



October 11, 2022

Notice is hereby given of a Regular Meeting of Nacogdoches City Council to be held on the above date in the City Council Chambers of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, beginning at 5:30 p.m. for the purpose of considering the following agenda items.

Some City Council Members may attend via videoconference but a quorum of the City Council and the Presiding Officer will be present at the above-stated physical location. The meeting will be streamed live at <https://www.nactx.us/21> There will be an opportunity for the public to comment on agenda items either by teleconference or in person in Council Chambers.

Members of the public who wish to submit comments on a listed agenda item by telephone must contact the City Secretary's office by email at vinsonj@nactx.us or by calling 936-559-2506 and providing their name, telephone number and relevant agenda item upon which they wish to speak. All requests to make comments must be received by 12:00 p.m. on October 11, 2022. For all timely requests received, staff will call the submitted phone numbers directly during the meeting when the corresponding item comes up for comment. NOTE: The incoming phone call from City staff will be an unfamiliar number.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.
2. PLEDGE OF ALLEGIANCE.
3. OPEN FORUM. Open Forum is an opportunity for citizens to speak about items not listed on the agenda. In order to address City Council please complete the Open Forum Form and submit it to the City Secretary prior to the start of the meeting. In accordance with the Texas Open Meetings Act, City Council shall not discuss, deliberate, or make any decisions on items discussed during Open Forum. Comments are limited to 3 minutes per person. Open Forum is limited to the first 5 citizens who submit an Open Forum Form.
4. ITEMS TO BE REMOVED FROM CONSENT AGENDA.
5. CONSENT AGENDA: Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.
 - A. Consider approval of minutes for September 20, 2022 regular meeting and September 27, 2022 special meeting. (City Secretary)
 - B. Consider approval of an ordinance amending Ordinance No. 1881-09-21 appropriating various amounts in accordance with the budget adopted for the ensuing fiscal year beginning October 1, 2021 and ending September 30, 2022 (Director of Finance)
 - C. Annual review and adoption of a resolution approving the City's Investment Policy.

(Director of Finance)

- D. Consider approval of an ordinance amending Ordinance No. 1929-09-22 appropriating various amounts in accordance with the budget adopted for the ensuing fiscal year beginning October 1, 2022 and ending September 30, 2023 for adjustment of the revenue and expenditures related to the Certificates of Obligation that were not authorized due to the successful petition submitted on September 19, 2022. (Director of Finance)
 - E. Consider approval of an agreement by and between the City of Nacogdoches and the Nacogdoches Convention and Visitors Bureau (CVB) which outlines the terms by which employees of the CVB are employees of the City and thereby subject to the policies and guidelines established by the City. (Convention and Tourism Director)
 - F. Consider approval of an agreement between the City of Nacogdoches and the Convention and Visitors Bureau for professional services. (Convention and Tourism Director)
6. REGULAR AGENDA: City Council will receive staff recommendations and public input on the following items, and may deliberate and take formal action on the item.
- A. Receive a presentation from the Massey Rose Foundation regarding the Old Town Rig Down held September 16-17, 2022 in downtown Nacogdoches. (Convention and Tourism Director/Steven Molanders and Troy Massey)
 - B. Consider acceptance of a donation in the amount of \$50,000 from the Massey Rose Foundation to the Nacogdoches Animal Shelter. (Director of Planning & Neighborhood Services)
 - C. **Public Hearing:** Consider a request for a Specific Use Permit, to operate a Piercing Studio in a B-2, General Business District, on Lot 16-A, Block 67, of the North Heights Addition Subdivision, located at 3500 North Street, Suite 10. This request has been made by Primal Piercing & Jewelry. Case Number SUP2022-05. (City Planner)
 - D. **Public Hearing:** Consider a request for a Zone Change from A, Agricultural to R-4, Multi-Family for approximately 15 acres, being Lots 10-A and 12, of City Block 50, generally located at the southwest corner of West Austin and Pearl Street. This request has been submitted by 2 Prepay Communications Services LLC. Case Number ZON2022-08. (City Planner)
 - E. Hold a discussion and give staff direction regarding the City of Nacogdoches' legislative priorities for the 88th Legislative Session that begins on January 10, 2023. (City Manager)
7. ADJOURN.



Jan Vinson, City Secretary



This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact Attorney General of Texas at 1-800-252-8011; City Secretary at 936/559-2506 or visit City of Nacogdoches web site at www.nactx.us.

CERTIFICATION

I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on October 5, 2022 at 11:30 a.m. and remained posted until meeting convened.

Jan Vinson, City Secretary



City Council Meeting

Date: October 11, 2022

Agenda Item: 5.A.

PRESENTER: Jan Vinson, City Secretary

ITEM/SUBJECT: Consider approval of minutes for September 20, 2022 regular meeting and September 27, 2022 special meeting. (City Secretary)

SUMMARY/BACKGROUND:

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Jan Vinson, City Secretary
vinsonj@nactx.us
936-559-2506

ATTACHMENTS: 1. Minutes 09.20.22
2. Minutes 09.27.22



Regular Session
Nacogdoches City Council
September 20, 2022 – 5:30 p.m.
City Council Room – City Hall
202 East Pilar Street

DRAFT

City Council present in person: Mayor Jimmy Mize, Council Members Roy Boldon, Amelia Fischer, Kathleen Belanger and Chad Huckaby.

1. Called to order at 5:31 p.m.
2. Pledge of Allegiance.
3. Dennis Burrell spoke during Open Forum regarding the fire station at the corner of Martin Luther King Jr. Blvd. and East Main. Mr. Burrell stated that many of the residents do not want the fire station moved from its current location.
4. No items removed from the Consent Agenda.
5. **CONSENT AGENDA:** Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.

- A. Minutes for September 6, 2022 regular meeting and September 13, 2022 special meeting.

Council Member Chad Huckaby moved approval; motion duly seconded by Council Member Amelia Fischer and carried by unanimous vote.

6. REGULAR AGENDA:

- A. **Public Hearing:** Consider a request to amend and/or revoke the Specific Use Permit, pursuant to Section 118-174 of the Code of Ordinances, for a 'Garden Shop & Plant Sales – Display or Greenhouse', in a B-1 Local Business zoning district, for Lot 1, Block 1 of The Plant Shed Subdivision, located at 3123 Appleby Sand Rd. This request has been initiated by the Nacogdoches City Planner. **(PLEASE NOTE THAT THIS ITEM WAS POSTPONED FROM THE REGULAR MEETING OF THE CITY COUNCIL ON AUGUST 16, 2022.)**

Mayor Jimmy Mize recused himself and Mayor Pro Tem Roy Boldon assumed the chairman's seat for this item.

Alaina Helton, City Planner, stated that this Specific Use Permit (SUP) was originally approved in 2020 and City staff has initiated the proceedings to revoke or amend the SUP to address drainage issues in the area. City staff requested additional documentation from the property owner to demonstrate the drainage and runoff is still functioning per the development plans. Based on the summary letter of the inspection by the engineering firm who designed the site, the development is no longer in compliance with the conditions of the SUP. Ms. Helton stated that the property owner has failed to comply which has resulted in violation notices.

The Planning and Zoning Commission heard this item on July 11, 2022 and recommended amending the SUP and accepting a new plan with drainage improvements built within six months or less.

Janet Wyatt Fults (3316 Colonial Drive) stated that she and a neighbor are having erosion issues on their property due to the water and sand runoff from the property at 3123 Appleby Sand Road. She said the silt screen helped in the beginning but the screen is now in disrepair and a ten foot section is gone. She also stated that she has spent to date over \$10,000 in repairs and enlarging her drainage system.

Cynthia German who also lives on Colonial Drive stated that she has a retaining wall that needs replacing, all catch basins are full and the value of her home is decreasing due to the drainage issues. She stated the property owners cannot make repairs or upgrade anything until the owners of the property at 3123 Appleby Sand Road correct the drainage issues. She also stated that any amendments to the SUP should also have a timeline.

Minutes unofficial until approved by City Council

Charles Shugart, owner of The Plant Shed, stated he has secured engineering services from Two-Fifteen Consulting. Mr. Shugart estimates construction to correct the drainage issues would take approximately three and six months.

Michael Delaney with Two Fifteen Consulting stated that their analysis showed that given all the improvements the discharge had increase about 40% which needed to be mitigated. Mr. Delaney stated that the plans will create a berm to pond water allowing it to be diverted to East Austin Street. He also said that by controlling the rate the water can be discharged also controls the amount of sediment that is discharged.

Council Member Belanger requested a runoff impact outcome measurement between The Plant Shed and the residents of Colonial Hills be placed in the SUP which would trigger this item coming back before City Council if the measurement was not met.

Michael Delaney with Two Fifteen Consulting said there was not a tangible way to measure that outcome.

City Council discussed affects of the runoff being diverted to East Austin, current SUP non-compliance and violations, drainage repair timeline, plan review process, tracking compliance and maintenance of the drainage system.

Council Member Kathleen Belanger moved to accept staff recommendations with the following conditions: silt screen installation within ten days; improvements will be made within four months and the equipment and improvements be maintained to perform as designed; motion duly seconded by Council Member Amelia Fischer and carried by unanimous vote.

- B. **Public Hearing:** Consider a request for a Specific Use Permit, to operate a Tattoo Salon in a B-2, General Business District, on Lots 11-J-1 and 11-J-15, of the North Loop Business Park Subdivision, located at 5016 Justin Street. This request has been made by Krysta Robertson. Case Number SUP 2022-04.

City Planner Alaina Helton stated the request is for a 200 square foot tattoo salon located in Special FX Hair Salon which will have its own exterior access. The operating hours will be from 9 a.m. to 5 p.m. Tuesday through Friday and 10 a.m. to 2 p.m. on Saturdays.

The Planning and Zoning Commission heard this request on September 12, 2022 and recommended approval with the condition of hours of operations as presented.

Council Member Roy Boldon moved approval; motion duly seconded by Council Member Chad Huckaby and carried by unanimous vote.

- C. Consider an ordinance ratifying the property tax revenue increase in the 2022-2023 budget as a result of the City receiving more revenues from property taxes in the 2022-2023 budget than in the previous fiscal year; and providing an effective date.

Pam Curbow, Finance Director, explained that if there is an increase to the property tax revenue in the proposed budget compared to the previous year budget then the City must ratify the tax revenue increase. The City's 2022-2023 budget which was adopted on September 13, 2022 does have an increase in property tax therefore the ordinance is required.

Council Member Chad Huckaby moved approval; motion duly seconded by Council Member Amelia Fischer and carried by unanimous vote.

- D. Receive annual report from Keep Nacogdoches Beautiful.

Ashley Villareal, Executive Director for Keep Nacogdoches Beautiful (KNB), reviewed the mission of KNB, board of directors, volunteers, programs and events for 2021/2022.

- E. Consider approval of an agreement between the City of Nacogdoches and Keep Nacogdoches Beautiful for essential services.

Brian Bray, Community Services Director, gave a brief overview of the agreement between the City of Nacogdoches and Keep Nacogdoches for essential services. The term of this agreement will begin on October 1, 2022 and end on September 30, 2023.

Council Member Kathleen Belanger moved approval; motion duly seconded by Council Member Chad Huckaby and carried by unanimous vote.

- F. Consider approval of a contract by and between the City of Nacogdoches and McKinney & Moore of Texas, LP for the 2022 SWTP Filter 9 Rehabilitation Project in a not-to-exceed amount of \$291,906.16.

Assistant Director of Public Works Case Opperman stated that three bids were received on September 8, 2022 and Duplichain Contractors was the lowest bidder however there was a bid discrepancy causing Duplichain Contractors to withdraw their bid. McKinney and Moore from Jacksonville, Texas became the low bidder at \$291,906.16.

City Council discussed the bid discrepancy with Duplichain Contractor's bid.

Council Member Roy Boldon moved approval; motion duly seconded by Council Member Amelia Fischer and carried by unanimous vote.

- G. Consider approval of Resolution No. 1312-09-22 to amend the term of a Chapter 380 Economic Development Program agreement by and between the City of Nacogdoches and JBSC Development, LLC regarding the development of a residential subdivision.

Larissa Philpot, Economic Development Director, stated that the original Chapter 380 Agreement was approved in March 2022 and the owner, Jake Crawford, of JBSC Development has requested an amendment to the term. Mr. Crawford asked that the five year rebate period begin at the time the first house construction begins which will be the date of the first building permit. Staff recommends that an additional timeframe be added of eighteen months therefore the amended term language will read as follows: This Agreement shall be effective as of this date, and shall continue until all obligations of both parties are met unless terminated sooner under provisions hereof. This agreement shall terminate upon the earlier of five years (1,825 days) after the application for the first building permit for the first home in the subdivision, or March 20, 2029.

Council Member Kathleen Belanger moved approval; motion duly seconded by Council Member Chad Huckaby and carried by unanimous vote.

- H. Discussion and consideration of all matters incident and related to the issuance and sale of "City of Nacogdoches, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2022," including the adoption of an ordinance authorizing the issuance of such certificates.

City Secretary Jan Vinson stated that a petition was received on September 19, 2022 from Philip Blackburn. Staff verified signatures on the petition to stop the Certificate of Obligation from moving forward. The petition required 717 signatures and City staff verified over 1000 signatures therefore the Certificate of Obligation will have to go before the voters in a bond election.

Mayor Mize stated the City does have some drainage issues, road projects and health life safety matters that will need to be considered in the near future.

No action taken.

- I. Consider ordinance ratifying and setting tax rate on all taxable property for tax year 2022 at a rate of \$0.58480 per one hundred dollars (\$100.00) valuation on all taxable property within the corporate limits of the City of Nacogdoches as of January 1, 2022, the said tax rate having a maintenance and operations component and a debt service component; and providing an effective date.

This item is not relevant since the Certificate of Obligation did not pass therefore no discussion occurred and no action was taken.

- J. Consider ordinance ratifying and setting tax rate on all taxable property for tax year 2022 at a rate of \$0.51851 per one hundred dollars (\$100.00) valuation on all taxable property within the corporate limits of the City of Nacogdoches as of January 1, 2022, the said tax rate having a maintenance and operations component and a debt service component; and providing an effective date.

Finance Director Pam Curbow discussed the 2022-2023 proposed property tax including assessed value, prior year tax rate, no-new-revenue tax rate and voter-approval tax rate.

Council Member Fischer stated that constituents have told her that they were misinformed about what the CO's were about and the implication of signing the petition. Council Member Fischer also said the constituents she spoke to told her that the misinformation came from people who were in positions of authority. She said the community has had ample opportunity to comment on the CO's and she discussed how the petition will affect the fire fighters.

Director of Public Works Steve Bartlett discussed Tier One and shovel ready capital improvement projects that were to be funded by the issuance of the Certificate of Obligation.

City Council discussed alternative funding mechanisms, General Fund balance, ARPA money reallocation and a timeline for bond election.

Council Member Kathleen Belanger moved approval; motion duly seconded by Council Member Roy Boldon and carried by unanimous vote.

City Council convened into Executive Session at 7:03 p.m.

7. **EXECUTIVE SESSION:**

- A. Pursuant to Texas Government Code Section 551.072, deliberations regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person. The subject of this Executive Session item is to discuss Central Heights Water System.

8. City Council reconvened in regular session at 7:52 p.m. with no action taken.

9. Adjourned 7:52 p.m.

ATTEST:

Mayor Jimmy Mize
City Council
City of Nacogdoches

Jan Vinson, City Secretary



Special Session
Nacogdoches City Council
September 27, 2022 – 3:00 p.m.
City Council Room – City Hall
202 East Pilar Street

DRAFT

City Council present: Mayor Jimmy Mize, Council Members Roy Boldon, Amelia Fischer, Kathleen Belanger and Chad Huckaby.

1. Called to order at 3:01 p.m.
2. Pledge of Allegiance.
3. No one spoke during Open Forum.

City Council convened in Executive Session at 3:04 p.m.

4. EXECUTIVE SESSION:

- A. Personnel Matters – Pursuant to Texas Government Code Section 551.074, deliberations regarding the duties of a public officer or employee. The subject of this Executive Session is to discuss and give feedback to the City Manager regarding his annual evaluation.

5. City Council reconvened in regular session at 4:48 p.m. taking the following action:

Mayor Jimmy Mize moved to extend City Manager Mario Canizares’ contract to September 30, 2024; motion duly seconded by Council Member Amelia Fischer and carried by unanimous vote.

6. Adjourned 4:50 p.m.

ATTEST:

Mayor Jimmy Mize
City Council
City of Nacogdoches

Jan Vinson, City Secretary

Minutes unofficial until approved by City Council



City Council Meeting

Date: October 11, 2022

Agenda Item: 5.B.

PRESENTER: Pam Curbow, Finance Director

ITEM/SUBJECT: Consider approval of an ordinance amending Ordinance No. 1881-09-21 appropriating various amounts in accordance with the budget adopted for the ensuing fiscal year beginning October 1, 2021 and ending September 30, 2022 (Director of Finance)

SUMMARY/BACKGROUND: Consider adoption of Budget Amendments to cover overages of expenditures and/or unanticipated revenues for fiscal year 2021-2022.

FINANCIAL:

Item is not budgeted (*Budget Amendment required – see attached*)

Account No.: *see attached*

Account Name: *see attached*

Amount: *see attached*

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Pamela Curbow, Director of Finance
curbowp@nactx.us
936-559-2526

ATTACHMENTS: 1. Ordinance
2. Ordinance Attachment

AN ORDINANCE AMENDING ORDINANCE NO. 1881-09-21 APPROPRIATING VARIOUS AMOUNTS IN ACCORDANCE WITH BUDGET ADOPTED FOR THE ENSUING FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022.

WHEREAS, the City Council of the City of Nacogdoches, Texas has approved and adopted the budget for said city for the ensuing fiscal year beginning October 1, 2021 and ending September 30, 2022, and

WHEREAS, the City Manager of the City of Nacogdoches has submitted to the City Council a proposed budget amendment of revenues and expenditures of the City of Nacogdoches for the fiscal year ending September 30, 2022, and

WHEREAS, the City Council of the City of Nacogdoches desires to amend the approved Budget Ordinance of the 2021-2022 Fiscal Year;

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Nacogdoches that sums of money as herein set forth in said budget are hereby appropriated and amended for the receipt of revenues, payments of operating expenses and capital outlays of the city government of the City of Nacogdoches as follows:

Fund	Dept	Acct.	Department	Description	Amt.
				See attached	

PASSED AND APPROVED this the 11th day of October 2022.

Jimmy Mize, Mayor
City of Nacogdoches

ATTEST:

Jan Vinson, City Secretary

Approved as to form:

Steven Kirkland, City Attorney

Approved as to content:

Pamela Curbow, Director of Finance

**CITY OF NACOGDOCHES
YEAR-END BUDGET ADJUSTMENTS
2021-2022**

<u>Fund/Dept Name</u>	<u>Acct No.</u>	<u>Account Name</u>	<u>Description</u>	<u>Revenue Amendment</u>	<u>Expense Amendment</u>
GENERAL FUND					
Revenues	01.502.00	Sales Tax	Collections over budget projections	\$ 1,275,000	
Revenues	01.527.01	Interest Income	Collections over budget projections	\$ 46,000	
Revenues	01.527.10	Interest Income	Collections over budget projections	\$ 12,500	
Revenues	01.527.15	Interest Income	Collections over budget projections	\$ 24,500	
Revenues	01.527.20	Interest Income	Collections over budget projections	\$ 19,000	
Revenues	01.527.21	Interest Income	Collections over budget projections	\$ 17,000	
Finance	01.05.601.10	Operational Salaries	Retiree Payouts & Audit Accrual		\$ 30,000
Planning & Zoning	01.09.601.10	Operational Salaries	Salary Adjustments & Audit Accrual		\$ 12,500
Vehicle Maint.	01.14.601.10	Operational Salaries	Audit Accrual		\$ 10,000
Vehicle Maint.	01.14.610.20	Vehicle & Equip. Supplies	Increased Fuel Costs		\$ 2,600
Police	01.15.601.10	Operational Salaries	Employee Payout & Audit Accrual		\$ 100,000
Police	01.15.620.20	Vehicle Maintenance	Vehicle Repairs		\$ 33,500
Fire	01.17.601.10	Salaries	Reimb. Deployments & Audit Accrual		\$ 200,000
Fire	01.17.601.41	Overtime-Deployment	Reimb. Deployments		\$ 269,000
Fire	01.17.610.20	Vehicle & Equip. Supplies	Increased Fuel Costs		\$ 62,500
Fire	01.17.630.20	Travel & Training	Reimb. Deployments		\$ 38,250
Fire	01.17.620.20	Vehicle Maintenance	Vehicle Repairs		\$ 31,000
Animal Shelter	01.19.610.05	Food Supplies	Pet Food - no longer receiving donated food		\$ 6,500
Animal Shelter	01.19.610.20	Vehicle & Equip. Supplies	Increased Fuel Costs		\$ 3,500
Parks Cemeteries	01.23.610.20	Vehicle & Equip. Supplies	Increased Fuel Costs		\$ 20,000
Parks Cemeteries	01.23.620.05	Grounds Maintenance	Sports Field Treatments-increased costs		\$ 20,000
Parks Cemeteries	01.23.630.30	Utilities	Increased Electricity Costs		\$ 20,000
Engineering	01.28.601.10	Operational Salaries	Salary Adjustments & Audit Accrual		\$ 15,000
Engineering	01.28.630.71	Consulting Services	Roadbiotics Inc Contract Change Order		\$ 4,000
Non-Departmental	01.75.610.91	Reimb Emergency Expenses	COVID Vaccine Clinic		\$ 75,000
Non-Departmental	01.75.630.41	Appraisal District Service	State changed due date from 10/1 to 9/30		\$ 55,000
Non-Departmental	01.75.630.70	Special Services	Rating Agency Fee for 2022 CO Issuance		\$ 16,000
Committed Reserves	01.86.610.25	Equip & Machinery	Street Dept - Radar and Concrete Saw		\$ 8,100
Committed Reserves	01.86.630.70	Special Services	Parks Dept - Asbestos Abatement		\$ 10,000
Committed Reserves	01.86.630.70	Special Services	Police Dept - Management Study		\$ 15,500
Committed Reserves	01.86.680.00	Building & Structure Capital	Mausoleum Ceiling Repairs		\$ 9,160
Committed Reserves	01.86.680.25	Equip & Machinery Capital	Fire Dept Mule - backordered		\$ 16,500
Total General Fund:				\$ 1,394,000	\$ 1,083,610
UTILITY FUND					
Revenues	30.527.01	Interest Income	Collections over budget projections	\$ 123,000	
Revenues	30.527.10	Interest Income	Collections over budget projections	\$ 32,000	
Revenues	30.527.15	Interest Income	Collections over budget projections	\$ 11,000	
Revenues	30.527.20	Interest Income	Collections over budget projections	\$ 20,000	
Revenues	30.527.21	Interest Income	Collections over budget projections	\$ 34,000	
Revenues	30.527.50	Interest Income	Collections over budget projections	\$ 19,000	
Revenues	30.559.02	Water Misc	Collections over budget projections	\$ 14,000	
Revenues	30.559.11	Sewer Misc	Collections over budget projections	\$ 28,000	
Revenues	30.559.50	Late Penalty Fee	Collections over budget projections	\$ 48,000	
Revenues	30.570.00	Water Sales	Collections over budget projections	\$ 778,000	
Revenues	30.575.00	Sewer Sales	Collections under budget projections	\$ (142,000)	
Utility Billing	30.35.610.01	Postage	Increased Postage Costs		\$ 7,500
Utility Billing	30.35.610.20	Vehicle & Equip. Supplies	Increased Fuel Costs		\$ 5,500
Utility Billing	30.35.620.50	Water Meter Maint.	Meter Replacement		\$ 28,000
Water Productions	30.36.630.30	Utilities	Increased Electricity Costs		\$ 120,000
Utility Construction	30.37.610.20	Vehicle & Equip. Supplies	Increased Fuel Costs		\$ 43,000
Utility Construction	30.37.610.25	Equip & Mach	Replace Ice Machine		\$ 2,500
Utility Construction	30.37.620.45	Water Main & Tap Maint.	Increased Supply Costs		\$ 56,500
Utility Construction	30.37.630.30	Utilities	Increased Electricity Costs		\$ 70,000
Wastewater	30.39.610.20	Vehicle & Equip. Supplies	Increased Fuel Costs		\$ 24,500
Wastewater	30.39.620.35	Facility Maint	Increased Supply Costs		\$ 88,500
Wastewater	30.39.630.30	Utilities	Increased Electricity Costs		\$ 57,500
Wastewater	30.39.630.71	Consulting Services	Perkins Eng Contract - Pretreatment Program		\$ 22,700
Total Utility Fund:				\$ 965,000	\$ 526,200
SANITATION FUND					
Revenues	31.520.01	Sanitation Charges	Collections over budget projections	\$ 160,000	
Revenues	31.521.01	Landfill Gate Receipts	Collections over budget projections	\$ 190,000	
Revenues	31.522.01	Sanitation Fuel Charges	Collections over budget projections	\$ 190,000	
Revenues	31.542.00	Gain on Disposal of Assets	Collections over budget projections	\$ 155,000	
Revenues	31.559.00	Misc Revenue	Collections over budget projections	\$ 438,000	
Sanitation Collection	31.40.601.40	Overtime	Increased OVT Costs		\$ 18,000
Sanitation Collection	31.40.610.20	Vehicle & Equip. Supplies	Increased Fuel Costs		\$ 18,000
Sanitation Collection	31.40.620.20	Vehicle Maint.	Vehicle Repairs		\$ 90,000
Sanitation Disposal	31.41.601.40	Overtime	Increased OVT Costs		\$ 13,000
Sanitation Disposal	31.41.610.20	Vehicle & Equip. Supplies	Increased Fuel Costs		\$ 51,000
Non Dept	31.75.642.00	Bad Accounts	Writeoffs		\$ 9,000
Total Sanitation Fund:				\$ 1,133,000	\$ 199,000
AIRPORT FBO FUND					
Revenues	32.526.01	Aviation Fuel Sales	Increased Fuel Sales and Inflation	\$ 250,000	
FBO Operations	32.13.610.21	Aviation Fuel Purchases	Increased Fuel Sales and Inflation		\$ 235,000
Total Airport FBO Fund:				\$ 250,000	\$ 235,000



City Council Meeting

Date: October 11, 2022

Agenda Item: 5.C.

