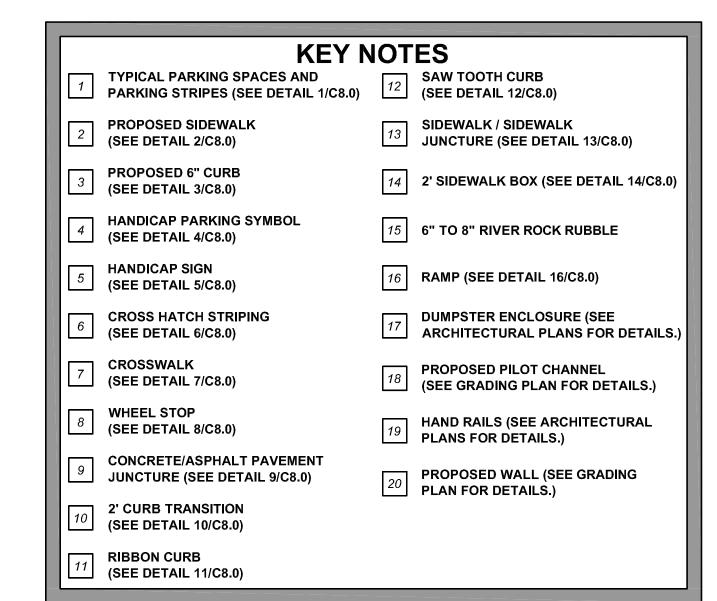
PROPOSED PARKING STALLS

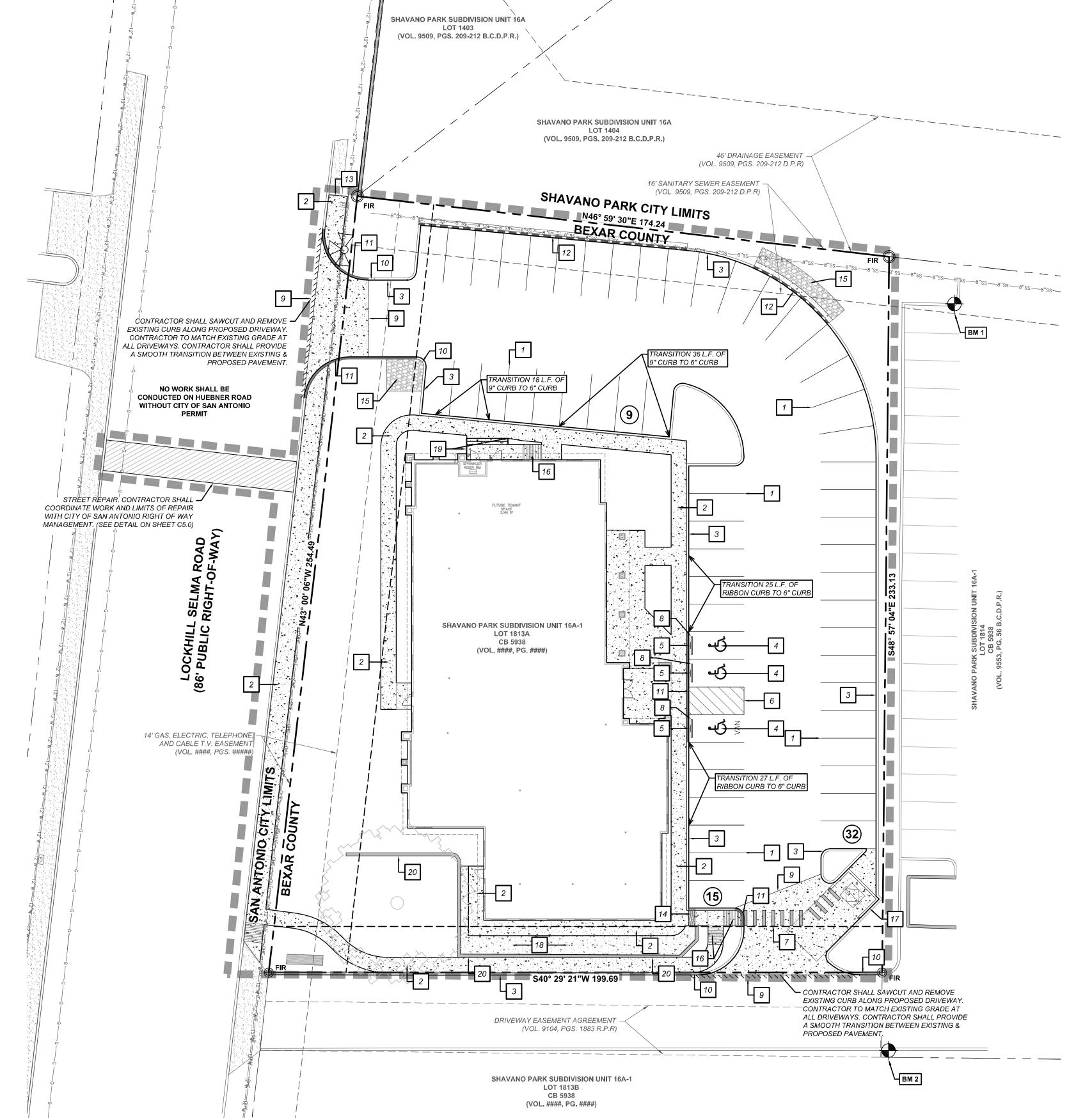
HANDICAP STALLS

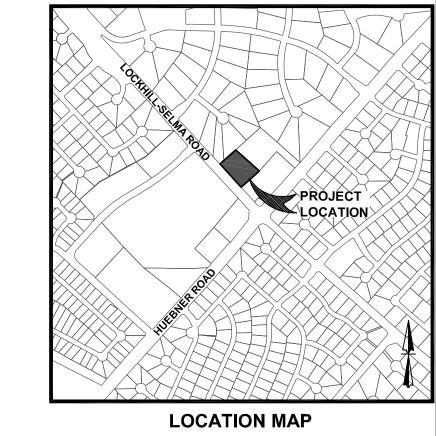
HANDICAP STALLS (VAN)

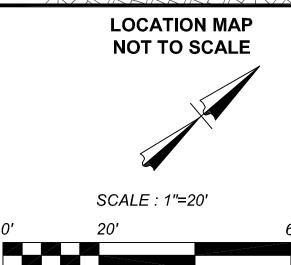
TOTAL PARKING STALLS

3. CONTACT AT&T TO COORDINATE TELEPHONE SERVICE. 1-800-449-7928.









LIMITS OF CONSTRUCTION

ADJACENT PROPERTY LINE

PROPERTY LINE

EXISTING CURB

EXISTING CONCRETE

EXISTING FIRE HYDRANT

EXISTING WATER VALVE

AND POWER POLE

EXISTING GAS LINE

EXISTING WALL

EXISTING SIGN

PROPOSED CURB

PROPOSED WALL

SITE BENCHMARK

PROPOSED SIDEWALK

PARKING STALL COUNT

PLANS FOR TREE REMOVAL

EXISTING WATER MAIN

EXISTING WATER METER

PROPOSED RIBBON CURB

PROPOSED SAW TOOTH CURB

SEE DESCRIPTION THIS SHEET

EXISTING TREES. REFERENCE LANDSCAPE

LEGEND EXISTING OVERHEAD ELECTRIC ———— ОНЕ ——— ОНЕ ——— ОНЕ ———— ——G——G——G——G——G—— -----12"W ----12"W ----12"W -----EXISTING SANITARY SEWER MAIN -8"SS-8"SS-8"SS-8"SS-8"SS-8"SS-**EXISTING SANITARY SEWER MANHOLE**

CONSTRUCTION SET

THIS DOCUMENT IS RELEASED BY **AUTHORITY OF** STEVEN KRAUSKOPF, P.E. # 96525 FOR INTERIM REVIEW ONLY AND NOT TO BE USED FOR CONSTRUCTION.

PROJECT NO: 296-01-01 DATE: JANUARY 2013 DRAWN: J.R. CHECKED: S.K. SCALE: 1'' = 20'

OVERALL SITE PLAN



PROJECT & CONSTRUCTION MANAGEMENT • LAND DEVELOPMENT • CIVIL • SURVEYING

TBPE Firm No. F-1892 TBPLS No, F-100380-00

July 17, 2019

Mr. Bill Hill City Manager City of Shavano Park 900 Saddletree Court Shavano Park, Texas 78231

RE: 13215 Huebner Rd., Lot 1813B, CB 5938, Shavano Park Subdivision Unit 16A-1 Re-Zoning Request

Mr. Hill,

Attached hereto is our presentation requesting administrative review and consideration of the proposed re-zoning of Lot 1813B, CB 5938, Shavano Park Subdivision Unit 16A-1 located at 13125 Huebner Rd within the City of Shavano Park, Texas. The requested re-zoning would change the subject development's current zoning of "B-2" to "B-2 Planned Unit Development".

