# CITY OF KYLE 

## PLANNING \& ZONING COMMISSION REGULAR MEETING



Kyle City Hall, 100 W. Center Street, Kyle, TX 78640
The public can watch remotely at: Spectrum 10; https://www.cityofkyle.com/kyletv/kyle-10-live. One or more members of the governing body may participate in the meeting by videoconference pursuant to Section 551.127, Texas Government Code, provided that a quorum of the governing body will be present at Kyle City Hall.

Notice is hereby given that the Planning and Zoning Commission of the City of Kyle, Texas will meet at 6:30 PM on January 11, 2022, at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640, for the purpose of discussing the following agenda.

NOTE: There may be a quorum of the City Council of Kyle, Texas present at the meeting who may participate in the discussion. No official action will be taken by the City Council members in attendance.

Posted this 7th day of January, 2022, prior to 6:30 p.m.

## 1. Call Meeting To Order

## 2. Roll Call

3. Nomination(s) and Election(s) of Chair and Vice-Chair
A.Nomination(s) and Election(s) of Chair and Vice-Chair.

## 4. Minutes

A.Planning and Zoning Commission Meeting Minutes for December 14, 2021.

## 5. Citizen Comments

A.Citizen Comment Period. The Planning and Zoning Commission welcomes comments from Citizens early in the agenda of regular meetings. Speakers are provided with an opportunity to speak during this time period on any agenda item or any other matter concerning city business, and they must observe the three-minute time limit. Members
of the public that wish to provide citizen comment have the following options:

- In-Person at Kyle City Hall, 100 W. Center Street


## 6. Consent

A.Crosswinds Subdivision Phases 6A \& 6B - Preliminary Plan (SUB-21-0203) 67.035 acres; 207 residential lots, 1 commercial lot, 3 sidewalk easements \& P.U.E lots, 2 sidewalk easements, access easement \& P.U.E. lot, 2 greenbelt, drainage easement \& P.U.E. lots, 3 drainage easements, sidewalk easement, access easement \& P.U.E. lots, and 1 drainage easement \& P.U.E. lot for property located south of Windy Hill Road, adjacent to existing Crosswinds Phase 1.

Staff Proposal to P\&Z: Approve the preliminary plan.
B.Emma Park Subdivision - Preliminary Plan (SUB-21-0210) 63.92 acres; 162 residential duplex lots, 4 drainage lots, and an open space lot located within the 1300 block of Hillside Terrace.

Staff Proposal to P\&Z: Approve the preliminary plan.

## 7. Zoning

A.Consider a request by Sean Ratterree, of CTC Residential LLC (Z-21-0091) to rezone approximately 15.542 acres of land to 'PUD MXD' for property located at 5839 Kyle Parkway, in Hays County, Texas.

- Public Hearing
- Recommendation to City Council
B. Consider a request by the City of Kyle, (Z-21-0092) to rezone approximately 45.5 acres of land from 'RS' to 'PUD' (RS - 19 acres, MXD - 26.5 acres) for property located at 20139 IH-35, in Hays County, Texas.
- Public Hearing
- Recommendation to City Council


## 8. Consider and Possible Action

A.Consider a request to construct an approximately 160,000 square foot Costco, fuel canopy and site plan for property located at 18962 IH-35 within I-35 overlay district. (Costco - Conditional Use Permit - CUP-21-0042)
B. Consider a request to construct an approximately 4,000 sq.ft. (Torchy's free standing unit and drive thru), an approximately 10,500 sq. ft. (Retail \#3 building) and approximately ( 9,100 sq. ft. (Retail \#4 building) for property located at 19100 IH-35 within the I-35 overlay district. (Torchy's, Retail \#3 and Retail \#4 - Conditional Use Permit - CUP-21-0044)
C.Consider a comprehensive plan amendment to amend approximately 535 acres of land from 'Farm District' to 'East FM 150 Employment District' and 42 acres of land to the 'Regional Node' for certain parcels located northwest of the intersection of SH-21 and E FM 150. (City of Kyle)

- Public Hearing (Second of Two Public Hearings)
- Recommendation to City Council
D.Consider an amendment Chapter 41 (Subdivisions) of the City of Kyle, Code of Ordinances. The following sections will be considered: Sec. 41-1 Definitions (Municipal Utility Easement); Sec. 41-137 Streets, Sec. 41-139 - Crosswalks, Sec. 41-143 Sidewalks \& Sec. 41-146 Streetlights, for the purpose of adding requirements for the city-wide trail system.
- Public Hearing
- Recommendation to City Council
E. Consider an amendment to Chapter 53 (Zoning) of the City of Kyle, Code of Ordinances. The following sections will be considered: Sec. 53-33(n)(4) Parking, Sec.
53-892 Districts and Boundaries, adding Sec. 53-900, and amending Exhibit A, Plum Creek Planned Unit Development, Art. II, Section 1, for the purpose of adding requirements for the city-wide trail system.
- Public Hearing
- Recommendation to City Council


## 9. Staff Report

A.Staff Report by William Atkinson, Senior Planner.

## 10. Adjournment



## CITY OF KYLE, TEXAS

Nomination and Election of Chair and Vice-Chair

Meeting Date: 1/11/2022

Date time:6:30 PM

Subject/Recommendation: Nomination(s) and Election(s) of Chair and Vice-Chair.
Other Information: N/A

Legal Notes: N/A
Budget Information: N/A

## ATTACHMENTS:

## Description

No Attachments Available


CITY OF KYLE, TEXAS
Meeting Date: 1/11/2022
Date time:6:30 PM

Subject/Recommendation: Planning and Zoning Commission Meeting Minutes for December 14, 2021.

Other Information: See attached.
Legal Notes: N/A
Budget Information: N/A

## ATTACHMENTS:

Description
[ Minutes - December 14, 2021

## REGULAR CALLED MEETING OF THE <br> PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission of the City of Kyle, Texas met in a regular meeting on December 14, 2021, at 6:30 P.M. with the following people present:

Acting Chair, Alex Guerra
Commissioner, Megan McCall
Commissioner, Patricia Snidow
Commissioner, Matt Chase
Commissioner, Brandon James
City Planner, William Atkinson
Planning Technician, Debbie A. Guerra

## CALL MEETING TO ORDER

Acting Chair Guerra called the meeting to order at 6:30 P.M.

## ROLL CALL OF COMMISSION

Acting Chair Guerra called for a roll call. Commissioner McCall was absent from roll call, arrived at $6: 38 \mathrm{pm}$.

## MINUTES

PLANNING AND ZONING COMMISSION MINUTES - NOVEMBER 9, 2021 (REGULAR MEETING).

Commissioner Chase moved to approve the minutes. Commissioner James seconds the motion. All votes' aye. Motion carried.

## CITIZENS COMMENTS

Acting Chair Guerra opened the citizens comment period at 6:32 P.M. and called for comments on items not on the agenda or posted for public hearing. Council Member Dex Ellison addressed the Commission and thanked them for their service. Acting Chair Guerra closed the citizens comment period at 6:32 P.M.

## PUBLIC HEARING

THE PLANNING AND ZONING COMMISSION OF THE CITY OF KYLE, TEXAS, WILL HOLD TWO PUBLIC HEARINGS FOR THE PURPOSE OF RECEIVING TESTIMONY, COMMENTS, AND WRITTEN EVIDENCE FROM THE PUBLIC REGARDING A COMPREHENSIVE PLAN AMENDMENT TO AMEND APPROXIMATELY 535-ACRES OF LAND FROM 'FARM DISTRICT' TO EAST FM 150 EMPLOYMENT DISTRICT' AND 42-ACRES OF LAND TO THE ‘REGIONAL NODE' FOR CERTAIN PARCELS LOCATED NORTHWEST OF THE INTERSECTION OF SH-21 AND E. FM 150. (CITY OF KYLE)

Acting Chair Guerra opened the public hearing at 6:33 P.M. and called for comments. There were no comments. Acting Chair Guerra closed the public hearing at 6:33 P.M.

No action taken.

## CONSENT

Commissioner Snidow asked for item G - Kalterra Addition Lots 6-8 from the consent agenda.

PLUM CREEK PHASE 2, SECTION 2 - FINAL PLAT (SUB-21-0211) 55.026 ACRES; 201 SINGLE FAMILY LOTS, 2 PUBLIC UTILITY EASEMENTS, 1 PUBLIC UTILITY EASEMENT - OPEN SPACE - LANDSCAPE EASEMENT LOT, 4 OPEN SPACE LOTS, 2 OPEN SPACE LANDSCAPE - EASEMENTS, 1 DRAINAGE EASEMENT - OPEN SPACE AND LANDSCAPE EASEMENT LOT FOR PROPERTY LOCATED OFF KOHLER'S CROSSING AND JACK C. HAYS TRAIL.

PLUM CREEK PHASE 1, SECTION 6A, BLOCK B - SITE PLAN (SD-21-0107) 1.62 ACRES; 1 MULTI-FAMILY RESIDENTIAL LOT FOR PROPERTY LOCATED AT 5711 FM 2770.

SAGE HOLLOW - FINAL PLAT (SUB-21-0176) 57.293 ACRES; 222 RESIDENTIAL LOTS, 8 GREENBELT LOTS LOCATED AT 1915 W. FM 150.

REPLAT OF LOTS 14, 15 AND 16, BLOCK 4, ORIGINAL TOWN OF KYLE ESTABLISHING LOTS 15A AND 15B, BLOCK 4 (SUB-21-0221) 0.1973 ACRES; 2 LOTS LOCATED AT 111 S. MAIN STREET.

PLUM CREEK PHASE II, SECTION 10, LOT 2 - FINAL PLAT (SUB-21-0225) 5.246 ACRES; 1 LOT FOR PROPERTY LOCATED OFF FM 1626 AND RIKARDSON.

PLUM CREEK PHASE 11, SECTION 10 - FINAL PLAT (SUB-21-0226) 171.05 ACRES; 6 COMMERCIAL LOTS LOCATED OFF FM 1626 AND RIKARDSON.

KY-TEX DOWNTOWN - CONCEPT PLAN (SUB-21-0207) 47.07 ACRES; 230 LOTS FOR PROPERTY LOCATED NEAR THE NORTHWEST INTERSECTION OF VETERANS DRIVE AND GREGG ROAD.

Commissioner Chase moved to approve the consent agenda A-F \& H. Commissioner James seconds the motion. All votes' aye. Motion carried.

CONSIDER AND POSSIBLE ACTION

CONSIDER A REQUEST TO CONSTRUCT AN APPROXIMATELY 4.416 SQUARE FOOT DENNY'S FREE-STANDING RESTAURANT AND SITE PLAN FOR PROPERTY LOCATED AT 19020 IH-35, WITHIN THE I-35 OVERLAY DISTRICT. (DENNY'S RESTAURANT - CUP-21-0031)

Commissioner James moved to approve. Commissioner Chase seconds the motion. All votes aye. Motion carried.

LOCATED AT 18920 IH-35, WITHIN THE I-35 OVERLAY DISTRICT. (Z TEJAS -CUP-21-0038)

Commissioner Chase moved to approve. Commissioner James seconds the motion. All votes aye. Motion carried.

CONSIDER A REQUEST TO CONSTRUCT TWO (2) SINGLE-STORY, MULTITENANT RETAIL BUILDINGS. EACH BUILDING WILL BE APPROXIMATELY 7,200 SQUARE FEET LOCATED SOUTH OF FM 1626 AND WEST OF MARKETPLACE AVENUE WITHIN THE FM 1626 OVERLAY DISTRICT. (KYLE MARKETPLACE SECTION 2, BLOCK A, LOT 2 - CUP-21-0039)

Commissioner James moved to approve. Commissioner Chase seconds the motion. All votes aye. Motion carried.

Commissioner Chase recused himself at $6: 48 \mathrm{pm}$
KALTERRA ADDITION LOTS 6-8 - FINAL PLAT (SUB-21-0217) 8.994 ACRES; 3 LOTS LOCATED ON THE SOUTHWEST CORNER OF KOHLER'S CROSSING AND IH-35.

Commissioner Snidow moved to approve. Commissioner McCall seconds the motion. All votes aye. Motion carried.

Commissioner Chase returned at 6:49 pm
GENERAL DISCUSSION

## DISCUSSION ONLY REGARDING PLANNING AND ZONING COMMISSION REQUEST FOR FUTURE AGENDA ITEMS.

Commissioner Chase asked for an update to elections for Chair/Vice-Chair. Mr. Atkinson stated interviews will be conducted early part of January. The Commission agreed to move forward with the selection at the next meeting.

Commissioner McCall had a question about overlay design requirements. Commissioner Snidow would like to see overlay expansion. Acting Chair Guerra would like to revise the overlay from Rebel to Veteran's Drive overlay.

## STAFF REPORT

STAFF REPORT BY WILLIAM ATKINSON, CITY PLANNER.

- Update on P\&Z Commission vacancies
- Vybe trail codifying
- Annexations will be going to Council / Zonings will be coming to P\&Z early next year


## ADJOURN

With no further business to discuss, Commissioner Chase moved to adjourn. Commissioner Snidow seconds the motion. All votes' aye. Motion carried.

The Planning and Zoning Commission regular called meeting adjourned at 7:04 P.M.

Prepared by Debbie A. Guerra
Acting Chair Alex Guerra


# CITY OF KYLE, TEXAS 

Meeting Date: 1/11/2022
Date time:6:30 PM

Subject/Recommendation: Citizen Comment Period. The Planning and Zoning Commission welcomes comments from Citizens early in the agenda of regular meetings. Speakers are provided with an opportunity to speak during this time period on any agenda item or any other matter concerning city business, and they must observe the three-minute time limit. Members of the public that wish to provide citizen comment have the following options:

- In-Person at Kyle City Hall, 100 W. Center Street

Other Information:

## Legal Notes:

## Budget Information:

## ATTACHMENTS: <br> Description <br> No Attachments Available



CITY OF KYLE, TEXAS

## Crosswinds Subdivision Phases 6A \& 6B - Preliminary Plan (SUB-210203) <br> Meeting Date: 1/11/2022 <br> Date time:6:30 PM

Subject/Recommendation: Crosswinds Subdivision Phases 6A \& 6B - Preliminary Plan (SUB-21-0203) 67.035 acres; 207 residential lots, 1 commercial lot, 3 sidewalk easements \& P.U.E lots, 2 sidewalk easements, access easement \& P.U.E. lot, 2 greenbelt, drainage easement \& P.U.E. lots, 3 drainage easements, sidewalk easement, access easement \& P.U.E. lots, and 1 drainage easement \& P.U.E. lot for property located south of Windy Hill Road, adjacent to existing Crosswinds Phase 1.

Staff Proposal to P\&Z: Approve the preliminary plan.
Other Information: See attached.
Legal Notes: N/A
Budget Information: N/A

## ATTACHMENTS:

## Description

[ 1445 Approval Letter and Preliminary Plan

Hays County Development Services
P.O Box 1006 San Marcos TX 78667-1006

2171 Yarrington Road San Marcos TX 78666
512-393-2150 / www.hayscountytx.com

December $9^{\text {th }}, 2021$

William Atkinson
City Planner
City of Kyle

Re: Crosswinds, Phase 6A and 6B, Prelim (PLN-1772-NP)

Mr. Atkinson,
The Hays County Development Services staff has had an opportunity to review the aforementioned subdivision for compliance with Hays County subdivision and development regulations. Hays County staff has no further review comments at this time.

Pursuant to the Interlocal Cooperation Agreement between Hays County and the City of Kyle for subdivision regulation within the extraterritorial jurisdiction of the City of Kyle, please move forward with approval of the plat as submitted.

If you have any questions please let me know.

## Regards,

## Marcus Pacheco

Marcus Pacheco
Director
Hays County Development Services


## CROSSWINDS SUBDIVISION PHASES 6A \＆6B

## Adjacent Owners

| Development Solutions CW பС Dallas，Texas 75251 |
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| $\begin{aligned} & \text { R26450 } \\ & \text { Ramon Coneche } \\ & 140 \text { Bayou Bend } \\ & \text { Buda, Texas } 78610 \end{aligned}$ |
| R2645 <br> Robert D．Hunsucker II 208 Quail Cove Kyle，Texas 78640 |
| R26453 Brad \＆Cheryl A．Bauman 210 Quail Cove Kyle，Texas 78640 Kyle，Texas 78640 |
| R26455 Gradiela G Gonzalez 711 Martin Luther King Dr San Marcos，Texas 78666－5460 |
| $\begin{aligned} & \text { R26459 } \\ & \text { Ruben Barcenas } \\ & 320 \text { Quail Run } \\ & \text { Buda, Texas } 78610 \end{aligned}$ |
| R26460 <br> 626Join Venture <br> 4307 S．1st St． Austin，Texas $78745-8902$ <br> Austin，Texas 78745－8902 |
| R2661 |
| Francisca Gamboa 203 Mockingbird Lane Kyle，Texas 78640 |
| R26462 <br> Thomas L \＆Mary M．Kaminski 507 Canyon Wren D Buda，Texas 78610 |
| R26463 <br> Raquel Cruz c／o Maria Martinez <br> 200 Mockingbird Land Kyle，Texas 78640 <br> Kyle，Texas 786 |
| pine Properties LLC <br> 2450 Wickersham Lane Austin，Texas 78741 <br> Austin，Texas 78741 |
| R26466 Jose Garcia \＆ <br> Maria Carmen Lopez <br> Kyle，Texas 78640 |
| R13959 Development Solutions CW ШС 12222 Merit Dr．Ste． 1020 Dallas，Texas 75251 |
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CROSSWINDSPHASE 6A \＆6B

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## CITY OF KYLE, TEXAS

## Emma Park Subdivision - <br> Preliminary Plan (SUB-21-0210)

Meeting Date: 1/11/2022
Date time:6:30 PM

Subject/Recommendation: Emma Park Subdivision - Preliminary Plan (SUB-21-0210) 63.92 acres; 162 residential duplex lots, 4 drainage lots, and an open space lot located within the 1300 block of Hillside Terrace.

Staff Proposal to P\&Z: Approve the preliminary plan.
Other Information: See attached.

Legal Notes: N/A
Budget Information: N/A

## ATTACHMENTS:

Description
[ 1445 approval letter and preliminary plan

Hays County Development Services
P. O Box 1006 San Marcos TX 78667-1006

2171 Yarrington Road San Marcos TX 78666
512-393-2150 / 512-493-1915 fax

June 2, 2021

Howard Koontz
Director of Planning
City of Kyle

Re: Emma Park Subdivision, Preliminary Plan (SUB-1330)

Mr. Koontz,
The Hays Country Development Services staff has had an opportunity to review the aforementioned subdivision for compliance with Hays County subdivision and development regulations. Hays County staff has no further review comments at this time.

Pursuant to the Interlocal Cooperation Agreement between Hays County and the City of Kyle for subdivision regulation within the extraterritorial jurisdiction of the City of Kyle, please move forward with approval of the plat as submitted.

If you have any questions please let me know.

Regards,

## Marcus Pacheco

Marcus Pacheco
Director
Hays County Development Services










CITY OF KYLE, TEXAS
CTC Residential LLC - Zoning (Z-21-0091)

Meeting Date: 1/11/2022

Date time:6:30 PM

Subject/Recommendation: Consider a request by Sean Ratterree, of CTC Residential LLC (Z-21-0091) to rezone approximately 15.542 acres of land to 'PUD MXD' for property located at 5839 Kyle Parkway, in Hays County, Texas.

- Public Hearing
- Recommendation to City Council

| Other Information: | See attached. |
| :--- | :--- |
| Legal Notes: | N/A |
| Budget Information: | N/A |


| ATTACHMENTS: |  |
| :---: | :---: |
|  | Description |
| $\square$ | Staff Memo |
| $\square$ | Ordinance With Exhibits |
| $\square$ | Summary Letter |
| $\square$ | Landowner Authorization Letter |
| $\square$ | Franchise Tax Account Status_SCC Kyle Partners |
| $\square$ | Franchise Tax Account Status_CTC Residential |
| $\square$ | Deed |

## Property Location

Owner
5839 Kyle Parkway, Kyle, TX 78640

SCC Kyle Partners LTD
800 N. Shoreline Blvd. \#2200S
Corpus Christi, TX 78401
Agent
Sean Ratterree
CTC Residential
854 Sprucewood Lane Houston, TX 77024

Request

Rezone 15.542-Acres "RS" (Retail Services) to "PUD MXD" (Planned Unit Development, PUD)

## Vicinity Map



## Site Description

The site proposed to be rezoned, is an undeveloped lot located at 5839 Kyle Parkway. It's currently zoned "RS" or "Retail Services" with Ord. No. 527. Immediately to the north is flood plain zoned "RS" and a vacant lot zoned "RS". To the southeast is Seton Hospital, zoned "HS" or "Hospital Services". To the southwest and west are undeveloped lots zoned "RS"

## Existing Zoning

## RS (Retail Services)

## Sec. 53-480. - Permitted Uses

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas, e.g., clothing, prescription drugs, furniture, toys, hardware, electronics, pet supply, variety, department, video rental and antique stores, art studio or gallery, hobby shops and florist shops., and the retail sale of goods and products (in the following listed use areas) to which value has been added on site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed, and the following: Any use permitted in CBD-1 or CBD-2 and RS districts as provided in section 53-1230.
(Ord. No. 438, § 45(a), 11-24-2003)

## Requested Zoning

## PUD MXD (Planned Unit Development, Mixed-Use

## Sec. 53-674. - Purpose and findings.

The mixed-use district (MXD) is generally intended to further and promote the tenants of the cities' master plans and comprehensive plan. The district is a commercial zoning classification that requires a vertical mix of commercial and residential uses within the same building(s) on multiple floors. The district is intended to accommodate a physical pattern of development often found in high traffic activity areas, along major streets and especially at intersections of major thoroughfares, and in neighborhood commercial areas of older cities. The district, where appropriately located, will accommodate mixeduse buildings with activity center retail, service, and other commercial uses on the ground and lower floor(s), and residential units above those nonresidential space(s); as well as encourage development that exhibits the physical design characteristics of pedestrian-oriented, store front-style shopping; and promote the health and well-being of residents by encouraging physical activity and greater social interaction.

## Sec. 53-703. - Flexible planning.

(a) When considering a planned unit development (PUD), the unique nature of each proposal for a PUD may require, under proper circumstances, the departure from the strict enforcement of certain present codes and ordinances, e.g., without limitation, the width and surfacing of streets and highways, lot size, parking standards, set backs, alleyways for public utilities, signage requirements, curbs, gutters, sidewalks and streetlights, public parks and playgrounds, drainage, school sites, storm drainage, water supply and distribution, sanitary sewers, sewage collection and treatment, single use districts, etc.
(b) Final approval of a PUD by the city council shall constitute authority and approval for such flexible planning to the extent that the PUD as approved, departs from existing codes and ordinances.
(c) The flexibility permitted for a PUD does not imply that any standard or requirement will be varied or decreased.

## Sec. 53-704. - Rules applicable.

The city council, after public hearing and proper notice to all parties affected and after recommendation from the planning and zoning commission, may attach a planned unit development district designation to any tract of land equal to or greater than three buildable acres. Under the planned development designation the following rules apply:
(1) The approval of any proposed PUD or combination of uses proposed therein shall be subject to the discretion of the city council, and no such approval will be inferred or implied.
(2) Permitted uses are those listed under the applicable zoning districts for the base zoning to be applied to the PUD (for example, the permitted uses in a PUD proposed to be developed as CBD-2, RS, W, CM districts). In addition, a planned unit development district may be established where the principal purpose is to serve as a transitional district, or as an extension of an existing district whereby the provision of off-street parking, screening walls, fences, open space and/or planting would create a protective transition between a lesser and more restrictive district. In approving a planned unit development, additional uses may
be permitted, and specific permitted uses may be prohibited from the base district.
(3) Standards required by the base zoning apply in a planned unit development except that the following regulations and standards may be varied in the adoption of the planned unit development; provided that the plan is consistent with sound urban planning and good engineering practices.
a. Front, side and rear setbacks.
b. Maximum height.
c. Maximum lot coverage.
d. Floor area ratio.
e. Off-street parking requirements.
f. Special district requirements pertaining to the base zoning.
g. Number of dwelling units per buildable acre.
h. Accessory building regulations.
i. Sign standards.
(4) In approving a planned unit development, no standards may be modified unless such modification is expressly permitted by this chapter, and in no case may standards be modified when such modifications are prohibited by this chapter.
(5) In approving a planned unit development, the city council may require additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, light and air, orientation, type and manner of construction, setbacks, lighting, landscaping, management associations, open space, and screening.
(6) The planning and zoning commission and city council, in approving modifications to standards and regulations, shall be guided by the purpose intended by the base zoning and general intent of this chapter.
(Ord. No. 438, § 39(e), 11-24-2003)

## Conditions of the Zoning Ordinance

Sec. 53-1205 Amendments
(d)

Referral of amendment to planning and zoning commission. Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning commission for consideration, public hearing, and recommendation to the city council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.
(e)

Action by the planning and zoning commission. The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the council such action as the planning and zoning commission deems proper...


