

# **City of San Antonio**

## **Limited Purpose Annexation**

### **Planning Study and Regulatory Plan**

#### **for the Ivy Tract**

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Prepared by

Department of Planning & Community Development

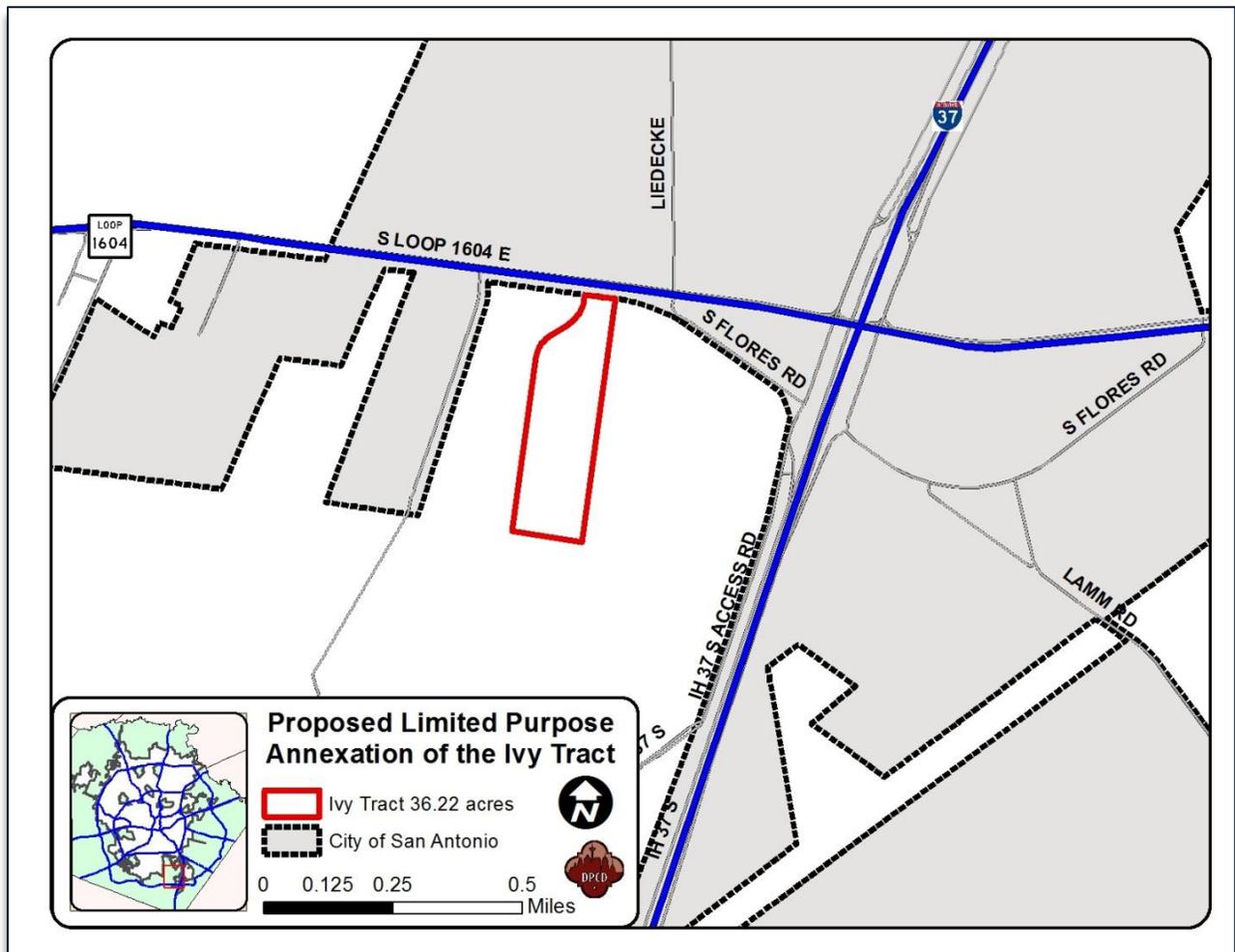
September 5, 2014

# BACKGROUND

The City of San Antonio Department of Planning and Community Development (City) has prepared this report for the limited purpose annexation of a 36.2 acre, undeveloped tract of land, referred to as the Ivy Tract. (See “Map 1” below.)