PRESENTER: Pam Curbow, Finance Director

ITEM/SUBJECT: Annual review and adoption of a resolution approving the City's Investment Policy. (Director of Finance)

SUMMARY/BACKGROUND: City Council is required by the provisions of the Public Funds Investment Act of Texas Government Code Chapter 2256 to annually review and adopt the City's Investment Policy.

The existing policy does not require any significant updates at this time, only minor grammatical errors and clarification issues were corrected.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Pamela Curbow, Director of Finance
curbowp@nactx.us
936-559-2526

ATTACHMENTS: 1. Investment Policy
2. Resolution

CITY OF NACOGDOCHES INVESTMENT POLICY

I. POLICY

It is the policy of the City of Nacogdoches (City) that after allowing for the anticipated cash flow requirements of the City and giving due consideration to the safety and risk of investment, all available funds shall be invested in conformance with these legal and administrative guidelines, seeking to optimize interest earnings to the maximum extent possible.

Effective cash management is recognized as essential to good fiscal management. Investment interest is a source of revenue to the City's funds. The City's investment portfolio shall be designed and managed in a manner designed to utilize this revenue source, to be responsive to public trust, and to be in compliance with legal requirements and limitations.

Investments shall be made with the primary objectives of:

- * **Safety** and preservation of principal
- * Maintenance of sufficient **liquidity** to meet operating needs
- * **Public trust** from prudent investment activities
- * **Diversification** of portfolio
- * Optimization of **interest earnings** on the portfolio

II. PURPOSE

The purpose of this investment policy is to comply with Chapter 2256 of the Government Code ("Public Funds Investment Act" or "PFIA"), which requires the City to adopt a written investment policy regarding the investment of its funds and funds under its control. This Investment Policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City's funds. This Policy and investment strategies shall be reviewed annually by the Investment Committee and City Council who will formally approve any modifications.

III. SCOPE

This Investment Policy shall govern the investment of all financial assets of the City. These funds are accounted for in the City's Comprehensive Annual Financial Report and include:

- General Fund
- Special Revenue Funds
- Capital Projects Funds
- Enterprise Funds
- Internal Service Fund
- Trust and Agency Funds, to the extent not required by law or existing contract to be

- kept segregated and managed separately
- Debt Service Funds, including reserves and sinking funds, to the extent not required by law or existing contract to be kept segregated and managed separately
- Any new fund created by the City, unless specifically exempted from this Policy by the City Council or by law.

This Investment Policy shall apply to all transactions involving the financial assets and related activity for all the foregoing funds. However, this Policy does not apply to the assets administered for the benefit of the City by outside agencies under deferred compensation programs.

IV. INVESTMENT OBJECTIVES

The City shall manage and invest its cash with five primary objectives, listed in order of priority: **safety, liquidity, public trust, diversification, and yield**. The safety of the principal invested always remains the primary objective. All investments shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

The City shall maintain a comprehensive cash management program, which includes collection of account receivables, vendor payments in accordance with invoice terms, and prudent investment of available cash. Cash management is defined as the process of managing monies in order to ensure maximum cash availability and optimize earnings on short-term investment of idle cash.

A. **Safety** [PFIA 2256.005(b)(2)]

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit and interest rate risk.

1. Credit Risk – The City will minimize credit risk, the risk of loss due to the failure of the issuer or backer of the investment, by:
 - Limiting investments to the safest types of investments
 - Pre-qualifying the financial institutions and broker/dealers with which the City will do business
 - Diversifying the investment portfolio so that potential losses on individual issuers will be minimized.
2. Interest Rate Risk – the City will minimize the risk that the interest earnings and the market value of investments in the portfolio will fall due to changes in general interest rates, by:
 - Structuring the investment portfolio so that investments mature to meet cash requirements for ongoing operations, thereby avoiding the need to liquidate investments prior to maturity.
 - Investing operating funds primarily in certificates of deposit, shorter-term securities, money market mutual funds, or local government investment pools functioning as money market mutual funds.
 - Diversifying maturities and staggering purchase dates to minimize the impact of market movements over time.

B. Liquidity [PFIA 2256.005(b)(2)]

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that investments mature concurrent with cash needs to meet anticipated demands. Because all possible cash demands cannot be anticipated, a portion of the portfolio will be invested in demand or money market accounts, shares of money market mutual funds or local government investment pools that offer same-day liquidity.

C. Public Trust

All participants in the City's investment process shall seek to act responsibly as custodians of the public trust. Investment officers shall avoid any transaction that might impair public confidence in the City's ability to govern effectively.

D. Diversification

Investment maturities shall be staggered to provide cash flow based on the anticipated needs of the City. Diversifying the appropriate maturity structure will reduce market cycle risk.

E. Yield [PFIA 2256.005(b)(3)]

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above.

V. INVESTMENT STRATEGY FOR SPECIFIC FUNDS

The overall strategy of the City's investment objective shall be to ensure a) the understanding of suitability of investment to the financial requirements of the City, b) preservation and safety of principal, c) liquidity, d) marketability of the investment, if the need arises to liquidate the investment before maturity, e) diversification of the investment portfolio; and f) yield.

The City maintains portfolios which utilize four specific investment strategy considerations designed to address the unique characteristics of the fund groups represented in the portfolios:

A. Operating Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Operating Funds.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, managing the weighted average days to maturity to less than 180 days and restricting the maximum allowable maturity to two years using the final stated maturity dates of each investment will minimize the price volatility of the portfolio.

Marketability - Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement.

Liquidity - Operating Funds require short-term liquidity to adequately fund any unanticipated cash outflow. Short-term financial institution deposits, investment pools and money market mutual funds will provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

Diversification - Investment maturities should be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the City. Diversifying the appropriate maturity structure up to the two-year maximum will reduce interest rate risk.

Yield - Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury Bill portfolio will be the minimum yield objective.

B. Debt Service Funds

Suitability - Any investment eligible in the Investment Policy is suitable for the Debt Service Fund.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations may occur. However, by managing Debt Service Funds to not exceed the debt service payment schedule, the market risk of the overall portfolio will be minimized.

Marketability - Securities with active and efficient secondary markets are not necessary as the event of an unanticipated cash flow requirement is not probable.

Liquidity - Debt Service Funds have predictable payment schedules. Therefore, investment maturities should not exceed the anticipated cash flow requirements. Cash equivalent investments may provide a competitive yield alternative for short term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any debt service payment. This investment structure is commonly referred to as a flexible repurchase agreement.

Diversification - Market conditions influence the attractiveness of fully extending maturity to the next “unfunded” payment date. Generally, if investment rates are anticipated to decrease over time, the City is best served by locking in most investments. If the interest rates are potentially rising, then investing in shorter and larger amounts may provide advantage. At no time shall the debt service schedule be exceeded in an attempt to bolster yield.

Yield - Attaining a competitive market yield for comparable investment-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury Bill portfolio shall be the minimum yield objective.

C. Debt Service Reserve Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Debt Service Reserve Funds. Bond resolution and loan documentation constraints and insurance company restrictions may create specific considerations in addition to the Investment Policy.

Safety of Principal - All investments shall be high quality with no perceived default risk. Market price fluctuations will occur. However, managing Debt Service Reserve Fund

maturities to not exceed the call provisions of the borrowing reduces the investment's market risk if the City's debt is redeemed and the Reserve Fund liquidated. No stated final investment maturity shall exceed the shorter of the final maturity of the borrowing or five years. Annual mark-to-market requirements or specific maturity and average life limitations within the borrowing's documentation will influence the attractiveness of market risk and reduce the opportunity for maturity extension.

Marketability - Securities with less active and efficient secondary markets are acceptable for Debt Service Reserve Funds.

Liquidity – Debt Service Reserve Funds have no anticipated expenditures. The Funds are deposited to provide annual debt service payment protection to the City's debt holders. The funds are "returned" to the City at the final debt service payment. Market conditions and arbitrage regulation compliance determine the advantage of investment diversification and liquidity. Generally, if investment rates exceed the cost of borrowing, locking in investment maturities and reducing liquidity best serve the City. If the borrowing cost cannot be exceeded, then concurrent market conditions will determine the attractiveness of locking in maturities or investing shorter and anticipating future increased yields.

Diversification - Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for Debt Service Reserve Funds. At no time shall the final debt service payment date of the bond issue be exceeded in an attempt to bolster yield.

Yield - Achieving a positive spread to the applicable borrowing cost is the desired objective. Debt Service Reserve Fund portfolio management shall at all times operate within the limits of the Investment Policy's risk constraints.

D. Capital Project and Special Purpose Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Capital Project and Special Purpose Funds.

Safety of Principal – All investments will be of high quality with no perceived default risk. Market fluctuations may occur. However, by restricting the maximum maturity to the lesser of the anticipated cash flow requirements or the IRS defined temporary period, the market risk of the portfolio will be minimized.

Marketability - The balancing of short-term and long-term cash flow needs requires the Capital Project and Special Purpose Funds portfolio to have securities with active and efficient secondary markets.

Liquidity - Capital Project and Special Purpose Funds used as part of a CIP plan or scheduled repair and replacement program are reasonably predictable. However, unanticipated needs or emergencies may arise. Maintaining minimum cash equivalent investment amounts will reduce the liquidity risk of unanticipated expenditures. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any required expenditures. This investment structure is commonly referred to as a flexible repurchase agreement.

Diversification - Investment maturities should blend the short-term and long-term cash flow

needs to provide adequate liquidity, yield enhancement and stability.

Yield - Attaining a competitive market yield for comparable investment-types and portfolio structures is the desired objective. The yield of an equally weighted, rolling six-month Treasury Bill portfolio will be the minimum yield objective.

VI. RESPONSIBILITY AND CONTROL

A. Delegation of Authority [PFIA 2256.005(f)]

In accordance with the Public Funds Investment Act, the Council designates the Director of Finance and Assistant Director of Finance as the City's Investment Officers. An Investment Officer is authorized to execute investment transactions on behalf of the City.

No person may engage in an investment transaction or the management of City's funds except as provided under the terms of this Investment Policy as approved by the Council. The investment authority granted to the investing officer is effective until rescinded by the Council.

B. Investment Committee

An Investment Committee, consisting of the Director of Finance, Assistant Director of Finance, and the City Manager shall meet periodically to determine operational strategies and to monitor results. The Investment Committee shall include in its deliberation such topics as: performance reports, economic outlook, portfolio diversification, maturity structure, potential risk to the City's funds, authorized brokers and dealers, eligible investment training sources, and the target rate of return on the investment portfolio.

C. Training Requirement [PFIA 2256.008]

In accordance with the Public Funds Investment Act, and to ensure qualified and capable investment management, the Investment Officers shall attend investment training no less often than once every two years commencing September 1, 1997 and accumulating not less than 8 hours of instruction relating to investment responsibilities. A newly appointed Investment Officer must attend training accumulating at least 10 hours of instruction within twelve months of the date the Officer took office or assumed the Officer's duties. The investment training session shall be provided by an independent source approved by the designated Investment Committee. For purposes of this Policy, an "independent source" from which investment training shall be obtained shall include a professional organization, an institution of higher education or any other sponsor other than a business organization with whom the City may engage in an investment transaction.

D. Internal Controls

The Director of Finance is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Accordingly, the Director of Finance shall establish a process for annual independent review by an external auditor to assure compliance with policies and procedures. The

internal controls shall address the following points:

- Avoidance of collusion.
- Separation of transaction authority from accounting and record keeping.
- Custodial safekeeping.
- Avoidance of physical delivery securities.
- Clear delegation of authority to subordinate staff members.
- Written confirmation for telephone (voice) transactions for investments and wire transfers.
- Development of a wire transfer agreement with the depository bank or third-party custodian.

E. Prudence [PFIA 2256.006]

The standard of prudence to be applied by the Investment Officers shall be the “prudent investor” rule. This rule states that “Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.” In determining whether an Investment Officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- The investment of all funds, or funds under the City’s control, over which the Officer had responsibility rather than a consideration as to the prudence of a single investment.
- Whether the investment decision was consistent with the written approved investment policy of the City.

F. Indemnification

An Investment Officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific investment’s credit risk or market price changes, provided that these deviations are reported immediately and the appropriate action is taken to control adverse developments

G. Ethics and Conflicts of Interest [PFIA 2256.005(i)]

City staff involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair the ability to make impartial investment decisions. City staff shall disclose to the City Manager any material financial interest in financial institutions that conduct business with the City and they shall further disclose positions that could be related to the performance of the City’s portfolio. City staff shall subordinate their personal financial transactions to those of the City, particularly with regard to timing of purchase and sales.

A City Investment Officer who has a personal business relationship with an organization seeking to sell an investment to the City shall file a statement disclosing that personal business interest. An Investment Officer who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Council and the City Council.

VII. SUITABLE AND AUTHORIZED INVESTMENTS

A. Portfolio Management

The City currently has a “buy and hold” portfolio strategy. Maturity dates are matched with cash flow requirements and investments are purchased with the intent to be held until maturity. However, investments may be liquidated prior to maturity for the following reasons:

- An investment with declining credit may be liquidated early to minimize loss of principal.
- Cash flow needs of the City require that the investment be liquidated.

B. Investments [PFIA 2256.005(b)(4)(A)]

The City funds governed by this policy may be invested in the instruments described below, all of which are authorized by the Public Funds Investment Act. Investment of the City funds in any instrument or security not authorized for investment under the Act is prohibited. The City will not be required to liquidate an investment that becomes unauthorized subsequent to its purchase.

I. Authorized

1. Direct obligations, including letters of credit, of the United States of America, its agencies and instrumentalities, including the Federal Home Loan Banks.
2. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the United States of America, or its agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States.
3. Obligations of the State of Texas or its agencies and instrumentalities, and obligations of counties, cities, and other political subdivisions of this State rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.
4. Fully insured or collateralized certificates of deposit issued by a depository institution organized under Texas law, the laws of another state, or federal law, that has its main office or a branch office in Texas, that is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or secured by obligations in a manner and amount provided by law for deposits of the City.
5. Fully collateralized direct repurchase agreements with a defined termination date secured by a combination of cash and obligations of the United States or its agencies and instrumentalities. These shall be pledged to the City, held in an account in the City’s name, and deposited at the time the investment is made with the City or with a third party selected and approved by the City. Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution

doing business in Texas. A Master Repurchase Agreement, or similar agreement, must be signed by the dealer/financial institution prior to investment in a repurchase agreement. Securities received for repurchase agreements must have a market value greater than or equal to 102 percent at all times.

6. Money Market Mutual funds that comply with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.) and are rated AAA by at least one nationally recognized rating service and seek to maintain a net asset value of \$1.0000 per share.
7. Local government investment pools, which 1) meet the requirements of the Public Funds Investment Act, 2) are rated no lower than AAA or an equivalent rating by at least one nationally recognized rating service, 3) seek to maintain a \$1.00 net asset value, and 4) are authorized by resolution or ordinance by the Council.

All prudent measures will be taken to liquidate an investment that is downgraded to less than the required minimum rating. (PFIA 2256.021)

II. Not Authorized

The City's authorized investments options are more restrictive than those allowed by State law. The City's requirements specifically prohibit investment in the following investment securities.

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
3. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years.
4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.
5. Reverse repurchase agreements
6. International investment instruments.

VIII. INVESTMENT PARAMETERS

A. **Maximum Maturities** [PFIA 2256.005(b)(4)(B)]

The longer the maturity of securities, the greater their price volatility. Therefore, it is the City's policy to utilize shorter-term securities in order to limit principal risk caused by changes in interest rates.

The City attempts to match its investments with anticipated cash flow requirements. The City will not directly invest in maturities greater than those outlined in V. Investment Strategy for Specific Funds; however, the above-described obligations, certificates, or agreements may be collateralized using longer dated investments.

Because no secondary market exists for repurchase agreements, the maximum maturity shall be 120 days except in the case of a flexible repurchase agreement for bond proceeds.

The maximum maturity for such an investment shall be determined in accordance with project cash flow projections and the requirements of the governing bond ordinance.

The composite portfolio will have a weighted average maturity of 365 days or less. This dollar-weighted average maturity will be calculated using the stated final maturity dates of each security. [PFIA 2256.005(b)(4)(C)]

B. **Diversification** [PFIA 2256.005(b)(3)]

The City recognizes that investment risks can result from issuer defaults, market price changes or various technical complications leading to temporary illiquidity. Risk is controlled through portfolio diversification that shall be achieved by the following general guidelines:

- Limiting investments to avoid overconcentration in investments from a specific issuer or business sector,
- Limiting investment in investments that have higher credit risks (example: commercial paper),
- Investing in investments with varying maturities, and
- Continuously investing a portion of the portfolio in readily available funds such as demand and money market accounts, local government investment pools (LGIPs), money market funds, or overnight repurchase agreements to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.

IX. SELECTION OF BANKS AND DEALERS

A. Primary Depository (*Chapter 105, Texas Local Government Code*)

At least every five (5) years a Depository shall be selected through the City's banking services procurement process, which shall include a formal request for application (RFA). The selection of a primary depository will be determined by competitive process and thorough evaluation that is most advantageous to the City, and will be generally based on the following selection criteria:

- The ability to qualify as a depository for public funds in accordance with state law.
- The ability to provide requested information or financial statements for the periods specified.
- The ability to meet all requirements in the primary depository RFA.
- Complete response to all required items on the application.
- Favorable net banking service cost/benefit, consistent with the ability to provide an appropriate level of service.
- The credit worthiness and financial stability of the bank.

The City reserves the right to place deposits with other financial institutions for diversification and investment purposes, or to utilize a service not reasonably available through the primary depository.

B. Authorized Broker/Dealers [*PFIA 2256.025*]

The City's Investment Committee shall, at least annually, review, revise, and adopt a list of qualified broker/dealers authorized to engage in securities transactions with the City. Those firms that request to become qualified broker/dealers for securities transactions will be required to provide information regarding creditworthiness, experience, and reputation. Authorized firms may include primary dealers or non-primary dealers that qualify under Securities & Exchange Council Rule 15C3-1 (Uniform Net Capital Rule).

C. Competitive Environment

A competitive yield environment shall be achieved by soliciting quotes from multiple investment providers, monitoring comparable investment alternatives, and reviewing general market conditions.

When appropriate, bids or offers must be solicited for all individual security transactions. The City's investment advisor is also required to solicit bids or offers when transacting trades on the City's behalf. In the case of a certificate of deposit placement, competitive offers should provide a comparison. The quotes may be accepted orally, in writing, electronically, or any combination of these methods. These guidelines shall take into consideration the investment type, maturity date, amount, and potential disruptiveness to the City's investment strategy.

The Director of Finance shall develop and maintain procedures for ensuring a competition in the investment of the City's funds.

D. Delivery vs. Payment [PFIA 2256.005(b)(4)(E)]

Securities shall be purchased using the **delivery verses payment** method of settlement. Funds will be released after the purchased security has been received.

E. Business Organizations [PFIA 2256.005(k)]

All investment pools and discretionary investment management firm (e.g. business organizations) must acknowledge that the business organization has received and reviewed the City's investment policy and that reasonable procedures and controls have been implemented to preclude investment transactions that are not authorized by the City's policy except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio, requires an interpretation of subjective investment standards, or relates to investment transactions of the City that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

X. SAFEKEEPING OF SECURITIES AND COLLATERAL

A. Safekeeping and Custodian Agreements (*Best Practice*)

The City shall contract with a financial institution for the safekeeping of securities owned by the City as part of its investment portfolio. Securities owned by the City shall be held in an account in the City's name as evidenced by safekeeping receipts of the institution holding the securities.

Collateral for deposits will be held by a third-party custodian designated by the City and pledged to the City as evidenced by safekeeping receipts of the institution with which the collateral is deposited. Original safekeeping receipts shall be obtained. Collateral may be held by the depository institution's trust department, a Federal Reserve Bank or branch of a Federal Reserve Bank, a Federal Home Loan Bank, or a third-party Custodian approved by the City.

B. Collateral Policy (PFCA 2257.023)

Consistent with the requirements of the Public Funds Collateral Act ("PFCA"), it is the policy of the City to require full collateralization of all City funds on deposit with a depository institution. Deposits secured with irrevocable letters of credit shall have 100% of principal plus anticipated interest of the deposit, less any amount insured by the FDIC. Deposits secured with pledged marketable securities shall have a market value equal to or greater than 102% of the principal plus accrued interest of the deposit, less any amount insured by the FDIC. All deposits shall be insured or collateralized in compliance with applicable State law. The City reserves the right, in its sole discretion, to accept or reject any form of insurance or collateralization pledged towards financial institution deposits. Financial institutions serving as City Depositories will be required to sign a depository agreement with the City.

Securities pledged as collateral shall be held by an independent third party with whom the City has a current custodial agreement. The Director of Finance is responsible for entering into collateralization agreements in compliance with this Policy. The agreements are to specify the acceptable investment securities for collateral, including provisions relating to possession of

the collateral, the substitution or release of investment securities, ownership of securities, and the method of valuation of securities.

The custodial portion of the agreement shall define the City's rights to the collateral in case of default, bankruptcy, or closing, and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- the agreement must be in writing;
- the agreement has to be executed by the depository and the City contemporaneously with the acquisition of the asset;
- the agreement must be approved by the board of directors or the loan committee of the depository and a copy of the meeting minutes must be delivered to the City, and
- the agreement must be part of the depository's "official record" continuously since its execution.

A clearly marked evidence of pledge (pledge receipt) must be supplied to the City and retained. Collateral shall be reviewed at least monthly to assure that the market value of the pledged securities is adequate.

