



# City of San Antonio

## Agenda Memorandum

**File Number:**19-3984

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**Agenda Item Number:**

**Agenda Date:** 5/22/2019

**In Control:** Planning Commission

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**DEPARTMENT:** Development Services

**DEPARTMENT HEAD:** Michael Shannon

**COUNCIL DISTRICTS IMPACTED:** Council Districts 4, 6, and 8

### **SUBJECT:**

Briefing with possible action on the proposed Extraterritorial Jurisdiction Military Protection Area (ETJMPA) regulations for the Camp Bullis ETJMPA and Lackland ETJMPA, creation of the Comprehensive Land Use categories within the MPAs, and the Addendum to the Bexar County/COSA Master Interlocal Agreement for the ETJMPs in unincorporated Bexar County.

### **SUMMARY:**

On November 6, 2018, voters in areas of unincorporated Bexar County within a five mile radius of the Camp Bullis/Camp Stanley Military Bases and the Lackland Air Force Base/Medina Annex were presented with two options: to either approve annexation into the City Limits of San Antonio or to not approve annexation and allow Land Use Regulations consistent with the most recently adopted Joint Land Use Study. Voters in both areas rejected annexation and approved land use controls. Since the election, the Development Services Department, Planning Department, City Attorney's Office, Office of Military Affairs, Bexar County, and the Military have been working to develop the regulations to implement the land use controls approved by the voters.

This item was presented to the Planning Commission Technical Advisory Committee (PCTAC) on Monday, May 13, 2019, and was recommended for approval. Additionally, on Wednesday, May 15, 2019, the Comprehensive Plan Committee recommended the item move forward through the process for City Council consideration.

### **BACKGROUND INFORMATION:**

Senate Bill 6, effective December 1, 2017, requires cities located in counties with more than 500,000 residents (Tier 2 cities) to obtain landowner or voter approval of a proposed annexation. The new law permits cities to

hold elections which allow voters within five miles of military bases to choose one of two means to regulate land use: 1) by annexation or 2) allowing the municipality to improve land use regulations as delineated in the most recent Joint Land Use Study (JLUS). Chapter 43 of the Texas Local Government Code was amended to include the following:

**Section 43.0117 Authority of Municipality to Annex Area Near Military Base**

Part (b) A municipality may annex for full or limited purposes, under the annexation provisions applicable to that municipality under this chapter, any part of the area located within five miles of the boundary of a military base in which an active training program is conducted. The annexation proposition shall be stated to allow the voters of the area to be annexed to choose between either annexation or providing the municipality with the authority to adopt and enforce an ordinance regulating the land use in the area in the manner recommended by the most recent Joint Land Use Study (JLUS).

On August 2, 2018, the City Council approved Resolutions 2018-08-02-0032RA and 2018-08-02-0032RB ordering an election in certain areas of unincorporated Bexar County within a five mile radius of the Camp Bullis/Camp Stanley Military Bases and the Lackland Air Force Base/Medina Annex in order for the voters to choose either annexation and land use controls based on the most recent Joint Land Use Study. On November 6, 2018, voters rejected annexation and approved land use controls for both areas. Because the voters approved land use controls, new regulations must be adopted in the Unified Development Code (UDC) to implement the land use controls through an anticipated Interlocal Agreement with Bexar County.

After the November 6, 2018, election, City Staff briefed City Council at B-Session on January 30, 2019, to discuss the results of the election, and the next steps in the process. At that briefing, City Staff outlined the existing regulatory framework in the ETJ including the Tree Ordinance, platting regulations, sign regulation, Master Development Plan reviews, and Military notifications. City Staff also presented an outline of the regulatory framework for the ETJMPAs including comprehensive land use categories derived from the existing SA Tomorrow Future Land Use Plan, Military Lighting Overlay Districts (MLOD), Military Sound Attenuation Districts (MSAO), Airport Hazard Overlay Districts (AHOD), and Edwards Aquifer Protection (ERZD). City staff also discussed the proposed Interlocal Agreement with Bexar County which defines the roles and responsibilities for permitting, inspections, and property maintenance in the ETJMPAs. Under the proposed regulatory framework, the City will administer the MPA regulations and conducted limited reviews and inspections of the ETJMPA regulations, and issue certificates of compliance. Adjudication of any violations which occur in the ETJMPAs would take place in Municipal Court.

City Staff also held a series of public meetings to give the citizens living in the ETJMPAs an overview of the regulatory framework, and to take their feedback on the proposed regulations. Two meetings each were held in each proposed ETJMPA:

- March 19, 2019 - Calvary Hills Baptist Church (Lackland Area)
- March 21, 2019 - Cross Mountain Church (Camp Bullis Area)
- March 26, 2019 - Calvary Hills Baptist Church (Lackland Area)
- March 28, 2019 - Cross Mountain Church (Camp Bullis Area)

In addition to the public meetings, the City Staff developed a survey on the SA Speak Up platform in order to solicit as much valuable public feedback as possible.

**ISSUE:**

Changes in state law (effective December 1, 2017) provide a municipality with the ability to extend land use controls as a means to provide protection of the military's missions if annexation is not voted on in the affirmative. Voters in both areas rejected annexation and approved land use controls. Since the election, the Development Services Department, Planning Department, City Attorney's Office, Office of Military Affairs, Bexar County, and the Military have been working to develop the regulations to implement the land use controls approved by the voters in the areas described below. These areas meet the requirements in the Texas Local Government Code as they are within the 5-mile buffer of these military installations, as required by the JLUS.