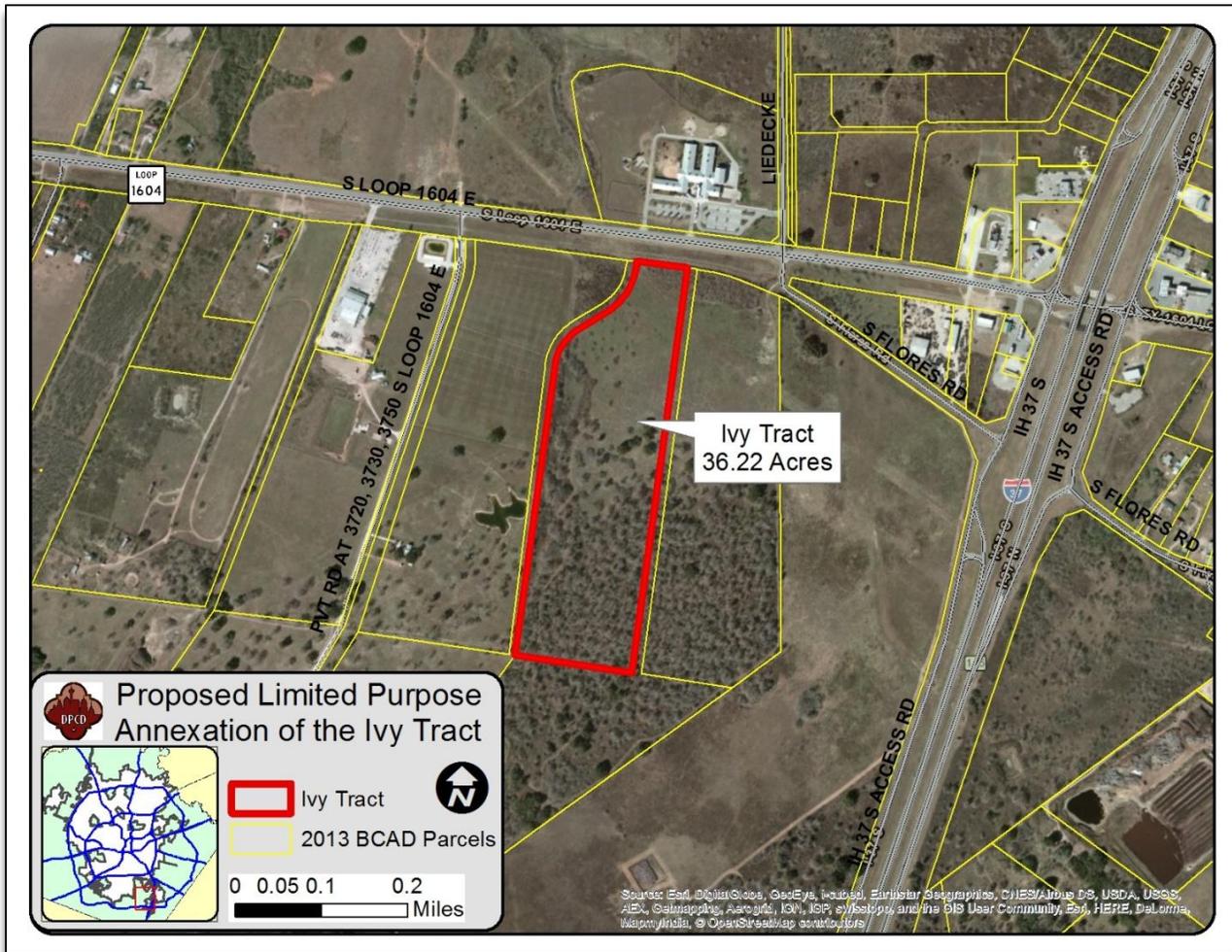
This report contains:

- Background information of the proposed annexation area, and
- A Planning Study for the proposed annexation area, as required in Section 43.123 (c) of the Texas Local Government Code (LGC); and
- A Regulatory Plan for the proposed annexation area, as required in Section 43.123 (d) of the Texas Local Government Code (LGC).



**Map 1: Proposed Annexation Area**

*Property Description* - The Ivy Tract is described as CB 4167A, BLK 1, LOT 4 (IVY SUBD). It is located 3890 South Loop 1604, within the City of San Antonio’s Extraterritorial Jurisdiction (ETJ) and Bexar County.



**Map 2: Aerial Exhibit of Proposed Annexation Area**

On January 9, 2014, the City and the property owners, Diamond Environmental Management LP, of the 36.2 acres Ivy tract, entered into an agreement regarding annexation and development.<sup>1</sup> The development agreement provided the property owner's consent to limited purpose annexation and zoning, pursuant to Section 43.035 of the Texas Local Government.<sup>2</sup> In June 2014, Diamond Environmental Management sold the property to a new property owner (SMBC Leasing & Finance Inc.,) who plans to develop it into an industrial site, a re-manufacturer and supplier of energy-related equipment. In accordance to the terms of the agreement, the City of San Antonio will initiate Limited Purpose Annexation of the property.

<sup>1</sup> City of San Antonio Ordinance No. 2014-01-09-002 approves the agreement between property owner and the City of San Antonio. The development agreement was recorded in Book 16537, Page 3351, of Bexar County Records.

<sup>2</sup> Texas Local Government Code §43.035: Authority of Municipality to Annex Area qualified for Agricultural or Wildlife Management Use or as Timber land

# PLANNING STUDY

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As required by State of Texas law, the planning study must:

- 1) Project the ten-year development with or without limited purpose annexation;
- 2) Describe the issues supporting limited purpose annexation and public benefits;
- 3) Analyze the economic, environmental, and other impacts of limited purpose annexation; and
- 4) Identify the proposed zoning and public opportunity to comments regarding the proposed zoning at the limited-purpose annexation public hearings.

## Projected Ten-Year Development with and without Limited Purpose Annexation

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This section includes projections regarding the kinds and levels of development that will occur in the area in the next ten years if the areas are annexed for limited purposes, as well as, if the areas are not annexed for limited purposes.

### Existing Development

The proposed annexation area<sup>3</sup> is currently undeveloped. Oilfield and gas services industry resulting from the Eagle Ford Shale Oil play in particular have located close to its location in recent years. This growth has resulted in the openings of Weatherford International and Halliburton facilities located near the intersection of IH-37 and Loop 1604. Along Loop 1604 near the Study Area, there has been moderate commercial development. Recent development, near Loop 1604 and Campbellton Road, include a school and a major County sport complex.

### New Development

The developer is planning to build an industrial project on this site. The developer will submit a zoning case prior to final approval of the annexation ordinance. Given the increase in the energy related industry, it is reasonable to assume that in ten years that the development with approximately same density and intensity will be built on the property regardless whether or not it is annexed. If the property is annexed, it will be developed in accordance with the City's zoning and site development standards.

## Issues Supporting Limited Purpose Annexation

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This section describes the issues the City considers to give rise to the need for the annexation of the area for limited purposes and the public benefits to result from the limited-purpose annexation.