## Comprehensive Plan Text

The subject site is located within the "Super Regional Node" district. The "MXD" zoning district is a recommended district in both the "Super Regional Node" district.

## Super Regional Node

Recommended: E, HS, R-3-2, R-3-3, R/S, MXD, O/I
Conditional: ----
'Character': The Super Regional Node should contain large-scale institutional, commercial, retail, and where appropriate, high density multifamily land uses to create the highest classification activity center in Kyle. The Seton Medical Center should serve as the key distinguishing employment component, serving as the primary institutional use in the district upon which support enterprises can base their business locations. The Super Regional Node is in the early stages of development, and care should be taken to ensure that as development processes, it is in keeping with the character and intent outlined below for this Node. Seton Hospital serves as a regional attractor and, in large part, alongside destination retail and business services, defines the Super Regional Node. Associated health providers and goods and service providers should be attracted to this area and encouraged to create a diverse commercial and employment center. The aggregation of commercial square footage in this Node creates a significant commercial destination that will be visible to regional travelers along the I-35 corridor. This proximity to highway infrastructure results in the rare instance of a district primarily designed to be automobile oriented, with patrons arriving and inter-locating primarily by car. The commercial focus of this Node should be on acting as an economic activity center, generating much needed real estate, sales and hotel occupancy tax revenue for the city while fulfilling the retail and service needs of patrons from a targeted distance of no less than 10-15 mile away. Additionally, ancillary entertainment uses, such as movie theaters or bowling alleys, may be appropriate in this Node. This Node should serve as a destination for Kyle, attracting people due to the hospital and/or commercial offerings, and encouraging them to extend their stay due to unique and diverse uses and connections to other areas of Kyle.
'Intent': The purpose of the Super Regional Node is to capture employment opportunities and create a commercial destination within Kyle. Situated at the intersection of I-35 and Texas State Highway 1626, these high classification roadways
are best suited to bring in out-of-region patrons with the least impact to Kyle's local street network. This Node should take advantage of the medical center and of I-35 traffic to increase Kyle's competitiveness in the surrounding region. Existing employment opportunities should be referenced when targeting complimentary commercial uses and opportunities for increased value capture. Due to the concentration and diversity of uses in this Node, appropriate land use transitions to adjacent Communities is critical. The anchor of the Super Regional Node should be employment and they daytime population created by those positions, and the Super Regional Node should have the highest level of development intensity of all Nodes.

## Analysis

The subject property is located on approximately 15-acres and zoned "RS" (Retail Services). This site is currently undeveloped, and within the "Super Regional Node" land use district. The site is a platted lot in the SCC Bunton subdivision, with Seton Parkway adjacent to the eastern boundary. The 15 -acres is in an undeveloped portion of the shopping center that include Lowes, Seton Hospital, Walmart and associated ancillary retail stores. The site is set to develop a majority of the remaining undeveloped pad sites between Lowe's and Seton Hospital.

The Super Regional Node is the land use district associated with the 15-acres. The Super Regional Node is the area of town that is expected to be the highest density and have the highest intensity of uses in Kyle. Its Super Regional status is intentionally designed to draw citizens from all over Central Texas. Large scale businesses such as Seton Hospital, HEB Plus, Target, etc. reflect the intent of the area.

When staff first met with the applicant/developer, staff made sure the applicant knew that the city expected to see vertical mixed-use, higher density residential and a portion of the new Vybe trail system incorporated into the project. After several iterations of the project, the a concept plan was agreed upon and the zoning for the "PUD MXD" was applied for.

A Planned Unit Development (PUD) is a zoning district that establishes a base zoning (MXD in this case), and then modifies the district to better enable marketability, city policies and code. The intent of the district is to create a better project and allowing flexibility, where warranted. This PUD reflects this process. The major variations and improvements in our code are outlined in the "PUD Standards", and are as follows:

- 2, (two) vertical mixed-use buildings adjacent to Seton Parkway (main entrance to project).
- Northern vertical mixed-use building is intended to house a microbrewery and outside dining/entertainment area.
- Approximately 1,900 linear feet of The Vybe Trail at southern and eastern boundaries, with the northern VMU and outdoor dining area forming a Vybe Spot.
- Parallel parking along southern boundary and western edge of Seton Parkway, with associated urban streetscape (street trees).
- Certain exemptions in the MXD code that adversely effect the creation of vertical mixed-use projects (see PUD standards).
- Allowing 4 (four) non-vertical mixed-use buildings allowing multifamily units. These buildings will be internal to the project, behind and west of the vertical mixed-use buildings. A separate voluntary development agreement will spell out architectural expectations for all buildings on site.
- Changes to parking ratio calculations in the MXD zoning district to better clarify expectations.
- ROW dedication for the expected northern extension of Seton Parkway across the Bunton Branch of Plum Creek.

The result of the city/developer discussions is a project that meets the comprehensive plan goals, those of staff and City Council (VMU, The Vybe Trail \& Vybe Spot).

## Recommendation

The site has sufficient utilities, road infrastructure, and supports the Comprehensive Plan. Staff supports the request and asks the Planning \& Zoning Commission to provide a recommendation vote in support of the zoning request.

ORDINANCE NO. $\qquad$
AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 15.542 TOTAL ACRES PLANNED UNIT DEVELOPMENT - MIXED USE ZONING "PUD MXD" - FOR PROPERTY LOCATED AT 5839 KYLE PARKWAY, IN HAYS COUNTY, TEXAS; AUTHORIZING THE CITY SECRETARY TO AMEND THE CITY OF KYLE CODE OF ORDINANCES SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

## NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to rezone approximately 15.452 acres to PUD MXD Zoning on property located at 5839 Kyle Parkway, Hays County, Texas and the property location map labeled 'Exhibit A'.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein, as such on the zoning district map of the City of Kyle, as shown in 'Exhibit A' and by proper endorsement indicate the authority for said notation.

SECTION 3. The associated PUD standards and concept plan are attached as 'Exhibit B', and the PUD standards will control over portions of City of Kyle development code where such standards vary from the City of Kyle requirements.

SECTION 4. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 5. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 6. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the $\qquad$ day of $\qquad$ ,2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the $\qquad$ day of $\qquad$ , 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001 , et. Seq. of the Government Code.

APPROVED this $\qquad$ day of $\qquad$ , 2022.

## ATTEST:

## Exhibit A



## Exhibit B

# Seton Parkway PUD (CTC Residential) <br> Development Standards 

## Section 1. General Provisions

(A) Project Described. The Seton Parkway PUD shall include compatible residential and commercial uses as more particularly described on Exhibit 1 (the "Concept Plan". The property shall be developed as a combination of vertical mixed use and multifamily community consisting of 2 (two), vertical mixed-use buildings along Seton Parkway, and 4 (four) multi-family buildings to the west of the vertical mixed-use buildings. The project will include a portion of The Vybe trail and Vybe spot in the northeast corner of the parcel (along the Bunton Branch of Plum Creek and Seton Parkway).
(B) Project Enhancements The Developer will provide the following enhancements in conjunction with the project:
(1) Dedication of approximately 230 linear feet of right-of-way from the corner of Seton Parkway to the north property line. If the 230 ' linear feet does not meet the property line, the developer will dedicate the right-of-way to the property line.
(2) Construction of The Vybe trail (12' wide) and associated improvements per the standard detail for the City of Kyle. The required area for the trail to sit in shall be 20' wide. The expected length is approximately $+/-1,500$ linear feet, and will be along the south side of the property, and run north along the west side of Seton Parkway (Exhibit 2). This portion of the trail will be maintained by the associated property owners and/or property owners association (Exhibit 2).
(3) Construction of a Vybe Spot integrating the trail into the northern vertical mixed-use building. The anticipated use is a microbrewery and outdoor dining area. (Exhibit 2).
(C) Applicability. Development of and uses within the Seton Parkway PUD shall conform to the limitations and conditions set forth herein. If the regulations of the Seton Parkway PUD and the attached exhibits conflict with the City Code, the regulations set forth herein shall control. Except as otherwise specifically modified by the Seton Parkway PUD, all other rules, regulations, and ordinances of the City in effect at the time of the permit application apply to development within the Seton Parkway PUD. The project will be substantially compliant with the PUD standards and concept plan shown.

## Section 2. Development Standards

## (a) Development Requirements.

(i) Subject to approval of zoning that authorizes the land uses set forth in this Agreement as to the PUD, the Development will be designed and constructed in accordance with Exhibit 2, and shall include an active trail network ("Vybe'), open space, and other enhancements to maximize placemaking and experience within the development. The Vybe, generally in the location shown in Exhibit 2, shall be a minimum of 0.3 acres in size, and shall be designed with a VMU building and expected associated microbrewery in the ground floor or other similar centerpiece approved by the City and vegetative buffer approved by the City along the northern boundary of the PUD Tract in substantial compliance with this Agreement. The Developer shall obtain City approval of the plans for the Vybe prior to commencing construction of that portion of the improvements covered by a given set of plans, which approval shall not be unreasonably delayed, conditioned, or withheld. Completion of the Vybe shall be a condition of the City's issuance of the Certificate of Occupancy for the first VMU building in the PUD. The Vybe will be owned and maintained initially by the developer and ultimately by a property owner's association or other qualified party designated by Developer. Maintenance of the Vybe and all public and common areas shall be to a standard consistent with first-class standards found in other commercial Class A, Mixed Use developments. The City may review these maintenance standards and adjust them from time to time during the term of this agreement. Construction of a Vybe Spot integrating the trail, the northern VMU \& microbrewery (anticipated use)/outdoor dining, is required. Pavement in this area will be a herringbone pattern and a minimum of 3 golf cart parking spaces with associated charging stations are required. The Vybe Spot shall have an area for a small outdoor stage and a publicly accessible restroom. The restroom will be owned/maintained by the property owner and will be accessible daily for the duration of the expected business hours of said business. Use of the Vybe shall always be accessible to the public and include but not limited to recreational amenities and open space.
(ii) Parking ratios will be averaged over the overall PUD.

- Commercial Uses, not including restaurants $=4$ spaces per 1,000 sq. ft. of GFA, minimum
- Multifamily (including VMU) $=1.65$ spaces per residential unit minimum
- Parallel parking at the southern boundary of the tract and along Seton Parkway will count toward parking ratios for this project.
- Golf cart parking is allowed to encourage the use of The Vybe trail network. Minimum dimensions will be 4 -feet wide and 6 -feet deep. If golf cart parking is installed, golf cart charging stations are required, with a minimum of 2 charging stations for the first $20,000 \mathrm{sq}$. ft . of a building. Golf cart parking is allowed to
replace standard parking spaces at a 2:1 ratio (maximum of 20\% of required parking).
(iii) Sidewalks. On the West side of Seton Parkway, the 12 ' wide Vybe trail will be constructed. It will extend from the southern boundary of the parcel to the northern limits of the Seton Parkway extension (within the parcel). All buildings within the PUD will have perimeter sidewalks connecting to public sidewalks. conceptually shown on Exhibit 2.
(iv) Security Fencing. Security / Privacy fencing shall be limited, whereby possible. Developer reserves the right to limit direct access (from the street) to the property as shown in the exhibit, however, Developer shall use building design, landscaping, and other features to function as transitions and dividers of different areas, rather than fencing whereby possible. Nothing shall limit the use of fences around private yards, enclosing dog parks, pool areas, and other similar areas, as needed, except for the courtyards of the buildings integrating into the Vybe Spot.
(v) Buffers. Meter screens shall be buffered from street view.
(vi) Fencing / Barriers. All fencing at the perimeter, and interior of the project shall be steel tubing (wrought iron) or wire mesh with steel perimeter frame. There may be some areas where contemporary decorative wood slat fencing will be utilized, but this will be minimal.
(vii) Trash / Dumpster Screens. All dumpster or compactors shall be screened with masonry walls and screened with an opaque metal frame gate system.
(viii) Public Art. Public art pieces, preferably from local artists, will be included in the Development as appropriate in the discretion of the Developer, with the involvement and reasonable approval of the City.
(ix) Adjacent Lane Mile Fee. The PUD is subject to paying the Adjacent Lane Mile fee.
(b) Use Restrictions. The following uses are prohibited on any lots within the Development.
(i) Convenience Store
(ii) Daycare facility
(iii) "Second Hand" store or/ "Surplus" Store, however, this provision shall not apply to a Nike Factory Outlet, Last Call, Nordstrom Rack, or other similar national discount retailer
(iv) Financial Institutions
(v) Mattress store
(c) PUD. The PUD must have 2 (two) vertical mixed-use buildings against the western edge of Seton Parkway. Ground floor commercial is required and live/work units are not allowed. The remaining 4 (four) buildings are each allowed to be 100\% multifamily (Exhibit 1).
(i) Front Build to Line $=0^{\prime}-60^{\prime}$
(ii) Southern Build to Line $=0^{\prime}-60^{\prime}$
(iii) Side Setback $=0$ '
(iv) Rear Setback $=0^{\prime}$
(v) Maximum Residential Density $=30$ units per buildable acre
(vi) Sec. 53-677(a-c) are exempted in the PUD, except ground floor residential is allowed for non-vertical mixed-use buildings. It is anticipated that the 4 (four) non-VMU buildings will not have a ground floor commercial component and be allowed to be 100\% residential (Exhibit 1).
(vii) Sec. 53-679(b) is exempted in the PUD.
(viii) Non-vertical mixed-use buildings are exempted from Sec. 53-686.
(ix) The buildings along public roadways and the Vybe shall, at a minimum, be 3 (three)-story buildings, at a maximum five (5) story or 65 feet high buildings. Interior buildings shall have a minimum height of two (2) stories and a maximum height of 4 (four) stories.
(x) Any unleased commercial space may be "shadowboxed" until leased.
(xi) Any commercial space in a building on the MXD Tract may be converted into a condominium regime.
(d) Traffic. Developer shall not be required to provide traffic studies for the development of the Property.
(e) Building Permits. The Developer acknowledges and agrees that compliance with Section 3 will be a condition of issuance of building permits and certificates of occupancy for the applicable portion of the Retail Services Tract or the MXD Tract. Developer further agrees that the City may use its building permitting, inspection, and enforcement processes and procedures to enforce the requirements of Section 2 governing building materials with respect to each Development, including but not limited to rejection of applications and plans, stop work orders, and disapproval of inspections for applications and/or work that does not comply with this Agreement. Applications and plans for a building permit must demonstrate compliance with this Agreement in order for a building permit to be issued. Applications for building permits must comply with this Agreement, as well as the Applicable Regulations, in order for such application to be approved and a building permit issued. Plans demonstrating compliance with this

Agreement must accompany a building permit application and will become a part of the approved permit. Any structure constructed on the Property must comply with this Agreement and the Applicable Regulations for a certificate of occupancy to be issued for such structure.
(f) Stormwater. Stormwater drainage infrastructure and detention facilities shall be provided to accommodate for the development of the Property, per City requirements.
(g) Shared Use Path. Developer shall be responsible for the design, construction and maintenance for the portions of The Vybe trail network generally shown on Exhibit 2 and such portion of The Vybe Trail shall be constructed with the phase in which it is located. The Vybe Trail shall be composed of concrete or other material acceptable by City, and no replacement requirements, fees in lieu, or other penalties will be imposed on the Development for removal of trees, landscaping, or other features in the right of way or site as required to construct the Shared Use Path. The Developer shall obtain City approval of the design and materials for The Vybe Trail before commencing construction.
(h) Landscaping. Landscaping will be accounted for on a per lot basis.

- Minimum of $10 \%$ of lot area
- 2 trees and 6 shrubs for every 600 sq . ft. of minimum lot area
- Trees to be planted with a $2^{\prime \prime}$ caliper minimum
- All parking spaces must be within $50^{\prime}$ of a tree trunk. Staff may approve an alternative landscaping plan if developer cannot meet this requirement. However, developer must create a parking plan that largely meets this standard.

Streetscapes (public or private) will require street trees planted every 30-50 linear feet (spacing depends on species, practical design etc). A planting of strip of at least $5^{\prime}$ wide will be required for the street trees. The planting strip will be between the sidewalk and back of curb. Required areas for street trees are shown in Exhibit 3.



Exhibit 3


Item \# 6

Mr. Howard J. Koontz
Director of Planning
City of Kyle - Planning Department
100 W Center St.
Kyle, Texas 78640
RE: Zoning Change - 5839 Kyle Parkway, Kyle, Texas
Dear Mr. Koontz,
On behalf of the property owner, SCC Kyle Partners LTD, we would like to formally request the City of Kyle consider and review the Zoning Change for the property located at 5839 Kyle Parkway, Kyle, Tx 78640. The legal description of the property is "Seton Hays County Subdivision, Block B, Lot1-L" and property ID R130403. The property is generally located roughly 480 ' to the northeast of Kyle Parkway and Seton Parkway in Hays County, Texas. The tract is currently zoned as R/S Retail Services. We request the zoning to be changed to a PUD MXD to bring a mixed use luxury project to meet the current growth and future urban expansion in the City of Kyle.

Sincerely,


Sean Ratterree
Manager

## LANDOWNER AUTHORIZATIONAND AFFIDAVIT OF OWNERSHIP

## SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: Seton Hays County Subdivision, Block B, Lotl-L
\# of lots (if subdivided): _ $\quad 1 \quad$ \# of acres: 15.542
Site APN/Property ID \#(s): R130403
Location: 5839 Kyle Parkway Kyle, Tx 78640 County: Hays County
Development Name: Elation at Kyle

## OWNER

Company/Applicant Name: SCC Kyle Partners LTD
Authorized Company Representative (if company is owner): __Phillip M. Plant
Type of Company and State of Formation: Limited Partnership - Texas
Title of Authorized Company Representative (if company is owner): _Manager of KIF-GP LLC
Applicant Address: $\_800$ N. Shoreline Blvd. \#2200S - Corpus Christi, TX 78401
Applicant Fax: _ 866.359.2283
Applicant Phone: _361.888.7611 \#109
Applicant/Authorized Company Representative Email: __phil@hpo.com

## APPLICANT REPRESENTATIVE

Check one of the following:
$\qquad$ . I will represent the application myself; or
__X_I hereby designate Sean Ratterree (name of project representative) to act in the capacity as the agent for filing, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

I hereby certify that the above-named owner is the rightful owner of the Property. I am either the owner of the property identified above or a partner/manager/officer/director/member of the company who is authorized to act on behalf of the company. I further certify that the information provided herein and in the application for the development is true and correct. By signing below, I agree that the City of Kyle (the "City") is authorized and permitted to provide information contained within this application, including the email address, to the public.


This instrument was acknowledged before me on ( $13-8-2 \mid$ date) by (Phillip M. Plant) who is (Managing Member) of (SCC Kyle Partners Ltd), a (Texas) (limited partnership).


## PROJECT REPRESENTATIVE

Representative Name: Sean Ratterree / CTC Residential, LLC
Representative Address: 854 Sprucewood Lane Houston, Tx 77024
Representative Phone:713.569.4818
Representative Email:Sean@ctcresidential.com
Representative's Signature:
Date:

# Franchise Tax Account Status 

As of : 12/17/2021 10:22:06

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

SCC KYLE PARTNERS, LTD.
Texas Taxpayer Number 32034990278
Mailing Address 800 N SHORELINE BLVD STE 2200S CORPUS CHRISTI, TX 78401-3756
© Right to Transact Business in Texas

ACtive
State of Formation TX
Effective SOS Registration Date 07/30/2007
Texas SOS File Number 0800850729
Registered Agent Name PHILLIP M PLANT
Registered Office Street Address
800 N. SHORELINE BLVD. STE. 2200S CORPUS CHRISTI, TX 78401

## Franchise Search Results Public Information Report



As of : 12/03/2021 10:31:29

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State
Obtain a certification for filings with the Secretary of State.

| CTC RESIDENTIAL, LLC |  |
| ---: | :--- |
| Texas Taxpayer Number | 32066892467 |
| Mailing Address | 854 SPRUCEWOOD LN HOUSTON, <br> TX 77024-4506 |
| © Right to Transact Business in Texas | ACTIVE |
| State of Formation | TX |
| Effective SOS Registration Date | 04/18/2018 |
| Texas SOS File Number | 0802991972 |
| Registered Agent Name | SEAN C RATTERREE |
| Registered Office Street Address | 854 SPRUCEWOOD HOUSTON, TX <br> 77024 |

## SPECIAL WARRANTY DEED

STATE OF TEXAS

## KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HAYS
THAT DAUGHTERS OF CHARITY HEALTH SERVICES OF AUSTIN, a Texas nonprofit corporation (referred to herein as the "Grantor"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) cash and other good and valuable consideration in hand paid by SCC KYLE PARTNERS, LTD., a Texas limited partnership (referred to herein as the "Grantee"), the receipt of which is hereby acknowledged, and for the further consideration of additional sums advanced and paid to Grantor by Whitney National Bank ("Lender") at the instance and request of Grantee, the receipt of which is hereby acknowledged, as evidence of which Grantee has executed and delivered to Lender, as payee, a certain Promissory Note (the "Note") of even date herewith in the original principal amount of $\$ 122,899,000.00$, bearing interest and being payable as therein provided, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY, unto Grantee that certain tract of real property, comprised of approximately 136.578 acres of land (including any improvements thereon), situated in Hays County, Texas, more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property"), together with all and singular the rights and appurtenances in anywise belonging thereto.

For the same consideration, Grantor does hereby GRANT, BARGAIN, SELL and CONVEY, without warranty, whether express, implied, statutory or otherwise, all interest, if any, of Grantor in and to (a) strips or gores, if any, between the Property and abutting properties and (b) any land lying in or under the bed of any street, alley, road or right-of-way, opened or proposed, abutting or adjacent to the Property.

THIS CONVEYANCE IS EXPRESSLY MADE AND ACCEPTED SUBJECT TO those matters set forth on Exhibit B attached hereto and made a part hereof, to the extent such matters actually exist and affect the Property (collectively, the "Permitted Exceptions").

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances in anywise belonging thereto, subject to the Permitted Exceptions, unto Grantee, and Grantee's successors and assigns, forever, and Grantor does hereby bind Grantor, and Grantor's successors and assigns, to WARRANT AND FOREVER DEFEND, all and singular, the Property unto Grantee, and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under Grantor, but not otherwise.

But it is expressly agreed that the Note hereinabove described, in part, represents funds advanced to Grantor by Lender at the special instance and request of Grantee and used in the payment of the purchase price of the hereinabove described Property, and, as security therefor, the vendor's lien, as well as the superior title in and to the above described Property, are hereby reserved and retained by Grantor for the benefit of Lender, to whom such vendor's lien and superior title are hereby assigned without recourse, until the Note and indebtedness evidenced
thereby have been fully paid according to the face, tenor, effect and reading thereof, when this Special Warranty Deed shall become absolute, and to additionally secure Lender in the payment of the Note and indebtedness evidenced thereby, Grantee has executed and delivered a certain Deed of Trust of even date herewith conveying the herein described Property to Gary Olander, as Trustee, for the benefit of Lender.
[Signature Page Follows]

EXECUTED on the date of Grantor's acknowledgment hereinbelow, and delivered effective as of the $28^{\text {th }}$ day of September, 2007.

## GRANTOR:

DAUGHTERS OF CHARITY HEALTH SERVICES OF AUSTIN, a Texas non-profit corporation

By:


Thomas E. Gallagher, Senior Vice
President -Business Development

STATE OF TEXAS
COUNTY OF TRAVIS
This instrument was acknowledged before me on the day of September, 2007, by Thomas E. Gallagher, as Senior Vice President - Business Development of DAUGHTERS OF CHARITY HEALTH SERVICES OF AUSTIN, a Texas non-profit corporation, on behalf of said non-profit corporation.

