



AGENDA

PLANNING AND ZONING COMMISSION MEETING

February 13, 2025 | 6:35 PM

Council Chambers

City Hall | 665 Country Club Road, Lucas, Texas

Notice is hereby given that a meeting of the Lucas Planning and Zoning Commission will be held on Thursday, February 13, 2025, beginning at 6:35 pm or immediately following the Capital Improvements Advisory Committee Meeting at Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002-7651, at which time the following agenda will be discussed. As authorized by Section 551.071 of the Texas Government Code, the Commission may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting. Pursuant to Texas Government Code 551.127, one or more members of the governing body may appear via videoconference call. The presiding officer and a quorum of the Commission will be physically present at this meeting.

If you would like to watch the meeting live, you may go to the City's live streaming link at <https://www.lucastexas.us/departments/public-meetings/>.

How to Provide Input at a Meeting:

Speak In Person: Request to Speak forms will be available at the meeting. Please fill out the form and give to the Executive Administrative Assistant prior to the start of the meeting. This form will also allow a place for comments.

Submit Written Comments: If you are unable to attend a meeting and would like to submit written comments regarding a specific agenda item, email Executive Administrative Assistant, Morgan Kowaleski at mkowaleski@lucastexas.us by no later than 3:30 pm the day of the meeting. The email must contain the person's name, address, phone number, and the agenda item(s) for which comments will be made. Any requests received after 3:30 pm will not be included at the meeting.

Call to Order

- Determination of Quorum
- Reminder to turn off or silence cell phones
- Pledge of Allegiance

Consent Agenda

All items listed under the consent agenda are considered routine and are recommended to the Planning and Zoning Commission for a single vote approval. If discussion is desired, an item may be removed from the consent agenda for a separate vote.

1. Consent Agenda:

- A. Approval of the minutes of the December 12, 2024 Planning and Zoning Commission meeting.

Public Hearing

2. Conduct a public hearing and consider approving a request for a change in zoning from R2 (Residential 2-acre) to CB (Commercial Business) and amend the comprehensive zoning map on a tract of land being 7.96-acre tract located in the James Anderson Survey, Abstract No. 17, City of Lucas Collin County, Texas. **(Development Services Director Joe Hilbourn)**
 - A. Presentation by Development Services Director Joe Hilbourn
 - B. Conduct public hearing
 - C. Take action on Zoning Change Request

Regular Agenda

3. Discuss Opinion No. KP-0349 issued by the Texas Attorney General, which addresses:
 - A. The information a local jurisdiction must provide if denying or conditionally approving a plat under Chapters 212 and 232 of the Texas Local Government Code.
 - B. The authority of local governments to establish prerequisites for the submission of a plat application. **(Chairman Tommy Tolson)**
4. Discuss Opinion No. KP-0409 issued by the Texas Attorney General, which addresses:
 - A. Whether a licensed professional engineer is authorized to certify a subdivision plat under specific circumstances. **(Chairman Tommy Tolson)**

Executive Session

As authorized by Section 551.071 of the Texas Government Code, the Planning and Zoning Commission may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney regarding any item on the agenda at any time during the meeting. This meeting is closed to the public as provided in the Texas Government Code.

5. An Executive Session is not scheduled for this meeting.

Adjournment

6. Adjournment.

Certification

I do hereby certify that the above notice was posted in accordance with the Texas Open Meetings Act on the bulletin board at Lucas City Hall, 665 Country Club Road, Lucas, TX 75002 and on the City's website at www.lucastexas.us on or before 5:00 p.m. on February 7, 2025.

Morgan Kowaleski, Executive Administrative Assistant

In compliance with the American with Disabilities Act, the City of Lucas will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services should be directed to City Secretary Toshia Kimball at 972.912.1211 or by email at tkimball@lucastexas.us at least 48 hours prior to the meeting.



City of Lucas

Planning and Zoning Agenda Request

February 13, 2025

Requester: Planning and Zoning Commission

Agenda Item Request

Consent Agenda:

- A. Approval of the minutes of the December 12, 2024 Planning and Zoning Commission meeting.

Background Information

NA

Attachments/Supporting Documentation

- 1. December 12, 2024 Planning and Zoning Commission Meeting minutes

Budget/Financial Impact

NA

Recommendation

Staff recommends approval of the Consent Agenda as presented.

Motion

I make a motion to approve the Consent Agenda as presented.



MINUTES

PLANNING AND ZONING COMMISSION MEETING

December 12, 2024 | 6:35 PM

Council Chambers

City Hall | 665 Country Club Road, Lucas, Texas

Commissioners Present:

Chairman Tommy Tolson
Vice-Chairman Joe Williams
Commissioner Frank Hise
Alternate Commissioner Brian Dale
Alternate Commissioner John Awezec

Commissioners Absent:

Commissioner James Foster
Commissioner Sean Alwardt

Staff Present:

City Secretary Toshia Kimball
City Manager, John Whitsell
City Attorney Courtney Morris
Development Services Director Joe Hilbourn
Executive Admin Assistant Morgan Kowaleski
CIP Manager Patrick Hubbard
Fire Chief Ted Stephens

City Council Liaison Present:

Mayor Dusty Kuykendall

Call to Order

The meeting was called to order at 6:35 pm and the Pledge of Allegiance was recited.

Chairman Tolson indicated both alternate commissioners will act as voting members.

Consent Agenda

1. Consent Agenda:

A. Approval of the minutes of the November 14, 2024 Planning and Zoning Commission meeting.

MOTION: A motion was made by Alternate Commissioner Awezec, seconded by Vice-Chairman Williams to approve the consent agenda as written. The motion unanimously passed by a 5-0 vote.

Public Hearing

2. Conduct a public hearing and consider amendments to the City of Lucas Code of Ordinances, Chapter 14 titled "Zoning", 14.03.472 titled "Building Regulations", (i) Impervious coverage and Article 14.04 titled "Supplementary Regulations", Division 8 titled "Accessory Buildings, Structures and Uses".

Chairman Tolson opened the public hearing at 6:37 pm

No members of the public appeared to provide comments.

Chairman Tolson closed the public hearing at 6:37 pm

MOTION: A motion was made by Alternate Commissioner Awezec, seconded by Alternate Commissioner Dale to approve amendments to the City of Lucas Code of Ordinances, Chapter 14 titled “Zoning”, 14.03.472 titled “Building Regulations”, (i) Impervious coverage and Article 14.04 titled “Supplementary Regulations”, Division 8 titled “Accessory Buildings, Structures and Uses”. The motion passed unanimously by a 5-0 vote.

3. **Conduct a public hearing and consider approving a request for a Planned Development zoning overlay on a parcel of land zoned Commercial Business (CB) on a tract of land being 41.9954 acres (1,829,317 square feet) in the A0017 James Anderson Survey, Sheet 2, Tract 27 and Tract 29, City of Lucas, Collin County, Texas, more commonly known as the Hunt tract at the northwest corner of the Parker Road and Country Club Road intersection.**

Development Services Director Joe Hilbourn provided a presentation on this item, covering the proposed development regulations, the site plan, signage, and the elevations of the proposed tenants. Director Hilbourn informed the Commission that it is the responsibility of the Planning & Zoning Commission to create the district requirements for the zoning district, beginning with the existing zoning district (Commercial Business) and modify as needed to suit the needs of the development.

Chairman Tolson opened the public hearing at 7:42 pm

Steve Gregory with Malouf Interests, Dallas Texas, presented to the Commission and introduced the following development representatives:

- David Hardin, Director of Real Estate for Tom Thumb/Albertsons for the State of Texas
- Adam Finner, Architect with GFF Design
- Blaze Bounds, Engineer with Kimley Horn

No members of the public appeared to provide comments.

Chairman Tolson closed the public hearing at 8:32PM

MOTION: A motion was made by Commissioner Hise, seconded by Vice-Chair Williams, to table this agenda item and defer its consideration until after Agenda Item #5 on the regular agenda.

After tabling Agenda Item #3, the Commission proceeded with Agenda Item #4 and Agenda Item #5.

MOTION: A motion was made by Alternate Commissioner Awezec, seconded by Alternate Commissioner Dale to restore Agenda Item #3 from the table.

MOTION: A motion was made by Alternate Commissioner Dale, seconded by Vice-Chair Williams to approve a request for a Planned Development zoning overlay on a parcel of land zoned Commercial Business (CB) on a tract of land being 41.9954 acres (1,829,317 square feet) in the A0017 James Anderson Survey, Sheet 2, Tract 27 and

Tract 29, City of Lucas, Collin County, Texas, more commonly known as the Hunt tract at the northwest corner of the Parker Road and Country Club Road intersection with the following amendments to the Planned Development Regulations:

~~Strikethrough~~ = removed

Bold = addition

C. Use Regulations. In addition to those specified below, all uses permitted in the Commercial Business (CB) District are permitted by right, subject to any use specific restrictions provided below.

