



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: Z-3

Date: June 13, 2007

Subject: APPLICATION Z04-07-037B MEZAYEK BUILDING LTD.
Request that the City Council consider a request for final site plan approval (Z12-06-129A) on Tract 9 of the M. Long Survey Abstract #A0562, one lot totaling approximately 19.12 acres located north of Cumberland Road and west of the Lakeway Drive unimproved right-of-way. The property is currently zoned "PMF" Planned Multi-Family Residential District.

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Item Reference:

The applicant is requesting final site plan approval to allow for the development of 132 townhomes.

Section 10-218, "PMF" Planned Multi-Family Residential District, is designed to provide for the medium to high density development of unique and innovative forms of multi-family housing. This district allows for the development of multi-family residential dwelling units as well as nursing, rest, or convalescent homes, and any accessory buildings or uses which are customarily incidental to any of those uses. The "PMF" District sets out a maximum building height of two and one-half stories or 42 feet in height, which is consistent with the "R-3" Multi-Family Residential District. The maximum density of development permitted within a Planned Multi-Family District is 16 dwelling units per gross acre.

In addition, development of a "PMF" District shall be consistent with an approved site development plan as part of the zoning approval. Any deviations in the site development plan requires the approval of both the Planning and Zoning Commission and the City Council through a public hearing process. The "PMF" Planned Multi-Family Residential District allows the Planning and Zoning Commission and the City Council to impose additional requirements such as building setbacks, landscaping, lighting and screening for the protection of the adjoining and surrounding properties.

The adjacent properties to the north, west and south are zoned "AG" Agricultural District and properties to the east are zoned "R-1A" Single Family Residential District.

The applicant has submitted a site plan which shows 132 single story townhomes on 19.12 acres with one access point indicated on the plan. This equates to 6.9 dwellings per acre or less than half the allowable density. Currently, the subject property does not have legally defined road frontage. There is a current proposal to use a boulevard section for access. This would provide a secondary means of access should it be needed.

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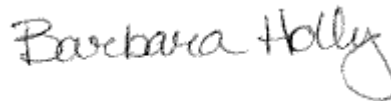
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In order for this property to have legal access, one of two things must happen. The applicant must secure an access easement from the city owned land, or the applicant must replat his property to the east (requiring a new site plan) and connecting to Lakeway. On this same agenda, the Water Utility Department will request that the Council ratify an access agreement from Cumberland Road to the development. When this is executed and completed, this will provide permanent access to the property.

As of Tuesday, May 22, 2007, The Planning Department has received no written letters of support or protest.