## ADDRESS OF GRANTEE:


coo SCC Interests, Inc.
301 Congress Avenue, Suite 1550
Austin, Texas 78701
Attn: Scott A. Deskins

## AFTER RECORDING,

PLEASE RETURN TO:
Heritage Title Company of Austin, Inc.
401 Congress Avenue, Suite 1500
Austin, Texas 78701
Attn: Brenda K. Hindsman (GF No. 00064065)

Exhibits:
A - Description of Property
B - Permitted Exceptions

## THIS PAGE LEFT INTENTIONALLY BLANK FOR RECORDING PURPOSES

136.578 ACRES OF LAND OUT OF THE JOHN JONES SURVEY, ABSTRACT NO. 263; JOHN M. GREEN SURVEY, ABSTRACT NO. 200; AUGUSTUS BRICHTA SURVEY, ABSTRACT NO. 517; ALEXANDER MCKOWNE SURVEY, ABSTRACT NO. 327; DANIEL DOWNER SURVEY ABSTRACT NO. 151, AND JOHN STUART LEAGUE, ABSTRACT NO. 14, SITUATED IN HAYS COUNTY, TEXAS, BEING A PORTION OF THE REMAINDER OF THAT CERTAIN CALLED 218 ACRE TRACT CONVEYED TO ROBERT LEON BAUERLE FROM V.E. DAVIS, EXECUTED JUNE 12, 1962 AND RECORDED IN VOLUME 191, PAGE 480 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 218 ACRE TRACT BEING FURTHER DESCRIBED IN SAID VOLUME 191, PAGE 480 AS THE REMAINDER OF A CALLED 127.11 ACRE "FIRST TRACT" DESCRIBED IN VOLUME 115, PAGE 588 OF SAID DEED RECORDS AND THE REMAINDER OF A CALLED 100.3 ACRE "SECOND TRACT" DESCRIBED IN VOLUME 124, PAGE 182 OF SAID DEED RECORDS; SAID 136.578 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a $1 / 2$ inch iron rod with cap set on the easterly right-of-way line of Interstate Highway No. 35 (R.O.W. varies), at or near TXDOT IH-35 station 354+31.15, 210.66 left; being in the southerly line of said 127.11 acre tract, and also being the northwesterly corner of Lot 2R of the Amended Plat of Lots $2 \& 3$ Bunton Sac-N-Pac, a subdivision of record in Volume 13, Page 203 of the Plat Records of Hays County, Texas, for the southwesterly corner hereof;

THENCE, N26 ${ }^{\circ} 57^{\prime} 57^{\prime \prime} \mathrm{E}$, along the easterly right-of-way line of Interstate Highway No. 35, for a portion of the westerly line hereof, a distance of 1256.00 feet to a $1 / 2$ inch iron rod with cap stamped "Survcon" found for the southwesterly corner of that certain called 9.727 acre "Tract 1" described in the correction deed to Brian L. Bauerle, of record in Volume 1771, Page 176 of the Official Public Records of Hays County, Texas, for a reentrant corner hereof, from which a TXDOT Type 1 concrete monument found for an angle point in said easterly right-of-way line, at or near TXDOT station $236+35.73,210^{\prime}$ left, bears N26 ${ }^{\circ} 57^{\prime} 57^{\prime} \mathrm{E}$, a distance of 519.53 feet;

THENCE, $576^{\circ} 45^{\prime} 48^{\prime \prime}$ E, leaving said easterly right-of-way line, along the partially fenced southerly line of said 9.727 acre tract, for a portion of the westerly line hereof, a distance of 570.34 feet to a $1 / 2$ inch iron rod with cap found by a fence corner for the southeasterly corner of said 9.727 acre tract and interior ell corner hereof;

THENCE, $\mathrm{N} 28^{\circ} 20^{\prime} 04^{\prime \prime} \mathrm{E}$, along the fenced easterly line of said 9.727 acre tract, for a portion of the westerly line hereof, a distance of 792.24 feet to a steel fence post found in the northerly line of said 127.11 acre tract as found fenced and used on the ground, being the northeasterly corner of said 9.727 acre tract, for the northwesterly corner hereof, the same being in the southerly line of that certain called 46.44 acre "Tract 1" described in the correction deed to Alton Franke and A.W. Greg, of record in Volume 371, Page 677, of said Deed Records;

THENCE, $\mathrm{S}^{\prime} 7^{\circ} 39^{\prime} 31^{\prime \prime} \mathrm{E}$, along the apparent common line of said 127.11 acre tract and said 46.44 acre tract as found fenced and used on the ground, for a portion of the northerly line hereof, a distance of 467.14 feet to a fence corner post found for the apparent southerly common corner of said 46.44 acre tract and that certain called 76 acre "Third Tract" described in the deed to Alton J. Franke and wife, Evelyn B. Franke, of record in Volume 279, Page 565 of said Deed Records, for an angle point hereof;

THENCE, along the apparent common line of said 127.11 acre tract and said 76 acre tract as found fenced and used on the ground, for a portion of the northerly line hereof, the following four (4) courses and distances:

1) $\quad S 57^{\circ} 08^{\prime} 56^{\prime} \mathrm{E}$, a distance of 43.99 feet to a fence angle post found;
2) $\mathrm{S} 40^{\circ} 55^{\prime} 09^{\prime \prime} \mathrm{E}$, a distance of 513.38 feet to a fence angle post found;
3) $\mathrm{S} 68^{\circ} 00^{\circ} 54^{\prime \prime} \mathrm{E}$, a distance of 430.41 feet to a fence angle post found;
4) $\quad \mathrm{S} 74^{\circ} 54^{\prime} 09^{\prime \prime} \mathrm{E}$, crossing Bunton's Branch, and passing at a distance of 344.2 feet the approximate northerly common corner of said 127.11 acre tract and said 100.3 acre tract, continuing for a total distance of 361.85 feet to a fence angle post found;

THENCE, $\mathrm{S} 76^{\circ} 26^{\prime} 45^{\prime \prime} \mathrm{E}$, along the line common to the apparent northerly line said 100.3 acre tract and in part the apparent southerly line of said 76 acre tract, and in part the apparent southerly line of that certain called 37.21 acre "First Tract" described in said Volume 279, Page 565 , as found fenced and used on the ground, re-crossing said Bunton's Branch for a portion of the northerly line hereof, a distance of 508.60 feet to a fence corner post found for an angle point hereof;

THENCE, along the line common to the apparent northerly line said 100.3 acre tract and in part the apparent southerly line of said 37.21 acre tract, and in part the southerly line of that certain called 29.59 acre "Second Tract" described in said Volume 279, Page 565, and in part the apparent southerly line of that certain called less \& except "Tract A" described in said Volume 279, Page 565, as found fenced and used on the ground, for a portion of the northerly line hereof, the following three (3) courses and distances:

1) $\quad$ S $22^{\circ} 06^{\prime} 49^{\prime \prime} \mathrm{W}$, re-crossing said Bunton's Branch, a distance of 161.18 feet to a $5 / 8$-inch iron pipe found by a fence corner post for an exterior ell corner hereof;
2) $\mathrm{S} 69^{\circ} 03^{\prime} 34^{\prime \prime} \mathrm{E}$, a distance of 729.70 feet to a $1 / 2$ inch iron rod with cap set in the existing fence line;
3) $\quad \mathrm{S} 68^{\circ} 33^{\prime} 33^{\prime \prime} \mathrm{E}$, a distance of 868.49 feet to a three way fence corner post found in the occupied westerly right-of-way line of Hays County Road No. 205, also known as Dacy Lane (R.O.W. varies), for the northeasterly corner hereof, from which a $1 / 2$ inch iron rod with cap found on the easterly right-of-way line of County Road No. 205 for the northerly corner of Lot 1, Kyle Heights Section 1, of record in Volume 6, Page 351 of
said Plat Records bears S $10^{\circ} 36^{\prime} 17^{\prime \prime} \mathrm{W}$, a distance of 92.57 feet and also from which the approximate northeasterly corner of said 100.3 acre tract bears $S 68^{\circ} 33^{\prime} 33^{\prime} \mathrm{E}$, a distance of 26.2';

THENCE, over and across said 100.3 acre tract along the occupied westerly right-of-way line of said County Road No. 205, as found fenced and used on the ground, for a portion of the easterly line hereof, the following four (4) courses and distances:

1) $S 50^{\circ} 28^{\prime} 02^{\prime} \mathrm{W}$, a distance of 567.95 feet to a $1 / 2$ inch iron rod with cap set in the fence;
2) $S 46^{\circ} 28^{\prime} 48^{\prime \prime} \mathrm{W}$, a distance of 129.25 feet to a $1 / 2$ inch iron rod with cap set in the fence;
3) $\mathrm{S} 43^{\circ} 49^{\prime} 49^{\prime \prime} \mathrm{W}$, a distance of 328.75 feet to a fence post found, from which a $1 / 2$ inch iron rod with cap found on said easterly right-of-way line of County Road No. 205, for the westerly common corner of Lot 2 and Lot 3 of said Kyle Heights Section 1 bears $\mathrm{N} 84^{\circ} 13^{\prime} 12^{\prime \prime} \mathrm{E}$, a distance of 82.10 feet;
4) $\quad \mathrm{S} 43^{\circ} 32^{\prime} 19^{\prime} \mathrm{W}$, a distance of 185.68 feet to a reentrant corner hereof, from which a fence corner post found for an angle point in the westerly right-of-way line of County Road No. 205 bears $\mathrm{S} 43^{\circ} 32^{\prime} 19^{\prime \prime} \mathrm{W}$, a distance of 979.87 feet;

THENCE, leaving the occupied westerly right-of-way line of said County Road No. 205, continuing over and across said 100.3 acre tract and said 127.11 acre tract for a portion of the easterly line hereof, the following thirteen (13) courses and distances:

1) $\mathrm{N} 46^{\circ} 37^{\prime} 19^{\prime \prime} \mathrm{W}$, a distance of 94.52 feet to an angle point;
2) $\mathrm{N} 47^{\circ} 47^{\prime} 48^{\prime \prime} \mathrm{W}$, a distance of 269.21 feet to an angle point hereof;
3) $\mathrm{N} 48^{\circ} 58^{\prime} 48^{\prime} \mathrm{W}$, a distance of 402.81 feet to an angle point hereof;
4) $\mathrm{N} 49^{\circ} 00^{\prime} 53^{\prime \prime} \mathrm{W}$, a distance of 697.37 feet to the point of curvature of a curve to the left;
5) Along said curve to the left, having a radius of 530.00 feet, a central angle of $13^{\circ} 38^{\prime} 33^{\prime \prime}$, an arc length of 126.20 feet, and a chord which bears N55 ${ }^{\circ} 50^{\prime} 09^{\prime \prime} \mathrm{W}$, a distance of 125.90 feet to the end of said curve;
6) $\mathrm{N} 62^{\circ} 39^{\prime} 26^{\prime \prime} \mathrm{W}$, a distance of 379.72 feet to the point of curvature of a curve to the left;
7) Along said curve to the left, having a radius of 80.00 feet, a central angle of $73^{\circ} 57^{\prime} 58^{\prime \prime}$, an arc length of 103.28 feet, and a chord which bears $S 80^{\circ} 21^{\prime} 35^{\prime \prime} \mathrm{W}$, a distance of 96.25 feet to the end of said curve;
8) $\mathrm{S}_{4} 3^{\circ} 22^{\prime} 36^{\prime} \mathrm{W}$, a distance of 211.37 feet to the point of curvature of a curve to the right;
9) Along said curve to the right, having a radius of 2460.00 feet, a central angle of $16^{\circ} 02^{\prime} 16^{\prime \prime}$, an arc length of 688.59 feet, and a chord which bears $551^{\circ} 23^{\prime} 44^{\prime \prime} \mathrm{W}$, a distance of 686.34 feet to the end of said curve;
10) $S 59^{\circ} 24^{\prime} 52^{\prime \prime} \mathrm{W}$, a distance of 215.98 feet to the point of curvature of a non-tangent curve to the right;
11) Along said non-tangent curve to the right, having a radius of 1940.00 feet, a central angle of $17^{\circ} 20^{\prime} 55^{\prime \prime}$, an arc length of 587.41 , and a chord which bears $\mathrm{S} 21^{\circ} 20^{\prime} 53^{\prime \prime} \mathrm{E}$, a distance of 585.17 feet to the point of curvature of a reverse curve to the left;
12) Along said reverse curve to the left, having a radius of 1460.00 feet, a central angle of $33^{\circ} 48^{\prime} 35^{\prime \prime}$, an arc length of 861.53 feet, and a chord which bears $\mathrm{S} 29^{\circ} 34^{\prime} 43^{\prime \prime} \mathrm{E}$, a distance of 849.08 feet to the end of said curve;
13) S $46^{\circ} 29^{\prime} 00^{\prime \prime} \mathrm{E}$, a distance of 328.27 feet to an angle point hereof, being in the occupied westerly right-of-way line of Hays County Road No. 205, from which a $1 / 2$ inch iron rod with cap set in the westerly right-of-way line of Hays County Road No. 205 for the southeasterly corner of that certain called 0.918 acre tract described in the deed to the City of Kyle, of record in Volume 1911, Page 22 of the Official Public Records of Hays County, Texas bears $\mathrm{N} 43^{\circ} 18^{\prime} 29^{\prime \prime} \mathrm{E}$, a distance of 436.09 feet;

THENCE, $\mathrm{S}^{2} 3^{\circ} 18^{\prime} 29^{\prime \prime} \mathrm{W}$, continuing over and across said 100.3 acre tract along the occupied westerly right-of-way line of said County Road No. 205, as found fenced and used on the ground, for a portion of the easterly line hereof, a distance of 60.00 feet to a fence corner post found for the southeasterly corner hereof, being in the southerly line of said 100.03 acre tract, for the northeasterly corner of that certain 47.52 acre tract described in Volume 194, page 423 of said Deed Records and referenced in the deed to Alton Franke, Trustee, of record in Volume 241, Page 813 of said Deed Records, from which the approximate southeasterly corner of said 100.3 acre tract bears $\mathrm{S} 46^{\circ} 29^{\prime} 00^{\prime} \mathrm{E}$, a distance of 22.4 feet;

THENCE, N $46^{\circ} 29^{\prime} 00^{\prime} \mathrm{W}$, leaving the occupied westerly right-of-way line of said County Road No. 205, being in part along the southerly line of said 100.3 acre tract and in part along a portion of the southerly line of said 127.11 acre tract, the same being along a fence and a portion of the northerly line of said 47.52 acre tract, for a portion of the southerly line hereof, passing at a distance of 1000 feet the approximate southerly common corner of said 100.3 acre tract and said 127.11 acre tract, continuing for a total distance of 1421.79 feet to a fence corner post found for an interior ell corner hereof;

THENCE, $S 40^{\circ} 43^{\prime} 37^{\prime \prime}$ W, along the common line of said 127.11 acre tract and said 47.52 acre tract, as evidenced by a fence, for a portion of the southerly line hereof, a distance of 300.57 feet to a $1 / 2$ inch iron rod with cap found for an exterior ell corner hereof;

THENCE, N $46^{\circ} 37^{\prime} 24^{\prime \prime} \mathrm{W}$, continuing along the southerly line of said 127.11 acre tract, being in part the northerly line of said 47.52 acre tract and in part the northerly line of said Lot 2R of the Amended Plat of Lots $2 \& 3$ Bunton Sac-N-Pac, for a portion of the southerly line hereof,
passing at a distance of 819.07 feet a $1 / 2$ inch iron rod with cap found for the northeasterly corner of said Lot 2 R , continuing and passing at a distance of 1637.22 feet a $1 / 2$ inch iron rod with cap found, continuing for a total distance of 1637.77 feet to the POINT OF BEGINNING, containing an area of 136.578 acres $(5,949,350$ square feet) of land, more or less, within these metes and bounds.

BEARING BASIS NOTE: THE BASIS OF BEARING IS REFERENCED TO THE TEXAS COORDINATE SYSTEM, NAD83(93), CENTRAL ZONE UTILIZING LCRA HARN GPS CONTROL MONUMENTS A490, A491, A292, H074 AND ZM1A.

## EXHIBIT B

(Permitted Exceptions)

1. An undivided one-sixteen ( $1 / 16$ ) interest in and to all of the oil, gas and other minerals, together with all rights related thereto, expressed or implied, reserved by The Federal Land Bank of Houston in deed dated December 14, 1937, recorded in Volume 115, Page 588 of the Deed Records of Hays County, Texas.
2. Communications easement granted to Southwestern Bell Telephone Company by instrument dated March 30, 1942, recorded in Volume 124, Page 278 of the Deed Records of Hays County, Texas, as shown on survey dated September 11, 2007, prepared by Mark A. Zientek, Registered Professional Land Surveyor No. 5683 (the "Survey").
3. Water flowage easement granted to Plum Creek Conservation District of Lockhart, Texas by instrument dated October 23, 1961, recorded in Volume 188, Page 562 of the Deed Records of Hays County, Texas, as shown on the Survey.
4. Water pipeline easement granted to Lower Colorado River Authority by instrument dated July 1, 1972, recorded in Volume 254, Page 264 of the Deed Records of Hays County, Texas, as shown on the Survey.
5. Water pipeline easement granted to County Lien Water Supply Corp., by instrument dated March 4, 1974, recorded in Volume 268, Page 78 of the Deed Records of Hays County, Texas, as shown on the Survey (with reference to note No. 6 on the Survey.)
6. Utility easement granted to the City of Kyle, Texas by instrument dated January 27, 2003, recorded in Volume 2175, Page 766 of the Deed Records of Hays County, Texas, as shown on the Survey.
7. The rights of Plum Creek Conservation District to levy taxes and issue bonds.
8. The rights of Plum Creek Underground Water District to levy taxes and issue bonds.
9. Utility easement 15 feet in width along the most southerly, east property line, granted to the City of Kyle by instrument recorded in Volume 1911, Page 27 of the Official Public Records of Hays County, Texas, as shown on the Survey.
10. Location of water lines along a portion of IH-35 and County Road 205-Dacy Lane, as shown on the Survey.
11. Apparent easement evidenced by the location of overhead electric lines outside of a dedicated easement as shown on the Survey.
12. Fence outsets and insets as shown on the Survey.
$\{012.00037299 .2\}$


CITY OF KYLE, TEXAS
20139 IH-35 - Zoning (Z-21-0092)
Meeting Date: 1/11/2022
Date time:6:30 PM

Subject/Recommendation: Consider a request by the City of Kyle, (Z-21-0092) to rezone approximately 45.5 acres of land from 'RS' to 'PUD' (RS - 19 acres, MXD - 26.5 acres) for property located at 20139 IH-35, in Hays County, Texas.

- Public Hearing
- Recommendation to City Council

| Other Information: | See attached. |
| :--- | :--- |
| Legal Notes: | N/A |
| Budget Information: | N/A |

## ATTACHMENTS:

Description
■ Landowner Authorization Letter
■ Deed
■ Franchise Tax Account Status

## LANDOWNER AUTHORIZATIONAND AFFIDAVIT OF OWNERSHIP

## SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: ABS 151 DANIEL DOWNES
SURVEY 46.217 AC GEO\#90601178 \# of lots (if subdivided): $\qquad$ \# of acres: 46.217

Site APN/Property ID \#(s): R13829
Location: BEBEE RD, KYLE, TX 78640 County: Hays
Development Name: BEBEE RD PUD

## OWNER

Company/Applicant Name: SUNRISE VILLAGE INVESTMENT LLC
Authorized Company Representative (if company is owner): ASIFALI KAROWALIA
Type of Company and State of Formation: LLC, TEXAS
Title of Authorized Company Representative (if company is owner): MANAGING MEMBER
Applicant Address: 1095 WINDY HILL RD KYLE, TX 78640 -6127
Applicant Fax:
Applicant Phone: (512) 5240677
Applicant/Authorized Company Representative Email: miranchomeatmarket@gmail.com

## APPLICANT REPRESENTATIVE

Check one of the following:
$\qquad$ . I will represent the application myself; or
$\qquad$ I hereby designate Luis Granillo (name of project representative) to act in the capacity as the agent for filing, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

I hereby certify that the above-named owner is the rightful owner of the Property. I am either the owner of the property identified above or a partner/manager/officer/director/member of the company who is authorized to act on behalf of the company. I further certify that the information provided herein and in the application for the development is true and correct. By signing below, I agree that the City of Kyle (the "City") is authorized and permitted to provide information contained within this application, including the email address, to the publiq.


This instrument was acknowledged before me on (date) by (name of authorized company representative) who is a(n) (member, manager, authorized officer, etc.) of (name of company), a (Texas) (limited liability company, corporation, partnership, etc.).


## PROJECT REPRESENTATIVE

Representative Name: Luis Granillo
Representative Address: 2211 S IH 35 Frontage Rd, Suite 107. Austin. TX 78741
Representative Phone: (915) 262-9021
Representative Email: luis@loccivil/com / /u/ Srum/bo
Representative's Signature: _Lis Date: $12 / 17 / 21$

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

## SPECIAL WARRANTY DEED WITH VENDOR'S LIEN

Date:
 , 2020

Grantor: CR TWO INVESTMENT, LTD., GAWLS, Ltd., MKK ASSOCIATES, LP., CLIFTON OSWALT, Trustee of the Clifton Oswalt Trust under 2005 Trust Agreement, EVELYN E. NICHOLSON, Trustee of the Evelyn Nicholson Trust under 2005 Trust Agreement, ALTON E. FRANKE and DEANNA K. FRANKE, spouses

## Grantor's Mailing Address:

Grantee: SUNRISE VILLAGE INVESTMENT, LLC

## Grantee's Mailing Address:

1095 Windy Hill Road
Kyle, Texas 78640
Consideration: Cash and a note of even date executed by Grantee and payable to the order of PIONEER FINANCE, INC. ("LENDER") in the principal amount of FIVE MULION THREE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$5,350,000.00). The note is secured by a first and superior vendor's lien and superior title retained in this deed in favor of LENDER and by a first-lien deed of trust of even date from Grantee to ARIF LAWJI, Trustee.

## Property (including any improvements):

Being 51.07 acres of land comprised of two tracts of land out of the D. DOWNER SURVEY No. 22, Abstract No. 151 and the JOHN KING SURVEY No 20, Hays County Texas, Tract 1 being 45.64 acres of land and Tract 2 being 5.43 acres of land, both tracts being portions of two tracts of land referenced and described in deed from a Adele Grimes Castle to Alton Franke and A. W. Gregg dated October 3, 1974, recorded in Volume 271, page 300, Deed Records of Hays County, Texas both of said tracts of land being described by metes and bounds in Exhibit "A" attached.

Reservation of Minerals: For Grantor, and Grantor's successors, a reservation of all of the mineral estate owned by Grantor. Grantor does not reserve the implied rights of ingress and egress and the reasonable use of the Property (including surface materials) for mining, drilling, exploring, operating, developing or removing the oil, gas and other minerals.

Exceptions to Conveyance and Warranty: The conveyance of the Property is being made by Grantor and accepted by Grantees subject to the matters (the "Permitted Exceptions") set forth in Exhibit " B " attached hereto and made a part hereof for all purposes.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and simgular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, when the claim is by, through or under grantor, but not otherwise.

LENDER, at Grantee's request, has paid in cash to Grantor that portion of the purchase price of the Property that is evidenced by the note. The first and superior vendor's lien against and superior title to the Property are retained for the benefit of LENDER and are transferred to LENDER without recourse against Grantor.

When the context requires, singular nouns and pronouns include the plural.

Signatures and acknowledgments appear on the following pages.

## STATE OF TEXAS

## COUNTY OF HAYS

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\}

This instrument was acknowledged before me on July $\frac{30}{}, 2020$ by ROBIN GALL ROBINSON, Manager of CR TWO MANAGEMENT, LLC, General Partner of CR TWO INVESTMENT, LTD.


GAWLS, Ltd.


## STATE OF TEXAS

## COUNTY OF HAYS

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This instrument was acknowledged before me on July 30, 2020 by STACY VAUGHN, Manager of GAWLS MANAGEMENT, LLC, General Partner of GAWLS, Ltd.


## STATE OF TEXAS

## COUNTY OF HAYS

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This instrument was acknowledged before me on July 30 , 2020 by MARY G. KINSALA, Manager of MKK MANAGEMENT, LLC, General Partner of MKK ASSOCIATES, LP.



## STATE OF TEXAS

## COUNTY OF HAYS

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This instrument was acknowledged before me on July 30,2020 by CLIFTON OSWALT Trustee of the Clifton Oswalt Trust under 2005 Trust Agreement.



Trustee of the Evelyn Nicholson Trust
Under 2005 Trust Agreement

## STATE OF TEXAS

## COUNTY OF HAYS

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\}

This instrument was acknowledged before me on July 30,2020 by EVELYN E. NICHOLSON Trustee of the Evelyn Nicholson Trustunder 2005 Trust Agreement.



DEANNA FRANK

## STATE OF TEXAS

## COUNTY OF HAYS

This instrument was acknowledged before me on July 30,2020 by ALTON E. FRANKE and DEANNAK FRANKE, spouses.


