

HABITAT COMPLIANCE FORM

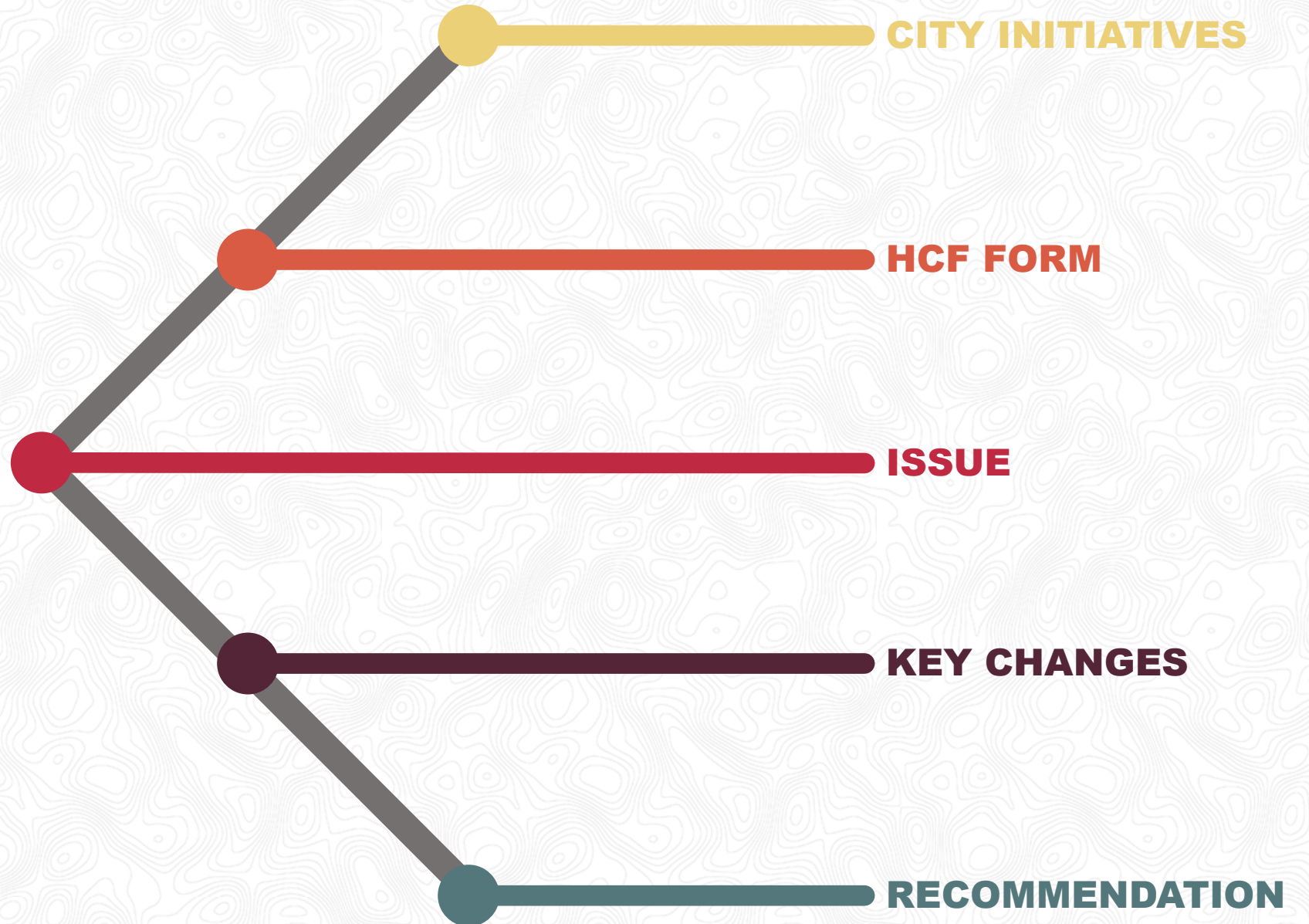
COMMUNITY HEALTH & EQUITY COMMITTEE

FEBRUARY 28, 2019 – ITEM 2

PRESENTED BY: MICHAEL SHANNON, PE, CBO - DIRECTOR



AGENDA



CITY INITIATIVES



2008

- Military Notification Areas
- Military Lighting Overlay District

2009

- *Habitat Compliance Form Ordinance*
- Environmentally Sensitive Area Ordinance

2010

- Tree Ordinance
- Military Sound Attenuation Overlay District

2017

- Southern Edwards Aquifer Plateau Habitat Conservation Plan

2018

- Military Lighting Overlay District expanded

HABITAT COMPLIANCE FORM

- Ordinance passed in 2009
- Requires Habitat Compliance Forms (HCF) to be submitted with:
 - Master Development Plans
 - Planned Unit Developments
 - Subdivision Plats
 - Tree Permits
- Affects properties 2⁺ acres

CH
08-20-2009
Item No. 5

2009-08-20-0652

AN ORDINANCE

AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY ADDING PROVISIONS TO REQUIRE A HABITAT COMPLIANCE FORM CERTIFYING PROPERTY STATUS REGARDING ENDANGERED SPECIES.

* * * * *

WHEREAS, the San Antonio City Council adopted the revised Unified Development Code (UDC) on May 3, 2001 and reenacted it on September 22, 2005; and

WHEREAS, in 1973 the United States Congress passed the Endangered Species Act which reflected America's concern about the decline of many wildlife species throughout the world; and

WHEREAS, the purpose of the Endangered Species Act is to conserve the ecosystems upon which endangered or threatened species depend and to conserve and recover listed species; and

WHEREAS, many species occur partially, extensively or exclusively on private lands; and

WHEREAS the City of San Antonio desires to prevent Camp Bullis and the City of San Antonio Natural Areas and Wilderness Parks from becoming lone islands of refuge for endangered species by creating a procedural mechanism to encourage coordination and compliance for Endangered Species Act protected species and habitat; and