1. Automobile repair minor;
 - a. Only permitted by right on lots ~~4~~, 2, 3, 5, 6, 7, 11, 12 and 16;
2. Convenience store with refueling station;
 - a. **Only permitted by right on lot 4.**
3. Department store (retail);
4. Farmer's market;
5. Hobby or toy store;
6. Medical minor emergency clinic;
7. Outside display of merchandise;
 - a. Only permitted by right on areas shown on the Site Plan;
8. Paint store;
9. Pet shop; Only permitted by right on lots 1, 2, 3, 5, 6, 7, 8, 9, 11, 16 and 17;
10. Pharmacist or drug store (with a drive through);
11. Refueling station;
 - a. **Automobile refueling station permitted by right only on lot 4**
 - b. **Electric automobile refueling station permitted by right only on lots 4 and 10 and require a main exterior disconnect**
12. Restaurant drive in;
13. Restaurant drive-through;
 - a. Permitted subject to Development Review Committee ("DRC") review and approval of stacking for drive-through services which shall not extend into roadways, driveways, or other lots.
 - b. **Not permitted on lot 1.**
14. Restaurant with food smoked on site;
 - a. Only permitted by right on lots 1, 2, 3, 5, 6, 7, 8, 11, and 16;
15. Therapeutic massage;
 - a. Permitted subject to DRC review and approval; and
 - b. Such therapeutic massage uses shall not be open after 9:00pm on any day.
16. Used clothing store; and
17. Vehicle wash;
 - a. **Not permitted on lot 1.**

D. Development Regulations. Unless otherwise stated herein, the general provisions set forth in the Code, including the City's Zoning Ordinance (the "Zoning Ordinance"), as amended, apply. The Property shall be developed in accordance with the Commercial Business (CB) District regulations, except as provided herein. In the event of a conflict between the Zoning Ordinance and these development standards set forth herein, these development standards shall apply.

1. Building Height.
 - a. Maximum height.
 - i. Lots 9, 10, and 17: 42 feet.
 - ii. Lots 5 and 8: 35 feet.
 - iii. All other lots shall comply with the CB District standards.
2. Setbacks.
 - a. Side yard: ~~no~~ minimum **side** setback of **ten feet (10')** between interior lot lines.
 - b. Rear yard: ~~no~~ minimum **rear** setback of **ten feet (10')** between interior lot lines.
 - c. **Front yard: minimum front setback of ten feet (10') between interior lot lines.**
 - d. All periphery setbacks shall comply with the CB District standards.
3. Business operations.
 - a. Outside dining is permitted.
 - b. **Outside music prohibited.**
 - c. Office uses shall be considered service type uses.
4. Off-street parking and loading.
 - a. Off-street parking and loading shall be provided as shown on the Site Plan and as further provided in Section E of these standards.
5. Impervious coverage.
 - a. Maximum impervious coverage for the Property is 70% with an additional allowance of up to 10% for pervious coverage.
6. Landscaping and tree conservation.
 - a. Landscaping.
 - i. Approved landscape material includes turf grasses.
 - ii. One (1) shade tree and ~~eight (8)~~ **twelve (12)** shrubs for every ~~seventy-five (75)~~ **thirty (30)** linear feet of frontage is required.
 - iii. One (1) shade tree for every 40 feet of adjacency to property used or zoned for single-family or duplex.
 - iv. A minimum of 20 percent of the Property (excluding right of way) shall be maintained as landscaped area.
 - v. A minimum of 5 percent of each individual lot (excluding right of way) shall be maintained as landscaped area.
 - vi. A minimum of 5 percent of interior parking lots shall be maintained as landscaped area.
 - vii. Floodplain area shall be considered landscape area subject to the following:
 - A. Floodplain area shall be ~~reasonably~~ maintained in a state of good repair and neat appearance so as to not interfere with use of the floodplain area as landscape area.
 - b. Tree Conservation.
 - i. Mature trees within the area identified as "tree preservation zone" on the Site Plan may not be voluntarily removed by the Property owner.
7. Signs. Signage must be provided in accordance with the following and as shown on the Site Plan and the Sign Elevations (Exhibit C).
 - a. Maximum height of a freestanding sign shall be 15 feet.
 - b. Monument Signs.
 - i. Maximum height of a monument sign shall be 15 feet.

A. Exception – Lot 8, sign #1 maximum height is 24 feet.

- ii. The sign area illustrating the business name shall not exceed 100 square feet. The overall sign area, including the base and/or supporting frame, may be no more than 150 square feet.
- iii. The minimum distance between signs is 50 feet.
- iv. **Shall incorporate the City of Lucas logo (“L” with horses).**
- v. **Prohibited on lot 1.**

c. Attached Signs.

- i. Canopy, awning, and arcade signs are permitted.
- ii. Except as otherwise provided herein, one (1) attached sign is allowed on the front façade of a building. Additional signs may be placed on any other facade of a building if such façade faces an abutting drive or parking lot. Attached signs may be a maximum of 10 percent of the total area of the front façade or 150 square feet, whichever is larger.
- iii. For tenants occupying a building or suite 7,000 square feet or more, multiple attached signs are permitted. The total area of signs located on the primary facade shall not exceed 10 percent of the primary façade area. The total area of signs located on secondary facades shall not exceed 5 percent of the secondary façade area.
- iv. Additional signs for a refueling station may be located on the three (3) primary facias of the refueling station canopy. The maximum sign area for the canopy-attached signs shall be the same as the maximum area permitted for the building-attached signs.
- v. **Lot 5 – a double frontage lot – signage allowed on both frontage façades.**

d. Sign illumination.

- i. Signs related to a refueling station used to advertise fuel prices shall have no hour restrictions for operation or illumination.
- ii. Signs related to a grocery store use located on a lot used for a refueling station may be illuminated from dusk to daylight.
- iii. All other signs related to a grocery use must extinguish illumination at 12:00am.
- iv. **Rear illuminated signs allowed only on lot 4 and 8 and side façade of lot 4.**
- v. **Animation is prohibited on all signage.**

8. Miscellaneous.

- a. A specific use permit shall be required when the total square footage of a single use exceeds ~~80,000~~ 66,000 square feet.
- b. No screening shall be required along the western property line.
- ~~c. ——— Parking lot layout, landscaping, buffering and screening is not required to minimize direct views of parked vehicles from streets.~~
- ~~d. ——— Off street loading areas are not required to be located at the rear of a building and are not required to be screened from adjacent single family residential use.~~
- c. **Off-street loading areas are not required. However, if off-street loading area is provided it must be located at the rear of the side of a building and are not required to be screened from adjacent single-family residential use.**

Note: Customer pickup is not considered off-street loading for the purposes of this sub-paragraph

- d. "Strip-type" commercial development is permitted as generally shown on the Site Plan.
- e. Screening is not required for transformers, utility meters, and other machinery.
- f. The City of Lucas wastewater lift station providing service to the Property shall be screened with wrought-iron fencing.
- g. Transformers, lift stations, utility meters, and other machinery are not required to be located at the rear property line, drive, or alley.
- h. Storefronts or faces of buildings shall provide architectural elements in order to achieve varying façade geometry and articulation.
- i. Direct light sources shall not produce glare at the property line, but may be visible at the property line at ground level or above, but must be, as much as physically possible, contained to the target area.
- j. Bays for automobile repair uses may not face a public thoroughfare.
- k. Outdoor storage, display and use Only permitted by right in areas clouded and labeled on the proposed site plan for outdoor storage, all other outdoor storage, display and use by SUP only.
- l. **8-foot above grade masonry screening wall required on lot 14 facing north property line**

E. Major Development Standards. Except as provided herein, the major development standards in section 14.03.355 of the Zoning Ordinance shall apply.

- 1. The maximum height of any wall is not limited by proximity to a residential zoning district.
- 2. No landscape area, including a landscaped street or landscaped pedestrian way, or other appropriate landscape or hardscape features is required to separate lots from each other.
- 3. Parking is not required to be divided into multiple lots and may contain more than 120 parking spaces. No maximum number of total off-street parking serving development on the Property.
- 4. Minimum parking space dimensions shall be nine feet (9') wide and eighteen feet (18') in length.
- 5. A covered passenger loading area is not required except for a medical minor emergency clinic.
- 6. No elevation or change in materials is required to differentiate pedestrian walkways from driving surfaces, except for pedestrian walkways contiguous with buildings.
- 7. No reader boards having changeable copy, electronic or otherwise, are allowed except for any signs related to a refueling station or a convenience store with refueling station.
 - a. Reader boards related to a refueling station having a changeable copy, electronic, or otherwise may be located on a:
 - i Monument sign;
 - ii Canopy sign; or
 - iii Any other sign permitted by these standards or the Code to display fuel pricing.
- 8. No bus pullout or shelter is required to be developed on-site or off-site in relation to the Property.

F. Site plan, landscape plan, and building design.

1. Amendments to the Site Plan that conform to the requirements of this planned development shall be approved and do not require public hearings. **Non-conforming site plans and amendment to non-conforming site plans require review and approval by the Planning and Zoning Commission.** Amendments to the Site Plan may not increase maximum height or density, decrease maximum impervious coverage, or decrease minimum setbacks.
2. ~~A landscape plan shall be approved if it conforms to the requirements of this planned development, and no public hearings are required.~~
Landscape plans and amendments to landscape plans that conform to the requirements of this planned development may be administratively approved and do not require a public hearing. Non-conforming landscape plans and amendment to non-conforming landscape plans require review and approval by the Planning and Zoning Commission. Minor amendments to the approved landscape plan may be approved administratively by the DRC.
3. Building design and materials.
 - a. Lot 4, 8, 9, 10, and 17.
 - i. Building design, materials, and appearance for lots 4, 8, 9, 10, and 17 shall be provided in accordance with the Retail Design Package (Exhibit A).
 - b. All other lots shall provide building design, materials, and appearance generally consistent with the Materials Board (Exhibit B).
4. Development of the Property shall be consistent with the Site Plan.

The motion passed by a 5-0 vote.

