



City of San Antonio

Agenda Memorandum

File Number:

Agenda Item Number: 44

Agenda Date: October 20, 2022

In Control: City Council A Session

DEPARTMENT: Planning Department

DEPARTMENT HEAD: Bridgett White

COUNCIL DISTRICTS IMPACTED: ETJ, District 3

SUBJECT:

An Ordinance authorizing the execution of a Development Agreement between the City of San Antonio and the Owner, Northlake SA, LLC, of the proposed Northlake Public Improvement District (PID) property in the City's Extraterritorial Jurisdiction (ETJ).

SUMMARY:

An Ordinance authorizing the execution of a Development Agreement between the City of San Antonio and Owner, Northlake SA, LLC, of approximately 447.92 acres of land, generally located southwest of the intersection of Burshard Road and Gardner Road in the extraterritorial jurisdiction of the City of San Antonio, in Bexar County. This Ordinance enables the Owner to pay a Special District Operations Assessment estimated at \$361,725 (for a total of 2,067 residential units at \$175 per residential unit) and \$1,000 in 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 of San Antonio's General Fund.

BACKGROUND INFORMATION:

Texas Local Government Code Chapter 382 allows for the creation of Public Improvement Districts (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 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 provide 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 municipality that allow the municipality to annex for limited purposes and impose and collect sales taxes in the commercial property in the PID boundaries, in accordance with Chapter 43 of the Texas Local Government Code.

On March 30, 2022, Northlake SA, LLC (Owner) filed a petition and application to Bexar County (County) to create a PID to be named the Northlake Special Improvement District, pursuant to Chapter 382 of the Texas Local Government Code. On July 11, 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 Owner 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 August 23, 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 one tract, consisting of 447.92 acres of land, generally located southwest of the intersection of Burshard Road and Gardner Road. The PID Property is located partially within the water Certificate of Convenience and Necessity (CCN) of the East Central Special Utility District and is not within a sewer CCN but will be served by SAWS. Furthermore, the PID project will be a residential development with 2,067 single-family residential units. This development has proposed no commercial use but will reserve approximately 3.26 acres for a future fire department site. The proposed individual lot improvements, streets, utilities, drainage, and grading are estimated at \$83 million. The proposed PID's revenue is estimated at \$56 million.

ISSUE:

If approved, this Ordinance recommends the City's consent to the creation of the Northlake PID by the County subject to the execution of a 30-year Development Agreement (Agreement) between the City and the Owner. 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 Owner with respect to the development of the PID property:

- The Owner will pay to the City a \$7,500 Special District application fee.
- The Owner will pay to the City an operations fee of \$175 per each built residential unit, totaling \$361,725.
- 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 Owner 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 Owner agrees 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 Owner 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:

Dates	Schedule of Action
September 14, 2022	San Antonio Planning Commission public hearing and recommendation
October 20, 2022	City Council's consideration and action
November 2022	Commissioners Court consideration to create the proposed PID and appoint a board of directors
May 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 Owner 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 San Antonio and Northlake SA, LLC, Owner of the PID property. This Ordinance enables the Owner to pay a Special District Operations Assessment estimated at \$361,725 (for a total of 2,067 residential units at \$175 per residential unit) and \$1,000 in 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 of San Antonio's General Fund.

RECOMMENDATION:

Staff recommends approval of an Ordinance authorizing the execution of a 30-year Development Agreement between the City of San Antonio and Owner, Northlake SA, LLC.

On September 14, 2022, 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.