The proposed re-zoning request is made to obtain approval of exceptions to the following items outlined within the City of Shavano Park, Texas Code of Ordinances;

- Chapter 24-SIGNS
 - 1.) Section 24-5(4) Non-Nuisance Signs in Business and Office Districts—An exception for Wall Signs from 50 sf to approximately 125 sf.
 - 2.) Section 24-10(4) Size of Monument Signs—An exception to allow Monument Sign face or insert to exceed 50 sf to approximately 100 sf.
 - 3.) Section 24-10(3) Monument Signs—An exception to allow up to 3 Monument Signs.
- Article VI TABLES, Table No. 6 Other District Setbacks and Other Limitations—An exception to the minimum rear and/or side building setback and landscape buffer distance(s). See EXHIBIT 1.

This project and these changes;

- Do not alter the basic relationships with adjacent properties.
- Allow for continued Commercial land use as exists, currently built in accordance with and as granted under the subject property's original Development Agreement dated July 9, 2014.

Should there be questions or the requirement of any additional information, please feel free to contact our office.

Sincerely,

David A. Galvan, P.E.

esfalian

F-16206









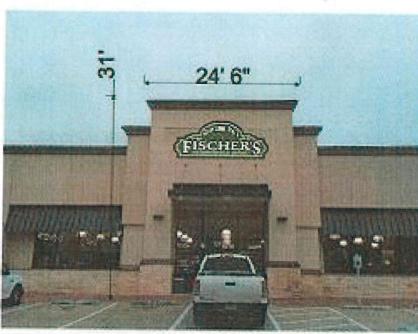




Existing



Proposed



Store Fronts 31' x 24'6"= 762.6 Sign Area 7' x 17'7"= 123.9



17'9"

73 LED modules 2- 60 watt power supplies



Remove existing channel letters from building. Manufacture 1- 7'x 17' 9" single faced sign cabinet & install on store front elevation.



258 TRADE CENTER DRIVE NEW BRAUNFELS, TEXAS 78130 830.629.4411 FAX 830.629.8099 ussigns@sbcglobal.net - www.ussignsnb.com





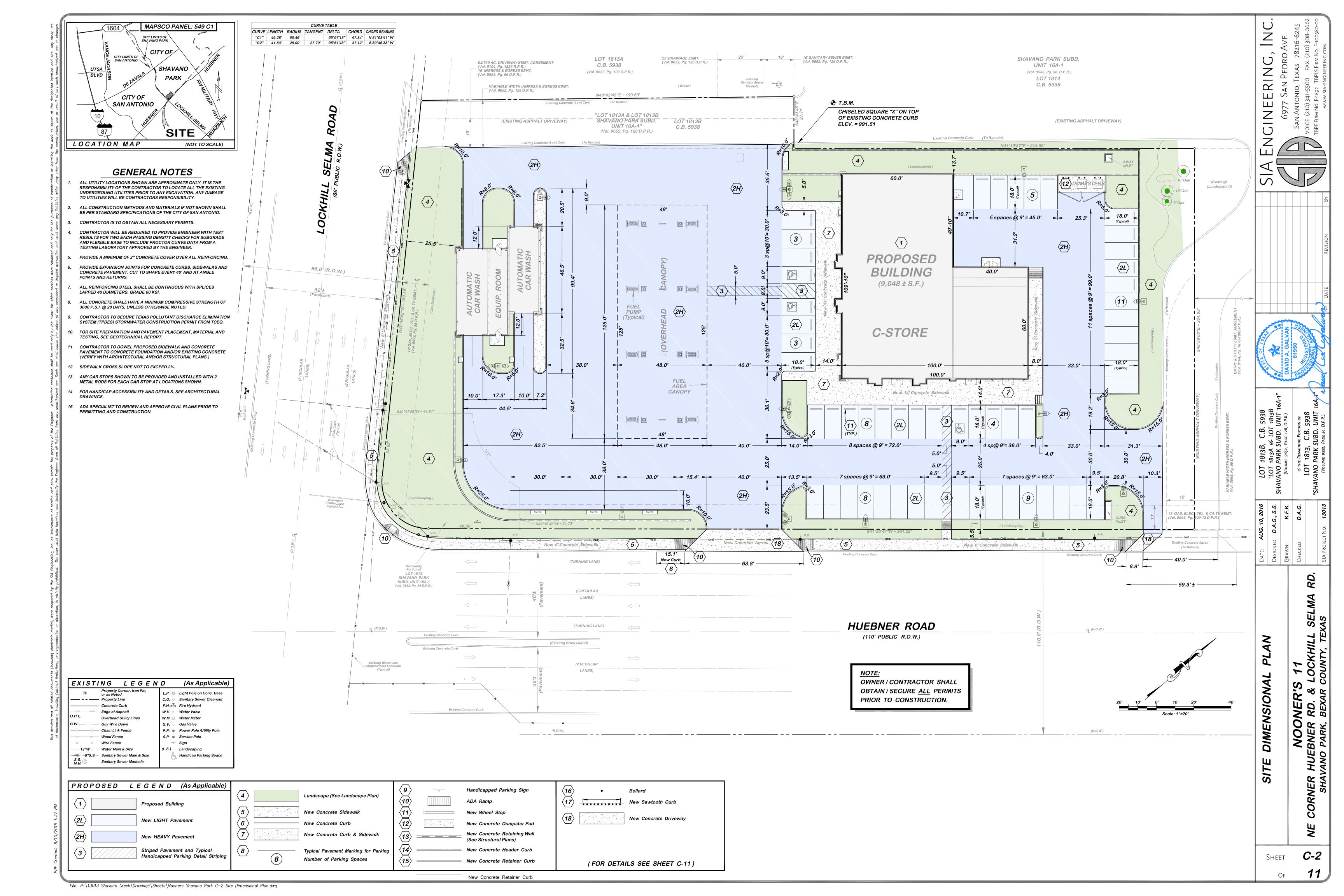
Client

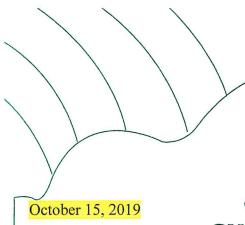
Fischer's Market #45 13215 Huebner Rd, Tx.

Approval.

Date

All drawings automated are property of U.S. Signs until purchased by The Client. No alterations or distributions can be made without written consent from U.S. Signs PHOCOGON IS ARTITIVED TO BE PASTALLED IN ACCORDANCE WITH THE WILLIAM SPECIAL COMMON THE WITH THE PART OF THE PART





900 Saddletree Court

Shavano Park, Texas 78231



RE: 13211 Huebner Rd, Shavano Park, TX 78230, County Block 5938, Lot 1818, Shavano Park Subdivision Unit-16A-1 Rezoning Request

Mr. Hill,

Attached hereto is our requesting consideration of the proposed rezoning of County Block 5938, Lot 1818, Shavano Park Subdivision Unit-16A-1 located at 13211 Huebner Road within the City of Shavano Park, Texas. The requested re-zoning would change the subject development's current zoning of "A-2 Single-Family Residential" to "B-2 Planned Unit Development".

The proposed re-zoning request is made to obtain approval of exceptions to the following items outlined within the City of Shavano Park, Texas Code of Ordinances:

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

- 1. Minimum side setback Exception to reduce side building setback from 25 ft to 14 ft.
- 2. Minimum rear setback Exception to reduce rear building setback from 100 ft to 7 ft.
- 3. Minimum rear landscape buffer Exception to rear landscape buffer to reduce from 100 ft to 7 ft.
- 4. Minimum front landscape buffer Exception to reduce front landscape buffer from 40 ft to 0 ft.
- 5. Minimum parking requirement (only 44 spots of the 74 required for bldg. square footage) Exception to reduce parking ratio from 1/200 square feet to 1/334 square feet.

Chapter 24. - SIGNS, ARTICLE I, Section 24-5. - Non-nuisance signs in business and office districts:

1. Monument Sign with Electric Display - Exception to allow one monument sign at each entrance with electric display similar to the one currently utilized by The City of Shavano Park at their municipal building that conforms with Section 24-10.