C. Collateral Defined

The City shall accept only the following types of collateral:

1. Direct obligations of the United States of America or its agencies and instrumentalities.
2. Direct obligations of the state of Texas or its agencies and instrumentalities.
3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States of America, the underlying security for which is guaranteed by an agency or instrumentality of the United States of America.
4. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized rating firm not less than A or its equivalent with a remaining maturity of ten (10) years or less.
5. Federal Deposit Insurance Corporation (FDIC) Insurance Coverage.
6. A surety bond issued by an insurance company rated as to investment quality by a nationally recognized rating firm not less than A.
7. A letter of credit issued to the City by a Federal Home Loan Bank.

D. Subject to Audit

All collateral shall be subject to inspection and audit by the City or the City's independent auditors.

XI. PERFORMANCE

A. Performance Standards

The City's investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio shall be designed with the objective of obtaining a rate of return through budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow requirements of the City. Weighted average yield to maturity shall be the performance measurement standard.

B. Performance Benchmark (*Best Practice*)

It is the policy of the City to purchase investments with maturity dates coinciding with cash flow needs. Through this strategy, the City shall seek to optimize interest earnings utilizing allowable investments available on the market at that time. Market value will be calculated on a quarterly basis on all securities owned and compared to current book value. The City's portfolio shall be designed with the objective of regularly meeting or exceeding the average rate of return on U.S. Treasury Bills at a maturity level comparable to the City's weighted average maturity in days.

XII. REPORTING

The Investment Officers shall prepare an investment report on a quarterly basis that summarizes investment strategies employed in the most recent quarter, describes the portfolio in terms of investments and maturities, and shall explain the total investment return for the quarter.

The quarterly investment report shall include a summary statement of investment activity. This summary will be prepared in a manner that will allow the City to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report will be provided to the Council. The report will include the following:

- A listing of individual investments held at the end of the reporting period.
- Unrealized gains or losses resulting from appreciation or depreciation by listing the beginning and ending book and market value of investments for the period.
- Additions and changes to the market value during the period.
- Average weighted yield to maturity of portfolio as compared to applicable benchmark.
- Listing of investments by maturity date.
- Fully accrued interest for the reporting period
- The percentage of the total portfolio that each type of investment represents.
- Statement of compliance of the City's investment portfolio with state law and the investment strategy and policy approved by the Council.
- Signatures of the Investment Officers.

In conjunction with the annual audit, independent auditor will perform a formal review of the quarterly reports with the results reported to the City Council [*PFIA 2256.023(d)*].

Monitoring [PFIA 2256.005(b)(4)(D)]

Market value of all securities in the portfolio will be determined on a quarterly basis. These values will be obtained from a reputable and independent source. The City shall monitor the rating of each issuer, as applicable, at least quarterly, and take all prudent measures that are consistent with this Policy to liquidate an investment that does not have the minimum rating.

XIII. INVESTMENT POLICY ADOPTION

The City's Investment Policy shall be adopted by resolution of the City Council. It is the City's intent to comply with state laws and regulations. The City's Investment Policy shall be subject to revisions consistent with changing laws, regulations, and needs of the City. The Council shall adopt a resolution stating that it has reviewed the Policy and investment strategies annually, approving any changes or modifications. [PFIA 2256.005(e)]

RESOLUTION NO. 1313-10-22

RESOLUTION OF CITY COUNCIL APPROVING CITY OF NACOGDOCHES, TEXAS INVESTMENT POLICY.

WHEREAS, the investment policy applies to the investment activities of the City of Nacogdoches serving to satisfy statutory requirements of Texas Government Code Chapter 2256 (“Public Funds Investment Act”) and Chapter 2257 (“Public Funds Collateral Act”) to define and adopt a formal investment policy; and

WHEREAS, City Council must approve investment policy, with necessary revisions, at least annually; and

WHEREAS, City of Nacogdoches has complied by maintaining the Investment Policy and updating it in accordance with legislative mandate. Director of Finance has reviewed and updated, when necessary, the Investment Policy to incorporate Public Funds Investment Act revisions and improved business practices; and

NOW THEREFORE, IT IS RESOLVED by the City Council of the City of Nacogdoches, Texas, that the City of Nacogdoches Investment Policy, attached hereto, is hereby adopted as the official policy of the City of Nacogdoches and shall replace the existing Investment Policy. This policy shall be effective October 11, 2022.

PASSED AND APPROVED, this the 11th day of October, 2022.

By: _____
JIMMY MIZE, Mayor

ATTEST:

APPROVED AS TO FORM:

JAN VINSON, City Secretary

STEVEN KIRKLAND, City Attorney

APPROVED AS TO CONTENT:

PAM CURBOW, Director of Finance



City Council Meeting

Date: October 11, 2022

Agenda Item: 5.D.

PRESENTER: Pam Curbow, Finance Director

ITEM/SUBJECT: Consider approval of an ordinance amending Ordinance No. 1929-09-22 appropriating various amounts in accordance with the budget adopted for the ensuing fiscal year beginning October 1, 2022 and ending September 30, 2023 for adjustment of the revenue and expenditures related to the Certificates of Obligation that were not authorized due to the successful petition submitted on September 19, 2022. (Director of Finance)

SUMMARY/BACKGROUND: With the submission of a successful petition, the City Council did not authorize the issue of Certificates of Obligation (CO) as presented and adopted in the 2022-2023 budget. This budget amendment is necessary to adjust both revenue and expenditures related to the proposed CO.

FINANCIAL:

Item is budgeted:

Account No.: see attached

Account Name: *see attached*

Amount: see attache

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Pamela Curbow, Director of Finance
curbowp@nactx.us
936-559-2526

ATTACHMENTS: 1. Ordinance

AN ORDINANCE AMENDING ORDINANCE NO. 1929-09-22 APPROPRIATING VARIOUS AMOUNTS IN ACCORDANCE WITH BUDGET ADOPTED FOR THE ENSUING FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023.

WHEREAS, the City Council of the City of Nacogdoches, Texas has approved and adopted the budget for said city for the ensuing fiscal year beginning October 1, 2022 and ending September 30, 2023.

WHEREAS, the City Council adopted a budget on September 13, 2022 that included a tax rate and the revenue and expenditures related to the proposed issuance of Certificates of Obligation, and

WHEREAS, on September 19, 2022 the City Secretary received a petition with over one-thousand verified signatures which was enough to suspend the issuance of said Certificates, and

WHEREAS, the City Council was presented the successful petition at the September 20, 2022 City Council meeting and therefore suspended the authorization of said Certificates, and

WHEREAS, with the adoption of this ordinance, the Finance Department is authorized to adjust the stated property tax rate in the adopted budget and/or remove any revenue or expenditures related to the Certificates of Obligation that were not authorized.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Nacogdoches that sums of money as herein set forth in said budget are hereby appropriated and amended for the receipt of funds /payment of capital outlays of the city government of the City of Nacogdoches as follows:

Fund	Dept	Acct.	Department	Description	Amt.
01		580.00	Revenues	Proceeds from Bond Sales	(\$21,100,000)
01	86	680.00	Committed Reserves	Building Capital – Fire Station	(\$8,080,000)
01	86	680.30	Committed Reserves	Street Capital – Street Improvements	(\$5,000,000)
01	86	680.31	Committed Reserves	Drainage Capital – Drainage Improvements	(\$5,000,000)
01	86	680.40	Committed Reserves	Parks Capital – Parks Improvements	(\$1,800,000)
01	86	680.90	Committed Reserves	Misc Capital – Unassigned CO Projects	(\$1,220,000)
25		501.05	Revenues	Current Taxes – 2022 COs	(\$1,371,537)
25		501.15	Revenues	Delinquent Taxes – 2022 COs	(\$27,879)
25	70	640.61	Debt Service	2022 CO Principal	(\$640,000)
25	70	641.61	Debt Service	2022 CO Interest	(\$745,533)

PASSED AND APPROVED this the 11th day of October, 2022.

Jimmy Mize, Mayor
City of Nacogdoches

ATTEST:

Jan Vinson, City Secretary

Approved as to form: _____
Steven Kirkland, City Attorney

Approved as to content: _____
Pamela Curbow, Director of Finance

PRESENTER: Sherry Morgan, Executive Director at Nacogdoches Convention & Visitors Bureau

ITEM/SUBJECT: Consider approval of an agreement by and between the City of Nacogdoches and the Nacogdoches Convention and Visitors Bureau (CVB) which outlines the terms by which employees of the CVB are employees of the City and thereby subject to the policies and guidelines established by the City. (Convention and Tourism Director)

SUMMARY/BACKGROUND: The Nacogdoches Convention and Visitors Bureau (CVB) is a 501 c6 non- profit charged with the marketing and promotion of Nacogdoches as an historic tourist destination. Through a separate agreement with the City of Nacogdoches, Nacogdoches CVB receives 72.5% of remitted hotel occupancy tax to fund its marketing and promotional efforts.

The original agreement was approved on September 5, 2017 which created the Department of Conventions and Tourism whereby the CVB director and staff became City employees and are compensated as such by the City.

The term of this renewal will be from November 7, 2022 and remain in effect for a period of one year and be renewable for an additional year if agreed upon by the City and the CVB. The CVB director and staff will continue to be considered City employees subject to oversight by the City. The director and staff generally perform the duties traditionally provided by the executive director and support staff of the CVB. Pursuant to this agreement, the City provides salary and other benefits (health insurance, retirement, etc) to the director and staff as is customary for other City employees. The CVB will compensate the City in an amount which equals the actual costs incurred by the City for salaries and related expenses, and benefits directly associated with the services the executive director and staff provided to the CVB.

The terms of this renewal are the same as those of the prior year's contract with the notable exception of the 3-year subsidy arrangement previously provided due to pandemic- induced lost revenue. Actual subsidy was only necessary for less than one year.

FINANCIAL:

Item is budgeted:

Account No.: 01. 559. 76

Account Name: General Fund Contributions from CVB

Amount: \$ 318,000.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Sherry Chaney Morgan, Executive Director CVB
sherry@visitnacogdoches.org
936-564-7351

ATTACHMENTS: 1. Agreement Department of Convention and Tourism

ARTICLE IV

Compensation

The Director and Staff will be City employees and will be paid as such by the City. The City will provide salary and other benefits (health insurance, retirement, etc.) to the Director and Staff as is customary for other City employees.

CVB will pay compensation to the City, which equals the actual costs incurred by the City for salary, related expenses and benefits directly associated with the services the Director and Staff provide to CVB. The City shall deliver a monthly invoice for said compensation to CVB, which CVB agrees to pay within thirty days of receipt.

Additionally CVB will provide Director and Staff use of its leased office space in the Charles Bright Visitor Center building located at 200 E. Main Street or at another location of comparable size at the discretion of CVB. CVB will provide compensation to the City for convention, tourism and hotel industry related travel expenses and associated dues, as well as provide computers, telephones, and all other required office equipment and supplies as needed for the Director and Staff for the performance of duties required under this Agreement.

Outside of the fixed monthly payments to the City, CVB will have no other financial obligation to Director and Staff, unless Director and/or Staff and CVB enter into an ancillary agreement which is approved by the City.

The City will maintain complete and accurate records of all payrolls, expenditures, disbursements, and other items charged to CVB for a minimum of 4 years from the date of the termination of this Agreement. All such records will be clearly identifiable, and the City will allow CVB or its designated representatives to inspect, examine, copy, and audit all such records during regular business hours with 24 hours' written notice.

ARTICLE V

Performance Evaluation

CVB is vested with the ability to advise the City on any given action to be taken in regard to the hiring, overall job performance or termination of the Director and/or Staff; however, the final authority as to employment rests with the City. It is expressly understood by and between the City and CVB that the City will retain the ultimate authority to hire and terminate the Director and/or Staff.

ARTICLE VI

Termination

Either the City or CVB may terminate this Agreement, with or without cause, upon ninety (90) days written notice to the other party.

ARTICLE VIII

Relationship of Parties

The relationship of CVB and the City shall be that of independent contractors as to all services performed hereunder. The doctrine of respondent superior shall not apply as between the City and CVB, its officers, agents, servants, employees, contractors, and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between the City and CVB.

Other than the terms specifically set forth herein, nothing in this Agreement shall allow or authorize CVB to bind or obligate the City as to any expense, obligation, duty or incentive.

ARTICLE IX

Miscellaneous

Non-Waiver

It is expressly understood and agreed that, in the execution of this Agreement, no party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

Venue

Each party to this Agreement agrees if legal action is brought under this Agreement, exclusive venue shall lie in Nacogdoches County, Texas.

Governing Law

The validity of this Agreement and of any of its terms or provisions, as well as rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas.

Severability

In case any one or more of the minor provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Notice

Notices shall be written and mailed by certified mail or hand delivered to the chief executive officer of each party or such party's office.

Modification

This Agreement may be amended or modified by mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

Headings

The headings of sections or paragraphs of this Agreement are for convenience purposes only and in no way control, contradict or limit contents of such sections or paragraphs.

Assignment

CVB may not assign this Agreement without prior written consent of City.

Open Records

CVB understand this Agreement and the services provided herein may subject all or part of CVB's records to the Texas Public Information Act, but only to the extent required by law.

Authority to Execute

The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

NACOGDOCHES CONVENTION AND
VISITORS BUREAU,
a non-profit corporation

By: _____
CHAY RUNNELS
Chairman of the Board of Directors

Date Signed: _____

CITY OF NACOGDOCHES,
a municipal corporation

By: _____
Mario Canizares
City Manager

Date Signed: _____



City Council Meeting

Date: October 11, 2022

Agenda Item: 5.F.

PRESENTER: Sherry Morgan, Executive Director at Nacogdoches Convention & Visitors Bureau

ITEM/SUBJECT: Consider approval of an agreement between the City of Nacogdoches and the Convention and Visitors Bureau for professional services. (Convention and Tourism Director)

SUMMARY/BACKGROUND: The Nacogdoches Convention and Visitor's Bureau ("CVB") provides tourism and convention marketing services for the City of Nacogdoches ("City"). The Agreement between the City and CVB states City Council shall approve the budget and marketing plan of the CVB. The marketing plan shall state work to be performed by the CVB with money paid the CVB by the City from Hotel Occupancy Tax and state specific goals. The Agreement also provides that the City shall pay the CVB 72.5% of available hotel revenue that is taxable and collected under the Authorizing Legislation and Article IV, Hotel Occupancy Tax, Section 94- 141 of the City Code. FY 2022/2023 estimated payment is \$615,000. The work of the CVB shall be consistent with its mission statement, in accordance with Chapter 351 of the Texas Tax Code and all other applicable laws and regulations.

FINANCIAL:

Item is budgeted:

Account No.: 18.49.630.94

Account Name: Hotel Fund Convention and Tourism Expense

Amount: \$615,000

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Sherry Chaney Morgan, Executive Director CVB
sherry@visitnacogdoches.org
936-564-7351

ATTACHMENTS: 1. Contract

AGREEMENT BETWEEN THE CITY OF NACOGDOCHES
AND NACOGDOCHES CONVENTION AND VISITORS BUREAU

This Agreement is entered into between the City of Nacogdoches, Texas, a Texas home-rule municipality (“City”) and the Nacogdoches Convention and Visitors Bureau, a Texas non-profit corporation (“CVB”) pursuant to Chapter 351 of the Texas Tax Code (as amended from time to time, the “Authorizing Legislation”). In furtherance of the purposes of the Authorizing Legislation and in consideration of the mutual covenants in this Agreement, the City and the CVB agree as follows:

1. Term

This Agreement shall be effective and binding upon the parties beginning October 1, 2022, and shall remain in effect until September 30, 2023, subject to early termination as described below. Except as otherwise expressly provided in this Agreement, any written notice or other written communication requested or permitted to be given under this Agreement shall be delivered or sent by United States registered or certified mail, postage prepaid, or by express carrier, to:

Nacogdoches Convention and Visitors Bureau
Executive Director
200 East Main Street
Nacogdoches, Texas 75961

City of Nacogdoches
City Manager
202 E. Pilar
Nacogdoches, Texas 75961

unless another address is substituted by notice delivered or sent as provided in this paragraph. Unless specifically noted in this Agreement, any notice is deemed given when received.

2. Statement of Work

The marketing plan approved by the City shall state the work to be performed by the CVB with money paid the CVB by the City from the hotel occupancy tax (“Work”). The Work shall be consistent with the CVB’s “Mission Statement” as follows: to encourage, enhance, and promote tourism-related business in the Nacogdoches area and to promote Nacogdoches as a tourist destination throughout the state, regionally, nationally, and internationally. Any material proposed changes to the approved marketing plan must be approved in writing by the City Manager or designee. As used in this Agreement, the term “hotel tax revenue” means money paid by the City to the CVB from hotel occupancy tax levied and collected by the City in accordance with the Authorizing Legislation (Tax Collections). The CVB agrees to perform the Work in accordance with Chapter 351 of the Texas Tax Code, all other applicable laws and regulations, this Agreement, and the applicable marketing plan, and the Budget. Contract performance will commence on October 1, 2022, (“Commencement Date”).

3. Budget, Accounting, and Reports

As used in this Agreement, “fiscal year” means twelve-month period beginning October 1 and ending September 30.

No later than June 15 of each year or at such other date approved by the City Manager of City, CVB shall provide City a proposed Budget and Marketing Plan for the Work, which shall reflect consultations between CVB and appropriate City staff concerning, with respect to the budget, projected available tax collections for the ensuing fiscal year, any amount available in the CVB's reserve fund, and estimated costs of the Work.

The City Council shall approve the budget and marketing plan. The City and the CVB shall negotiate in good faith to reach an agreement on a marketing plan and budget for the fiscal year by September 1 of the preceding fiscal year.

A. The Work shall be conducted, and all marketing plans and budgets shall contain the following requirements:

- (i) The marketing plan and budgets shall be consistent with required allocation of uses of tax collections as set forth in the Authorizing Legislation and applicable City Ordinances and shall identify those scheduled activities, programs, or events that will directly enhance and promote tourism and the convention and hotel industry.

As part of the Work, CVB shall provide, at a minimum, the following services, activities, and functions:

- (a) Market, solicit, and advertise for conventions, tourism, and other gatherings to maximize use of convention facilities, commercial lodging facilities, and tourism facilities consistent with adopted Marketing Plan. Such includes close cooperation with the Hotel Fredonia and Convention Center.
 - (b) Provide registration, housing, and information services for convention groups.
 - (c) Develop public awareness of the desirability, benefits and importance of travel to the Nacogdoches area economy.
 - (d) Market and distribute materials promoting Nacogdoches as a preferred destination city consistent with Marketing Plan.
 - (e) Demonstrate advantages Nacogdoches has to offer visitors from other parts of the state, nation, and world.
 - (f) Perform all responsibilities of tourism and marketing.
 - (g) Perform additional duties as agreed upon by both parties consistent with aforementioned Mission Statement.
- (ii) The Marketing Plan shall include, but not be limited to, a description of the proposed program of action for the fiscal year. In addition, the annual budget document of CVB shall be presented in such a way as to associate direct costs, where applicable, to the programs presented in the Marketing Plan. The Marketing Plan shall contain convention marketing goals and convention marketing programs. In addition, the Marketing Plan shall include convention services, tourism, marketing, and communication, housing, visitor services, sports association, and music and film marketing goals and programs. Upon approval of Marketing Plan and budget by City Council, CVB shall implement the plan and allocate funds within budgeted limits without further action on the part of the City.

All requests by CVB to City for funds, services, or other items of value shall be directed in writing for approval to the City Manager.

- (iii) CVB is authorized to use any trade or service marks of City in connection with its performance of the Work. Promotional material should contain “Nacogdoches, the oldest town in Texas” logo, and CVB can use any additional logo adopted by its Board of Directors.

- B. It is the intent of City and CVB that budgets for the Work which, other than as hereinafter excepted, reflect the amount of tax collections available for the Work and tax collections equal to 72.5% of the City portion of hotel revenue that is taxable and collected under the Authorizing Legislation and Chapter 94, Article IV, Hotel Occupancy Tax of the City Code, be available for the Work. If during a fiscal year tax collections vary more than ten percent (10%) from the expectations on which the applicable budget is based, CVB shall send City Manager written notice of how CVB proposes to adjust its budget accordingly. Limits of hotel occupancy funds allowed to be used for day-to-day operations, travel, and other matters described in 351.101(e) and (f) shall be strictly observed.

Under a separate agreement, the City may provide that the first \$150,000.00 of the City portion of the Hotel Occupancy Tax generated by the Hotel Fredonia and Convention Center and actually received by the City in any one-year period determined by the City is to be granted to the Hotel Fredonia and Convention Center or the entity owning, leasing, or operating it. Such \$150,000.00 amount shall not be considered in the computation of the 72.5% allocated to the CVB. Amounts of Hotel Occupancy Tax over \$150,000.00 in any such one-year period generated by Hotel Fredonia and Convention Center and received by the City would be considered as part of the 72.5%. It is not anticipated that the exclusion of such \$150,000.00 yearly amount of Hotel Occupancy Tax generated by the Hotel Fredonia and Convention Center and received by the City will extend beyond ten (10) years; however, the beginning of such ten (10) year duration has not yet been determined. Further excluded from the 72.5% would be any of the State portions of the Hotel Occupancy Tax generated by the Hotel Fredonia and Convention Center and actually received by the City from the Comptroller of Public Accounts.

- C. CVB shall maintain complete and accurate books and records of activities and finances, which City may audit at any time upon reasonable notice. Financial records shall be maintained on a regular basis in accordance with generally accepted accounting principles, subject to any variations as are required by State law or are agreed to in writing by City. Specifically, CVB shall account separately for hotel tax revenue, and any other funds provided it by the City, and shall account separately for receipts and expenditures related to each of the following activities: (A) convention sales, (B) convention services housing, (C) tourism, (D) film and music, (E) marketing and communications, (F) visitor services, (G) administration, (H) advertising, (I) sports commission and (J) other work. On request of City, CVB shall make records relating to handling and expenditure of hotel tax revenue and other City payments available to City or any other person designated by City. CVB shall also follow all provisions of City of Nacogdoches Code of Ordinances Administration of Funds, Section 94-206, et seq and Convention and Visitors Bureau Board, 94-231 et seq.

- D. CVB shall engage an independent firm of certified public accountants previously approved by City Manager to audit its annual financial statements and shall deliver to City Manager a copy of audited annual financial statements, consisting of balance sheet, income statement, statement of cash flows, and notes to financial statements, no later than one hundred twenty (120) days after end of each fiscal year. The engagement letter from the independent firm of certified public accountants shall contain a statement that CVB may request a copy of all audit work papers produced either by the client or the firm during annual audit of the financial statements. Notes to audited annual financial statements shall contain a detailed breakdown of revenues by source and expenditures by category. In addition to audited annual financial statements, upon request, CVB shall deliver a copy of all audit work papers that underlie annual financial statements.
- E. Within thirty (30) days after the end of each quarter in the fiscal year, the CVB shall deliver to City Manager a (i) written report of expenditures relating to the Work with specific allocations and expenditure information as to hotel occupancy taxes, and (ii) unaudited financial statements for the quarter just ended, including at a minimum a balance sheet and income statement.
- Within forty-five (45) days after the end of each quarter in the fiscal year, the CVB shall conduct a meeting (on at least three (3) days advance published notice) to present the financial report for the quarter just ended and obtain public input on it and the Work.
- F. CVB will provide City quarterly reports containing detailed information on performance of the Work, including performance reports listing all groups and/or events added to the City Manager or designee schedule in that period with accompanying information such as names, dates booked, estimated attendance and estimated room nights. CVB shall provide City with any reports or documentation required by federal or state law as such laws may be amended from time to time during term of this Agreement.

