SG: 01-04-07
Item No. Z-28.

CASE NO. Z2006253

AN ORDINANCE 2007-01-04-0041

AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SAN ANTONIO BY AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, SECTION 35-304, OFFICIAL ZONING MAP 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 Lot P-32, Lot P-32A, and Lot P-33C, NCB 15841 from "O-2 ERZD" Office Edwards Recharge Zone District to "RM-4 ERZD" Residential Mixed Edwards Recharge Zone District.

SECTION 2. The owner or owner's agent shall inform any person leasing this tract or any portion of this tract that storage of chemicals and/or hazardous materials is not permitted. Provisions prohibiting the storage of chemicals and/or hazardous materials shall be included in the lease agreement. The owner or owner's agent shall provide a copy of the of the lease provisions regarding the storage of chemicals and/or hazardous materials to the Aquifer Protection and Evaluation Section of the San Antonio Water System for approval. The Aquifer Protection and Evaluation Section of the San Antonio Water System may randomly inspect, without notice, any or all facilities on the site to ensure compliance with this ordinance.

SECTION 3. All water pollution abatement structures or features approved by the Texas Commission on Environmental Quality shall be properly maintained and kept free of trash and debris. A water quality maintenance plan and schedule agreement signed by the property owner must be submitted to the Resource Protection Division of SAWS. If at any time the ownership of the property changes, the seller must disclose to the buyer all the requirements of the water quality maintenance plan. A water quality maintenance plan signed by the new owner must be submitted to the Resource Protection Division of SAWS.

SECTION 4. Landscaped areas shall be sensitive to minimizing water needs, i.e., use of native plants. Each purchaser of an individual lot or tenant within this development shall be informed by the seller or lessor in writing about Best Management Practices (BMP) for pesticide and fertilizer application. Preventing Groundwater Pollution, A Practical Guide to Pest Control,

available from the Edwards Aquifer Authority (210/222-2204), or equivalent information produced by the U.S. Natural Resource Conservation Service, the Texas Department of Agriculture, or the U.S. Department of Agriculture shall be used.

SECTION 5. 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 6. 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 7. If a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal and substantially limits or impairs the essential elements of sections one through five of this ordinance, then sections one through five are invalid and have no legal effect as of the date of entry of such judgment notwithstanding any other ordinance or provision of the City Code of San Antonio.

SECTION 8. This Ordinance shall become effective on January 14, 2007.

PASSED AND APPROVED this 4th day of January, 2007.

M A Y O R

ATTEST: Leticia M. Vacek
City Clerk

APPROVED AS TO FORM: Susan Dunn
For **City Attorney**

Agenda Voting Results

Name: Z-28 with deed restrictions

Date: 01/04/07

Time: 03:28:30 PM

Vote Type: Multiple selection

Description: ZONING CASE #Z2006253 (District 8): An Ordinance changing the zoning district boundary from "O-2" ERZD Office Edwards Recharge Zone District to "RM-4" ERZD Residential Mixed Edwards Recharge Zone District at P-32, P-32A and P-33C, NCB 15841, 13105 Babcock Road as requested by Elaine Ballard, Applicant, for Elaine Ballard, Owner. Staff and Zoning Commission recommend Approval.

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5			x	
DELICIA HERRERA	DISTRICT 6			x	
ELENA K. GUAJARDO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

PUBLIC NOTICE

ORDINANCE
2007-01-04-0041

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: P-32, P-32A and P-33C, NCB 15841, TO WIT: From "O-2" ERZD Office Edwards Recharge Zone District to "RM-4" ERZD Residential Mixed Edwards Recharge Zone District. "THE PENALTY FOR VIOLATION IS A FINE NOT TO EXCEED $1,000.00".
1/10

Affidavit of Publisher

STATE OF TEXAS

COUNTY OF BEXAR

S.A. - CITY CLERK

Before me, the undersigned authority, on this day personally appeared Helen I. L by me duly sworn, says on oath that she is Publisher of the Commercial Recorder, a general circulation in the City of San Antonio, in the State and County aforesaid, and that the Ordinance 2007-01-04-0041 here to attached has been published in every issue of said newspaper on the following days, to wit:

01/10/2007.

Helen I. Lutz

Sworn to and subscribed before me this 10th day of of January, 2007.

Martha L. Machuca

MARTHA L. MACHUCA
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Exp. 12-02-2007

DECLARATION OF
VENETIAN OAKS SUBDIVISION

THIS DECLARATION ("Declaration") is made and executed by Elaine Ballard ("Declarant") on this _____ day of _____, 2007, being the Owner of all of a _____ acre tract of land more specifically described on Exhibit A attached hereto and constitutes the complete Declaration affecting the property herein described.

WHEREAS, Declarant is now developing said Property; and

WHEREAS, in order to assist Declarant, its grantees and assignees, in providing the necessary means to enable them to develop, operate and maintain the Property, Declarant hereby subjects all of the above described real property to the following covenants, restrictions, charges, assessments, rights and obligations which shall be equitable servitude and shall run with said described Lots, and subject to the limitations contained herein.

ARTICLE I
DEFINITIONS AND GENERAL PRINCIPLES

SECTION 1. Definitions.

(a) "Association" shall mean and refer to Venetian Oaks Subdivision Owner's Association, Inc., its successors and assigns, an entity to be formed.

(b) "Declarant" shall mean and refer to Elaine Ballard.

(c) "Property" shall mean and refer to all "Common Area".

(d) "Lot" shall mean and refer to each of the existing or future individual platted Lots of land, or resubdivision of them, on the real property described above and shall also mean and refer to the Common Area.

(e) "Owner" shall mean and refer to the Owner of record, whether one or more entities or persons, of a fee simple title to any Lot or portion of a Lot, including Lot sellers (but not purchasers until record title is transferred to them), but excluding those having an interest merely as security for the performance of an obligation.

(f) "Common Area" shall mean and refer to any property which in the future is annexed by the Association to be used as common area for the benefit of the Owners. As of the date of this Declaration there is no common area associated with Venetian Oaks Subdivision.

(g) The "rights of the Association" shall be, by and through its Board of Directors and any appointed Committees unless said rights are specifically reserved to he Owners. Where acts herein are designed to the "Association", such acts shall be, by and through the Board of Directors

unless said acts are specifically reserved to the Owners.

(h) "Board" shall refer to the Board of Directors of the Association.

SECTION 2. General Principles.

(a) The Association, or any Owner, shall have the right to enforce, as provided in this Declaration, all restrictions, conditions, covenants, reservations, liens and charges now or hereinafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(b) Invalidation of any one of the covenants or restrictions in this Declaration, by judgment or court order, shall in no way affect any other provision which shall remain in full force and effect.

(c) The restrictions, rights, use easements and privileges of the Owners in and to the Common Area as provided herein shall be deemed to be covenants running with the land of the Property and shall be of perpetual duration.

(d) Wherever in this Declaration the Association or Board is empowered to make "rules" and/or "regulations", notice of such rules and regulations must be given to each Owner as provided in Section 2(f) of this Article. However, the Association may declare a "rule" or "regulation" to have emergency status and then only ten (10) days notice shall be required.

(e) Wherever this Declaration gives the Association a right to an Assessment of any nature, the Association shall have all of the rights and remedies regarding said assessment as set forth in Article IV, Section 1 and 7 regardless of the matter that created the assessment right.

