



# City of San Antonio

## Agenda Memorandum

**File Number:**13-858

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**Agenda Item Number:** 49.

**Agenda Date:** 11/21/2013

**In Control:** City Council A Session

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**DEPARTMENT:** Planning and Community Development

**DEPARTMENT HEAD:** John Dugan

**COUNCIL DISTRICTS IMPACTED:** 4 & 5

### **SUBJECT:**

Request for authorization to initiate incorporation proceedings by the “Committee for the Incorporation of Sandy Oaks” for approximately four (4) square miles of land located within the Extraterritorial Jurisdiction (ETJ) of the City of San Antonio (COSA)

### **SUMMARY:**

A request for authorization to initiate incorporation proceedings by the “Committee for the Incorporation of Sandy Oaks” for approximately four (4) square miles of land located within the Extraterritorial Jurisdiction (ETJ) of the City of San Antonio (COSA).

The subject area is generally described as territory located in the southeast quadrant of Bexar County, inclusive of portions of the east side of the intersection of South Loop 1604 and Interstate Highway 37 South and extending south along Interstate Highway 37 South. Staff recommends Denial of the request and Approval of an alternate recommendation (see “Proposed Alternative Action” below). The Planning Commission recommends Approval of the applicant’s request as submitted.

### **PROPOSED ALTERNATIVE ACTION**

Staff recommends Approval of authorization to initiate incorporation proceedings for the portion of the requested area on the east side of I.H.-37 South that totals approximately 2.4 square miles.

Incorporation of this portion of the request does not impede the future strategic expansion of the City of San Antonio in a southward direction. The proposed alternative would alleviate conflict with COSA’s Annexation Program Study Areas for future, near-term annexation.

## **BACKGROUND INFORMATION:**

Pursuant to Section 41.041: Municipal Incorporation in Extraterritorial Jurisdiction Generally, on March 30 2012, the “Committee for the Incorporation of Sandy Oaks” formally submitted their initial request to COSA seeking authorization to initiate incorporation proceedings with the goal of incorporating the proposed “City of Sandy Oaks.” The subject area is located in the southeast quadrant of Bexar County and is wholly contained within the COSA’s ETJ. The committee’s initial formal request included only territory to the south of South Loop 1604. At a meeting on May 3, 2013, the applicants and their representative expressed interest in expanding their request to include territory on the north side of South Loop 1604 at its intersection with I.H.-37 South (the northwest portion of the commercial/industrial node). Soon thereafter, the representative formally amended their request.

This incorporation request is newly amended as of August 21, 2013 to include a reduction in size to approximately four square miles on the east side of I.H.-37 South. The proposed boundaries of the applicant’s request now include a predominately dense residential neighborhood (Waterwood Subdivision) with a small enclave of directly adjacent commercial uses. This request also includes commercial uses on the east side of the intersection of I.H.-37 South and South Loop 1604, and also includes a number of industrial uses, to include the San Martin Gas Processing Plant owned by Enterprise Hydrocarbons, LP.

This amended subject area is approximately four (4) square miles in size and would contain a population of approximately 3,868. The proposed “City of Sandy Oaks” would, pursuant to the Local Government Code (LGC), qualify to incorporate as a “Type A” General Law City. It should be noted, as stated in a previous paragraph, the subject area would be wholly located within the COSA ETJ; thus, COSA would also have to consent to the release of additional ETJ in order for a new municipality to increase its boundaries.

The requested consent would allow the “Committee” to conduct an election to determine if a majority of qualified voters approve of incorporation.

## **ISSUE:**

COSA’s Master Plan Policies and Annexation Policies provide guidance for policy decisions within the ETJ. The request was also evaluated based on adopted policies and best planning practices and included feedback received from other city departments and outside agencies including Fire, Police, Development Services, the Office of Historic Preservation, Capital Improvement Management Systems (CIMS), the City Attorney’s Office, CPS Energy, Bexar County and SAWS.

## **ADOPTED CITY OF SAN ANTONIO POLICIES**

*City of San Antonio’s Master Plan Policies (adopted 1997)*

**(A)(Goal 3)(Policy 3b):** *Oppose the creation of new municipalities, special purpose districts and water or wastewater utilities within the extraterritorial jurisdiction except where the City cannot provide the necessary services.*

*City of San Antonio’s Annexation Policies (adopted 2013)*

**(Part Two))(IV.)(D.):** *The City of San Antonio should:*

1. **Protect its ability to expand its City limits.**
3. **Consider annexation to preclude the creation of other competing political jurisdictions.**
4. **Consider the impact on the City's ability to expand in the future and potential economic competition when evaluating requests for incorporations of new cities or expansion of existing cities within San Antonio's ETJ.**
7. **Consider the following factors prior to releasing any portion of its corporate limits or ETJ to another jurisdiction, or accepting territory from another jurisdiction:**
  - f. **The long term effects of cumulative ETJ releases to other jurisdictions.**