## LANDPDINT

Metes and Bounds:


#### Abstract

BEING 51.07 ACRES OF LAND COMPRISED OF TWO TRACTS OF LAND OUT OF THE DANIEL DOWNER SURVEY, SECTION NO. 22, ABSTRACT NO. 151 AND THE JOHN KING SURVEY, SECTION 20, ABSTRACT NO. 276, HAYS COUNTY, TEXAS TRACT 1 BEING 45.64 ACRES OF LAND AND TRACT 2 BEING 5.43 ACRES OF LAND, BOTH TRACTS BEING PORTIONS OF TWO TRACTS OF LAND REFERENCED AND DESCRIBED IN THE DEED TO ADELE GRIMES CASTLE TO ALTON FRANKE AND A.W. GREGG DATED OCTOBER 3, 1974, RECORDED IN VOLUME 271, PAGE 300, DEED RECORDS OF HAYS COUNTY, TEXA AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:


## TRACT 1

BEGINNING at a $5 / 8$-inch iron rod with cap stamped "Landpoint" set (hereinafter referred to as capped iron rod set) at the intersection of the Easterly right-of-way line of Interstate Highway 35 and the Southerly right-of-way line of Beebee Road for the West corner of that certain called 0.783 acre tract of land described in the deed to the State of Texas, recorded in Document No. 396678, Official Public Records, Hays County, Texas and the North corner of said tract herein described, from which a $1 / 2$-inch iron rod found for the North corner of that certain called 0.739 acre tract of land described as Parcel 17 in the deed to State of Texas, recorded in Document No. 2010-10035140, Official Public Records, Hays County, Texas bears North $64^{\circ}{ }^{\circ} 2^{\prime} 09^{\prime \prime}$ : West, a distance of 426.63 feet;

THENCE South $67^{\circ} 39^{\prime} 51^{\prime \prime}$ East, with the Southerly right-of-way line of said Beebee Road and the Southerly line of said 0.783 acre tract of land, a distance of 1416.64 feet to a $1 / 2$-inch iron rod found in the Westerly line of that certain called 76 acre tract of land described as Third Tract in the deed to Alton J. Franke and wife, Evelyn B. Franke, recorded in Volume 279, Page 565, Deed Records, Hays County, Texas and the Easterly line of said 46.44 acre tract of land for the South corner of said 0.783 acre tract of land and the East corner of said tract herein described;
THENCE South $44^{\circ} 01^{\prime} 17^{\prime \prime}$ West, with the Westerly line of said 76 acre tract of land and the Easterly line of said 46.44 acre tract of land, a distance of 1790.04 feet to a capped iron rod set in the Northerly line of Lot 3, Seton Hays Subdivision, according to the plat. thereof recorded in Volume 14, Page 255, Plat Records, Hays County, Texas for the West corner of said 76 acre tract of land, the South corner of said 46.44 acre tract of land and the South corner of șaid tract herein described;

## LANDPOINT

THENCE North $66^{\circ} 43^{\prime} 03^{\prime \prime}$ West, with the Northerly line of said Lot 3 and the Southerly line of said 46.44 acre tract of land, a distance of 978.61 feet to a concrete monument found in the Easterly right-of-way line of said Interstate Highway 35 for the North corner of said Lot 3 , the West corner of said 46.44 acre tract of land and the West corner of said tract herein described;
THENCE with the Easterly right-of-way line of said Interstate Highway 35, the following calls and distances:

North $31^{\circ} 29^{\prime} 04^{\prime \prime}$ East, a distance of 712.12 feet to a capped iron rod set for corner;
North $09^{\circ} 36^{\prime} 57^{\prime \prime}$ East, a distance of 107.90 feet to a concrete monument found for corner;
North $31^{\circ} 23^{\prime} 57^{\prime \prime}$ East, a distance of 849.47 feet to the POINT OF BEGINNING and containing 45.64 acres of land.

## TRACT 2

BEGINNING at a $1 / 2$-inch iron rod found in the Westerly right-of-way line of Interstate Highway 35 for the for the North corner of that certain called 0.739 acre tract of land described as Parcel 17 in the deed to State of Texas, recorded in Document No. 201010035140, Official Public Records, Hays County, Texas and the East corner of said tract herein described, from which a $1 / 2$-inch iron rod found for reference bears North $31^{\circ} 38^{\prime} 11^{\prime \prime}$ East, a distance of 31.04 feet;.
THENCE South $31^{\circ} 34^{\prime} 07^{\prime \prime}$ West, with the Westerly right-of-way line of said interstate Highway 35 and the Westerly line of said 0.739 acre tract of land, passing the South corner thereof and continuing on said course with the Westerly right-of-way line of said Interstate Highway 35 and the Easterly line of said 7.703 acre tract of land, a distance of 1237.33 feet to a $5 / 8$-inch iron rod with cap stamped "Landpoint" set (hereinafter referred to as capped iron rod set) for the East corner of Lot 1, North Branch Subdivision, according to the plat thereof recorded in Volume 4, Page 51, Plat Records, Hays County, Texas and the South corner of said tract herein described;

## LANDPDINT

THENCE North $25^{\circ} 27^{\prime} 22^{\prime \prime}$ West, with the Northerly line of said Lot 1 , a distance of 188.60 to a capped iron rod set in the Easterly right-of-way line of County Road 210 and the Westerly line of said 7.703 acre tract of land for the North corner of said Lot 1 and the West corner of said tract herein described;
THENCE North $26^{\circ} 45^{\prime} 58^{\prime \prime}$ East, with the Easterly right-of-way line of said County Road 210 and the Westerly line of said 7.703 acre tract of land, a distance of 1098.52 feet to a $1 / 2$-inch iron rod found for the North corner of said 7.703 acre tract of land and the North corner of said tract herein described;
THENCE South $67^{\circ} 31^{\prime} 10^{\prime \prime}$ East, with the Northerly line of said 7.703 acre tract of land, a distance of 253.37 feet to the POINT OF BEGINNING and containing 5.43 acres of land.
The herein referenced tract is referenced to State Plane Coordinates, Texas South Central Zone, 4204.


7/24/20
Robert Glen Maloy
Registered Professional Land Surveyor
Texas Registration No. 6028

## EXHIBIT "B"

Standby fees, taxes and assessments by any taxing authority for the year 2020, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership.

Easement and right-of-way in favor of Southwestern Bell Telephone Company recorded in Volume 124, page 203, Deed Records, Hays County, Texas.

Easement and right-of-way in favor of Lower Colorado River Authority recorded in Volume 254, page 259, Deed Records, Hays County, Texas.

Easement in favor of the City of Kyle for wastewater facilities recorded in Volume 3014, page 878, Official Public Records, Hays County, Texas.

Easement in favor of the City of Kyle for wastewater facilities recorded in Volume 3014, page 888, Official Public Records, Hays County, Texas.

Easement in favor of Hays County and State of Texas for temporary utility relocation easement recorded in Volume 3761, page 315, Official Public Records, Hays County, Texas.

Inclusion within the Hays County Special Road.
Inclusion within the Plum Creek Conservation District.
Inclusion within the Plum Creek Groundwater District.

## THE STATE OF TEXAS COUNTY OF HAYS

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Hays County, Texas.

## 20032482 DEED

08/04/2020 11:41:30 AM Total Fees: $\$ 72.50$

Elaine H. Cárdenas, MBA, PhD, County Clerk Hays County, Texas



# Franchise Tax Account Status 

As of : 04/28/2021 13:30:48

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

SUNRISE VILLAGE INVESTMENT LLC
Texas Taxpayer Number 32074476055
Mailing Address 1095 WINDY HILL RD KYLE, TX 78640-6127
(3) Right to Transact Business in Texas

ACTIVE
State of Formation TX
Effective SOS Registration Date 06/01/2020
Texas SOS File Number 0803635584
Registered Agent Name RAHIM MOMIN
Registered Office Street Address 1095 WINDY HILL RD KYLE, TX 78640


CITY OF KYLE, TEXAS
Costco - Conditional Use Permit (CUP-21-0042)

Meeting Date: 1/11/2022
Date time:6:30 PM

Subject/Recommendation: Consider a request to construct an approximately 160,000 square foot Costco, fuel canopy and site plan for property located at 18962 IH-35 within I-35 overlay district. (Costco - Conditional Use Permit - CUP-21-0042)

Other Information: See attached.
Legal Notes: N/A

Budget Information: N/A

| ATTACHMENTS: |  |
| :--- | :--- |
|  | Description |
| D | Staff Memo |
| D | Summary Letter |
| D | Colored Elevations |
| D | Rear Site Design |
| D | Landscape Plan |
| D | Landowner Authorization Letter |
| D | Deed |
| D | Franchise Tax Account Status |

## CITY OF KYLE

## Community Development Department

MEMORANDUM

TO: Planning \& Zoning Commission
FROM: $\quad$ Will Atkinson - Senior Planner
DATE: Tuesday, January 11, 2022
SUBJECT:
Costco - Conditional Use Permit (CUP-21-0042)

## REQUEST

The applicant seeks to construct an approximately 160,000 square foot Costco, fuel canopy and site plan. The building will have colors consisting of a warm color palette of reds, browns and beige. Materials used include high quality, recycled, architectural metal panels, architectural masonry and structural brick.

## LOCATION

The property is located at $18962 \mathrm{IH}-35$, Kyle, TX 78640, northeast and adjacent to EVO Entertainment (in the Dry River District shopping center (Endeavor Group)).


## OVERLAY DISTRICT

The I-35 overlay district. The Interstate Highway 35 corridor conditional use overlay district (the I-35 overlay district) extends from the northernmost city limit boundary at I-35 to the southernmost city limit boundary at I-35, and includes all real property within 1,500 feet of the outer most edge of the highway right-of-way of 1-35. Sec. 53-899 is the code section staff uses to review for aesthetic compliance.

## TEXT OF THE ZONING ORDINANCE

Sec. 53-896. - Standards for review.
(a) The planning and zoning commission shall determine whether the application and project is consistent and compliant with the terms and intent of this division, this chapter, chapter 32, article II, pertaining to the site development plan, and all other codes and ordinances of the city. The planning and zoning commission will determine if the proposed use, occupancy and structure will promote, preserve, and enhance, and will not damage or detract from the distinctive character of the community; will preserve and protect property values and taxable values; will not be detrimental or inconsistent with neighboring uses and occupancies; will not be detrimental to the general interests of the citizens; and will not be detrimental to the public health, safety and welfare. In conducting its review, the planning and zoning commission shall make examination of and give consideration to the traffic flow, development density, neighboring historical designs, neighboring uses, and elements of the application, including, but not limited to:
(1) Height, which shall conform to the requirements of this chapter;
(2) Building mass, which shall include the relationship of the building width to its height and depth, and its relationship to the visual perception;
(3) Exterior detail and relationships, which shall include all projecting and receding elements of the exterior, including, but not limited to, porches and overhangs and the horizontal or vertical expression which is conveyed by these elements;
(4) Roof shape, which shall include type, form, and materials;
(5) Materials, texture, and color, which shall include a consideration of material compatibility among various elements of the structure;
(6) Compatibility of design and materials, which shall include the appropriateness of the use of exterior design details;
(7) Landscape design and plantings, which shall include lighting and the use of landscape details to highlight architectural features or screen or soften undesirable views;
(8) Vehicular and pedestrian access, which shall include location, width, and type of surface for all points of ingress and egress;
(9) Signage, which shall include, in addition to the requirements chapter 29 , pertaining to signs, the appropriateness of signage to the building in relation location, historical significance of the structure and neighboring structures, traffic visibility; obstruction of views from neighboring property;
(b) The planning and zoning commission may request from the applicant such additional information, sketches, and data as it shall reasonably require. It may call upon experts and specialists for testimony and opinion regarding matters under examination. It may recommend to the applicant changes in the plans it considers desirable and may accept a voluntary amendment to the application to include or reflect such changes. The planning and zoning commission shall keep a record of its proceedings and shall attach to the application copies of information, sketches, and data needed to clearly describe any amendment to the application.
(c) If the conditional use permit is granted by the planning and zoning commission, the applicant shall be required to obtain a building permit and/or a development permit, if required, provided all other requirements for a building permit and/or a development permit are met. The building permit and/or a development proposal as approved shall be valid from one year from the date of approval. The planning and zoning commission may grant an extension of the one-year limitation if sufficient documentation can be provided to warrant such an extension.

## STAFF ANALYSIS

Staff has reviewed the request and has made the following findings:

1. The proposed building meets the intent of the Retail Services zoning standards for the building and site work;
2. The architecture style of the building largely meets the intent for variation of architectural design requirements in the I-35 Overlay;
3. Materials types and specific colors are available on the elevation sheet.
4. The overall design aesthetic and color palette almost matches the current ideals within the I-35 Overlay standard for the preferable appearance of the Kyle I-35 corridor. The front and the side facades largely are compliant, with the rear of the building is not.
5. The percentages of masonry does not meet the minimum $90 \%$ per face of building rule (Sec. $53-899(j)(1))$. At the rear of the property, site design significantly masks the building, providing a visual buffer. The Planning \& Zoning Commission has the authority to be flexible in approving proposed elevations.

- Overall masonry (including stucco) at $+/-50 \%$.
- Brick and steel provides a cohesive design.

The site plan shown as an exhibit is code compliant and matches the proposed building for both the Retail Services zoning district and I-35 Overlay. The building does not meet
the requirements for a minimum of $90 \%$ four-sided masonry, however the overall architectural design meets the intent of the I-35 Overlay. The Planning \& Zoning Commission has the authority to approve designs that do not meet the requirements of the I-35 Overlay, but should be careful to ensure that the elevations and site design meet or exceed the intent of the overlay district.

While the elevations alone, do not meet the requirements of masonry facades in Sec. 53$899(\mathrm{j})(1)$, taking into account the rear elevation difference, the landscape buffer between the rear of building and rear property line, and the additional landscaping on the multifamily site, ground level line-of-site views are significantly obscured. The rear of Costco is appropriately designed, even though the materials \& architecture do not meet the requirements of the I-35 Overlay. Additionally, the proposed fuel canopy is $100 \%$ percent to compliant with the I-35 Overlay.

## RECOMMENDATION

Staff has reviewed the color elevations and site plan for compliance with the Sec. 53-899 (l-35 Overlay design standards). Staff recommends approval of the conditional use permit (CUP-21-0042).

## Re: Kyle, TX - Costco Wholesale - New Warehouse and Fuel Facility <br> NWC of I-35 \& Kohler's Crossing <br> Kyle, TX <br> Project Number: 21-5715-01

## Subject: Summary Request Letter

Dear: City of Kyle, Planning Department
The proposed warehouse design is a timeless solution utilizing a mixture of modern, traditional, and sustainable materials in a warm color palette of reds, browns and beige. Horizontal and vertical articulation are achieved through color, texture, material changes, parapet step distribution along with pilasters that create depth along the facade. Materials used include high quality, recycled, architectural metal panels, architectural masonry and structural brick. The warehouse entry is a focal point to the site and incorporates pedestrian scaled detailing. Enhanced landscaping along the East will compliment these East and North elevations providing depth, softening and visual interest, as well as significant screening from I-35 and adjacent Right of Way.

The fueling facility design takes cues from the warehouse and incorporates similar materials, colors and textures creating a visual connection.

Sincerely,


Charlie Ekblad, AIA
ASSOCI ATE

CE
c: MG2

(3) $\underset{(4)}{\square \rightarrow(1)}$


| SIGN TABLE |  |  |  |  |  |  |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: |
| IDENTITY | QUANTITY | SIGN | SIZE | AREA (EACH) | TOTAL SF |  |
| A | 1 | COSTCO WHOLESALE | $7^{\prime}-4^{\prime \prime} \times 26^{\prime}-8^{\prime \prime}$ | 194 SF | 194 SF |  |
| B | 2 | COSTCO WHOLESALE | $8^{\prime}-9^{\prime \prime} \times 32^{\prime}-0^{\prime \prime}$ | 280 SF | 560 SF |  |
| C | 1 | TIRE CENTER | $1^{\prime}-9 " \times 17-4^{\prime \prime \prime}$ | 31 SF | 31 SF |  |





## SOUTHEAST PERSPECTIVE





(1) EAST AND WEST ELEVATIONS
SCALE: $1 / 8^{\prime \prime}=1^{\prime}$-O"



(2) NORTH AND SOUTH ELEVATIONS

SCALE: $1 / 8^{\prime \prime}=1{ }^{\prime}-0^{\prime \prime}$
(3) CONTROLLER ENCLOSURE ELEVATIONS



$$
\text { (2) SITE PLAN } \begin{aligned}
& \text { SCALE: } 1 "=40
\end{aligned}
$$


(3) SITE SECTION


MULTI-FAMILY HOUSING MASSING BEYOND
4' TALL FALL PROTECTION RAILING
9'RETAINING WALL




$\frac{\text { PRELIMINARY LANDSCAPE LEGEND }}{\text { SMMBOL OTV. WATER COMMON/BOTANCAL NAME }}$
SHADE TREES


PLANTING NOTES:

1. AL NEW LANOSCAPE AREAS ARE TO BE WATERED WTH 2. MuLCH ALL SHRUB AND © ©Roundoover Areas wTH A MnMum $3^{3}$ DEPTH OF SPECIFED MULCH
 4. see ciml dramings for gradmg, utlutes and erosion contro. NOTES REGARDING PRELIMINARY PRICING OF LANDSCAPE PLAN:



 MMoort Topsol shall be select, fertile, screnned ( $\left.1 / 2^{\prime \prime}\right)$,




IRRIGATION STATEMENT:

 - HuNER MP ROTATORS AT SOO LAWN AREAS
-SHEDULE 40 PVC SUPPLY AND EXHAUST HEAD

 - SEEPARATE RRRIGATION METER AND BACKLLOW DEVCE

LANDSCAPE SUMMARY AND CALCULATIONS

| ZONE: RS-PUD |
| :--- |
| SIIE AREA: 923 |








cogyres
KYLE, TX

## LANDOWNER AUTHORIZATIONAND AFFIDAVIT OF OWNERSHIP

## SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: Lot ba, K, le Tour Center Rapht if Lot 1-A, BK k \# of lots (if subdivided): $1 \quad$ \# of acres: 21.203 acres
Site APN/Property ID \#(s): R172974, 11-4643-000A-00600-2
Location: 18962 lH 35 (ad deus TBO) County: Hogs
Development Name: Dry Rise District (formal, kroon as kkk Town Catv)
OWNER
Company/Applicant Name: : 35 K , Le Crossing, Lot 6 Ltd Authorized Company Representative (if company is owner): Shave Hessian
Type of Company and State of Formation: Limits Porthershif TX
Title of Authorized Company Representative (if company is owner): Perineal
Applicant Address: $500 \cup 5^{\text {th }}$ Street, Svile 700 Actin $T \times 78701$
Applicant Fax
Applicant Phone: 512.682 .5516
Applicant/Authorized Company Representative Email: shessoneendewor-re... M

## APPLICANT REPRESENTATIVE

## Check one of the following:

$\qquad$ . I will represent the application myself; or
$X$ Charlie Ekblad hereby designate (name of project representative) to act in the capacity as the agent for filing, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

I hereby certify that the above-named owner is the rightful owner of the Property. I am either the owner of the property identified above or a partner/manager/officer/director/member of the company who is authorized to act on behalf of the company. I further certify that the information provided herein and in the application for the development is true and correct. By signing below, I agree that the City of Kyle (the "City") is authorized and permitted to provide information contained within this application, including the email address, to the public.

Owner's Signature: $\qquad$ Date: $\qquad$ 11.9 .21

State of Terfas
§
County of / Mavis
This instrument was acknowledged before me on (date) by (name of authorized company representative) who is an) (member, manager, authorized officer, etc.) of (name of company), a (Texas) (limited liability company, corporation, partnership, etc.).

SUBSCRIBED AND SWORN TO before me, this


PROJECT REPRESENTATIVE

Representative Name: CHARLIE EKBLAD
Representative Address: 1101 2ND AVE SEATTLE, WA 98101
Representative Phone: 206.962.6522
Representative Email:CHARLIE.EKBLAD@MG2.COM
Representative's Signature: $\qquad$ Date: 11.10.2021

## GENERAL WARRANTY DEED

STATE OF TEXAS
COUNTY OF HAYS
§

I35 KYLE CROSSING, LTD., a Texas limited partnership ("Grantor"), for good and valuable consideration paid to Grantor by I35 KYLE CROSSING LOT 5, LTD., a Texas limited partnership ("Grantee"), the receipt and sufficiency of which is acknowledged, has GRANTED, TRANSFERED and CONVEYED, and by these presents does GRANT, TRANSFER and CONVEY, unto Grantee all of the following described property located in Hays County, Texas, together with all the improvements and fixtures located thereon (the "Property"):

Lot 5, KYLE TOWN CENTER REPLAT OF LOT 1-A, BLOCK A, a subdivision in Hays County, Texas, according to the map or plat of record in Document No. 20015578 of the Plat Records of Hays County, Texas.

The Property is conveyed subject to the following:

1. This conveyance is made and accepted subject to the encumbrances and other matters described on Exhibit A attached hereto (the "Permitted Exceptions").
2. The Property shall not include in any way, and Grantor hereby reserves, all of Grantor's right, title, and interest in and to all reimbursements rights, payments, incentives and the like under any agreements entered into before the date hereof between Grantor and any governmental or quasigovernmental entity or any utility provider, if any.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, and Grantee's heirs, successors and assigns forever, and Grantor does hereby bind Grantor and Grantor's heirs, successors, and assigns, to warrant and forever defend, all and singular, the Property unto the Grantee, and Grantee's heirs, successors, and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof, subject to the Permitted Exceptions.

Taxes on the Property for the year 2020 and subsequent years, and subsequent assessments for prior years due to change in land usage or ownership, are hereby assumed by Grantee.

## [SIGNATURE APPEARS ON FOLLOWING PAGE]

Dated to be effective as of the $22^{2 *}$ day of $\int_{-1}$ _ 2020.

## GRANTOR:

I35 KYLE CROSSING, LTD., a Texas limited partnership


STATE OF TEXAS
§
COUNTY OF Travis§

COUNTY OF Iravis §
The foregoing instrument was acknowledged before me this $Z_{\text {day }}$ of $\mathrm{Jul}_{\mathrm{y}}$, 2020, by Charlie Northingtor as EVP of EOP II SUB GP ONE, LLC, a Texas limited liability company, the general partner of 135 KYLE CROSSING, LTD., a Texas limited partnership, on behalf of said limited liability company and limited partnership.


GRANTEE'S ADDRESS:
c/o Endeavor Real Estate Group
500 W $5^{\text {th }}$ Street, Suite 700
Austin, Texas 78701

## AFTER RECORDING, RETURN TO:

Metcalfe Wolff Stuart \& Williams, LLP
$221 \mathrm{~W}^{\text {th }}$ Street, Suite 1300
Austin, Texas 78701
Attn: Ari Kuchinsky

## EXHIBIT A

## Permitted Exceptions

1. All covenants, conditions, easements, restrictions under that certain Plat recorded under Document No. 20015578 of the Plat Records of Hays County, Texas.
2. Covenants, conditions, obligations, restrictions, easements, charges and liens as set forth in that certain Restriction Agreement and Grant of Easements, by and between Kyle Texas Company, LLC, an Ohio limited liability company and Home Depot U.S.A., Inc., a Delaware corporation, as recorded in Volume 2478, Page 732, Official Public Records of Hays County, Texas and as affected by First Amendment to Restriction Agreement and Grant of Easements recorded in Volume 4751, Page 519, Official Public Records of Hays County, Texas. As affected by Second Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 19045925, Official Public Records of Hays County, Texas and by Third Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 20008136, of the Official Public Records of Hays County, Texas.
3. Undivided one-half $(1 / 2)$ of one-eighth $(1 / 8)$ royalty interest in and to all oil, gas and other minerals in, on, under or that may be produced from the herein described property, together with all rights relating thereto, express or implied, reserved unto The San Antonio Joint Stock Land Bank of San Antonio, a corporation in deed to J.J. Butler, dated December 10, 1941, and recorded in Volume 123, Page 352, Deed Records of Hays County, Texas.
4. Terms, conditions and stipulations of that certain Development Agreement Establishing Development Standards for The As Yet Unnamed Subdivision/Development (Lot 1-A), dated January 16, 2020, executed by and between the City of Kyle, Texas, and NADB LFI Kyle, LP, recorded in Document No. 20002400, Official Public Records of Hays County, Texas.
5. 30 ' public utility easement along a portion of the lot line(s), as recorded in Volume 11, Page 356, Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
6. 5 ' public utility easement along a portion of the lot line(s), as recorded in Volume 11, Page 356 , Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
7. 12 ' public utility easement dedicated along each side lot line(s), as recorded in Volume 16 , Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
8. Water pipeline and/or distribution lines or systems easement executed by Austin South Venture \#1, Ltd., to Texas Water Services, Inc., dated July 26, 2000, recorded in Volume 1726, Page 109, Official Public Records of Hays County, Texas.
9. Water pipeline and/or distribution lines or systems easement executed by Cary Troop, Jr., Trustee, to Texas Water Services, Inc., dated July 26, 2000, recorded in Volume 1726, Page 113, Official Public Records of Hays County, Texas.
10. Channel easement executed by O.H. Cullen and wife, Mattie Mae Cullen, to the State of Texas, dated May 5, 1959, recorded in Volume 177. Page 589, Deed Records of Hays County, Texas.
11. Wastewater line easement executed by Kyle Texas Company, L.L.C., to the City of Kyle for wastewater lines, dated August 4, 2004, recorded in Volume 2519, Page 818, Official Public Records of Hays County, Texas.
12. Channel easement executed by Laura B. Negley and husband, Richard V.W. Negley, to the State of Texas, dated June 1, 1959, recorded in Volume 178, Page 98, Deed Records of Hays County, Texas.

## THE STATE OF TEXAS COUNTY OF HAYS

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Hays County, Texas.

