

AN ORDINANCE 2009-06-18-0548

AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SAN ANTONIO BY AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, SECTION 35-304, OF THE CITY CODE OF SAN ANTONIO, TEXAS BY CHANGING THE ZONING DISTRICT BOUNDARY OF CERTAIN PROPERTY.

* * * * *

WHEREAS, a public hearing was held regarding this amendment to the Official Zoning Map at which time parties in interest and citizens were given an opportunity to be heard; and

WHEREAS, the Zoning Commission has submitted a final report to the City Council regarding this amendment to the Official Zoning Map of the City of San Antonio; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 35, Unified Development Code, Section 35-304, Official Zoning Map, of the City Code of San Antonio, Texas is amended by changing the zoning district boundary of 10.5345 acres out of Lot 2, Block 3, NCB 16390 from "PUD MF-25 GC-1 MLOD-1" Planned Unit Development Multi-Family Hill Country Gateway Corridor Military Lighting Overlay District-1 and "PUD C-3 GC-1 MLOD-1" Planned Unit Development General Commercial Hill Country Gateway Corridor Military Lighting Overlay District-1 to "PUD MF-33 GC-1 MLOD-1" Planned Unit Development Multi-Family Hill Country Gateway Corridor Military Lighting Overlay District-1 (on 10.29 acres) and "PUD C-3 GC-1 MLOD-1" Planned Unit Development General Commercial Hill Country Gateway Corridor Military Lighting Overlay District-1 (on 0.2445 of an acre).

SECTION 2. A description of the property is attached as Exhibit "A" and made a part hereof and incorporated herein for all purposes.

SECTION 3. All other provisions of Chapter 35 except those expressly amended by this ordinance shall remain in full force and effect including the penalties for violations as made and provided for in Section 35 -491.

SECTION 4. The Director of Development Services shall change the zoning records and maps in accordance with this ordinance and the same shall be available and open to the public for inspection.

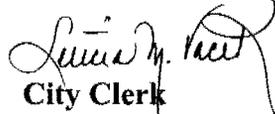
SECTION 5. This ordinance shall become effective June 28, 2009.

PASSED AND APPROVED this 18th day of June 2009.



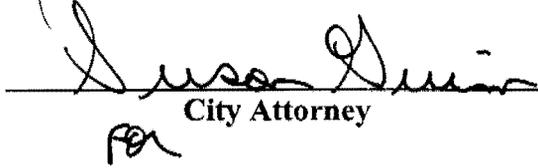
M A Y O R

ATTEST:



City Clerk

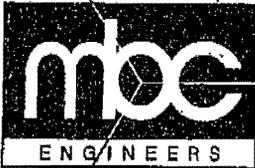
APPROVED AS TO FORM:



City Attorney

Agenda Item:	Z-13						
Date:	06/18/2009						
Time:	05:23:34 PM						
Vote Type:	Motion to Appr w Cond						
Description:	ZONING CASE # Z2009066 (District 8): An Ordinance amending the Zoning District Boundary from "PUD MF-25 GC-1 MLOD-1" Planned Unit Development Multi-Family Hill Country Gateway Corridor Military Lighting Overlay District-1 and "PUD C-3 GC-1 MLOD-1" Planned Unit Development General Commercial Hill Country Gateway Corridor Military Lighting Overlay District-1 to "PUD MF-33 GC-1 MLOD-1" Planned Unit Development Multi-Family Hill Country Gateway Corridor Military Lighting Overlay District-1 (on 10.85 acres) and "PUD C-3 GC-1 MLOD-1" Planned Unit Development General Commercial Hill Country Gateway Corridor Military Lighting Overlay District-1 (on 0.2445 of an acre) all on 11.0945 acres out of Lot 2, Block 3, NCB 16390 located at 25111 IH 10 West. Staff and Zoning Commission recommend Approval.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julian Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				x
Lourdes Galvan	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7	x					
Diane G. Cibrian	District 8		x			x	
Elisa Chan	District 9		x				
John G. Clamp	District 10	x					

72009066



MACINA • BOSE • COPELAND and ASSOCIATES, INC
CONSULTING ENGINEERS AND LANDSURVEYORS

1035 Central Parkway North, San Antonio, Texas 78232
(210) 545-1122 FAX (210) 545-9302
www.mbcengineers.com

METES AND BOUNDS
DESCRIPTION OF

A 10.29 ACRE (448,479 SQUARE FEET) TRACT OF LAND OUT OF LOT 2, BLOCK 3, BOERNE STAGE CROSSING SUBDIVISION (PLAT REFERENCE: VOLUME 9559, PAGE 197), NEW CITY BLOCK 16390, SITUATED IN THE JOHN W. SMITH SURVEY NO. 27, ABSTRACT NO. 708, CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED IN A CLOCKWISE MANNER AS FOLLOWS:

- COMMENCING:** At a found $\frac{1}{2}$ " iron rod and cap "MBC" at the northeast corner of said Lot 2, said $\frac{1}{2}$ " iron rod also marks the southeast corner of Lot 13, Block 2, County Block 4733, Eye Ten Investments Development Subdivision (Plat reference: Volume 9546, Page 149), Deed and Plat Records and is in the southwest right-of-way line of Interstate Highway 10 (I.H. 10) also known as U.S. Hwy. 87, a varying width public right-of-way (Deed Reference: Volume 4963, Page 271);
- THENCE:** S 89°51'58" W, 442.11 feet, leaving the southwest right-of-way line of said Interstate Highway 10 and along and with the common line of Lot 2 and Lot 13 to a point and the **POINT OF BEGINNING** of this tract;
- THENCE:** S 11°50'24" W, 95.38 feet, leaving the common line of said Lot 2 and Lot 13, to a point;
- THENCE:** S 75°45'44" E, 116.07 feet to a point and at a point of curvature of a curve to the right;
- THENCE:** 19.71 feet, along and with said curve to the right, having a radius of 25.00 feet, a central angle of 45°09'44" and a chord bearing and distance of S 53°10'52" E, 19.20 feet to a point and at a point of tangency;
- THENCE:** S 30°36'00" E, 312.60 feet, to a point and at a point of curvature of a curve to the right;
- THENCE:** 27.73 feet, along and with said curve to the right, having a radius of 26.00 feet, a central angle of 61°06'54" and a chord bearing and

distance of S 00°02'33" E, 26.44 feet to a point
and at a point of reserves curve to the left;

THENCE: 40.85 feet, along and with said curve to the
left, having a radius of 58.00 feet, a central
angle of 40°21'29" and a chord bearing and
distance of S 10°20'10" W, 40.01 feet to a point,
and at a point of a reverse curve to the right;

THENCE: 18.13 feet, along and with said curve to the
right, having a radius of 15.00 feet, a central
angle of 69°14'35" and a chord bearing and
distance of S 24°46'42" W, 17.04 feet to a point
and a point of tangency;

THENCE: S 59°24'00" W, 128.64 feet to a point;

THENCE: S 30°36'00" E, 143.75 feet to a point;

THENCE: N 59°24'00" E, 75.62 feet to a point;

THENCE: S 30°36'00" E, 325.47 feet to a point;

THENCE: N 73°39'58" W, 73.78 feet to a point;

THENCE: S 11°25'56" W, 26.10 feet to a point;

THENCE: S 14°11'08" W, 146.48 feet to a point;

THENCE: S 77°21'39" W, 117.28 feet to a point;

THENCE: N 71°55'22" W, 465.07 feet to a point;

THENCE: N 04°14'50" W, 313.04 feet to a point;

THENCE: N 13°45'41" E, 275.94 feet to a point;

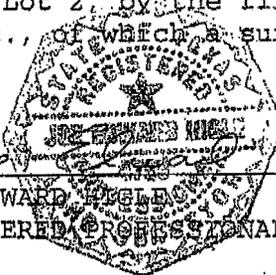
THENCE: N 04°48'22" E, 363.96 feet to a point, said point
being in the south line of a called 80.12 acre
tract (Volume 4725, Page 1375) as recorded in the
Official Public Records of Real Property of Bexar
County, Texas;

Z2009066

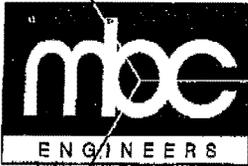
THENCE: S 89°39'45" E, 50.87 feet along and with the common line of Lot 2 and called 80.12 acre tract to a point, said point being the southwest corner of said Lot 13;

THENCE: N 89°51'58" E, 98.27 feet along and with common line of said Lot 2 and Lot 13 to the POINT OF BEGINNING.

I, Joe Edward Hagle, Registered Professional Land Surveyor do hereby affirm that this description is based on the results of a survey made on the ground of said Lot 2, by the firm of Macina, Bose, Copeland and Associates, Inc., of which a survey map has been prepared.


JOE EDWARD HAGLE REG. NO. 4788
REGISTERED PROFESSIONAL LAND SURVEYOR

30111-0879
February 12, 2009
JEH/yyd



Z2009066

MACINA · BOSE · COPELAND and ASSOCIATES, INC
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METES AND BOUNDS
DESCRIPTION OF

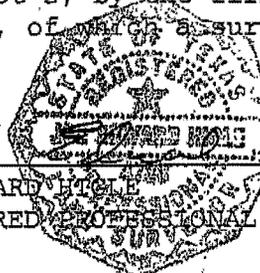
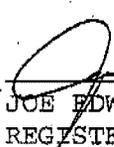
A 0.2445 OF AN ACRE (10,653 SQUARE FEET) TRACT OF LAND OUT OF LOT 2, BLOCK 3, BOERNE STAGE CROSSING SUBDIVISION (PLAT REFERENCE: VOLUME 9559, PAGE 197), NEW CITY BLOCK 16390, SITUATED IN THE JOHN W. SMITH SURVEY NO. 27, ABSTRACT NO. 708, CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED IN A CLOCKWISE MANNER AS FOLLOWS:

- COMMENCING: At a found ½" iron rod and cap "MBC" at the northeast corner of said Lot 2, said ½" iron rod also marks the southeast corner of Lot 13, Block 2, County Block 4733, Eye Ten Investments Development Subdivision (Plat reference: Volume 9546, Page 149), Deed and Plat Records and is in the southwest right-of-way line of Interstate Highway 10 (I.H. 10) also known as U.S. Hwy. 87, a varying width public right-of-way (Deed Reference: Volume 4963, Page 271);
- THENCE: S 89°51'58" W, 353.82 feet, leaving the southwest right-of-way line of said Interstate Highway 10 and alone and with the common line of said Lot 2 and Lot 13 to a point and at the POINT OF BEGINNING of this tract;
- THENCE: S 00°05'37" E, 120.98 feet, leaving the common line of said Lot 2 and Lot 13 to a point;
- THENCE: N 75°45'44" W, 111.48 feet to a point;
- THENCE: N 11°50'24" E, 95.38 feet to a point, said point being on the common line of said Lot 2 and Lot 13;

Z2009066

THENCE: N 89°51'58" E, 88.29 feet, along and with said common line of Lot 2 and Lot 13 to the POINT OF BEGINNING.