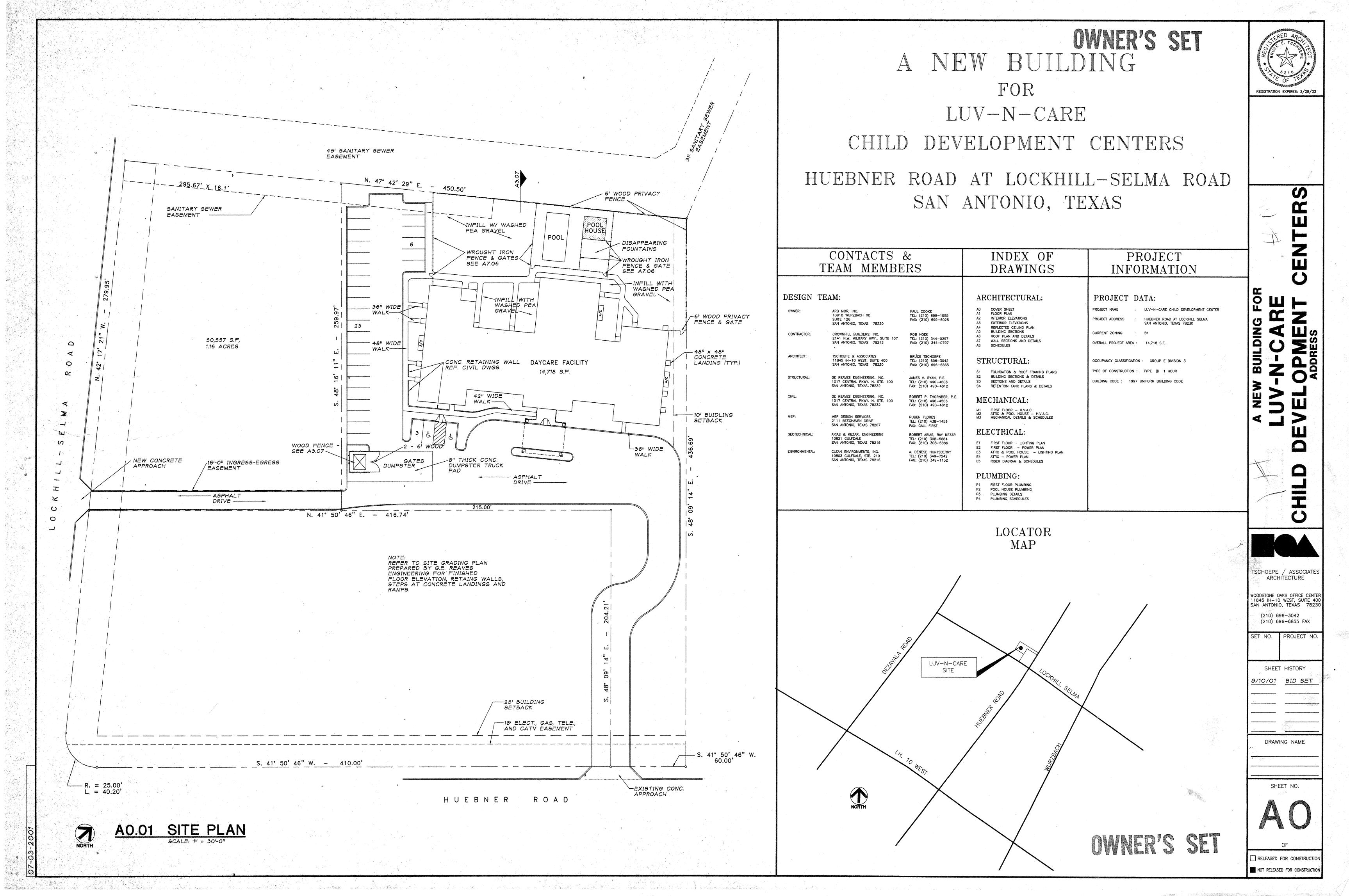
Should there be questions or the requirement of any additional information, please feel free to contact our office.

Sincerely,

Paul Cooke

13211 Huebner Road (210) 696-5677 21130 Gathering Oak (210) 497-5550

6509 Grissom Road (210) 681-4228 16081 Henderson Pass (210) 496-0789



PLANNING & ZONING STAFF SUMMARY

Meeting Date: November 6, 2019 Agenda item: 7 / 8

Prepared by: Curtis Leeth Reviewed by: Bill Hill

AGENDA ITEM DESCRIPTION:

7. Public Hearing - The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances, including changes to Chapters 36 - Zoning and 6 - Buildings and Building Regulations, to ensure building material regulations for residential and commercial building construction are in compliance with House Bill 2439 from the 86th Texas Legislature.

8. Discussion / **action** – Possible amendments to the City of Shavano Park Code of Ordinances, Chapters 36 - Zoning and 6 - Buildings and Building Regulations, to ensure building material regulations for residential and commercial building construction are in compliance with House Bill 2439 of the 86th Texas Legislature – City Manager.



Attachments for Reference:

a) 8a Building Material Amendments

b) 8b HB 2439

BACKGROUND / HISTORY: This summer the 86th Texas Legislature approved House Bill 2439 (attachment 8b) which forbid a City from adopting an ordinance which prohibits or limits the use or installation of a building material in the construction of residential or commercial buildings.

The City's masonry requirements for the exterior walls of residences and businesses under Chapter 36 – Zoning and Chapter 6 – Building and Building Regulations are therefore recommended to be amended.

DISCUSSION: City staff recommend that the "shall" and enforcement language for the masonry regulations be changed to City "prefers" and "encourages." The only masonry enforcement available would then be in a zoning variance request. In approving that request, the Board of Adjustments could impose requirements on the exterior architectural features. An example of the proposed amendments is under Sec. 36-36 of the Zoning Code (full amendments are in attachment 8a):

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

. . .

- (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 are encouraged to have a minimum of 60 percent masonry, exclusive of openings.
 - (2) Exterior walls A-2, A-3, A-4 and A-5 PUD. The City of Shavano Park prefers exterior walls of residences shall to 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 encouraged 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.
 - (3) If a variance or other waiver from any related code, including this Chapter, is requested, exterior architectural features may be a required condition of approval.

COURSES OF ACTION: Recommend approval of possible amendments to the City of Shavano Park Code of Ordinances, Chapters 36 - Zoning and 6 - Buildings and Building Regulations, to ensure building material regulations for residential and commercial building construction are in compliance with House Bill 2439 of the 86th Texas Legislature; or alternatively decline and provide further guidance to staff.

FINANCIAL IMPACT: N/A

MOTION REQUESTED: Recommend approval of amendments to the City of Shavano Park Code of Ordinances, Chapters 36 - Zoning and 6 - Buildings and Building Regulations, to ensure building material regulations for residential and commercial building construction are in compliance with House Bill 2439 of the 86th Texas Legislature.

Chapter 36 Zoning

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

. . .

- (d) Exterior architectural features. Each new structure must possess an exterior in keeping with the residence and general atmosphere of the surrounding area.
 - Exterior walls in A-1 Districts. Exterior walls of residences in areas zoned in A-1 shall are encouraged to have a minimum of 60 percent masonry, exclusive of openings.
 - (2) Exterior walls A-2, A-3, A-4 and A-5 PUD. The City of Shavano Park prefers exterior walls of residences shall to 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 encouraged 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.
 - (3) If a variance or other waiver from any related code, including this Chapter, is requested, exterior architectural features may be a required condition of approval.

Sec. 36-37. - CE Single-Family Cottage Estates Residential District.

. .

- (d) Exterior architectural features.
 - (1) Each new structure must possess an exterior in keeping with the residence and general atmosphere of the surrounding area.
 - (2) Exterior walls. The City of Shavano Park prefers eExterior walls of residences shall to have a minimum of 90 percent masonry, exclusive of openings. Perm stone or asbestos shingles, concrete block, metal panels, metal curtain walls and cinder block are not acceptable encouraged 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.
 - (3) If a variance or other waiver from any related code, including this Chapter, is requested, exterior architectural features may be a required condition of approval.

Sec. 36-39. - Business and Office Districts.

. . .

b. Exterior walls. The City of Shavano Park prefers eExterior walls shall-to have a minimum of 90 percent masonry construction of a residential character, exclusive of openings. Perm stone or asbestos shingles, concrete block and cinder block are not acceptable encouraged 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. If a variance or other waiver from any related code, including this Chapter, is requested, exterior architectural features may be a required condition of approval.

Chapter 6 Buildings and Building Regulations

Sec. 6-89. - Exterior architectural features.