20030758 DEED
07/24/2020 12:41:31 PM Total Fees: $\$ 38.00$

Elaine H. Cárdenas, MBA, PhD,County Clerk Hays County, Texas


## GENERAL WARRANTY DEED

STATE OF TEXAS
COUNTY OF HAYS
§

I35 KYLE CROSSING, LTD., a Texas limited partnership ("Grantor"), for good and valuable consideration paid to Grantor by I35 KYLE CROSSING LOT 6, LTD., a Texas limited partnership ("Grantee"), the receipt and sufficiency of which is acknowledged, has GRANTED, TRANSFERED and CONVEYED, and by these presents does GRANT, TRANSFER and CONVEY, unto Grantee all of the following described property located in Hays County, Texas, together with all the improvements and fixtures located thereon (the "Property"):

Lot 6, KYLE TOWN CENTER REPLAT OF LOT 1-A, BLOCK A, a subdivision in Hays County, Texas, according to the map or plat of record in Document No. 20015578 of the Plat Records of Hays County, Texas.

The Property is conveyed subject to the following:

1. This conveyance is made and accepted subject to the encumbrances and other matters described on Exhibit A attached hereto (the "Permitted Exceptions").
2. The Property shall not include in any way, and Grantor hereby reserves, all of Grantor's right, title, and interest in and to all reimbursements rights, payments, incentives and the like under any agreements entered into before the date hereof between Grantor and any governmental or quasigovernmental entity or any utility provider, if any.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, and Grantee's heirs, successors and assigns forever, and Grantor does hereby bind Grantor and Grantor's heirs, successors, and assigns, to warrant and forever defend, all and singular, the Property unto the Grantee, and Grantee's heirs, successors, and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof, subject to the Permitted Exceptions.

Taxes on the Property for the year 2020 and subsequent years, and subsequent assessments for prior years due to change in land usage or ownership, are hereby assumed by Grantee.

## [SIGNATURE APPEARS ON FOLLOWING PAGE]

Dated to be effective as of the $22^{r a}$ day of J y $\qquad$ , 2020.

## GRANTOR:

I35 KYLE CROSSING, LTD., a Texas limited partnership

By: EOP II Sub GP One, LLC, a Texas limited liability company, By:
Name: $\frac{\text { its general partuer }}{\text { Title: No, Notringtor }} \frac{E V^{2}}{}$

STATE OF TEXAS
§
§
county of Trauis §
The foregoing instrument was acknowledged before me this $\frac{2}{}$ day of July , 2020, by Charlie Northington as EVP of EOP II SUB GP ONE, LLC, a Texas limited liability company, the general partner of 135 KYLE CROSSING, LTD., a Texas limited partnership, on behalf of said limited liability company and limited partnership.


## GRANTEE'S ADDRESS:

c/o Endeavor Real Estate Group
500 W $5^{\text {th }}$ Street, Suite 700
Austin, Texas 78701

## AFTER RECORDING, RETURN TO:

Metcalfe Wolff Stuart \& Williams, LLP
221 W $6^{\text {th }}$ Street, Suite 1300
Austin, Texas 78701
Attn: Ari Kuchinsky

## EXHIBIT A

## Permitted Exceptions

1. All covenants, conditions, easements, restrictions under that certain Plat recorded under Document No. 20015578 of the Plat Records of Hays County, Texas.
2. Covenants, conditions, obligations, restrictions, easements, charges and liens as set forth in that certain Restriction Agreement and Grant of Easements, by and between Kyle Texas Company, LLC, an Ohio limited liability company and Home Depot U.S.A., Inc., a Delaware corporation, as recorded in Volume 2478, Page 732, Official Public Records of Hays County, Texas and as affected by First Amendment to Restriction Agreement and Grant of Easements recorded in Volume 4751, Page 519, Official Public Records of Hays County, Texas. As affected by Second Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 19045925, Official Public Records of Hays County, Texas and by Third Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 20008136, of the Official Public Records of Hays County, Texas.
3. Undivided one-half $(1 / 2)$ of one-eighth $(1 / 8)$ royalty interest in and to all oil, gas and other minerals in, on, under or that may be produced from the herein described property, together with all rights relating thereto, express or implied, reserved unto The San Antonio Joint Stock Land Bank of San Antonio, a corporation in deed to J.J. Butler, dated December 10, 1941, and recorded in Volume 123, Page 352, Deed Records of Hays County, Texas.
4. Terms, conditions and stipulations of that certain Development Agreement Establishing Development Standards for The As Yet Unnamed Subdivision/Development (Lot 1-A), dated January 16, 2020, executed by and between the City of Kyle, Texas, and NADB LFI Kyle, LP, recorded in Document No. 20002400, Official Public Records of Hays County, Texas.
5. Easements, terms, conditions, liens and other stipulations contained in that certain Private Wastewater Easement Agreement recorded in Document No. 20016528, Official Public Records of Hays County, Texas.
6. 5' public utility easement along a portion of the lot line(s), as recorded in Volume 11, Page 356, Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
7. 12 ' public utility easement dedicated along each side lot line(s), as recorded in Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
8. Channel easement executed by O.H. Cullen and wife, Mattie Mae Cullen, to the State of Texas, dated May 5, 1959, recorded in Volume 177, Page 589, Deed Records of Hays County, Texas.
9. Wastewater line easement executed by Kyle Texas Company, L.L.C., to the City of Kyle for wastewater lines, dated August 4, 2004, recorded in Volume 2519, Page 818, Official Public Records of Hays County, Texas.
10. Channel easement executed by Laura B. Negley and husband, Richard V.W. Negley, to the State of Texas, dated June 1, 1959, recorded in Volume 178, Page 98, Deed Records of Hays County, Texas.

## THE STATE OF TEXAS COUNTY OF HAYS

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Hays County, Texas.

20030759 DEED
07/24/2020 12:42:56 PM Total Fees: $\$ 34.00$

Elaine H. Cárdenas, MBA, PhD,County Clerk Hays County, Texas


## GENERAL WARRANTY DEED

## STATE OF TEXAS

COUNTY OF HAYS
§

I35 KYLE CROSSING, LTD., a Texas limited partnership ("Grantor"), for good and valuable consideration paid to Grantor by 35 KYLE CROSSING LOT 14, LTD., a Texas limited partnership ("Grantee"), the receipt and sufficiency of which is acknowledged, has GRANTED, TRANSFERED and CONVEYED, and by these presents does GRANT, TRANSFER and CONVEY, unto Grantee all of the following described property located in Hays County, Texas, together with all the improvements and fixtures located thereon (the "Property"):

Lot 14, KYLE TOWN CENTER REPLAT OF LOT 1-A, BLOCK A, a subdivision in Hays County, Texas, according to the map or plat of record in Document No. 20015578 of the Plat Records of Hays County, Texas.

The Property is conveyed subject to the following:

1. This conveyance is made and accepted subject to the encumbrances and other matters described on Exhibit A attached hereto (the "Permitted Exceptions").
2. The Property shall not include in any way, and Grantor hereby reserves, all of Grantor's right, title, and interest in and to all reimbursements rights, payments, incentives and the like under any agreements entered into before the date hereof between Grantor and any governmental or quasigovernmental entity or any utility provider, if any.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, and Grantee's heirs, successors and assigns forever, and Grantor does hereby bind Grantor and Grantor's heirs, successors, and assigns, to warrant and forever defend, all and singular, the Property unto the Grantee, and Grantee's heirs, successors, and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof, subject to the Permitted Exceptions.

Taxes on the Property for the year 2020 and subsequent years, and subsequent assessments for prior years due to change in land usage or ownership, are hereby assumed by Grantee.

## [SIGNATURE APPEARS ON FOLLOWING PAGE]

Dated to be effective as of the $22^{n^{2}}$ day of $J_{-} y_{y}, 2020$.

## GRANTOR:

I35 KYLE CROSSING, LTD., a Texas limited partnership

By: EOP II Sub GP One, LLC, a Texas limited liability company, its general partner

By:
Name:
Title:


STATE OF TEXAS

The foregoing instrument was acknowledged before me this $Z Z_{\text {day of }} \mathrm{J} / \mathrm{y}$ , 2020, by Charlie Northingtor as EVF general partner of 135 KYLE CROSSING, LTD., a Texas limited partnership, on behalf of said limited liability company and limited partnership.


## GRANTEE'S ADDRESS:

c/o Endeavor Real Estate Group
500 W $5^{\text {th }}$ Street, Suite 700
Austin, Texas 78701

## AFTER RECORDING, RETURN TO:

Metenlfe Wolff Stunt $\mathcal{\&}$. Willinms, II, P
221 W 6 ll Street. Suite 1300
Austin, Texas 78701
Attn: Ari Kuchinsky

## EXHIBIT A

## Permitted Exceptions

1. All covenants, conditions, easements, restrictions under that certain Plat recorded under Document No. 20015578 of the Plat Records of Hays County, Texas.
2. Covenants, conditions, obligations, restrictions, easements, charges and liens as set forth in that certain Restriction Agreement and Grant of Easements, by and between Kyle Texas Company, LLC, an Ohio limited liability company and Home Depot U.S.A., Inc., a Delaware corporation, as recorded in Volume 2478, Page 732, Official Public Records of Hays County, Texas and as affected by First Amendment to Restriction Agreement and Grant of Easements recorded in Volume 4751, Page 519, Official Public Records of Hays County, Texas. As affected by Second Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 19045925, Official Public Records of Hays County, Texas and by Third Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 20008136, of the Official Public Records of Hays County, Texas.
3. Undivided one-half $(1 / 2)$ of one-eighth $(1 / 8)$ royalty interest in and to all oil, gas and other minerals in, on, under or that may be produced from the herein described property, together with all rights relating thereto, express or implied, reserved unto The San Antonio Joint Stock Land Bank of San Antonio, a corporation in deed to J.J. Butler, dated December 10, 1941, and recorded in Volume 123, Page 352, Deed Records of Hays County, Texas.
4. Terms, conditions and stipulations of that certain Development Agreement Establishing Development Standards for The As Yet Unnamed Subdivision/Development (Lot 1-A), dated January 16, 2020, executed by and between the City of Kyle, Texas, and NADB LFI Kyle, LP, recorded in Document No. 20002400, Official Public Records of Hays County, Texas.
5. 30 ' public utility easement along a portion of the lot line(s), as recorded in Volume 11, Page 356, Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
6. 10 ' public utility easement dedicated along each side lot line(s), as recorded in Volume 16 , Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
7. 15' public utility easement dedicated along a portion of the lot line(s), as recorded in Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
8. Underground telecommunications systems and lines easement executed by Richard V. W. Negley, to Southwestern Bell Telephone Company, dated August 10, 1973, recorded in Volume 261, Page 492, Deed Records of Hays County, Texas.
9. Underground telecommunications systems and lines easement executed by O.H. Cullen and Mattie M. Cullen, to Southwestern Bell Telephone Company, dated August 8, 1973, recorded in Volume 261, Page 526, Deed Records of Hays County, Texas.
10. Water pipeline and/or distribution lines or systems easement executed by Cary Troop, Jr., Trustee, to Texas Water Services, Inc., dated July 26, 2000, recorded in Volume 1726, Page 113, Official Public Records of Hays County, Texas.
11. Wastewater line easement executed by Kyle Texas Company, L.L.C., to the City of Kyle for wastewater lines, dated August 4, 2004, recorded in Volume 2519, Page 818, Official Public Records of Hays County, Texas.
12. 15' drainage easement traversing subject lot, as recorded in Volume 17, Page 317, Plat Records of Hays County, Texas.
13. Temporary Drainage easement executed by Sterling/Babcock \& Brown, LP., a Texas limited partnership, to Warren Realty, Ltd., a Texas limited partnership (successor-in-interest to Sac-NPac Stores, Inc., a Texas corporation), dated November 21, 2011, Volume 4238, Page 286, Official Public Records of Hays County, Texas.
14. 10' water easement traversing subject lot, as recorded in Volume 17, Page 317, Plat Records of Hays County, Texas.
15. 15 ' grading and temporary construction easement along the south lot line(s), as recorded in Volume 17, Page 317, Plat Records of Hays County, Texas.

## THE STATE OF TEXAS COUNTY OF HAYS

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Hays County, Texas.

20030788 DEED
07/24/2020 02:23:30 PM Total Fees: $\$ 38.00$

Elaine H. Cárdenas, MBA, PhD, County Clerk Hays County, Texas


## GENERAL WARRANTY DEED

STATE OF TEXAS
COUNTY OF HAYS
§

I35 KYLE CROSSING, LTD., a Texas limited partnership ("Grantor"), for good and valuable consideration paid to Grantor by 135 KYLE CROSSING LOT 18, LTD., a Texas limited partnership ("Grantee"), the receipt and sufficiency of which is acknowledged, has GRANTED, TRANSFERED and CONVEYED, and by these presents does GRANT, TRANSFER and CONVEY, unto Grantee all of the following described property located in Hays County, Texas, together with all the improvements and fixtures located thereon (the "Property"):

Lot 18, KYLE TOWN CENTER REPLAT OF LOT 1-A, BLOCK A, a subdivision in Hays County, Texas, according to the map or plat of record in Document No. 20015578 of the Plat Records of Hays County, Texas.

The Property is conveyed subject to the following:

1. This conveyance is made and accepted subject to the encumbrances and other matters described on Exhibit A attached hereto (the "Permitted Exceptions").
2. The Property shall not include in any way, and Grantor hereby reserves, all of Grantor's right, title, and interest in and to all reimbursements rights, payments, incentives and the like under any agreements entered into before the date hereof between Grantor and any governmental or quasigovernmental entity or any utility provider, if any.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, and Grantee's heirs, successors and assigns forever, and Grantor does hereby bind Grantor and Grantor's heirs, successors, and assigns, to warrant and forever defend, all and singular, the Property unto the Grantee, and Grantee's heirs, successors, and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof, subject to the Permitted Exceptions.

Taxes on the Property for the year 2020 and subsequent years, and subsequent assessments for prior years due to change in land usage or ownership, are hereby assumed by Grantee.

## [SIGNATURE APPEARS ON FOLLOWING PAGE]

Dated to be effective as of the $22^{21}$ day of $\qquad$
$\qquad$ 2020.

## GRANTOR:

## I35 KYLE CROSSING, LTD.,

 a Texas limited partnershipBy: EOP II Sub GP One, LLC, a Texas limited liability company, its general partper

By:


STATE OF TEXAS § § COUNTY OF Iraus

The foregoing instrument was acknowledged before me this 22 day of Jvly , 2020, by Charlie Nortlington, as $\frac{E V P}{}$ of EOP II SUB GP ONE, LLC, a Texas limited liability company, the general partner of 135 KYLE CROSSING, LTD., a Texas limited partnership, on behalf of said limited liability company and limited partnership.


## GRANTEE'S ADDRESS:

c/o Endeavor Real Estate Group
500 W $5^{\text {th }}$ Street, Suite 700
Austin, Texas 78701

## AFTER RECORDING, RETURN TO:

Metcalfe Wolff Stuart \& Williams, LLP
$221 \mathrm{~W}^{\text {th }}$ Sirreel, Suite 1300
Austin, Texas 78701
Attn: Ari Kuchinsky

## EXHIBIT A

## Permitted Exceptions

1. All covenants, conditions, easements, restrictions under that certain Plat recorded under Document No. 20015578 of the Plat Records of Hays County, Texas.
2. Covenants, conditions, obligations, restrictions, easements, charges and liens as set forth in that certain Restriction Agreement and Grant of Easements, by and between Kyle Texas Company, LLC, an Ohio limited liability company and Home Depot U.S.A., Inc., a Delaware corporation, as recorded in Volume 2478, Page 732, Official Public Records of Hays County, Texas and as affected by First Amendment to Restriction Agreement and Grant of Easements recorded in Volume 4751, Page 519, Official Public Records of Hays County, Texas. As affected by Second Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 19045925, Official Public Records of Hays County, Texas and by Third Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 20008136, of the Official Public Records of Hays County, Texas.
3. Undivided one-half $(1 / 2)$ of one-eighth $(1 / 8)$ royalty interest in and to all oil, gas and other minerals in, on, under or that may be produced from the herein described property, together with all rights relating thereto, express or implied, reserved unto The San Antonio Joint Stock Land Bank of San Antonio, a corporation in deed to J.J. Butler, dated December 10, 1941, and recorded in Volume 123, Page 352, Deed Records of Hays County, Texas.
4. Terms, conditions and stipulations of that certain Development Agreement Establishing Development Standards for The As Yet Unnamed Subdivision/Development (Lot 1-A), dated January 16, 2020, executed by and between the City of Kyle, Texas, and NADB LFI Kyle, LP, recorded in Document No. 20002400, Official Public Records of Hays County, Texas.
5. 12' public utility easement dedicated along each side lot line(s), as recorded in Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
6. 10 ' public utility easement dedicated along each side lot line(s), as recorded in Volume 16 , Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
7. Access, drainage and public utility easement traversing subject lot, as recorded in Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
8. $15^{\prime}$ drainage easement traversing subject lot, as recorded in Volume 17, Page 317, Plat Records of Hays County, Texas.
9. 10 ' water easement traversing subject lot, as recorded in Volume 17, Page 317, Plat Records of Hays County, Texas.
10. $15^{\prime}$ access easement for driveway extension traversing subject lot, as recorded in Volume 17, Page 317, Plat Records of Hays County, Texas.

## THE STATE OF TEXAS COUNTY OF HAYS

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Hays County, Texas.

## 20030795 DEED

07/24/2020 02:43:08 PM Total Fees: $\$ 34.00$

Elaine H. Cárdenas, MBA, PhD, County Clerk Hays County, Texas


## Franchise Tax Account Status

As of : 11/12/2021 09:19:35

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

| I35 KYLE CROSSING LOT 6, LTD. |  |
| ---: | :--- | :--- |
| Texas Taxpayer Number | 32073557426 |
| Mailing Address | 500 W 5TH ST STE 700 AUSTIN, TX 78701-3833 |
| (3) Right to Transact Business in | ACTIVE |
| Texas |  |
| State of Formation | TX |
| Effective SOS Registration Date | $02 / 26 / 2020$ |
| Texas SOS File Number | 0803559318 |
| Registered Agent Name | A. BRYCE MILLER |
| Registered Office Street Address | 500 W. 5TH STREET, SUITE 700 AUSTIN, TX 78701 |



# CITY OF KYLE, TEXAS 

Torchy's, Retail \#3 and Retail \#4 - Meeting Date: 1/11/2022 Conditional Use Permit (CUP-210044)

Subject/Recommendation: Consider a request to construct an approximately 4,000 sq.ft. (Torchy's free standing unit and drive thru), an approximately $10,500 \mathrm{sq}$. ft. (Retail \#3 building) and approximately ( 9,100 sq. ft. (Retail \#4 building) for property located at $19100 \mathrm{IH}-35$ within the I-35 overlay district. (Torchy's, Retail \#3 and Retail \#4 - Conditional Use Permit - CUP-210044)

Other Information: See attached.
Legal Notes: N/A
Budget Information: N/A

| ATTACHMENTS: |  |
| :--- | :--- |
|  | Description <br> D |
| Staff Memo |  |
| D | Elevations \& Renderings |
| D | Torchy's Landscape Plan |
| D | Buildings 3 \& 4 Landscape Plan |
| D | Landowner Authorization Letter |
| D | Torchy's Deed |
| D | Buildings $3 \& 4$ Deed |

## Community Development Department

## MEMORANDUM

TO: Planning \& Zoning Commission

FROM: $\quad$ Will Atkinson - Senior Planner
DATE: Tuesday, January 11, 2022
SUBJECT: Torchy's and Retail Buildings 3 \& 4- Conditional Use Permit (CUP-21-0044)

## REQUEST

The applicant seeks to construct the following:

- Torchy's free standing unit \& drive thru = Approximately 4,000 sq. ft.
- Retail \#3 = Approximately 10,500 sq. ft.
- Retail \#4 = Approximately 9,100 sq. ft.

The buildings will have a color palette of tans, white and brown. Torchy's will have additionally include a signature red, metal paneling on its building. Materials used include high quality limestone, stucco and corrugated metal paneling.

## LOCATION

The property is located at $19100 \mathrm{IH}-35$, Kyle, TX 78640, north and south of Starbucks (in the Dry River District shopping center (Endeavor Group)).


## OVERLAY DISTRICT

The I-35 overlay district. The Interstate Highway 35 corridor conditional use overlay district (the I-35 overlay district) extends from the northernmost city limit boundary at I-35 to the southernmost city limit boundary at I-35, and includes all real property within 1,500 feet of the outer most edge of the highway right-of-way of 1-35. Sec. 53-899 is the code section staff uses to review for aesthetic compliance.

## TEXT OF THE ZONING ORDINANCE

Sec. 53-896. - Standards for review.
(a) The planning and zoning commission shall determine whether the application and project is consistent and compliant with the terms and intent of this division, this chapter, chapter 32, article II, pertaining to the site development plan, and all other codes and ordinances of the city. The planning and zoning commission will determine if the proposed use, occupancy and structure will promote, preserve, and enhance, and will not damage or detract from the distinctive character of the community; will preserve and protect property values and taxable values; will not be detrimental or inconsistent with neighboring uses and occupancies; will not be detrimental to the general interests of the citizens; and will not be detrimental to the public health, safety and welfare. In conducting its review, the planning and zoning commission shall make examination of and give consideration to the traffic flow, development density, neighboring historical designs, neighboring uses, and elements of the application, including, but not limited to:
(1) Height, which shall conform to the requirements of this chapter;
(2) Building mass, which shall include the relationship of the building width to its height and depth, and its relationship to the visual perception;
(3) Exterior detail and relationships, which shall include all projecting and receding elements of the exterior, including, but not limited to, porches and overhangs and the horizontal or vertical expression which is conveyed by these elements;
(4) Roof shape, which shall include type, form, and materials;
(5) Materials, texture, and color, which shall include a consideration of material compatibility among various elements of the structure;
(6) Compatibility of design and materials, which shall include the appropriateness of the use of exterior design details;
(7) Landscape design and plantings, which shall include lighting and the use of landscape details to highlight architectural features or screen or soften undesirable views;
(8) Vehicular and pedestrian access, which shall include location, width, and type of surface for all points of ingress and egress;
(9) Signage, which shall include, in addition to the requirements chapter 29, pertaining to signs, the appropriateness of signage to the building in relation
location, historical significance of the structure and neighboring structures, traffic visibility; obstruction of views from neighboring property;
(b) The planning and zoning commission may request from the applicant such additional information, sketches, and data as it shall reasonably require. It may call upon experts and specialists for testimony and opinion regarding matters under examination. It may recommend to the applicant changes in the plans it considers desirable and may accept a voluntary amendment to the application to include or reflect such changes. The planning and zoning commission shall keep a record of its proceedings and shall attach to the application copies of information, sketches, and data needed to clearly describe any amendment to the application.
(c) If the conditional use permit is granted by the planning and zoning commission, the applicant shall be required to obtain a building permit and/or a development permit, if required, provided all other requirements for a building permit and/or a development permit are met. The building permit and/or a development proposal as approved shall be valid from one year from the date of approval. The planning and zoning commission may grant an extension of the one-year limitation if sufficient documentation can be provided to warrant such an extension.

## STAFF ANALYSIS

Staff has reviewed the request and has made the following findings:

1. The proposed buildings meet the intent of the Retail Services zoning standards for the building and site work;
2. The architecture style of the building meets the intent for variation of architectural design requirements in the I-35 Overlay;
3. Materials types and specific colors are available on the elevation sheet.
4. The overall design aesthetic and color palette almost matches the current ideals within the I-35 Overlay standard for the preferable appearance of the Kyle I-35 corridor. All three (3) buildings are compliant, and exceed the intent of the I-35 Overlay.
5. The percentages of masonry largely meet the minimum 90\% per total face of each building. Exterior porch canopies may lower the $90 \%$ masonry requirement. However, the architectural design fits into the intent of the I-35 Overlay. The Planning \& Zoning Commission has the authority to be flexible in approving proposed elevations.

- Overall masonry (including stucco) at +/- 90\%, without accounting for porch/canopy designs.
- Masonry and metal canopies provide a cohesive design.


## RECOMMENDATION

Staff has reviewed the color elevations and site plan for compliance with the Sec. 53-899 (I-35 Overlay design standards). Staff recommends approval of the conditional use permit (CUP-21-0044), as the unified design of the buildings meet the intent of the I-35 Overlay.