I, Joe Edward Hagle, Registered Professional Land Surveyor do hereby affirm that this description is based on the results of a survey made on the ground of said Lot 2, by the firm of Macina, Bose, Copeland and Associates, Inc., of which a survey map has been prepared.

  
JOE EDWARD HAGLE REG. NO. 4788
REGISTERED PROFESSIONAL LAND SURVEYOR

30111-0879
February 25, 2009
JEH/yyd

Z-13 Zoning Case Z2009066

25111 IH 10 West

11.0945 of an acre out of Lot 2, Block 3, NCB 16390

On the west side of Interstate 10, north of Boerne Stage Road

Current Zoning- From "PUD MF-25 GC-1 MLOD-1" Planned Unit Development Multi-Family Hill Country Gateway Corridor Military Lighting Overlay District-1 and "PUD C-3 GC-1 MLOD-1" Planned Unit Development General Commercial Hill Country Gateway Corridor Military Lighting Overlay District-1

Proposed- "PUD MF-33 GC-1 MLOD-1" Planned Unit Development Multi-Family Hill Country Gateway Corridor Military Lighting Overlay District-1 (on 10.85 acres) and "PUD C-3 GC-1 MLOD-1" Planned Unit Development General Commercial Hill Country Gateway Corridor Military Lighting Overlay District-1 (on 0.2445 of an acre).

Intended use- To allow multi-family development while also accommodating the current commercial development on the property.

Case Manager-

Applicant- Drenner & Golden Stuart Wolff, LLP

Owner- Rialto Village Limited Partnership

Impervious Coverage Level (if applicable) – N/A

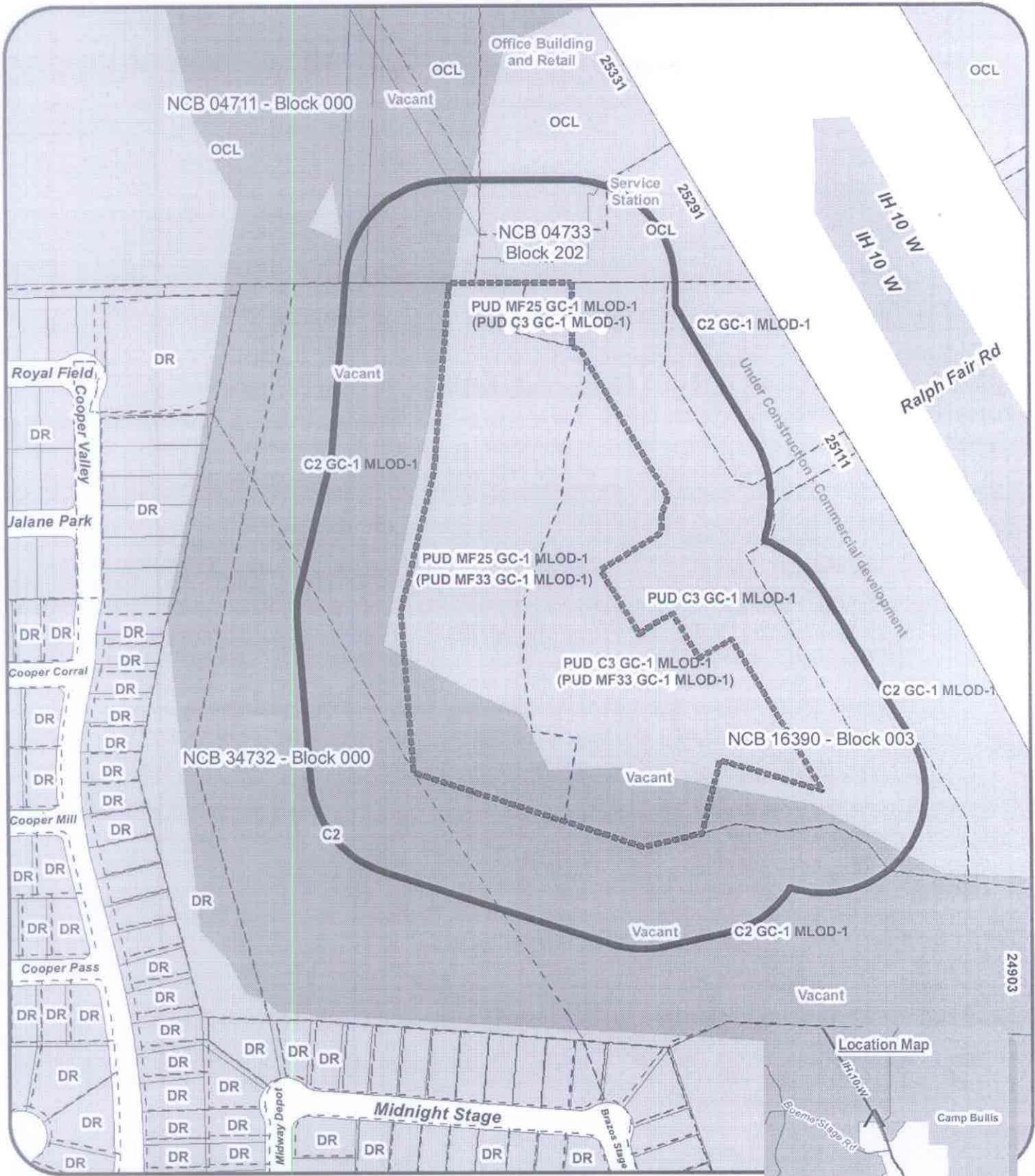
Neighborhood- Stage Run

Issues- Deed restrictions finalized

Response- Nothing to date received

Misc- Maps attached

Notes- NNOD and Stage Run Supports the case, see letter attached and Deed Restrictions



