

AN ORDINANCE 2009-02-05-0095

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 13.5873 acres out of NCB 17627 and NCB 18598 from "R-6 CD ERZD" Residential Single-Family Edwards Recharge Zone District with a Conditional Use for a Private High School to "O-1 ERZD" Office Edwards Recharge Zone District (1.6350 acres) and "O-2 ERZD" Office Edwards Recharge Zone District (11.9523 acres).

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. This change of zoning district boundary is conditioned on the requirement that the impervious cover on the property described by this ordinance shall not exceed 50%.

SECTION 4. 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 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 5. 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 6. 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.

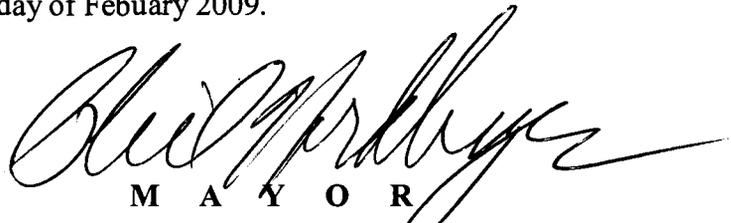
SECTION 7. All other provisions of Chapter 35 except those expressly amended by this ordinance shall remain in full force and effect including the penalties for violations as made and provided for in Section 35-491.

SECTION 8. 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 9. 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.

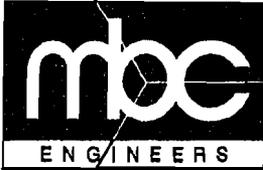
SECTION 10. This ordinance shall become effective February 15, 2009.

PASSED AND APPROVED this 5th day of February 2009.


M A Y O R
PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
For City Attorney



MACINA · BOSE · COPELAND and ASSOCIATES, INC.
CONSULTING ENGINEERS AND LANDSURVEYORS

22008147

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

METES AND BOUNDS DESCRIPTION
FOR

A 1.6350 ACRE TRACT OF LAND OUT AN ORIGINAL 265.678 ACRE TRACT OF LAND, BEING OUT OF THE COLLIN C. McRAE SURVEY NO. 391, ABSTRACT 482, NEW CITY BLOCK 17627, SITUATED IN THE CORPORATE LIMITS OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

- BEGINNING:** At a point along the southeastern right-of-way line of De Zavala Road (86' R.O.W.), point being the most northern rear corner of Lot 16, Block 1, New City Block 18614, Shavano Ridge, Unit-1 Subdivision as recorded in Volume 9521, Pages 120 and 121 of the Deed and Plat Records of Bexar County, Texas;
- THENCE:** Along the southeastern right-of-way line of De Zavala Road (86' R.O.W.), the following courses and distances:
- N 52°48'51" E 15.00 feet to an angle point;
- N 37°11'09" W 3.00 feet to an angle point;
- N 52°48'51" E 50.00 feet to an angle point representing the northernmost corner of the herein described tract of land;
- THENCE:** Departing the southeastern right-of-way line of De Zavala Road (86' R.O.W.), S 37°12'00" E 1,096.59 feet to an angle point;
- THENCE:** S 47°44'00" W 65.30 feet to a found 5/8" iron rod on the rear property line of Lot 31, Block 1, New City Block 18614, of the aforementioned Shavano Ridge, Unit-1 Subdivision, point representing the most southern corner of the herein described tract of land;
- THENCE:** With the northeastern boundary of Shavano Ridge, Unit-1 Subdivision, the following course and distances:
- N 37°07'32" W 234.56 feet to found 1/4" iron rod for an angle point;