(f) Wherever this Declaration requires notice to any Owner, the Association and/or any other person or entity, such notice shall be in writing given at least ten (10) days in advance of the effective date of the subject matter of the notice unless stated otherwise in this Declaration. Notice to any Owner or mortgage holder shall be at the last known address of said Owner. It shall be the duty of the Owner to provide the Association with their current mailing address.

(g) Wherever this Declaration provides for interest to be paid by any Owner or other person or entity, the interest rate shall be ten percent (10%) compounded annually.

(h) Any "Use Restriction" set forth in this Declaration and/or any rules or regulations made by the Association or its appointed Committees shall apply to the Owner and to the Owner's family, guests, tenants, invitees, employees and agents.

ARTICLE II
PROPERTY RIGHTS

SECTION 1. Owner's Easements of Enjoyment.

Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) The right of the Association, to make, publish and enforce reasonable Rules and Regulations for the use of the Common Area;

(b) The right of the Association to suspend the voting rights and right to use the Common Area of any Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published Rules and Regulations;

(c) The right of the Association to grant or dedicate any part of the Common Area to any public agency, authority, or utility for any service to the Property of any part thereof, any grant or dedication made by Developer prior to this Declaration or within the Development Phase;

(d) The right of the Association, to borrow money for the purpose of improving the Common Area or to enable the Association to accomplish any action required or allowed by this Declaration and in aid thereof, to mortgage the Common Area. The rights of any such Mortgagee shall be subordinate to the rights of the Owners hereunder;

(e) The right of the Association to assess the Lots and the Owners thereof for the expenses required by the Association to accomplish any action required or allowed by this Declaration as more fully set forth in Article IV of this Declaration;

(f) The right of the Association to enforce any "Use Restriction" set forth in Article VII or any deed restrictions or restrictions created by the plat of the Association Property or any use restriction created by local, state or federal law by judicial process; and

(g) The right of the Association to enter into a management contract with a commercial provider to assist the Association with its duties and responsibilities provided that any such Lot shall be terminable at will by the Association for cause and terminable without cause on not less than sixty (60) days written notice.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

SECTION 1. Members.

Every Owner of a Lot or any part of a Lot which is subject to any assessment set forth in this Declaration shall be a "Member" of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or any part of a Lot which is subject to any assessment set forth in this Declaration.

SECTION 2. Voting Rights.

Each Member, if current on all assessments, shall be entitled to one (1) vote for each Lot owned. When more than one person or entity holds an interest in any Lot, all such persons and/or entities shall be Members and the vote of said Lot shall be exercised as they determine, but in no event shall said vote be split on any issue and in no event shall any Lot have more than one vote.

ARTICLE IV
COVENANTS FOR ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments.

Each Owner of any Lot, by acceptance of a deed thereto, whether or not it be expressed in said deed, is deemed to covenant to agree to pay to the Association: (1) Annual Assessments or charges; (2) Special Assessments to be established and collected as herein provided; and (3) any other assessment provided for by this Declaration. The Annual and Special Assessments, together with interest, costs and reasonable attorney's fees shall be a charge on the Lot and shall be secured by a continuing lien on the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner(s) of such Lot at the time the assessment came due. If an Owner conveys a Lot and assessments against the Lot are unpaid, the Owner shall pay the past due assessments at the time of sale.

SECTION 2. Purpose of Assessments.

(a) The assessments levied by the Association shall be used for the improvement, operation, administration, management, preservation and maintenance of the Common Area, the compliance with any federal, state or municipal rule, statute or ordinance affecting the common area or any part thereof, the payment of all expenses and obligations lawfully incurred by the Association in connection with the Common Area or services to the Lots or to enable the Association to accomplish any other acts required or allowed by this Declaration.

(b) The Association shall maintain an adequate reserve fund for the repair and replacement of the Common Area and shall prepare an annual budget for the regular maintenance of the Common Area, taxes, insurance and other expenses of the Association.

SECTION 3. Basis for the Assessments.

(a) Unless affected by some compensation plan approved by the Declarant or the Board of Directors of the Association, each Lot which has been conveyed to an Owner shall be assessed at the same rate for the Annual Assessment and/or any Special Assessments. The Assessment as of the date of this Declaration is Twenty Five and No/100 Dollars ($25.00) per Year, due on the date of closing of the purchase of the Lot and on the first day of January for each succeeding period. Notwithstanding the above, no assessments will be due for the period prior to December 31, 2010.

SECTION 4. Annual Assessment.

(a) The Association shall prepare a Budget for the ensuing year no later than the 30th day of October each year. Said Budget shall include funds needed for a reserve fund and the Association may budget for contingencies. The Annual Assessment shall be based on the Budget requirements.

(b) The Annual Assessment may be increased each year by not more than 15% (such percentage increase may be cumulative from year to year) above the previous assessment without a vote of the Members unless such increase is necessary for compliance with any Water Pollution Abatement Plan affecting the Property. The Annual Assessment may be increased in excess of 15% over the previous assessment after an affirmative vote of seventy five (75%) of the Owners who vote on the issue which vote shall be taken at a meeting called as provided in Section 6 below.

(c) The Board of Directors shall fix the Annual Assessment as stated above and send written notice of any change in the Annual Assessment to each Owner subject thereto at their last known address at least thirty (30) days prior to the effective change. The Association shall, upon demand, furnish a Certificate signed by an officer or manager of the Association, setting forth whether the Assessments on a specific Lot has been paid. The Association may charge a reasonable fee for the preparation of said Certificate not to exceed $10.00. The holder of any validly recorded purchase money mortgage indebtedness on a Lot shall be furnished with notice of any delinquency in the payment of assessments relating to said Lot unpaid for a period of sixty (60) days, providing said mortgage holder has notified the Association of its desire to be so notified and provides the Association with a current address.

SECTION 5. Special Assessments.

In addition to the Annual Assessment, the Association may levy a Special Assessment applicable only to that fiscal year. Such Special Assessment may be levied for expenses that are over and above the Annual Assessment. However, no Special Assessment for any purpose other than compliance with the WPAP shall become effective until after an affirmative vote of seventy five (75%) of the Owners who vote on the issue, which vote shall be taken at a meeting called as provided in Section 6 below.

SECTION 6. Notice and Quorum for any Action Under Section 4 and 5 Above.

(a) Any action under Section 4 and 5 above that requires a vote of the Owners shall be taken at a meeting called for that purpose upon:

(1) Written notice to each Owner entitled to vote at his last known address; and

(2) Notice given no less than thirty (30) but no more than sixty (60) days prior to the date set for the meeting.

(b) Quorum for all meetings of the Association shall require seventy five percent (75%) of the Owners entitled to vote, either in person or by proxy. If no quorum is present at a duly called meeting, the meeting shall be reset and an additional written notice shall be sent to each Owner entitled to vote at his last known address no less than fifteen (15) days prior to the reset meeting.

(c) Any vote under Section 4 and 5 above shall require a seventy five percent (75%) affirmative vote of those at the meeting and those Owners represented by proxy unless otherwise set forth.

SECTION 7. Effect of Non-Payment of Assessment: Remedies of the Association.