Regular Agenda

4. **Consider approval of a request by Colton Smith with Spiars Engineering and Surveying and Brock Babb with Centurion American CTMGT Lucas 238 LLC, on behalf of property owners Steve Lenart with CTMGT Lucas 238, LLC and Mehrdad Moayedi for approval of a final plat for Enchanted Creek Estates Phase 2B, for the property located in the James Anderson Survey, Abstract No. 17 and John McKinney Survey, Abstract No. 596, being 104.595 acres.**

Development Services Director Joe Hilbourn presented this agenda item and informed the Commission that all previous outstanding items have been completed, and the plat is ready for acceptance. Commissioner Hise wanted to know if it was possible to change the timing of the current maintenance bond (2 years, 10%). Director Hilbourn informed the Commission that in this instance there is not enough time to adopt an ordinance to do so.

MOTION: A motion was made by Alternate Commissioner Awezec, seconded by Alternate Commissioner Dale to approve the request by Colton Smith with Spiars Engineering and Surveying and Brock Babb with Centurion American CTMGT Lucas 238 LLC, on behalf of property owners Steve Lenart with CTMGT Lucas 238, LLC and Mehrdad Moayedi for approval of a final plat for Enchanted Creek Estates Phase 2A, for the property located in the James Anderson Survey, Abstract No. 17 and John McKinney Survey, Abstract No. 596, being 31.149 acres, 700 feet north of the

intersection of Enchanted Way and Lillyfield Drive. The motion passed unanimously by a 5-0 vote.

5. **Consider a request by Tom Dayton, on behalf of Preston Walhood, for a final plat for Dean Farms on a parcel of land consisting of 44.084 acres, located in the John McKinney Survey, Abstract Number 596, creating 27 single-family lots and two common spaces on the east side of Stinson Road, approximately 55 feet south of the roundabout.**

Development Services Director Joe Hilbourn presented this agenda item and informed the Commission that the plat meets all of the city's requirements.

MOTION: A motion was made by Vice-Chair Williams, seconded by Alternate Commissioner Awezec to approve a request by Preston Walhood, on behalf of Young Dean Homestead, Ltd., for a final plat for Dean Estates on a parcel of land consisting of 44.084 acres, located in the John McKinney Survey, Abstract Number 596, creating 27 single-family lots and two common spaces on the east side of Stinson Road, approximately 55 feet south of the roundabout. The motion passed unanimously by a 5-0 vote.

Developer Preston Walhood presented the former property owner, Patsy Young, with a street sign reading "Dean Meadow Ln", which was named to honor the Dean Family.

6. **Executive Session: There was not an executive session scheduled for this meeting.**
7. **Adjournment.**

Chairman Tolson adjourned the meeting at 9:50 pm

Tommy Tolson, Chairman

Morgan Kowaleski, Executive Admin Assistant



City of Lucas

Planning and Zoning Agenda Request

February 13, 2025

Item No. 02

Requester: Development Services Director Joe Hilbourn

Agenda Item Request

Conduct a public hearing and consider approving a request for a change in zoning from R2 (Residential 2-acre) to CB (Commercial Business) and amend the comprehensive zoning map on a tract of land being 7.96-acre tract located in the James Anderson Survey, Abstract No. 17, City of Lucas Collin County, Texas.

- A. Presentation by Development Services Director Joe Hilbourn
- B. Conduct public hearing
- C. Take action on Zoning Change Request

Background Information

Sara Scott with Kimley-Horn, on behalf of Rutledge Haggard, is requesting a zoning change for an approximately 8-acre tract of land located at 1825 Southview Drive (FM 1378) from R-2 (Residential 2-acre) to CB (Commercial Business). The request does not align with the city's approved Comprehensive Plan but is consistent with the characteristics of surrounding properties.

To the north is the North Texas Equestrian Center. The first property to the east is outside the city limits and owned by the North Texas Equestrian Center. The property to the west is in the process of being approved as a Planned Development. The second property east of the proposed site is a self-storage facility. Further down Osage, there is a resale shop and Wylie Fence & Deck.

The property in its current condition contains an older home that is rapidly deteriorating

Attachments/Supporting Documentation

- 1. Public Notice
- 2. Depiction
- 3. Legal Description
- 4. Location Map
- 5. Concept Plan(s)
- 6. Comprehensive Future Land Use Map

Budget/Financial Impact

NA



City of Lucas

Planning and Zoning Agenda Request

February 13, 2025

Item No. 02

Recommendation

This request does not comply with the City's Comprehensive Plan; however, the request does match the characteristics of surrounding properties.

Motion

I make a motion to approve a request for a change in zoning from R2 (Residential 2-acre) to CB (Commercial Business) and amend the comprehensive zoning map on a tract of land being 7.96-acre tract located in the James Anderson Survey, Abstract No. 17, City of Lucas Collin County, Texas.

I make a motion to deny a request for a change in zoning from R2 (Residential 2-acre) to CB (Commercial Business) on a tract of land being 7.96-acre tract located in the James Anderson Survey, Abstract No. 17, City of Lucas Collin County, Texas.



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Planning & Zoning Commission of the City of Lucas, Texas will conduct a public hearing on Thursday, February 13, 2025, at 6:30 p.m., and City Council will conduct a second public hearing on Thursday, March 6, 2025, at 6:30 p.m. at Lucas City Hall, 665 Country Club Road, Lucas, Texas to consider a request for rezoning a parcel of land from R-2 to CB (Commercial Business) on a 7.96 acre tract of land out of the James Anderson Survey, Abstract No. 17 in Collin County Texas, being all of that certain tract of land described in General Warranty Deed to Hendrick Farm LLC, recorded in Instrument No. 2024000111292, Official Public Records, Collin County, Texas, and being more particularly described as follows:

BEGINNING at a point for the northwest corner of said 7.96 acre tract, in the east right-of-way line of F.M. Road 1378 (also known as Southview Drive, a variable width right-of-way), said point also being in the approximate centerline of Osage Lane;

THENCE with said approximate centerline of Osage Lane and the north line of said 7.96 acre tract, South 89°25'00" East, a distance of 417.00 feet to a point for the northeast corner of said 7.96 acre tract and the northwest corner of Lot 1, C.E. Hobbs Addition, an addition to the City of Lucas, recorded in Volume 5, Page 13, Map Records, Collin County, Texas;

THENCE with the east line of said 7.96 acre tract and the west line of said Lot 1, South 00°20'00" East, a distance of 961.05 feet to a point for the southeast corner of said 7.96 acre tract and the southwest corner of said Lot 1, in the north line of a tract of land described in Special Warranty Deed to William Mark Robinson and Kelly Jean Robinson, recorded in Instrument No. 20180312000301180 of said Official Public Records;

THENCE with the south line of said 7.96 acre tract, North 90°00'00" West, a distance of 178.63 feet to a point for the southwest corner of said 7.96 acre tract, in said east right-of-way line of F.M. Road 1378;

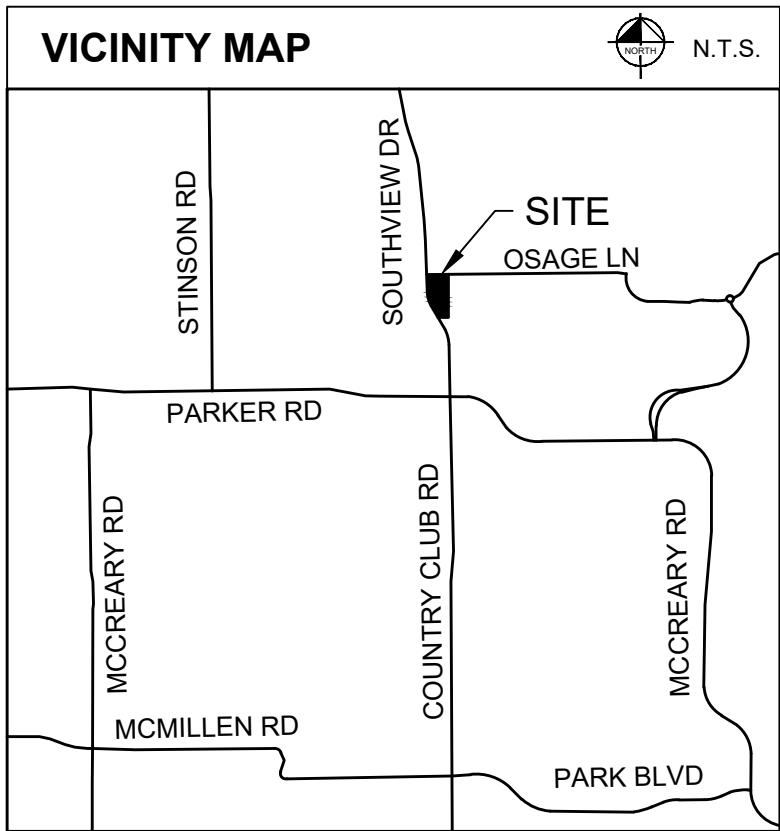
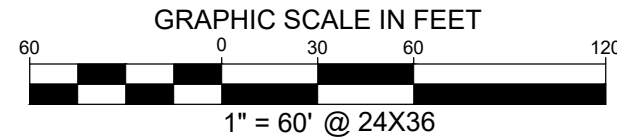
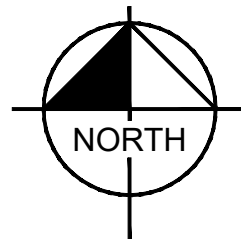
THENCE with said east right-of-way line of F.M. Road 1378, the following courses and distances:

North 29°23'00" West, a distance of 348.50 feet to a point at the beginning of a nontangent curve to the right with a radius of 600.00 feet, a central angle of 19°25'42", and a chord bearing and distance of North 18°17'00" West, 202.48 feet;

In a northerly direction, with said non-tangent curve to the right, an arc distance of 203.45 feet to a point for corner;

North 01°09'00" West, a distance of 469.45 feet to the **POINT OF BEGINNING** and containing 347,224 square feet or 7.97 acres of land.