Zoning Case Notification Plan

Case Z2009066

Council District 8

Scale: 1" approx. = 250'

Subject Property Legal Description(s): 11.0945 acres out of Lot 2, Block 3, NCB 16390

Note: Subject Property is within Camp Bullis Awareness Zone

Legend

- Subject Property (11.09 Acres)
- 200' Notification Buffer
- Current Zoning **R6**
- Requested Zoning Change **(R6)**
- 100-Year FEMA Floodplain



Planning & Development Services Dept
 City of San Antonio
 (03/02/2009 - E Hart)

²⁻¹³
~~Z-12~~ Zoning Case Z2009066

25111 IH 10 West

11.0945 of an acre out of Lot 2, Block 3, NCB 16390

On the west side of Interstate 10, north of Boerne Stage Road

Current Zoning- From "PUD MF-25 GC-1 MLOD-1" Planned Unit Development Multi-Family Hill Country Gateway Corridor Military Lighting Overlay District-1 and "PUD C-3 GC-1 MLOD-1" Planned Unit Development General Commercial Hill Country Gateway Corridor Military Lighting Overlay District-1

Proposed- "PUD MF-33 GC-1 MLOD-1" Planned Unit Development Multi-Family Hill Country Gateway Corridor Military Lighting Overlay District-1 (on 10.85 acres) and "PUD C-3 GC-1 MLOD-1" Planned Unit Development General Commercial Hill Country Gateway Corridor Military Lighting Overlay District-1 (on 0.2445 of an acre).

Intended use- To allow multi-family development while also accommodating the current commercial development on the property.

Case Manager-

Applicant- Drenner & Golden Stuart Wolff, LLP

Owner- Rialto Village Limited Partnership

Impervious Coverage Level (if applicable) – N/A

Neighborhood- Stage Run

Issues- NNOD is working with Drenner Golden Stuart Wolff on deed restrictions

Response- Nothing to date received

Misc- Maps attached

Notes- NNOD and Stage Run Supports the case, see letter attached

THENCE: The following courses and distances are along the north line of said variable width drainage easement as follows:

N 82°28'41" W, 380.00 feet (Measured), N 82°30'00" W, 380.00 feet (Plat) to a found 1/2" iron rod and cap "PD";

THENCE: N 36°02'10" W, 64.20 feet (Measured), N 36°15'00" W, 64.00 feet (Plat) to a found 1/2" iron rod and cap "PD";

THENCE: N 62°06'50" W, 80.02 feet (Measured), N 62°00'00" W, 80.00 feet (Plat) to a found 1/2" iron rod and cap "PD";

THENCE: S 82°02'14" W, 99.97 feet (Measured), S 82°00'00" W, 100.00 feet (Plat) to a found 1/2" iron rod and cap "PD";

THENCE: N 76°02'00" W, 80.04 feet (Measured), N 76°00'00" W, 80.00 feet (Plat) to a found 1/2" iron rod and cap "PD";

THENCE: S 77°21'39" W, 170.04 feet (Measured), S 77°15'00" W, 170.00 feet (Plat) to a found 1/2" iron rod and cap "PD";

THENCE: N 71°55'22" W, 465.07 feet (Measured), N 71°56'00" W, 465.00 feet (Plat) to a found 1/2" iron rod and cap "PD";

THENCE: N 04°14'50" W, 313.04 feet (Measured), N 04°18'00" W, 313.00 feet (Plat) to a found 1/2" iron rod and cap "PD";

THENCE: N 13°45'41" E, 275.94 feet (Measured), N 13°46'00" E, 275.93 feet (Plat) to a found 1/2" iron rod and cap "PD";

THENCE: N 04°48'22" E, 363.96 feet (Measured), N 04°46'46" E, 363.85 feet (Plat) to a set 1/2" iron rod and cap "MBC" on the south line of that called 80.12 acre tract as recorded in Volume 4725, Page 1375, of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: S 89°39'45" E, 50.87 feet (Measured), S 89°44'29" E, 50.92 feet (Plat), along and with the south line of said 80.12 acre tract to a found 1/2" iron rod at the southwest corner of said Lot 13;