Any assessment not paid when due shall be delinquent. Any assessment not paid within fifteen (15) days of the date shall bear a late fee of $5.00 or such amount as may within legal limits be set by the Board of Directors. The Association may bring an action at law against the Owner personally obligated to pay delinquent assessments, or foreclose the lien against said Owner's Lot. Such lien may be enforced by appropriate judicial proceedings or non-judicial proceeding pursuant to the Texas Property Code and shall additionally secure payment of any expenses incurred with its enforcement, including, but not limited to court costs, interest, late fees, and reasonable attorney's fees. Each Owner hereby grants the Association a power of sale in connection with said lien and authority to designate a Trustee in writing from time to time, to post or cause to be posted the required notice, and to conduct the foreclosure sale in connection with said lien.

Further, each Owner hereby vests in the Association, the right and power to bring all actions against the Owner personally for the collection of assessments as a debt without waiving the foreclosing of the lien securing assessments. No Owner can waive or otherwise escape liability for the assessments provided herein by non-use of the Common Area or abandonment of Lot or disagreement with decisions of the Association and/or its Board of Directors. No sale or transfer of any Lot shall release the Owner from liability for unpaid assessments.

SECTION 8. Subordination of Lien to Mortgage.

A lien securing payment of the assessments provided for herein shall be subordinate to the lien of any validly recorded purchase money mortgage indebtedness. Owners may create a second mortgage provided that the second mortgage shall always be subordinate to all the terms, conditions, covenants, restrictions, obligations, lien for common expenses and other payments created by this Declaration.

SECTION 9. Insurance.

(a) Should the Association erect any structure, building or improvement on the Common Area that is insurable, the Association shall obtain and continue in effect blanket property insurance to insure the property and Association against risks of loss or damage by fire and other hazards as covered under extended coverage provisions, and said insurance may include coverage against vandalism.

(b) The Association shall obtain comprehensive public liability insurance, in such limits as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees, and each Owners, from and against liability in connection with the Common Area.

SECTION 10. Taxes.

Each Owner shall render for taxation his own Lot, improvements and property thereon, and shall at his own cost and expense pay all taxes, levied or assessed, against or upon his own Lot, improvements and property thereon. The Association shall render for taxation and shall pay all taxes levied or assessed against or upon the Common Area and the improvements and property thereon.

ARTICLE V
MAINTENANCE AND REPAIRS

SECTION 1. Association's Maintenance.

(a) The Association shall be named as an additional insured on any policy of liability insurance and such policies shall contain waivers of subrogation as to the Association and all Owners. Each Owner shall provide proof of coverage, by way of certificate of coverage to the

Association. Such certificate of insurance shall provide that the policy of insurance will not be cancelled, altered or materially changed, except to increase insurance limits, without thirty (30) days' notice to the Association.

(b) In the event that an Owner should fail to maintain the required insurance or theOwner should fail to provide the required Certificate of Insurance as required, the Association may, but is not required to, purchase such insurance on behalf of said Owner and the cost of said insurance shall be an assessment on said Lot Owner payable within fifteen (15) days of notice to the Owner.

ARTICLE VI

COMMON AREA AND COMMON AREA RIGHTS

SECTION 1. Common Area.

Any lands which might be annexed subsequent to the recordation of this instrument.

SECTION 2. Permission to City of San Antonio.

The City of San Antonio is hereby granted written permission for access to all common areas and facilities at any time and is hereby granted written permission to remove any obstructions if necessary for emergency vehicle access, all without liability of any kind when on official business. The costs of removal of such obstructions may be assessed against the Owner of the obstruction in accordance with Article VI hereof.

ARTICLE VII

USE RESTRICTIONS

SECTION 1. Parties Subject to "Use Restrictions".

All Owners shall be subject to the following "Use Restrictions". The Association may enforce the following "Use Restrictions", but is not required to do so. Should the Association decline or fail to attempt to enforce any "Use Restriction" after notice by any Owner to the Association requesting enforcement, the requesting Owner(s) may enforce the following "Use Restrictions" in their own name.

SECTION 2. Obstruction of Common Areas.

There shall be no obstruction of any Common Area. Nothing shall be stored in any Common Area without prior written permission of the Association.

SECTION 3. Nuisances.

No noxious or offensive activity shall be carried on upon any Lot, or the Common Area, nor shall anything be done thereon that may be or may become an annoyance or nuisance to the other Owners.

SECTION 4. Insurance.

Nothing shall be done or kept in any Common Area which will increase the rate of insurance on any Common Area. No Owner shall permit anything to be done or kept in any Common Area that could result in cancellation of insurance on any Common Area or any part thereof of in violation of any law. No waste shall be committed in any Common Area.

SECTION 5. General Prohibitions and Restrictions.

None of the following will be allowed to be maintained, placed, kept or done on any Lot or Common Area:

1. Gas or oil drilling, developing, and/or refining;

2. Quarrying operations of any kind;

3. Oil Wells, tanks, tunnels, mineral excavation, shafts, water wells, and/or sewage treatment systems.

4. Use is strictly limited to those uses permitted under the Zoning of the Property, the Lots, and any Common Area.

5. No building shall be constructed on any Lot other than residential dwellings with detached or attached garages or carports. Duplexes are not permitted. The term "dwelling" does not include single-wide, double-wide or multi-section manufactured homes, and said manufactured homes are not permitted within this Subdivision. As used herein, the term "residential dwelling" shall be construed to prohibit mobile homes or trailers being placed on said Lots. There may also be constructed work shops, barns, and outbuildings so long as they are of good construction, and are kept in good repair.

6. Any building, structure or improvement commenced on any Lot shall be completed as to exterior finish and appearance within six (6) months from commencement date. During construction of a residence, an Owner must provide a construction dumpster for container storage of trash and building construction debris, and a portable construction toilet for construction workers. Both dumpster and construction toilet must be removed immediately upon completion of construction.

7. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done therein which may be or become an annoyance or nuisance to the

neighborhood. No Lot shall be used or maintained as a dumping ground for rubbish. No Lot shall be used for the open storage of any materials whatsoever, which storage is visible from the road. However, any new building materials used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable' time, as long as the construction progresses without undue delay, until the completion of the improvements, after which time those materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. No leaves, brush, timber, debris, or trash of any nature shall be permitted to be placed, disposed of or burned within the road right-of-ways. No inoperative or unlicensed automobile shall be placed on any Lot except in an enclosed structure, which meets the requirements of these restrictions. No automobile, truck, trailer or other vehicle shall be abandoned on this property, nor shall there be any dumping or placing of unsightly objects of any kind on the property. No dump trucks, commercial trucks, any trucks with more than two axles, Lotor-trailer trucks (commonly referred to as eighteen (18) wheelers) or heavy commercial or construction equipment may be parked on or near any Lot except temporarily as needed for construction purposes.

9. No unsightly trucks or vehicles shall be stored or kept on any Lot, and no automobile or other vehicle shall be kept on any Lot for the purpose of repairs except in an enclosed garage or in facilities protected from the view of the public and other residents, and such use shall in no way cause a nuisance to the public or other property owners. The Owner shall provide appropriate space for off-road parking for his vehicles.

10. No signs, advertisements, billboards or advertising structure of any kind may be erected or maintained on any Lot except one (1) professionally made sign not more than 18" x 24", advertising an Owner's Lot for sale, rent or during home construction. Developer or an Owner shall have the right to remove any such sign, which is placed on any Lot in violation of these restrictions, and in doing so, shall not be liable, and are hereby expressly relieved from any liability for trespass or other action in connection therewith, or arising from such removal. The Developer shall have the right to erect any size sign for the purpose of identifying and advertising property so long as such sign is maintained in good condition and removed promptly after marketing ends. No political signage is permitted in any Common Area. Signage to advertise the activities of the Association are permitted on any Common Area.