Those wishing to speak FOR or AGAINST the above item are invited to attend. If you are unable to attend and have comments you may send them to City of Lucas, Attention: City Secretary, Toshia Kimball, 665 Country Club Road, Lucas, Texas 75002, email tkimball@lucastexas.us and it will be presented at the hearing. If you have any questions about the above hearing, you may contact Development Services Director, Joe Hilbourn at jhilbourn@lucastexas.us.



ZONING DESCRIPTION

BEING a tract of land situated in the James Anderson Survey, Abstract No. 17, City of Lucas, Collin County, Texas and being all of a called 7.96 acre tract of land described in General Warranty Deed to Hendrick Farm LLC, recorded in Instrument No. 2024000111292, Official Public Records, Collin County, Texas, and being more particularly described as follows:

BEGINNING at a point for the northwest corner of said 7.96 acre tract, in the east right-of-way line of F.M. Road 1378 (also known as Southview Drive, a variable width right-of-way), said point also being in the approximate centerline of Osage Lane;

THENCE with said approximate centerline of Osage Lane and the north line of said 7.96 acre tract, South 89°25'00" East, a distance of 417.00 feet to a point for the northeast corner of said 7.96 acre tract and the northwest corner of Lot 1, C.E. Hobbs Addition, an addition to the City of Lucas, recorded in Volume 5, Page 13, Map Records, Collin County, Texas;

THENCE with the east line of said 7.96 acre tract and the west line of said Lot 1, South 00°20'00" East, a distance of 961.05 feet to a point for the southeast corner of said 7.96 acre tract and the southwest corner of said Lot 1, in the north line of a tract of land described in Special Warranty Deed to William Mark Robinson and Kelly Jean Robinson, recorded in Instrument No. 20180312000301180 of said Official Public Records;

THENCE with the south line of said 7.96 acre tract, North 90°00'00" West, a distance of 178.63 feet to a point for the southwest corner of said 7.96 acre tract, in said east right-of-way line of F.M. Road 1378;

THENCE with said east right-of-way line of F.M. Road 1378, the following courses and distances:

North 29°23'00" West, a distance of 348.50 feet to a point at the beginning of a non-tangent curve to the right with a radius of 600.00 feet, a central angle of 19°25'42", and a chord bearing and distance of North 18°17'00" West, 202.48 feet;
In a northerly direction, with said non-tangent curve to the right, an arc distance of 203.45 feet to a point for corner;
North 01°09'00" West, a distance of 469.45 feet to the **POINT OF BEGINNING** and containing 347,224 square feet or 7.97 acres of land.

This document was prepared under 22 TAC §138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

STATEMENT OF PURPOSE:

THE PURPOSE OF THIS ZONING IS TO REZONE FROM THE EXISTING RESIDENTIAL (R2) ZONING TO PROPOSED COMMERCIAL BUSINESS (CB) ZONING FOR THE PURPOSE OF DEVELOPING THE SITE WITH COMMERCIAL USES.

THE ADJACENT USES AROUND THE PROPERTY ARE COMMERCIAL. THE PROPOSED REZONING WILL NOT IMPACT THE TRANSPORTATION SYSTEM OR ADJACENT USES. WATER IS AVAILABLE TO THE SITE AND WASTEWATER WILL BE MANAGED PRIVATELY ONSITE.

NOTES:

THE DEVELOPMENT OF THIS SITE WILL BE IN ACCORDANCE WITH CITY OF LUCAS DEVELOPMENT STANDARDS.

ZONING EXHIBIT

7.96 ACRES
JAMES ANDERSON SURVEY,
ABSTRACT NO. 17
CITY OF LUCAS, COLLIN COUNTY, TEXAS
DATE: NOVEMBER 27, 2024

Kimley»Horn

2500 Pacific Avenue
Suite 1100, Dallas, Texas 75226
FIRM # 10115500
Tel. No. (469) 718-8849

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 60'			Nov. 2024	064041019	1 OF 1

OWNER:
HENDRICK FARM LLC
800 CENTRAL PARKWAY, SUITE 100
PLANO, TEXAS 75074
CONTACT: RUTLEDGE HAGGARD
PHONE: 972-422-4515

ENGINEER:
KIMLEY-HORN AND ASSOCIATES, INC.
2500 PACIFIC AVENUE, SUITE 1100
DALLAS, TEXAS 75226
CONTACT: SARAH SCOTT, P.E.
PHONE: 972-770-1300

ETJ PROPERTY
USE: COMMERCIAL

NORTH TEXAS EQUESTRIAN
CENTER, INC.
INST. NO. 1994120201064790
O.P.R.C.C.T.

APPROXIMATE CENTER LINE OF
OSAGE LANE
(A VARIABLE WIDTH RIGHT-OF-WAY)

S89°25'00"E 417.00'

P.O.B.

F.M. ROAD 1378
(ALSO KNOWN AS SOUTHVIEW DRIVE)
(A VARIABLE WIDTH RIGHT-OF-WAY)

N1°09'00"W 469.45'

Δ=19°25'42"
R=600.00'
L=203.45'
CB=N18°17'00"W
C=202.48'

ZONED: CB
USE: AGRICULTURE

JCBR HOLDINGS, LLC
INST. NO. 20110222000191070
O.P.R.C.C.T.

JAMES ANDERSON SURVEY,
ABSTRACT NO. 17
HENDRICK FARM LLC
INST. NO. 2024000111292
O.P.R.C.C.T.

7.96 ACRES
347,224 SQ. FT.

EXISTING ZONING: R2
PROPOSED ZONING: CB

ZONED: CB
USE: COMMERCIAL

JCBR HOLDINGS, LLC
INST. NO. 20150130000107220
O.P.R.C.C.T.

APPROXIMATE LOCATION
OF ABSTRACT LINE

LEROY FARMER SURVEY,
ABSTRACT NO. 34

ETJ PROPERTY
USE: RESIDENTIAL

HEARTLAND STORAGE WYLIE LLC
INST. NO. 20211130002427090
O.P.R.C.C.T.

ZONED: AO
USE: STORAGE

K&L HANDT
INST. NO. 2007010600043510
O.P.R.C.C.T.

LOT 1
C.E. HOBBS ADDITION
VOL. 5, PG. 13
M.R.C.C.T.

WILLIAM MARK ROBINSON
AND KELLY JEAN ROBINSON
INST. NO. 20180312000301180
O.P.R.C.C.T.

ZONED: AO
USE: RESIDENTIAL

LOT 32
THE MEADOWS
VOL. 9, PG. 30
M.R.C.C.T.

ZONED: R1
USE: RESIDENTIAL

LOT 33
THE MEADOWS
VOL. 9, PG. 30
M.R.C.C.T.

ZONING DESCRIPTION

BEING a tract of land situated in the James Anderson Survey, Abstract No. 17, City of Lucas, Collin County, Texas and being all of a called 7.96 acre tract of land described in General Warranty Deed to Hendrick Farm LLC, recorded in Instrument No. 2024000111292, Official Public Records, Collin County, Texas, and being more particularly described as follows:

BEGINNING at a point for the northwest corner of said 7.96 acre tract, in the east right-of-way line of F.M. Road 1378 (also known as Southview Drive, a variable width right-of-way), said point also being in the approximate centerline of Osage Lane;

THENCE with said approximate centerline of Osage Lane and the north line of said 7.96 acre tract, South 89°25'00" East, a distance of 417.00 feet to a point for the northeast corner of said 7.96 acre tract and the northwest corner of Lot 1, C.E. Hobbs Addition, an addition to the City of Lucas, recorded in Volume 5, Page 13, Map Records, Collin County, Texas;

THENCE with the east line of said 7.96 acre tract and the west line of said Lot 1, South 00°20'00" East, a distance of 961.05 feet to a point for the southeast corner of said 7.96 acre tract and the southwest corner of said Lot 1, in the north line of a tract of land described in Special Warranty Deed to William Mark Robinson and Kelly Jean Robinson, recorded in Instrument No. 20180312000301180 of said Official Public Records;

THENCE with the south line of said 7.96 acre tract, North 90°00'00" West, a distance of 178.63 feet to a point for the southwest corner of said 7.96 acre tract, in said east right-of-way line of F.M. Road 1378;

THENCE with said east right-of-way line of F.M. Road 1378, the following courses and distances:

