



# City of San Antonio

## Agenda Memorandum

**File Number:**

---

**Agenda Item Number:** 27

**Agenda Date:** April 20, 2023

**In Control:** City Council A Session

---

**DEPARTMENT:** Planning Department

**DEPARTMENT HEAD:** Bridgett White

**COUNCIL DISTRICTS IMPACTED:** ETJ

**SUBJECT:**

An ordinance approving a Development Agreement between the City of San Antonio and Chesmar Homes, LLC, owners of the proposed Boerne Stage Road Special Improvement District, located in the City's extraterritorial jurisdiction.

**SUMMARY:**

Ordinance approving the associated Development Agreement with the Chesmar Homes, LLC, owners of approximately 167.73 acres of land generally located Southwest of IH-10 and State Highway 46 and West of Boerne Stage Road in the extraterritorial jurisdiction of the City of San Antonio.

**BACKGROUND INFORMATION:**

Texas Local Government Code Chapter 382 allows for the creation of Public Improvement Districts (PIDs) by a county. PIDs are economic development tools used to pay or finance public improvements and economic development within (and that benefit) a defined geographical area, which will become the PID. The general nature of the proposed public improvement may include, but is not limited to, the improvement and construction of roadways, utilities, water, wastewater, or drainage systems, trails, and park/recreational facilities, which are located within the PID

boundaries. These PIDs may levy assessments and impose ad valorem, sales and use, or hotel occupancy taxes as sources of funding, and costs are apportioned and paid by landowners within the PID boundaries that benefit from public improvements and/or services.

To create a PID in a county, more than fifty percent (50%) of owners of taxable real property liable for assessment within the proposed PID area, must submit a petition to the governing body of the county. The municipality has the option to object to the creation of PIDs in its ETJ pursuant to state law. However, a PID being created with road district powers to supply roadways, fresh water, sanitary sewer, or drainage facilities, may not be created in the ETJ of a municipality unless the municipality gives its written consent by resolution.

In accordance with Section 212.172 of the Texas Local Government Code, a municipality and a landowner may enter into a written development agreement by which the municipality will extend its planning authority, establish terms for annexation or non-annexation of the land, extend its development regulations and standards, and provision for the infrastructure of the land. In addition, a PID in the Extraterritorial Jurisdiction (ETJ) of a municipality may negotiate and enter into a written strategic partnership agreement (SPA) with the municipality that allow the municipality to annex for limited purposes, as well as impose and collect sales taxes in the commercial property in the PID boundaries, in accordance to Chapter 43 of the Texas Local Government Code.

On October 11, 2022, Chesmar Homes, LLC., the (Owners) filed a petition and application to Bexar County (County), to create a PID to be named the Boerne Stage Road Special Improvement District, pursuant to Chapter 382 of the Texas Local Government Code delegate. On November 1, 2022, the Owners also petitioned the City to grant its consent to the creation of the PID with road district powers in its ETJ as required by State law. As a condition of the City's consent, the Owners and the City will enter into a development agreement, which includes development and land use regulations, voluntary annexation for the PID land and the framework of a SPA. On November 11, 2022 the County Commissioners Court approved a resolution stating their intent to create the PID with road district powers and authority to impose taxes on future landowners located within the PID's boundaries.

The proposed PID Property consists of the Boerne Stage Road Tracts, totaling 167.73 acres of land generally located southwest of IH-10 and State Highway 46 and west of Boerne Stage Road in the extraterritorial jurisdiction of the City of San Antonio. The PID Property is located within the water Certificate of Convenience and Necessity (CCN) of SAWS; the PID property is not within SAWS Wastewater CCN, on-site-septic systems will be used for wastewater conveyance. The PID project will be a single-family home development of 131 units, home prices are approximated at \$800,000 per unit. The proposed improvement costs of roadways, traffic signals, parkland, landscaping, erosion control, water, sanitary sewer, storm water improvements. The proposed improvement costs are estimated at \$10,315,208.00. The proposed PID's revenue is estimated at \$9,686,408.00.

## **ISSUE:**

If approved, this ordinance approves the execution of a 30-year Development Agreement (Agreement) between the City and the Owners. The written consent of the City by resolution, which includes the delegation of the road district powers along with the powers to construct water, wastewater, and drainage facilities, is required by state law for this PID to exercise those powers. However, the City's consent will not include the following:

- The power to exercise eminent domain by the PID; and
- The power to annex, expand or exclude land into the PID's existing boundaries.

The Agreement sets the conditions of the City's consent, as mentioned above, and includes the following terms and obligations between the City and the Owners with respect to the development of the PID property:

- The Owners will pay to the City a \$7,500 Special District application fee.
- The Owners will pay to the City an operations fee of \$175 per each built residential unit, totaling \$22,925.00
- The proposed PID's tax rates shall not exceed the City's tax rates.
- The City will guarantee the continuation of the extraterritorial status of the PID property for a period of 30 years.
- The Owners agree that the Agreement constitutes a petition consenting to annexation at the City's discretion at the end of the Agreement's term.
- The Agreement includes a Written Services Agreement between the Owner, subsequent Owners, and the City under Chapter 43 of the Local Government Code.
- The Owners agree to comply with all municipal regulations, ordinances, and other laws applicable to all properties located within the City's ETJ during all phases of development and construction of the PID Project and during the term of the Agreement.
- The Owners agree to place public visual art within the District utilizing the Artist Registry from the City's Department of Arts and Culture.
- The Owners agree to include status and completion of LID elements as described in Section 5.1.7 of the Development Agreement in Project Annual Updates.
- The Owners will reimburse the City for the recordings of the development agreement with Bexar County Real Property Records.
- The Agreement includes the proposed framework of a SPA between the City and the PID, which will include the following provisions:
  - The PID will pay for costs related to the SPA and limited purpose annexation and will reimburse the City for legal recordings of the SPA with Bexar County Real Property Records.
  - Commencing after the effective date of the limited purpose annexation of the commercial property, the City will remit to the PID an amount equal to 25% of the Sales Tax Revenues collected within the annexed commercial property.

The proposed timeline for the establishment of the proposed PID is as follows:

<b><u>Dates</u></b>	<b><u>Schedule of Action</u></b>
November 29, 2022	Bexar County Commissioners Court consideration of a resolution expressing their intent to create the PID

March 22, 2023	San Antonio Planning Commission public hearing and recommendation
April 20, 2023	City Council's consideration and action
May 2, 2023	Bexar County Commissioners Court consideration to create the proposed PID and appoint a board of directors
November 2023	PID Election and approval of PID's taxes and bonds

#### **ALTERNATIVES:**

A denial of the ordinance would result in the PID not being created by the County. This action would require the Owners to seek a different financing mechanism for the development of the property. It may result in the PID development occurring in a traditional method instead of the manner proposed by the developer. City Council may require staff to re-negotiate the terms of the Agreement which would delay the activation of PID development.

#### **FISCAL IMPACT:**

This item is to consider an ordinance authorizing the execution of a Development Agreement between the City of and Chesmar Homes, LLC, Owner of PID property. This ordinance enables the Owners to pay a Special District Operations Assessment estimated at \$22,925.00 (for a total of 131 single family residential units at \$175 per residential unit) and costs related to limited purpose annexation and reimburse the legal recordings of the development agreement and SPA with Bexar County Real Property Records to the City's General Fund.

#### **RECOMMENDATION:**

Staff recommends approval of an Ordinance authorizing the execution of a 30-year Development Agreement between the City and Chesmar Homes, LLC.

On March 22, 2023, the Planning Commission recommended to City Council to grant its consent to the PID creation by the County subject to the execution of a Development Agreement with the Owner.