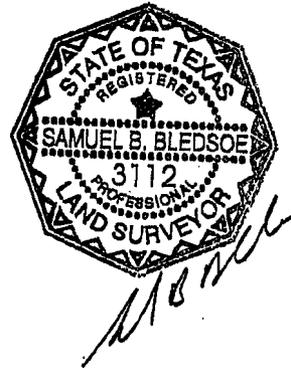
EXHIBIT A

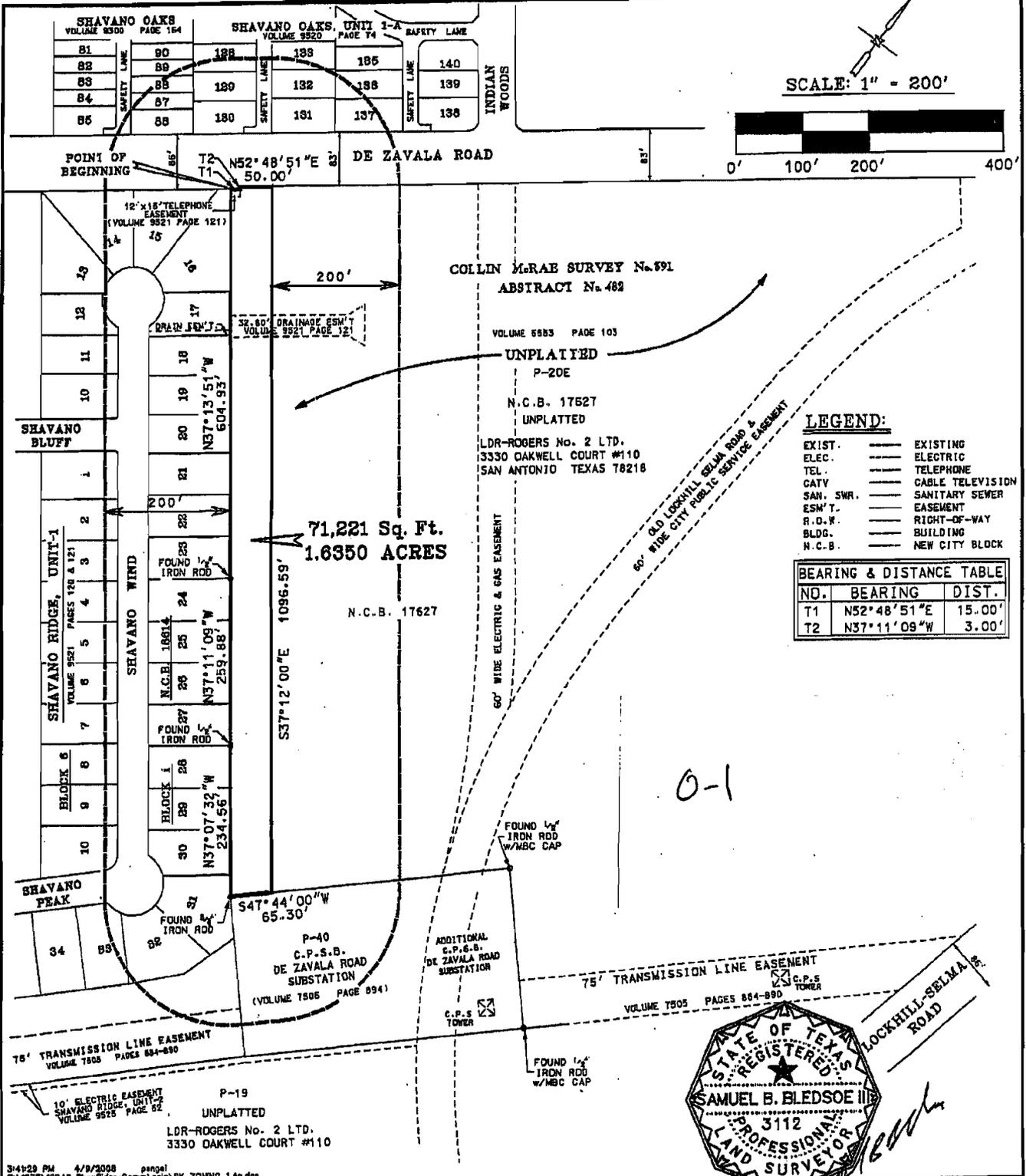
22008147

N 37°11'09" W 259.88 feet to found $\frac{1}{4}$ " iron rod for
an angle point;

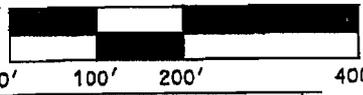
N 37°13'51" W 604.93 feet to the POINT OF BEGINNING
and containing 1.6350 acres (71,221 square feet) of
land.

1 9948/1075
Revised April 9, 2008
March 19, 2008
JHV/lk





SCALE: 1" = 200'

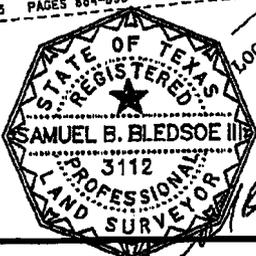


- LEGEND:**
- EXIST. ——— EXISTING
 - ELEC. ——— ELECTRIC
 - TEL. ——— TELEPHONE
 - CATV ——— CABLE TELEVISION
 - SAN. SWR. ——— SANITARY SEWER
 - ESM'T. ——— EASEMENT
 - R.O.W. ——— RIGHT-OF-WAY
 - BLDG. ——— BUILDING
 - N.C.B. ——— NEW CITY BLOCK

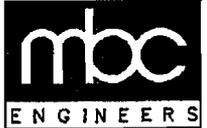
NO.	BEARING	DIST.
T1	N52°48'51"E	15.00'
T2	N37°11'09"W	3.00'

71,221 Sq. Ft.
1.6350 ACRES

0-1



3:44:29 PM 4/9/2008 pengal
P:\1075\18948-ShavRidge-Comm\cadd\18K ZONING 1A.dgn



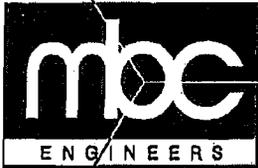
1035 Central Parkway North
San Antonio, Texas 78232
(210) 545-1122
FAX (210) 545-9302

ZONING SKETCH

A 1.6350 ACRE TRACT OF LAND OUT AN ORGNAL 265.678 ACRE TRACT OF LAND, BEING OUT OF THE COLLIN C. McRAE SURVEY No. 391, ABSTRACT 482, NEW CITY BLOCK 17627, SITUATED IN THE CORPORATE LIMITS OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.

04-09-2008 - CORRECTED N.C.B. NUMBERS

DESIGN R. A. L.
DRAWN P. A. E.
CHECKED _____
DATE MAR. 19, 2008
JOB NO. 1-9948
SHT. 1 of 1



METES AND BOUNDS DESCRIPTION
FOR

A 11.9523 ACRE TRACT OF LAND OUT AN ORIGINAL 265.678 ACRE TRACT OF LAND, BEING OUT OF THE COLLIN C. McRAE SURVEY NO. 391, ABSTRACT 482, NEW CITY BLOCKS 17627 AND 18598, SITUATED IN THE CORPORATE LIMITS OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

Commencing: At a point along the southeastern right-of-way line of De Zavala Road (86' R.O.W.), point being the most northern rear corner of Lot 16, Block 1, New City Block 18614, Shavano Ridge, Unit-1 Subdivision as recorded in Volume 9521, Pages 120 and 121 of the Deed and Plat Records of Bexar County, Texas;

THENCE: Along the southeastern right-of-way line of De Zavala Road (86' R.O.W.), the following courses and distances:

N 52°48'51" E 15.00 feet to an angle point;

N 37°11'09" W 3.00 feet to an angle point;

N 52°48'51" E 50.00 feet, to the POINT OF BEGINNING of the herein described tract of land;

THENCE: Continuing along the southeastern right-of-way line of De Zavala Road (86' R.O.W.), N 52°48'51" E 475.00 feet to an angle point representing the northernmost corner of the herein described tract of land;

THENCE: Departing the southeastern right-of-way line of De Zavala Road (86' R.O.W.), S 36°19'42" E 1,307.60 feet to a point on the southeastern boundary line of a 75-foot wide Transmission Line Easement as recorded in Volume 7505 Pages 884-890 of the Official Public Records of Bexar County, Texas;

THENCE: Along the said southeastern boundary line of a 75-foot Wide Transmission Line Easement, S 47°46'03" W 60.00 feet to a found 1/2" iron rod with "MBC" cap for an angle point;