4. Payments by the City

- A. In addition to any particular limitations and conditions specifically stated in this Agreement, all obligations of the Agreement from proceeds of the hotel occupancy tax available to pay for the Work under this Agreement, and further subject to the actual collection of these tax proceeds, this Agreement imposes no obligation upon City to levy and collect this tax.
- B. City shall pay to CVB quarterly in arrears from hotel tax revenue appropriated for this Agreement. Hotel tax revenue shall be spent solely to perform the Work allowable under Section 351 and fund compliance with this Agreement, including the preparation of reports and financial statements, and auditing of the latter. CVB acknowledges it has a fiduciary duty to City regarding hotel occupancy funds.
- C. CVB is an independent entity, and the relationship between CVB and City is and shall remain that of independent contractors. City is not and shall not be liable for any of CVB's debts or obligations, including any operating deficit that may arise. CVB shall not hold itself out as an agent of City, nor in any way purport to bind City with respect to any contract or other obligation. CVB shall defend,

indemnify and hold City harmless against any cost, claim, expense, liability, award or judgment (claim) arising in whole or in part out of, or alleged to arise in whole or in part out of the operations or activities of CVB. City may set-off and apply against any such claim (or against City's cost of defending against such claim) any amount City owes CVB. CVB shall carry insurance in the following types and amounts for the duration of this Agreement and, prior to commencement date, shall furnish City Manager with Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence thereof; including insurance for special events, which may be outside the scope of general coverage:

- (i) Statutory workers' compensation and employers' liability coverage with minimum policy limits for employers' liability of \$100,000 bodily injury to each accident, \$500,000 bodily injury by disease policy limit, and \$100,000 bodily injury by disease each employee;
- (ii) Commercial general liability insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000. The policy shall provide contractual liability coverage for liability assumed under this contract, products and completed operations coverage and independent contractors coverage;
- (iii) Business automobile liability insurance for all owned, non-owned and hired vehicles with a limit of \$500,000 per occurrence for bodily injury and property damage liability;
- (iv) Directors and officers coverage with a minimum of not less than \$1,000,000 per claim shall be in place for protection from claims arising out of negligent acts, errors or omissions for directors and officers while acting in their capacities as such; and
- (v) "All risk" property coverage (excluding flood and earthquake) at 100% replacement cost value for contents in the CVB's care, custody or control. The coverage will be primary, and the City will be shown as loss payee on the policy.

If coverage is written on a claims-made basis, the coverage, including renewals, shall have a retroactive date coincident with or prior to the date of this Agreement and the certificate of insurance shall state that coverage is claims-made and the retroactive date. This coverage shall be continuous for not less than twenty-four (24) months following completion of service under this Agreement. CVB shall provide all provisions of this Agreement concerning liability, duty and standard of care, together with indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies. CVB shall not commence work under this Agreement until it has obtained all required insurance and the City Manager's office has reviewed such insurance coverage. Required insurance shall be written by a company licensed to do business in State of Texas at the time the policy is issued. In any event, Company must be rated by A.M. Best at B+VII or better and acceptable to City. CVB shall produce an endorsement to each affected liability policy that: (a) names City as additional insured (except workers' compensation), with the right of subrogation against City, waived and (b) obligates insurance company to notify City at the following

address of any non-renewal, cancellation, or material changes to the policy, at least thirty (30) calendar days before change or cancellation:

City of Nacogdoches
City Manager
202 East Pilar Street
Nacogdoches, Texas 75961

CVB shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of this Agreement or the twenty-four (24) month period following completion in the case of a claims-made policy. City reserves right to review insurance requirements of this section during the effective period of this Agreement and to make reasonable adjustments to insurance coverage, their limits when deemed necessary, based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company, as well as that of CVB. City shall be entitled, upon request, and without expense to City, to receive copies of the requisite insurance policies and all endorsements thereto and may make any reasonable requests for deletion, revisions or modification of particular policy terms, conditions, limitations, or exclusions. (Except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any such policies.)

- D. The CVB shall occupy certain areas of the Historic Town Centre rent-free. Such areas of occupancy by the CVB shall be determined at the sole discretion of the City. The CVB shall be responsible for utilities, janitorial supplies, and building maintenance. The CVB shall set aside at least \$5,000 per year for building maintenance and shall accumulate such funds for major repairs and/or replacements. The City shall insure the building.

5. Other Requirements

- A. CVB Treasurer and any other board member or employees deemed applicable, if any, shall be bonded in a minimum amount of \$100,000 each.
- B. For the purposes of this Agreement and CVB Bylaws, City agrees the term “competitive strategy” shall mean: selling Nacogdoches strengths against competitors’ weaknesses, developing and/or negotiating sponsorship and contribution agreements, competition for tourism special events, promotional/seasonal packaging and programs, and introduction of a new advertising campaign.
- C. Except as provided in CVB Bylaws, Articles of Incorporation or in this Agreement, CVB may conduct its affairs and engage in such other activities as it deems appropriate, so long as such actions (i) are consistent with its purposes as stated in this Agreement and Articles of Incorporation, (ii) comply with applicable laws, and (iii) do not impair its ability to carry out its duties under this Agreement.
- D. City may require CVB to perform an annual performance audit. City will determine the scope of work, and CVB will pay for said performance audit.

6. Early Termination

Either party may terminate this Agreement for any reason, with or without cause, by providing thirty (30) days' written notice to the other party of said termination. Such right to terminate this Agreement shall be without prejudice to the other legal and equitable rights of the parties.

7. Applicable Laws

Claims by or against the parties shall be governed by the Texas Tort Claims Act or other appropriate statutes, ordinances, or laws of the State of Texas.

8. Non-Waiver

It is expressly understood and agreed that, in the execution of this Agreement, no party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

9. Venue

Each party to this Agreement agrees that if legal action is brought under this Agreement, exclusive venue shall lie in Nacogdoches County, Texas.

10. Governing Law

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas.

11. Cooperation

Upon expiration or termination hereof for any reason, CVB shall cooperate with City to ensure a smooth transition and completion of the Work. Without limiting the generality of the foregoing, CVB shall promptly, but not more than sixty (60) days following termination, turn over to City without charge all unspent Hotel Tax Revenue as well as all other City contributed revenue funds, including balance of reserve fund, and all property purchased with Hotel Tax Revenue or City provided funds and upon request shall assign to City all contracts, rights and claims relating to the Work. Termination of this Agreement shall not impair the rights of City under state law, articles of incorporation or bylaws of CVB or under any other contract between City and CVB.

12. Contract Administration

This Agreement shall be administered by City through the City Manager or designee, and all communications from CVB to City concerning this Agreement and the Work shall be directed to the City Manager or designee, unless otherwise specified herein or in CVB Bylaws. CVB shall deliver to the City Manager simultaneously a copy of any notice required by this Agreement or such bylaws to be delivered to another City official.

13. Miscellaneous

This Agreement may not be amended without written consent of the parties. This Agreement is for the benefit of City and CVB only and no other party may seek to

enforce it or assert any rights under it. CVB may not assign this Agreement without the prior written consent of City. Delay by a party in enforcing, or failure by such party to enforce, a right under this Agreement shall not be deemed a waiver of the same. A waiver of party's rights shall be effective only if in writing and shall be limited to the single event or occurrence specified. This Agreement may be executed in one or more counterparts. This Agreement, including its exhibits, attachments, and applicable City-approved Marketing Plans and Budgets, represents the entire agreement between the parties regarding the subject matter hereof, and there are no other representations, understandings, or agreements between the parties relative to such subject matter.

14. Articles of Incorporation/Bylaws

City shall have the right to approve any proposed changes to CVB Articles of Incorporation or Bylaws.

In Witness Whereof, the City of Nacogdoches and the Nacogdoches Convention and Visitors Bureau have caused this Agreement to be executed and delivered by their duly authorized representatives as of the date specified below:

CITY OF NACOGDOCHES, TEXAS

Signature: _____
Print Name: Jimmy Mize
Title: Mayor
Date: _____

NACOGDOCHES CONVENTION AND VISITORS BUREAU

Signature: _____
Print Name: SHERRY MORGAN
Title: Executive Director
Date: _____



City Council Meeting

Date: October 11, 2022

Agenda Item: 6.A.

PRESENTER: Sherry Morgan, Executive Director at Nacogdoches Convention & Visitors Bureau

ITEM/SUBJECT: Receive a presentation from the Massey Rose Foundation regarding the Old Town Rig Down held September 16-17, 2022 in downtown Nacogdoches. (Convention and Tourism Director/Steven Molanders and Troy Massey)

SUMMARY/BACKGROUND: The Old Town Rig Down was held September 16-17, 2022 in downtown Nacogdoches. This event included two days of vendors, food, concerts, a live auction, big rig light shows and much more. One hundred percent of the net proceeds went directly to the Nacogdoches Community, including the Old University Building, Boys and Girls Club, Nacogdoches Animal Shelter and Christ Episcopal School.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Downtown Entertainment and Destination District

CITY CONTACT: Sherry Morgan, Director of Conventions and Tourism
sherry@visitnacogdoches.org
936-564-7351

ATTACHMENTS:



City Council Meeting

Date: October 11, 2022

Agenda Item: 6.B.

PRESENTER: Alaina Helton, City Planner

ITEM/SUBJECT: Consider acceptance of a donation in the amount of \$50,000 from the Massey Rose Foundation to the Nacogdoches Animal Shelter. (Director of Planning & Neighborhood Services)

SUMMARY/BACKGROUND: The Massey Rose Foundation is a non-profit organization that conducted a fundraising event, known as the Old Town Rig Down, on September 16-17, 2022 in Downtown Nacogdoches. The Massey Rose Foundation has donated \$50,000 of the proceeds collected at this event to the Nacogdoches Animal Shelter. This donation will cover facility security improvements and other capital as needed for the Animal Shelter.

FINANCIAL:

Item is not budgeted (*Budget Amendment required – see attached*)

Account No.: 24.19.680.00

Account Name: *Building Security Improvements*

Amount: \$30,000

Account No.: 24.19.680.90

Account Name: *Other Capital as Needed*

Amount: \$20,000

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Alaina Helton, Director of Planning & Neighborhood Services
heltona@nactx.us
936-559-2572

ATTACHMENTS: 1. Ordinance

ORDINANCE NO. 1940-10-22

AN ORDINANCE AMENDING ORDINANCE NO. 1929-09-22 APPROPRIATING VARIOUS AMOUNTS IN ACCORDANCE WITH BUDGET ADOPTED FOR THE ENSUING FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023.

WHEREAS, the City Council of the City of Nacogdoches, Texas has approved and adopted the budget for said city for the ensuing fiscal year beginning October 1, 2022 and ending September 30, 2023.

WHEREAS, the Massey Rose Foundation is a non-profit organization that conducted a fundraising event, known as the Old Town Rig Down, on September 16-17, 2022 in Downtown Nacogdoches; and

WHEREAS, the Massey Rose Foundation has donated \$50,000 of the proceeds collected at this fundraising event to the Nacogdoches Animal Shelter; and

WHEREAS, with the adoption of this ordinance, the Finance Department is authorized to accept this donation and expend funds as needed.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Nacogdoches that sums of money as herein set forth in said budget are hereby appropriated and amended for the receipt of funds /payment of capital outlays of the city government of the City of Nacogdoches as follows:

Fund	Dept	Acct.	Department	Description	Amt.
24		559.72	Special Grant Revenue	Massey Rose Foundation Donation	\$50,000
24	19	680.00	Animal Services	Building Security Improvements	\$30,000
24	19	680.90	Animal Services	Other Capital as Needed	\$20,000

PASSED AND APPROVED this the 11th day of October, 2022.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

APPROVED AS TO FORM:

JAN VINSON, City Secretary

STEVEN KIRKLAND, City Attorney

APPROVED AS TO CONTENT:

Pamela Curbow, Director of Finance

PRESENTER: Alaina Helton, City Planner

ITEM/SUBJECT: Public Hearing: Consider a request for a Specific Use Permit, to operate a Piercing Studio in a B-2, General Business District, on Lot 16-A, Block 67, of the North Heights Addition Subdivision, located at 3500 North Street, Suite 10. This request has been made by Primal Piercing & Jewelry. Case Number SUP2022-05. (City Planner)

SUMMARY/BACKGROUND: The request is for a Specific Use Permit (SUP) for the operation of a Piercing Studio at 3500 North Street, Suite 10. The property is zoned B-2, General Business and is developed as a retail shopping center with a mix of commercial uses. Per the Zoning Ordinance, a Piercing Studio is allowed in the B-2, General Business zoning district with approval of an SUP. The SUP process allows Staff, the Commission, and the City Council the opportunity to review, and impose conditions if necessary on such development. The Piercing Studio will operate as part of a jewelry store located in a 1,200 square foot tenant space (Suite-10) in the building located along the eastern perimeter of the shopping center.

Adjacent Land Use & Zoning

The subject property is zoned B-2, General Business and is currently developed as Commercial. The surrounding zoning and land uses are as follows:

Direction	Comprehensive Plan	Zoning	Land Use
North	Single Family	R-1, Single Family	Single Family
South (Across E. Lakewood St.)	Single Family	B-2, General Business	Commercial
East	Single Family	R-1, Single Family	Single Family
West	Single Family & Commercial	B-2, General Business	Commercial

The surrounding areas to the west and south are zoned and developed as commercial properties, with the properties to the north and east zoned and developed with single family residences. The shopping center is made up of a mix of uses, including medical, retail, office and service-oriented businesses. The proposed SUP will not change the uses permitted under the current B-2 zoning district.

STAFF REVIEW:

Per Section 118.139 of the Nacogdoches Zoning Ordinance, the following conditions shall be considered when reviewing an application for a Specific Use Permit:

Compatibility: The specific use will be compatible with and not injurious to the use and enjoyment of other property in the immediate vicinity, nor significantly diminish or impair property values within the immediate vicinity;

The proposed SUP is located within one of the City's main commercial corridors, and will utilize an existing 1,200 square foot tenant space that fronts North Street. The proposed operating hours are between 2 p.m. and 9 p.m., Wednesday through Sunday.

Orderly Growth and Development: The establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property;

The proposed SUP is located within an existing shopping center and no new construction is proposed. There is no vacant land located adjacent to the property.

Supporting Facilities: Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;

The subject property takes direct access from North Street, a major collector street which functions as primary access for the property and other commercial uses in the area. The property takes secondary access to E. Lakewood Street.

Drives and Parking: The design, location and arrangement of all driveways and parking spaces provides for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;

The SUP will not require a redesign of any drives or parking. The existing parking is adequate for the proposed use.

Nuisances: Adequate nuisance-prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration;

All activities will be limited to the interior of the building, with hours of operation limited to no later than 9 p.m. The proposed use should not produce any offensive odor, fumes, dust, noise, or vibration.

Lighting: Any lighting to be provided will be directional so as not to disturb or adversely affect neighboring properties;

There is no new lighting proposed with this SUP. Any new outdoor lighting must meet the City's lighting ordinance restrictions, i.e. only downlighting, no spillover lighting onto neighboring properties.

Landscaping: Sufficient landscaping and screening to ensure harmony and compatibility with adjacent property exists or will be provided;

This proposed use is located within an existing commercial center and all activities will take place entirely with the structure. No renovations or additions are proposed, therefore no additional landscaping is required.

Comprehensive Plan: The proposed use is in accordance with the comprehensive plan.

Future Land Use

The 2003 Comprehensive Plan designates this area as *Residential* on the Future Land Use Plan (FLUP). This Land Use category is defined as "Conventional one-family detached dwellings (also includes duplexes)." Staff finds that the FLUP designation is not consistent with the developed uses or the underlying B-2, General Business zoning of the subject property. Approval of the SUP will not change the land uses permitted by current B-2, General Business zoning designation.

NOTICES & COMMUNITY INPUT:

Of the 9 notices mailed to property owners within the 200 foot notification area Staff has received no response forms in opposition or in favor of the request.

Neighborhood Input: The applicant held a neighborhood meeting for the property owners within 500 feet of the subject property on August 24, 2022 to discuss and answer questions about the request. None of the surrounding property owners attended the meeting.

This zoning application was also subject to the additional noticing practices that were approved by City Council in January, 2021. These include: a zoning sign located on the subject property; notices published on the City's webpage and social media platforms; and, mailed courtesy notices to property owners within 500 feet of the subject property.

RECOMMENDATION:

P&Z Recommendation

The P&Z Commission heard this item on September 26, 2022 and voted unanimously (5-0) to approve the Specific Use Permit as proposed by the applicant.

Staff Recommendation

Staff supports the recommendation of the P&Z Commission to approve of the Specific Use Permit.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

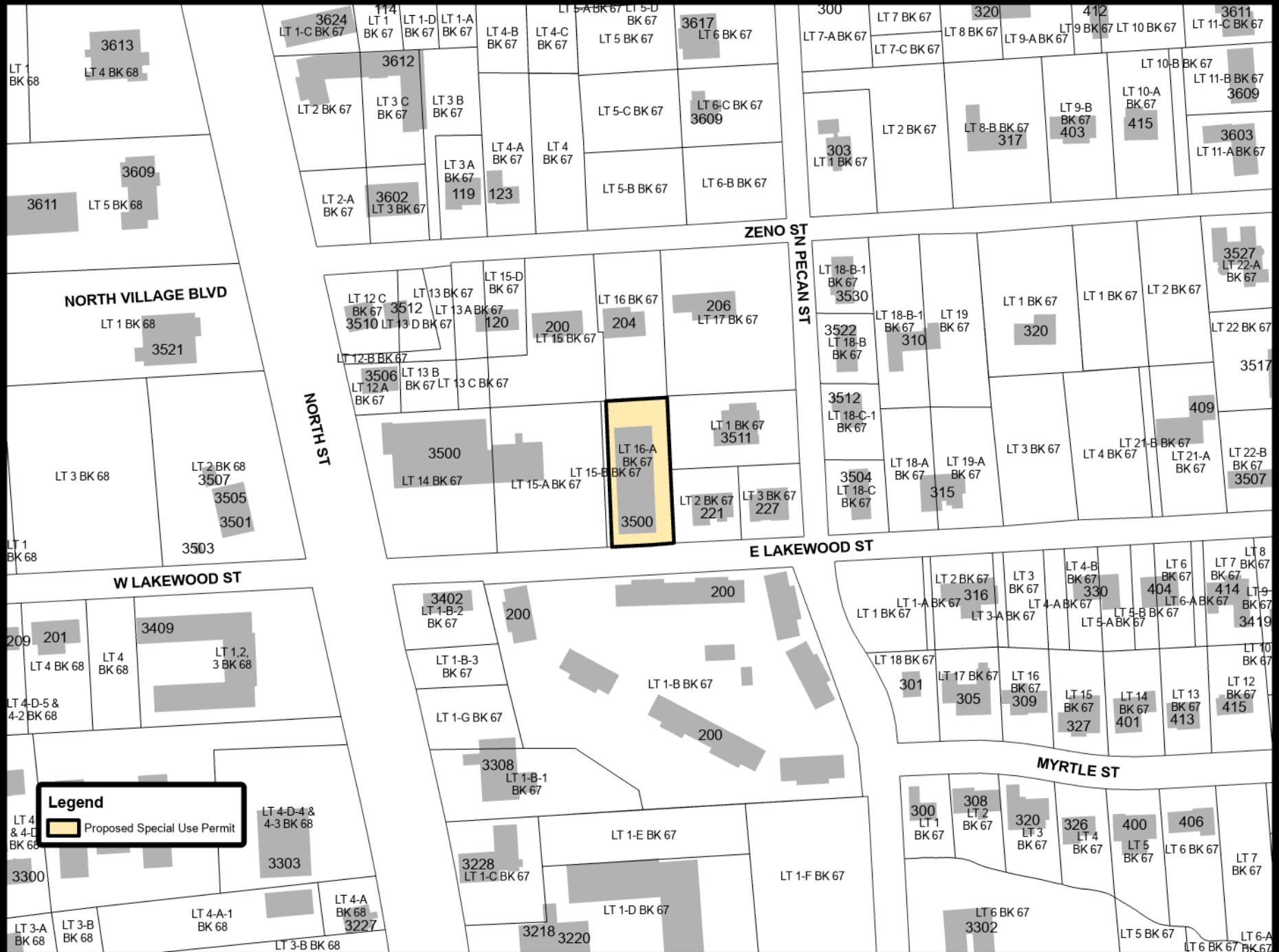
Not Applicable

CITY CONTACT: Alaina Helton, AICP, City Planner
heltona@nactx.us
936-559-2572

ATTACHMENTS:

1. Location Map
2. Aerial Map
3. Zoning Map
4. Future Land Use Map
5. Notification Map
6. Site Photos
7. Ordinance

SUP 2022-05



Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



0 50 100 200 Feet

Date Created: September 6, 2022 Software: ArcGIS Pro 3.0.1





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0 50 100 200 Feet

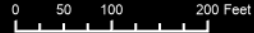
Date Created: September 6, 2022 Software: ArcGIS Pro 3.0.1

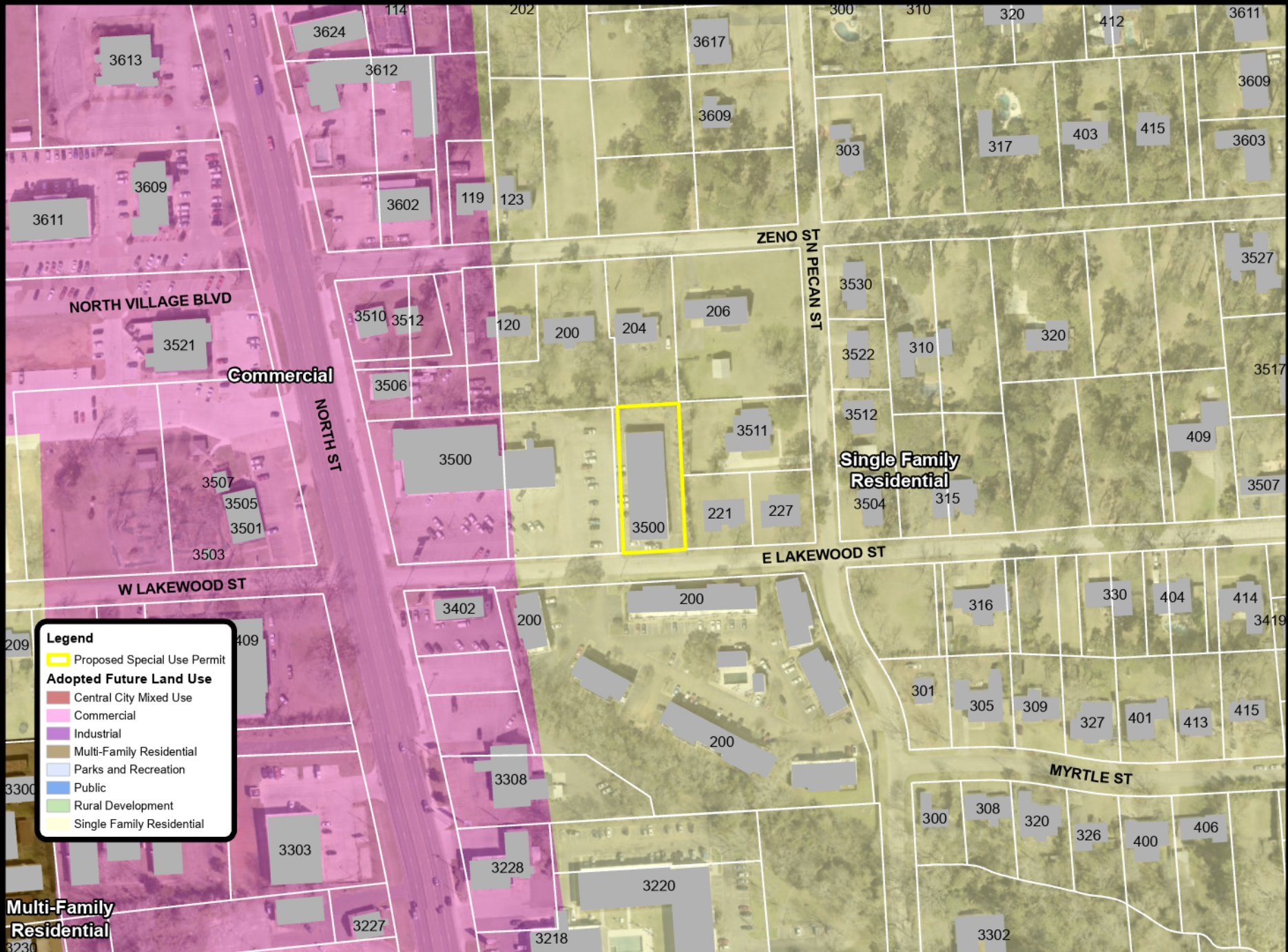


Legend

- Proposed Special Use Permit
- A - Agriculture
- B-1 - Local Business
- B-2 - General Business
- B-3 - Central Business
- DA - Development Agreement
- I-1 - Light Industrial
- I-2 - Heavy Industrial
- M - Medical
- PD - Planned Development
- R-1 - Single Family
- R-2 - Single Family
- R-3 - Two Family
- R-4 - Multi Family

