



# City of San Antonio

## Agenda Memorandum

**File Number:**  
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**Agenda Item Number:** {{item.number}}

**Agenda Date:** November 13, 2024

**In Control:** Planning Commission Meeting

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**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Amin Tohmaz, Interim Director

**COUNCIL DISTRICTS IMPACTED:** District 8

**SUBJECT:**

An appeal of the Director's decision to deny a request for vested rights.

**SUMMARY:**

The Development Services Department has evaluated an application submitted by Brown & McDonald PLLC, seeking vested rights for 179.56 acres of land generally located at Kyle Seale Parkway and W Loop 1604 E. Specifically the applicant sought vested rights for commercial/residential land uses vested to February 25, 1988, which was ascertained to be the acceptance date of Preliminary Overall Area Development Plan (POADP) 286: Kyle Seale Ranch POADP. The land uses established by this underlying permit, for this subject property, include Commercial, Multi-Family and Residential.

During staff's technical review, it was determined that the property did not qualify for vested rights because:

1. The underlying permit, Kyle Seale Ranch POADP 286, failed to maintain validity as required by the Unified Development Code.

## **BACKGROUND INFORMATION:**

The Rights Determination process allows an applicant to complete a project under the rules that were in place when the project was originally initiated. Rights are established for a project based on the first permit in a series of permits that are required for the project and require the applicant to demonstrate progress on the project every five years. To maintain validity of a POADP/MDP there must be a plat recorded every five years, or verified expenses showing progress towards completion of the project, specifically between 1/1/2016-1/1/2021, which the applicant was unable to provide. The applicant provided \$505,718.00 in expenditures, however the requirement is \$1,000,000.00 in expenditures because the POADP is over 1000 acres, in accordance with the San Antonio Unified Development Code. Based on this information staff has determined the underlying permit is no longer valid.

The applicant filed an appeal of the Director's decision to deny the vested rights application on October 3, 2024, based on the City's denial of statutory rights associated with LAND-RD-24-12500017, Seale. The Unified Development Code (UDC) 35-712 )(d) authorizes the Planning Commission to hear such appeals. In this appeal, the applicant questions the City's determination not to recognize rights for project.

## **ISSUE:**

**The review and final consideration of an application is done administratively in accordance with Unified Development Code section 35-712 and Chapter 245 of the Texas Local Government Code. Appeals are considered by Planning Commission and may be appealed to City Council.**

## **ALTERNATIVES:**

Planning Commission is asked to determine whether staff made the correct decision in denying the vested rights application for the subject property. The Planning Commission may choose to uphold staff's decision or reverse staff's decision.

## **RECOMMENDATION:**

Staff recommends Denial of the appeal based on the following:

- The applicant was not able to provide a plat recorded every five years, specifically between 1/1/2016-1/1/2021, in order to maintain validity; and
- The applicant provided \$505,718.00 in expenditures, short of the requirement of \$1,000,000.00 because the POADP is over 1000 acres.