11. Telecommuting is permissible when conducted by a person in his residence. No other business use of a Lot shall be allowed. To be considered as a home office/telecommuting activity, the following applies:

(a) The activity shall be at the residence of the person conducting the activity and it

shall be entirely contained within the personal residence.

(b) The activity is carried on only by the person(s) who reside(s) at that residence and specifically no outside employees are involved in the business at the residence.

(c) The activity is incidental and secondary to the use of the property for residential purposes. The amount of space used for the activity shall not exceed 20% of the residential living area square footage.

(d) The activity does not result in an objectionable noise, nor does it increase traffic volume or require additional parking.

(e) The activity does not include any window or outdoor displays and does not include any retail sales on the property.

(f) The residence where the activity is located shall not be used as a point for customer visits, customer pick-up or customer deliveries.

(g) Outdoor storage of any items related to the activity is prohibited.

SECTION 7. Non-Discrimination.

No action shall at any time be taken by the Association which may in any manner discriminate against any Owner or Owners in favor of any other Owner or Owners.

SECTION 8. Common Area.

No Owner shall take any action to operate or maintain any Common Area without the prior written consent of the Association unless such action is an emergency in nature and necessary for the safety, or protection of the Owners and/or the Association.

ARTICLE VIII
EASEMENTS

An easement is granted to the Association, its officers, employees, contractors and management selected by the Association to enter in or cross over any Common Area and/or any Lot to perform the duties of the Association.

SECTION 1. Use of Easements.

Easements for underground utility service may be crossed by driveways and walkways, provided the Association makes prior arrangements with the provider thereof. Such easements for

underground services shall be kept clear of all other improvements, and the Association, its officers, agents, employees, conLotors and management shall not be liable to any Owner for any damage done to landscaping, trees, plants, shrubs, buildings, structures and/or improvements located on land subject to any easement.

SECTION 2. Association's Easement.

The Association hereby reserves a perpetual easement and right-of-way over and across any Common Area for the purpose of providing vehicular, pedestrian, sewer and utilities access to the Property. The Association reserves the right to make changes to any easement retained by it for the purpose of efficiently and economically installing and operating any utilities or providing vehicular and pedestrian access.

ARTICLE IX
MORTGAGES

SECTION 1. Notice to the Association.

An Owner who mortgages his Lot shall notify the Association of the name and address of any Mortgagee. The Owner shall notify the Association of any change in the Mortgagee and/or its address.

SECTION 2. Notice of Proposed Action.

The Association shall have no duty to notify a Mortgagee of any action or event.

SECTION 3. No Right of First Refusal.

The Association shall not have any right of first refusal on any Lot.

SECTION 4. Rights of Mortgagees, Trustees or Lienholders.

No violations of any of these restrictions, covenants or conditions, shall affect or impair the rights of any mortgagee, trustee or lienholder under any mortgage or deed of trust, or the rights of any assignees of any mortgagee, trustee or lienholder under any such mortgage or deed of trust.

ARTICLE X
AMENDMENTS

SECTION 1. Amendments by the Association.

The Association shall have the right at any time to amend this Declaration by an instrument, duly signed acknowledged and filed for record, for the purpose of correcting any typographical error, ambiguity or inconsistency appearing in this Declaration, provided that such amendment shall be

consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration, and shall not impair the vested property rights of any Owner or his Mortgagee.

SECTION 2. Amendments by the Owners.

Except as provided in Section 1 above, the consent of Owners having at least sixty-seven percent (67%) of the votes entitled to cast in the Association, shall be required for any amendment.

(a) Voting;

(b) Assessments;

(c) Rights to use or interest in any Common Areas;

(d) Responsibility for the repairs and maintenance of the Common Property and/or Lots;

(e) Boundaries of any Lot; and/or

(f) Imposition of any right of first refusal in favor of the Association or other restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot.

If the Association sends Notice of any proposed amendment listed in this Article XI, Section 2, to any purchase money mortgage holder at the last address given to the Association by the Owner or mortgage holder, and said purchase money holder fails to deliver or post a negative response with thirty (30) days of the date said Notice was mailed, approval shall be deemed to have been given.

SECTION 3. Amendment by the Declarant

Notwithstanding the foregoing, Declarant for so long as Declarant is the owner of any of the Lots in the subdivision, Declarant shall have the right to file an amendment to this Declaration, without the necessity of joinder by any other Owner of Lots, or any interest therein.

ARTICLE XI
CONDEMNATION

SECTION 1. Association's Rights.

If any or all of any Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The Association shall have the right to act with respect to any negotiations and/or litigation affecting any Common Area. Any proceeds received will be added to the funds of the Association and the Association shall decide whether or not to replace or restore any Common Area so taken, as far as possible subject to Article X, Section 6 above.

SECTION 2. Notice.

The Association shall give notice of the existence of such proceedings to all Owners and their Mortgagee (where required by this Declaration).

ARTICLE XII
ANNEXATION AND/OR MERGER

Nothing contained herein shall prohibit the Association from merging with another Association or annexing additional areas by Amendment pursuant to Article XI, subject to the approval of seventy five percent (75%) of the Owners entitled to vote and the approval of fifty-one percent (51%) of the duly recorded purchase money mortgage holders.

_____
Elaine Ballard

ACKNOWLEDGMENT

Acknowledged before me this _____ day of _____, 2007 by Elaine Ballard.

_____
Notary Public

Z2006253

ZONING CASE NUMBER Z2006253 (Council District 8) – October 17, 2006

The request of Elaine Ballard, Applicant, for Elaine Ballard, Owner(s), for a change in zoning from "O-2" ERZD Office Edwards Recharge Zone District to "RM-4" ERZD Residential Mixed Edwards Recharge Zone District on P-32, P-32A and P-33C, NCB 15841, 13105 Babcock Road. Staff recommended approval.

Elaine Ballard, owner, proposes townhome/duplex development.

The following citizen(s) appeared to speak:

Stuart Shaw, state he is uncertain as to what this zoning change is about therefore he is in opposition.