# DRY RIVER DISTRICT <br> LOT 12 \& 15 CONDITIONAL USE PERMIT DESIGN PACKAGE 



Interstate Highway 35







C $\frac{\text { Left levation }}{\text { seab }}$








$A$ front fevation






0 Lemp sie levevation




Front Elevation
Side Elevation



 －-




Unless specifachly noted，nstall all massed planting uturag eowateal
 AND NSTALLED BY YHE CONTRACTOR．CONTRACTOR TO ENSURE ALL SUBSURFACE RRLGATION IS
COMPLLITLYOOVERED BY MUCH．

10．Plant materal and layout must be Aproved by the project lanoscape architect


 IISTUREEER BY UTLITTY EXTENSIONS．
13．THE LANOSCAPE CONTRACTOR SHALL EXCAYATE FULY PREPARED PLANT BEDS A R REQURED TO







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LARGER THAN 16 SOUARE EEEETEXST．
16．REGUAR MAITENANCE II REOURED OF ALL LANDSCARE AREAA AND PLANT MATERALS $N$ A
 Horticu tural Pract
HADCAPE ARCHIECT．
17．THE OWNERS OF THE LANDSCAPED PROPRRTY，OR THE MANAGER OR AGENT OF THE OMNER



18．No Topsol shall BE PRACED UNTL SUBGRAD IS APPROVED BY LANOSCAPE ARCHITECT


19．No CutTNM，FILING，TTEECHINGG Root Disturance sal Distubance or construction



## LANDSCAPE MAINTENANCE NOTES：

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To be pruned \＆Shaped once during winter monts pune to ciss istuma

 D．PERFORMMG WORK TO OWNERS REREEESNTATVE





6．Pavedareas



7．IRRIGATION
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8．GeNeral


 C．DUE TO DAMAGE BY LAWN MANTENACE．EQUPMENT OR CONTRACTORS NEGLIGENCE




| PLANT SCHEDULE |  |  |  |  |
| :---: | :---: | :---: | :---: | :---: |
| TREES | Qty | COMMON／BOTANCAL | CONT | CAL |
| $0$ |  | CATHEDRAL LIVE OAK QUERCUS VIRGINIANA CATHEDRAL | ${ }_{\text {cal }}^{65}$ | $3^{\prime \prime} \mathrm{CAL}, 10^{\circ}-12^{\circ} \mathrm{H}$ <br> Min． |
| $\oplus$ | 4 | CEDAR ELM <br> ULMUS CRASSIFOLIA | $\left.\right\|_{\text {GAL }} ^{65}$ | $3^{\prime \prime} \mathrm{CAL}, 10^{\circ}-12^{-H}$ <br> MIN． |
| $\mathbf{0}$ | 2 | MEXICAN SYCAMORE <br> PLATANUS MEXICANA | $\left.\right\|_{\text {GAL }} ^{65}$ | $3^{\prime \prime C A L}, 10^{-12} \cdot \mathrm{H}$ <br> MIN． |
| SHRUBS | atr | Common／Botanical | IZE | description |
| （ | 61 | CHERRY SAGE SALVIA GREGGII | 5 GAL | $\begin{aligned} & \text { PER TNLA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| （1） | ${ }^{23}$ | BLACK DALEA DALEA FRUTESCENS | 1 GAL |  |
|  | 6 | CAROLINA LAUREL CHERRY PRUNUS CAROLINIANA | ${ }_{\text {call }}^{30}$ | $\begin{aligned} & \text { PERTNLA } \\ & \begin{array}{l} \text { STANARARDS \& } \\ \text { SPECS } \end{array} \\ & \hline \end{aligned}$ |
| F | 3 | CENTURY PLANT AGAVE AMERICANA | 5 GAL | $\begin{aligned} & \text { PER TNLA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| （1） | ${ }^{28}$ |  <br> ILEXCO <br> BURFORD | 5 Gal | $\begin{aligned} & \text { PER TNLA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| \％ | 18 | FLAME AAANTHUS ANIMACANTHUS QUADRIFIDUS WRIGHTII | 5 GAL | $\begin{aligned} & \text { PER TNLA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| 沙 | 63 | GUIF MUHLY MUHILENEERGA CAPILLARIS | 5 Gal | $\begin{aligned} & \text { PER TNLA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| 粕 | 30 | LINDHEIMER｀S MUHLY MUHLENBERGIA <br> LINDHEIMERI | 5 GAL | $\begin{aligned} & \text { PER TNLA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| 漛 | 19 | LITTLE BUNNY fountan grass Alopcium LITLLE BUNNY | 1 GAL | $\begin{aligned} & \begin{array}{l} \text { PERETNLA } \\ \text { STAADAARDS \& } \\ \text { SPRCCS } \end{array} \end{aligned}$ |
| （．） | 24 | NEW GOLD LANTANA LANTANA X｀NEW GOLD | 1 GAL | $\begin{aligned} & \text { PER TNLA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| 嚓 | 51 | PINE MUHLY MUHLENBERGIA DUBIA | 1 GA | $\begin{aligned} & \text { PERTNLA } \\ & \text { STANCRARS \& } \\ & \text { SPCES } \end{aligned}$ |
| 边 | 64 | RED YUCCA HESPERALOE PARVIFLORA | 5 GAL | $\begin{aligned} & \text { PER TNLA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| \＃ | 26 | ROSEMARY ROSMARINUS OFFICINLIS | 5 GAL | $\begin{aligned} & \text { PER TLA } \\ & \text { STANDRAD \& } \\ & \text { SPECS } \end{aligned}$ |
| 䏅 | 44 | texas needle grass NASSELLA TENUISSIMA | 1 GA | $\begin{aligned} & \text { PER TLAA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| \％－ | 20 | TEXAS SOTOL DASYLIRION TEXANUM | 56 | $\begin{aligned} & \text { PERTNLA } \\ & \text { STANCRADS \& } \\ & \text { SPCES } \end{aligned}$ |
| © | 16 | TRALING LANTANA LANTANA MoNTEVIDNSIS PUVRLEE | 1 GAL | $\begin{aligned} & \text { PER TNLA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| 维\} | 28 | TWISTLEAF YUCCA YUCCA RUPICOLA | 5 GAL | $\begin{aligned} & \text { PER TNLA } \\ & \text { STANDARDS \& } \\ & \text { SPECS } \end{aligned}$ |
| G．c． | atr | COMMON／BOTANICAL | CONT | DESCRIPTION |
|  | 6，853 SF | Hardwood mulch <br> ＂texas dark mulch in ALl PLANTING BED $W / W E E D$ BARRIER fabric | NONE | 4＂DEPTH W／ WEED BARRIER FABRIC． <br> SAMPLE PRIOR TO CONSTRUCTION |
|  | $\begin{aligned} & 14.862 \\ & \substack{14, \\ \text { SF }} \end{aligned}$ | BERMUDA GRASS CYNODON DACTYLON | $\begin{array}{\|l\|l\|} \hline \text { HYDR } \end{array}$ OSE <br> D |  |
|  | 3，493 SF | BERMUDA GRASS（SOD） CYNODON DACTYLON | $\begin{aligned} & \text { solio } \\ & \text { sol } \end{aligned}$ |  |

## KEY LEGEND

OTEE ITEMS LISTED BELOW REFERENCE ALL SHEETSS

L01 LIMESTONE EDGE，REF．DETALL 4 ／SHEET 205

| LANDSCAPE CALCULATION CHART－KYLE CROSSINGS－LOT 12 |  |  |  |  |
| :---: | :---: | :---: | :---: | :---: |
| 1 total Lanoscare requreo Toal Required |  |  |  |  |
|  | ${ }_{6,5985} \mathrm{sF}$ | 10\％ | 6，590 |  |
| 2 LANDSCAPE QUANTITIES <br> Three（3）One－gallon Shrubsl 1000 SF of |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| 4 PARKING LOT SCREENING  <br>  Linear feet of screening requirement <br> （One（1）Shrub／ 48 ＂minimum）  |  |  |  |  |

studio 16



## owner： Kyle town center，lid． 

LANDSCAPE NOTES
AND SCHEDULES

## 都

都





## LANDOWNER AUTHORIZATIONAND AFFIDAVIT OF OWNERSHIP

## SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: Lots 12,15 kg Tour Cunt Rpt of Lot leA, Black A \# of lots (if subdivided): 2 of 23 \# of acres: 1.512 है 2.148 (.t 65.570 ants)
Site APN/Property ID \#(s): 20015578
Location: 191001435 County:
Development Name: Dry River District $\left(k_{2} l_{e}\right)$
OWNER
OWNER
Company/Applicant Name: i $35 \mathrm{~K} / \mathrm{l}$ ( ross ing Lot $12, \mathrm{LH}$
Authorized Company Representative (if company is owner): Share He sun
Type of Company and State of Formation: Lt P-rturestip TX
Title of Authorized Company Representative (if company is owner): Vie Precut
Applicant Address: $500 \mathrm{w} \mathrm{s}^{+1}$ Street Site 700 Austin Tx 78701
Applicant Fax: n/s
Applicant Phone: $\quad 512.682 .5516$
Applicant/Authorized Company Representative Email: shessune erdeutr -re .com

## APPLICANT REPRESENTATIVE

Check one of the following:
$\qquad$ . I will represent the application myself; or
$y$ I hereby designate $\qquad$ Christopher Cuaso (name of project representative) to act in the capacity as the agent for filing, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

I hereby certify that the above-named owner is the rightful owner of the Property. I am either the owner of the property identified above or a partner/manager/officer/director/member of the company who is authorized to act on behalf of the company. I further certify that the information provided herein and in the application for the development is true and correct. By signing below, I agree that the City of Kyle (the "City") is authorized and permitted to provide information contained within this application, including the email address, to the public.

$\begin{array}{ll}\text { State of Texas } \\ \text { County of Travis } & \S \\ \S\end{array}$
This instrument was acknowledged before me on (date) by (name of authorized company representative) who is an) (member, manager, authorized officer, etc.) of (name of company), a (Texas) (limited liability company, corporation, partnership, etc.).


SUBSCRIBED AND SWORN TO before me, this the 27 day of September, 202.1


Notary Public's Signature
tune 7,2025
My Commission Expires

## PROJECT REPRESENTATIVE

Representative Name: Christopher Cuaso
Representative Address: _ 12600 Hill Country Boulevard R-2/5
Representative Phone: $\quad 5123488078 \times 101$
Representative Email:__Chris@cuasodé siqustudio.com
Representative's Signature:


## GENERAL WARRANTY DEED

## STATE OF TEXAS

COUNTY OF HAYS
§

I35 KYLE CROSSING, LTD., a Texas limited partnership ("Grantor"), for good and valuable consideration paid to Grantor by 35 KYLE CROSSING LOT 12, LTD., a Texas limited partnership ("Grantee"), the receipt and sufficiency of which is acknowledged, has GRANTED, TRANSFERED and CONVEYED, and by these presents does GRANT, TRANSFER and CONVEY, unto Grantee all of the following described property located in Hays County, Texas, together with all the improvements and fixtures located thereon (the "Property"):

Lot 12, KYLE TOWN CENTER REPLAT OF LOT 1-A, BLOCK A, a subdivision in Hays County, Texas, according to the map or plat of record in Document No. 20015578 of the Plat Records of Hays County, Texas.

The Property is conveyed subject to the following:

1. This conveyance is made and accepted subject to the encumbrances and other matters described on Exhibit A attached hereto (the "Permitted Exceptions").
2. The Property shall not include in any way, and Grantor hereby reserves, all of Grantor's right, title, and interest in and to all reimbursements rights, payments, incentives and the like under any agreements entered into before the date hereof between Grantor and any governmental or quasigovernmental entity or any utility provider, if any.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, and Grantee's heirs, successors and assigns forever, and Grantor does hereby bind Grantor and Grantor's heirs, successors, and assigns, to warrant and forever defend, all and singular, the Property unto the Grantee, and Grantee's heirs, successors, and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof, subject to the Permitted Exceptions.

Taxes on the Property for the year 2020 and subsequent years, and subsequent assessments for prior years due to change in land usage or ownership, are hereby assumed by Grantee.

## [SIGNATURE APPEARS ON FOLLOWING PAGE]

Dated to be effective as of the $22^{\circ+}$ day of, 2020.

GRANTOR:
135 KYLE CROSSING, LTD.,
a Texas limited partnership
By: EOP II Sub GP One, LLC,
a Texas limited liability company,


STATE OF TEXAS

The foregoing instrument was acknowledged before me this $\mathcal{Z}$ day of $J \mathcal{U l}_{4}, 2020$, by Ena rlie Northington as ZVP of EOP II SUB GP ONE, LLC, a Texas limited liability company, the general partner of 135 KYLE CROSSING, LTD., a Texas limited partnership, on behalf of said limited liability company and limited partnership.


## GRANTEE'S ADDRESS:

c/o Endeavor Real Estate Group
500 W 5" Street, Suite 700
Austin, Texas 78701

## AFTER RECORDING, RETURN TO:

Metcalfe Wolff Stuart \& Williams, LLP
221 W $6^{\text {th }}$ Street, Suile 1300
Austin, Texas 78701
Attn: Ari Kuchinsky

## EXHIBIT A

## Permitted Exceptions

1. All covenants, conditions, easements, restrictions under that certain Plat recorded under Document No. 20015578 of the Plat Records of Hays County, Texas.
2. Covenants, conditions, obligations, restrictions, easements, charges and liens as set forth in that certain Restriction Agreement and Grant of Easements, by and between Kyle Texas Company, LLC, an Ohio limited liability company and Home Depot U.S.A., Inc., a Delaware corporation, as recorded in Volume 2478, Page 732, Official Public Records of Hays County, Texas and as affected by First Amendment to Restriction Agreement and Grant of Easements recorded in Volume 4751, Page 519, Official Public Records of Hays County, Texas. As affected by Second Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 19045925, Official Public Records of Hays County, Texas and by Third Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 20008136, of the Official Public Records of Hays County, Texas.
3. Undivided one-half $(1 / 2)$ of one-eighth $(1 / 8)$ royalty interest in and to all oil, gas and other minerals in, on, under or that may be produced from the herein described property, together with all rights relating thereto, express or implied, reserved unto The San Antonio Joint Stock Land Bank of San Antonio, a corporation in deed to J.J. Butler, dated December 10, 1941, and recorded in Volume 123, Page 352, Deed Records of Hays County, Texas.
4. Terms, conditions and stipulations of that certain Development Agreement Establishing Development Standards for The As Yet Unnamed Subdivision/Development (Lot 1-A), dated January 16, 2020, executed by and between the City of Kyle, Texas, and NADB LFI Kyle, LP, recorded in Document No. 20002400, Official Public Records of Hays County, Texas.
5. 30 ' public utility easement along a portion of the lot line(s), as recorded in Volume 11, Page 356, Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
6. 15 ' public utility easement dedicated along a portion of the lot line(s), as recorded in Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
7. Underground telecommunications systems and lines easement executed by Richard V. W. Negley, to Southwestern Bell Telephone Company, dated August 10, 1973, recorded in Volume 261, Page 492, Deed Records of Hays County, Texas.
8. Underground telecommunications systems and lines easement executed by O.H. Cullen and Mattie M. Cullen, to Southwestern Bell Telephone Company, dated August 8, 1973, recorded in Volume 261, Page 526, Deed Records of Hays County, Texas.
9. Water pipeline and/or distribution lines or systems easement executed by Cary Troop, Jr., Trustee, to Texas Water Services, Inc., dated July 26, 2000, recorded in Volume 1726, Page 113, Official Public Records of Hays County, Texas.
10. Channel easement executed by O.H. Cullen and wife, Mattie Mae Cullen, to the State of Texas, dated May 5, 1959, recorded in Volume 177, Page 589, Deed Records of Hays County, Texas.
11. 15' drainage easement traversing subject lot, as recorded in Volume 17, Page 317, Plat Records of Hays County, Texas.
12. Temporary Drainage easement executed by Sterling/Babcock \& Brown, LP., a Texas limited partnership, to Warren Realty, Ltd., a Texas limited partnership (successor-in-interest to Sac-NPac Stores, Inc., a Texas corporation), dated November 21, 2011, Volume 4238, Page 286, Official Public Records of Hays County, Texas.
13. 10' water easement traversing subject lot, as recorded in Volume 17, Page 317, Plat Records of Hays County, Texas.
14. Channel easement executed by Laura B. Negley and husband, Richard V.W. Negley, to the State of Texas, dated June 1, 1959, recorded in Volume 178, Page 98, Deed Records of Hays County, Texas.

## THE STATE OF TEXAS COUNTY OF HAYS

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Hays County, Texas.

20030781 DEED
07/24/2020 02:14:14 PM Total Fees: $\$ 38.00$

Elaine H. Cárdenas, MBA, PhD,County Clerk Hays County, Texas


## GENERAL WARRANTY DEED

STATE OF TEXAS
COUNTY OF HAYS
§

I35 KYLE CROSSING, LTD., a Texas limited partnership ("Grantor"), for good and valuable consideration paid to Grantor by $\mathbf{I 3 5}$ KYLE CROSSING LOT 15, LTD., a Texas limited partnership ("Grantee"), the receipt and sufficiency of which is acknowledged, has GRANTED, TRANSFERED and CONVEYED, and by these presents does GRANT, TRANSFER and CONVEY, unto Grantee all of the following described property located in Hays County, Texas, together with all the improvements and fixtures located thereon (the "Property"):

Lot 15 , KYLE TOWN CENTER REPLAT OF LOT 1-A, BLOCK A, a subdivision in Hays County, Texas, according to the map or plat of record in Document No. 20015578 of the Plat Records of Hays County, Texas.

The Property is conveyed subject to the following:

1. This conveyance is made and accepted subject to the encumbrances and other matters described on Exhibit A attached hereto (the "Permitted Exceptions").
2. The Property shall not include in any way, and Grantor hereby reserves, all of Grantor's right, title, and interest in and to all reimbursements rights, payments, incentives and the like under any agreements entered into before the date hereof between Grantor and any governmental or quasigovernmental entity or any utility provider, if any.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, and Grantee's heirs, successors and assigns forever, and Grantor does hereby bind Grantor and Grantor's heirs, successors, and assigns, to warrant and forever defend, all and singular, the Property unto the Grantee, and Grantee's heirs, successors, and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof, subject to the Permitted Exceptions.

Taxes on the Property for the year 2020 and subsequent years, and subsequent assessments for prior years due to change in land usage or ownership, are hereby assumed by Grantee.

## [SIGNATURE APPEARS ON FOLLOWING PAGE]

Dated to be effective as of the $22^{\omega \prime}$ day of J-ly_, 2020 .

## GRANTOR:

135 KYLE CROSSING, LTD., a Texas limited partnership

By: EOP II Sub GP One, LLC, a Texas limited liability company, By:
Name: Chueles Nortahyten
Title:
Eve

STATE OF TEXAS
COUNTY OF 1 ran's

The foregoing instrument was acknowledged before me thi $\underset{\sim}{Z}$ day of $J_{\nu} L_{c}, \quad$, 2020, by Cluarlic Northington, as EVP of EOP II SUB GP ONE, LLC, a Texas limited liability company, the general partner of 135 KYLE CROSSING, LTD., a Texas limited partnership, on behalf of said limited liability company and limited partnershia.


## GRANTEE'S ADDRESS:

c/o Endeavor Real Estate Group
500 W $5^{\text {th }}$ Street, Suite 700
Austin, Texas 78701

## AFTER RECORDING, RETURN TO:

Metcalfe Wolff Stuart \& Williamn, LJ, P
221 W 6 II Street. Suite 1300
Austin, Texas 78701
Attn: Ari Kuchinsky

## EXHIBIT A

## Permitted Exceptions

1. All covenants, conditions, easements, restrictions under that certain Plat recorded under Document No. 20015578 of the Plat Records of Hays County, Texas.
2. Covenants, conditions, obligations, restrictions, easements, charges and liens as set forth in that certain Restriction Agreement and Grant of Easements, by and between Kyle Texas Company, LLC, an Ohio limited liability company and Home Depot U.S.A., Inc., a Delaware corporation, as recorded in Volume 2478, Page 732, Official Public Records of Hays County, Texas and as affected by First Amendment to Restriction Agreement and Grant of Easements recorded in Volume 4751, Page 519, Official Public Records of Hays County, Texas. As affected by Second Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 19045925, Official Public Records of Hays County, Texas and by Third Amendment to Restriction Agreement and Grant of Easements recorded in Document No. 20008136, of the Official Public Records of Hays County, Texas.
3. Undivided one-half $(1 / 2)$ of one-eighth $(1 / 8)$ royalty interest in and to all oil, gas and other minerals in, on, under or that may be produced from the herein described property, together with all rights relating thereto, express or implied, reserved unto The San Antonio Joint Stock Land Bank of San Antonio, a corporation in deed to J.J. Butler, dated December 10, 1941, and recorded in Volume 123, Page 352, Deed Records of Hays County, Texas.
4. Terms, conditions and stipulations of that certain Development Agreement Establishing Development Standards for The As Yet Unnamed Subdivision/Development (Lot 1-A), dated January 16, 2020, executed by and between the City of Kyle, Texas, and NADB LFI Kyle, LP, recorded in Document No. 20002400, Official Public Records of Hays County, Texas.
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6. 15 ' public utility easement dedicated along a portion of the lot line(s), as recorded in Volume 16, Page 191, and Volume 17, Page 317, Plat Records of Hays County, Texas.
7. Underground telecommunications systems and lines easement executed by Richard V. W. Negley, to Southwestern Bell Telephone Company, dated August 10, 1973, recorded in Volume 261, Page 492, Deed Records of Hays County, Texas.
8. Underground telecommunications systems and lines easement executed by O.H. Cullen and Mattie M. Cullen, to Southwestern Bell Telephone Company, dated August 8, 1973, recorded in Volume 261, Page 526, Deed Records of Hays County, Texas.
9. Water pipeline and/or distribution lines or systems easement executed by Cary Troop, Jr., Trustee, to Texas Water Services, Inc., dated July 26, 2000, recorded in Volume 1726, Page 113, Official Public Records of Hays County, Texas.
10. Wastewater line easement executed by Kyle Texas Company, L.L.C., to the City of Kyle for wastewater lines, dated August 4, 2004, recorded in Volume 2519, Page 818, Official Public Records of Hays County, Texas.
11. Temporary Drainage easement executed by Sterling/Babcock \& Brown, LP., a Texas limited partnership, to Warren Realty, Ltd., a Texas limited partnership (successor-in-interest to Sac-NPac Stores, Inc., a Texas corporation), dated November 21, 2011, Volume 4238, Page 286, Official Public Records of Hays County, Texas.

## THE STATE OF TEXAS COUNTY OF HAYS

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Hays County, Texas.

20030789 DEED
07/24/2020 02:24:14 PM Total Fees: $\$ 38.00$

Elaine H. Cárdenas, MBA, PhD, County Clerk Hays County, Texas



## CITY OF KYLE, TEXAS

## Comprehensive plan amendment - Meeting Date: 1/11/2022 Northwest of the intersection of SH- <br> Date time:6:30 PM 21 and E FM 150.

Subject/Recommendation: | Consider a comprehensive plan amendment to amend approximately 535 acres of land |
| :--- |
| from 'Farm District' to 'East FM 150 Employment District' and 42 acres of land to the |
| 'Regional Node' for certain parcels located northwest of the intersection of SH-21 and E |
| FM 150. (City of Kyle) |
|  |
| - Public Hearing (Second of Two Public Hearings) |
| - Recommendation to City Council |

| Other Information: | See attached. |
| :--- | :--- |

Legal Notes:
Budget Information:

| ATTACHMENTS: |  |
| :--- | :--- |
|  | Description |
| D | Staff Memo |
| b | E FM 150 Employment District - Summary \& Intent |
| D | Comprehensive Plan Map |
| [ | Ordinance |

# CITY OF KYLE 

# MEMORANDUM 

TO: Planning \& Zoning Commission<br>FROM: $\quad$ Will Atkinson - Senior Planner<br>DATE: Tuesday, December 14, 2021<br>\(\begin{array}{ll}SUBJECT: \& Comprehensive Plan Amendment - E FM 150 Employment<br>\& District \& Regional Node Land Use District\end{array}\)

## Request

The City of Kyle is pursuing a comprehensive plan amendment create a new land use district (E FM 150 Employment District) and amend the comprehensive plan to expand the "Regional Node" into the west corner of the intersection of SH-21 and E FM 150.

## City Charter Comprehensive Plan Ordinance

Sec. 10.03. - Comprehensive Plan Adoption and Amendment.
"The comprehensive plan, or elements or portions thereof, shall be initially prepared and drafted by personnel and/or consultants authorized by the council, under the supervision of the city manager who shall coordinate development of the plan with the planning commission and the council. A draft of the comprehensive plan shall be submitted to the planning commission which shall hold a minimum of two public hearings on such plan and make recommendations for the approval of the plan, with or without amendments. The planning commission shall then forward the proposed comprehensive plan or element or portion thereof to the city manager, who shall thereupon submit such plan, or element or portion thereof, to the council with the planning commission's and the city manager's recommendations thereon. If the proposed comprehensive plan has not been adopted within two years from the effective date of this charter, the proposed plan as it then exists will automatically become the City's comprehensive plan.
"The council may adopt, or adopt with changes or amendments, the proposed comprehensive plan or any element or portion thereof, after one or more public hearings. The council shall act on such plan, element or portion thereof, within ninety (90) days following its submission. If such plan or element or portion thereof is not adopted by the council, the council shall, with policy direction, return such plan or element thereof to the
planning commission, which may modify such plan or element or portion thereof, and again forward it to the city manager for submission in like manner to the council. Amendments to the comprehensive plan may be initiated by the council, the planning commission, or the city manager; provided that all amendments shall be reviewed, considered and recommended for adoption in the same manner as for the original adoption of the comprehensive plan.
"Upon the adoption of a comprehensive plan or element or portion thereof by the council, all land development regulations including zoning and map, subdivision regulations, roadway plan, all public improvements, public facilities, public utilities projects and all city regulatory actions relating to land use, subdivision and development approval shall be consistent with the comprehensive plan, element or portion thereof as adopted, except to the extent, if any, as provided by law. For purposes of clarity, consistency and facilitation of comprehensive planning and land development process, the various types of local regulations or laws concerning the alteration, development and use of land may be combined in their totality in a single ordinance or code."