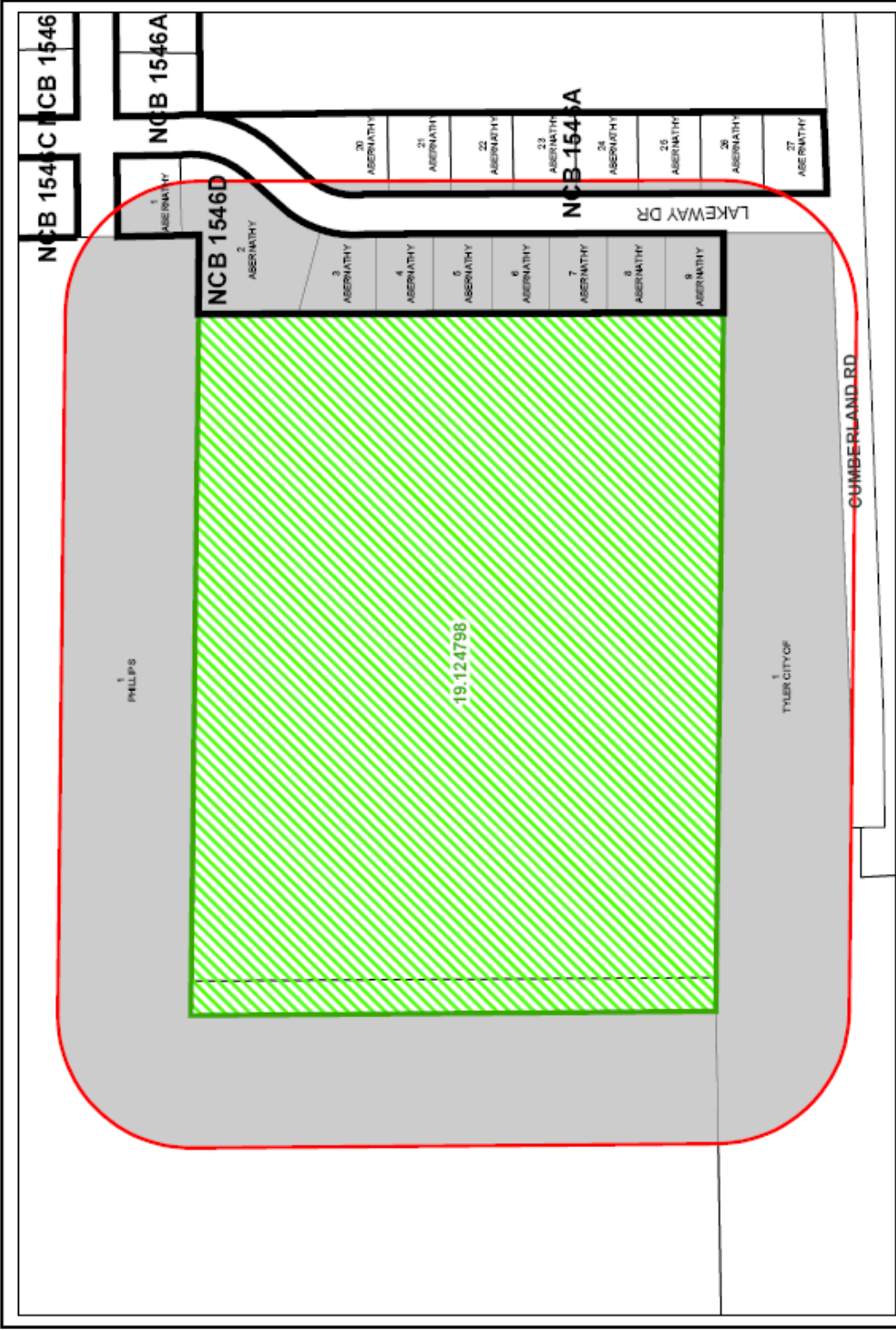
RECOMMENDATION:

The Planning and Zoning Commission, by a vote of 6-0-1 with Mark Whatley abstaining, recommends approval of the request for final site plan approval, contingent upon the access easement that will be obtained from the City of Tyler and that there will be a secondary means of access to the subject property.

A handwritten signature in cursive script that reads "Barbara Holly".