THENCE: Departing the southeastern boundary line of a 75-

Z2008147

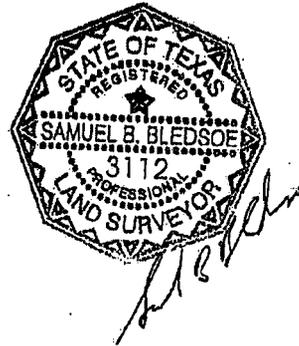
foot Wide Transmission Line Easement, N 42°13'57" W
250.31 feet to a found ½" iron rod with "MBC" cap
for an angle point;

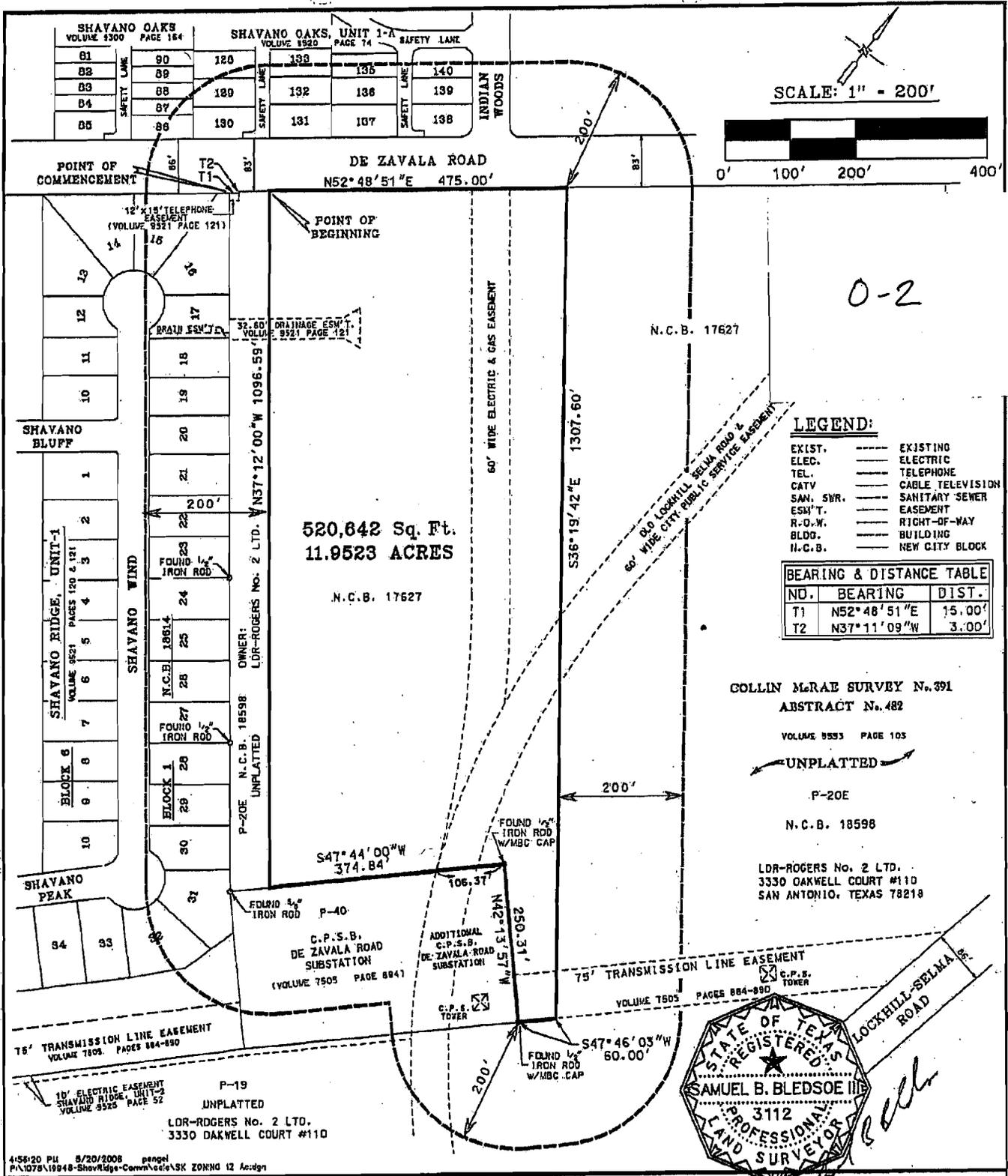
THENCE:

S 47°44'00" W 374.84 feet, (in passing at 106.37
feet the northwestern property line of City Public
Service Board De Zavala Road Substation as recorded
in Volume 7505, Page 894 of the Deed and Plat
Records of Bexar County, Texas) to an angle point;

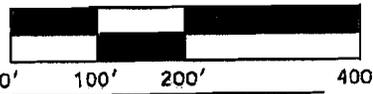
N 37°12'00" W 1,096.59 feet to the POINT OF
BEGINNING and containing 11.9523 acres (520,642
square feet) of land.

1 9948/1075
Revised April 9, 2008
March 19, 2008
JHV/lk





SCALE: 1" = 200'



0-2

520,642 Sq. Ft.
11.9523 ACRES

- LEGEND:**
- EXIST. --- EXISTING
 - ELEC. --- ELECTRIC
 - TEL. --- TELEPHONE
 - CATV --- CABLE TELEVISION
 - SAN. SVR. --- SANITARY SEWER
 - ESM'T. --- EASEMENT
 - R.O.W. --- RIGHT-OF-WAY
 - BLDG. --- BUILDING
 - N.C.B. --- NEW CITY BLOCK

BEARING & DISTANCE TABLE		
NO.	BEARING	DIST.
T1	N52°48'51"E	15.00'
T2	N37°11'09"W	3.00'

COLLIN McRAE SURVEY No. 391
ABSTRACT No. 482

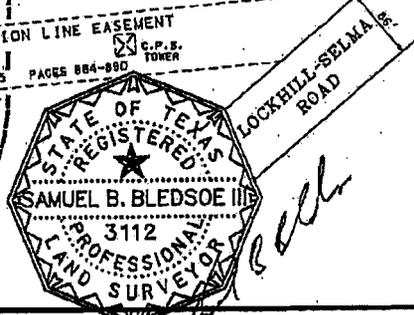
VOLUME 5533 PAGE 103

UNPLATTED

P-20E

N.C.B. 18598

LDR-ROGERS No. 2 LTD.
3330 OAKWELL COURT #110
SAN ANTONIO, TEXAS 78218



ZONING SKETCH

A 11.9523 ACRE TRACT OF LAND OUT AN ORIGINAL 265.678 ACRE TRACT OF LAND, BEING OUT OF THE COLLIN C. McRAE SURVEY NO. 391, ABSTRACT 482, NEW CTTY BLOCKS 17627 AND 18598, SITUATED IN THE CORPRATE LIMITS OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.