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0 50 100 200 Feet

200 Foot Notification Map

Legend

 200 Foot Buffer

 Proposed SUP

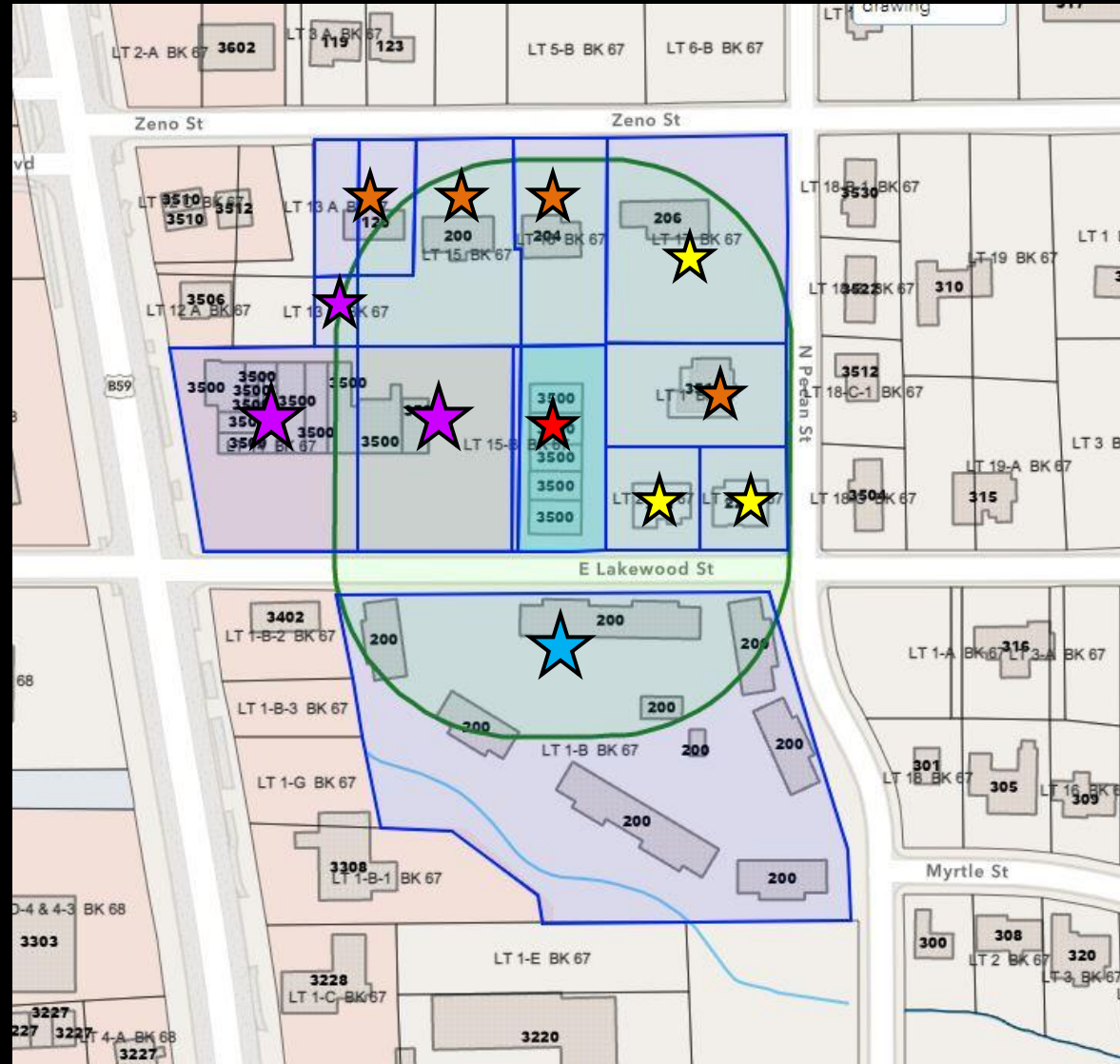
 Multifamily

 Single Family- Rental

 Single Family-
Owner Occupied

 Commercial

SUP2022-05: 3500 North St.



SUP2022-05 – Site Photos



Subject property view
from parking lot





Street view from E.
Lakewood St.

West side of the
shopping center





Commercial property
to the south across E.
Lakewood St.



Multifamily property to
the south across E.
Lakewood St.



Street view looking
north along North St.

Street view looking
south along North St.



ORDINANCE NO. 1937-10-22

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, GRANTING A SPECIFIC USE PERMIT FOR AN TATTOO SALON/BODY PIERCING STUDIO LOCATED WITHIN THE B-2, GENERAL BUSINESS ZONING DISTRICT, BEING LOT 16-A, BLOCK 67, OF THE NORTH HEIGHTS ADDITION SUBDIVISION, LOCATED AT 3500 NORTH STREET (SUITE 10), IN NACOGDOCHES, TEXAS, PROVIDING REQUIREMENTS AND CONDITIONS FOR SAID SPECIFIC USE PERMIT; CONTAINING FINDINGS; PROVIDING A REPEAL CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Specific Use Permit process allows the Planning and Zoning Commission and City Council to consider the conditions specific to individual tracts of land and operational characteristics of various businesses; and

WHEREAS, Primal Piercing & Jewelry filed an application for a Specific Use Permit for Piercing Studio on property that is currently zoned as B-2, General Business; located at 53500 North Street, said tract being legally described as Lot 16-A, Block 67, of the North Heights Addition Subdivision (the “Property”), and situated within the corporate limits of the City of Nacogdoches, Texas (the “City”), being more particularly described in **Exhibit “A”**, attached hereto and made a part hereof for all purposes; and

WHEREAS, the Owner of the Property, through its above mentioned and duly authorized representatives, has presented an application to the City for the granting a Specific Use Permit to use said Property for the purpose of an Piercing Studio (the “Specific Use”), as authorized by the City's Zoning Ordinance; and

WHEREAS, after satisfaction of all conditions precedent required by law, the Planning and Zoning Commission held a public hearing and did make recommendation to City Council for approval of the Specific Use Permit application submitted for the above referenced site; and

WHEREAS, after satisfaction of all conditions precedent required by law and receiving the recommendation of the Planning and Zoning Commission, the City Council conducted a public hearing, and immediately thereafter approved the application for a Specific Use Permit allowing for the construction, operation and maintenance of an Piercing Studio.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS:

SECTION I
Findings.

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct, and same are deemed to be in furtherance of a public purpose.

SECTION II

Approval of Specific Use Permit

Pursuant to the requirements of Chapter 118 of the Code of Ordinances of the City of Nacogdoches, Texas, a Specific Use Permit is hereby approved allowing for the construction, operation and maintenance of a Piercing Studio at the above described location, with the following conditions:

1. The Piercing Studio shall not exceed 1,200 square feet in size.
2. Hours of operation for Piercing Studio activities will be as follows: Wednesday through Sunday, between 2pm - 9pm.

SECTION III

Repeal

This Ordinance shall in no manner repeal, amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting of the Specific Use Permit as herein provided.

SECTION IV

Effective Date

This Ordinance shall take effect following its passage and publication as may be required by governing law.

SECTION V

Severability

If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION VI

Proper Notice and Open Meetings

It is hereby officially found and determined that the meeting at which this Ordinance was 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 Meetings Act, Chapter 551 of the Texas Government Code.

SECTION VII

Filing

The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this Ordinance in and among the records of the City of Nacogdoches, Texas.

PASSED AND APPROVED, this the ____ day of _____, 2022, by a vote of ____ (ayes) to _____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

JAN VINSON, City Secretary

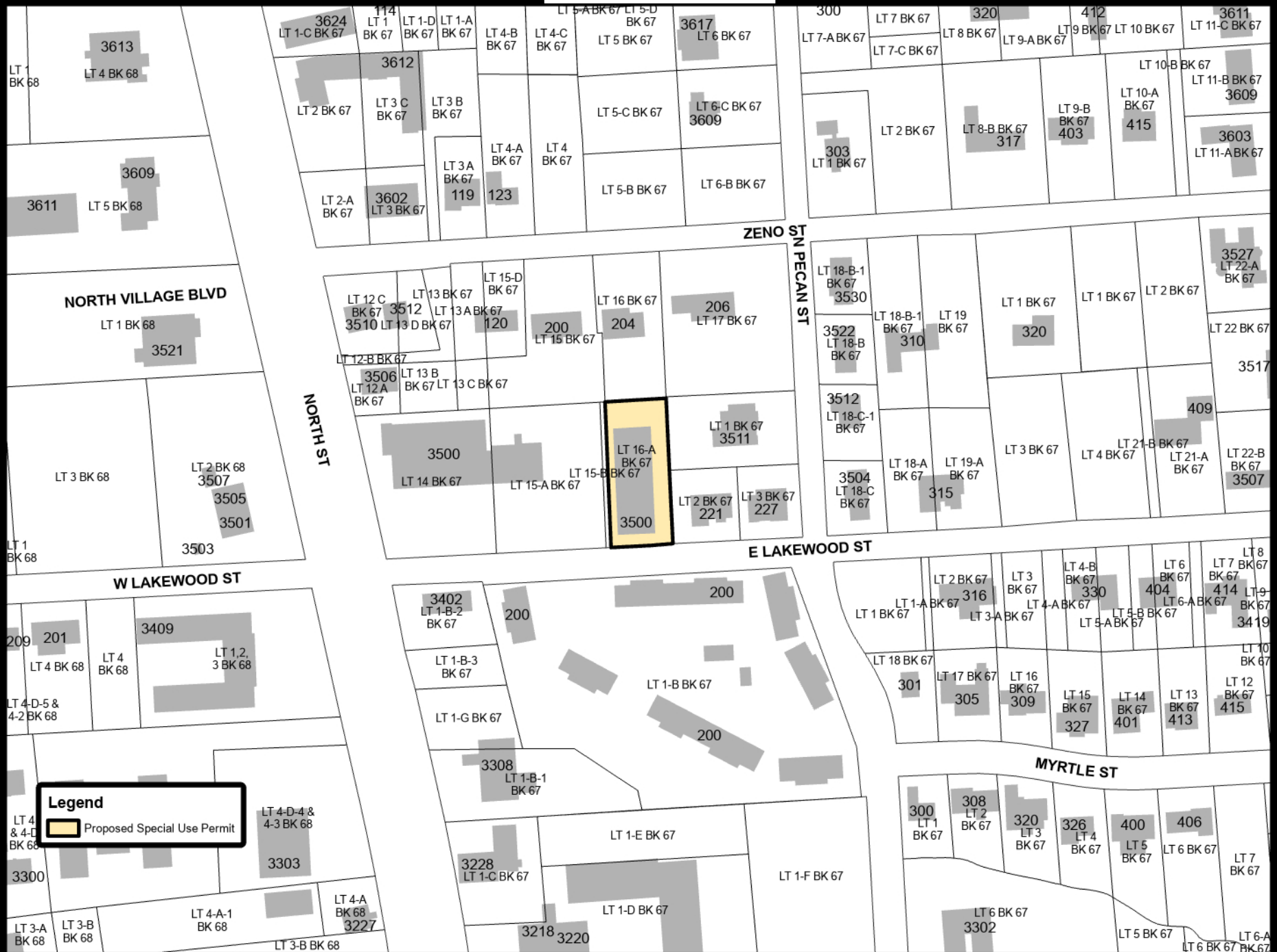
APPROVED AS TO FORM:

STEVEN KIRKLAND, City Attorney

APPROVED AS TO CONTENT:

ALAINA HELTON, City Planner

Exhibit A



Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



0 50 100 200 Feet

Date Created: September 6, 2022 Software: ArcGIS Pro 3.0.1



PRESENTER: Alaina Helton, City Planner

ITEM/SUBJECT: Public Hearing: Consider a request for a Zone Change from A, Agricultural to R-4, Multi-Family for approximately 15 acres, being Lots 10-A and 12, of City Block 50, generally located at the southwest corner of West Austin and Pearl Street. This request has been submitted by 2 Prepay Communications Services LLC. Case Number ZON2022-08. (City Planner)

SUMMARY/BACKGROUND: The request is for a zone change from A, Agricultural to R-4, Multi-Family for approximately 18 acres located at the southwest corner of W. Austin and Pearl Street. The R-4, Multi-Family Dwelling District is intended for higher density residential areas which may contain a mixture of single-family, two-family, and multiple-family dwellings. The applicant has submitted a letter and preliminary concept plan (for discussion purposes) for an apartment complex. The plan includes amenities such as a club house, swimming pool, basketball court, green space, and a walking track around the perimeter of the property. The applicant has agreed to limit the zone change request to the portion of the property located outside of the FEMA 100-Year Floodplain.

Adjacent Land Use & Zoning

The subject property is zoned A, Agriculture and is mainly undeveloped except for a vacant single family structure. The surrounding zoning and land uses are as follows:

Direction	Comprehensive Plan	Zoning	Land Use
North (Across W. Austin St.)	Rural Development & Multi-Family Residential	A, Agricultural	Vacant
South	Rural Development & Multi-Family Residential	R-4, Multi Family	Apartments
East (Across Pearl St.)	Single Family & Multi-Family Residential	R-4, Multi Family	Single Family & Duplex
West	Rural Development	A, Agricultural	Union Pacific Railroad

The properties in the immediate vicinity are primarily zoned R-4, Multi Family with a mix of older residential uses, most of which were constructed in the 1970s and early 80s. The adjacent property to the south is zoned R-4, Multi Family and is developed with a large apartment complex known as University Club Apartments. The area to the east, across Pearl Street, is zoned R-4 and is developed with a mix of residential uses including single family, accessory dwelling unit, duplex, and small multifamily buildings. The property to the north and west are zoned A, Agricultural and are mostly undeveloped due to the location of Banita Creek and the significant floodplain running along the western property lines.

STAFF REVIEW:

Per Section 118.139 of the Nacogdoches Zoning Ordinance, the following conditions shall be considered when reviewing an application for zoning change:

Compatibility: The specific use will be compatible with and not injurious to the use and enjoyment of other property in the immediate vicinity, nor significantly diminish or impair property values within the immediate vicinity;

The properties within the immediate vicinity are primarily zoned R-4, Multi Family, with a large apartment complex to the south, and a mixed-use residential neighborhood to the east across Pearl Street. The property is bounded by W. Austin Street to the north, and by Banita Creek and the Union Pacific Railroad to the west.

The zone change request is consistent with the existing multifamily zoning and development pattern in the area. A Traffic Impact Analysis (TIA) will be required for any development of 70 or more apartment units. This study will evaluate the degree to which the traffic generated by the development will affect the adjacent or surrounding transportation system and recommend improvements if needed.

Banita Creek runs along the western boundary of the property, with approximately half of the property within a FEMA-regulated floodplain. The applicant has agreed to limit the zone change request to the portion of the property located outside of the FEMA 100-Year Floodplain.

Orderly Growth and Development: The establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property;

The property is bound by W. Austin Street to the north and Pearl Street to the east. Property to the south is developed, and the property is bound on the west side by Banita Creek and the Union Pacific Railroad. The rezoning should not impede the orderly growth of adjacent properties.

Supporting Facilities: Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;

The subject property currently takes direct access from Pearl St. The property has access to public utilities, with 12-inch water main along W. Austin St. and a 6-inch water and sewer main along Pearl St. The number of apartment units proposed by the applicant will require the need for a TIA to address any possible deficiencies and to insure the roadway is adequate to accommodate the nature and volume of traffic typically generated by the proposed use. A sidewalk is also located on the north side of W. Austin Street, connecting Pearl to North Street.

Drives and Parking: The design, location and arrangement of all driveways and parking spaces provides for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;

Future development will meet all current driveway and parking requirements.

Nuisances: Adequate nuisance-prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration;

Future development will comply with City regulations regarding the prevention of offensive odor, fumes, dust, noise and vibrations.

Lighting: Any lighting to be provided will be directional so as not to disturb or adversely affect neighboring properties;

If the zone change request is approved, any new outdoor lighting would be subject to the City's current standards, which requires light fixtures to utilize a down lighting design, and prohibits

fixtures that directly project light in all directions.

Landscaping: Sufficient landscaping and screening to ensure harmony and compatibility with adjacent property exists or will be provided;

Multifamily construction is subject to commercial district landscaping requirements.

Comprehensive Plan: The proposed use is in accordance with the comprehensive plan.

Future Land Use

Per the 2003 Comprehensive Plan, the Future Land Use Plan (FLUP) Map designates the subject property as Rural Development. This FLUP category is described as, “sparsely-populated areas with limited development that are still distinct from more urbanized areas. This typically encompasses relatively large tracts of unsubdivided land used for agriculture, forestry, resource extraction, widely-scattered homesteads and business establishments, natural open space, or activities not requiring permanent structures or improvements. Also includes areas that are gradually transitioning into urban uses and development.” The property is designated as Rural due to the location of Banita Creek and its associated floodplain, which encompasses approximately half of the western portion the property. The applicant has agreed to limit the zone change request to the portion of the property located outside of the FEMA 100-Year Floodplain.

The Zoning Ordinance, **Sec. 118-4. - Relationship to comprehensive plan and thoroughfare plan**, states that "If a zoning or rezoning request differs from what the comprehensive plan recommends for that area, the city planner will advise the applicant of this and will request the applicant to submit a written letter stating the reasons the comprehensive plan should be changed, if he wishes to proceed with the zoning request." A copy of this letter is included as an attachment to this request.

Thoroughfare Plan

Pearl Street is a minor road that serves as direct access for the other residential uses in the area. W. Austin Street is an arterial roadway that connects to freeways and other express roadways. The number of apartment units proposed by the applicant will require the need for a TIA to insure the roadway is adequate to accommodate the proposed development.

Land Use Policies, Goals & Objectives

The applicant has stated that this rezoning is a response to current needs for newer multifamily development with amenities. The request fits into the Goals of the Comprehensive Plan by encouraging Growth Inward, which includes promoting long-term growth in appropriate areas to achieve an efficient, diverse and balanced pattern of land uses, including infill development where appropriate (utilities, compatibility, etc.). The request also meets the Goal of Avoiding Undesirable Outcomes by coordinating future development with the physical environment to preserve and protect natural features.

NOTICES & COMMUNITY INPUT:

Staff mailed 18 notices to property owners within the 200-foot notification area. To date, staff has received two (2) written response in opposition to the zone change, citing concerns regarding the potential for increased traffic and possible lack of property maintenance in the future. In addition, Staff also received written responses in opposition to the request from five (5) residents who do not own property or reside in either the 200-foot or 500-foot notification area. One of the primary concerns expressed in these additional responses is the potential impact the proposed development may have on Banita Creek.

This zoning application was also subject to the additional noticing practices that were approved by City Council in January, 2021. These include: a zoning sign located on the subject property;

notices published on the City's webpage and social media platforms; and, mailed courtesy notices to property owners within 500 feet of the subject property.

Neighborhood Meeting: A neighborhood meeting was held for the property owners within 500 feet of the subject property on July 27, 2022 to discuss the rezoning request. The applicant, City staff, and 14 residents of the Austin Hills subdivision attended the meeting. Some of the concerns raised by several of the residents included the potential increase in traffic along W. Austin Street, increases in noise, and the lack of walkability in the area.

RECOMMENDATION:

P&Z Commission Recommendation

The P&Z Commission heard this item on September 26, 2022 and recommended unanimously to approve the zone change request (5-0) for R-4, Multi-Family for the portion of the property located outside of the FEMA 100-Year Floodplain, but that the rest of the property remain zoned as A, Agricultural. The applicant has stated that they accept the recommendation of the P&Z Commission.

Staff Recommendation

Staff supports the recommendation of the P&Z Commission to approve the zone change request for R-4, Multi-Family for the portion of the property located outside of the FEMA 100-Year Floodplain, as determined by the Floodplain Administrator.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Neighborhood Revitalization and Attainable Housing

CITY CONTACT: Alaina Helton, AICP, City Planner
heltona@nactx.us
936-559-2572

ATTACHMENTS:

1. Applicant Letter
2. Concept Plan
3. Location Map
4. Aerial & Floodplain Map
5. Zoning Map
6. Future Land Use Map
7. Comprehensive Plan Amendment Letter
8. Notification Map
9. Written Responses
10. Site Photos
11. Ordinance

Multi-Family Development Opportunity



ZARA APARTMENTS

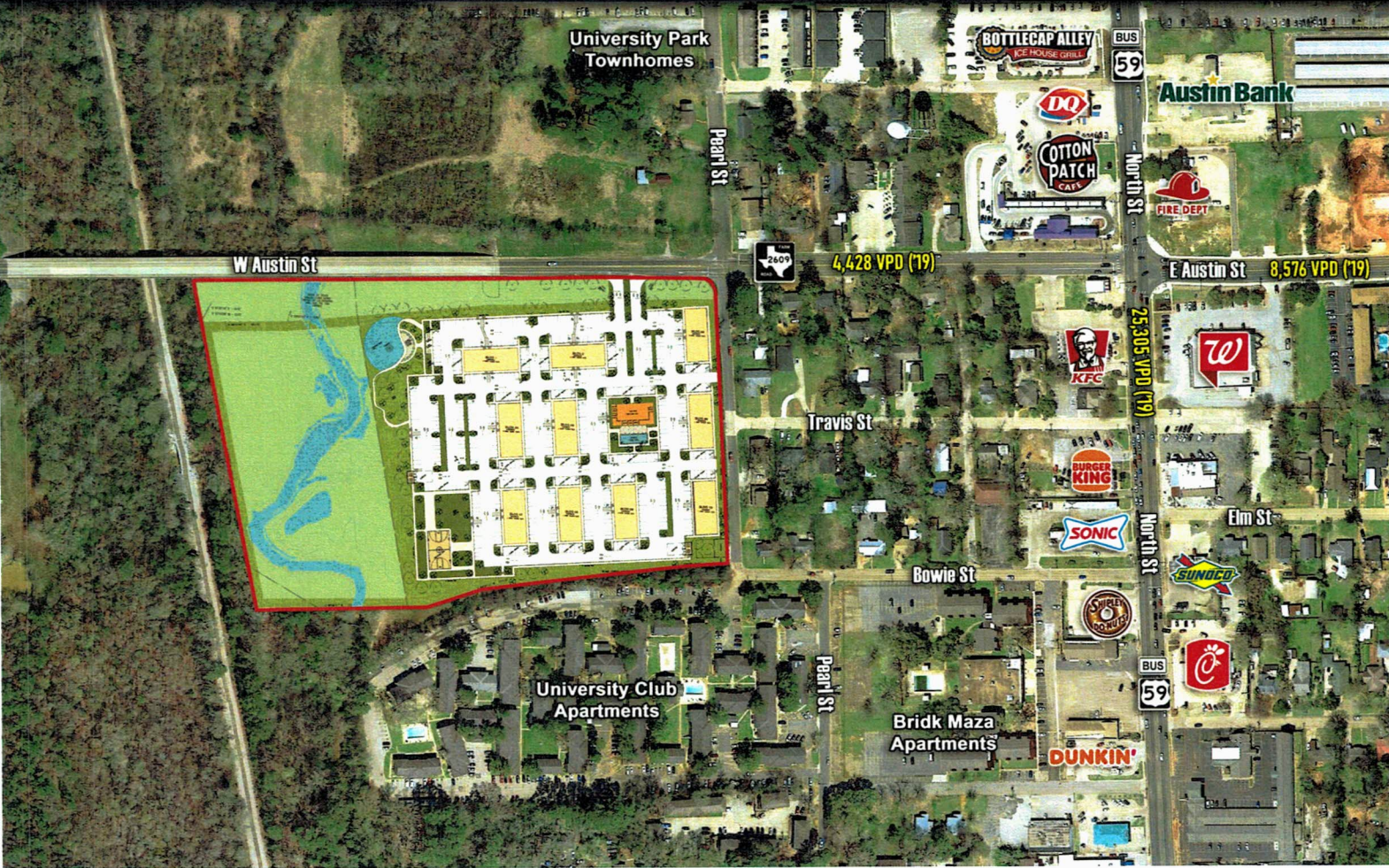
3007 Pearl Street | Nacogdoches, Texas 75965

Mike
214-869-7309
mbicompany@aol.com

Information contained herein was obtained from sources believed reliable. However, no guarantees, warranties or representations are made as to the completeness and accuracies thereof. The presentation of this property is subject to errors, omissions, change of price or conditions, prior sale or lease, or withdrawal without notice.