Drafted/Recommended By: Barbara Holly
Department Leader Director of Planning

Edited/Submitted By:
City Manager

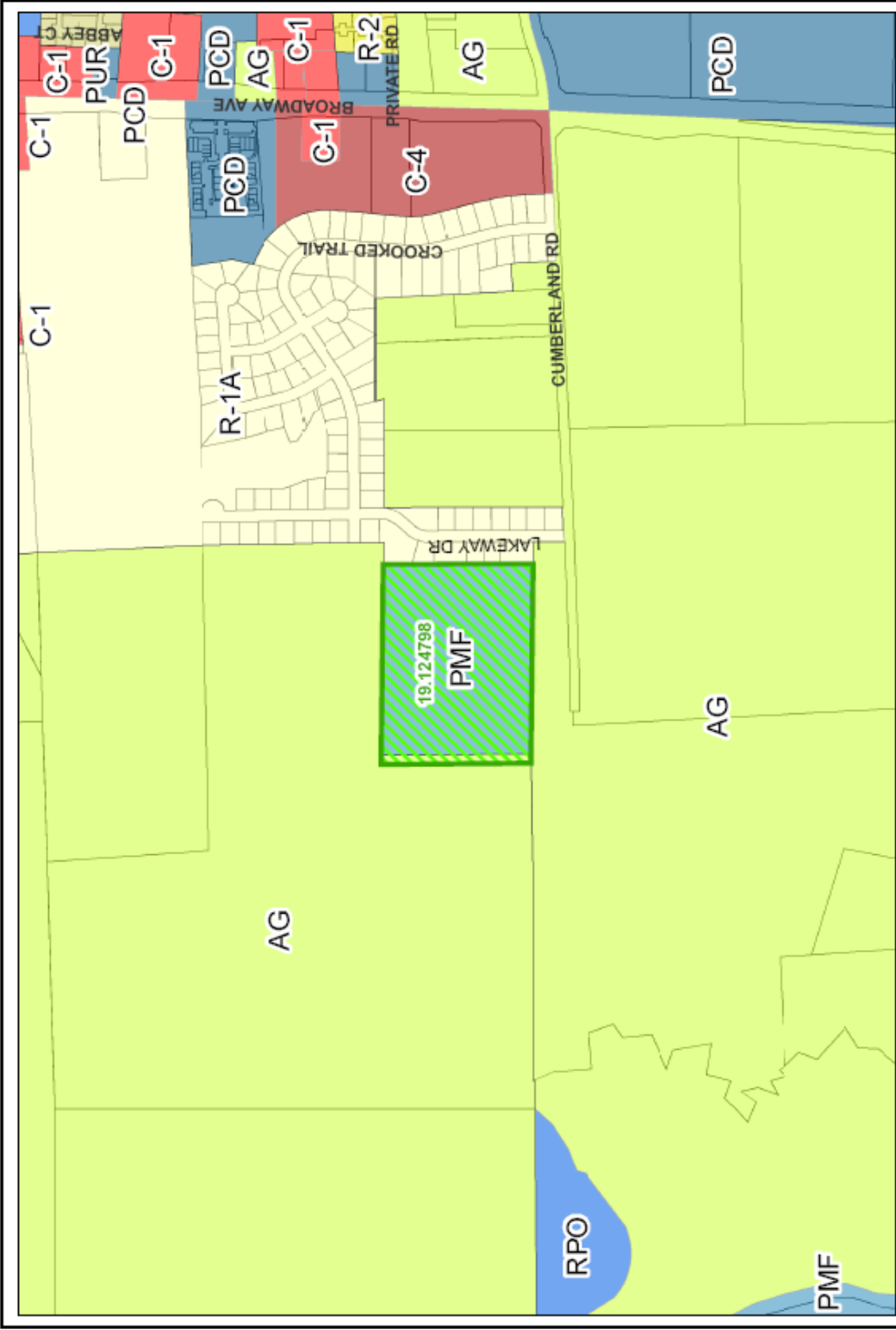


100 0 100 Feet

ZONING CASE
 Zoning Cases #: Z04-07-037B
 Existing Zoning: PMF Proposed Zoning: PMF with Site Plan
 Applicant: SAM MEZAYEK



Subject Property
 200' Notification Buffer



ZONING CASE

Zoning Cases #: Z04-07-037B
 Existing Zoning: PMF Proposed Zoning: PMF with Site Plan
 Applicant: SAM MEZAYEK



Subject Property

ORDINANCE NO. O-2007-56

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; DIRECTING THE AMENDMENT OF THE ZONING MAP; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That the following zone change is hereby approved as follows:

I. APPLICATION Z04-07-037B

That the final site development plan, attached hereto as Exhibit "A", is hereby approved for the following described property, which is currently zoned "PMF", to wit:

Abstract #A0562 Tract 9 of the M Long Survey totaling approximately 19.12 acres located north of Cumberland Road and west of the Lakeway Drive unimproved right of way, and more particularly described by Exhibit "B".

PART 2. That such request is contingent upon:

1. An access easement that will be obtained from the City of Tyler.
2. That there will be a secondary means of access to the subject property.

PART 3: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning change.

PART 4: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

PART 5: That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this the 13th day of June, A.D., 2007.

JOSEPH O. SEEBER, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY

Exhibit "A" to Ordinance 0-2007-56

Hamilton Commons at Cumberland

Site Information

Developer:
MEZAYEK BUILDING, LTD.
112 E. HERITAGE
TYLER, TX 75703

Total Acres - 15.72 Acres
Current Zoning - "PMF"
Proposed Zoning - "PMF"
Setbacks: Front - 20'
Rear - 15'

10' between structures
(All setbacks subject to City Council approval.)