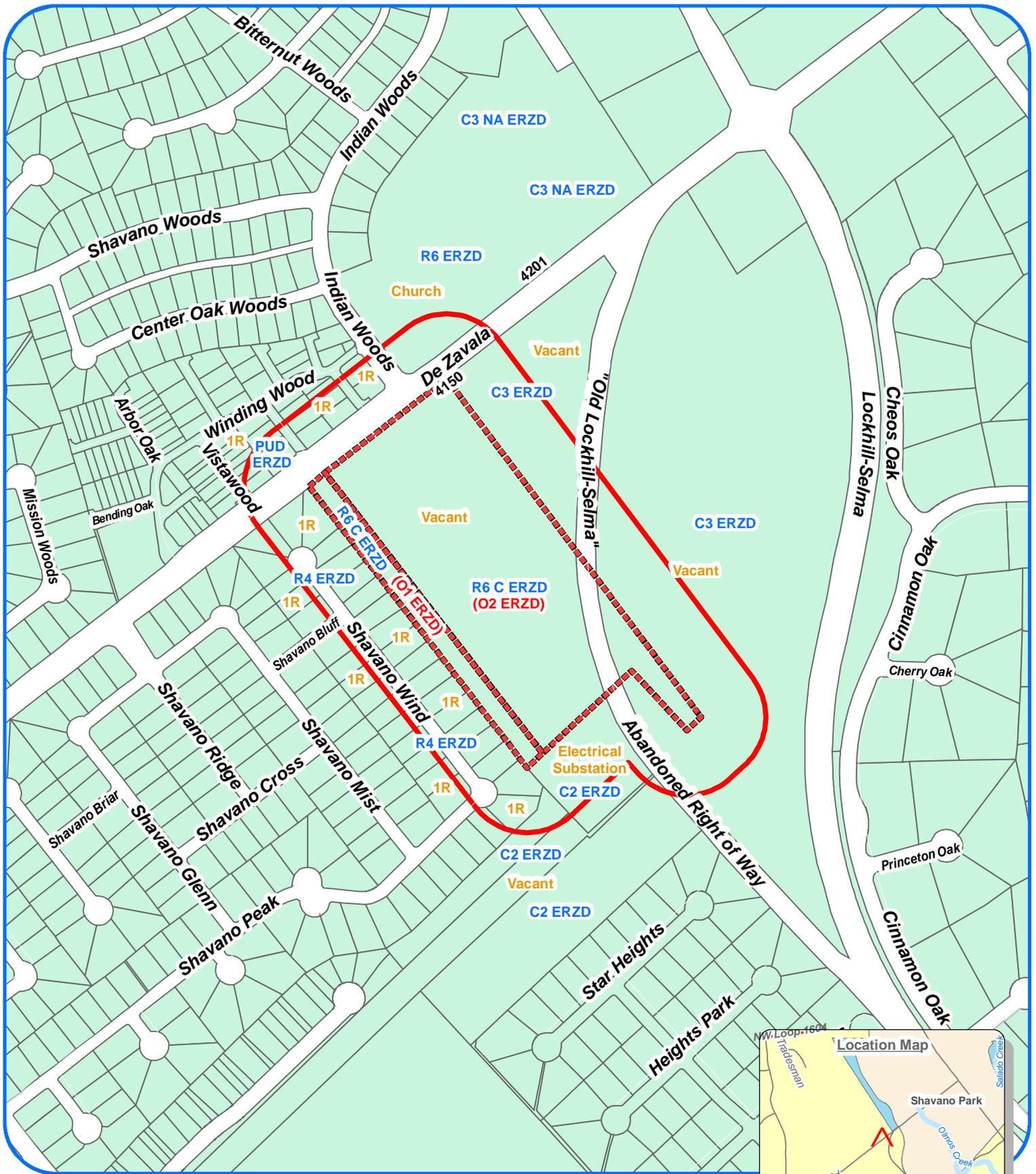
DESIGN R. A. L.
DRAWN P. A. E.
CHECKED _____
DATE MAR. 3, 2008
JOB NO. 1-9948
SHT. 1 of 1

04-09-2008 - CORRECTED N.C.B. NUMBERS
05-20-2008 - CORRECTED WESTERNMOST BEARING

4:56:20 PM 8/20/2008 pengel
P:\1078\19948-ShavRidge-Comm\Title\ASK ZONING 12 Acadgn



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



Zoning Case Notification Plan

Case Z2008147 ERZD

Council District 8

Scale: 1" approx. = 400

Subject Property Legal Description(s): 13.5873 Acres out of NCB 18598

Legend

- Subject Property (13.5873 Acres)
- 200' Notification Buffer
- Current Zoning R6
- Requested Zoning Change (R6)
- 100-Year FEMA Floodplain



City of San Antonio - Development Services Dept
(5/20/2008)

DEVELOPMENT SERVICES
RECEIVEDSAN ANTONIO WATER SYSTEM
Interdepartment Correspondence Sheet 2008 JUL 30 AM 10:36

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, Gregory D. James, Supervisor, Aquifer Protection & Evaluation, Michael A. Escalante, Resource Protection Specialist II, Aquifer Protection & Evaluation Section, File

Subject: Zoning Case Z2008147 (De Zavala Commercial Development)

Date: July 30, 2008

SUMMARY

A request for a change in zoning has been made for an approximate 13.58-acre tract located on the city's northwest side. A change in zoning from **R-6 C ERZD to O-1 ERZD (1.63 acres) and O-2 ERZD (11.95 acres)** is being requested by the applicant, Brown & Ortiz, P.C. Attorneys at Law, by Ken W. Brown. The change in zoning has been requested to allow for the development of an office complex. The property is classified as a Category 1.

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, at 4150 De Zavala Rd. The property lies within the Edwards Aquifer Recharge Zone (Figures 1 and 2).