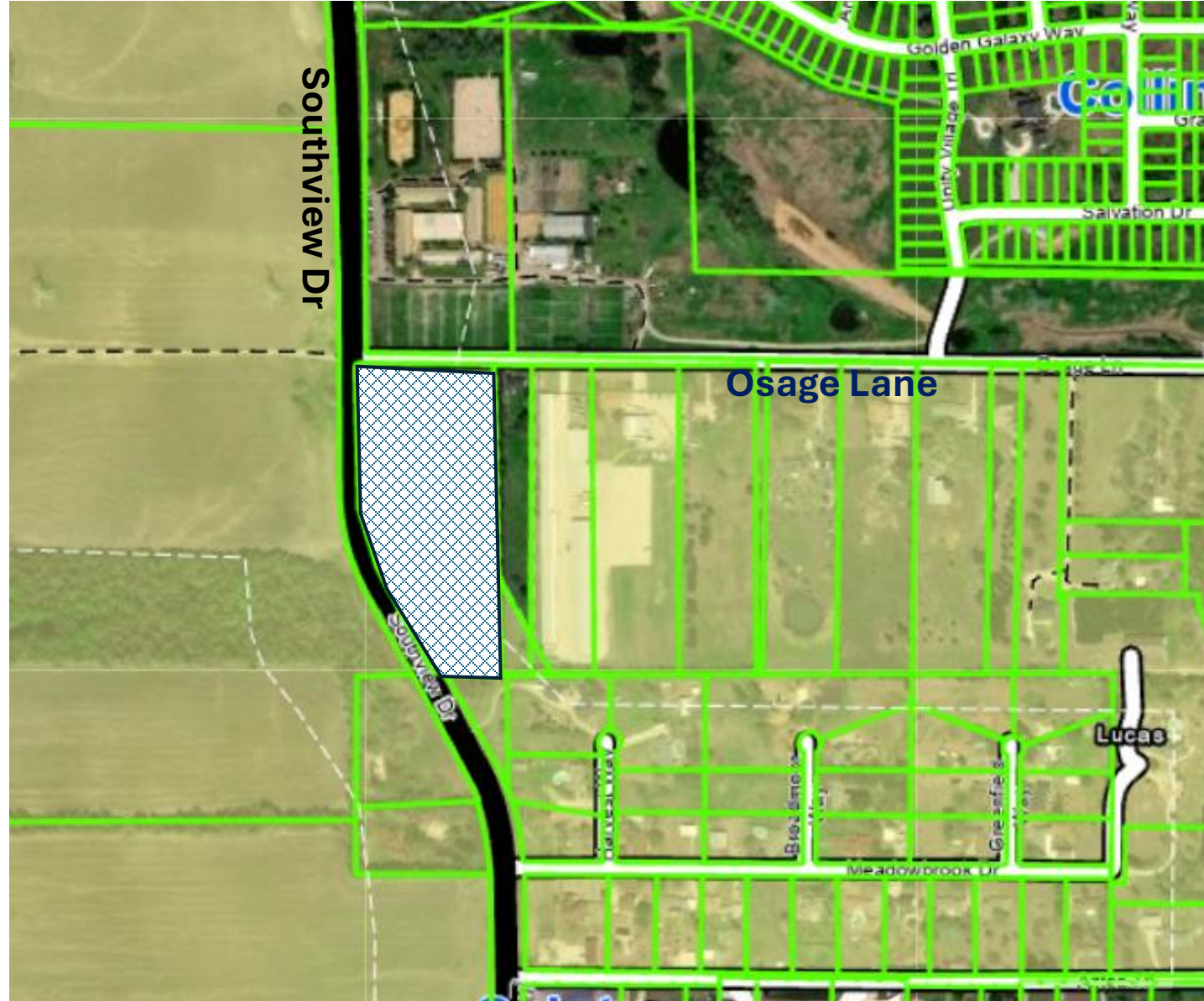
North 29°23'00" West, a distance of 348.50 feet to a point at the beginning of a non-tangent curve to the right with a radius of 600.00 feet, a central angle of 19°25'42", and a chord bearing and distance of North 18°17'00" West, 202.48 feet;

In a northerly direction, with said non-tangent curve to the right, an arc distance of 203.45 feet to a point for corner;

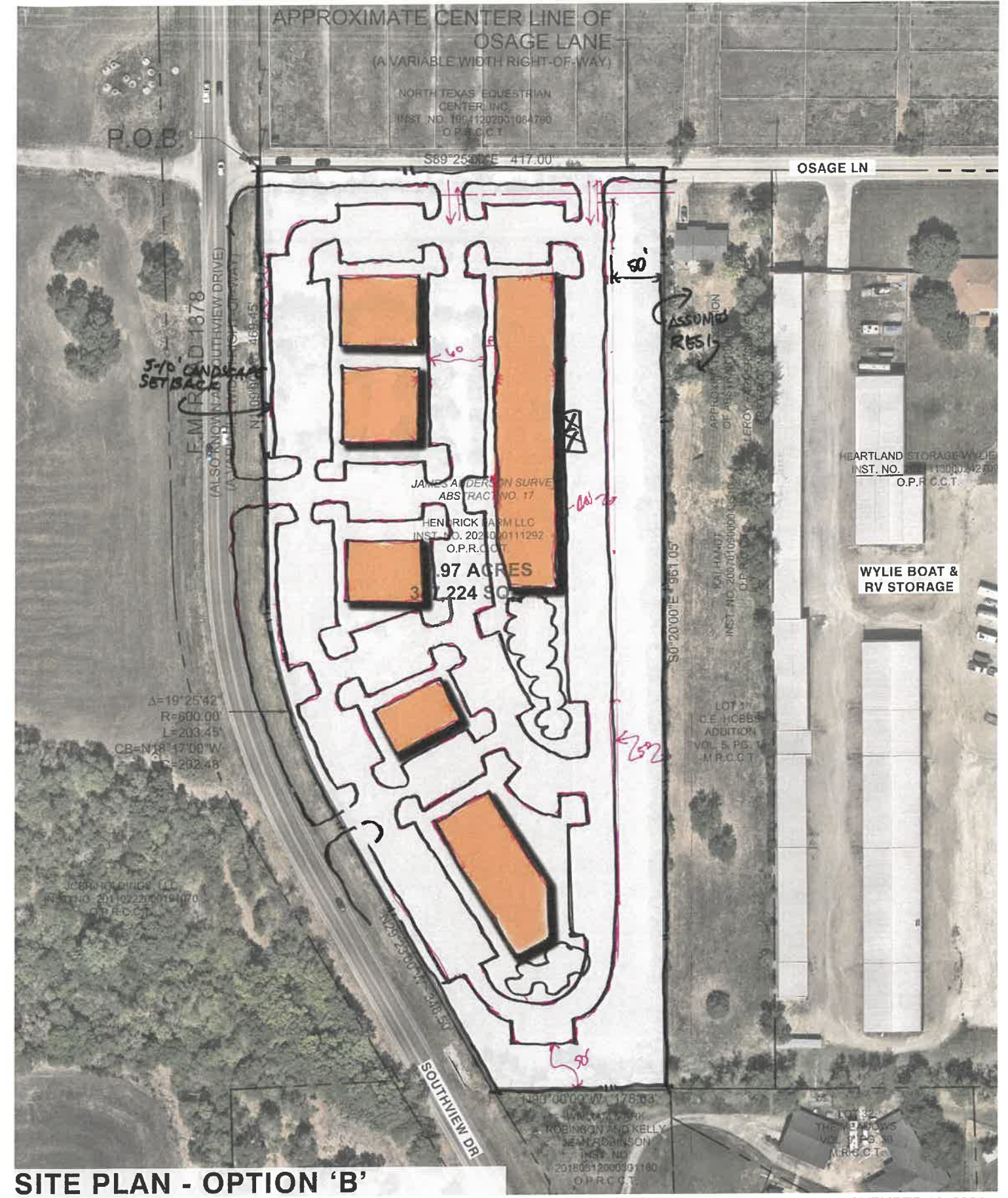
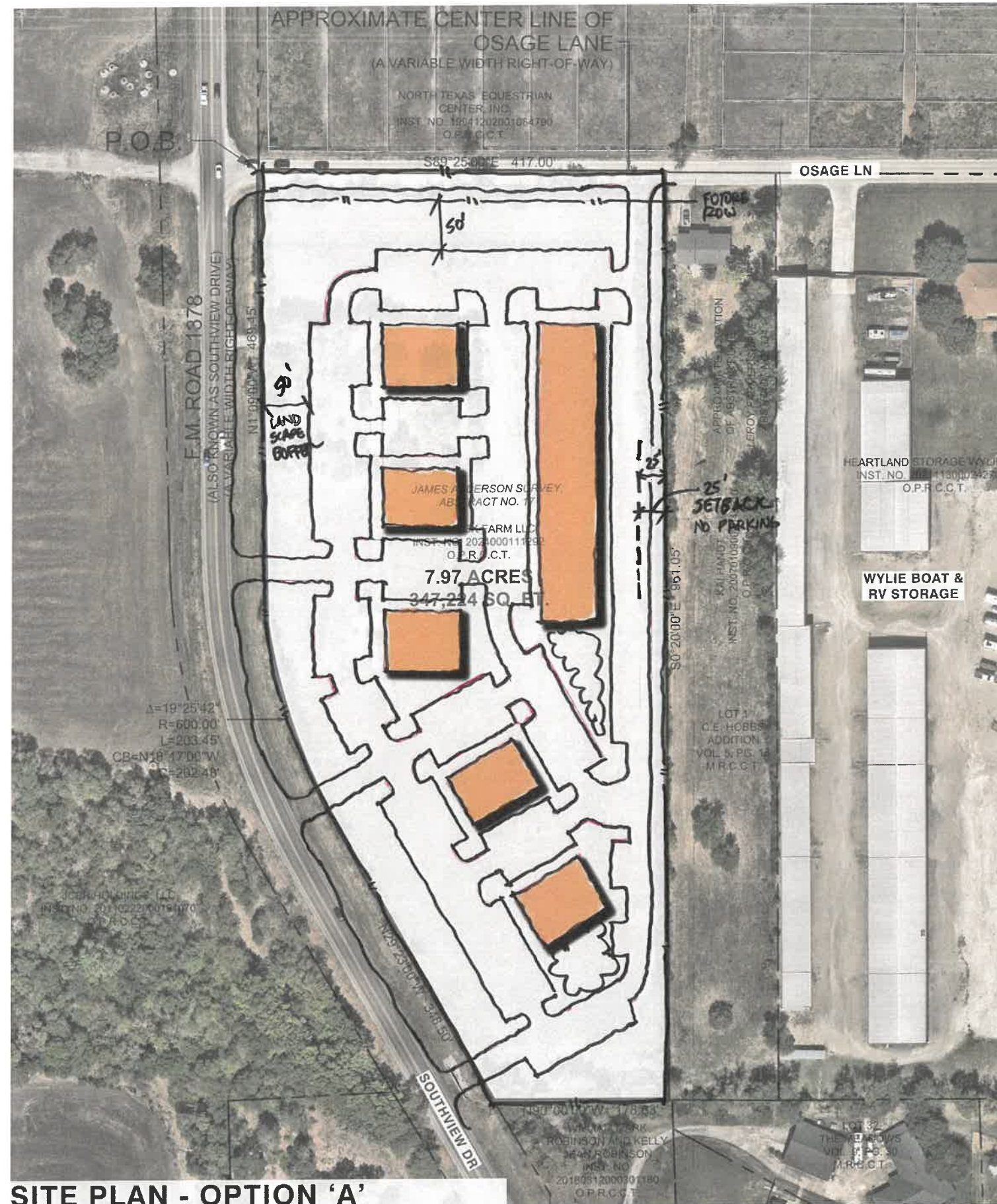
North 01°09'00" West, a distance of 469.45 feet to the **POINT OF BEGINNING** and containing 347,224 square feet or 7.97 acres of land.