In areas zoned A-I, A-2, A-3, A-4, or A-5 PUD, each new structure must possess an exterior in keeping with the residence and general atmosphere of the surrounding areas. The Building Official shall have the authority to require additional sketches or studies of the exterior elevations if, in the Building Official's opinion, the plan as submitted is inadequate, incomplete or not in keeping with the setting, location, and general atmosphere.

Sec. 6-95. - Portable buildings.

Except in A-I District, a single unattached portable building (movable) constructed of light metal, wood or fiberglass of not more than 200 square feet of area and used for storage only 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, and is unattached to a solid foundation. The highest point of the building may not exceed 12 feet from base foundation. No portable building higher than eight feet in height measured from base foundation to the buildings highest point shall be permitted the building setbacks. In A-1 District no more than two unattached portable buildings as described in this subsection shall be permitted. See section 36-36(h) for these regulations by zoning district. The City of Shavano Park encourages portable buildings to be constructed of light metal, wood, or fiberglass. If a variance or other waiver from any related code, including this Chapter, is requested, light metal, wood, or fiberglass construction of the building may be a required condition of approval.

Sec. 6-101. - Wooden roofs.

Any residence or building to be covered with a wooden roof (shingle, shake, etc.) shall meet all city-adopted fire and building codes as it relates to construction of the roof. first be covered with "CDX" plywood or material which is its equal or better.

H.B. No. 2439

1	AN ACT	
2	relating to certain regulations adopted by governmental entities	
3	for the building products, materials, or methods used in the	
4	construction or renovation of residential or commercial buildings.	
5	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:	
6	SECTION 1. Title 10, Government Code, is amended by adding	
7	Subtitle Z to read as follows:	
8	8 SUBTITLE Z. MISCELLANEOUS PROVISIONS PROHIBITING CERTAIN	
9	GOVERNMENTAL ACTIONS	
10	CHAPTER 3000. GOVERNMENTAL ACTION AFFECTING RESIDENTIAL AND	
11	COMMERCIAL CONSTRUCTION	
12	Sec. 3000.001. DEFINITIONS. In this chapter:	
13	(1) "National model code" has the meaning assigned by	
14	Section 214.217, Local Government Code.	
15	(2) "Governmental entity" has the meaning assigned by	
16	<u>Section 2007.002.</u>	
17	Sec. 3000.002. CERTAIN REGULATIONS REGARDING BUILDING	
18	PRODUCTS, MATERIALS, OR METHODS PROHIBITED. (a) Notwithstanding	
19	any other law and except as provided by Subsection (d), a	
20	governmental entity may not adopt or enforce a rule, charter	
21	provision, ordinance, order, building code, or other regulation	
22	that:	
23	(1) prohibits or limits, directly or indirectly, the	
24	use or installation of a building product or material in the	

- 1 construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or 2 material is approved for use by a national model code published 3 within the last three code cycles that applies to the construction, 4 5 renovation, maintenance, or other alteration of the building; or 6 (2) establishes a standard for a building product, material, or aesthetic method in construction, renovation, 7 maintenance, or other alteration of a residential or commercial 8 building if the standard is more stringent than a standard for the 9 product, material, or aesthetic method under a national model code 10 published within the last three code cycles that applies to the 11 12 construction, renovation, maintenance, or other alteration of the building. 13 14 (b) A governmental entity that adopts a building code governing the construction, renovation, maintenance, or other 15 alteration of a residential or commercial building may amend a 16 provision of the building code to conform to local concerns if the 17 amendment does not conflict with Subsection (a). 18
- 19 (c) This section does not apply to:
- (1) a program established by a state agency that 20 requires particular standards, incentives, or financing 21 22 arrangements in order to comply with requirements of a state or federal funding source or housing program; 23
- 24 (2) a requirement for a building necessary to consider the building eligible for windstorm and hail insurance coverage 25 26 under Chapter 2210, Insurance Code;
- 27 (3) an ordinance or other regulation that regulates

- 1 outdoor lighting that is adopted for the purpose of reducing light
 2 pollution and that:
- 3 (A) is adopted by a governmental entity that is
- 4 certified as a Dark Sky Community by the International Dark-Sky
- 5 Association as part of the International Dark Sky Places Program;
- 6 or
- 7 (B) applies to outdoor lighting within five miles
- 8 of the boundary of a military base in which an active training
- 9 program is conducted;
- 10 <u>(4) an ordinance or order that:</u>
- 11 (A) regulates outdoor lighting; and
- 12 (B) is adopted under Subchapter B, Chapter 229,
- 13 Local Government Code, or Subchapter B, Chapter 240, Local
- 14 Government Code;
- 15 (5) a building located in a place or area designated
- 16 for its historical, cultural, or architectural importance and
- 17 significance that a municipality may regulate under Section
- 18 211.003(b), Local Government Code, if the municipality:
- 19 (A) is a certified local government under the
- 20 National Historic Preservation Act (54 U.S.C. Section 300101 et
- 21 <u>seq.</u>); or
- (B) has an applicable landmark ordinance that
- 23 meets the requirements under the certified local government program
- 24 as determined by the Texas Historical Commission;
- 25 (6) a building located in a place or area designated
- 26 for its historical, cultural, or architectural importance and
- 27 significance by a governmental entity, if designated before April

- 1 1, 2019;
- 2 (7) a building located in an area designated as a
- 3 historic district on the National Register of Historic Places;
- 4 (8) a building designated as a Recorded Texas Historic
- 5 Landmark;
- 6 (9) a building designated as a State Archeological
- 7 <u>Landmark or State Antiquities Landmark;</u>
- 8 (10) a building listed on the National Register of
- 9 Historic Places or designated as a landmark by a governmental
- 10 entity;
- 11 (11) a building located in a World Heritage Buffer
- 12 Zone; and
- 13 (12) a building located in an area designated for
- 14 development, restoration, or preservation in a main street city
- 15 under the main street program established under Section 442.014.
- 16 (d) A municipality that is not a municipality described by
- 17 Subsection (c)(5)(A) or (B) may adopt or enforce a regulation
- 18 described by Subsection (a) that applies to a building located in a
- 19 place or area designated on or after April 1, 2019, by the
- 20 municipality for its historical, cultural, or architectural
- 21 importance and significance, if the municipality has the voluntary
- 22 consent from the building owner.
- (e) A rule, charter provision, ordinance, order, building
- 24 code, or other regulation adopted by a governmental entity that
- 25 conflicts with this section is void.
- Sec. 3000.003. INJUNCTION. (a) The attorney general or an
- 27 aggrieved party may file an action in district court to enjoin a

- 1 violation or threatened violation of Section 3000.002.
- 2 (b) The court may grant appropriate relief.
- 3 (c) The attorney general may recover reasonable attorney's
- 4 fees and costs incurred in bringing an action under this section.
- 5 (d) Sovereign and governmental immunity to suit is waived
- 6 and abolished only to the extent necessary to enforce this chapter.
- 7 Sec. 3000.004. OTHER PROVISIONS NOT AFFECTED. This chapter
- 8 does not affect provisions regarding the installation of a fire
- 9 sprinkler protection system under Section 1301.551(i), Occupations
- 10 Code, or Section 775.045(a)(1), Health and Safety Code.
- 11 Sec. 3000.005. SEVERABILITY. If any provision of a rule,
- 12 charter provision, ordinance, order, building code, or other
- 13 regulation described by Section 3000.002(a) is held invalid under
- 14 this chapter, the invalidity does not affect other provisions or
- 15 applications of the rule, charter provision, ordinance, order,
- 16 building code, or other regulation that can be given effect without
- 17 the invalid provision or application, and to this end the
- 18 provisions of the rule, charter provision, ordinance, order,
- 19 building code, or other regulation are severable.
- 20 SECTION 2. This Act takes effect September 1, 2019.

H.B. No. 2439

President of the Senate	Speaker of the House
I certify that H.B. No. 243	9 was passed by the House on April
30, 2019, by the following vote:	Yeas 124, Nays 21, 2 present, not
voting; and that the House concu	rred in Senate amendments to H.B.
No. 2439 on May 23, 2019, by the f	Following vote: Yeas 133, Nays 9,
1 present, not voting.	
	Chief Clerk of the House
I certify that H.B. No. 24	39 was passed by the Senate, with
amendments, on May 19, 2019, by t	the following vote: Yeas 26, Nays
5.	
	Secretary of the Senate
APPROVED:	
Date	
Governor	

PLANNING & ZONING STAFF SUMMARY

Meeting Date: November 6, 2019 Agenda item: 9 / 10

Prepared by: Curtis Leeth Reviewed by: Bill Hill

AGENDA ITEM DESCRIPTION:

9. Public Hearing – The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, expanding who can appeal administrative decisions on projects or applications to the Zoning Board of Adjustment in compliance with House Bill 2497 of the 86th Texas Legislature.