COMMISSION ACTION

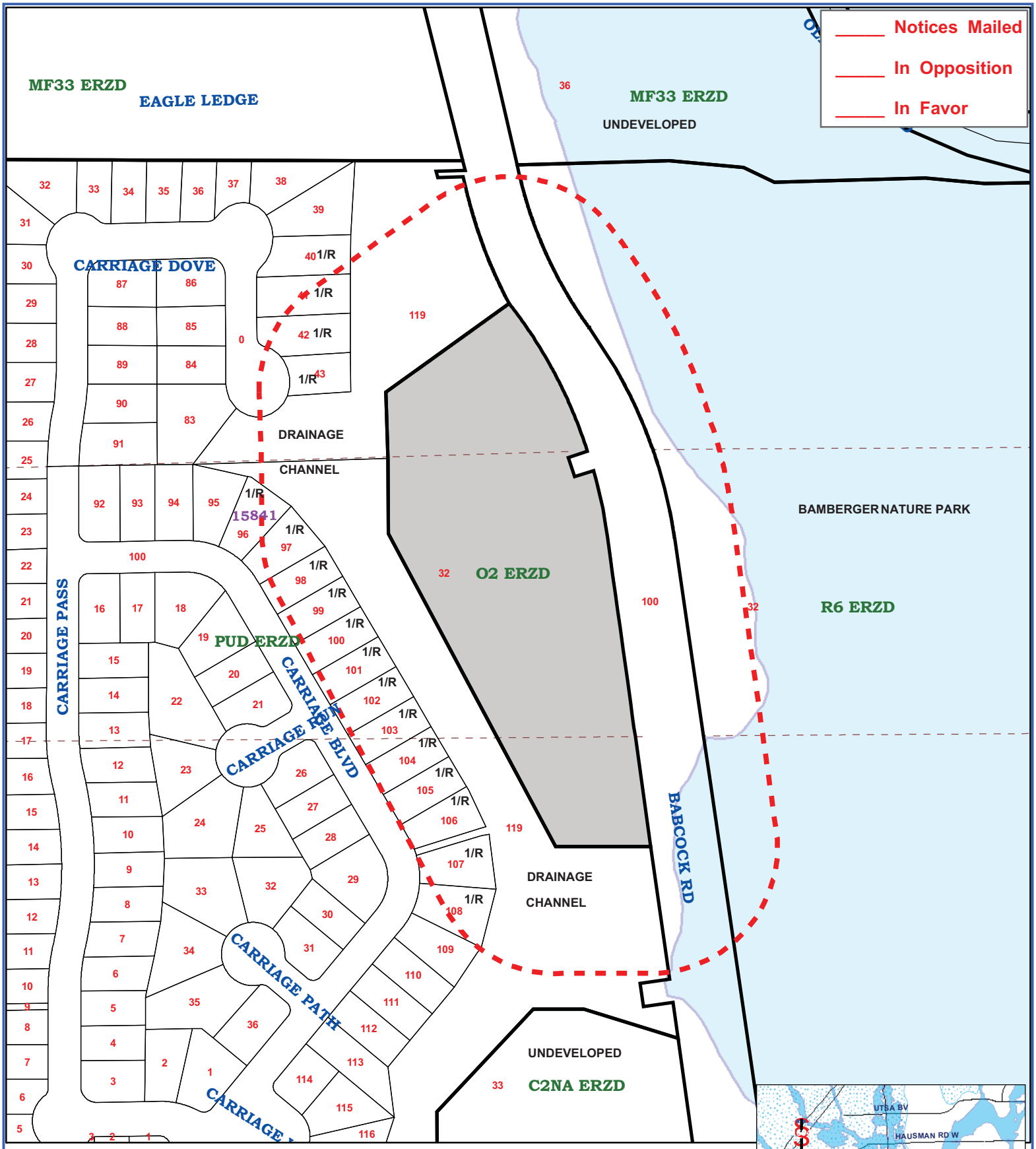
The motion was made by Commissioner Stribling and seconded by Commissioner Martinez to recommend approval with recommendations presented by SAWS.

AYES: Avila, Rodriguez, Westheimer, Gadberry, Sherrill, Wright, Martinez, Stribling, Gray
NAYS: None

THE MOTION CARRIED

RESULTS OF NOTICE FOR COUNCIL HEARING

To be provided at Council hearing.



ZONING CASE: Z2006-253

City Council District No. 8
Requested Zoning Change
From "O-2" ERZD
To "RM-4" ERZD
Date: November 16, 2006
Scale: 1" = 200'

Subject Property

200' Notification

C:\Sept_5_2006

RECEIVED
06 OCT -3 AM 10: 11
LAND DEVELOPMENT
SERVICES DIVISION

SAN ANTONIO WATER SYSTEM
Interdepartmental Correspondence

To: Zoning Commission Members

From: Kirk M. Nixon, Manager, Resource Protection Division, San Antonio Water System

Copies To: Scott R. Halty, Director, Resource Protection & Compliance Department, Patricia M. Garza, Resource Protection Specialist II, Aquifer Protection & Evaluation Section, File

Subject: Zoning Case Z2006253 - Venetian Oaks

Date: October 2, 2006

SUMMARY

A request for a change in zoning has been made for an approximate 4.74-acre tract located on the city's northwest side. A change in zoning from **O-2 ERZD to RM-4 ERZD** is being requested by the applicant, Ms. Elaine Ludwig Ballard. The change in zoning has been requested to allow a town-home development. The property is classified as Category 2 property.

Based on the site evaluation of the property, and the information submitted by the applicant, SAWS staff recommends **approval** of the proposed land use. Should the city council rezone the property that is the subject of this report, the San Antonio Water System recommends that any development on that property after the zoning classification has been changed should be restricted as stated in the environmental recommendations section of this report.

LOCATION

The subject property is located in City Council District 8, near the intersection of Babcock and De Zavala. A total of 4.74 acres of the property lies within the Edwards Aquifer Recharge Zone Figures 1 and 2).

SITE EVALUATION

1. Development Description:

   The proposed change is from O-2 ERZD to RM-4 ERZD and will allow for the construction of town-homes or duplexes. Currently the site is covered in native vegetation and undeveloped.

2. Surrounding Land Uses:

   Carriage Hills Subdivision is located to the north, west and south of the property. Babcock Road and Bamberger Nature Park is located on the east of the property.

3. Water Pollution Abatement Plan:

   As of the date of this report, a WPAP has not been submitted to the Texas Commission on Environmental Quality (TCEQ). A WPAP will be required to be submitted to and approved by the TCEQ prior to commencement of construction.

4. Geologic Conditions:

   The Resource Protection Division of the San Antonio Water System conducted an evaluation, on September 22, 2006, of the referenced property to assess the geologic conditions and evaluate any environmental concerns present at the site. SAWS staff Geologist, Joan B. Falkenberg, P.G., was present during the site evaluation.

   Using U.S. Geological Survey Water-Resources Investigations Report 95-4030 it was determined that the subject site was underlain by the Upper Confining Units of the Edwards Aquifer. The Upper Confining Units are known to exhibit low to no permeability or porosity and are generally 110 to 150 feet thick in full section. These Units consists mostly of clay and has negligible effective porosity and permeability and is known to form the upper confining layer of the Edwards aquifer.

   The subject property was covered by cedar mulch, brush, trees and a thick well developed soil. No significant geologic features were observed on site. According to the FEMA Flood Insurance Maps, no part of the subject site is located within a 100-year floodplain area.

ENVIRONMENTAL CONCERNS

The environmental concerns associated with this development being constructed on the Edwards Aquifer Recharge Zone are:

General Concerns

1. The improper use of pesticides, herbicides, or fertilizers needed for landscape maintenance that may be carried off in the first flush of stormwater run-off.

2. The build-up of hydrocarbons and other pollutants on streets, parking lots and other paved areas that are then carried off in the first flush of stormwater run-off.

ENVIRONMENTAL RECOMMENDATIONS

The following recommendations address the environmental concerns raised by the construction of this development on the Edwards Aquifer Recharge Zone:

Site Specific Recommendations

1. The land uses within the zoned areas shall be in conformance with the table of permitted uses at the time the re-zoning is approved. Should a proposed use be listed as requiring City Council approval, the owner/operator shall apply for re-zoning for that particular use at that site. If the land use is listed as special use, a special permit must be obtained for that use. If the land use is listed as prohibited, that land use will not be permitted on that site.