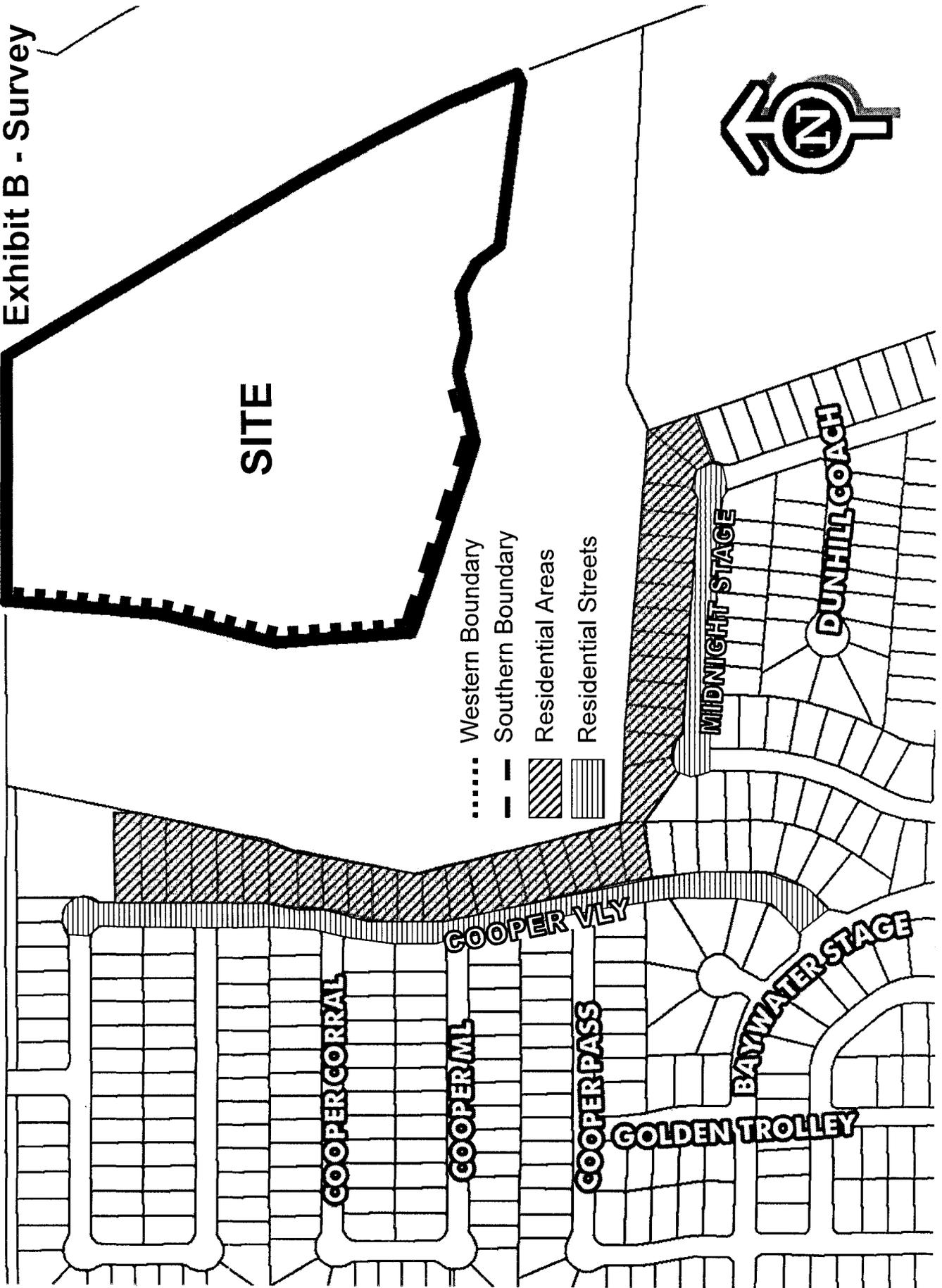
THENCE: N 89°51'58" E, 540.38 feet (Measured), N 89°50'22" E, 540.96 feet (Plat) along and with the south line of said Lot 13 to the **POINT OF BEGINNING** of this 23.91 acre tract.

I, I. Ray Inman, Registered Professional Land Surveyor do hereby affirm that this description is based on the results of a survey made on the ground of a ±16 acre tract by the firm of Macina, Bose, Copeland and Assoc., Inc., of which a sketch has been prepared.

I. RAY INMAN
REG. NO. 4496
REGISTERED PROFESSIONAL LAND SURVEYOR

#28629-1467
August 25, 2004
Updated: November 9, 2007
IRI/JJA/lk

Exhibit B - Survey



Stage Run (San Antonio) Homeowners Association
c/o Association Management Services
1600 NE Loop 410, Suite 202
San Antonio, TX 78209

June 18, 2009

The Honorable Councilwoman Diane G. Cibrian
City Council District 8
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

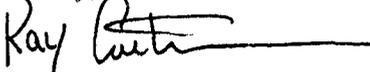
Dear Councilwoman Cibrian:

The Stage Run (San Antonio) Homeowners Association supports the zoning change for case number Z2009066 to MF-33 and C-3 for the 10.514 acre tract of land located at 25111 IH-10 West. We thank you for giving us the opportunity to negotiate restrictive covenants with the owner of the property. The restrictive covenants that we have negotiated and agreed to address the following issues:

- (1) Building Stories, Height and Roofing Materials
- (2) Number of Multifamily Units
- (3) Parking
- (4) Vehicular Access
- (5) Fences
- (6) Dust Control
- (7) Trees
- (8) Signage

These restrictions are in addition to all covenants that currently exist for the property, as previously negotiated with the owners, as well as all local ordinances regarding lighting. Representatives of Rialto Village, who will be developing this site, met with the Stage Run (San Antonio) Homeowners Association Board and then with its general membership. We appreciate their willingness to work with us in exchange for our support.

Sincerely,



Ray Contreras, President
Stage Run (San Antonio) Homeowners Association

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (“Declaration”) is executed by Rialto Village Limited Partnership, a Texas limited partnership, and Maphr Futures, LLC, a Texas limited liability company, effective upon the Effective Date as defined below in Article D.