**1) West of Camp Bullis and Camp Stanley along the IH10 Corridor Option 1 (Largest Area)** - bound on the North by the Bexar County Line, on the East by Ralph Fair Road, on the South by Babcock Road and the San Antonio City Limit line, on the West by Boerne Stage Road and Toutant Beauregard Road and on the Northwest by Boerne Stage Road

**2) West of the Lackland AFB Medina Training Annex along the West Loop 1604 S Corridor Option 1 (Largest Area)** bound on the North by Military Drive West, on the East by the San Antonio City Limit Line and the western boundary of the Lackland AFB Medina Annex, on the south by an area north of Pearsall Road, and on the west by an area east of Montgomery Road and the western ROW of Grosenbacher Road

### **Land Use Controls**

Per direction in the state law, the land use controls that are being developed for the areas adjacent to the Camp Bullis and Camp Stanley Military Bases and the Lackland Air Force Base and Medina Annex align with adopted JLUS recommendations and citations. The regulatory framework for the land use controls entail adding a new article to the UDC, Article IX, and extending the following regulation into the ETJMPA:

- Land Use Regulations derived from existing Comprehensive Land Use Categories
  - Modifications to the designated Comprehensive Land Use Category would follow the existing process for Comprehensive Plan Amendments (Planning Commission and City Council).
- Military Lighting Overlay District (MLOD), Military Sound Attenuation District (MSAO), Airport Hazard Overlay District (AHOD), and Edwards Aquifer Recharge Protection (ERZD)
  - Process would follow the existing procedures for the creation of the Districts (Zoning Commission, City Council, Board of Adjustment as applicable)
- Tree Preservation Standards
  - Follow existing appeal procedures
- Enforcement consistent with the UDC
  - Adjudication in Municipal Court
- Compliance with existing adopted International Building Codes and Inspections

### **Bexar County ILA**

City Staff has worked with Bexar County to develop an amendment to the Bexar County/COSA Master Interlocal Agreement to outline the roles and responsibilities of City and County agencies as they relate to the ETJMPAs.

### **City's Responsibilities:**

- Review all proposed construction activity for compliance with ETJMPA regulations prior to a permit being issued.

- Receive all payments for ETJMPA Certificate of Compatibility reviews, inspections, and other associated applications for ETJMPA regulations (i.e. Land Use Plan Amendments or Variances).
- Issue a Certificate of Compatibility to customers for compliant projects prior to the either the issuance of a building permit from the Bexar County Fire Marshal's Office or commencement of construction activity. For those instances where construction activity begins prior to obtaining a building permit or Certificate of Compatibility, the City will review the construction activity and may issue a Certificate of Compatibility if the project is compliant with all ETJMPA regulations.
- Inspect ETJMPA-related construction activities in compliance with an issued Certificate of Compatibility.
- City will NOT inspect, comment on, or answer questions related to building or development code issues in the ETJMPA's which are not specifically referenced in the Certificate of Compatibility.
- Provide platting reviews for applicable ETJMPA regulations relating to density.
- Provide Code Enforcement services in the ETJMPA's for violations of ETJMPA regulations.
- Provide case management for ETJMPA regulations.

#### **County's Responsibilities:**

- For projects in the ETJMPA's, the County Fire Marshall's Office will only issue building permits to those projects with a valid Certificate of Compatibility.
- County Fire Marshall's Office will forward all requests for inspection of building elements related to the ETJMPA Certificate of Compatibility to City's Development Services Department.
- County Fire Marshall's Office will only issue Certificates of Occupancy to projects in the ETJMPA which have passed inspection by City's Development Services Department for compliance with the ETJMPA Certificate of Compatibility.
- County Fire Marshall's Office and/or County Public Works Department will notify City's Development Services Department Code Enforcement office of observed or reported violations of the ETJMPA regulations for investigation

#### **Summary of Actions Taken**

- **June 11, 2018** B-Session Briefing on Election Options by Planning Department
- **August 2, 2018** City Council Approves Resolution Calling for the Election
- **November 6, 2018** Election Occurs, Voters Reject Annexation and Approve Land Use Controls
- **November 2018 - April 2019:**
  - Finalized land use categories (Review existing MDPs to minimize conflicts)
  - Finalized proposed regulations
  - Met with the Military to discuss land use categories and proposed regulations
  - Met with the development community representatives to discuss proposed regulations

- Met with Bexar County to discuss draft ILA - implementation of regulations
- **January 30, 2019:** B Session Briefing - Military Protection Area proposed Regulations and Process.
- **March 2019:** Community Meetings.
  - March 19 & 26, 2019 - Calvary Hills Baptist Church (Lackland)
  - March 21 & 28, 2019 - Cross Mountain Church (Camp Bullis)
- **May 7, 2019:** Zoning Commission briefing
- **May 8, 2019:** Planning Commission briefing
- **May 13, 2019:** PCTAC Consideration
- **May 15, 2019:** Council Comprehensive Plan Committee Consideration

## **Next Steps**

- **May 21, 2019:** Zoning Commission action
- **May 22, 2019:** Planning Commission action
- **June 20, 2019:** Council Consideration

## **ALTERNATIVES:**

The alternative would be to not implement any land use controls and continue the current regulatory framework for development in the ETJ with minimal military protection.

## **FISCAL IMPACT:**

Development Services Department anticipates creating a new fee of \$200.00 to cover the costs of the ETJMPA limited reviews.

## **RECOMMENDATION:**

Staff recommends approval of the ETJMPA regulations, comprehensive land use categories, and amendment to the Bexar County ILA.