10. Discussion / **action** – Possible amendments to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, expanding who can appeal administrative decisions on projects or applications to the Zoning Board of Adjustment in compliance with House Bill 2497 of the 86th Texas Legislature – City Manager.



Attachments for Reference:

- a) 10a Board of Adjustments Amendments
- b) 10b HB 2497

BACKGROUND / HISTORY: This summer the 86th Texas Legislature approved House Bill 2497 (attachment 10b) which expands who can appeal a decision by an administrative official approving or disapproving a specific project or application.

It is recommended the City update the procedures for the Board of Adjustments to comply with HB 2497.

DISCUSSION: The proposed amendments closely match the language of Texas law). The proposed expanded appeals read as follows:

- (a) Any of the following persons may appeal to the BOA a decision made by an administrative official that is not related to a specific application, address, or project under Chapter 36 of this Code:
 - (1) a person aggrieved by the decision; or
- (2) any officer, department, board, or bureau of the municipality affected by the decision.

- (b) Any of the following persons may appeal to the BOA a decision made by an administrative official that is related to a specific application, address, or project under Chapter 36 of the Code:
 - (1) a person who filed the application that is the subject of the decision; or
- (2) a person who is the owner or representative of the owner of the property that is the subject of the decision; or
- (3) any person who is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or
 - (4) any officer, department, or board of the city affected by the decision.

It is possible these proposed amendments will increase the number of Board of Adjustment meetings. These proposed amendments also substantially increases the type of zoning decisions the Board can render (beyond Variances and Special Exceptions) and could include decisions outlined in our ordinances previously covered by the Construction Board of Appeals.

COURSES OF ACTION: Recommend approval of amendments to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, expanding who can appeal administrative decisions on projects or applications to the Zoning Board of Adjustment in compliance with House Bill 2497 of the 86th Texas Legislature; or alternatively decline and provide further guidance to staff.

FINANCIAL IMPACT: N/A

MOTION REQUESTED: Recommend approval of amendments to the City of Shavano Park Code of Ordinances, Chapter 36 – Zoning, expanding who can appeal administrative decisions on projects or applications to the Zoning Board of Adjustment in compliance with House Bill 2497 of the 86th Texas Legislature.

AN ORDINANCE AMENDING CHAPTER 36 – ZONING, ARTICLE V. – BOARD OF ADJUSTMENT, THE CITY OF SHAVANO PARK CODE OF ORDINANCES TO PROVIDE FOR APPEALS TO THE BOARD OF ADJUSTMENT, TIME FOR NOTICE AND HEARING OF APPEAL, ACTION ON APPEAL, NOTICE OF PUBLIC HEARINGS BEFORE THE BOARD OF ADJUSTMENT; PROVIDING A CUMULATIVE CLAUSE, PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the 86th Texas Legislature passed House Bill 2497 to require cities to allow additional individuals to appeal zoning decisions to the board of adjustment and the City of Shavano Park (the "City") City Council seeks to ensure compliance with House Bill 2497; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or policy 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 211 of the Texas Local Government Code, the City has the authority to regulate zoning; and

WHEREAS, the City seeks to amend the Zoning Ordinance, Chapter 36 (this "Ordinance"); and

WHEREAS, this Ordinance must be amended to comply with House Bill 2497; and

WHEREAS, after notice and hearing required by law, a public hearing was held before the Shavano Park Zoning and Planning Commission on _______, 2019 to consider the proposed amendments and the Zoning and Planning Commission recommended approval of the proposed amendments; and

WHEREAS, after	public hearing held by the City	Council on, 2019 the City
Council voted to	; and	

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Shavano Park to adopt an ordinance amending Chapter 36 – Zoning.

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

I CODE AMENDMENT

Chapter 36 – ZONING, Article V. – BOARD OF ADJUSTMENT, Section 36-125. – Appeals to the Board of Adjustment, of the City of Shavano Park Code of Ordinances is hereby amended to read as follows:

Sec. 36-125. – Appeals to the Board of <u>Adjustment (BOA).</u>

Appeals to the Board of Adjustment may be taken by any person aggrieved by the decision of an administrative official of the City or by any officer, department or board of the City affected by the decision.

- (a) Any of the following persons may appeal to the BOA a decision made by an administrative official that is not related to a specific application, address, or project under Chapter 36 of this Code:
 - (1) a person aggrieved by the decision; or
- (2) any officer, department, board, or bureau of the municipality affected by the decision.
- (b) Any of the following persons may appeal to the BOA a decision made by an administrative official that is related to a specific application, address, or project under chapter 36 of the Code:
 - (1) a person who filed the application that is the subject of the decision; or
- (2) a person who is the owner or representative of the owner of the property that is the subject of the decision; or
- (3) any person who is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or
 - (4) any officer, department, or board of the city affected by the decision.
- (c) Such appeal shall be taken within a reasonable time, as provided by the rules of procedure of the Board of Adjustment, by filing in writing with the administrative official

from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record of the action that is appealed.

Sec. 36-126. - When appeal stays all proceedings.

An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies in writing to the Board of Adjustment after notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause immediate peril to life or property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application after notice to the administrative official from whom the appeal is taken and if due cause is shown.

Sec. 36-127. – Time for notice and hearing of appeal.

The appeal must be filed not later than the 20th day after the decision has been rendered. The BOA shall make a decision on the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed. The Board of Adjustment shall fix a reasonable time for hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Sec. 36-128. – Action on appeal.

In exercising the powers set forth in section 36-124, the Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the administrative official's order, requirement, decision, or determination appealed from and may make the correct order, requirement, decision, or determination and to that end shall have all the powers of the administrative official from whom the appeal is taken.

II 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.

III 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.

IV 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

V 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	he City Council of the City of Shavano
Park this the day of, 2019.	
PASSED AND APPROVED on the second reading Shavano Park this the day of, 2019.	g by the City Council of the City of
	ROBERT WERNER, MAYOR

Attest:
ZINA TEDFORD, CITY SECRETARY
Approved as to Form:
LAURA MUELLER, CITY ATTORNEY

H.B. No. 2497

2 relating to rules of and appeals to a municipal board of adjustment. 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: SECTION 1. Section 211.008(e), Local Government Code, 4 5 amended to read as follows: The board by majority vote shall adopt rules 6 accordance with any ordinance adopted under this subchapter and 7 with the approval of the governing body. Meetings of the board are 8 held at the call of the presiding officer and at other times as 9 determined by the board. The presiding officer or acting presiding 10 11 officer may administer oaths and compel the attendance of 12 witnesses. All meetings of the board shall be open to the public. 13 SECTION 2. Section 211.010, Local Government Code, 14 amended by amending Subsections (a), (b), and (d) and adding Subsection (a-1) to read as follows: 15

AN ACT

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20 (1) a person aggrieved by the decision; or

application, address, or project:

21 (2) any officer, department, board, or bureau of the 22 municipality affected by the decision.

following persons may appeal to the board of adjustment a decision

made by an administrative official that is not related to a specific

Except as provided by Subsection (e), any of the

23 <u>(a-1) Except as provided by Subsection (e), any of the</u> 24 following persons may appeal to the board of adjustment a decision

- 1 made by an administrative official that is related to a specific
- 2 application, address, or project:
- 3 (1) a person who:
- 4 (A) filed the application that is the subject of
- 5 the decision;
- 6 (B) is the owner or representative of the owner
- 7 of the property that is the subject of the decision; or
- 8 (C) is aggrieved by the decision and is the owner
- 9 of real property within 200 feet of the property that is the subject
- 10 of the decision; or
- 11 (2) any officer, department, board, or bureau of the
- 12 municipality affected by the decision.
- 13 (b) The appellant must file with the board and the official
- 14 from whom the appeal is taken a notice of appeal specifying the
- 15 grounds for the appeal. The appeal must be filed not later than the
- 16 20th day after the date the decision is made [within a reasonable
- 17 time as determined by the rules of the board]. On receiving the
- 18 notice, the official from whom the appeal is taken shall
- 19 immediately transmit to the board all the papers constituting the
- 20 record of the action that is appealed.
- 21 (d) The board shall set a reasonable time for the appeal
- 22 hearing and shall give public notice of the hearing and due notice
- 23 to the parties in interest. A party may appear at the appeal
- 24 hearing in person or by agent or attorney. The board shall decide
- 25 the appeal at the next meeting for which notice can be provided
- 26 following the hearing and not later than the 60th day after the date
- 27 the appeal is filed [within a reasonable time].

