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**Agenda Date:** August 31, 2023

Status: Pending

**In Control:** City Council

**File Type:** Miscellaneous Item

**POSTING LANGUAGE:**

Ordinance approving a Development Agreement with Davis-McCrary Property Trust & Lennar Homes of Texas Land and Construction, Ltd, owners of approximately 423.15 acres of land generally located northeast of Old Corpus Christi Road and Richter Road in the extraterritorial jurisdiction of the City of San Antonio, setting forth terms and conditions to the City of San Antonio's Consent to the Creation of the Stone Garden Special Improvement District. [Roderick Sanchez, Assistant City Manager; Bridgett White, Director, Planning]

**DEPARTMENT:** Planning

**DEPARTMENT HEAD:** Bridgett White, AICP

**COUNCIL DISTRICTS IMPACTED:** ETJ near City Council District 3

**SUBJECT:**

An Ordinance approving a Development Agreement between the City of San Antonio and Davis-McCrary Property Trust & Lennar Homes of Texas Land and Construction, Ltd, owners of the proposed Stone Garden Public Improvement District (PID), located in the City's Extraterritorial Jurisdiction (ETJ).

**SUMMARY:**

Ordinance approving the associated Development Agreement with the Davis-McCrary Property Trust & Lennar Homes of Texas Land and Construction, Ltd, owners of approximately 423.15 acres of land generally located northeast of Old Corpus Christi Road and Richter Road in the ETJ of the City of San Antonio.

**BACKGROUND INFORMATION:**

Texas Local Government Code (LGC) Chapter 382 allows for the creation of PIDs by a municipality or 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 proposed public improvement may include, the improvement and construction of roadways, utilities, water, wastewater, or drainage systems, trail, and park/recreational facilities, in 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 its boundaries.

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

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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.

In accordance with Section 212.172 of the LGC, a municipality and a landowner may enter into a written development agreement by which the municipality, establish terms for annexation or non-annexation of the land, extend its development regulations and standards, for the infrastructure of the land. In addition, a PID in the ETJ of a municipality may negotiate and enter into a written strategic partnership agreement (SPA) with the PID board that allows the municipality to annex for limited purposes, and impose and collect sales taxes in the commercial property in the PID boundaries, in accordance to Chapter 43 of the LGC.

On October 26, 2022, Davis-McCrary Property Trust & Lennar Homes of Texas Land and Construction, Ltd., the (Owners) filed a petition and application to Bexar County (County), to create a PID to be named the Stone Garden Special Improvement District, pursuant to Chapter 382 of the LGC. On December 13, 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. On May 25, 2023, 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.

The proposed PID Property consists of the Stone Garden Tracts, totaling 423.15 acres of land generally located northeast of Old Corpus Christi Road and Richter Road. The PID Property is located within the water and sewer Certificates of Convenience and Necessity (CCNs) of SAWS and East Central Special Utility District. Furthermore, the PID project will be a single-family development with 2,202 single-family residential units. The proposed individual lot improvements, streets, utilities, drainage, grading, amenity, open space, sanitary sewer extension with lift station improvements, and offsite traffic/turn lane and offsite utilities are estimated at \$109.2 million. The proposed PID's revenue is estimated at \$76.4 million.

#### **ISSUE:**

If approved, this resolution recommends the City's consent to the creation of the Stone Garden PID by the County, which includes the delegation of the road district powers along with the powers to construct water, wastewater, and drainage facilities subject to the execution of a 30-year Development Agreement (Agreement) between the City and the PID's Owners. 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.

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- The Owners will pay to the City an operations fee of \$175 per each built residential unit, totaling \$385,350.
  - 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 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:

<u>Dates</u>	<u>Schedule of Action</u>
December 13, 2022	Bexar County Commissioners Court consideration of a resolution expressing their intent to create the PID
July 12, 2023	San Antonio Planning Commission public hearing and recommendation
August 31, 2023	City Council's consideration and action
September 2023	Commissioners Court consideration to create the proposed PID and appoint a board of directors
Pending	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 Bexar 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

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developer. City Council may require staff to re-negotiate the terms of the Agreement which would delay the activation of PID development.

**FISCAL IMPACT:**

**RECOMMENDATION:**

Staff recommends approval of an Ordinance authorizing the execution of a 30-year Development Agreement between the City of San Antonio and Davis-McCrary Property Trust & Lennar Homes of Texas Land and Construction, Ltd.

On July 12, 2023, the Planning Commission recommended to City Council to grant its consent to the PID creation by Bexar County subject to the execution of a Development Agreement with the Owner.