## Comprehensive Plan Text

E FM 150 Employment District

"Recommended: C/M, W, T/U
"Conditional: O/I, RS
'Character': The E FM 150 Employment District is primarily comprised of large, undeveloped parcels used for agricultural purposes and associated residential homesteads. This area is located just northwest of the intersection of SH-21 \& E FM 150 and spans both sides of E FM 150, to the northern and southern edges of the City of Kyle's jurisdiction. The E FM 150 Employment District is a further refinement, but separate district to the existing New Settlement District, a large, diverse area spanning both sides of IH-35. Nestled between large, single-family residential neighborhoods to the northwest and the as of yet undeveloped intersection of SH-21 \& E FM 150, the E FM 150 Employment District is an ideal area for employment and logistic land uses. Given the ongoing development pressures of both the City of Kyle, and Austin region as a whole, the City of Kyle should look for areas to employ residents in a primarily non-retail, nonoffice manner.
'Intent': This largely undeveloped area is relatively flat, and in close proximity to the intersection of two state highways. SH-21 serves as a secondary north/south route between San Marcos and Austin for both commuters and commercial trucking. E FM 150 serves the primary gateway into Kyle for the southeast portion of the city, connecting SH21 and IH-35. Future city plans to coordinate wastewater infrastructure along E FM 150 will compliment existing water availability. Additionally, the San Marcos Regional Airport is located approximately 5 -miles south of this district. Building and site design relating to large scale warehousing and logistics, should be Class A construction, show case modern
design and set the standard for related development. These key factors will help create opportunities for larger scale warehousing, logistics and light manufacturing uses.

Regional Node<br>"Recommended: R-1-C, R-3-2, R-3-3, CC, NC, R/S, MXD<br>"Conditional: CBD-1, CBD-2, E, HS, R-3-1, O/I

‘Character': Regional Nodes should have regional scale retail and commercial activity complimented by regional scale residential uses. These Nodes should represent the character and identity of Kyle, and signal these traits to the surrounding community. Regional Bodes have a radius of approximately $1 / 3$ of a mile so that they are walkable, but are able to contain a greater range of uses at a larger scale than those found in Local Nodes. Appropriate uses may include grocery stores, retail shopping centers, multi-family housing, and municipal services, such as libraries and recreation centers. Regional Nodes are scaled and designed as activity centers where users not only secure goods and services, but also congregate and remain for extended periods, unlike Local Nodes which are designed around quick turnaround convenience retail. The Regional Nodes located along I-35 at the northern and southern boundaries of Kyle should be designed as entryways into Kyle with elements that are symbolic of Kyle and serve to attract I-35 travelers into Kyle. Transitions between Regional Nodes and surrounding districts must be carefully constructed to avoid abrupt shifts in land uses. Trails and sidewalks should be present throughout all Regional Nodes and should connect to surrounding neighborhoods.
'Intent': The primary goal of the Regional Nodes is to capture commercial opportunities necessary to close Kyle's tax gap. To achieve this goal, these Nodes should draw down upon anticipated regional growth and aggregate density to enhance value and activity levels in a concentrated and visible location. Regional Nodes should provide a mixture of uses that compliment regional commercial activity, as well as encourage high density residential development. These Nodes should respond to other regional areas of growth, specifically along I-35 and FM 1626, and to grow toward Hwy 21, SH 45 and SH 130. The anchor of each Regional Node should be regional commercial uses, and Regional Nodes should have a high level of development intensity.

## Analysis

Recently, Planning staff received direction from Administration to begin the process of establishing a new land use district to encapsulate primary job creators in the warehousing, logistics and light manufacturing areas of the economy. Administration wanted to see this area away from IH-35, as City Council specifically does not want additional warehouses and manufacturing along the $\mathrm{IH}-35$ corridor. In the course of the conversations, the +/- 535 - acres immediately west of SH-21 along E FM 150 was found to be a good area to consider.

From an infrastructure perspective, SH -21 is a secondary north/south route, parallel to $\mathrm{IH}-35$. It is used for both commuters and commercial traffic between San Marcos and Austin. TxDoT is currently upgrading the corridor to better handle traffic, and is receiving input for future improvements. E FM 150 is also a TxDoT highway that connects $\mathrm{SH}-21$ and $\mathrm{IH}-35$. Both corridors are significant and should be utilized to handle commercial traffic (eastbound). Proximity to $\mathrm{SH}-21$ also allows for commercial traffic to utilize both Austin-Bergstrom International Airport and San Marcos Regional Airport.

Water availability is provided by County Line Special Utility District. Wastewater is currently non-existent, however this area does not have a wastewater provider. The City of Kyle is currently discussing plans to implement a regional wastewater solution to support this portion of the E FM 150 corridor (Waterleaf Blvd to SH-21). Construction of the wastewater facilities will increase the land value of the corridor and cause this area to be more attractive to developers. This comprehensive plan amendment is the first step to capture the value increase.

Relating to the "Regional Node" amendment, landowner(s) south of E FM 150 and west of SH-21, have been patiently waiting on a comprehensive plan amendment that enables the "Regional Node" on the west corner of this intersection. As the City is pursuing the " $E$ FM 150 Employment District" amendment, it was found appropriate to incorporate the remainder of the "Regional Node" for the portion of the intersection that is within the City of Kyle's jurisdiction (concurrently).

This amendment will take into account approximately 42-acres, and will allow said landowner(s) to rezone to districts that are appropriate for major intersections (retail, offices, restaurants, vertical mixed use, etc.).
*The first meeting considering this amendment will be a public hearing only, with
no presentations or discussion on the amendment.

## RECOMMENDATION

Staff recommends approval of the creation of the "E FM 150 Employment District" and expanding the "Regional Node" as shown in the request. Staff asks the Planning \& Zoning Commission to vote in affirmative, supporting Staff's recommendation.

## E FM 150 EMPLOYMENT DISTRICT

## CHARACTER

The E FM 150 Employment District is primarily comprised of large, undeveloped parcels used for agricultural purposes and associated residential homesteads. This area is located just northwest of the intersection of SH-21 \& E FM 150 and spans both sides of E FM 150, to the northern and southern edges of the City of Kyle's jurisdiction. The E FM 150 Employment District is a further refinement, but separate district to the existing New Settlement District, a large, diverse area spanning both sides of IH-35. Nestled between large, single-family residential neighborhoods to the northwest and the as of yet undeveloped intersection of SH-21 \& E FM 150, the E FM 150 Employment District is an ideal area for employment and logistic land uses. Given the ongoing development pressures of both the City of Kyle, and Austin region as a whole, the City of Kyle should look for areas to employ residents in a primarily non-retail, non-office manner.


## INTENT

This largely undeveloped area is relatively flat, and in close proximity to the intersection of two state highways. SH-21 serves as a secondary north/south route between San Marcos and Austin for both commuters and commercial trucking. E FM 150 serves the primary gateway into Kyle for the southeast portion of the city, connecting SH-21 and IH-35. Future city plans to coordinate wastewater infrastructure along E FM 150 will compliment existing water availability. Additionally, the San Marcos Regional Airport is located approximately 5miles south of this district. Building and site design relating to large scale warehousing and logistics, should be Class A construction, show case modern design and set the standard for related development. These key factors will help create opportunities for larger scale warehousing, logistics and light manufacturing uses.

## JURISDICTION

The E FM 150 Employment District is approximately 535 -acres and located in the southeastern portion of the City of Kyle.


The following chart displays existing zoning categories and their applicability to the E FM 150 Employment District.

| Zoning Category | Abbreviation | Use Qualification |
| :---: | :---: | :---: |
| Agricultural District |  |  |
| Central Business District 1 | A | Not Recommended |
| Central Business District 2 | CBD-1 | Not Recommended |
| Community Commercial | CC | Not Recommended |
| Construction/Manufacturing | C/M | Not Recommended |
| Entertainment | E | Recommended |
| Hospital Services | HS | Not Recommended |
| Manufactured Home | M-1 | Not Recommended |
| Manufactured Home Subdivision | M-2 | Not Recommended |
| Manufactured Home Park | M-3 | Not Recommended |
| Mixed-Use | MXD | Not Recommended |
| Multi-family Residential 1 | R-3-1 | Not Recommended |
| Multi-family Residential 2 | R-3-2 | Not Recommended |
| Multi-family Residential 3 | R-3-3 | Not Recommended |
| Neighborhood Commercial | NC | Not Recommended |
| Office/Institutional | O/I | Not Recommended |
| Residential Condominium | R-1-C | Conditional |
| Residential Townhouse | R-1-T | Not Recommended |
| Residential Two-family | R-2 | Not Recommended |
| Recreational Vehicle Park | RV | Not Recommended |
| Retail/Service | R/S | Not Recommended |
| Single-family Residential 1 | R-1-1 | Conditional |
| Single-family Residential 2 | R-1-2 | Not Recommended |
| Single-family Residential 3 | R-1-3 | Not Recommended |
| Single-family Attached | R-1-A | Not Recommended |
| Transportation/Utilities | T/U | Not Recommended |
| Urban Estate District | UE | Recommended |
| Warehouse | W | Not Recommended |
|  |  | Recommended |
|  |  |  |



## ORDINANCE NO.

$\qquad$


#### Abstract

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ADOPTING AN AMENDMENT TO THE CITY'S 2017 MID-TERM COMPREHENSIVE PLAN BY TO AMEND APPROXIMATELY 535 ACRES OF LAND FROM 'FARM DISTRICT' TO 'EAST FM 150 EMPLOYMENT DISTRICT' AND 42 ACRES OF LAND TO THE 'REGIONAL NODE' FOR CERTAIN PARCELS LOCATED NORTHWEST OF THE INTERSECTION OF SH-21 AND E FM 150; PROVIDING FOR RELATED MATTERS.


WHEREAS, it is necessary and reasonable for the City of Kyle, Texas, a Texas home rule municipality, (herein the "City") to provide for, modify and amend a Comprehensive Plan for the City in accordance with Chapters 211 and 213 of the Texas Local Government Code and the City Charter;

WHEREAS, the City in anticipation of growth and expansion desires to plan for the orderly and efficient growth of the City;

WHEREAS, the City desires to facilitate the lessening of congestion in the streets; the securing of its citizens and visitors from fire, panic and other dangers; the promotion of the general health and welfare; the provision of adequate light and air; the prevention of the overcrowding of property and undue concentrations of populations; and the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

WHEREAS, the City recognize the existing Comprehensive Plan contains data that needs to be reviewed and updated where appropriate, commensurate with the City's growth and expansion in both population and land area. The update will include creation of the "E FM 150 Employment District" ( $+/-535$ acres) and expanding the "Regional Node" to fully encompass $+/-42$ acres) at the intersection of and west of SH-21 \& E FM 150.

WHEREAS, the Planning \& Zoning Commission, after conducting two (2) Public Hearings, recommended adoption of an Update to the existing Comprehensive Plan; and

WHEREAS, after review, inquiry and the opportunity for the public to give testimony and present written evidence at Public Hearings, and after review and recommendation by the Planning \& Zoning Commission, the City Council has found the amendment of the Comprehensive Plan hereinafter set forth and listed in this ordinance is reasonable and necessary for the public health, safety, morals and welfare.

## NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made part hereof for all purposes as findings of fact.

Section 2. Comprehensive Plan. Having held a Public Hearing and after receiving a recommendation from the Planning \& Zoning Commission, the City Council hereby adopts and approves this Amendment to the 2010 Comprehensive Plan, as periodically amended, spread upon the minutes of this meeting. The Comprehensive Plan shall be kept in the office of the City Secretary and shall be available for public inspection during normal office hours. Zoning uses, as amended from time to time at the request of the landowner or on motion of the City, shall be amended to be made consistent with the Comprehensive Plan. The City may further amend the Comprehensive Plan at the discretion of the City Council to plan for the changing plans for the City.

Section 3. Repeal of Comprehensive Plan. Portions of the existing Comprehensive Plan are repealed, to be replaced with text and renderings as indicated in Exhibit 'A' \& Exhibit 'B'.

Section 4. Severability. If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision herein shall become inoperative or fail by reason of any unconstitutionally or invalidity of any other portion or provision.

Section 5. Effective Date. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov 't. Code.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meeting Act, Chapt. 551 Tex. Gov't Code.

PASSED AND APPROVED on this the $\qquad$ day of $\qquad$ , 2022.

FINALLY PASSED AND APPROVED on this the $\qquad$ day of $\qquad$ , 2022.

## ATTEST:

The City of Kyle, Texas

Jennifer A. Holm, City Secretary
Travis Mitchell, Mayor

## Exhibit "A"

## E FM 150 Employment District Summary

## E FM 150 EMPLOYMENT DISTRICT

## CHARACTER

The E FM 150 Employment District is primarily comprised of large, undeveloped parcels used for agricultural purposes and associated residential homesteads. This area is located just northwest of the intersection of SH-21 \& E FM 150 and spans both sides of E FM 150, to the northern and southern edges of the City of Kyle's jurisdiction. The E FM 150 Employment District is a further refinement, but separate district to the existing New Settlement District, a large, diverse area spanning both sides of IH-35. Nestled between large, single-family residential neighborhoods to the northwest and the as. of yet undeveloped intersection of SH-21 \& E FM 150 , the E FM 150 Employment District is an ideal area for employment and logistic land uses. Given the ongoing development pressures of both the City of Kyle, and Austin region as a whole, the City of Kyle should look for areas to employ residents in a primarily non-retail, non-office manner.


## INTENT

This largely undeveloped area is relatively flat, and in close. proximity..to the intersection of two state highways. SH-21 serves as a secondary north/south route between San Marcos and Austin for both commuters and commercial trucking. EFM 150 serves the primary gateway into Kyle for the southeast portion of the city, connecting SH-21 and IH-35. Future city plans to coordinate wastewater infrastructure along E FM 150 will compliment existing water availability. Additionally, the San Marcos Regional Airport is located approximately 5miles south of this district. Building and site design relating to large scale warehousing and logistics, should be Class A construction, show case modern design and set the standard for related development. These key factors will help create opportunities for larger scale warehousing, logistics and light manufacturing uses.

## JURISDICTION

The E FM 150 Employment District is approximately 535 -acres and located in the southeastern portion of the City of Kyle.


## APPLICATION

The following chart displays existing zoning categories and their applicability to the E FM 150 Employment District.

| Zoning Category | Abbreviation | Use Qualification |
| :---: | :---: | :---: |
| Agricultural District | A | Not Recommended |
| Central Business District 1 | CBD-1 | Not Recommended |
| Central Business District 2 | CBD-2 | Not Recommended |
| Community Commercial | CC | Not Recommended |
| Construction/Manufacturing | C/M | Recommended |
| Entertainment | E | Not Recommended |
| Hospital Services | HS | Not Recommended |
| Manufactured Home | M-1 | Not Recommended |
| Manufactured Home Subdivision | M-2 | Not Recommended |
| Manufactured Home Park | M-3 | Not Recommended |
| Mixed-Use | MXD | Not Recommended |
| Multi-family Residential 1 | R-3-1 | Not Recommended |
| Multi-family Residential 2 | R-3-2 | Not Recommended |
| Multi-family Residential 3 | R-3-3 | Not Recommended |
| Neighborhood Commercial | NC | Not Recommended |
| Office/Institutional | O/I | Conditional |
| Residential Condominium | R-1-C | Not Recommended |
| Residential Townhouse | R-1-T | Not Recommended |
| Residential Two-family | R-2 | Not Recommended |
| Recreational Vehicle Park | RV | Not Recommended |
| Retail/Service | R/S | Conditional |
| Single-family Residential 1 | R-1-1 | Not Recommended |
| Single-family Residential 2 | R-1-2 | Not Recommended |
| Single-family Residential 3 | R-1-3 | Not Recommended |
| Single-family Attached | R-1-A | Not Recommended |
| Transportation/Utilities | T/U | Recommended |
| Urban Estate District | UE | Not Recommended |
| Warehouse | W | Recommended |

## Exhibit B

## Comprehensive Plan Amendment Map



# CITY OF KYLE, TEXAS 



Amendment to Chapter 41
(Subdivisions) of the City of Kyle, Code of Ordinances. The following sections will be considered: Sec. 411 Definitions (Municipal Utility Easement); Sec. 41-137 Streets, Sec. 41-139 - Crosswalks, Sec. 41143 Sidewalks \& Sec. 41-146 Streetlights, for the purpose of adding requirements for the citywide trail system

Meeting Date: 1/11/2022
Date time:6:30 PM

Subject/Recommendation: Consider an amendment Chapter 41 (Subdivisions) of the City of Kyle, Code of Ordinances. The following sections will be considered: Sec. 41-1 Definitions (Municipal Utility Easement); Sec. 41-137 Streets, Sec. 41-139 - Crosswalks, Sec. 41-143 Sidewalks \& Sec. 41-146 Streetlights, for the purpose of adding requirements for the city-wide trail system.

- Public Hearing
- Recommendation to City Council
Other Information: See attached.
Legal Notes: N/A

Budget Information: N/A

| ATTACHMENTS: |  |
| :--- | :--- |
|  | Description |
| D | Staff Memo |
| ㅁ | Ordinance Exhibit |

MEMORANDUM

| TO: | Planning \& Zoning Commission |
| :--- | :--- |
| FROM: | Will Atkinson - Senior Planner |
| DATE: | Tuesday, January 11, 2022 |
| SUBJECT: | Sec. 41-1 Definitions (Municipal Utility Easement); Sec. 41-137 <br> Streets, Sec. 41-139 - Crosswalks, Sec. 41-143 Sidewalks \& Sec. <br> 41-146 Streetlights, for the purpose of adding requirements for <br> the city-wide trail system |

## REQUEST

Per Council direction, Staff is bringing forward subdivision amendments to enable The Vybe Trail system.

## ANALYSIS

Sec. 41-1 - Definitions (Municipal Utility Easement)

- Adding definition of an MUE.

Sec. 41-137 - Streets.

- Creating a subsection (a)(1) to allow The Vybe to share lanes with public streets, where applicable.
- Amending $(\mathrm{k})(1)$ to include the minimum ROW/easement width required for The Vybe trail and minimum width of The Vybe Trail pavement

Sec. 41-139 - Crosswalks.

- Requiring grade separated intersections of The Vybe Trail and streets, minimum culvert design requirements, and at grade infrastructure requirements.

Sec. 41-143-Sidewalks.

- Amending sidewalk subsection to require perimeter sidewalks, widening to 5' minimum, street tree design, and inclusion of location requirements for The Vybe Trail.

Sec. 41-146 - Streetlights.

- Amending subsection (f) to include requirement for decorative poles in The Vybe Trail System.


## RECOMMENDATION

Staff recommends approval of the amendments as written in Exhibit A and asks the Planning \& Zoning Commission to vote recommending affirmation of the amendments.

## Exhibit A

## Sec. 41-1. - Definitions

Municipal Utility Easement means an interest in land (easement) granted to the city, for installing and maintaining city-owned and other public or private utilities across, over or under private land. On a case-by-case basis, a municipal utility easement may also be a public access easement.

## Sec. 41-137. - Streets.

(a) Layout. Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade, and location of each shall conform to the comprehensive plan of the city, if any, and other applicable plans, and shall be considered in their relation to existing and planned streets, to topographical conditions, public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served. In particular, subdivision layout should provide for a minimum practical number of intersections with major arterials, and those intersections should be with collector streets at intervals of not less than 800 feet.
(1) When space constraints require The Vybe shared use path to be in the street:

- All appropriate efforts should be made to create a separate "lane" for the shared use path, but the city recognizes there will be limited instances of lane sharing between golf carts, bicycles and other motorized vehicles;
- The posted speed limit cannot exceed 35 miles per hour;
- The shared use path should be clearly designated with appropriate striping, stenciling or signs.
(k) Pavement and right-of-way width.
(1) Minimum standards. All pavement widths referred to in the table in this subsection are from curb face to curb face. Where a range of pavement or right-of-way width is shown, such decision shall be made during the subdivision approval process. Direct access from abutting property to arterial streets and major thoroughfares will be restricted.

| Standard Category | Pavement Width <br> (in Feet) | Right-Of-Way Width <br> (in Feet) |
| :--- | :--- | :--- |
|  |  | $\underline{* 20}$ |
| Pedestrian Path (The | $\underline{12}$ | 60 |
| $\underline{\text { Vybe) }}$ Residential Lane | 28 | 60 |
| Local Street | $30-36$ | 60 |
| Collector Street | $\underline{38}$ | 80 |
| Arterial Street | $44-48$ | $100-120$ |
| Major Thoroughfare | $66-70$ |  |

*If found appropriate, a municipal access and utility easement may be utilized in
lieu of right-of-way dedication.

## Sec. 41-139. - Crosswalks.

Crosswalk ways ten feet in width shall be dedicated where deemed necessary by the planning and zoning commission and/or council to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Crosswalk ways shall be provided, when required by a development, with a concrete sidewalk six feet wide constructed to city specifications and ramped at street intersections.

- Relating to The Vybe trail system and shared use paths:
- As much as possible, the shared use path should be grade separated, at intersections with streets.
- Underpasses should be built with a minimum 12'x10' (12' wide by 10 ' tall) concrete box culvert. RGB LED lighting should be installed in each culvert and underpass.
- Where at grade crossings must occur, safety beacons such as HAWK signals shall be implemented.


## Sec. 41-143. - Sidewalks.

(a) Required. Sidewalks are required within and at the perimeter of residential subdivisions. Perimeter sidewalks are required when adjacent to public ROW and access easements and will be required as appropriate to the area and use in commercial and industrial subdivisions. Sidewalks shall be not less than four five feet in width and shall be feet from designed to allow appropriate space for street trees between the sidewalk and back of curb. Such sidewalks shall be installed and constructed on both sides of each residential street and be situated wholly within the dedicated right-of-way. If the sidewalk cannot be located within the right-of-way, a dedicated easement is required.

1) If the project has a portion of The Vybe trail system within or adjacent to the project, a 12 -foot wide shared use path is required to be constructed (see City of Kyle standard detail).

- In most cases, the shared use path shall be located in drainage areas, parks, flood plain, etc.
- If adjacent to a street, then the shared use path shall replace the required 5-foot sidewalk.
- Due to space constraints, the shared use path may be on streets. See Sec. 41-137(a) Streets, Layout for details. If in the street, the 5 -foot sidewalk will still be required.
(b) Parkways. Parkways shall be excavated, or filled, as required to result in a three to one grade or as detailed on approved construction plans.
(c) Americans with disabilities. Sidewalks shall conform to the city construction standards and meet all requirements of the state accessibility standards.


## Sec. 41-146. - Streetlights.

(f) Private street lighting and HOA maintained decorative street lighting. In those instances when the criteria in this section do not warrant streetlight placement in a particular location where a property owners association, commercial or industrial property desire additional lighting, the city encourages privately funded and privately maintained lights by neighborhood residents and property owners. All privately funded lights shall be totally owned and maintained by the private property owners or residents. All utilities shall be entirely paid for by the private property owner or residents. The city shall never be obligated to pay for the maintenance or utilities of any privately funded light. Such lighting may be placed within easements where not inconsistent with the easement use, but shall not be placed within dedicated public right-ofway.
(1) A developer or HOA shall have a choice between standard streetlights and city approved decorative streetlights. If decorative streetlights are chosen, the developer or HOA will fully maintain the streetlights and pay the associated utility bills.
2) The developer or HOA must utilize a standard, city approved decorative street light, that is Dark Sky compliant (Sec. 41-146(e)(3)(a \& b).
3) Placement for decorative street lights shall be between 90-120 feet, or per manufacturer's recommendations. Decorative street lights typically have lower lumen output and are likely to require more frequent/closer placement than nondecorative streetlights.
4) If The Vybe Trail is adjacent or internal to the subdivision, it will use decorative poles/lighting as outlined in subsection "e".

## CITY OF KYLE, TEXAS



Amendment to Chapter 53 (Zoning) of the City of Kyle, Code of
Ordinances. The following sections
will be considered: Sec. 53-33(n)(4) Parking, Sec. 53-892 Districts and

Meeting Date: 1/11/2022
Boundaries, adding Sec. 53-900, and Planned Unit Development, Art. II, Section 1, for the purpose of adding requirements for the city-wide trail

Subject/Recommendation: Consider an amendment to Chapter 53 (Zoning) of the City of Kyle, Code of Ordinances. The following sections will be considered: Sec. 53-33(n)(4) Parking, Sec. 53-892 Districts and Boundaries, adding Sec. 53-900, and amending Exhibit A, Plum Creek Planned Unit Development, Art. II, Section 1, for the purpose of adding requirements for the city-wide trail system.