Multi-Family Development Opportunity

3007 Pearl Street | Nacogdoches, Texas 75965



THE OPPORTUNITY:

MBI Company is please to announce the opportunity to invest in a brand new multifamily development at the southwest corner of Austin St and Pearl St, just west of North Street in the heart of Nacogdoches. The subject property is located in the central portion of Nacogdoches along North St, a primary thoroughfare for the city. Major traffic carriers in the subject neighborhood are Loop 224/Stallings Dr, University Dr, North St, State Hwy 21 & State Hwy 7. The Nacogdoches downtown market is revitalizing with many of the downtown buildings being redeveloped for office, retail, and loft conversions. The renewed demand of the downtown market is enhancing to this area and the growth of new businesses and activity has created a positive marketability factor for the area.

THE PROPERTY:

- Ten (10) 3-Story Buildings (10,000 SF each) - 100,000 SF Total
- Two & Three Bedroom Units with Covered Parking
- Amenities to include: Club House, Swimming Pool, Basketball Court & Greenspace, and Sidewalk / Walking Track all around the Property
- Asking Rents: \$1.60 per square foot

Mike
214-869-7309
mbicompany@aol.com

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Multi-Family Development Opportunity

3007 Pearl Street | Nacogdoches, Texas 75965

Nacogdoches
Texas Starts Here



AREA ANALYSIS:

Nacogdoches is a 300-year-old city known as “The Oldest Town in Texas.” It’s located in the heart of Deep East Texas almost equidistant between Dallas/Fort Worth, Houston and Shreveport, Louisiana. Nestled between three national forests and only a short drive from two of the largest lakes in Texas, Nacogdoches is home to Stephen F. Austin State University and has a population of 33,000. Also designated the Garden Capital of Texas, Nacogdoches is recognized for its natural beauty, creeks and trails. Nacogdoches County is located 130 miles north of Houston, 95 miles southwest of Shreveport and 180 miles southeast of Dallas/Fort Worth.

MULTI-FAMILY HOUSING MARKET:

The majority of the current multi-family inventory in Nacogdoches is dated, with the most recent development occurring in 2007. That development commands rents that far exceed the market average, with a 2 bedroom and 3 bedroom units asking rents of \$1,460 and \$1,859, respectively. The majority of the inventory was constructed in the 1980’s or prior. We believe that there is significant upside for a new development.

GROWTH:

Nacogdoches continues to be well-positioned for growth due to a number of positive factors: the location of Stephen F. Austin University, a central location near population centers of the state; the availability of affordable land for development; and a highly skilled and educated work force with a strong work ethic. The long range outlook is favorable.

Mike
214-869-7309
mbicompany@aol.com

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Multi-Family Development Opportunity

3007 Pearl Street | Nacogdoches, Texas 75965

EMPLOYMENT:

The area contains a wide diversity of businesses and industry including agriculture, timber, retail, manufacturing, and petroleum related businesses. Some of the largest employers in the area are Stephen F. Austin University, Pilgrim's Pride, International Paper and other forest/wood related businesses, Nacogdoches area school districts, as well as other government entities such as Nacogdoches city and county governments.

EDUCATION:

Nacogdoches is home to Stephen F. Austin State University, with more than 12,000 students enrolled. SFA boasts a campus that is recognized as one of the most beautiful in Texas. For almost 100 years, SFA has had an extraordinary academic influence on community, the region and the state. Nestled in a breathtaking pine forest, SFA offers more than 120 degree opportunities and is known throughout the South for excellence in the Colleges of Education, Forestry and Nursing. The local influence is very dependent on the annual economic impact from the university, not only from the influx of students that require housing, retail products and services, but also for the major employer status that the university represents.

UTILITIES:

The subject neighborhood is located within the City of Nacogdoches and therefore, public utilities are generally available throughout. Public water, sanitary sewer and garbage collection are provided by the City of Nacogdoches. Natural gas service is available and TXU Energy provides electricity. Telephone services are provided by Southwestern Bell Telephone. Further city services include police and fire protection, which are considered adequate.



Mike

214-869-7309

mbicompany@aol.com

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Multi-Family Development Opportunity

3007 Pearl Street | Nacogdoches, Texas 75965

AREA COMPS



The Overlook at Nacogdoches

1602 Cardinal St
261 Units / 4 Stories
Rent/SF \$1.60, Vacancy 8.1%
Owner: Campus Realty Management...



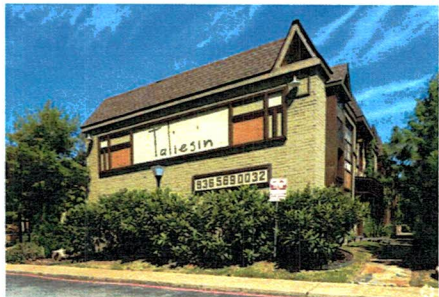
Brick Maze Apartments

2805 North St
131 Units / 2 Stories
Rent/SF \$1.52, Vacancy 15.3%
Owner: Class A Management



3220 North

3220 North St
96 Units / 2 Stories
Rent/SF \$1.48, Vacancy 2.1%
Owner: Hunter W Wheeler



Taliesin Apartments

1811 North St
116 Units / 2 Stories
Rent/SF \$1.33, Vacancy 0%
Owner: Three Skies Management



The Californian of Nacogdoches

728 E Starr Ave
131 Units / 2 Stories
Rent/SF \$1.25, Vacancy 0%
Owner: Three Skies Management



Sunridge Apartments

4502 N University Dr
208 Units / 2 Stories
Rent/SF \$1.20, Vacancy 1.9%
Owner: AMBO Properties



Stone Creek Apartments

4541 NE Stallings Dr
120 Units / 2 Stories
Rent/SF \$1.16, Vacancy 5.0%
Owner: AMBO Properties



Northview Condos

4100 North St
72 Units / 2 Stories
Rent/SF \$1.07, Vacancy 6.9%
Owner: Northview Condos



Windhill Apartments

1324 Pruitt Hill Dr
172 Units / 2 Stories
Rent/SF \$0.99, Vacancy 0%
Owner: Windhill Apartments



Mike

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mbicompany@aol.com

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Multi-Family Development Opportunity

3007 Pearl Street | Nacogdoches, Texas 75965

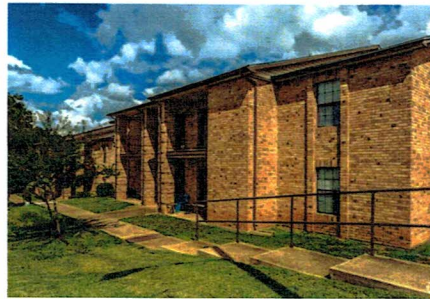
AREA COMPS



The Colonial



3409 North St
32 Units / 2 Stories
Rent/SF \$0.91, Vacancy 6.3%
Owner: James E & Micah M Krauskopf
★★



Chevy Chase Apartments



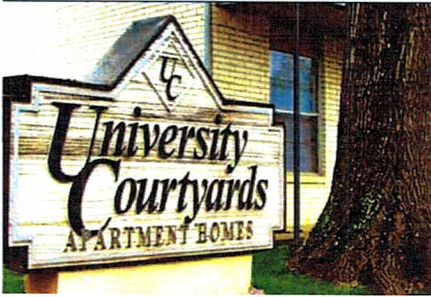
1710 E Starr Ave
120 Units / 2 Stories
Rent/SF \$0.90, Vacancy 5.8%
Owner: LACAL Family LLC
★★★★



University Club Apartments



2807 Pearl St
252 Units / 2 Stories
Rent/SF \$0.89, Vacancy 3.2%
Owner: Dti Investments
★★★★



University Courtyard Apart...



3022 N Pecan St
85 Units / 2 Stories
Rent/SF \$0.87, Vacancy 0%
Owner: Dti Investments
★★



Banita Creek



327 W College St
78 Units / 2 Stories
Rent/SF \$0.86, Vacancy 2.6%
Owner: Banita Creek Properties
★★



Arbor Pines Apartments



3413 E Main St
200 Units / 3 Stories
Rent/SF \$0.84, Vacancy 10.5%
Owner: Post Investment Group
★★★★



Northstar Apartment Homes



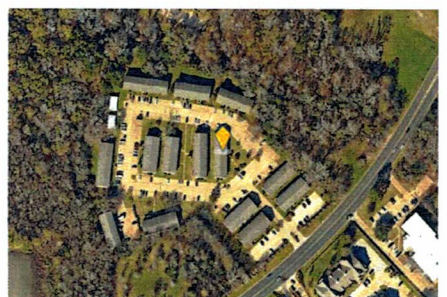
133 Old Line Dr
79 Units / 2 Stories
Rent/SF \$0.83, Vacancy 2.5%
Owner: Gain Management
★★★★



Northeast Hills Apartments



2912 Chimney Rock Dr
83 Units / 2 Stories
Rent/SF \$0.69, Vacancy 0%
Owner: davisRE
★★★★



Whisper Oaks Apartments



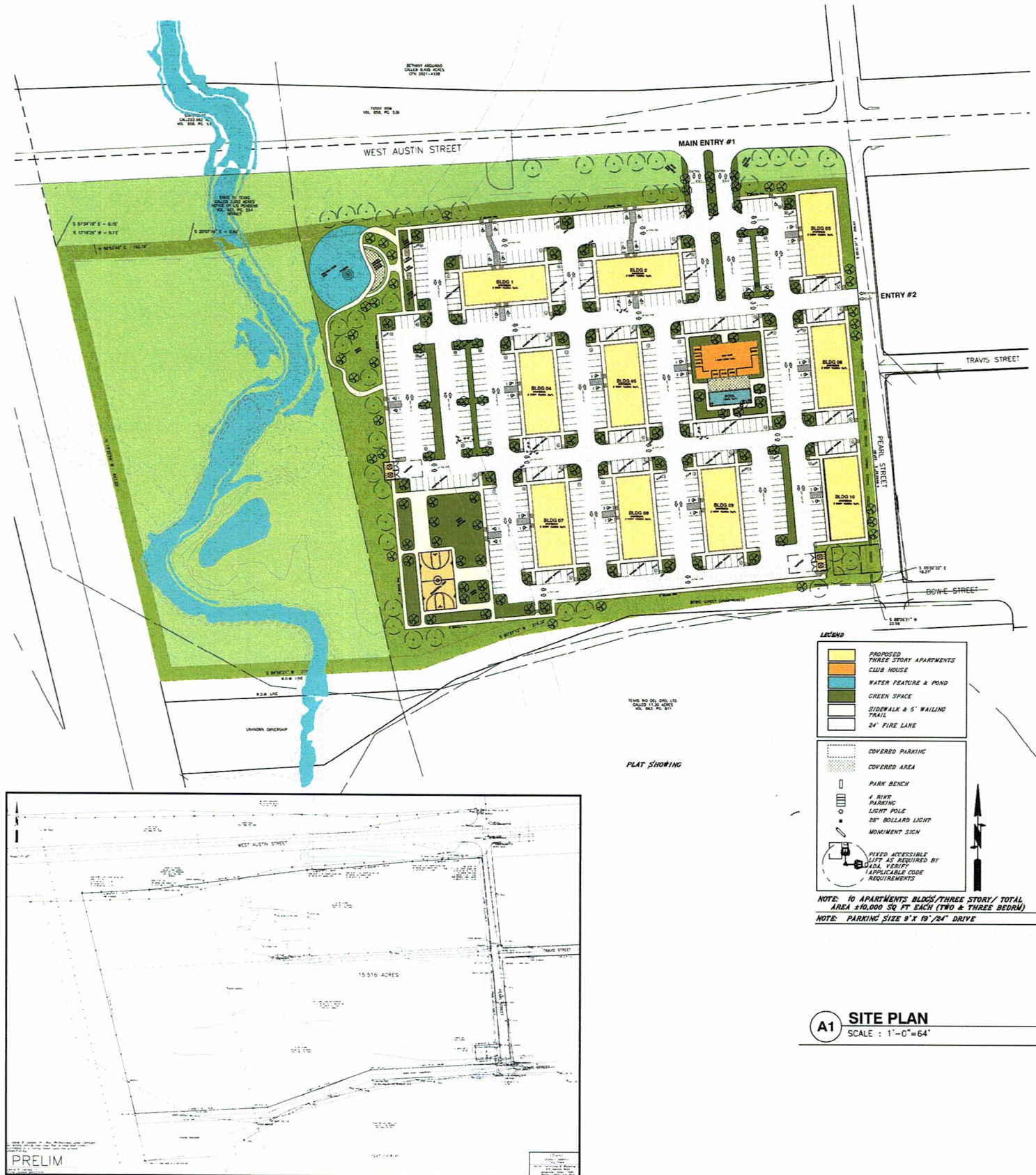
4721 N University Dr
152 Units / 2 Stories
Rent/SF -, Vacancy -
Owner: James S Morrow; Kenneth Ro...
★★

Mike
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mbicompany@aol.com

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Multi-Family Development Opportunity

3007 Pearl Street | Nacogdoches, Texas 75965



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Multi-Family Development Opportunity

3007 Pearl Street | Nacogdoches, Texas 75965



Executive Summary

3007 Pearl St, Nacogdoches, Texas, 75965
Rings: 1, 3, 5 mile radii

Prepared by Esri

Latitude: 31.83108

Longitude: -94.68722

	1 mile	3 miles	5 miles
Population			
2000 Population	7,971	25,321	35,252
2010 Population	8,729	27,557	38,717
2021 Population	8,757	28,424	40,065
2026 Population	8,875	28,859	40,672
2000-2010 Annual Rate	0.91%	0.85%	0.94%
2010-2021 Annual Rate	0.03%	0.28%	0.30%
2021-2026 Annual Rate	0.27%	0.30%	0.30%
2021 Male Population	45.0%	46.2%	46.9%
2021 Female Population	55.0%	53.8%	53.1%
2021 Median Age	21.9	25.6	27.8

In the identified area, the current year population is 40,065. In 2010, the Census count in the area was 38,717. The rate of change since 2010 was 0.30% annually. The five-year projection for the population in the area is 40,672 representing a change of 0.30% annually from 2021 to 2026. Currently, the population is 46.9% male and 53.1% female.

Median Age

The median age in this area is 21.9, compared to U.S. median age of 38.5.

Race and Ethnicity

2021 White Alone	58.0%	58.8%	58.4%
2021 Black Alone	29.5%	26.9%	24.8%
2021 American Indian/Alaska Native Alone	0.5%	0.5%	0.5%
2021 Asian Alone	2.2%	2.0%	1.8%
2021 Pacific Islander Alone	0.1%	0.1%	0.1%
2021 Other Race	6.6%	8.9%	11.7%
2021 Two or More Races	3.1%	2.7%	2.7%
2021 Hispanic Origin (Any Race)	15.7%	18.6%	22.5%

Persons of Hispanic origin represent 22.5% of the population in the identified area compared to 18.9% of the U.S. population. Persons of Hispanic Origin may be of any race. The Diversity Index, which measures the probability that two people from the same area will be from different race/ethnic groups, is 73.8 in the identified area, compared to 65.4 for the U.S. as a whole.

Households

2021 Wealth Index	29	38	42
2000 Households	2,255	9,562	13,043
2010 Households	2,203	10,261	14,133
2021 Total Households	2,333	10,811	14,835
2026 Total Households	2,385	11,009	15,091
2000-2010 Annual Rate	-0.23%	0.71%	0.81%
2010-2021 Annual Rate	0.51%	0.47%	0.43%
2021-2026 Annual Rate	0.44%	0.36%	0.34%
2021 Average Household Size	2.10	2.20	2.38

The household count in this area has changed from 14,133 in 2010 to 14,835 in the current year, a change of 0.43% annually. The five-year projection of households is 15,091, a change of 0.34% annually from the current year total. Average household size is currently 2.38, compared to 2.38 in the year 2010. The number of families in the current year is 8,123 in the specified area.

Mike
214-869-7309
mbicompany@aol.com

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Multi-Family Development Opportunity

3007 Pearl Street | Nacogdoches, Texas 75965



Executive Summary

3007 Pearl St, Nacogdoches, Texas, 75965
Rings: 1, 3, 5 mile radii

Prepared by Esri

April 10, 2018
100% scale 10:00 AM

	1 mile	3 miles	5 miles
Mortgage Income			
2021 Percent of Income for Mortgage	19.4%	17.8%	16.1%
Median Household Income			
2021 Median Household Income	\$30,547	\$36,533	\$38,380
2026 Median Household Income	\$33,726	\$38,090	\$40,247
2021-2026 Annual Rate	2.00%	0.84%	0.95%
Average Household Income			
2021 Average Household Income	\$44,314	\$51,504	\$54,027
2026 Average Household Income	\$47,731	\$54,902	\$58,160
2021-2026 Annual Rate	1.50%	1.29%	1.49%
Per Capita Income			
2021 Per Capita Income	\$13,044	\$19,808	\$20,281
2026 Per Capita Income	\$14,059	\$21,148	\$21,859
2021-2026 Annual Rate	1.51%	1.32%	1.51%

Households by Income

Current median household income is \$38,380 in the area, compared to \$64,730 for all U.S. households. Median household income is projected to be \$40,247 in five years, compared to \$72,932 for all U.S. households

Current average household income is \$54,027 in this area, compared to \$90,054 for all U.S. households. Average household income is projected to be \$58,160 in five years, compared to \$103,679 for all U.S. households

Current per capita income is \$20,281 in the area, compared to the U.S. per capita income of \$34,136. The per capita income is projected to be \$21,859 in five years, compared to \$39,378 for all U.S. households

Housing

2021 Housing Affordability Index	116	123	137
2000 Total Housing Units	2,565	10,523	14,387
2000 Owner Occupied Housing Units	548	3,899	6,225
2000 Renter Occupied Housing Units	1,707	5,663	6,818
2000 Vacant Housing Units	310	961	1,344
2010 Total Housing Units	2,585	11,515	15,888
2010 Owner Occupied Housing Units	571	3,881	6,303
2010 Renter Occupied Housing Units	1,632	6,380	7,830
2010 Vacant Housing Units	382	1,254	1,755
2021 Total Housing Units	2,710	12,160	16,738
2021 Owner Occupied Housing Units	551	3,668	6,056
2021 Renter Occupied Housing Units	1,782	7,144	8,778
2021 Vacant Housing Units	377	1,349	1,903
2026 Total Housing Units	2,784	12,471	17,157
2026 Owner Occupied Housing Units	578	3,797	6,293
2026 Renter Occupied Housing Units	1,807	7,211	8,798
2026 Vacant Housing Units	399	1,462	2,066

Currently, 36.2% of the 16,738 housing units in the area are owner occupied; 52.4%, renter occupied; and 11.4% are vacant. Currently, in the U.S., 57.3% of the housing units in the area are owner occupied; 31.2% are renter occupied; and 11.5% are vacant. In 2010, there were 15,888 housing units in the area - 39.7% owner occupied, 49.3% renter occupied, and 11.0% vacant. The annual rate of change in housing units since 2010 is 2.34%. Median home value in the area is \$147,526, compared to a median home value of \$264,021 for the U.S. In five years, median value is projected to change by 3.02% annually to \$171,168.

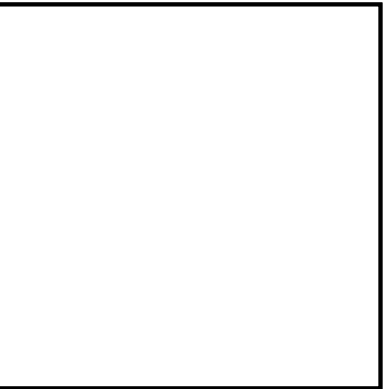
Mike
214-869-7309
mbicompany@aol.com

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1
ARCHITECT + ASSOCIATES, INC.
ARCHITECTURE-PLANNING

15601 PRESTON RD., SUITE-400, DALLAS, TX 75240
Tel: (214) 730-0666, (214) 738-3618 (Cell)
E-mail: mdewon@1architect.com



OWNER:
ALI MAKHANI

Proposed
ZARA APARTMENTS
E AUSTIN ST.
NACOGDOCHES, TX 75965

SEAL:

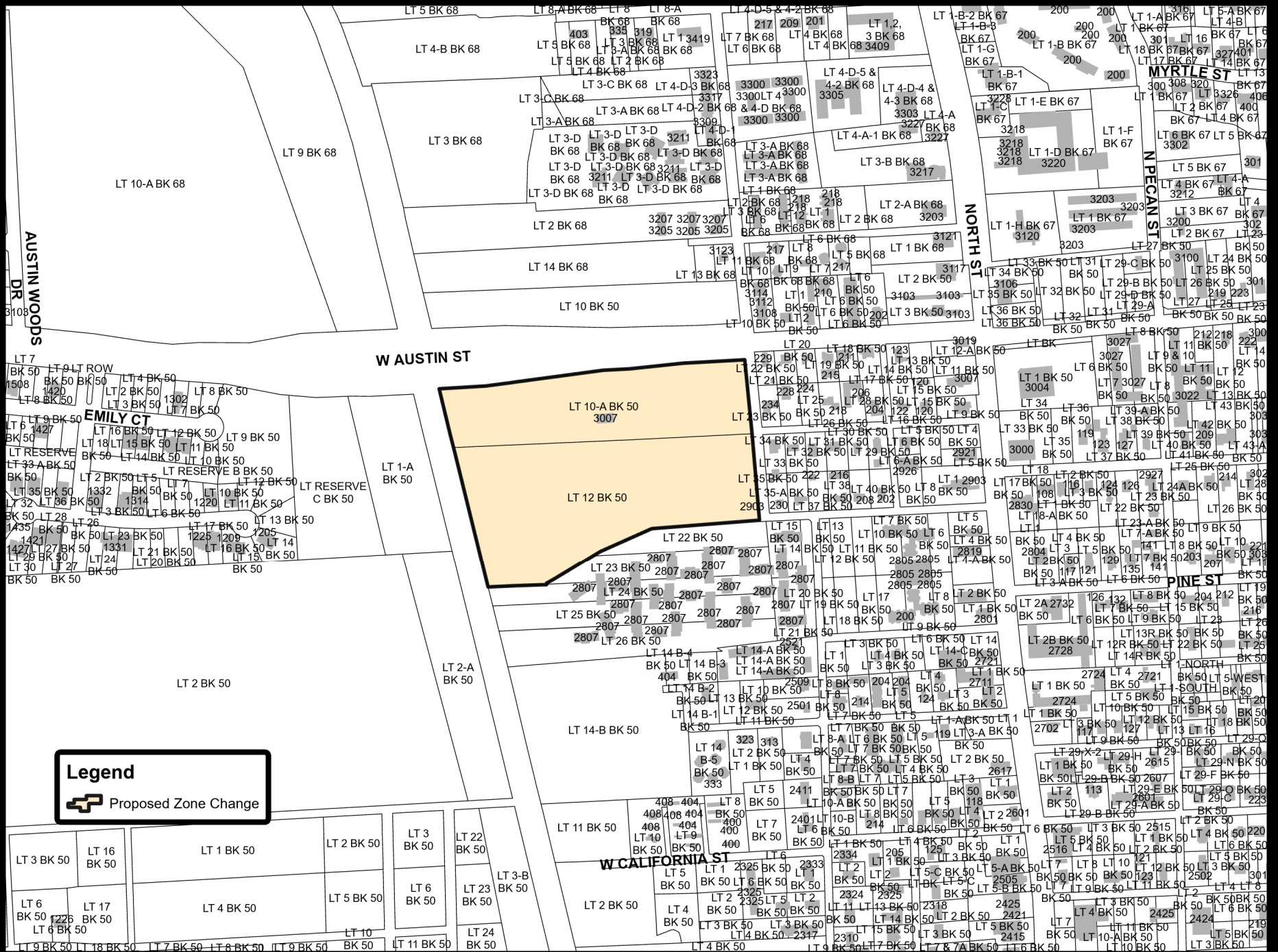
REVISIONS: **DATE:**

SITE PLAN

DATE: 5/30/2022 **SCALE:** AS NOTED
DRAWN: GB **CHECKED:** MHD
PROJECT # 5A-2022
SHEET NO: A-1.01

FOR PERMIT REVIEW

ZON 2022-08



Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

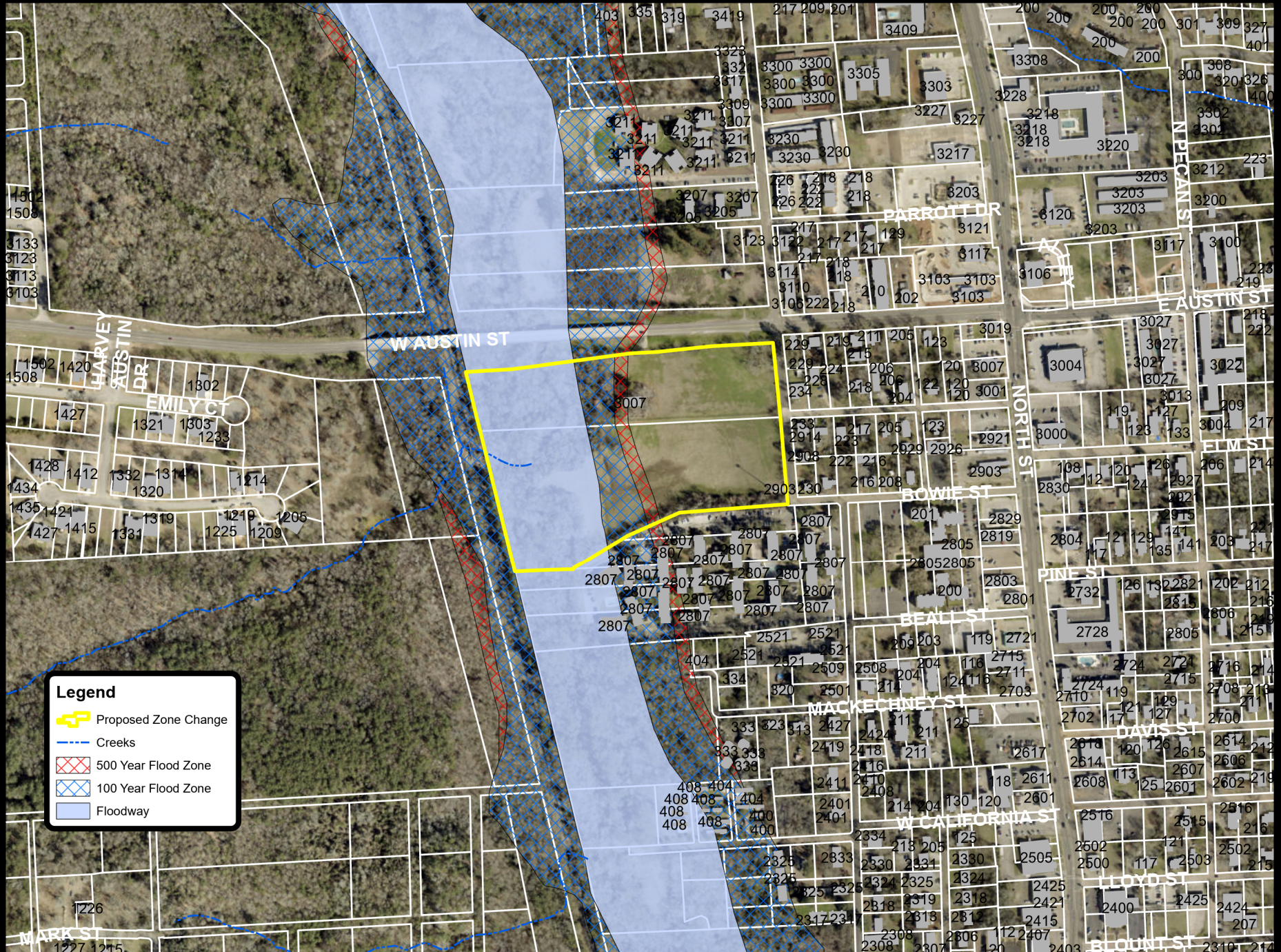


0 125 250 500 Feet

Date Created: July 21, 2022 Software: ArcGIS Pro 2.9.3



ZON 2022-08



Legend

- Proposed Zone Change
- Creeks
- 500 Year Flood Zone
- 100 Year Flood Zone
- Floodway

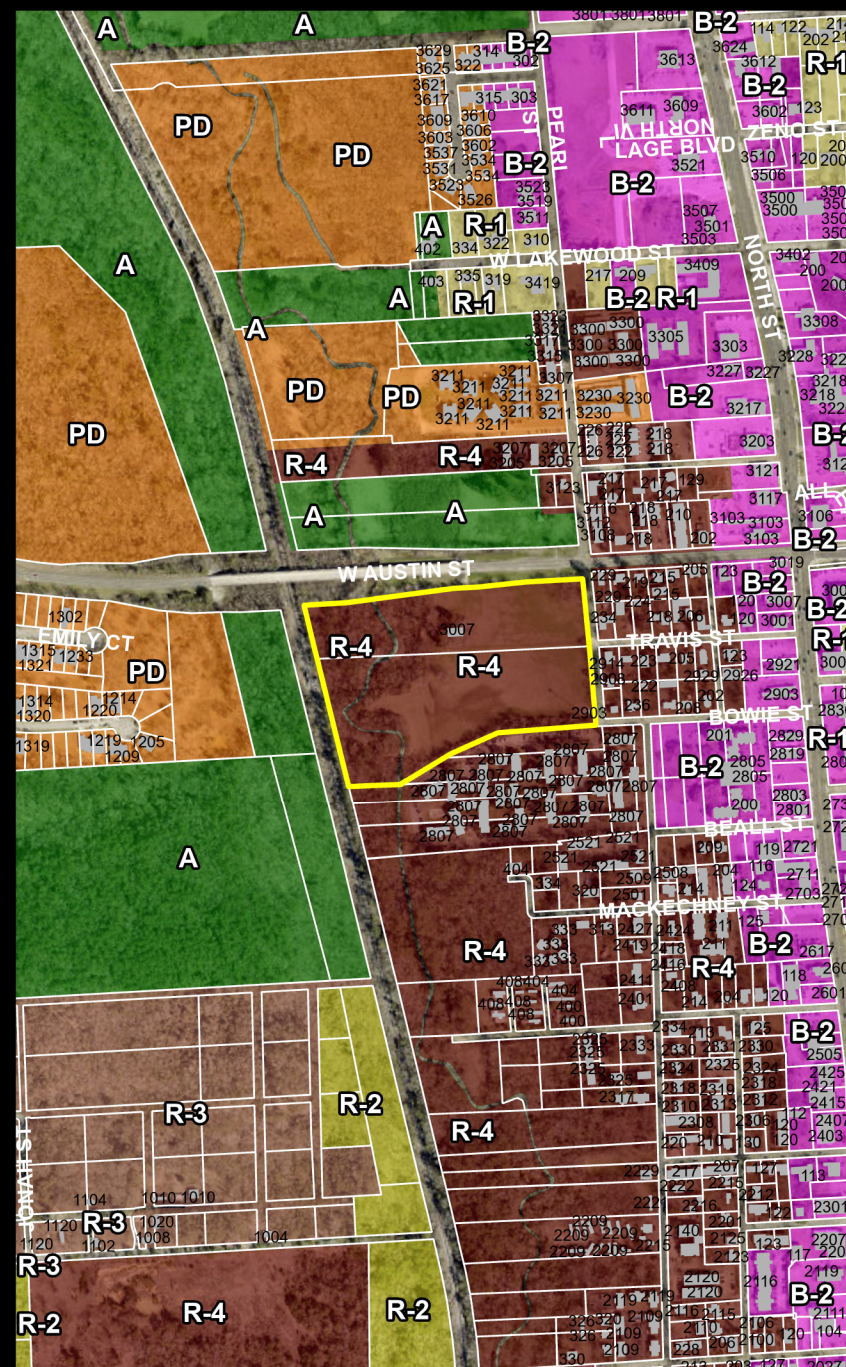
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Date Created: July 21, 2021 Software: ArcGIS Pro 2.9.3



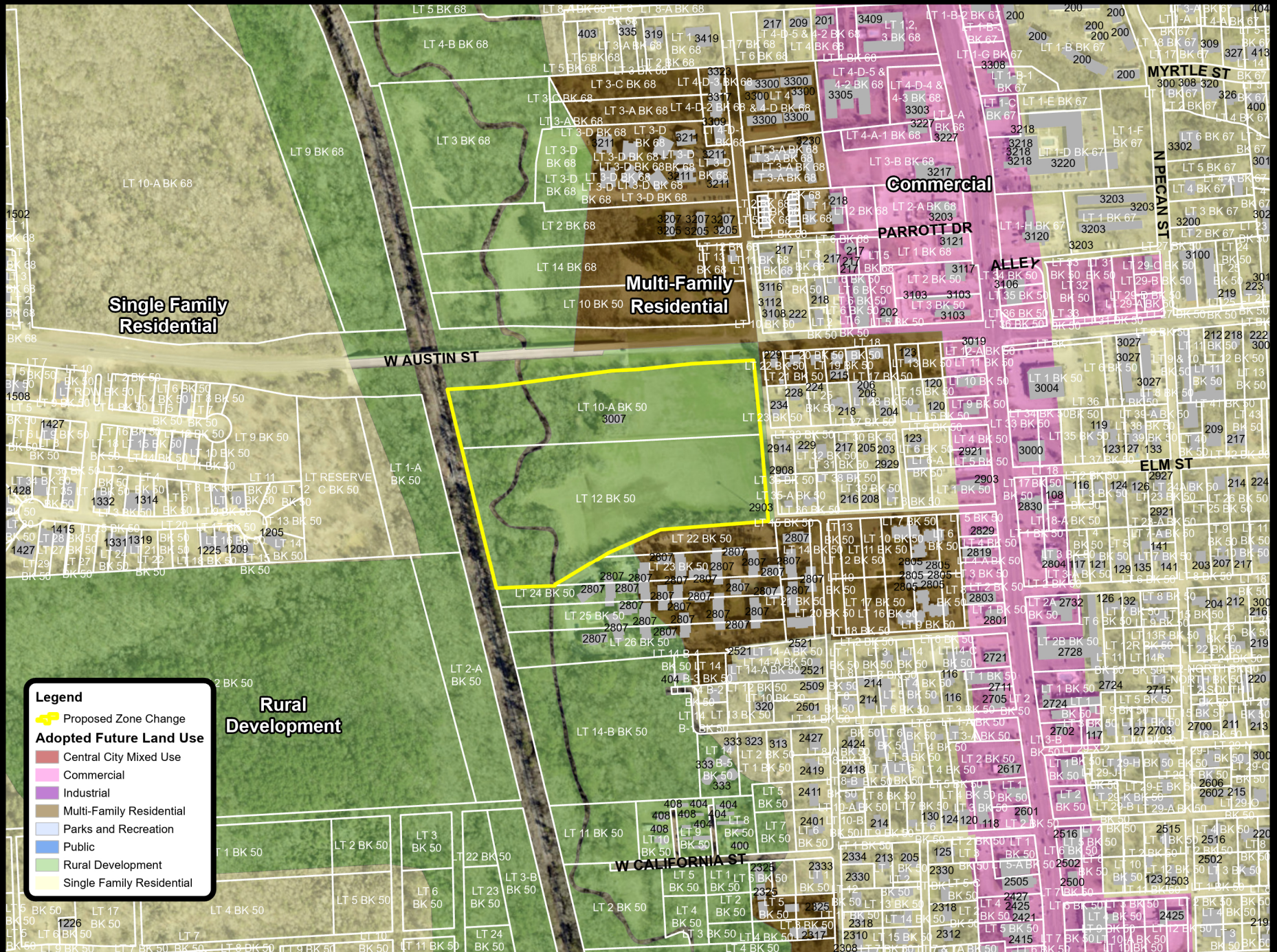
Proposed Zoning



Nacogdoches
the oldest town in Texas

Engineering Department
CEN 3010-100

ZON 2022-08



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0 125 250 500 Feet

Date Created: July 21, 2022 Software: ArcGIS Pro 2.9.3

Nacogdoches
Engineering Department
City of Nacogdoches

ZON CASE NO.: _____

DATE SUBMITTED: _____

STAFF: _____

COMPREHENSIVE PLAN AMENDMENT LETTER

(Check all applicable)

☒ Related to Future Land Use ☐ Related to Transportation ☐ Related to Other _____

ZO Sec. 118-4. - Relationship to comprehensive plan and thoroughfare plan.

"If a zoning or rezoning request differs from what the comprehensive plan recommends for that area, the city planner will advise the applicant of this and will request the applicant to submit a written letter stating the reasons the comprehensive plan should be changed, if he wishes to proceed with the zoning request."

PROPERTY INFORMATION:

Address: 3007 Pearl St Total Acres: 15.516

Legal Description: Lot(s): 10-A 1/2 12 City Block: 50

Subdivision (If Platted): CITY OF NAC Subdivision Block: _____

APPLICANT / PROJECT MANAGER'S INFORMATION (Primary contact for the project):

Name(s): Z PREPAY COMMUNICATION SERVICES LLC DBA ZARA

Phone Number: 214-869-7309 E-mail: mbicompany@aol.com

Street Address: 5721 ADAMS LN City: PURNO State: TX Zip Code: 75024

Signature: _____

PROPERTY OWNER'S INFORMATION:

Name(s): DW CLARK LAND INVESTMENTS LLC

Phone Number: 806-676-4750 E-mail: dclark@icamagrillo.com

Street Address: 6505 GLENWOOD City: AMARILLO State: TX Zip Code: 79119

Signature: _____

DESCRIPTION OF REQUEST:

1. Present zoning classification: ☒ A ☐ R-1 ☐ R-2 ☐ R-3 ☐ R-4 ☐ M ☐ B-1 ☐ B-2
☐ B-3 ☐ I-1 ☐ I-2 ☐ PD

2. Proposed zoning of property: ☐ A ☐ R-1 ☐ R-2 ☐ R-3 ☒ R-4 ☐ M ☐ B-1 ☐ B-2
☐ B-3 ☐ I-1 ☐ I-2 ☐ PD

3. Present zoning classification of all abutting property:

North: AGRICULTURE
East: R-4, MULTI-FAMILY
South: R-4 " "
West: AGRICULTURE

4. Current Future Land Use Map classifications and proposed classifications of property:

☒ Rural Development ☐ Single Family Residential ☒ Multi-Family Residential
☐ Commercial ☐ Industrial ☐ Central City Mixed Use ☐ Public
☐ Parks & Recreation

5. Current Future Land Use Map classifications of all abutting property:

North: RURAL DEVELOPMENT & MULTI-FAMILY
East: SINGLE FAMILY
South: R-4, MULTI-FAMILY & RURAL DEVELOPMENT
West: RURAL DEVELOPMENT

6. Current and proposed thoroughfare alignments:

Expressway: ✓
Major Arterial: ✓
Minor Arterial: E-AUSTIN ST.
Major Collector: ✓
Minor Collector: PEARL ST

ANSWER ALL OF THE FOLLOWING:

1. What specific element of the Comprehensive Plan (for example, Future Land Use designation, Thoroughfare Plan, or thoroughfare alignment) and at what specific location (if applicable) is requested to be amended?

RURAL DEVELOPMENT TO MULTIFAMILY

2. What is the amendment request?

3. Explain the reason for this amendment.

DEVELOPER WANTS TO BUILD AN APARTMENT COMPLEX

4. Identify the conditions that have changed to warrant this change to the existing Comprehensive Plan.

GROWING NEED FOR MORE HOUSING

5. Explain why the existing element of the Comprehensive Plan in question is no longer appropriate.

INCREASING DEMAND FOR MORE HOUSING

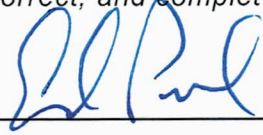
6. How does the requested amendment further the goals and objectives of the Comprehensive Plan?

SEE ANSWER 4 & 5

7. What other information are you providing to support the proposed amendment (for example, transportation impact study)?

N/A

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true, correct, and complete.

Signature and title: 

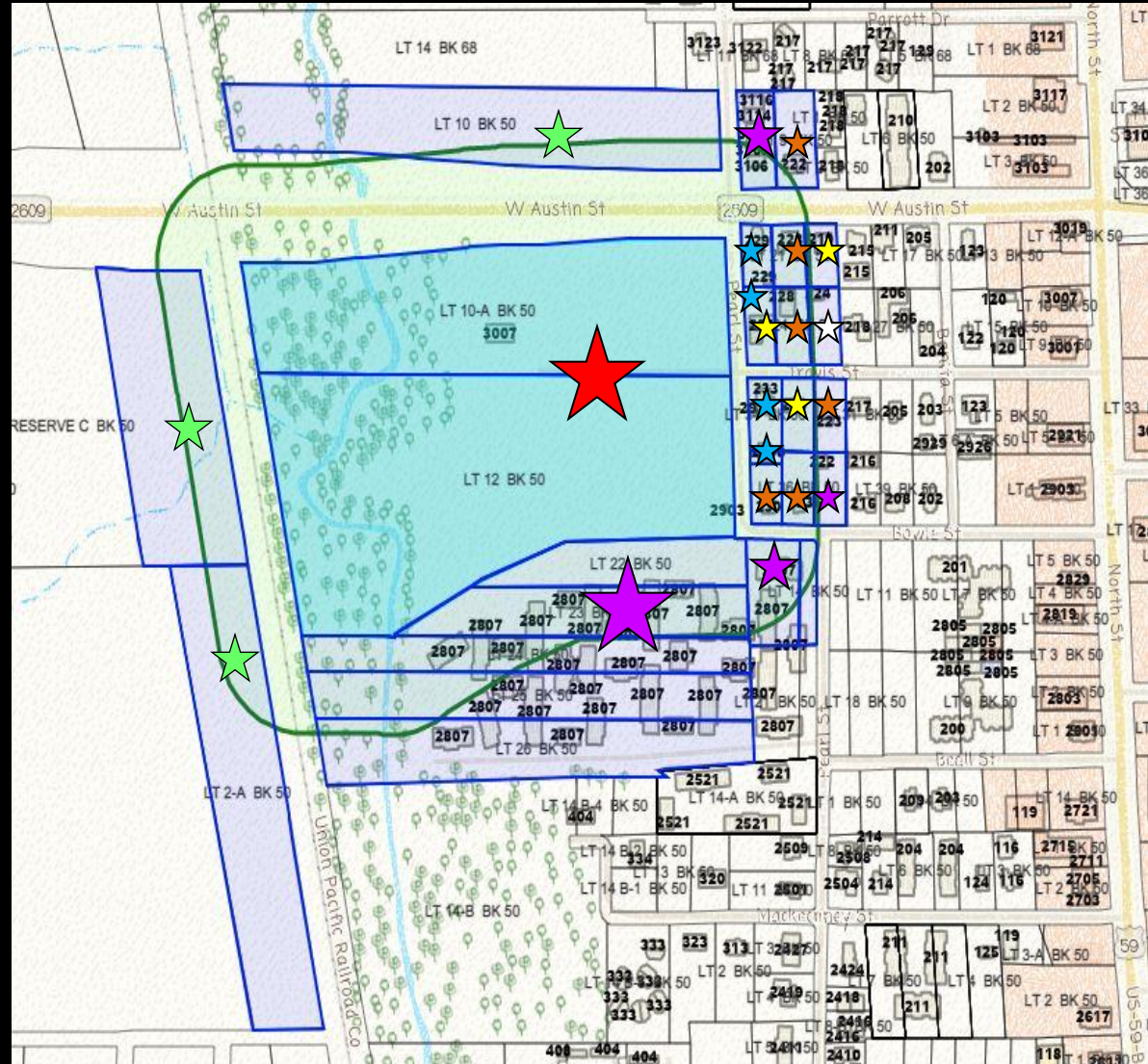
Date: 7/11/22

200 Foot Notification Map

ZON2022-08: Pearl & Austin St.

Legend

-  200 Foot Buffer
-  Zone Change
-  Duplex
-  Single Family- Rental
-  Single Family- Owner Occupied
-  Agriculture
-  Apartments
-  Vacant





OWNS PROPERTY WITHIN
200-FOOT NOTICE AREA

Response Form

Project Number: ZON2022-08
W. Austin St. and Pearl St.

You may make your views known by completing this form and returning it to the Planning & Zoning Department. You may also make your views known in person by attending the public hearings. **Please complete and return form to:**

City of Nacogdoches Planning & Zoning Department
Attn: Rhonda Lewis
PO Drawer 635030
Nacogdoches, TX 75963

You may also email a copy to Rhonda Lewis, lewisr@nactx.us

Project Number: ZON2022-08

Please circle one:

☐ In favor of request

☒ Opposed to request

Comments:

Signature: John D. Cortines

Printed Name: John D. Cortines

Street Address: 228 Travis St

City, State and Zip Code: Nacogdoches, Texas 75964

Phone Number: 936-556-1583

Email Address: Doug.Cortines@yahoo.com

Physical Address of Property within 200 Feet: 228 Travis St
Nacogdoches, Tx

City of Nacogdoches

202 E. Pilar – PO Drawer 635030 – Nacogdoches, TX 75963
936-559-2574 Fax 936-559-2910 www.nactx.us
Home of Stephen F. Austin State University www.sfasu.edu



Helton, Alaina <heltona@nactx.us>

Re: Zoning Change at West Austin and Pearl ZON2022-08

Lewis, Rhonda <lewizr@nactx.us>

Tue, Sep 20, 2022 at 8:01 AM

To: stephen ford <stephen1396@hotmail.com>

Cc: "fischera@nactx.us" <fischera@nactx.us>, "boldonr@nactx.us" <boldonr@nactx.us>, Alaina Helton <heltona@nactx.us>

Dear Mr. Ford,

Thank you for your email response to the requested zone change for ZON2022-08 -W. Austin and Pearl. The Planning and Zoning department has taken note of your response. I have copied Ms. Alaina Helton, City Planner, on this email so she is aware of your concerns and will address them accordingly.

Thank you,

Rhonda K. Lewis
Office Assistant III
Planning & Zoning Department
City of Nacogdoches
(936) 559-2574
lewizr@nactx.us

On Mon, Sep 19, 2022 at 7:44 PM stephen ford <stephen1396@hotmail.com> wrote:

Hi,

I own property within 200 feet of the subject zone at West Austin and Pearl. I am against the zoning change.

Thank you,
Stephen Ford ([222 West Austin Street](#)).



Helton

**DOES NOT OWN
PROPERTY WITHIN 200 OR
500-FOOT NOTICE AREA**

Fwd: zoning change pearl/austin streets

1 message

Lewis, Rhonda <lewisl@nactx.us>

Thu, Aug 4, 2022 at 1:26 PM

To: Alaina Helton <heltona@nactx.us>, Juan Pollette <pollettej@nactx.us>

Email response from the email notifications for the folks outside of the 500 ft area of Ed Pool's project, Pearl and Austin streets.

Adding to the case and electronic files.