SITE EVALUATION

1. Development Description:

The proposed change is from R-6 C ERZD to O-1 ERZD (1.63 acres) and O-2 ERZD (11.95 acres) and will allow for the development of an office complex. Currently the site is undeveloped.

2. Surrounding Land Uses:

A residential neighborhood, Shavano Ridge Unit 1, is immediately west of the subject site. The Woods of Shavano neighborhood exists to the north. The property immediately to the east of the site is currently undeveloped. A City Public Service Energy substation exists to the south of the property.

3. Water Pollution Abatement Plan:

The property is contained within the West Shavano Development WPAP. The Texas Commission approved the WPAP on November 18, 1992.

4. Geologic Conditions:

The Resource Protection Division of the San Antonio Water System conducted a site evaluation on April 15, 2008, of the referenced property to assess the geologic conditions and evaluate any environmental concerns present at the site. SAWS Environmental Geologist, Mr. Bruce Keels, P.G., was present during the site evaluation.

- A. The subject site was observed as a single lot, heavily vegetated with native trees, approximately 13.30 acres in area. No structures were observed on the site, other than a City Public Service high tension power line easement along a generally north-south alignment.

Moderate exposure of bedrock was observed throughout the property. The exposed limestone observed on the subject property included medium to dark gray moderately weathered bedrock and float rock limestone with sparse vugs visible in some areas. An apparent ephemeral drainage feature was observed running generally northeast-southwest through the northern portion of the subject site.

The site appeared to slope to the northeast. Stormwater occurring on the subject site would drain to the northeast towards Shavano Creek.

- B. Using U.S. Geological Survey Water-Resources Investigations Report 95-4030 it was determined that the subject site is underlain by the Cyclic and Marine Member of the Person Formation of the Edwards Aquifer throughout the northern half of the property, and by the Undivided Upper Confining Unit Member throughout the southern half of the property. The Cyclic and Marine Member of the Person Formation is characterized by the presence of thinly bedded mudstone, packstone and grainstone with structurally based porosity. The full section thickness of this member is approximately 80 to 90 feet thick. The exposed bedrock observed on the subject site was found to be consistent with the characteristics of the Marine and Cyclic Member.

The Undivided Upper Confining Unit is characterized by the presence of massively bedded gray to light tan limestone with relatively low porosity and permeability. This unit is considered to be the upper confining member of the Edwards Aquifer and tends to prevent subsurface migration of fluids.

Based on a review of a geologic assessment of an adjacent property, the subject site vicinity is generally underlain by the Cyclic and Marine Member of the Person Formation of the Edwards Aquifer, and the Undivided Upper Confining Unit Member. Visual evidence indicates that observed rock exposure on the subject site is consistent with characteristics of the Cyclic and Marine Member.

- C. An ephemeral drainage was observed to cross the site. A mapped fault is known to exist to the north of the property, but does not intersect the site at any point. A previous Geologic Assessment identified two faults on the parent parcel, possibly sympathetic to the mapped fault to the north. These faults do not intersect the subject property.

A sinkhole, approximately 3 feet wide and 2 feet deep, was sealed in September 1996 with a 4 foot by 8 foot concrete cap, and then covered by native soil. The plugging of the feature was in accordance to a TCEQ approval letter dated September 29, 1994. However, this feature was observed to have slightly collapsed at one edge, allowing surface water to drain along the edge of the concrete cap.

ENVIRONMENTAL CONCERNS

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

1. Standard Pollution/Abatement Concerns:

- A. 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.
- B. 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.
- C. There will be no outside storage of hazardous materials with the potential for contamination of stormwater runoff.

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 impervious cover shall not exceed 50% on the site.
2. The subject property was originally zoned for commercial use and is currently a category 1 property. However, the property maintained an R-6 rezoning in 2003, prior to the impervious cover limit recommendations. Based on these conditions staff is recommending 50% impervious cover.
3. The land uses within the project site 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 the project 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 not allowed, that land use will not be permitted on the project site.
4. The owner of all water pollution abatement structures shall ensure these structures are properly maintained and 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.
5. 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, Texas Department of Agriculture, U.S. Department of Agriculture, shall be used.
6. 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.

Zoning Commission Members
Zoning Case Z2008147 (De Zavala Commercial Development)
Page 5

7. 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.

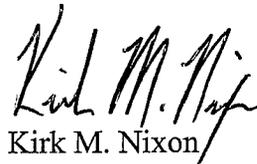
General Recommendations

1. Prior to the release of any building permits, the 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 the State of Texas,
 - C. A WPAP approval letter from the Texas Commission on Environmental Quality,
 - D. A copy of the approved Water Pollution Abatement Plan.
2. 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.
3. 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.
 - E. 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 of SAWS.

Zoning Commission Members
Zoning Case Z2008147 (De Zavala Commercial Development)
Page 6

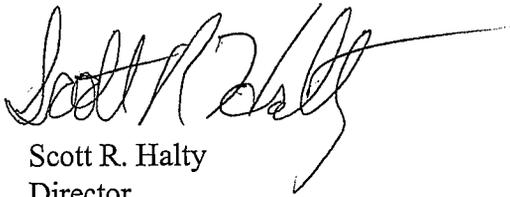
4. The City of San Antonio shall inspect all future construction of the sewage collection system to include service laterals and sewer mains for proper construction according to State and City Regulations and Code.
5. The Resource Protection Division staff shall have the authority to inspect the site 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