This document was prepared under 22 TAC §138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

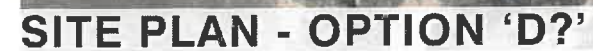
Osage/Southview Location Map



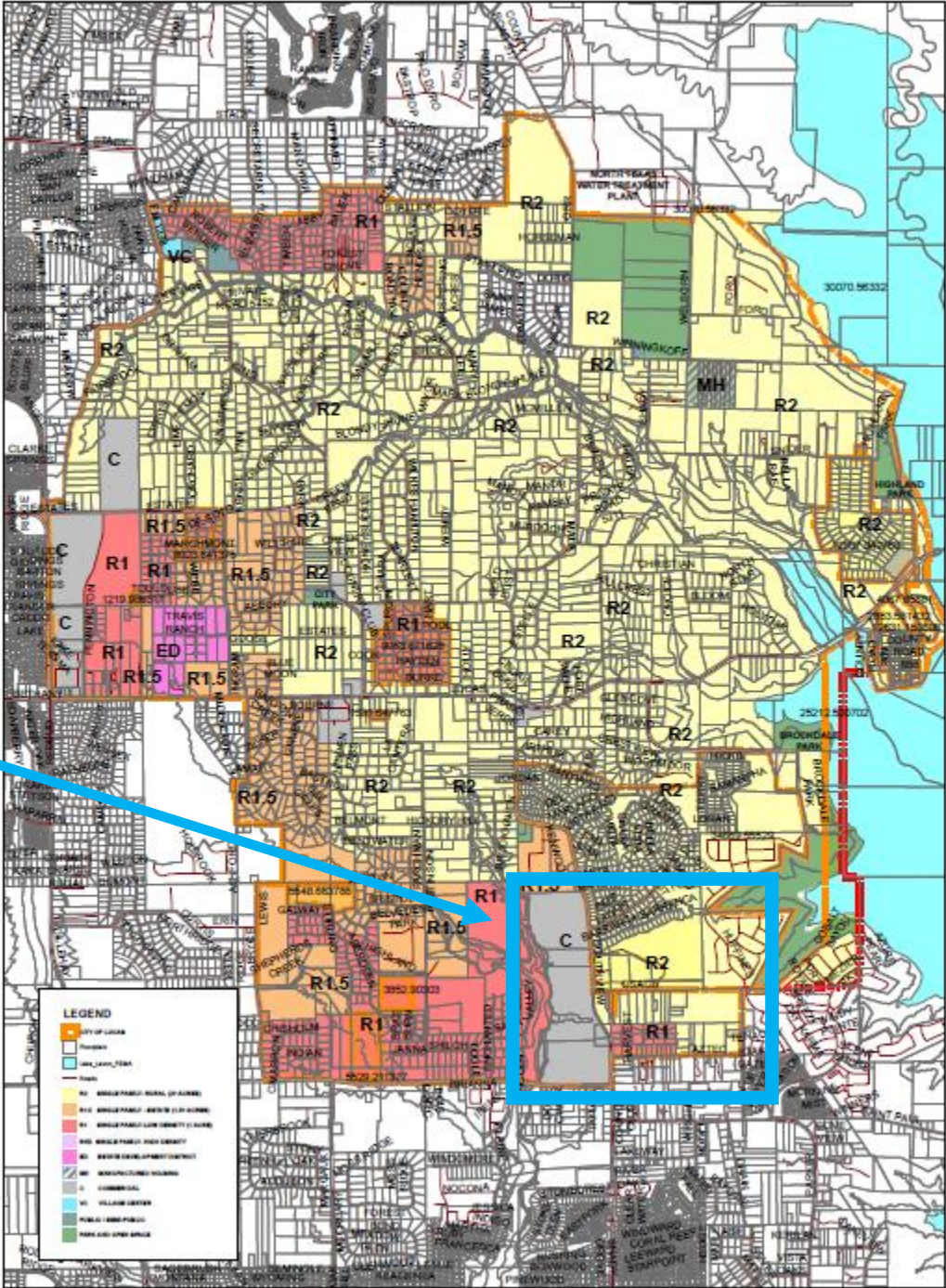
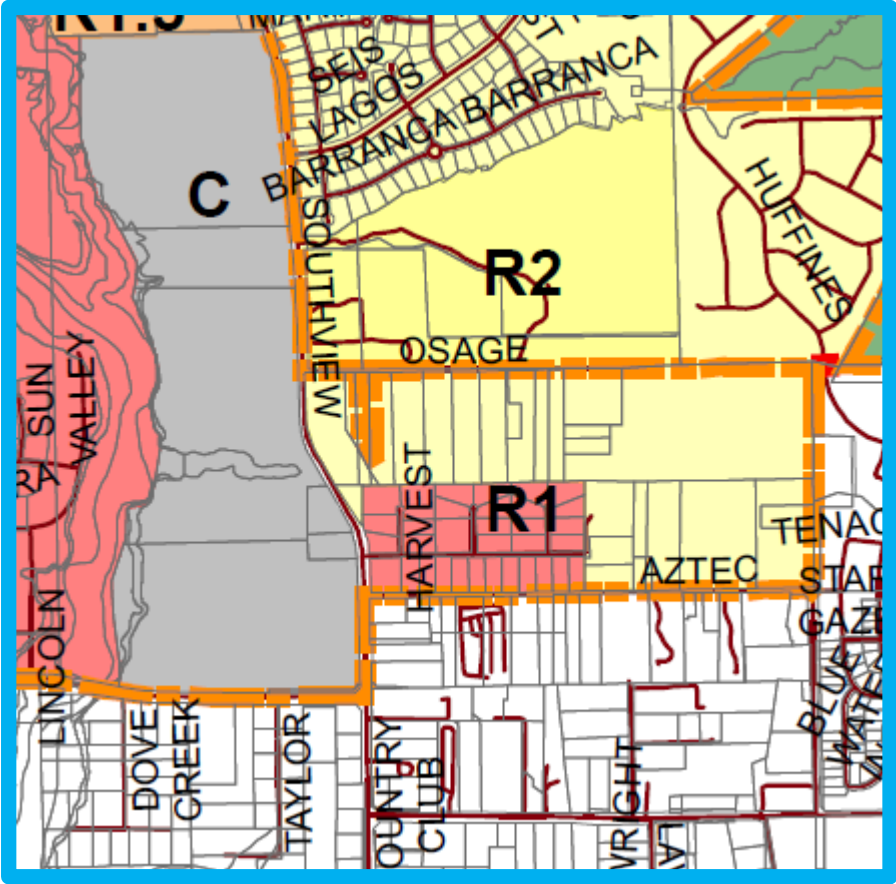
Plans are diagrammatic in nature and not based on actual survey information such as a tree survey, easements, etc.



Plans are diagrammatic in nature and not based on actual survey information such as a tree survey, easements, etc.



Comprehensive Future Land Use Map





City of Lucas

Planning and Zoning Agenda Request

February 13, 2025

Item No. 03

Requester: Planning and Zoning Chairman, Tommy Tolson

Agenda Item Request

Discuss Opinion No. KP-0349 issued by the Texas Attorney General, which addresses:

- A. The information a local jurisdiction must provide if denying or conditionally approving a plat under Chapters 212 and 232 of the Texas Local Government Code.
- B. The authority of local governments to establish prerequisites to the submission of a plat application.

Background Information

The Attorney General's Opinion highlights procedural requirements and limitations placed on local jurisdictions concerning plat approval and the establishment of application prerequisites. This discussion aims to ensure that the City's planning and zoning processes align with the guidance provided in KP-0349.

Key Discussion Points:

- Current city policies and procedures for plat approval or denial.
- Requirements to provide written explanations when denying or conditionally approving a plat.
- Authority and limitations on prerequisites for plat submission under state law.
- Potential updates or clarifications needed in the city's ordinances or application processes to ensure compliance.

Attachments/Supporting Documentation

1. Opinion No. KP-0349

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 25, 2021

The Honorable Bryan Hughes
Chair, Senate Committee on State Affairs
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068

Opinion No. KP-0349

Re: Information a local jurisdiction must provide if denying or conditionally approving a plat under chapters 212 and 232 of the Local Government Code and the authority of local governments to establish prerequisites to the submission of a plat application (RQ-0367-KP)

Dear Senator Hughes:

You ask about requirements under House Bill 3167 ("HB 3167"), enacted by the Eighty-sixth Legislature.¹ HB 3167 amended provisions in the Local Government Code to require local jurisdictions responsible for approving plats or plans to generally "approve, approve with conditions, or disapprove" a plat or plan within thirty days of its filing. *See* TEX. LOC. GOV'T CODE §§ 212.009(a), 232.0025(d). As the author of HB 3167, you explain your intent in proposing the legislation was to "streamline and expedite the ability to obtain plat and plan approval statewide." Request Letter at 1.