2. The owner of all water pollution abatement structures shall be responsible for properly maintaining the basin and that it is kept free of trash and debris. A signed water quality maintenance plan must be submitted to the Resource Protection Division of SAWS. If at any time the ownership of the property changes, the seller must disclose to the buyer all the requirements of the water quality maintenance plan. The new owner must submit a signed water quality maintenance plan to the Resource Protection Division of SAWS.

3. Landscaped areas shall be sensitive to minimizing water needs, i.e., use of native plants. Each purchaser of an individual lot or tenant within this development shall be informed by the seller or lessor in writing about Best Management Practices (BMP) for pesticide and fertilizer application. Preventing Groundwater Pollution, A Practical Guide to Pest Control, available form the Edwards Aquifer Authority (210/222-2204), or equivalent information produced by the U.S. Natural Resource Conservation Service, Texas Department of Agriculture, U.S.D.A, shall be used.

4. The applicant shall notify the Construction Compliance Section of the Resource Compliance Division of SAWS at (210) 233-3564 no later than 48 hours prior to the commencement of construction at the site. If any significant geologic features such as, but not limited to, solution openings, caves, sinkholes, or wells are found during the excavation, construction, or blasting, the developer shall notify the Texas Commission on Environmental Quality at (210) 490-3096 and the Resource Protection Division of the San Antonio Water System at (210) 233-3526.

5. If any sensitive geologic features such as, but not limited to, solution openings, caves, sinkholes, or wells are found during the excavation, construction, or blasting, the developer shall notify the Texas Commission on Environmental Quality at (210) 490-3096 and the Resource Protection Division of the San Antonio Water System at (210) 233-3526.

General Recommendations

1. Prior to the release of any building permits the owner/operator of any Category 2 property shall submit an Aquifer Protection Plan to the Resource Protection Division of the San Antonio Water System.

2. Prior to the release of any building permits, the following shall be submitted to the SAWS Aquifer Protection & Evaluation Section of the Resource Protection Division:

   A. A copy of the Water Pollution Abatement Plan (WPAP) shall be submitted for each particular development/use within the area being considered for re-zoning,

   B. A set of site specific plans which must have a signed Engineers Seal from Texas,

   C. A WPAP approval letter from the Texas Commission on Environmental Quality (TCEQ),

   D. A copy of the approved Water Pollution Abatement Plan.

3. The storage, handling, use and disposal of all over the counter hazardous materials within this development shall be consistent with the labeling of those materials. Failure to comply with the label warnings may constitute a violation of Federal law.

4. If a water quality basin is constructed on the property, the following is required:

   A. Prior to the start of the basin construction, the owner will notify the Aquifer Protection and Evaluation Section of the San Antonio Water System at (210) 233-3526 to schedule a site inspection.

   B. After basin construction is complete and prior to the start of business, the owner will notify the SAWS Aquifer Protection and Evaluation Section at (210) 233-3526 to schedule a site inspection. Additionally, we recommend a maintenance plan and schedule be developed and submitted to SAWS Aquifer Protection and Evaluation Section.

   C. If the basin fails to drain properly, the owner will notify the Construction Section of the Resource Compliance Division at (210) 233-3564 prior to any discharge of water.

D. If at any time the ownership of the property changes, the seller must inform the buyer of all requirements for maintenance of the Basin. A signed basin maintenance plan and schedule agreement, from the new owner, must be submitted to the Resource Protection Division.

5. The City of San Antonio shall inspect all future construction of the sewage collection system to include service laterals and sewer mains for proper construction according to State and City Regulations and Code.

6. The Resource Protection Division staff shall have the authority to inspect the site to ensure that the approved recommendations are being strictly adhered to during and after construction of the project.

Based on the site evaluation of the property, and the information submitted by the applicant, staff recommends **approval** of the proposed land use. Additionally, SAWS staff recommends that the applicant, or any future owner, comply with the above recommendations in regards to the development of the subject property.

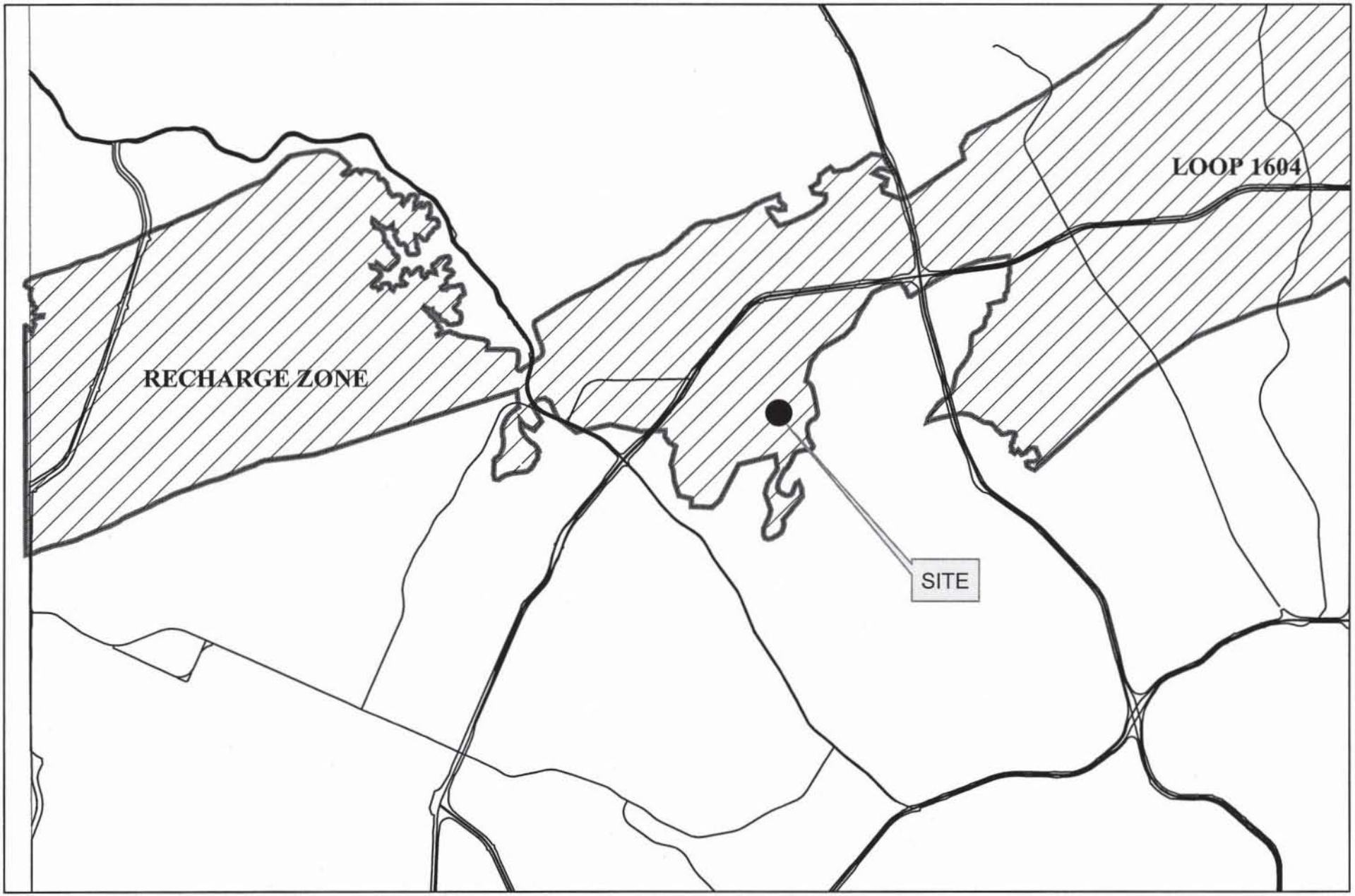
Kirk M. Nixon
Manager
Resource Protection Division