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H.B. No. 2497
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- 1 SECTION 3. (a) Section 211.008(e), Local Government Code,
- 2 as amended by this Act, applies only to rules adopted by a municipal
- 3 board of adjustment on or after the effective date of this Act.
- 4 (b) Section 211.010(a), Local Government Code, as amended
- 5 by this Act, applies only to an appeal based on a decision made by an
- 6 administrative official on or after the effective date of this Act.
- 7 An appeal based on a decision made by an administrative official
- 8 before the effective date of this Act is governed by the law in
- 9 effect on the date the decision was made, and the former law is
- 10 continued in effect for that purpose.
- 11 SECTION 4. This Act takes effect September 1, 2019.

President of the Sena	Speaker of the House
-	. No. 2497 was passed by the House on May 8, vote: Yeas 145, Nays 2, 1 present, not
voting.	
	Chief Clerk of the House
I certify that H.B	. No. 2497 was passed by the Senate on May
22, 2019, by the followin	g vote: Yeas 31, Nays 0.
	Secretary of the Senate
APPROVED:	
Date	
Govern	or

PLANNING AND ZONING STAFF SUMMARY

Meeting Date: November 6, 2019

Agenda item: 11/12

Prepared by: Curtis Leeth

Reviewed by: Bill Hill

AGENDA ITEM DESCRIPTION:

11. Public Hearing – The purpose of the public hearing is to receive comments from members of the public regarding proposed amendments to the City of Shavano Park Code of Ordinances, Chapter 24 – Signs, regarding banner signs, monument signs and allowed signage in residential and business zoning districts.

12. Discussion / action – Possible amendments to the City of Shavano Park Code of Ordinances, Chapter 24 – Signs, regarding banner signs, monument signs and allowed signage in residential and business zoning districts. Possible Executive Session pursuant to Texas Government Code, § 551.071, Consultation with Attorney - City Manager.



Attachments for Reference:

1) 11a Proposed Sign Ordinance Amendments

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.

At the October 2, 2019 Planning & Zoning Commission meeting, staff presented possible amendments and no action was taken.

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 ft² 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 ft², added clause for lot facing 2 streets
- Sec. 24-5(5)(b) Increased allowable sign areas by 20 ft² 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. <u>Most regulations in new proposed language match current regulations</u>.
- Adds authorization for Street Monument Signs upon City Council approval (like the monuments on NW Military Hwy).

Staff anticipates Executive Session pursuant to Texas Government Code, § 551.071, Consultation with Attorney.

Staff request to receive guidance from the Commission on proposed amendments before scheduling a Public Hearing for the November Planning & Zoning meeting.

COURSES OF ACTION: Provide guidance to staff.

FINANCIAL IMPACT: N/A

MOTION REQUESTED: Approval of proposed amendments to the City of Shavano Park Code of Ordinances, Chapter 24 – Signs, regarding banner signs, monument signs and allowed signage in residential and business zoning districts.

PLANNING & ZONING STAFF SUMMARY

Meeting Date: November 6, 2019 Agenda item: 13

Prepared by: Curtis Leeth Reviewed by: Bill Hill

AGENDA ITEM DESCRIPTION:

13. Discussion - Review of City Policy #15 Public Information Act update in accordance with new Texas Senate Bill 944 – City Manager



Attachments for Reference:

a) 13a City Policy #15 Public Info Act Procedures

BACKGROUND / HISTORY: This summer the 86th Texas Legislature approved Senate Bill 944 which amends current law relating to public information. At the September 23, 2019 City Council meeting, the Council approved Resolution R-2019-009 adopting City Policy #15 Public Information Act Procedures

DISCUSSION: Staff and attorney will discuss with the Commission.

Common Retention Schedule Requirements:

Correspondence – Administrative 4 years

Incoming/outgoing and internal correspondence pertaining to the <u>formulation</u>, <u>planning</u>, <u>implementation</u>, <u>interpretation</u>, <u>modification</u>, <u>or redefinition</u> of the programs, services, or projects of an agency and the administrative regulations, policies, and procedures that govern them.

Correspondence - General 2 years

Non-administrative incoming/outgoing and internal correspondence, in any media, pertaining to or arising from the <u>routine operations</u> of the policies, programs, services, or projects of an agency.

Plans and Planning Records AC+3*

Plans and records relating to the process of planning new or redefined programs, services, or projects of an agency that are not included in or directly related to other records series in this schedule.

*AC = Decision made to implement or not to implement result of planning process.

Transitory Information AC*

Records of temporary usefulness that are not an integral part of a records series of an agency, that are not regularly filed within an agency's recordkeeping system, and that are required only for a limited period of time for the completion of an action by an official or employee of the agency or in the preparation of an ongoing records series.

Transitory records are not essential to the fulfillment of statutory obligations or to the documentation of agency functions. Some examples of transitory information, which can be in any medium (voice mail,

fax, email, hard copy, etc.) are routine messages; telephone message notifications; internal meeting notices; routing slips; incoming letters or memoranda of transmittal that add nothing of substance to enclosures; and similar routine information used for communication, but not for the documentation, of *AC = Purpose of record has been fulfilled.

Meeting - Notes AC+90*

Notes taken during open meetings of state boards, commissions, committees, and councils from which written minutes are prepared.

* AC = Approval of the formal minutes by the governing body.

CALENDARS, APPOINTMENT AND ITINERARY RECORDS CE + 1 year*

Calendars, appointment books or programs, and scheduling or itinerary records, purchased with local government funds or maintained by staff during business hours that document appointments, itineraries and other activities of agency officials or employees.

*CE = Calendar year end

Agendas
Minutes
Ordinances
Legal Opinions and Advice

Permanent (City Staff handles)
Permanent (City Staff handles)
Permanent (City Staff handles)
Permanent (City Staff handles)

COURSES OF ACTION: N/A

FINANCIAL IMPACT: N/A

MOTION REQUESTED: N/A; not an action item.



CITY OF SHAVANO PARK 900 Saddletree Court Shavano Park, TX 78231

CITY POLICY NO. 15

September 23, 2019

SUBJECT: Standard Operating Procedures for Public Information Requests

1. References.

- a. Senate Bill 944 of the 86th Texas Legislature
- b. Government Code, Chapter 552, The Public Information Act
- 2. **Purpose.** The purpose of this policy is to set out guidelines to ensure that all requests for public information are handled uniformly, fairly, timely, and within the statutes set out by the State of Texas Public Information Act. In the event of any conflict between the City's Policy and the Texas Public Information Act, the Act and other applicable state laws shall prevail.
- 3. **Staff Point-of-Contact.** The point of contact for this policy is the City Secretary at 210.581.1116 or <u>ztedford@shavanopark.org</u>.
- 4. **Background.** The Texas Public Information Act gives the public the right to request access to government information through a written request to a governmental body. The request must ask for records or information already in existence. The Act does not require a governmental body to create new information, to do legal research, or to answer questions.

The City Secretary serves as the City's officer for public information and is responsible for the effective disposition of Public Information Requests submitted to the City of Shavano Park. An effective and efficient means of receiving, cataloging, retrieving, and dispensing of records is essential to comply with the laws of the State of Texas.

5. Policy.

a) TYPES OF INFORMATION SUBJECT TO THE PUBLIC INFORMATION ACT

Public information includes information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business or city information. The Public Information Act applies to records regardless of their format. The Public Information Act also applies to all records kept by both former and current City officials and employees that contains City information. It includes information that is maintained in paper, tape, microfilm, video, electronic data held in a computer memory, as well as other mediums specified under law.

All City officials and employees shall ensure that any information they create, transmit, receive, or maintain in their official capacity, or while performing official business or a governmental function on behalf of the City, which pertains to official business of the City is preserved in accordance with the City's records retention schedule, which follows the State's records

retention schedule, and promptly produced in response to a request for public information. This applies to City information kept on personal devices or within personal accounts, for which the City officials and employees are deemed "Temporary Custodians" and shall provide an archive of such to be maintained by the City for the records retention schedule.

b) PROCEDURES

1. Request for Information

Requests submitted under the Public Information Act are handled by the City Secretary. Requests can be submitted on the website via the form at:

http://www.shavanopark.org/how_do_i/request_public_information.php, or by mail, fax, e-mail, or in person, and must be in writing. All requests should include enough description and detail about the information requested to enable the City to accurately identify and locate the information requested.