You first ask what information a local jurisdiction must provide if it denies or conditionally approves a plat under the laws amended by HB 3167. Request Letter at 2. HB 3167 amended chapters 212 and 232 by adding, among other provisions, sections 212.0091 and 232.0026. Those sections identify information a local jurisdiction must provide when disapproving or conditionally approving a plan or plat:

- (a) A municipal authority or governing body that conditionally approves or disapproves a plan or plat under this subchapter shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that

¹See Letter from Honorable Bryan Hughes, Chair, Senate Comm. on State Affairs, to Honorable Ken Paxton, Tex. Att'y Gen. at 1 (July 28, 2020), <https://www2.texasattorneygeneral.gov/opinions/opinions/51paxton/rq/2020/pdf/RQ0367KP.pdf> ("Request Letter").

clearly articulates each specific condition for the conditional approval or reason for disapproval.

(b) Each condition or reason specified in the written statement:

(1) must:

(A) be directly related to the requirements under this subchapter; and

(B) include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval, if applicable; and

(2) may not be arbitrary.

TEX. LOC. GOV'T CODE § 212.0091 (emphasis added); *see also id.* § 232.0026 (applying the same requirements to a commissioners court or designee that conditionally approves or disapproves of a plat application). Pursuant to these sections, a municipal or county authority that does not grant full approval for a plat or plan must specify a clear reason why approval was not granted, citing the law, including a specific statute or ordinance, that serves as the basis for the denial or conditional approval. *Id.* §§ 212.0091, 232.0026. Despite these new requirements, you explain that “local governments continue to deny or conditionally approve plat applications with generic comments that do not fully address any specific deficiencies or advise applicants on the revisions needed to obtain approval.” Request Letter at 1. The language of sections 212.0091 and 232.0026 prohibit generic statements for a denial or conditional approval and instead require specific reasons with accompanying citations to law for anything other than full approval of a plan or plat. A municipal authority or commissioners court that does not provide such specificity violates chapter 212 or 232.

In your second question, you ask what remedies exist if a municipality or county denies or conditionally approves a plat or plan without providing a complete explanation of why full approval was not granted. Request Letter at 2. With regard to a municipality, subsection 212.009(b) provides: “A plan or plat is approved by the governing body unless it is disapproved within that period and in accordance with Section 212.0091.” TEX. LOC. GOV'T CODE § 212.009(b). The same applies to decisions by a county regarding the approval of a plat or plan under subsection 232.0025(d). *Id.* §§ 232.0025(d), .0026. Thus, if a municipality or county fails to adequately explain the reason for the denial or conditional approval as required in subsection 212.0091, “the plan or plat is approved.” *Id.* §§ 212.009(b), 232.0025(d). Furthermore, a local entity’s decision to deny approval of a plan or plat is subject to judicial review. *See, e.g., Town of Annetta S. v. Seadrift Dev., L.P.*, 446 S.W.3d 823, 830 (Tex. App.—Fort Worth 2014, pet. denied) (upholding summary judgment in favor of a developer who was unlawfully denied plat approval). In an action challenging the disapproval of a plan or plat, the municipality or county “has the burden of proving by clear and convincing evidence that the disapproval meets the requirements” in chapters 212 or 232, respectively. TEX. LOC. GOV'T CODE §§ 212.0099, 232.0029.

You also ask whether enactment of HB 3167 established “a new statutory requirement or direct authorization” for local governments to require developers to complete certain prerequisites prior to acceptance of a plan or plat application. Request Letter at 2. You tell us that prior to the enactment of HB 3167, some local governments required developers to include certain studies and reports with their plan or plat application, including “drainage studies, traffic impact analyses, utility evaluations, geotechnical reports, federal permits such as FEMA Conditional Letters of Map Revision (CLOMR) and Letters of Map Revision (LOMR).”² *Id.* And you state that in some instances, local governments are now requiring a “‘completeness check’ of an application before the application itself can be accepted for submission.”³ *Id.*

“A person desiring approval of a plat must apply to and file a copy of the plat with the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality.” TEX. LOC. GOV’T CODE § 212.008; *see also id.* § 232.001 (requiring filing of a plat with the county for division of land outside municipal boundaries). “Plan” is defined as “a subdivision development plan, including a subdivision plan, subdivision construction plan, site plan, land development application, and site development plan.” *Id.* § 212.001(2). “Plat” is defined as “a preliminary plat, general plan, final plat, and replat.” *Id.* § 212.001(3). Municipalities and counties are authorized to adopt rules and ordinances governing plats “to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality.” *Id.* § 212.044; *see also id.* § 232.076 (authorizing a commissioners court to adopt rules related to certification regarding compliance with plat requirements).

Nothing in the language of chapters 212 or 232 directs local entities to require developers to complete certain prerequisites prior to acceptance of a plan or plat application, but it likewise does not expressly prohibit a municipality or county from requiring applicants to obtain certain approvals before submitting a plat or plan. While sections 212.009(a) and 232.0025(d) establish a thirty-day period in which a local jurisdiction must act on a plan or plat after filing, they do not provide an exhaustive list of what an applicant must include with that filing.

You point to subsections 212.009(b-1) and 232.0025(d-1) as evidence of the Legislature’s intent that a local government may not generally require prerequisites to submission of a plat or plan for approval. Request Letter at 2. Those subsections allow a municipality or county to require a groundwater availability certification be submitted prior to the start of the 30-day period for approval:

Notwithstanding Subsection (a) or (b), if a groundwater availability certification is required under Section 212.0101, the 30-day period

²Briefing submitted in response to your request states that a FEMA Conditional Letters of Map Revision (CLOMR) is necessary “for jurisdictions that participate in the National Flood Insurance Program” and that it can take “three to six months to obtain from FEMA.” *See* Brief from Honorable Bobby W. Stovall, Hunt Cty. Judge at 2 (Aug. 27, 2020) (“Hunt County Brief”) (on file with the Op. Comm.).

³Briefing submitted in response to your request states that some local governments required the studies and reports you describe prior to filing a plat even before the adoption of HB 3167. Hunt County Brief at 3; Brief from Scott Houston, Deputy Exec. Dir. & Gen. Counsel, Tex. Mun. League at 2 (Aug. 28, 2020) (all briefing on file with the Op. Comm.).

described by those subsections begins on the date the applicant submits the groundwater availability certification to the municipal authority responsible for approving plats or the governing body of the municipality, as applicable.

TEX. LOC. GOV'T CODE § 212.009(b-1); *see also id.* § 232.0025(d-1) (providing substantially the same for county authorities). You suggest that the inclusion of these provisions “is indicative that any other similar prerequisites to the beginning of the 30-day application timeline would have been specifically included in House Bill 3167 if they had been part of the Legislature’s intent.” Request Letter at 2. While subsections 212.009(b-1) and 232.0025(d-1) authorize a municipal or county authority to require a groundwater availability certification prior to the thirty-day period beginning to run, they do not expressly prohibit those authorities from requiring other reports or studies prior to the submission of a plan or plat. Courts refrain from reading words into a statute to create a meaning different from the plain text of the statute, and this office likewise will refrain from doing so. *See City of Rockwall v. Hughes*, 246 S.W.3d 621, 630 (Tex. 2008).

S U M M A R Y

Sections 212.0091 and 232.0026 of the Local Government Code prohibit local jurisdictions from denying or conditionally approving a plan or plat with generic statements, instead requiring specific reasons with accompanying citations to law for anything other than full approval of a plan or plat. A municipal or county authority that does not provide such specificity violates chapter 212 or 232, respectively. If a local jurisdiction fails to adequately explain the reason for the denial or conditional approval as required in section 212.0091 or 232.0026, the plan or plat is approved, and a local authority's decision to deny approval of a plan or plat is subject to judicial review.

Subsections 212.009(a) and 232.0025(d) require the local authority responsible for approving plats to approve, approve with conditions, or disapprove a plan or plat within 30 days after the date the plan or plat is filed. A court is unlikely to construe the language of those provisions to prohibit local authorities from requiring reports or studies to be completed prior to the submission of a plan or plat.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ken Paxton", with a stylized, cursive script.

KEN PAXTON
Attorney General of Texas

BRENT E. WEBSTER
First Assistant Attorney General

LESLEY FRENCH
Chief of Staff
Acting Deputy Attorney General for Legal Counsel

VIRGINIA K. HOELSCHER
Chair, Opinion Committee



City of Lucas

Planning and Zoning Agenda Request

February 13, 2025

Item No. 04

Requester: Planning and Zoning Chairman, Tommy Tolson

Agenda Item Request

Discuss Opinion No. KP-0409 issued by the Texas Attorney General, which addresses:

- A. Whether a licensed professional engineer is authorized to certify a subdivision plat under specific circumstances.

Background Information

The Attorney General's Opinion clarifies the role and authority of licensed professional engineers in the certification of subdivision plats, particularly in situations governed by Chapters 212 and 232 of the Texas Local Government Code. This discussion aims to evaluate how the city's existing processes align with the guidance provided in KP-0409.

Key Discussion Points:

- Review of current city requirements for plat certification, including the roles of professional engineers and surveyors.
- Analysis of the authority of professional engineers to certify subdivision plats as outlined in KP-0409.
- Implications for subdivision plat approval and recordation processes.
- Potential updates or clarifications needed in city ordinances or policies to ensure compliance with state law.