APPROVED:

Scott R. Halty
Director,
Resource Protection & Compliance Department

KMN: PMG

Attachment 1- City Ordinance #87124



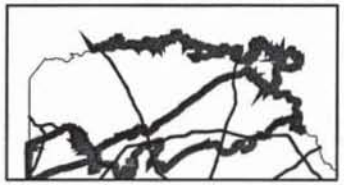
ZONING CASE NO. Z2006253 FIGURE 1

Venetian Oaks

MAP 482 B6

X= 2085562 Y= 1352369

Map Prepared by Aquifer Protection & Evaluation PMG 9/21/06



N

0 4,375 8,750 17,500 26,250 35,000 Feet

1 inch equals 9,663.379424 feet

ZONING CASE NO. Z2006253 FIGURE 2

VENETIAN OAKS

MAP 547 F1

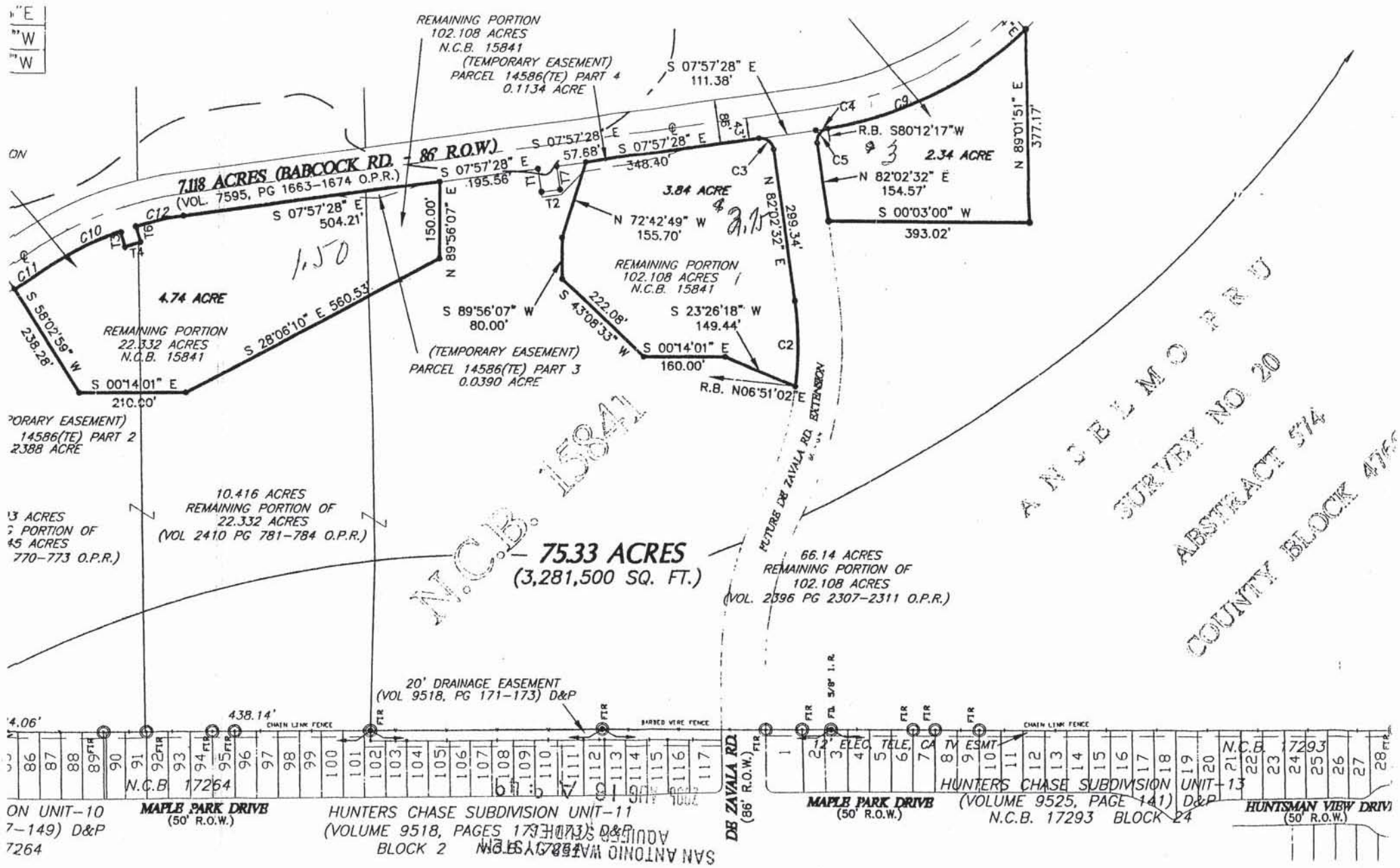
X= 2085562 Y= 13752369

Map Prepared by Aquifer Protection & Evaluation PMG 9/21/06

N

0 105 210 420 630 840 Feet

1 inch equals 239.479647 feet


7.118 ACRES (BABCOCK RD. - 86' R.O.W.)
(VOL. 7595, PG 1663-1674 O.P.R.)
REMAINING PORTION
102.108 ACRES
N.C.B. 15841
(TEMPORARY EASEMENT)
PARCEL 14586(TE) PART 4
0.1134 ACRE
S 07°57'28" E
111.38'
S 07°57'28" E
57.68'
S 07°57'28" E
348.40'
S 07°57'28" E
195.56'
S 07°57'28" E
504.21'
150.00'
N 89°56'07" E
4.74 ACRE
REMAINING PORTION
22.332 ACRES
N.C.B. 15841
S 58°02'59" W
238.28'
S 00°14'01" E
210.00'
S 28°06'10" E 560.53'
(TEMPORARY EASEMENT)
PARCEL 14586(TE) PART 3
0.0390 ACRE
3.84 ACRE
N 72°42'49" W
155.70'
S 89°56'07" W
80.00'
S 43°08'33" W
222.08'
S 00°14'01" E
160.00'
S 23°26'18" W
149.44'
N 82°02'32" E
299.34'
R.B. N06°51'02" E
REMAINING PORTION
102.108 ACRES
N.C.B. 15841
R.B. S80°12'17"W
N 82°02'32" E
154.57'
S 00°03'00" W
393.02'
N 89°01'51" E
377.17'
2.34 ACRE
10.416 ACRES
REMAINING PORTION OF
22.332 ACRES
(VOL 2410 PG 781-784 O.P.R.)
75.33 ACRES
(3,281,500 SQ. FT.)
66.14 ACRES
REMAINING PORTION OF
102.108 ACRES
(VOL. 2396 PG 2307-2311 O.P.R.)
FUTURE DE ZAVALA RD. EXTENSION
N.C.B. 15841
ANSELMO ARU
SURVEY NO. 20
ABSTRACT 574
COUNTY BLOCK 4766
20' DRAINAGE EASEMENT
(VOL 9518, PG 171-173) D&P
438.14'
CHAIN LINK FENCE
BARBED WIRE FENCE
N.C.B. 17264
MAPLE PARK DRIVE
(50' R.O.W.)
HUNTERS CHASE SUBDIVISION UNIT-11
(VOLUME 9518, PAGES 171-173) D&P
BLOCK 2
DE ZAVALA RD.
(86' R.O.W.)
12' ELEC, TELE, CATV ESMT
HUNTERS CHASE SUBDIVISION UNIT-13
(VOLUME 9525, PAGE 141) D&P
N.C.B. 17293 BLOCK 24
N.C.B. 17293
HUNTSMAN VIEW DRIVE
(50' R.O.W.)
ON UNIT-10
7-149) D&P
7264