Please send requests by mail to: Zina Tedford, City Secretary City of Shavano Park 900 Saddletree Court Shavano Park, Texas 78231

E-mail: ztedford@shavanopark.org

Fax: 210-492-3816

2. Intake

- a. All written requests for public information shall be immediately, but no later than two (2) days, forwarded to the City Secretary. A written request will be accepted if made in person, via regular mail, fax, or email.
- b. Requests submitted on an official city holiday or after 5PM on a regular business day will be considered received on the next business day.
- c. The City Secretary will date stamp, assign a PIR (Public Information Request) number and analyze the request to determine if it requires clarification.
- d. If the request is unclear or particularly voluminous the City Secretary will seek clarification from the requestor within ten (10) days from the date the request was received. If a request is clarified the ten (10) days to respond to the request is suspended and restarts upon receipt of the clarification from the requestor.
- e. The City Secretary will contact the proper department for processing and collecting of responsive information.
- f. The City Secretary will be responsible for maintaining the Public Information Request Log ("PIR Log") which shall include the following information: date request received, date of any correspondence with the requestor, estimated cost of producing information, amounts paid, and amounts owed.
- g. Once the information is processed by the department and forwarded back to the City Secretary, the City Secretary will review the information to determine if it includes any information that must be redacted or withheld because it is confidential by law or subject to a discretionary exception to disclosure.

3. No Confidential Information Requested

- a. If there are no concerns regarding the confidentiality of the requested information the City Secretary shall promptly send responsive documents to the requestor as soon as possible, but no later than ten (10) days from the date of the request.
- b. If the information requested cannot be promptly produced because of the number of documents sought or availability of records, the City Secretary shall notify the requestor, in writing, of an estimated date on which it will be provided.
- c. City Secretary will notify the requestor, in writing, of any expenses related to the request, and will notify the requestor prior to completion of production if the cost estimate is greater than \$40 (Forty Dollars).

4. Information Requested May Contain Confidential or Excepted Information

- a. If the City Secretary has a question or concern regarding the confidentiality of responsive information the City Secretary will immediately forward said request and responsive documents to the City Attorney's Office for legal review.
- b. If the City Secretary identifies information is confidential or excepted from public disclosure the Secretary must ask for a ruling from the attorney general about whether the information is excepted from disclosure if there has not been a previous determination about whether the information falls within an exception.

5. Attorney General Ruling

a. No later than the 10th calendar day after receiving the Attorney General's ruling the City Secretary shall comply with the ruling and produce responsive documents or instruct the City Attorney's office to file suit to appeal the ruling.

6. Automatic Redactions

- a. The Attorney General's Office and/or the Texas Legislature has held that a City may redact the information listed below without the necessity of requesting a decision from the Attorney General. Therefore, any documents requested that include any of the following information shall be immediately redacted and promptly produced to the requestor without first seeking the Attorney General's permission.
 - i. a direct deposit authorization form;
 - ii. a Form I-9 and attachments;
 - iii. W-2 and W-4 forms under section 552.101 in conjunction with section 6103(a) of title 26 of the United States Code;
 - iv. a certified agenda and tape of a closed meeting;
 - v. a fingerprint;
 - vi. L-2 and L-3 declarations;
 - vii. a Texas driver's license number, a copy of a Texas driver's license, a Texas license plate number, the portion of a photograph that reveals a Texas license plate number, and the portion of any video depicting a discernible Texas license plate number; **

- viii. a credit card number, debit card number, charge card number, insurance policy number, bank account number, bank routing number; or access device number**
 - ix. an e-mail address of a member of the public;
 - x. a Form DD-214 or other military discharge record that is first recorded or first comes into the possession of a governmental body on or after September 1, 2003;
 - xi. xi. a social security number of a living person;
- xii. the home address, home telephone number, or information that reveals whether the person has family members of an employee, official or peace officer who has elected in writing that they wish to keep this information private; **
- xiii. Information maintained by a family violence shelter center or sexual assault program; **
- b. If the City is redacting or withholding information denoted above with a double asterisk (**) the City shall provide the following information to the requestor on a form prescribed by the attorney general:
 - i. a description of the redacted or withheld information;
 - ii. a citation to the section of the Government Code allowing the redaction; and
 - iii. instructions regarding how the requestor may seek a decision from the Attorney General regarding whether the redacted or withheld information is excepted from required disclosure.
- c. <u>Special note</u>: Dates of birth are not on the automatic redactions list, but all dates of birth have been judicially determined to be confidential by law. A requestor must approve automatic redaction or the City must get permission from the attorney general to redact

7. Questions

- a. As stated above, the Act does not require the City to answer questions. However, it is the primary duty of City officials and employees to serve the citizens of Shavano Park. Accordingly, when written requests are submitted seeking answers to specific questions, but do not specify what, if any, documentation is being sought, the City Secretary will proceed as follows:
 - i. First, the Secretary will attempt to identify any documents in existence that might provide the requestor with the answers they are seeking;
 - ii. If unable to identify any documentation, the City Secretary shall seek clarification from the requestor regarding what, if any, documentation they are seeking; and
 - iii. Notify the requestor that the Act does not require the City to answer questions, but that their request is being process as a "citizen inquiry" and, has been forwarded to the department head mostly likely to be able to answer the questions submitted in the request.
- b. Citizen requests seeking the answers to questions that are not submitted in writing do not need to be considered requests submitted under the Act and processed in accordance with the procedures stated in this policy.

c. However, any request for any kind of documentation (paper or electronic copies) should be considered a request submitted under the Act, reduced to writing and processed in accordance with these procedures and the Act.

8. Police Department

- a. Access to Texas Peace Officer's Crash (CR-3) Reports. Peace Officer Crash (CR-3) Reports are held and maintained by the Texas Department of Transportation. The City does not maintain a copy of this report in its records.
 - i. If the City receives a request for a CR-3 Report the City Secretary shall notify the requestor that the City does not have any documents responsive to this request as this information is not held or maintained by the City.
 - ii. The City Secretary may also note to the requestor that the accident report requested can be purchased online via the Crash Records Information System ("C.R.I.S") operated by the Texas Department of Transportation and provide a link to the C.R.I.S. website.

 (https://cris.dot.state.tx.us/public/Purchase/)
- b. Access to Law Enforcement Records Related to Pending Investigation or Prosecution.
 - i. Information, including, internal records and notations, held by the Shavano Park Police Department are excepted from public disclosure if releasing the information would interfere with the detection, investigation, or prosecution of crime.
 - ii. The Department believes, and the Texas Attorney General generally agrees, that releasing information related to a pending investigation or prosecution will interfere with the detection, investigation or prosecution of crime.
 - iii. Accordingly, if the City receives a request for information related to a pending investigation or prosecution of an offense designated as a Class B or higher it is the City's policy to seek permission from the Attorney General to withhold this information as allowed by Texas Government Code section 552.108.
 - 1. Prior to seeking an Attorney General ruling the City Secretary may seek clarification from the requestor, in accordance with the Act and these polices, and ask the requestor if he or she wishes to narrow the scope of the request to only the "basic information" as defined by Government Code section 552.108(c).
- c. Access to Audio Files and Dash Camera Videos.
 - i. All audio files and dash camera video files are stored in an electronic format on the City's servers, therefore, making this information available to the public may require the manipulation of data and if so, should be processed in accordance with the manipulation of data policy.
 - ii. Prior to public release, all audio files and dash camera video files should be reviewed for confidential information such as driver's license numbers, license plate numbers and other information deemed confidential by law.
 - 1. If it is determined that an audio or video file includes information confidential by law the City Secretary shall seek permission from

the Attorney General in accordance with the Act and this policy to withhold the file in its entirety as the City does not have the technological capabilities to redact this information from the audio or video files and is prohibited by law from releasing this information.

d. Body Camera Video

i. Any request for a Body Camera Video shall be handled in accordance with the Shavano Park Police Department Vehicle and Body Cameras Policy.

9. Municipal Court

a. Courts and Judicial Branch agencies are not subject to the Texas Public Information Act nor to the Federal Freedom of Information Act. However, to ensure efficient and consistent responses to requests for information held by the judiciary it is the City's policy that requests for information held by the Shavano Park Municipal Court be processed in accordance with these guidelines.

i. Access to Court Case Records.

- 1. Court case records are records of any nature created, produced, or filed in connection with any matter that is or has been before a court.
- 2. Court case records are considered information held by the judiciary. Therefore, the Public Information Act neither authorizes this information to be withheld nor requires it to be disclosed.
- 3. Access to court case records is governed by common law, other statutory law and court rules.
- 4. The custodian of court case records is the Clerk of the Court.