Total Units - 132
Density - 7.9 units / acre
Common/Open Area - 1.5 acres (15.4% of site)

All units to have a minimum two car garage and two car driveway.

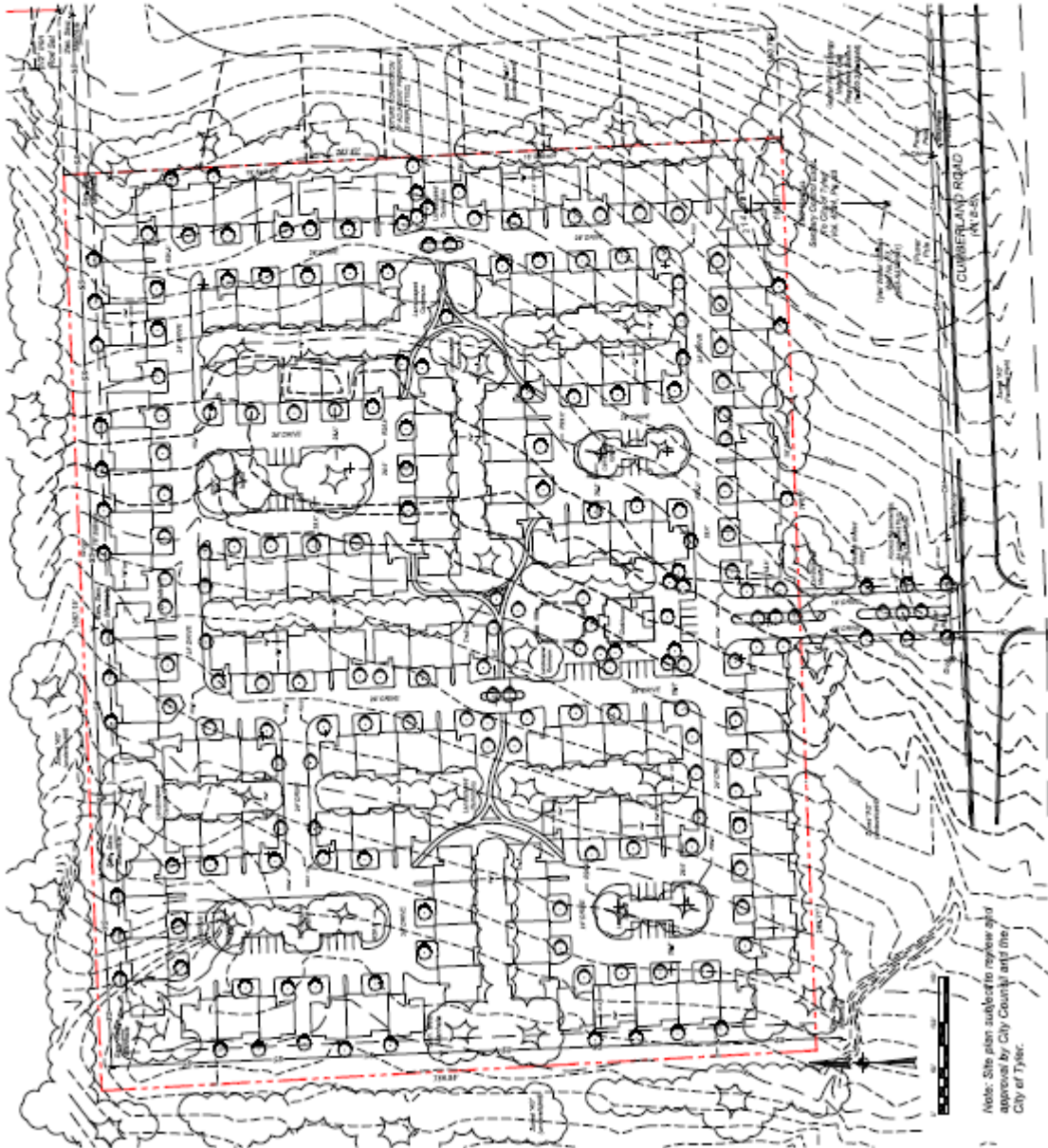
42 Additional Parking Spaces provided in Car-decks.
(1 space per 3 units)

All drives shown on plan to be private.