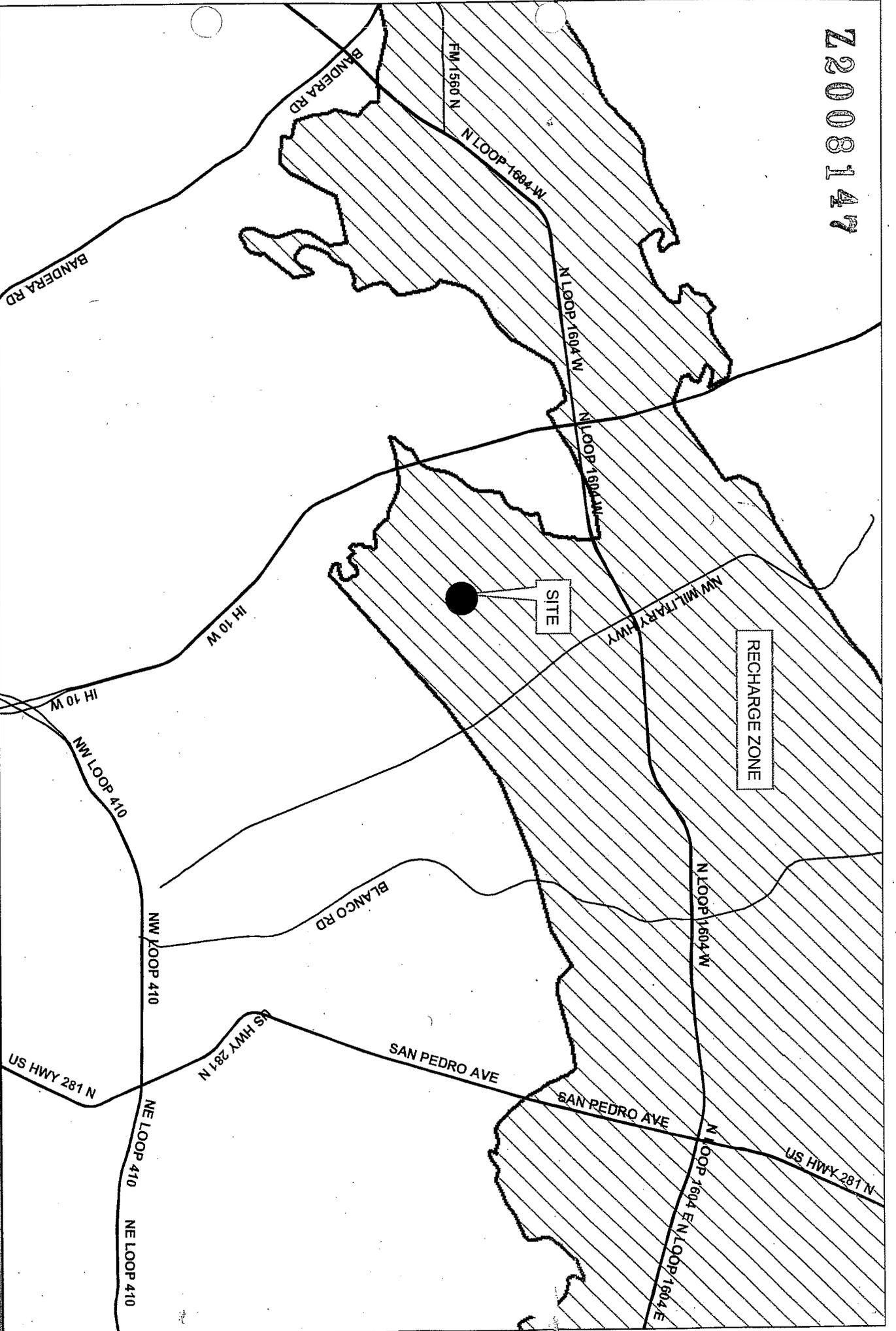
APPROVED:



Scott R. Halty
Director
Resource Protection & Compliance Department

KMN:MAE

Z2008147



ZONING FILE: DE ZAVALA COMMERCIAL DEVELOPMENT (FIGURE 1)