Attachments/Supporting Documentation

1. Opinion No. KP-0409

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 6, 2022

Lance Kinney, Ph.D., P.E.
Executive Director
Texas Board of Professional Engineers and Land Surveyors
1917 South Interstate 35
Austin, Texas 78741-3702

Opinion No. KP-0409

Re: Whether a licensed professional engineer is authorized to certify a subdivision plat in specific circumstances (RQ-0440-KP)

Dear Dr. Kinney:

On behalf of the Texas Board of Professional Engineers and Land Surveyors, you ask about a potential conflict between the Professional Land Surveying Practices Act (the “Act”) and a statutory provision relating to county subdivision platting.¹ As background, subsection 232.023 of the Local Government Code provides that in certain counties, subdividing land into two or more lots primarily for residential use requires the preparation of a plat under certain circumstances. *See* TEX. LOC. GOV’T CODE §§ 232.022(a)–(b), .023(a). Subsection 232.023(b)(1) requires the plat to “be certified by a surveyor *or* engineer,” but you explain that the Act “reserves the platting of subdivision . . . land to only registered professional land surveyors.” *Id.* § 232.023(b)(1) (emphasis added); Request Letter at 3; *see also* TEX. OCC. CODE § 1071.251(b). Thus, you suggest that if an engineer certifies a plat in accordance with subsection 232.023(b)(1), the engineer might be engaged in the unauthorized practice of land surveying in violation of the Act. *See* Request Letter at 1. You ask four questions in relation to this quandary, but the underlying issue is how to reconcile the apparent conflict between the two statutes. *Id.* at 3–4. We direct our analysis accordingly, focusing first on what it means for a plat to “be certified” for purposes of subsection 232.023(b)(1).

¹*See* Letter from Lance Kinney, Ph.D., P.E., Exec. Dir., Tex. Bd. of Prof’l Eng’rs & Land Surveyors, to Honorable Ken Paxton, Tex. Att’y Gen. at 1–4 (Nov. 16, 2021), <https://www2.texasattorneygeneral.gov/opinions/opinions/51paxton/rq/2021/pdf/RQ0440KP.pdf> (“Request Letter”).

We begin with the text of subsection 232.023(b), which sets forth the requirements for a plat² under section 232.023:

(b) A plat required under this section must:

(1) be certified by a surveyor or engineer registered to practice in this state;

(2) define the subdivision by metes and bounds;

(3) locate the subdivision with respect to an original corner of the original survey of which it is a part;

(4) describe each lot, number each lot in progression, and give the dimensions of each lot;

(5) state the dimensions of and accurately describe each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part;

(6) include or have attached a document containing a description in English and Spanish of the water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision and a statement specifying the date by which the facilities will be fully operable;

(7) have attached a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities proposed under Subdivision (6) are in compliance with the model rules adopted under Section 16.343, Water Code, and a certified estimate of the cost to install water and sewer service facilities;

(8) provide for drainage in the subdivision to:

(A) avoid concentration of storm drainage water from each lot to adjacent lots;

(B) provide positive drainage away from all buildings; and

²For purposes of county subdivision regulations, a “plat” is “a map, chart, survey, plan, or replat containing a description of the subdivided land with ties to permanent landmarks or monuments.” TEX. LOC. GOV’T CODE § 232.021(8).

(C) coordinate individual lot drainage with the general storm drainage pattern for the area;

(9) include a description of the drainage requirements as provided in Subdivision (8);

(10) identify the topography of the area;

(11) include a certification by a surveyor or engineer registered to practice in this state describing any area of the subdivision that is in a floodplain or stating that no area is in a floodplain; and

(12) include certification that the subdivider has complied with the requirements of Section 232.032 and that:

(A) the water quality and connections to the lots meet, or will meet, the minimum state standards;

(B) sewer connections to the lots or septic tanks meet, or will meet, the minimum requirements of state standards;

(C) electrical connections provided to the lot meet, or will meet, the minimum state standards; and

(D) gas connections, if available, provided to the lot meet, or will meet, the minimum state standards.

TEX. LOC. GOV'T CODE § 232.023(b). Subsection 232.023(b) uses the word “certify” or “certification” in several subparts which specify the person doing the certifying and the information being certified. *See id.* §§ 232.023(b)(7) (requiring an attached document prepared by an engineer “certifying that the water and sewer service facilities proposed under Subdivision (6) are in compliance with” certain model rules adopted under the Water Code), .023(b)(11) (requiring “a certification by” a registered surveyor or engineer regarding whether any area of the subdivision is in a floodplain), .023(b)(12) (providing for a “certification that the subdivider has complied with” the overall requirements of section 232.032 and that minimum state standards for water, sewer, electric and gas connections are, or will be, met). But subsection 232.023(b)(1), the subpart you ask about, states generally that the plat must “be certified,” including no further information or context and no definition by the Legislature that would explain the scope of term’s meaning. *Id.* § 232.023(b)(1).

When the Legislature does not define a term, a court uses the plain and ordinary meaning of the term and interprets it within the context of the statute. *Hogan v. Zoanni*, 627 S.W.3d 163, 169 (Tex. 2021). To “certify” means to “attest or confirm in a formal statement” or to “officially recognize (someone or something) as possessing certain qualifications or meeting certain standards.” NEW OXFORD AMERICAN DICTIONARY 284 (3rd. ed. 2010); *see also* BLACK’S LAW DICTIONARY 275 (10th ed. 2014) (defining the term to mean “authenticate or verify in writing; to

attest as being true or as meeting certain criteria”). This meaning is consistent with the portions of subsection 232.023(b) mentioned above, in which the Legislature identified the specific information to be attested to or confirmed and the person who must provide the attestation or confirmation.

But other subparts of subsection 232.023(b), such as subpart (b)(2) (defining the subdivision by metes and bounds) and subpart (b)(3) (locating the subdivision with respect to an original corner of the original survey), constitute professional land surveying. *See* TEX. OCC. CODE § 1071.002(6)(A)(ii) (defining professional surveying to include applying specialized knowledge to the measurement or location of various elements to determine areas and volumes for “platting and laying out land and subdivisions of land”). And the Legislature provided that professional surveying tasks may be performed only by a professional land surveyor and not by an engineer. *See id.* §§ 1071.251(b) (restricting the practice of land surveying to persons registered, licensed, or certified under the Act), 1071.351(b) (requiring land surveyors to obtain an authorized seal for their professional work), 1001.003(a)(2), (c)(6) (providing that an engineering survey otherwise permitted under the Texas Engineering Practice Act “does not include the surveying of real property or other activity regulated under [the Professional Land Surveying Practices Act]”). Thus, reading subsection 232.023(b)(1) to allow a land surveyor *or* an engineer to attest that the land surveying tasks meet the professional standards for the practice of land surveying would be inconsistent with the legislative intent restricting such tasks to land surveyors only.

In construing a statute, a court’s goal is to ascertain the Legislature’s intent and give it effect. *El Paso Educ. Initiative, Inc. v. Amex Props., LLC*, 602 S.W.3d 521, 531 (Tex. 2020). A court interprets statutes together and harmonizes them, if possible, to give effect to all the statutory provisions. *See State v. Wood*, 575 S.W.3d 929, 935 (Tex. App.—Austin 2019, pet. ref’d). Apparent from the face of the statute, the subdivision platting process in subsection 232.023(b) requires the participation of a land surveyor—because of the specific land surveying tasks required—and an engineer, because subsection 232.023(b)(7) expressly requires an engineer. Furthermore, subsection 232.023 is part of subchapter B, a subchapter which the Legislature added to the Local Government Code to address the proliferation of certain economically distressed subdivisions. *See* Act of May 23, 1995, 74th Leg., R.S., ch. 979, § 4, 1995 Tex. Gen. Laws 4895, 4896–4906. The Legislature made a number of findings in the bill that added subchapter B, noting the lack of adequate water and sewer services in these areas and declaring that the location, proliferation, and conditions in the unregulated subdivisions posed “a clear and substantial threat to the environment” that required “adequate remedial steps” in order to address the “compelling crisis.” *Id.* § 1 at 4895–96. Given this context, it is unlikely the Legislature intended to permit a regulated profession such as land surveying to be performed or certified by someone other than a member of that profession. While “the terms ‘and’ and ‘or’ are not interchangeable in general, they may be interpreted as synonymous when necessary to effectuate the legislature’s intent or to prevent an ambiguity, absurdity, or mistake.” *State v. Gammill*, 442 S.W.3d 538, 541 (Tex. App.—Dallas 2014, pet. ref’d). A court would likely construe subsection 232.023(b)(1) to require both a land surveyor *and* an engineer to formally attest to the requirements of the subdivision platting process corresponding to their respective areas of professional expertise or as otherwise provided in other subparts of subsection 232.023(b). Accordingly, no conflict exists between subsection 232.023(b)(1) and the Act.

S U M M A R Y

Subsection 232.023(b) of the Local Government Code establishes county subdivision platting requirements under certain circumstances and provides in subsection 232.023(b)(1) that the plat must be certified by a land surveyor or an engineer. Given the context of subsection 232.023(b) as a whole, a court would likely construe subsection 232.023(b)(1) to require both a land surveyor *and* an engineer to formally attest to the portions of the subdivision platting requirements corresponding to their respective areas of professional expertise or as otherwise provided in other subparts of subsection 232.023(b). Accordingly, no conflict exists between subsection 232.023(b)(1) and the Professional Land Surveying Practices Act.

Very truly yours,

A handwritten signature in black ink that reads "Ken Paxton". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

KEN PAXTON
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