Traffic system connecting each courtyard to the clubhouse.

Overhead Utilities to be placed underground.

Site Plan Prepared by:
Planning Concepts
Tyler, Texas
903-691-4850



Note: Site plan subject to review and approval by City Council and the City of Tyler.



Location Map - No Scale

Exhibit "B" to Ordinance 0-2007-56
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- *Surveying*
- *Mapping*
- *Planning*

6712 Paluxy Drive • Tyler, Texas 75703 • 903.581.7800 • 903.581.3756

Field Notes
19.12 Acre Tract
Mary M. Long Survey, A-562
Job No. 200703

Being a 19.12 acre tract in the Mary M. Long Survey, Abstract No. 562, part of a called 57.489 acre tract from Robert J. Carney and wife, Teresa G. Carney to E. Maxey Abernathy and wife, Carole Jean Abernathy described in a Warranty Deed recorded in Volume 3961, Page 578 of the Official Public Records of Smith County, Texas, said 19.12 acre tract being more completely described by metes and bounds as follows:

Beginning at a ½" iron rod found for the most Westerly Southwest corner of said 57.489 acre tract, the most Southerly Southeast corner of a called 132.3145 acre tract, Third Tract, from Paul Harman Phillips, Independent Executor of the Estate of Harry S. Phillips, deceased, to Paul Harman Phillips, James C. Phillips, Todd Phillips, and Patrick Clay described in a Deed recorded in Volume 4692, Page 56 of said Smith County Official Public Records, and in the North boundary line of a called 94.12 acre tract from Harold T. Sanders to the City of Tyler described in a Deed recorded in Volume 753, Page 126 of said Smith County Official Public Records;

Thence North 02 degrees 26 minutes 29 seconds West, a distance of 789.89 feet along the West boundary line of said 57.489 acre tract and the East boundary line of said 132.3145 acre tract to a ¾" square sucker rod found for the most Westerly Northwest corner of said 57.489 acre tract, same being an ell corner in the South boundary line of said 132.3145 acre tract;

Thence North 87 degrees 56 minutes 08 seconds East, a distance of 1057.15 feet along the most Westerly North boundary line of said 57.489 acre tract and the most Easterly South boundary line of said 132.3145 acre tract to a point for an ell corner in the West boundary line of Cumberland Park according to a plat thereof recorded in Cabinet B, Slide 313-B of the Plat Records of Smith County, Texas;

Thence South 02 degrees 20 minutes 16 seconds East, a distance of 787.62 feet along the West boundary line of said Cumberland Park to a point for an ell corner in same, also being in the North boundary line of a called 3.445 acre tract from Harold T. Sanders to the City of Tyler described in a Warranty Deed recorded in Volume 764, Page 328 of said Smith County Official Public Records;

Thence South 87 degrees 52 minutes 40 seconds West, a distance of 760.00 feet along the most Westerly South boundary line of said 57.489 acre tract and the North boundary line of a called 3.445 acre tract from Harold T. Sanders to the City of Tyler described in a Deed recorded in Volume 764, Page 328 of said Smith County Official Public Records to a 5/8" iron rod found for the Northwest corner of said 3.445 acre tract, same being in the North boundary line of the aforementioned 94.12 acre tract;

Exhibit "B" to Ordinance 0-2007-56
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Thence South 87 degrees 38 minutes 41 seconds West, a distance of 295.71 feet along the North boundary line of said 94.12 acre tract to the place of beginning containing 19.12 acres of land.

Bearing basis is the Texas State Plane Coordinate System, Grid North Central Zone, NAD 83, (feet), based on the 1993 adjustment of the NAD 83 System. The Reference Monument is Station FAA TYRA.

I, Roland Navarro, Registered Professional Land Surveyor No. 5876, Texas, do hereby certify that the above field note description was prepared from an actual on-the-ground survey made under my direction and supervision during the month of January, 2007.

GIVEN UNDER MY HAND AND SEAL, This 3rd day of April, 2007.

Roland Navarro, R.P.L.S. 5876

200703(19.12Ac)fn.doc