A. Definitions

1. “Declarant” means, together, Rialto Village Limited Partnership, a Texas limited partnership, and Maphr Futures, LLC, a Texas limited liability company.
2. “Association” means Stage Run (San Antonio) Homeowners Association, Inc., a Texas nonprofit corporation, or any successor single-family neighborhood association.
3. “Property” means a tract of land, approximately 23.91 acres, located at 25111 West Interstate Highway 10 in San Antonio, Bexar County, Texas, and more particularly described on Exhibit “A” attached hereto and made a part hereof for all purposes, and depicted on the survey attached hereto as Exhibit “B” (the “Survey”).
4. “Owner” means, collectively, Declarant and all future owners of all or any portion of the Property.

B. Recitals

1. Rezoning. Declarant executes this Declaration in consideration of Ten and No/100 Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged, and other good and valuable consideration, including the Association’s support for Declarant’s request for rezoning of a portion of the Property through City of San Antonio Zoning Case Number Z2009066 (the “Zoning Case”).
2. Code. All capitalized terms used in this Declaration shall have the meanings given to them in the City of San Antonio, Texas, Code of Ordinances in effect as of the Effective Date (as defined below) of this Declaration (the “Code”), except to the extent that any such term may be defined herein.

C. Restrictions

1. General. Subject to the terms of Paragraph E.8 below, (a) the Property shall be developed as an upscale, mixed use project containing retail, office and residential (multifamily, condominium or townhome) components and (b) all development on the Property must comply with (i) all applicable rules and regulations of the City of San Antonio, including, without limitation, those governing drainage, lighting, building materials and development adjacent to I-10, (ii) the Declaration of Restrictive Covenants filed at Book 9461, Page 533-539 of the Real Property Records of Bexar County, Texas and (iii) the restrictions as set forth in this Declaration.
2. Building Stories, Height and Roofing Materials. No building that has multifamily residential units as its principal use (“Multifamily Building”) shall have more than four (4) stories,

not including any sub-grade or partially sub-grade parking, and no Multifamily Building adjacent to the western or southern boundary lines of the Property shall (a) have a height more than sixty-five feet (65'), as measured in the Code, (b) utilize brightly colored roofing materials in any areas that are generally visible from the residential areas identified on the Survey and (c) utilize any brightly colored wall materials in any areas that are generally visible from the residential areas identified on the Survey; provided, however, the foregoing restriction on wall colors shall restrict only the dominant color on a wall and shall not be applicable to any accent or decorative features. It is the intent of the foregoing restrictions regarding roofing materials and wall colors that nothing herein shall restrict any color of roofing materials or walls unless the color of such roofing materials or walls would generally be considered garish and incompatible with the remainder of the development on the Property.

3. Number of Multifamily Units. There shall be no greater than three hundred nineteen (319) multifamily units constructed on the Property (i.e., 29 units per acre, although such limitation shall only apply to the total multifamily units, and shall not be measured on an acre-by-acre basis).

4. Parking. In the event that any Multifamily Building located within one hundred fifty feet (150') of the western or southern boundary lines of the Property shall utilize surface parking on the western or southern sides of such Multifamily Building, such surface parking must be screened to a reasonable degree from the views of the residential areas identified on the Survey. Fencing, landscaping (including existing landscaping) or any other method that is consistent with the rules and regulations of the City of San Antonio may accomplish such screening.

5. Vehicular Access. Direct vehicular access to and from the Property shall be limited to Ralph Fair Road, the access road of West Interstate Highway 10 and the commercial properties that are adjacent to the Property, or any combination of such access points. The purpose of this restriction is to insure that there is no direct vehicular access to the residential streets identified on the Survey.

6. Fences. Subject to applicable laws, ordinances, or regulations, Owner shall construct and maintain fencing at a height of six feet (6') generally along the western and southern boundary lines of the Property, as shown on the Survey.

7. Dust Control. Commercially reasonable efforts shall be made to provide dust controls during construction to minimize off-site effects.

8. Trees. Declarant shall utilize the services of a licensed arborist to determine the existing trees that can be preserved (or possibly transplanted) on the Property, and commercially reasonable efforts shall be made to preserve healthy and mature existing trees on the Property; provided, however, it is acknowledged that some existing trees shall be removed as part of the development of the Property.

9. Signage. No pole-mounted or billboard signage shall be allowed on the Property at any point further than one hundred fifty feet (150') feet from the boundary of West Interstate Highway 10, and the face of any digital billboards, flashing or scrolling signs shall not be visible

from the residential areas shown on the Survey. Nothing herein shall restrict the use of any architectural towers on any buildings within the Property from being used for signage purposes; provided that such towers do not contain digital billboards, flashing or scrolling signs that are visible from the residential areas shown on the Survey.

D. Effective Date

This Declaration shall become effective if and only if the City Council of San Antonio finally approves the Zoning Case, as evidenced by the adoption of a City ordinance, in a form satisfactory to Declarant, in Declarant's sole discretion, and the effective date of such ordinance shall be the effective date of this Declaration (the "Effective Date"). If the Zoning Case is not approved, then this Declaration shall be of no further force or effect and the Property shall not be subject hereto.

E. Miscellaneous

1. **Enforcement.** Should any of the foregoing restrictions be violated, then the Board of Directors of the Association (the "Board of Directors") may send written notice of such violation to Declarant, and, if Declarant has not caused such violation to be cured within thirty (30) days after receiving such written notice, may bring an action at law and/or in equity to enforce same; provided, however, if such violation is not reasonably capable of being cured within such 30-day period, but Declarant commences actions to cure such violation within such 30-day period, Declarant shall have such additional time as may be reasonably required to cure such violation, not to exceed an additional one hundred twenty (120) days.