5. Requests from the Public.

- a. Requests from the public for court case records shall be immediately directed to the Court Clerk and processed in accordance with state law.
- b. A request for a court case record from a defendant or attorney of record related to a pending Municipal Court case shall be forwarded to the City Prosecutor and processed in accordance with applicable discovery rules.

ii. Access to Judicial Records.

- 1. Judicial records are records made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function.
- 2. Judicial records are considered information held by the judiciary. Therefore, the Public Information Act neither authorizes this information to be withheld nor requires it to be disclosed.

3. Requests for Judicial Records.

a. Any request to inspect or copy a judicial record received by the City and properly directed to the Municipal Court Judge shall be processed in accordance with Rule 12 of the Rules of Judicial Administration. b. All requests to inspect or copy a judicial record must be in writing, must include sufficient information to identify the record, and must be directed to the records custodian, the Presiding Judge and not to a court clerk or other agent for the records custodian.

c) CHARGES TO REQUESTOR

1. Administrative Code Charges Apply

- a. A requestor may ask to inspect information, get copies of the information, or both. If a request is for copies of information or to inspect information that requires reductions of confidential information then the charges approved by the Texas Public Information Act and found in Rule §70.3 of the Texas Administrative Code will apply.
- b. The City Secretary will be responsible for applying the charges per this policy, invoicing and collecting payment from requestors. The City Secretary will fully document the amounts, paid and unpaid, for every request in the PIR Log.

2. Providing Paper and other Physical Copies of Information

- a. Common fees that apply to hard copies of requested records are found in Appendix
- A City of Shavano Park Fee Schedule of the City of Shavano Park Code of Ordinances.
- b. The Act does not require the City to create documents, therefore the City is not required to create and produce certified copies of city records. However, it is the City's policy to issue standard or legal size certified copies of city records upon request for a fee specified in Appendix A City of Shavano Park Fee Schedule of the City of Shavano Park Code of Ordinances.

3. Providing Electronic Copies of Information

- a. If a Requestor asks that information be provided in an electronic format (i.e., e-mail attachment, copied on to a CD or DVD) the City shall provide the information in the requested format if:
 - i. the requested information is electronically stored;
 - ii. the City has the capability of providing it in that format; and
 - iii. the City it is able to provide it at no greater expense or time.
- b. The City has the capability to provide a Requestor with electronic copies of information via e-mail if the following conditions are met:
 - i. the Requestor provides a valid e-mail address;
 - ii. the information being requested already exists in an electronic nonmanipulative format, such as a .PDF file;
 - iii. no redactions of confidential information is needed;
 - iv. the electronic file is less than 10MB;
 - v. e-mailing the electronic file will not take longer than half an hour of personnel time; and
 - vi. payment, if applicable, for the documents has been received.

- c. The City has the capability to provide a Requestor with electronic copies of information via a disc if the following conditions are met:
 - i. the information being requested already exists in an electronic nonmanipulative format, such as a .PDF file;
 - ii. no redactions of confidential information is needed;
 - iii. copying the electronic file will not take longer than half an hour of personnel time; and
 - iv. payment, if applicable, for the documents has been received.
- d. Per page charges will not apply to copies provided electronically, but fees will be charged per Appendix A City of Shavano Park Fee Schedule of the City of Shavano Park Code of Ordinances.

4. <u>Inspection of Information</u>

- a. If the requestor does not request a copy of public information, no charge will be imposed for making the public information that exists in a paper record available for inspection unless:
 - i. the information being requested completely fills, or when assembled will completely fill, six or more archival boxes and would take 5 or more personnel hours to make available; or
 - ii. the information being requested is over 5 years old and would take 5 or more personnel hours to make available; or
 - iii. a page being requested contains confidential information that must be edited from the record before the information can be made available for inspection.
 - 1. If the information completely fills, or when assembled will completely fill, six or more archival boxes or is over 5 years old as described above, the City will charge the requestor the labor charges associated with making the documents available.
 - 2. If a redaction from a page is required, the City will charge fees per the Appendix A City of Shavano Park Fee Schedule of the City of Shavano Park Code of Ordinances.
- b. In response to a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, the City will not charge to inspect this information unless complying with the request will require programming or manipulation of data.
 - i. If programming or manipulation of data is required, the City Secretary shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed to make the information available.
 - ii. A charge under this section will be assessed in accordance with the Act and the section of this policy related to programming or manipulation of data.

5. Waiver of Costs

- a. The City shall waive the costs associated with producing the information if the total is less than \$1.00 because the actual cost of processing and collecting a charge less than \$1.00 will exceed the amount of the charge.
- b. The City shall reduce the costs associated with requests made by members of the media associated with local publications by \$10.00 because providing the public information to members of the media primarily benefits the general public.
- c. The City may provide a copy of a BWC recording without charge or at a reduced charge if it is determined by the Chief of Police that waiver or reduction of the charge is in the public interest.

6. Deposits and Overdue Balances

- a. A deposit of 50 percent of the entire estimated amount shall be imposed when the anticipated costs for the preparation of a copy of public information in the written itemized statement of charges provided by the City Secretary exceeds \$100.
- b. If a requestor has accrued over \$100 of overdue and unpaid balances related to previous requests, a deposit in the amount of the unpaid amounts owing to the City must be received before the City Secretary will begin preparing a copy of public information in response to a new request.
- c. If a deposit is required as detailed above, the request for a copy of public information is considered to have been received on the date the City receives the deposit for payment of anticipated costs or unpaid amounts.
- d. If a requestor modifies the request in response to the requirement of a deposit, the modified request is considered a separate request and is considered received on the date the City receives the written modified request.
- e. A requestor who fails to make a deposit before the 10th business day after the date the deposit is required is considered to have withdrawn the request for the copy of the public information that precipitated the requirement of the deposit or bond.

7. Programming and Manipulation of Data

a. Definitions

- i. "Manipulation" means the process of modifying, reordering, or decoding of information with human intervention.
- ii. "Programming" means the process of producing a sequence of coded instructions that can be executed by a computer.
- b. The City shall provide to a requestor written "programing or manipulation of data" statement described below if it is determined that:
 - i. responding to a request will require programming or manipulation of data; and
 - 1. compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or
 - 2. the information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

- c. Types of Information Requiring Programming or Manipulation of Data
 - i. The following are examples of the types of information that may be requested from the City that may require programming or manipulation of data in order to make them available to the public, this list is not intended to be exhaustive.
 - 1. <u>E-mails</u>. The City's e-mail correspondence is stored as "Outlook Message Format Unicode (*.msg)" files. To make an e-mail communication available to the public in an electronic, nonmanipulative format the City must modify this information from the .msg format to a .pdf format. The City considers this a manipulation of data and the following procedures shall be followed.
 - 2. <u>Audio and Video Files</u>. The City's audio and video files are stored in a variety of different electronic formats on the City's servers. To make a video file available to the public the City may have to modify the information to another electronic format that is capable of being saved to a CD or DVD and accessible electronically by the public. The City considers this a manipulation of data and the following procedures shall be followed.
 - 3. <u>Text Messages</u>. If asked to obtain text messages containing public information the City may have to modify the information to another electronic format that is capable of being saved to a .pdf format. The City considers this a manipulation of data and the following procedures shall be followed.
- a. The written "programming or manipulation of data" statement must include:
 - i. a statement that the information is not available in the requested form;
 - ii. a description of the form in which the information is available;
 - iii. a description of any contract or services that would be required to provide the information in the requested form;
 - iv. a statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general under Section 552.262; and
 - v. a statement of the anticipated time required to provide the information in the requested form.
- b. The City Secretary shall provide the written "programming or manipulation of data" statement to the requestor within 20 days after the date of the receipt of the request.
 - i. If the City Secretary needs additional time to provide the written statement s/he must provide written notice to the requestor, within 20 days after the date of receipt of the request, that the additional time is needed.
 - 1. If written notice above is provided the City Secretary has an additional 10 days to provide the written "programming or manipulation of data" statement.
- c. After providing the requestor with the written statement, the City does not have any further obligation to provide the information in the requested form or in the form in

which it is available unless within 30 days the requestor states in writing to the City that the requestor:

- i. wants the City to provide the information in the requested form according to the cost and time parameters set out in the statement or according to other terms to which the requestor and the City agree; or
- ii. wants the information in the form in which it is available.
- iii. If a requestor does not make a timely written statement under Subsection (d), the requestor is considered to have withdrawn the request for information.
- d. The City Secretary shall maintain a file containing all programming and manipulation of data written statements issued under this section in a readily accessible location.