CITY OF SAN ANTONIO
Request for Council Action

Agenda Item # Z-28
Council Meeting Date: 1/4/2007
RFCA Tracking No: R-899

DEPARTMENT: Development Services **DEPARTMENT HEAD:** Roderick Sanchez

COUNCIL DISTRICT(S) IMPACTED:
Council District 8

SUBJECT:
Zoning Case Z2006253

SUMMARY:
Zoning Request: From "O-2" ERZD Office Edwards Recharge Zone District to "RM-4" ERZD Residential Mixed Edwards Recharge Zone District

BACKGROUND INFORMATION:
Zoning Commission Meeting Date: October 17, 2006

Applicant: Elaine Ballard

Owner: Elaine Ballard

Property Location: P-32, P-32A and P-33C, NCB 15841
13105 Babcock Road
Approximately 1/4 mile north of the intersection of Dezavala Road and Babcock Road
Proposal: For townhome/duplex development
Neighborhood Association: Overlook of Carriage Hills
Neighborhood Plan: None
Traffic Impact Analysis: A Traffic Impact Analysis is not required

ISSUE:
Zoning Staff considers this case to be slightly controversial. As overviewed in the Zoning Commission minutes, there were citizens who spoke in opposition of the rezoning request at the zoning commission hearing. The major opposition received has been regarding the possible lowered property values and possible crime which could result from a zoning request which would allow duplexes or townhomes.

In addition, due to a previous ordinance relating to the adjacent Bamberger Nature Park, the subject property is allowed to have 100% impervious cover. The ordinance allowing this impervious coverage is Ordinance #87124, passed and approved by City Council on December 18th, 1997.

ALTERNATIVES:
A Denial of the request will not allow the proposed use.

FISCAL IMPACT:
None. All zoning fees have been paid.

RECOMMENDATION:
Staff and Zoning Commission (9-0) recommend Approval

The subject property is currently undeveloped. To the north and west of the subject property exists PUD Single-Family Residential zoning, separated from the subject property by a drainage easement (approximately 100 feet wide). To the east of the subject property (across Babcock Road) is Bamberger Nature Park, a 70.91 acre city park with paved walking trails. To the northeast of the subject property exists Multi-Family zoning, while Commercial zoning exists to the south.

This rezoning request, for RM-4 ERZD Residential Mixed Edwards Aquifer Recharge District zoning, would be appropriate at this location. The surrounding area exists as a neighborhood with both single-family and multi-family residential zoning classifications, and the request for RM-4 zoning at this location would compatible with the existing classifications. In addition, the close proximity of Bamberger Nature Park is a beneficial amenity to nearby residential areas.

SAWS Summary:

1. SAWS recommends approval of the proposed land use.
2. The property is classified as a Category 2 property.

ATTACHMENT(S):

File Description	File Name
SAWS Report	Z2006253 SAWS Report.pdf
Location Map	Z2006-253a.pdf
ZC Minutes	Z2006253.pdf
Ordinance/Supplemental Documents	200701040041.pdf

DEPARTMENT HEAD AUTHORIZATIONS:
Roderick Sanchez Director (Interim) Development Services

APPROVED FOR COUNCIL CONSIDERATION:
Jelynne Burley Deputy City Manager

	ALAMODOME
	ARTS & CULTURAL AFFAIRS
	ASSET MANAGEMENT
	AVIATION
	BUDGET & PERFORMANCE ASSESSMENT
	BUILDING INSPECTIONS
	HOUSE NUMBERING
	CITY ATTORNEY
	MUNICIPAL COURT
	REAL ESTATE (FASSNIDGE)
	REAL ESTATE (WOOD)
	RISK MANAGEMENT
	CITY MANAGER
	SPECIAL PROJECTS
	CITY PUBLIC SERVICE – GENERAL MANAGER
	CITY PUBLIC SERVICE – MAPS AND RECORDS
	CODE COMPLIANCE
	COMMERCIAL RECORDER
	COMMUNITY INITIATIVES
	COMMUNITY RELATIONS
	PUBLIC INFORMATION
	CONVENTION AND VISITORS BUREAU
	CONVENTION CENTER EXPANSION OFFICE
	CONVENTION FACILITIES
	ECONOMIC DEVELOPMENT
	FINANCE - DIRECTOR
	FINANCE – ASSESSOR
	FINANCE – CONTROLLER
	FINANCE – GRANTS
	FINANCE – TREASURY
	FIRE DEPARTMENT
	HOUSING AND COMMUNITY DEVELOPMENT
	HUMAN RESOURCES (PERSONNEL)
	INFORMATION SERVICES
	INTERGOVERNMENTAL RELATIONS
	INTERNAL REVIEW
	INTERNATIONAL AFFAIRS
	LIBRARY
	METROPOLITAN HEALTH DISTRICT
	MUNICIPAL CODE CORPORATION
	MUNICIPAL COURT
	PARKS AND RECREATION
	MARKET SQUARE
	YOUTH INITIATIVES
	PLANNING DEPARTMENT
	DISABILITY ACCESS OFFICE
	LAND DEVELOPMENT SERVICES
	POLICE DEPARTMENT
	GROUND TRANSPORTATION
	PUBLIC WORKS DIRECTOR
	CAPITAL PROJECTS
	CENTRAL MAPPING
	ENGINEERING
	ENVIRONMENTAL SERVICES
	PARKING DIVISION
	REAL ESTATE DIVISION
	SOLID WASTE
	TRAFFIC ENGINEERING
	PURCHASING AND GENERAL SERVICES
	SAN ANTONIO WATER SYSTEMS (SAWS)
	VIA

MEETING OF THE CITY COUNCIL

AGENDA ITEM NUMBER: Z-28

DATE: JAN 04 2007

MOTION: Hall / Woeff

ORDINANCE NUMBER: 2007-01-04-0041

RESOLUTION NUMBER:

ZONING CASE NUMBER: Z 2006253

TRAVEL AUTHORIZATION:

0-8

	ROLL	AYE	NAY
ROGER O. FLORES District 1			
SHEILA D. MUNOZ District 2			
ROLAND GUTIERREZ District 3			
RICHARD PEREZ District 4			
PATTI RADLE District 5			✓
DELICIA HERRERA District 6			✓
ELENA GUAJARDO District 7			✓
ART A. HALL District 8			
KEVIN A. WOLFF District 9			
CHRISTOPHER "CHIP" HAASS District 10			
PHIL HARDBERGER Mayor			

Motion to approve with Deed Restrictions