2. **Severability.** If any part of this Declaration, including any covenant, is declared invalid, by judgment or Court order, the same shall in no way affect any of the other provisions of this Declaration and such remaining portions of this Declaration shall remain in full effect.

3. **Authority.** Declarant hereby represents and warrants with respect to its signature below, that the signatory party below is duly authorized to sign this Declaration on behalf of Declarant, and that its signature shall bind the entity for which it is signed.

4. **Governing Law.** This Declaration shall be governed by the laws of the State of Texas.

5. **Counterparts.** This Declaration may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute but one and the same instrument.

6. **Binding Effect.** This Declaration shall run with the land and be binding upon and inure to the benefit of the Declarant, the Association, and their respective successors and assigns, so long as the Property is zoned in accordance with the Zoning Case, as evidenced by City of San Antonio Ordinance No. _____.

7. Notice. Any notice, payment, demand, offer, or communication required or permitted to be given by any provision of this Declaration shall be deemed to have been sufficiently given or served for all purposes if sent by registered or certified mail (return receipt requested), postage and charges prepaid, by personal delivery to the addresses below, by Federal Express or other reputable overnight delivery service requiring a signature upon receipt, or by facsimile transmission with electronic confirmation of delivery, addressed as follows:

If to Declarant:

Rialto Village Limited Partnership
c/o Dale Schuparra
2186 Jackson Keller Road, #910
San Antonio, TX 78213

Maphr Futures, LLC
c/o Dr. David W. Popp, M.D.
24165 IH 10 West, Suite 114
San Antonio, Texas 78257

With copies to:

Stephen O. Drenner
Drenner & Golden Stuart Wolff, LLP
300 Convent Street, Suite 2600
San Antonio, Texas 78205

Stephen A. Bressler
Duncan, Weakley & Bressler, Inc.
1020 N.E. Loop 410, Suite 500
San Antonio, Texas 78209

If to Association:

Stage Run (San Antonio) Homeowners Association, Inc.
c/o Association Management Services
1600 NE Loop 410, Suite 202
San Antonio, TX 78209

Any such notice shall be deemed to be given on the first date on which it is received or receipt thereof is refused. Upon at least ten (10) days prior written notice given in accordance with this Section, each of Declarant and the Association shall have the right to change its address to any other address within the United States of America.

8. Modification and Termination. This Declaration may be modified, waived, or terminated only upon the prior written approval, in a form suitable for recordation, of (a) the Board of Directors of the Association, and (b) the Owner(s) of the Property. Notwithstanding

anything to the contrary herein, at such time as the Property, or any portion thereof, is rezoned to a zoning classification other than the classification set forth in the Zoning Case as evidenced by City of San Antonio Ordinance No. _____, the Property, or applicable portion thereof so rezoned, shall no longer be subject to the terms, provisions, and conditions of this Declaration, provided, that the Stage Run (San Antonio) Homeowners Association, Inc., or any successor organization, receives written notice of any such zoning change at least one hundred twenty (120) days prior to the effective date of such zoning change.

9. No Third Party Beneficiary. The provisions of this Declaration are for the exclusive benefit of the Owner(s), the Association, and their successors and assigns, and not for the benefit of any third person, nor shall this Declaration be deemed to have conferred any rights, express or implied, upon any third person. Nothing in this Declaration shall ever constitute or be construed as a dedication of any interest herein described to the public or give any member of the public any right whatsoever.

10. Estoppel Certificates. Owner (or any mortgagee holding a first lien security interest in any portion of the Property) may, at any time and from time to time, in connection with the leasing, sale, or transfer of its tract, or in connection with the financing or refinancing of its tract, deliver a written notice to the Association requesting that the Association execute an estoppel certificate, in a form reasonably acceptable to Owner, certifying that, to the Association's then current knowledge, (a) the Owner is not in default in the performance of its obligations to the Association or under this Declaration, or, if in default, describing the nature and amount or degree of such default, and (b) such other information regarding the status of the obligations under this Declaration as may be reasonably requested. The Association shall execute and return such estoppel certificate within twenty (20) days following its receipt of a request therefor. If the Association does not return the executed estoppel certificate within such 20-day period, the Association shall be conclusively deemed to have certified to the matters set forth in the requested estoppel certificate, including that Owner is not in default of its obligations hereunder.

11. Attorneys' Fees. The unsuccessful party in any action brought to enforce this Declaration shall pay to the prevailing party a reasonable sum for costs incurred by the prevailing party in enforcing this Declaration, including attorneys' fees and expert professional fees, including those of architects, engineers, surveyors, and land planners, if any, and court costs.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

Rialto Village Limited Partnership

By: Fair Prospects Management, L.L.C., its general partner

By: Dale Schuparra, its manager

By: [Signature]

Name: DALE A. SCHUPARRA

Title: PRESIDENT

Maphr Futures, LLC

By: [Signature]

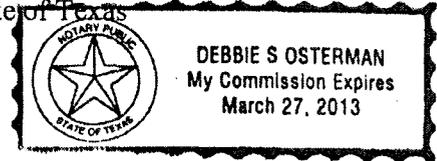
Name: David W. Popp, M.D.,

Title: President

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me this 8th day of June, 2009, by Dale Schuparra, a manager of Fair Prospects Management, L.L.C., the general partner of Rialto Village Limited Partnership, on behalf of said partnership.