WHEREAS, Habitat Conservation Plans relieve restrictions on private landowners who want to develop land inhabited by endangered or threatened species by providing a mechanism for compliance with the Endangered Species Act of 1973, as amended, whereby the landowner can mitigate for impacts to endangered or threatened species in exchange for an incidental take permit to allow their development to go forward; and


WHEREAS, several endangered animal and plant species and habitat are known to exist within the City of San Antonio and Bexar County; and

WHEREAS, the City of San Antonio Master Plan, adopted May 29, 1997, Vision Statement includes promoting "balanced and responsible urban design, planning and development, and responsible protection of the City's historical, cultural, and natural resources"; and

WHEREAS, the Natural Resources Goals in the Master Plan include the goal to "preserve the unique, rare and significant features of San Antonio's natural environment", including Policy 1b(15) to "Encourage the development of Habitat Conservation Plans for areas of the Edwards Aquifer Drainage and Recharge Zones associated with rare, unique or sensitive biota"; and

HABITAT COMPLIANCE FORM

- The HCF with U.S. Fish and Wildlife Service (USFWS) is for:
 - Communication tool
 - Notification of development activity within city limits
- Purpose is to alert USFWS so **they** can enforce the Endangered Species Act
- City is not authorized to enforce the Endangered Species Act



City of San Antonio
Development Services Department
Land Entitlements Section

HABITAT COMPLIANCE
FORM

Figure 35-B-133-1

Part 1. Commentary:

For information on endangered species habitat within Bexar County as may be established, see 2008 Final Recovery Plan for Bexar County Karst Invertebrates, available on US Fish and Wildlife Service's website, https://www.fws.gov/southwest/es/AustinTexas/ESA_Sp_KarstInverts.html, and Management Guidelines for the Golden-cheeked Warbler in Rural Landscapes by Texas Parks and Wildlife Department available on their website, https://tpwd.texas.gov/publications/pwdpubs/media/pwd_bk_w7000_0013_golden_cheeked_warbler_mgmt.pdf.