Rhonda K. Lewis
Office Assistant II
Planning & Zoning Department
City of Nacogdoches
(936) 559-2574
lewisl@nactx.us

----- Forwarded message -----

From: **J Henson** <hensonjl77@yahoo.com>

Date: Thu, Aug 4, 2022 at 12:07 PM

Subject: zoning change pearl/austin streets

To: lewisl@nactx.us <lewisl@nactx.us>

One more thing - I did not hear listed at the previous zoning meeting. Currently, I am concerned about a lack of a safe way to walk from that corner of Pearl to North St. I have seen people having to walk in the street because the incline is too great. If this complex is constructed I am concerned this it will just increase the dangers to pedestrians. I am sure this is too early in this process for this discussion and that there are many streets with this issue in Nacogdoches (W. Starr to Pearl comes to mind) but I just wanted to put it on the 'list'.

Thank you,

Jenny Henson

[1314 East McLemore Ct](#)

Multiple Questions not fully Addressed

- (1) 10 blds + 10 apt (2-3 bdrm) # People/cars
 - traffic to Roads, safety cars/people walking,
 - noise, pollution, Runoff @ creek
 - flood zone (100yr) $\frac{1}{4}$ of proposal [parking: tennis courts]
- (2) Zone Change = $\uparrow$ Revenue for City
 - " " = No control over build up of Appt size
- (3) Why not do less large build ($\frac{1}{2}$ the size = Multifamily)
 - " " do duplex zone change (still $\uparrow$ Property Value - even by more in ~~20~~ Future)
- (4) Will there ever be a Banita trail to match Llananna trail
 - Isn't the west side as important as the NE side?



Helton, Alaina <heltona@nactx.us>

Letter input from public. Re Agenda Item 5b

2 messages

Margaret Forbes <mforbes04@gmail.com>

Sun, Aug 21, 2022 at 10:55 PM

To: "Helton, Alaina" <heltona@nactx.us>, "Lewis, Rhonda" <lewisl@nactx.us>

----- Forwarded message -----

From: **Denise McDonald** <denisedarlene409@gmail.com>

Date: Wed, Aug 17, 2022 at 12:13 PM

Subject: Re: Pearl and West Austin

To: Margaret Forbes <mforbes04@gmail.com>

Dear Planning and Zoning Commission member Maggie Forbes, I'm writing to you concerning the potential zoning change to R4 of what is now agriculture zoning on the corner of W. Austin St. and Pearl St. I believe, and one only needs to reference the current comprehensive plan (that we have continued to ignore) to see that the experts hired to assess and write the plan recommend that we do not build in the floodplains. In addition, with climate change flooding events are predicted to become larger and more frequent which makes building in the floodplain an insurance nightmare. And more importantly we want to keep the areas around our creeks clear for future trail development. The trails along the creeks increase the quality of life here for so many of its residents and visitors. Please vote no to changing the zoning change on W. Austin and Pearl St.

Denise McDonald

--
Maggie Forbes
(361) 332-1364



Helton, Alaina <heltona@nactx.us>

zoning change

2 messages

ohredkat@gmail.com <ohredkat@gmail.com>
To: heltona@nactx.us, rlewis@nactx.us

Sun, Aug 21, 2022 at 1:37 PM

I am writing in opposition to the zoning change request for lot(s) that are presently zoned Agriculture (A) at the corner of Pearl and West Austin to R4.

This location is in the Banita Creek floodplain.

High density development along our Nacogdoches creeks will damage something that is an important resource to everyone who lives in Nacogdoches.

I've talked to others who like myself hike and run the trail beside Banita Creek and the consensus is that apartments built in this floodplain and so close to the creek would be detrimental to the health of the creek.

I am asking the members of the Planning and Zoning committee to vote against the change from A (agriculture) to R-4 (apartments) in this location at the corner of Pearl and West Austin.

Thank you,
Kathy Redman
[516 Burk St](#)
[Nacogdoches, Tx 75964](#)

Helton, Alaina <heltona@nactx.us>
To: Steve Bartlett <bartletts@nactx.us>

Mon, Aug 22, 2022 at 3:06 PM

Alaina Helton, AICP, CNU-A, CPM

City Planner & Director of Planning & Neighborhood Services

City of Nacogdoches, Texas

Direct: 936-559-2572

Main: 936-559-2574

heltona@nactx.us



Visit the [NacTogether website!](#)

[Quoted text hidden]



Helton, Alaina <heltona@nactx.us>

ZON2022-08: Pearl St and W. Austin Street Rezoning

3 messages

Matt Moore <matt.moore@waterstreetengineering.com>

Sun, Aug 21, 2022 at 10:44 AM

To: Alaina Helton <heltona@nactx.us>, Lily Phou <lilyphou@gmail.com>, Maggie Forbes <mforbes04@gmail.com>, drbobc@suddenlink.net, shannon@shannonconklin.com

Cc: Francois de Kock <fdekock@dtjdesign.com>

Chair and Members of Planning and Zoning Commission:

I do not support this rezoning from Agriculture to Multifamily because it shows no respect for and barely acknowledges the impact on **Banita Creek**. I don't think there is even a drawing showing the relationship of the proposed development to the floodplain in your packet. You don't get more basic than showing that relationship unless of course you wish to obfuscate rather than inform. To say there will be no vertical development in the floodplain, as the item's back-up material does, is just another way of saying that is where the parking is going.

The City is in the middle of a massive rewrite of our Comprehensive Plan (was DTJ even consulted over this), There has been a La Nana Bayou Watershed planning process going on for several months, probably over a year now. This has never been mentioned, to the best of my knowledge, in any P and Z commission, Council, or any other City meeting. The Planning Consultants, DTJ, were not even aware it was going on.

How is this even possible?!

If you, as our planning and zoning commission, do not care about protection of our creeks and watersheds then by all means go ahead and recommend to Council that they approve another cookie cutter development by a Dallas developer. If, on the other hand, you see your position as a chance to stick up for the environment and think long term about what is best for future generations then do not support this rezoning. Instead, **begin at tomorrow's meeting**, a process of advocating for the environment and demand that the Comprehensive Plan have a substantial environmental and water quality component included.

I hope to do the right thing.

Respectfully,

Matt Moore, P.E.

shannon conklin <Shannon@shannonconklin.com>

Sun, Aug 21, 2022 at 12:00 PM

To: Alaina Helton <heltona@nactx.us>

Cc: Lily Phou <lphou@cbtx.com>

Alaina - FYI

Thanks,
Shannon

Begin forwarded message:

From: Matt Moore <matt.moore@waterstreetengineering.com>

Date: August 21, 2022 at 10:44:52 AM CDT

To: Alaina Helton <heltona@nactx.us>, Lily Phou <lilyphou@gmail.com>, Maggie Forbes <mforbes04@gmail.com>, drbobc@suddenlink.net, shannon conklin <Shannon@shannonconklin.com>

Cc: Francois de Kock <fdekock@dtjdesign.com>

Subject: ZON2022-08: Pearl St and W. Austin Street Rezoning



Helton,

**DOES NOT OWN
PROPERTY WITHIN 200 OR
500-FOOT NOTICE AREA**

Zoning Change from Agriculture to R4 multi family

3 messages

Pat Castella <lubechaypat@gmail.com>

Mon, Aug 22, 2022 at 11:36 AM

To: "Chafin, Alaina" <heltona@nactx.us>, MAGGIE FORBES <mforbes04@gmail.com>

I have many concerns about this zoning request:

Zprepay communications llc Plano mde the request site plan done by MBI and owner DWClark land investments Amarillo are the principals involved
What is their reputation? Also in the site plan it is mentioned that this would be a good investment (is this just being presented before they have the necessary funds to follow through).

Next it is in violation of Flood Plain ordinance.

No vertical buildings in flood plain (this is vague and does not explain what will be in flood plain).

Comprehensive Plan it does not comply as evidenced by amendment signed by owner DW Clark land investment

Supporting Facilities mentions TIA and various other needs
will these be paid for by developers or will the citizens of Nacogdoches be taxed

The plan uses about 17 apartment complexes as their Comps for this project

the math does not compute Instead by their very own statistics It shows that Nacogdoches has a strong need for Affordable Single Family owned housing. This is just another complex geared toward student housing.

Please do not talk about infill etc We need to address the need for permanent residents. If you look at site plan it is obvious that there are more than enough Multi family housing units in Nacogdoches.

Words such as landscaping, Environmental needs etc.
mean nothing unless they are specific.

I am opposed to this development for many reasons.

Primarily because of the flood plain danger
and the fact that this is not for the good of Nacogdoches but as an investment by those that do not live here.

Please deny this request.

Sincerely

Pat Castella

1009 Logansport ST

Nacogdoches , Texas 759 61

Helton, Alaina <heltona@nactx.us>

Mon, Aug 22, 2022 at 11:54 AM

To: Juan Pollette <pollettej@nactx.us>, Steve Bartlett <bartletts@nactx.us>

Fyi

[Quoted text hidden]

Margaret Forbes <mforbes04@gmail.com>

Mon, Aug 22, 2022 at 12:34 PM

To: "Lewis, Rhonda" <lewisl@nactx.us>, "Helton, Alaina" <heltona@nactx.us>

Please see concerns from P Castellan email below

ZON2022-08 - Site Photos



Subject property
along Pearl St.

Subject property
along W. Austin St.





Looking east at the
Austin & Pearl St.
intersection

Looking west along
W. Austin St.





Multi-Family apartments
at the northeast corner of
Austin & Pearl St.

Single Family home at
the south east corner of
Austin & Pearl St.





Multi-Family Apartments
south of the subject
property

Multi-Family Apartments
southeast of the subject
property





Single family and Duplex houses east of Pearl St.

Cell phone tower on the southeast corner of the subject property



ORDINANCE NO. 1938-10-22

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, AMENDING THE BOUNDARIES OF A ZONING DISTRICT WITHIN THE CITY OF NACOGDOCHES FROM A, AGRICULTURAL TO R-4, MULTI-FAMILY FOR A PORTION OF LOTS 10-A AND 12, CITY BLOCK 50, LOCATED AT THE SOUTHWEST CORNER OF W. AUSTIN AND PEARL STREET, BEING THE PORTION OF THE PROPERTY LOCATED OUTSIDE OF THE FEMA 100-YEAR FLOODPLAIN AS DETERMINED BY THE FLOODPLAIN ADMINISTRATOR, LOCATED IN NACOGDCHES, TEXAS; CONTAINING FINDINGS; PROVIDING A REPEAL CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Zoning Ordinance of the City of Nacogdoches allows the City Council to amend the official zoning map; and

WHEREAS, the property described above and depicted in “**Exhibit A**” is currently zoned A, Agricultural; and

WHEREAS, the property owner has requested the zoning classification of said property to be changed to R-4, Multi-Family; and

WHEREAS, the City Council of the City has conducted, in the time and manner and after the notice required by law and the Zoning Ordinance of the City, a public hearing on such request for change in zoning classification; and

WHEREAS, the City Council now deems it appropriate to grant such requested change in classification.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS:

SECTION I

Findings.

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct, and same are deemed to be in furtherance of a public purpose.

SECTION II

Approval of Zoning Change

Pursuant to the requirements of Chapter 118 of the Code of Ordinances of the City of Nacogdoches, Texas, a change in Zoning Classification from A, Agricultural to R-4, Multi-Family is hereby approved by the City Council.

SECTION III

Repeal

This Ordinance shall in no manner repeal, amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting change in Zoning Classification as herein provided.

SECTION IV

Effective Date

This Ordinance shall take effect following its passage and publication as may be required by governing law.

SECTION V

Severability

If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION VI

Proper Notice and Open Meetings

It is hereby officially found and determined that the meeting at which this Ordinance was 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 Meetings Act, Chapter 551 of the Texas Government Code.

SECTION VII

Filing

The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this Ordinance in and among the records of the City of Nacogdoches, Texas.

PASSED AND APPROVED, this the ____ day of _____, 2022, by a vote of ____ (ayes) to ____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

APPROVED AS TO FORM:

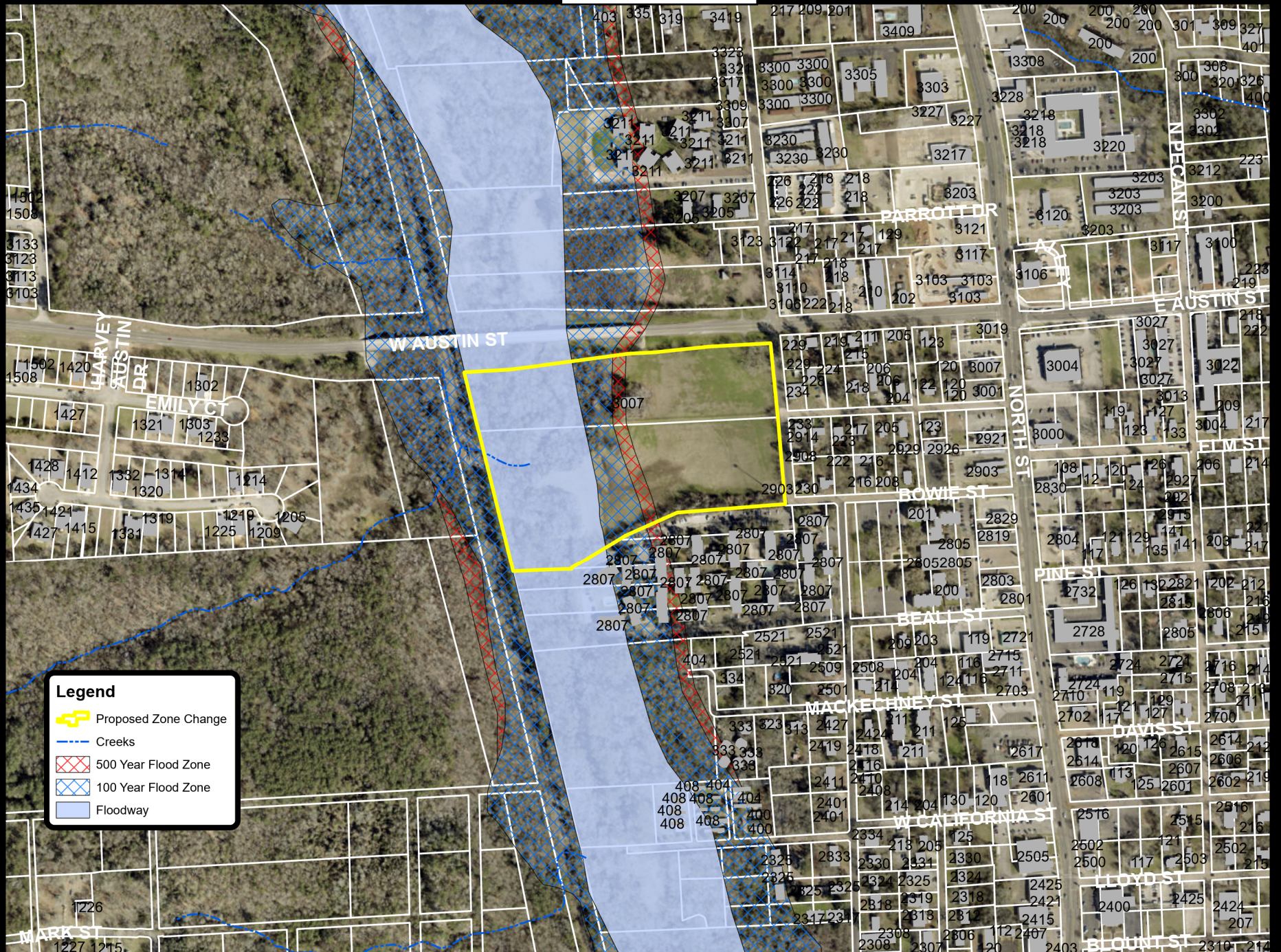
JAN VINSON, City Secretary

STEVEN KIRKLAND, City Attorney

APPROVED AS TO CONTENT:

ALAINA HELTON, City Planner

Exhibit A



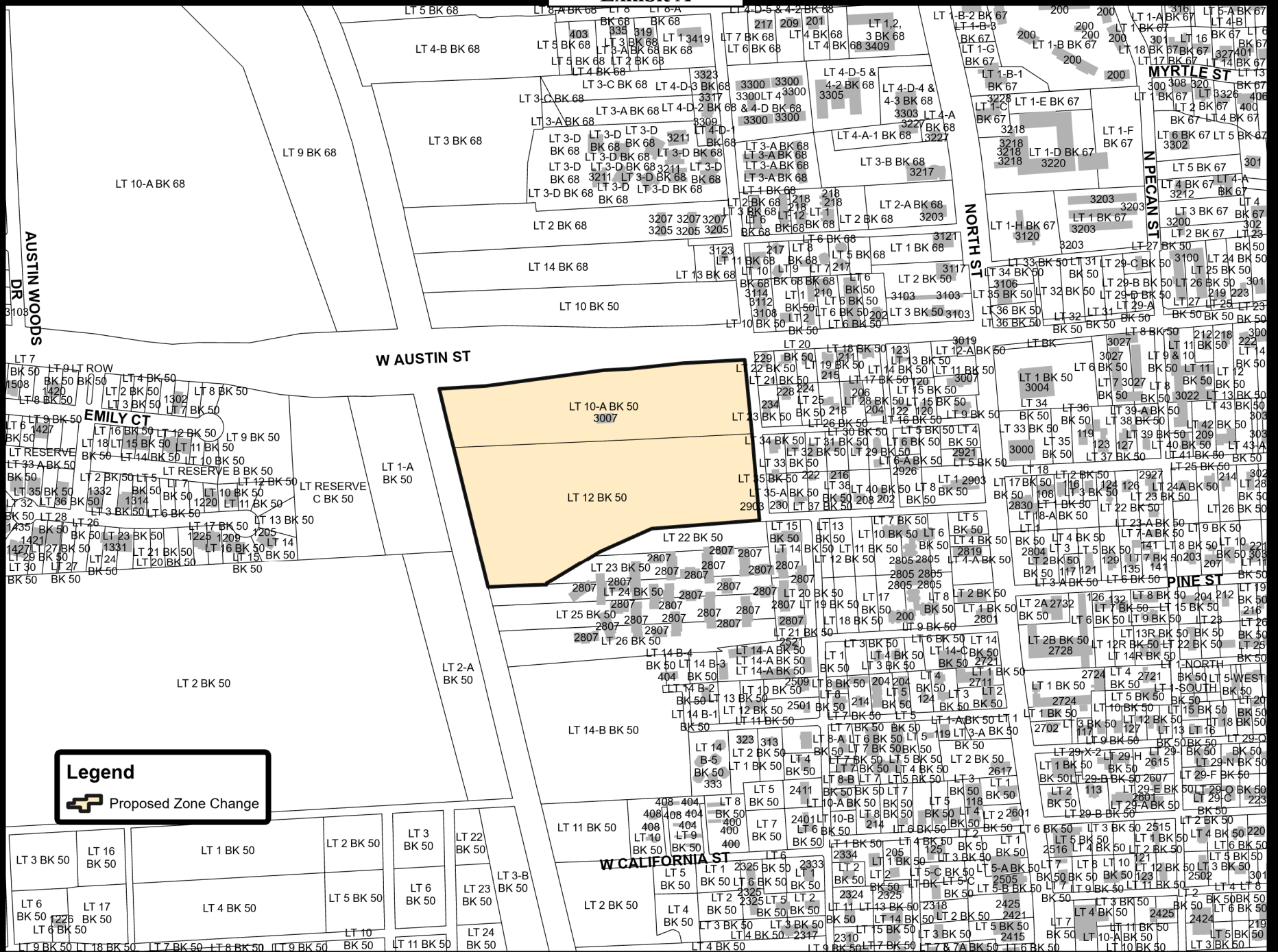
Notice: This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



0 130 260 520 Feet

Date Created: July 21, 2021 Software: ArcGIS Pro 2.9.3

Exhibit A



Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



0 125 250 500 Feet

Date Created: July 21, 2022 Software: ArcGIS Pro 2.9.3





City Council Meeting

Date: October 11, 2022

Agenda Item: 6.E.

PRESENTER: Mario Canizares, City Manager

ITEM/SUBJECT: Hold a discussion and give staff direction regarding the City of Nacogdoches' legislative priorities for the 88th Legislative Session that begins on January 10, 2023. (City Manager)

SUMMARY/BACKGROUND: The 88th Texas Legislative Session will begin on January 10, 2023 and conclude on May 29, 2023. Leading up to previous sessions, the City collaboratively works with the Texas Municipal League (TML) and City Council has adopted their Legislative Program. This coming year there are specific needs for the City of Nacogdoches that may need legislative support including support of the Central Heights Water System and ongoing construction and planning for the I69 corridor.

The City's legislative advocate, Kelly Barnes, will present an overview of what is anticipated during the 88th session. Following Mr. Barnes' presentation, staff will solicit feedback from Council in order to develop a list of the City's legislative priorities for the coming session. At a future meeting, staff will present a draft list of legislative priorities for Council to review and adopt.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Infrastructure; I-69 Development; Economic Development

CITY CONTACT: Mario Canizares, City Manager
canizaresm@nactx.us
936-559-2501

ATTACHMENTS: 1. PowerPoint Presentation

HillCo Partners Presentation to the City of Nacogdoches

OCTOBER 11, 2022



2023 Legislative Session

- The 88th Texas Legislature will begin on January 10, 2023. The Legislature will meet 140 days and conclude on May 29, 2023.
- Bill prefiling will begin on November 15, 2022
- Key Issues for the 2023 Session include:
 - Budget
 - Property Taxes/Appraisal Reform
 - Economic Development Incentives
 - School Choice
 - School Safety
 - Immigration/Border Security
 - ERCOT/PUC Reform
 - Texas Sunset Commission

2023 Legislative Session

Budget

- As of July 14 the Texas Comptroller predicts a \$27 Billion surplus to end 2022.
- The Texas Rainy Day Fund (RDF) is expected to be close to \$13.6 Billion to begin the session.

Property Taxes/Appraisal Reform

- With the budget surplus there is anticipated to be a healthy debate about the state being more involved with the school district M&O tax.
- How property values are calculated will also be debated by the legislature.

2023 Legislative Session

Economic Development Incentives

- Chapter 313 incentives are set to expire in December of this year.
- Lawmakers are already drafting proposals to revive this incentive with a new name and rollout.

School Choice

- Governor Abbott has signaled he is in support of school choice in Texas for vouchers for private schools.
- The lack of support with rural lawmakers continues to hinder school choice in the legislature.

2023 Legislative Session

School Safety

- Although there was no special session of the legislature post Uvalde it will be an emergency item in the 2023 session, Governor Abbott announced.
- Appropriations for more officers and protective equipment to harden schools will be a topic of discussion.

Immigration/Border Security

- Immigration continues to be the most important issue facing Texans according to statewide polls.
- More appropriations for border security will be a heavily debated topic.

2023 Legislative Session

ERCOT/PUC Reform

- A new CEO of ERCOT was named this Fall and he has pledged to work on needed improvements to the electric grid.
- Lawmakers agree that there needs to be additional legislation on this topic as well.

Texas Sunset Commission

- Every 12 years each state agency undergoes a sunset review process to reauthorize the agency and make necessary changes.
- This session some of the key agencies under review are: Public Utility Commission (PUC), Texas Commission on Environmental Quality (TCEQ), Texas Department of Licensing and Regulation (TDLR), and the Texas Water Development Board (TWDB)

Nacogdoches Legislative Agenda

Legislative Priorities – Points for Consideration

- Support local control of revenue and development codes
- Oppose limits on local budgeting authority and reduction of revenue streams
- Support the City's ability to promote development along the I-69 corridor
- Expansion of broadband for rural communities
- Support mechanisms to ensure adequate development of Central Heights water supply system
- Protect City's ability to advocate in Austin
- Oppose unfunded mandates
- Protect City's ability to utilize economic development programs
- Support transportation funding, specifically for I-69

Questions?

If further information is helpful, always feel free to contact me at:

Kelly Barnes, HillCo Partners

kbarnes@hillcopartners.com

512-480-8962 (office)