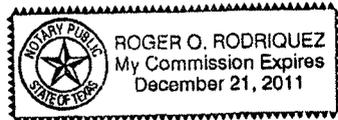
[Signature]
Notary Public, State of Texas



STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me this 12th day of June, 2009, by David W. Popp, M.D., President of Maphr Futures, LLC, on behalf of said limited liability company.

[Signature]
Notary Public, State of Texas



ACCEPTED AND AGREED TO:

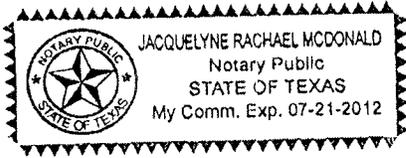
STAGE RUN (SAN ANTONIO) HOMEOWNERS ASSOCIATION, INC.

By: Ray Contreras
Name: Ray Contreras
Title: President

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me this 12 day of June, 2009 by Ray Contreras, President of Stage Run (San Antonio) Homeowners Association, Inc., a Texas nonprofit corporation.

Jacquelyne Rachael McDonald
Notary Public, State of Texas



METES AND BOUNDS
DESCRIPTION FOR A

BEING 23.91 ACRES (1,041,687 SQUARE FEET) BEING ALL OF LOT 2, BLOCK 3, BOERNE STAGE CROSSING SUBDIVISION (PLAT REFERENCE: VOLUME 9559, PAGE 197), NEW CITY BLOCK 16390, CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, SITUATED IN THE JOHN W. SMITH SURVEY NO. 27, ABSTRACT NO. 708, BEXAR COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED IN A CLOCKWISE MANNER AS FOLLOWS:

- BEGINNING:** At a set ½" iron rod and cap "MBC" at the northeast corner of said Lot 2, said set ½" iron rod also marks the southeast corner of Lot 13, Block 2, C.B. 4733, Eye Ten Investments Development as recorded in Volume 9546, Page 149, Deed and Plat Records of Bexar County, Texas and in the southwest right-of-way line of I.H. 10 (Also Known As U.S. Hwy. 87, a varying width public right-of-way recorded in Volume 4963, Page 271 of the Deed Records of Bexar County, Texas);
- THENCE:** S 30°36'00" E, 781.32 feet (Measured), 780.70 feet (Plat), along and with the southwest right of way line of said I.H. 10, to found Texas Department of Transportation (TxDOT) concrete monument at the point of curvature of a curve to the right;
- THENCE:** 564.97 feet (Measured), 565.11 feet (Plat), along and with curving southwest right-of-way line of said I.H. 10, having a radius of 3,563.83 feet, a central angle of 09°04'59" (Measured), 09°05'07" (Plat), a chord bearing and distance of S 26°06'04" E, 564.38 feet (Measured), S 26°05'26" E, 564.52 feet (Plat) to a found 1/2" iron rod and cap "PD" at the southeast corner of this tract and northeast corner of a variable width drainage easement of said Boerne Stage Crossing Subdivision;
- THENCE:** S 68°08'29" W, 43.41 feet (Measured), S 68°27'07" W, 43.33 feet (Plat), along and with the north line of said variable width drainage easement and leaving the southwest right-of-way line of said I.H. 10 to a found 1/2" iron rod and cap "PD";

AFFIDAVIT OF PUBLICATION

Before me, the undersigned authority, on this day personally appeared Helen I. Lutz, who being by me duly sworn, deposes and says that she is the Publisher of *The Hart Beat*; that said newspaper is generally circulated in San Antonio, Bexar County, Texas; that the attached notice was published in said newspaper on the following date(s):

June 22, 2009

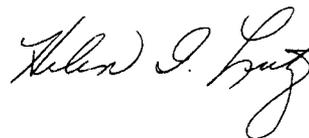
PUBLIC NOTICE

AN ORDINANCE
2009-06-18-0548

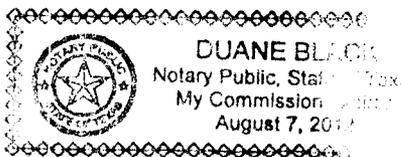
Subscribed and sworn to before me this 22nd day of June, 2009, to certify which witness my hand and seal of office.

AMENDING CHAPTER 35 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS: 10.5345 acres out of Lot 2, Block 3, NCB 16390 TO WIT: From "PUD MF-25 GC-1 MLOD-1" Planned Unit Development Multi-Family Hill Country Gateway Corridor Overlay, Camp Bullis Military Lighting Overlay District-1 and "PUD C-3 GC-1 MLOD-1" Planned Unit Development General Commercial Hill Country Gateway Corridor Overlay, Camp Bullis Military Lighting Overlay District-1 to "PUD MF-33 GC-1 MLOD-1" Planned Unit Development Multi-Family Hill Country Gateway Corridor Overlay, Camp Bullis Military Lighting Overlay District-1 (on 10.29 acres) and "PUD C-3 GC-1 MLOD-1" Planned Unit Development General Commercial Hill Country Gateway Corridor Overlay, Camp Bullis Military Lighting Overlay District-1 (on 0.2445 of an acre). "THE PENALTY FOR VIOLATION IS A FINE NOT TO EXCEED \$1,000.00".

6/22



Helen I. Lutz, Publisher



Notary Public in and for the State of Texas

Duane Black

Name of Notary

My commission expires August 7, 2012