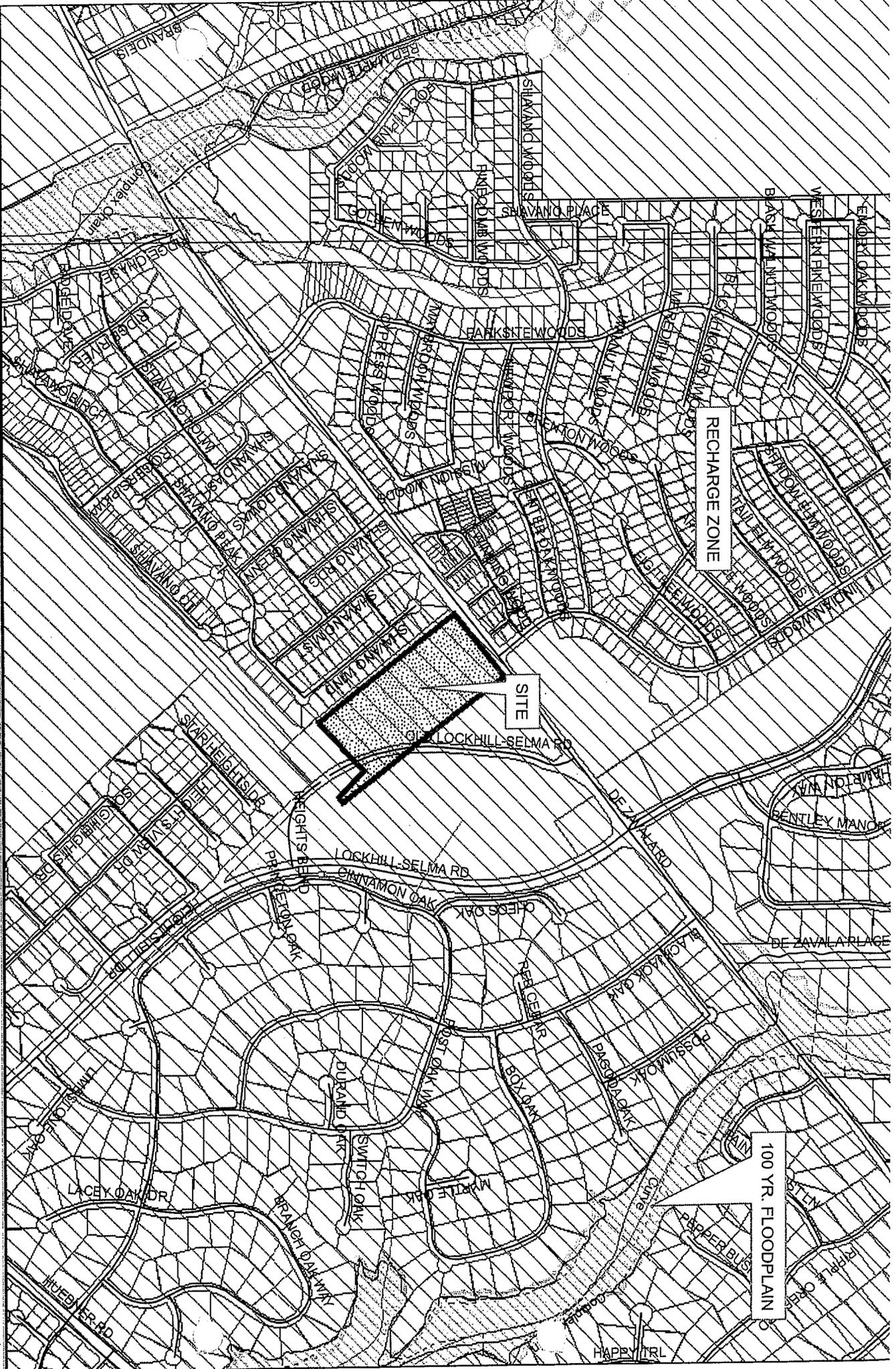
ZONING ID: Z2008147

MAP PAGE: 515, B7 X= 2106045 Y= 13756179

Map Prepared by Aquifer Protection & Evaluation MAE 4/14/2008



1 inch equals 6,985.586243 feet



ZONING FILE: DE ZAVALA COMMERCIAL DEVELOPMENT (FIGURE 2)

ZONING ID: Z2008147

MAP PAGE: 515, B7 X= 2106045 Y= 13756179

Map Prepared by Aquifer Protection & Evaluation MAE 4/14/2008



1 inch equals 769.367249 feet

72008147

Z-3

DECLARATION OF RESTRICTIVE COVENANTS
City of San Antonio Zoning Case No. Z2008147

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This **DECLARATION OF RESTRICTIVE COVENANTS** (this "Declaration") is executed by and between Shavano/LDR No. 4 Commercial Partnership, Ltd., a Texas limited partnership (the "Declarant") and Shavano Ridge Homeowner's Association (the "Association").

I.

Definitions

Any term not herein specifically defined shall carry the definition contained in the Unified Development Code of the City of San Antonio as defined below.

"City" shall mean the City of San Antonio, a Texas municipal corporation.

"Code" shall mean the Unified Development Code of the City in effect on the date this Declaration is recorded.

"Declarant" shall mean, the owner of the Property defined in Article II below, and any successors and assigns of the owner of the Property who acquires fee title to all or a portion of the property.

"Development" shall mean any land preparation, clearing, or grading, associated with construction.

"Association" shall refer to all owners of real property, and their successors, that are members of the Shavano Ridge Homeowner's Association as of the effective date of this Declaration.

II.

Property

The "**Property**," as the term is used within this Declaration, shall refer to the 13.5873 acres, more or less, generally located southwest of the intersection of DeZavala Road and Lockhill-Selma Road, and more specifically described as 13.5873 acres out of NCB 17627 and 18598, in the City of San Antonio, Bexar County, all of which is eligible for development and the subject of City of San Antonio Zoning Case Number Z2008147.

III.

Recitals

1. WHEREAS, Declarant is the Owner of the Property, as more particularly defined in Article II above.
2. WHEREAS, Declarant submitted a Zoning Application to the City's Development Services Department formally referenced as Zoning Case Number Z2008147. Pursuant to Zoning Case Number Z2008147, Declarant has requested rezoning of the Property to "O-1 ERZD" (Office Edwards Recharge Zone District) on 1.6350 acres and "O-2 ERZD" (Office Edwards Recharge Zone District) on 11.9523 acres.
3. WHEREAS, Declarant has requested support from the Association for the above referenced request for rezoning to "O-1 ERZD" (Office Edwards Recharge Zone District) on 1.6350 acres and "O-2 ERZD" (Office Edwards Recharge Zone District) on 11.9523 acres.
4. WHEREAS, the Association has consented to the request for the above-referenced rezoning as consideration for this Declaration, and shall agree not to oppose the same when such request is heard by the City Council.
5. WHEREAS, Zoning Case Number Z2008147 was heard and approved by the Zoning Commission on November 18, 2008.
6. WHEREAS, the undersigned Declarant does hereby finally and irrevocably impose the following restrictions on the Property, and burdens the Property with such restrictions, which are to run with the land, to survive all transfers of ownership of the Property, and to govern any development or use of the Property.

NOW THEREFORE, in consideration of the mutual covenants and agreements, and other valuable consideration, it is declared that the Property, shall be held, sold, and conveyed subject to the following restrictions, covenants and conditions:

IV.

Restrictions

1. **Building Setbacks:** Declarant agrees that no office or commercial building shall be constructed within one-hundred and fifteen feet (115ft) from the common property line between the western property line of the Subject Property and the eastern property line of the Shavano Ridge neighborhood. Such building setback area shall include a fifty foot (50ft) natural landscape buffer adjacent to the common property line described above. To ensure that the natural landscaping located within the buffer area is not disturbed, Declarant agrees to place temporary construction fencing along the perimeter of the buffer area.

2. **Building Height:** Declarant agrees to limit the height of any office or commercial building, located between the building setback line established in item #1 above and two-hundred feet (200ft) of the common property line between the western property line of the Subject Property and the eastern property line of the Shavano Ridge neighborhood, to no more than two (2) stories. "Two (2) stories" shall mean no more than thirty-eight feet (38ft) in height, measured from the finished interior floor to the roofline at the top of the parapet wall of the building, excluding spires, belfries, cupolas, or domes not used for human habitation, chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.
3. **Windows:** In order to provide privacy and reduce glare, Declarant agrees to use "sky" windows on the second story of all office or commercial buildings orientated to face the common property line between the western property line of the Subject Property and the eastern property line of the Shavano Ridge neighborhood and within two-hundred feet (200ft) of the common property line. "Sky" windows shall mean that no clear (non-opaque) windows will be used within five feet (5ft) of the second-story interior floor. Additionally, subject to approval by the City and pursuant to the codes and regulations of the City, such windows shall not be constructed out of reflective glass. This window restriction shall only apply to office or commercial buildings located between the building setback line established in item #1 above and two-hundred feet (200ft) of the common property line between the western property line of the Subject Property and the eastern property line of the Shavano Ridge neighborhood.
4. **Hours of Operation:** Declarant agrees to limit the hours of operation for offices and commercial businesses located on the Subject Property so that no office or commercial business may remain open later than 10:00 p.m.
5. **Hours of Construction:** Declarant agrees to limit the hours of outside construction activities to 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. In no event shall outside construction activities occur on a Sunday.
6. **Loading Dock Locations:** Declarant agrees to restrict the location of all loading docks within two-hundred feet (200ft) of the common property line between the western property line of the Subject Property and the eastern property line of the Shavano Ridge neighborhood so that no loading dock is orientated to face such common property line.
7. **Traffic Control:** Declarant agrees to comply with the requirements of the Traffic Impact Analysis completed for the Subject Property and submitted to the City of San Antonio based on the City of San Antonio requirements in place at the time of platting the Subject Property.
8. **Zoning Case Support:** In consideration for the restrictions granted in this Declaration, the Association shall agree not to oppose, and to support, Declarant's application for