Part 2. Applicant Contact Information:

Project Name: _____		E-mail: _____
Property Owner: _____	Zip code: _____	Phone: _____
Address: _____	E-mail: _____	
Agent: _____	Zip code: _____	Phone: _____
Address: _____	E-mail: _____	
Contact Person Name: _____	Relationship to Owner: _____	
Company: _____	Zip code: _____	Phone: _____
Address: _____		

Part 3. Property Location:

Property address or nearest street intersection if address not available: _____
Acres: _____ Ferguson map grid: _____ USGS Grid: _____
In addition to this form, please submit an aerial map designating property boundaries based on the most recently available imagery. Maps can be obtained from www.sanantonio.gov/dsd and saved into a PDF format.

Part 4. Application Type (check one):

<input type="checkbox"/> Master Development Plan (MDP)	<input type="checkbox"/> Tree Permit
<input type="checkbox"/> Major Plat	<input type="checkbox"/> Planned Unit Development (PUD) Plan
<input type="checkbox"/> Development Plat	<input type="checkbox"/> Minor Plat

Part 5. Endangered Species Act Coverage (check one):

<input type="checkbox"/> The activity subject to the application to the City of San Antonio is covered under an existing individual Section 10(a) permit or an individual Section 7 Biological Opinion analyzing the activity as proposed, and the activity is identical or very similar to the activity proposed in permit and located in the same geographic location. Applicants checking this box must provide either the Section 7 consultation number () or the individual Section 10(a) permit number (). Complete part 7 of this form, no affidavit required.
<input type="checkbox"/> The activity subject to the application to the City of San Antonio is covered by participation in the Southern Edwards Plateau Habitat Conservation Plan (SEP HCP) or another approved Regional Habitat Conservation Plan. Applicants checking this box must provide a copy of the Participation Certificate. Complete part 7 of this form, no affidavit required.
<input type="checkbox"/> The activity subject to the application to the City of San Antonio is not covered by an existing Section 10(a) permit or a Section 7 Biological Opinion nor participation in an approved Regional Habitat Conservation Plan. (Complete parts 6, 7 and 8 of this form if applicable)

Habitat Compliance Form Taskforce Edits V 6.0 | February 7, 2019

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HABITAT COMPLIANCE TASK FORCE

Organization	Member
U.S. Fish and Wildlife	Tanya Sommer Christina Williams
Texas Parks and Wildlife	Russel Hooten Jessica Alderson
U.S. Military	Jim Cannizzo Meg Reyes
Development Community	Michael Moore, Brad Carson Cara Tackett, Gene Dawson
Property Owners	Rob Sult
Environmental Consultants	T.G. Bey Alan Glen
Neighborhood	Bill Bailey
Neighborhood	Francine Romero



ISSUE

- Recent projects have highlighted current form:
 - Lacks clarity
 - Does not address studies done
 - Affidavit does not address if biologist concurs with statements made by owner
- Form should be revised