COSA is currently conducting the requisite analysis to determine the most appropriate and strategic locations to annex as part of the 10-year Annexation Evaluation Program. Further, COSA has prepared annexation study areas within, and near, the jurisdiction of the CitySouth Management Authority, with the goal of implementing Goal #2 of the Effectiveness Study and Economic Strategic Plan for the City South Management Authority by the end of 2013. The non-residential node at the intersection of I.H.-37 South and South Loop 1604 has been identified as a critical Regional Node and should be located within the municipal limits of COSA in the short-term. Pursuant to the COSA Master Plan Policies, adopted City of San Antonio policy recommends that COSA oppose the creation of new municipalities except where the city cannot provide the necessary services. As such, COSA is projecting to make investments in public services upon annexation, as required by the LGC.

Currently, essential services are provided by the San Antonio Water System (SAWS), City Public Service (CPS), the Bexar County Sherriff's Office, and the City of San Antonio (animal care nuisance-related services provided via contract with Bexar County), and the Bexar County Emergency Services District No. 6. Pursuant to the Master Plan Policies, the applicant has the burden of demonstrating to COSA that the current levels of service, as provided by the aforementioned entities, is insufficient.

## Analysis

### *Effects of cumulative ETJ releases*

Consent to incorporate would further erode COSA's current and future planning efforts in the ETJ and would undermine the city's ability to strategically expand to the southeast; an area currently being considered in an effort to balance growth throughout Bexar County and to incorporate uses related to the region's fast-growing energy economy. COSA is currently undertaking the 10-year annexation program evaluation process and CSMA Effectiveness Study implementation. The Department of Planning & Community Development will be recommending significant portions of the subject area for annexation; thus, the area is recommended to remain in COSA's ETJ for this purpose.

### *Encourage Well-planned, orderly and efficient development*

- Land use

The subject area is located within the Heritage South Sector Plan, a component of the Comprehensive Master Plan of the City. Thus, it should be recognized that COSA has already invested significantly in long-range planning for the subject area; communities along gateway entrances to a municipality provide a "first impression". Further, portions of the subject area are proposed to be annexed pursuant to the current implementation efforts of the CMSA Effectiveness Study Implementation.

The ETJ is a community asset with economic potential. COSA would lose the ability to continue to effectively engage in future land use planning in the ETJ to encourage long-term economic development if continued releases of ETJ occur. As COSA pursues the 10-year annexation program, the incorporation of "Sandy Oaks", as proposed, would prove to be a barrier to efficiently address compatible land uses in the southeast sector of Bexar County.

- Subdivision Development

Through the regulatory authority afforded a city in the ETJ, COSA strives to maintain infrastructure and development standards compatible with our City standards in the event the area were to be annexed. COSA would lose the authority to manage future development in this quadrant of Bexar County should the subject area be incorporated into a new municipality.

- Transportation Network

The COSA Major Thoroughfare Plan (MTP) is a region-wide transportation plan that encourages proper transportation planning and efficient circulation throughout the city and in the ETJ. There are two (2) major thoroughfares proposed within the subject area. COSA would lose the right to enforce the MTP and ensure efficient traffic circulation in the region.

- Economic Development

This area remains a fast growing region of our county due to private-sector investments related to developments serving Eagle/Ford Shale formation-serving businesses. This fact is evident in the fast-rising valuations of property within the “Sandy Oaks” proposed municipal boundaries. This level of increase in appraised value demonstrates that COSA is pursuing the appropriate annexation strategy by proposing annexation to the south and southeast.

## ALTERNATIVES:

In accordance with the Local Government Code, the following options are available to City Council for consideration:

- *Approval of the applicant’s request* - approval of the applicant’s request would permit the “Committee” to submit the requisite written request to Bexar County requesting an election for incorporation be conducted. The incorporation process must be completed within 18 months or the consent is terminated, per the Local Government Code.
- *Denial of the applicant’s request* - pursuant to the Local Government Code Section 42.041, a denial of the request would terminate the incorporation process. The applicants may petition COSA to annex the subject area. Should such a petition be submitted, COSA would have 6 months to annex the subject area. Refusal or failure to annex within 6 months of receiving the aforementioned petition would constitute consent to incorporate.
- *Approval of staff’s recommendation* - approval of staff recommendation would allow the applicant to initiate incorporation proceedings for the area for which consent was obtained.

## FISCAL IMPACT:

None.

## RECOMMENDATION:

The Department of Planning & Community Development recommends **Denial** of the applicant’s request as submitted by the “Committee for the Incorporation of Sandy Oaks” with an alternate recommendation of **Approval** of authorization to initiate incorporation proceedings for the portion of the requested area on the east

side of I.H.-37 South that totals approximately 2.4 square miles.