



City of San Antonio

Agenda Memorandum

File Number:19-4769

Agenda Item Number: 1.

Agenda Date: 7/16/2019

In Control: Zoning Commission

DEPARTMENT: Development Services

DEPARTMENT HEAD: Michael Shannon

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

SUBJECT:

Consideration of the proposed Extraterritorial Jurisdiction Military Protection Area (ETJMPA) regulations for the Camp Bullis ETJMPA and Lackland ETJMPA:

1. Amending Chapter 35 of the City Code of San Antonio, Texas, to add a new article, Article IX, designating Extraterritorial Military Protection Areas, adopting general provisions, rules, regulations, and districts associated with the Extraterritorial Military Protection Areas which are in the manner recommended by the most recent joint land use study.
2. A Zoning Case to apply "MLOD-1" Camp Bullis Military Lighting Overlay District on multiple lots in the Extraterritorial Jurisdiction within the Extraterritorial Military Protection Areas within five miles of the boundary of Camp Bullis and Camp Stanley with applicable "MLR-1" Military Lighting Region 1 for properties within 3 miles from the boundary of Camp Bullis and Camp Stanley and "MLR-2" Military Lighting Region 2 for properties located from 3 miles to 5 miles from the boundary of Camp Bullis and Camp Stanley.
3. A Zoning Case to apply "MLOD-2" Lackland Military Lighting Overlay District on multiple lots in the Extraterritorial Jurisdiction within the Extraterritorial Military Protection Areas within five miles of the boundary of Lackland Air Force Base and Lackland Medina Training Annex with applicable "MLR-1" Military Lighting Region 1 for properties within 3 miles from the boundary of Lackland/Medina Annex and "MLR-2" Military Lighting Region 2 for properties located from 3 miles to 5 miles from the boundary of Lackland/Medina Annex.
4. A Zoning Case to apply "MSAO-3" Lackland Military Sound Attenuation Overlay on multiple lots generally south of Highway 90 and east of Loop 1604 within five miles of the boundary and adjacent to the Medina Training Annex in the Extraterritorial Jurisdiction within the Extraterritorial Military Protection Areas.
5. A Zoning Case to apply "AHOD" Airport Hazard Overlay District on multiple lots in the Extraterritorial Jurisdiction within the Extraterritorial Military Protection Areas within five miles of the boundary of Lackland Air Force Base and Lackland Medina Training Annex.

6. A Zoning Case to apply “ERZD” Edwards Recharge Zone District on multiple lots generally adjacent to Balcones Creek in the Extraterritorial Jurisdiction within the Extraterritorial Military Protection Areas within five miles of the boundary Camp Bullis/Camp Stanley.

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, 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
- **May 21, 2019:** Zoning Commission action - continuance to July 16
- **May 22, 2019:** Planning Commission action - continuance to June 26
- **June 26, 2019:** Planning Commission action - Approval as amended by staff

Since the initial Planning Commission and Zoning Commission meetings, staff met with multiple property owners that had concerns regarding the proposed land uses. Staff presented a number of amendments to the Planning Commission which were recommended for approval. Staff will update the Zoning Commission of the amendments recommended by Planning Commission.

Additionally, staff presented amendments to the proposed Article 9 to Planning Commission which were recommended for approval. These will be presented to Zoning Commission for consideration and a recommendation.

Next Steps

- **July 16, 2019:** Zoning Commission action
- **September 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, applicable sound, lighting, airport hazard overlay and Edwards Recharge standards, and amendment to the Bexar County ILA.