City of San Antonio
Development Services Department
Land Entitlements Section

HABITAT COMPLIANCE
FORM

6. Description for Activities Without Coverage (check one box for both sections A and B):

A. Golden-cheeked Warbler Endangered Species	<input type="checkbox"/> There is no requirement for coverage of this listed species because no part of the tract subject to the application to the City of San Antonio contains habitat types that may be used by Golden-cheeked Warblers as set forth in <i>Management Guidelines for the Golden-cheeked Warbler in Rural Landscapes</i> , Texas Parks and Wildlife Department, available on their website. While this requirement applies throughout the jurisdiction of the City of San Antonio, based on the U.S. Fish & Wildlife Service Recovery Plan maps for Golden-cheeked Warblers, there is a rebuttable presumption that areas located inside of Loop 1604 that are within the jurisdiction of the City of San Antonio, as well as areas located to the south of U.S. Highway 90 and east of Interstate Highway 35, do not contain habitat.
	<input type="checkbox"/> The tract subject to the application to the City of San Antonio is within a presumptive habitat areas and an Endangered Species Survey has been completed within the last 3 years by a Biologist permitted by U.S. Fish and Wildlife and copies sent to: U.S. Fish and Wildlife (USFWS) Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758
	<input type="checkbox"/> The tract subject to the application to the City of San Antonio is within a presumptive habitat area and no Endangered Species Survey has been submitted to U.S. Fish and Wildlife. (Selecting this box requires the applicant to complete the Habitat Compliance Affidavit in Section 8 below.)
B. Karst Invertebrate Endangered Species	<input type="checkbox"/> There is no requirement for coverage of these listed species because no part of this tract subject to the application to the City of San Antonio is located within karst zone 1 or 2 of the areas in Bexar County identified as karst zones in the USFWS 2008 Draft Bexar County Karst Invertebrates Recovery Plan.
	<input type="checkbox"/> The tract or portions of the tract subject to the application to the City of San Antonio is located within Karst Zone 1 or 2 as identified in the U.S. Fish & Wildlife 2008 Draft Bexar County Karst Invertebrates Recovery Plan and an Endangered Species Survey has been completed by a Biologist permitted by U.S. Fish and Wildlife and copies sent to: U.S. Fish and Wildlife (USFWS) Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758
	<input type="checkbox"/> The tract or portions of the tract subject to the application to the City of San Antonio is located within Karst Zone 1 or 2 as identified in the U.S. Fish & Wildlife 2008 Draft Bexar County Karst Invertebrates Recovery Plan and no Endangered Species Survey has been submitted to U.S. Fish and Wildlife. (Selecting this box requires the applicant to complete the Habitat Compliance Affidavit in Section 8 below.)

7. Owner or Authorized Representative (form is considered incomplete without this section):

I certify that the information provided in this Habitat Compliance Form is true and accurate.

Print Name: _____ Signature: _____

Address: _____ City: _____ State: _____ ZipCode: _____

E-mail: _____

HOW THE HCF WORKS & KEY CHANGES

1

COMMENTARY

Refers applicant to additional information on the Endangered Species Act (ESA)

2

APPLICANT CONTACT INFORMATION

3

PROPERTY LOCATION

4

APPLICATION TYPE

HOW THE HCF WORKS & KEY CHANGES



5

ENDANGERED SPECIES ACT COVERAGE

1. Already has a U.S. Fish & Wildlife (USFW) permit
 - **Update** – requires applicant to provide the permit/consultation #'s
2. SEP-HCP participation
 - **Update** – requires applicant to provide copy of the Participation Certificate
3. Not already covered
 - fill out the rest of the form



HOW THE HCF WORKS & KEY CHANGES



6

DESCRIPTION FOR ACTIVITIES WITHOUT COVERAGE

A. Golden-Cheeked Warbler – 3 choices on form:

1. Project **is not** in the presumptive habitat area
2. Project **is** in the presumptive habitat area **and** survey sent to USFW
 - **Update** – requires applicant to provide the biologist name, survey date, and state whether the biologist has been notified that their survey/assessment has been utilized
3. Project **is** in the presumptive habitat area **and** survey has **not** been sent to USFW
 - Requires **updated** affidavit from the owner

B. Karst Invertebrate – 3 choices on form:

1. Project **is not** in Karst zones 1 or 2
2. Project **is** in Karst zones 1 or 2 **and** survey sent to USFW
 - **Update** – requires applicant to provide the biologist name, survey date, and state whether the biologist has been notified that their survey/assessment has been utilized
3. Project **is** in the presumptive habitat area **and** survey has **not** been sent to USFW
 - Requires **updated** affidavit from the owner

HOW THE HCF WORKS & KEY CHANGES

7

OWNER OR AUTHORIZED REPRESENTATIVE



8

AFFIDAVIT OF COMPLIANCE

- Habitat survey or assessment was not conducted or owner has elected to not provide information
- **Update** – requires owner to provide a reason why they have not conducted a survey or sent to USFW
- **Update** – requires owner to certify that they understand that he/she is responsible for the property's compliance with the federal ESA

NEXT STEPS

TENTATIVE TIMELINE



RECOMMENDATION

- Staff recommends approval of revised Habitat Compliance Form
 - Move to Planning Commission and then full City Council for approval
- Improved communication tool will help **users and USFW** ensure compliance with Federal Endangered Species Act
- Requires change to UDC, Ch. 35

To all Task Force members



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