rezoning of the Property in zoning case number Z2008147 that is pending before the City of San Antonio's Zoning Commission and the City Council.

V.

Condition Precedent

1. **Zoning:** All obligations agreed to by the Declarant as part of this Declaration are expressly contingent upon the City Council's approval of "O-1 ERZD" (Office Edwards Recharge Zone District) and "O-2 ERZD" (Office Edwards Recharge Zone District) zoning for the Property pursuant to Zoning Case Number Z2008147.

VI.

General Provisions

1. **Enforcement:** Failure to enforce any covenant or restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. Declarant hereby agrees that upon receipt of a written notice from the Association of any violation of these restrictive covenants, the Property shall be brought into compliance with the restrictive covenant(s) violated within sixty (60) days of written notice thereof. It is understood and agreed by the parties to this Declaration that upon the sale of the Property by the Declarant or any other purchaser or developer of the Property, the Declarant shall be released from any and all liability and responsibility under this Declaration, excepting only liability that the Declarant may already have for any breach of Declarant's obligations under this Declaration that occurred prior to the sale of the Property by the Declarant.
2. **Covenants Running With The Land:** These restrictions, covenants, and conditions are for the purpose of protecting the value and desirability of the property owned by the Association. Consequently, unless terminated pursuant to the provisions of this Declaration, they shall run with the real property and shall be binding on all parties having any right, title, or interest in the Property, described within this Declaration, or property owned by the Association in whole or in part, and their heirs, successors, and assigns. These covenants, conditions, and restrictions shall be for the benefit of the Property, described within this Declaration, or property owned by the Association, and each property owner in the Association.
3. **Attorney Fees:** If any controversy, claim, or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorneys' fees, and costs.
4. **Severability:** Declarant agrees that invalidation of any of these covenants or restrictions by judgment or court order shall in no way effect any other provision, and all other provisions shall remain in full force and effect.

5. **Headings:** The headings and other captions contained in this Declaration are for convenience of reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.
6. **Unintended Omission:** If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.
7. **Term:** Declarant agrees that the covenants, conditions, and restrictions of this Declaration shall be effective for a term of ten (10) years from the date this Declaration is recorded, after which period the covenants, conditions, and restrictions shall be automatically extended for three (3) successive periods of five (5) years each, unless terminated earlier by agreement of the parties herein, as set forth below.
8. **Waiver and Amendment:** The Association may effectively waive the applicability of all or a portion of any one of the restrictions set forth herein, or amend a provision, but only if approved by a majority (51%) of the Board of Directors of the Association, and evidenced by an instrument executed in writing by the then-serving President of the Association expressly setting forth that such waiver or amendment has been approved as set forth above. Said waiver or amendment shall be acknowledged before a Notary Public, and verify the then-current officer capacity for the Association, specifically referencing this Declaration (including the Volume and Page numbers of recordation of this Declaration in the Records), quoting the language of the Restrictions to be waived or amended, and duly recorded in the Bexar County Real Property Records. Should the Association cease to exist or operate, the Declarant shall have the sole power to amend this Declaration.
9. **Entire Agreement:** This Declaration reflects the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection herewith.

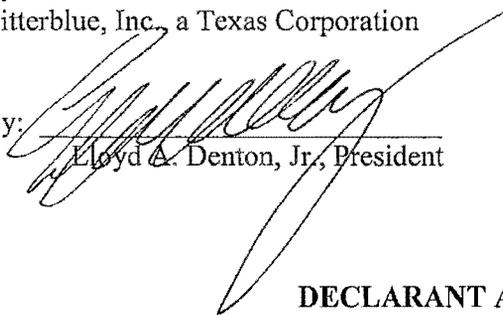
[SIGNATURES ON FOLLOWING PAGES]

WHEREFORE, this Declaration is executed this _____ day of _____, 2009, at San Antonio, Texas.

DECLARANT:

Shavano/LDR No. 4 Commercial Partnership, Ltd.,
a Texas limited partnership

By Its Sole General Partner:
Bitterblue, Inc., a Texas Corporation

By: 
Lloyd A. Denton, Jr., President

DECLARANT ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared
Lloyd A. Denton, Jr., on behalf of Shavano/LDR No. 4 Commercial Partnership,
Ltd.

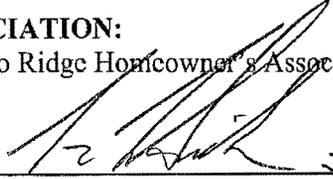
GIVEN UNDER MY HAND AND SEAL OF OFFICE this 4 day of February,
2009.



Sarah E. Carrington
Notary Public, State of Texas
Printed Name: _____
My Commission Expires: _____

ASSOCIATION:

Shavano Ridge Homeowner's Association

By:  JERRY K. SMITH

Title: President

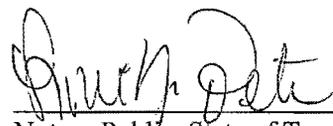
ASSOCIATION ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared Jerry Smith, on behalf of Shavano Ridge Homeowner's Association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of February, 2009.


Notary Public, State of Texas
Printed Name: Lori Betus
My Commission Expires: 4-11-09

AFTER RECORDING RETURN TO:

Shavano/LDR No. 4 Commercial Partnership, Ltd.
11 Lynn Batts Lane, Suite 100
San Antonio, Texas 78218