- Public Hearing
- Recommendation to City Council

| Other Information: | See attached. |
| :--- | :--- |
| Legal Notes: | $\mathrm{N} / \mathrm{A}$ |
| Budget Information: | $\mathrm{N} / \mathrm{A}$ |


| ATTACHMENTS: |  |
| :--- | :--- |
|  | Description |
| D | Staff Memo |
| D | Vybe Zoning Ordinance Exhibit |

MEMORANDUM

TO: Planning \& Zoning Commission
FROM:
Will Atkinson - Senior Planner
DATE: Tuesday, January 11, 2022
SUBJECT: Sec. 53-33(n)(4) Parking, Sec. 53-892 Districts and Boundaries, adding Sec. 53-900, and amending Exhibit A, Plum Creek Planned Unit Development, Art. II, Section 1, for the purpose of adding requirements for the city-wide trail system.

## REQUEST

Per Council direction, Staff is bringing forward zoning amendments to enable The Vybe Trail system.

## ANALYSIS

Sec. 53-33(n)(4) - Parking

- Adding allowances/standards for golf cart parking.

Exhibit A, Plum Creek PUD, Art. II, Sec. 1.

- Adding allowances/standards for golf cart parking.

Sec. 53-892 - Districts and Boundaries

- Amending references to "Rebel Drive" to "Veteran's Drive".
- Adding reference to "The Vybe Overlay District".

Sec. 53-900- The Vybe.

- Creation of Sec. 53-900, character/intent of The Vybe and zoning process to implement a Vybe Spot.


## RECOMMENDATION

Staff recommends approval of the amendments as written in Exhibit A and asks the Planning \& Zoning Commission to vote recommending affirmation of the amendments.

## Exhibit A

Sec. 53-33. - General requirements and limitations.
(n) Parking.
(4) Dimensions of parking spaces. With the exception of ADA accessible parking and compact space dimensions, no parking space shall be less than 18.5 -feet in depth and 9 -feet in width. Compact spaces shall be at least 128 -square feet and no less than 8.5 -feet wide. Compact parking spaces may be allowed and comprise up to 50 percent of the total parking per site. Parallel parking spaces shall be at least 20 -feet in depth and 9 -feet in width.

- Golf cart parking is allowed in all districts, except for single family and duplex zoning, to encourage the use of The Vybe trail network. Minimum dimensions will be 4 -feet wide and 6 -feet deep. If golf cart parking is installed, golf cart charging stations are required, with a minimum of 2 charging stations for the first $20,000 \mathrm{sq}$. ft. of a building. Golf cart parking is allowed to replace standard parking spaces at a 2:1 ratio (maximum of $20 \%$ of required parking).


## (Plum Creek PUD)

## Sec. 2. - Parking regulations applicable to PUD districts unless otherwise approved by the city council.

(G) Reduction in required parking. The total number of required motor vehicle parking spaces for a nonresidential use may be reduced by five percent for each of the activities listed below provided by the owners or operators, up to a maximum ten percent reduction in the total number of motor vehicle spaces.
(1) Participate in an area wide carpool/vanpool ride matching program for employees; designating at least ten percent of the employee motor vehicle parking spaces as carpool/vanpool parking and placing such spaces closer to the building than other employee parking;
(2) Providing showers and lockers for employees who commute by bicycle;
(3) Providing covered, secured bicycle parking racks or facilities;
(4) Providing a transit facility that is approved by the local transit authority, and related amenities. Related amenities include, but are not limited to, a public plaza, pedestrian sitting areas, and additional landscaping.

* Golf cart parking is allowed in all districts, except for single family and duplex zoning, to encourage the use of The Vybe trail network. Minimum dimensions will be 4 -feet wide and 6 -feet deep. If golf cart parking is installed, golf cart charging stations are required, with a minimum of 2 charging stations for the first $20,000 \mathrm{sq}$. ft . of a building. Golf cart parking is allowed to replace standard parking spaces at a $2: 1$ ratio (maximum of $20 \%$ of required parking).


## Sec. 53-892. - Districts and boundaries.

(a) Established. Seven conditional use overlay districts are established as follows:
(1) The 1-35 overlay district. The Interstate Highway 35 corridor conditional use overlay district (the 135 overlay district) extends from the northernmost city limit boundary at 1-35 to the southernmost city limit boundary at $1-35$, and includes all real property within 1,500 feet of the outer most edge of the highway right-of-way of 1-35;
(2) The Old Highway 81 overlay district. The Old Highway 81 corridor conditional use overlay district (the Old Highway 81 overlay district) extends from the intersection of Burleson Street and Old Highway 81 on
the north to the intersection of Opal Lane and Old Highway 81 on the south, and includes all real property within 200 feet from the outer most edge of the highway right-of-way of Old Highway 81;
(3) The Center Street overlay district. The Center Street conditional use overlay district (the Center Street overlay district), Center Street is also known as Farm-to-Market Road No. 150, extends from the intersection of Center Street and 1-35 on the east to the intersection of Center Street and Rebel Drive on the west, and includes all real property within 200 feet from the centerline of Center Street; and all real property within all central business district-1 (CBD-1) and central business district-2 (CBD-2) zoning districts; and
(4) The Rebel Veterans Drive overlay district. The Rebel Veterans Drive conditional use overlay district (the Rebel Veterans Drive overlay district), Rebel Veterans Drive is also known as Farm-to-Market Road No. 150, extends from the intersection of Rebel Veterans Drive and Center Street on the south to the northernmost city limit boundary at Rebel Veterans Drive on the north, and includes all real property within 400 feet of the outer most edge of the street right-of-way of Rebel Veterans Drive.
(5) The FM 1626 conditional use overlay district (FM 1626 overlay district). The FM 1626 overlay district extends from the intersection of FM 1626 and IH 35 on the south and east to the city limit boundary to the north and west, and includes all real property within 500 feet of the outer most edge of the street right-ofway of FM 150 East.
(6) The FM 150 East conditional use overlay district (FM 150 East overlay district). The FM 150 East overlay district extends from the intersection of FM 150 East and IH 35 on the west to the city limit boundary on the east, and includes all real property within 400 feet of the outer most edge of the street right-of-way of FM 150 East.
(7) The Goforth Road conditional use overlay district (Goforth Road overlay district). Goforth Road is also known as County Road 157. The Goforth Road overlay district extends from the intersection of Goforth Road and IH 35 on the west to the city limit boundary on the north and east, and includes all real property within 400 feet of the outer most edge of the street right-of-way of Goforth Road.
(8) The Vybe conditional use overlay district (The Vybe overlay district). The Vybe overlay is a series of development nodes positioned at key areas across the City of Kyle. These nodes intersect with The Vybe trail system to create special areas of significant importance to the city. Development in each node will adopt a distinct culture, and such development will orient buildings and streetscapes in a trail oriented manner (Trail Oriented Development, pedestrian friendly, golf carts, hiking \& biking).
(b) Map. The boundaries of the conditional use overlay districts are additionally set forth on the city map which is attached hereto and made part hereof. The I-35 overlay district, the Old Highway 81 overlay district, Center Street overlay district, the Rebel Veterans Drive overlay district, the FM 1626 overlay district, the FM 150 East overlay district and-the Goforth Road overlay district, and The Vybe overlay district, are hereinafter collectively sometimes referred to as the "overlay districts."

Sec. 53-900. - The Vybe.


The VYBE KYLE
Trail-Oriented Development

## Background

As the City of Kyle continues to grow at unprecedented rates, the demand from its citizens for quality of life has grown exponentially. In particular, the demand for a robust trails network has continued to grow as evidenced in the annual household survey report. With development occurring so rapidly, it is imperative that the City accelerate the planning and construction of its Citywide trail network. The City has worked with the private sector, state departments, and others to pave the way for the adoption and implementation of this Trails Master Plan. The City has also held open houses and other forums to collect resident input, and a task force was created to identify best practices that have helped shape this plan that follows.

The City of Kyle Trail's Task Force and Kyle City Council have thoroughly investigated world-class trails systems to bring together best practices in the development of the Kyle Trails Master Plan. This Trails Plan forms the living framework of an ambitious trail system which will define the future of the City of Kyle.

Research suggests that the best urban/suburban trail systems bring people together while offering a variety of experiences and entertainment. The best trails also provide many opportunities for recreation, exercise, and even transit.

The Kyle trail system is an extension of the City's park system, and is meant to connect people to recreation, commerce, and neighborhoods. Every resident of Kyle should be able to access the trail from a trailhead that is close to them. Every resident should have access to commercial nodes, or Vybes, that offer a unique experience of shopping, dining, relaxation, and fun. This connection to Vybes has led to the recommended name of the trail system as The Vybe.

## Trail-Oriented Development

Trail-Oriented Development (TOD) is a land use pattern and development style with unique characteristics based on the proximity and relationship of property to a regional trail facility, including trailheads which can function as catalysts for mixed use development. Special regulations and plans are developed to take advantage of the development potential in each catalyst area.


On The Vybe, shopping centers, restaurants, neighborhoods, parks, and other areas along the trail should be oriented toward the trail rather than the automobile. Foot traffic equals retail sales and proximity to people equals experiences. Developments along The Vybe are encouraged to face the trail as well as to provide destination placemaking activities. These Vybes can include micro-breweries, stages, art, restaurants, retail, playgrounds, water features, recreational opportunities, natural or geographical features, etc. In a nutshell: destinations. Kyle residents deserve the highest quality of life which they will be able to obtain via The Vybe.

The Vybe is greater than the sum of its parts. It's a living system that continues to grow with more individual Vybes and greater use. To encourage as much use as possible, the built trail will be constructed $12^{\prime}$ in width to accommodate golf carts and other neighborhood electric vehicles. This width provides plenty of safe space for all to enjoy the trails. The trail will have $2^{\prime}$ clear zones on each side for additional safety, utility placements, and maintenance.

The attached Exhibit shows The Vybe including proposed locations for individual Vybes. Multiple developments along The Vybe are already working on plans to incorporate TOD in their designs. These unique Vybes make the trail a destination for locals and visitors alike and may form the basis for the City's future branding efforts. The Exhibit also shows proposed locations for trailheads which include bathrooms, parking, and charging stations.

The Vybe is much more than a trail system - it is a unique experience and destination for locals and tourists alike. To preserve its unique character and destination appeal, each Vybe Spot along the trail must have a placemaking attraction that cannot be found anywhere else along The Vybe. Developers and business owners are encouraged to answer the question, "What is so unique within my individual Vybe to attract people from another Vybe, their homes, or from out of town?" To provide a framework to answer this question, the City has determined that The Vybe should follow the theme: The Cultural Trail.

The Vybe transports people from unique culture to unique culture through experiencing different Vybes. Each Vybe Spot must demonstrate how it is culturally unique from all other Vybe Spots along The Vybe. This determination is made prior to the Vybe Spot receiving final approval for development. Vybe Spots are encouraged to adopt a culture and inherit said culture's attributes via the built and experienced environment. Cultural elements may include unique:

- Food
- Architecture
- Music
- Art
- Geography
- Theater

Cultures could include:

- Western
- Pacific Islander
- Far Eastern

- Southern
- European
- African
- Asian
- Russian
- German
- Etc.

Cultures can also take on additional significance, such as decades (40's, 70's, 90's), historical events (Crusades, Medieval, Roman), themes (Robin Hood, Space and Planets, Sports), etc. Ultimately there are countless ways to develop a unique thematic draw utilizing cultural significance. The key is to develop an environment that is significant, interesting, and destination-worthy.

Much latitude is provided to each development to encourage variety and attraction, but each Vybe is encouraged to include: decorative pavers in the herringbone configuration, raised speed tables, grand entry signage, sufficient golf cart and vehicular parking, and charging stations. To encourage continuity along The Vybe and avoid visitor confusion, all Vybes should include activities throughout the day until 9 PM. Certain restaurants and other retail establishments may open earlier and close later.

The City of Kyle has a unique architectural style that should be incorporated as much as possible throughout the City. In particular, developers should consult the City's outsourced architectural firm to ensure cohesion of design while
remaining unique to the Vybe. Developers wishing to build Vybes can approach the City of Kyle for special district financing. Restaurants within Vybes may also be eligible for the City's restaurant incentive program.

## Look and Feel

The Vybe will feature multiple distinct environments such as urban, natural, wooded, residential, commercial, etc. Vybes should also include unique signage, raised speed tables with the herringbone brick pattern (Kyle Style), art installations and other features to differentiate themselves from other Vybes. Along The Vybe certain features may include community gardens, enhanced landscaping, benches, swings, ponds, fitness stations, etc. To encourage visual variety as well as to enhance safety, long sections of trail should be built with a slight serpentine design.

Built trail segments through wooded areas or close to landscaping should be installed with a 2' root barrier to avoid future heaving of individual panels. Plantings should be kept at least 2' from the trail to avoid branches and root intrusion. Areas throughout Kyle where additional trail space is available should also include natural walking trails as much as possible. These trails may be made up of other surfaces such as crushed granite or natural surfacing. Natural areas should be cleared and maintained to minimize root, branch, and other hazards. Natural trail segments should also be planned with enough distance from the built trail to maximize enjoyment on each trail type.

The Vybe will keep signage and pavement markings to a minimum. However, it will feature smart light poles every 100'125' (or per manufacturer's recommendations) per the cross section on the City of Kyle, Engineering webpage. These poles will include charging ports, wi-fi, security cameras, and LED lights. Power for each pole is made available via an electrical conduit that is installed during trail construction. A second conduit will also be installed for middle-mile fiber optic cables. A third conduit should be installed for future utilities. Where needed, the trail easement will also be utilized for reclaimed water and other utility needs.


Underpasses should be built with a minimum $12^{\prime} \times 10^{\prime}$ ( $12^{\prime}$ wide by $10^{\prime}$ tall) concrete box culvert. RGB LED lighting should be installed in each culvert and underpass. Bridges over the railroad and creeks should be built with steel and include decorative design elements. Engineering will be needed for culverts and bridges, as well as other areas which may need additional design work to accommodate waterways or ADA accessibility. The Vybe may be built through ephemeral creek channels and closed during rain events.

Depending on their location, trail segments may need to be built with reinforced steel. This is most likely needed in clay soils and waterways. Retaining walls may be built utilizing Redi-Rock or decorative jersey barriers.

## Vybe Principles

- Create a compact development pattern to function as an active trailhead at Vybe Spots which shall function as gateways and with sufficient density to support the use of the trail system and serve as a catalyst for adjacent development.
- Each Vybe Spot shall have primacy towards multi-modal (e.g biking, EV's and/or pedestrians) focus of the development strategy without excluding automobiles.
- Each Vybe Spot shall promote active places and complete communities that service daily needs, regional needs, support corporate, cater to visitors, and where people feel a sense of belonging and pride.
- Vybe Spots include engaging, high quality public spaces (e.g. parks plazas, art, and other amenities) as organizing features and gathering places for each Vybe Spot.
- Encourage a variety of higher density housing types (including vertical mixed use) near Vybe Spots that can accommodate a broad range of Kyle residents.
- Incorporate retail into the Vybe Spot if it is a viable use at the location without the transit component, ideally drawing customers both from both the Vybe and the greater region.
- Ensure compatibility and connectivity with surrounding neighborhoods.
- Integrate creative parking strategies that integrates into the Vybe Spot that reduces the sense of auto domination and accommodates charging of electronic vehicles.
- $\quad$ Recognize that each Vybe Spot is not the same; each trail-oriented development is located within its own unique development environment and serves a specific purpose in the vibrancy, sustainability, and resiliency of that environment.


## Jurisdiction

The Kyle Vybe shall include the existing and proposed trails as set forth in the Transportation Master Plan Update approved by City Council on 9/7/2021. In addition, the proposed elements shall extend a maximum of 2,500' from Kyle Vybe Spot trailheads area shown on the attached maps, which shall function as the catalyst for Trail Oriented Development ("TOD") nodes, and gateways to the vast and expansive trail system.

## Authority

The attached Exhibit shows The Vybe including Vybe trailheads.

## Application

|  | Zoning Category | Abbrev | Use Qualification |
| :---: | :---: | :---: | :---: |
|  | Agricultural District | A | Recommended |
|  | Central Business District 1 | CBD-1 | Recommended |
|  | Central Business District 2 | CBD-2 | Recommended |
|  | Construction/Manufacturing | C/M | Not Recommended |
|  | Entertainment | E | Recommended |
|  | Hospital Services | HS | Recommended |
|  | Manufactured Home | M-1 | Recommended |
|  | Manufactured Home Subdivision | M-2 | Recommended |
|  | Manufactured Home Park | M-3 | Recommended |
|  | Single-family Residential 1 | R-1-1 | Recommended |
|  | Single-family Residential 2 | R-1-2 | Recommended |
|  | Single-family Attached | R-1-A | Recommended |
|  | Residential Condominium | R-1-C | Recommended |
|  | Residential Townhouse | R-1-T | Recommended |
|  | Residential Two-family | R-2 | Recommended |
|  | Multi-family Residential 1 | R-3-1 | Recommended |
|  | Multi-family Residential 2 | R-3-2 | Recommended |
|  | Apartments Residential | R-3-3 | Recommended |
|  | Retail/Service | R/S | Recommended |
|  | Recreational Vehicle | RV | Not Recommended |
|  | Transportation/Utilities | T/U | Not Recommended |
|  | Urban Estate District | UE | Recommended |
| L | Warehouse | W | Not Recommended |

## Methodology

Each Vybe may have land use (including tenants that could be prioritized based on proposed development proposals), trail improvements and connections, related public space/open space, and related infrastructure recommendations.

TOD Recommendations: The goal of developing these concept plans will be to identify design and development priorities and recommendations that can better align the land use vision with TOD recommendations. More specifically, on how the trail connects to the private development opportunities in a way to create value, visibility, and maximize placemaking opportunities. Each Vybe location will have specific recommendations to implement the TOD vision categorized as follows:

- Land use and merchandizing strategy,
- placemaking and urban design,
- regional and local bike/ped connectivity, and
- infrastructure-related recommendations.

Implementation Recommendations: For each TOD, the planning team will recommend a land use/zoning strategy for implementing The Vybe. These are specific recommendations as new development projects are considered by the city's zoning change process. Additionally, the team will make recommendations for capital improvements and funding options to facilitate the TOD vision. Finally, for The Vybe strategy to be successful, the city will need a branding and marketing strategy to capitalize on its TOD strategy as a unique characteristic of Kyle's identity.

## Safety

Many modes of recreation are allowed on The Vybe, including golf carts, neighborhood electric vehicles, personal scooters, running, iogging, walking, cycling, skateboarding, and roller blading. Any motorized or electric vehicle must be governed at 20 MPH and be street legal to ensure safety. All vehicles must be permitted through the City of Kyle. Individuals 15 years old (with a valid learner's permit) and older may operate a motorized vehicle on The Vybe. Golf carts always yield to bikes and both to pedestrians.

In areas where motorized trail vehicles utilize the City's road network, all operators must hug the right edge of the roadway. These vehicles may not travel on roadways signed above 35 MPH . Vehicles may not drive on City sidewalks unless specifically authorized. ATV's and automobiles are not permitted on The Vybe.

The Vybe is being designed to minimize roadway crossings as much as feasible. Where crossings must occur, safety beacons such as HAWK Signals should be implemented. The Vybe has been planned along greenbelts, under bridges and culverts, along easements, etc. to minimize vehicle conflicts. However, in the event a trail segment cannot be feasibly constructed, motorized vehicles will be able to utilize local roadways at or under 35 MPH while pedestrians will take advantage of narrower sidewalks. Such utilization of existing roadways also reduces construction costs for trail construction. The Vybe is not intended to function as an alternate transportation network.

## Policies/Ordinances

To ensure the success of The Vybe, the City of Kyle may need to amend certain ordinances and develop additional policies. Ordinance revisions may include altering the parking ratio for developments, allowing two golf cart stalls to substitute for every required vehicle stall. Golf cart parking should be encouraged closest to retail and dining establishments for both safety and convenience.

The Vybe should be included as a critical component of each of the City's master plans and be available as a public layer through the City's GIS and website. A navigable map should be developed and included as part of the City's mobile app. A registration fee should be required every three years for golf carts and neighborhood electric vehicles.

All individuals and vehicles utilizing The Vybe must comply with the City's noise ordinance. The Vybe should be marketed for economic development and tourism purposes, not only for Vybes but for complementary businesses.

## Constructing The Vybe

This current Exhibit shows $80+$ miles of proposed golf cart trails with 13 miles of sidewalk connectors already in place. Additionally:

As much as possible, the cost of engineering and construction is born by individual developments and Vybes. Developers may petition assistance from the City in the form of special financing and incentives.

The City's engineering department has developed a cross section for the 20' easement or ROW.
Developments including Vybes can immediately incorporate recommendations from this plan into their designs and may begin construction, following approval of a Conditional Use Permit or PUD zoning, and associated subdivision and/or site development permit approval.

## Maintenance



As the Vybe is continually developed, ongoing maintenance will be paramount to ensure safety and cleanliness. The City has a trails maintenance crew to oversee this process. Additionally, adjacent structures to The Vybe such as benches, equipment, signage, light poles, bridges, culverts, etc. should be routinely inspected. By utilizing concrete to construct The Vybe the trail will have much greater longevity than utilizing other surfaces. However, concrete panels may heave, spall or crack which will require panel replacement.

Sections of The Vybe through HOAs and Vybes should be maintained by the underlying property owners. The City should require and enforce ongoing maintenance to ensure all trail sections are level, clean and in good repair. The Vybe should be inspected continuously to ensure proper function and cleanliness. The City's Parks and Recreation Board should be involved in recommending policy and ordinance revisions to the City Council.

## Benefits

No other single type of investment impacts as many aspects of our lives, including health, safety, mobility, recreation, environment, and economic development. More than 140 studies have shown the benefits of trails and greenways (https://headwaterseconomics.org/trail/).

In particular, findings include:

- Trails can generate business impacts and create new jobs by attracting visitors, especially overnight visitors.
- Local trail users often use community trails multiple times per week, and trails are a valuable part of residents' quality of life.
- Trails are often associated with higher property value, especially when a trail is designed to provide neighborhood access and maintain residents' privacy.
- Trails are associated with increased physical activity and improved public health, especially in rural places without other safe places to exercise.
- A recent study found that, on average, every $\$ 1.00$ of trail construction supports $\$ 1.72$ annually from local business revenue, sales tax revenue, and benefits related to health and transportation (https://itre.ncsu.edu/focus/bike-ped/sup-economic-impacts/).


## The Vybe Approval Process.

The city council may by ordinance, adopted by four affirmative votes after receiving the recommendation of the commission, grant a conditional use permit in compliance with this division for the conditional uses as listed in this section. Alternatively, a Vybe spot may be included in a PUD rezoning, which would not require a conditional use permit. The city council may impose appropriate conditions and safeguards, including a specified period of time for venues to operate, to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood. As The Vybe spots are an overlay, the city council may also allow exceptions to the existing development code, without limitation. See examples in the following bullet points:

- Vybe nodes act as an overlay district, over existing zoning districts, and the following type of uses are included and encouraged, but not limited to the following types:
- Vertical Mixed Use (commercial on ground floor, residential above ground floor);
- Multi-family projects;
- Townhomes;
- Restaurants contributing the pedestrian feel of the Vybe:
- Includes Outdoor Dining (deck or sidewalk café)
- Retail Uses to Compliment the Trail Network and residents living within a Vybe and surrounding districts;
- Office uses ( $2^{\text {nd }}$ floor or above, if facing trail, or intersection at trail;
- Outdoor Amphitheaters/music;
- Entertainment Uses That Contribute to the Success of the Trail;
- Food Trucks (temporary and food truck courts), for the Enjoyment of the Residents and for Restaurant Incubation;
- Parks (public and private);
- Parking shall focus on street parking and may also be located behind developments;
- Parking Garages;
- All Garages Will Take Access from an Alley or Rear of the Lot
* Drive Thru type development, fuel stations, car washes and self-storage of any sort are not allowed.
- The intent of Vybe development is to create flexible and successful projects to enhance Trail Oriented Design. Development standards may be flexible from the base zoning district, that such uses would normally be in. Such standards may include but are not limited to:

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- Uses
- Building Setbacks (including attached decks)
- Impervious Cover (if using green infrastructure)
- Building Height
- Floor to Area Ratio
- Density
- Parking Ratios
- Reduction in Parking Stall Size (if used for golf carts).
- Public or Private Streets
- Location of Utilities
- Street Trees
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CITY OF KYLE, TEXAS
Staff Report
Meeting Date: 1/11/2022
Date time:6:30 PM

Subject/Recommendation: Staff Report by William Atkinson, Senior Planner.

Other Information:
Legal Notes:
Budget Information:

## ATTACHMENTS:

## Description

No Attachments Available