Limited purpose annexation will establish a regulatory framework for the area. Limited purpose annexation provides the tools to regulate the type and character of development and redevelopment through the application of zoning, site development standards, building codes and other regulatory tools not available in unincorporated areas. Regulations for nonconforming uses will provide for the gradual elimination of existing incompatible uses. This

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<sup>3</sup> The Study Area is part of the Ivy Subdivision plat (Planned Overall Area Development Plan (POADP), which was recorded in Bexar County's Land Record, in 1990 but was not developed.

will benefit the public by encouraging high quality and sustainable development that will create a long term investment for the community.

### **Public Benefit from Limited Purpose Annexation**

After an area is annexed for limited purposes, the City will begin planning for the delivery of City services in preparation for full purpose annexation, while allowing for the immediate application of land use controls and other City regulations. The three-year period between limited purpose annexation and full purpose annexation will give the City the time necessary to plan for needed capital improvements in advance of future development within the areas and surrounding areas. Property owners in the area will have three years to plan for the financial impact of full purpose annexation.

### **Economic, Environmental and Other Impacts of Limited Purpose Annexation**

This section analyzes the economic, environmental, and other impacts the annexation of the area for limited purposes will have on the residents, landowners, and businesses in the area.

#### **Economic Development**

The surrounding area has experienced industrial and commercial development resulting from the Eagle Ford Shale Oil. Furthermore, the application of development standards, building codes, and zoning will help ensure quality development or redevelopment and protect property values by ensuring that all new development and redevelopment meets higher standards than would otherwise be enforced.

*Freeport Exemption* – The City and Bexar County allow personal property tax exemptions up to 100% on property detained in Texas for assembling, storing, manufacturing, processing or fabricating. Freeport Property must be transported to destinations outside of Texas within 175 days of acquisition or import.<sup>4</sup> This exemption provides a business incentive that can be used to promote the growth and expansion of businesses, particularly those engaged in logistics and distribution.

#### **Transportation**

The subject property is located on the frontage road to an expressway Loop 1604 and has access to IH-37. Both of these highways provide excellent access to South Texas. The existing transportation network within the interior of this area consists of mostly rural roads. With the emergence of activity associated with the Eagle Ford Shale, there has been a marked increase in truck traffic on Loop 1604 and IH-37. The closest VIA Metropolitan Transit Authority routes to the study area is located along US Highway 281 and FM 1937 (Martinez Losoya Road and Leal Road).

The *San Antonio Major Thoroughfare Plan (MTP)* is a long range transportation plan for the City and Bexar County. It shows the future location, dimension and right-of way dedication of major roadways. The MTP has designated Loop 1604, IH-37, and Campbellton Road to serve this area.

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<sup>4</sup> Freeport property must be in Texas for certain purposes, such as assembly, storage, manufacturing, processing or fabrication. Freeport property includes goods, wares, merchandise, and certain aircraft but does not include oil, natural gas and other petroleum products.

Loop 1604 and IH- 37 are designated as “freeways” with 250 to 500 feet of right-of way. Campbellton Road is designated as a “Secondary Arterial Type A” with 86 feet of right-of way.

### **Water Resources**

The subject property located in the San Antonio Water System (SAWS) certificated water service area. In addition to providing water and sewer service, SAWS promotes water quality by enforcing federal permit requirements for treatment of storm water runoff.

Regulations pertaining to flood plain protection and storm water management will provide adequate measures for the retention, detention and distribution of storm water in a manner that minimizes the possibility of adverse impacts of both water quality and water quantity during development. To further protect the area’s natural character, natural storm water conveyance systems including earthen drainage channels, temporary ponds and on-site storage currently are options provided for in the City’s development code. Surface water resources in the area are the Medina River, Elm Creek and Palo Blanco Creek. The Medina River, a principal tributary of the San Antonio River, is spring fed and gives a remarkably steady flow of clear water. The Medina River originates in springs in northwest Bandera County. The river then flows southeast for 116 miles to its mouth, on the San Antonio River in south Bexar County.

The Carrizo-Wilcox Aquifer underlies the study area, one of the most extensive water-bearing formations in Texas. This aquifer furnishes water to wells yielding fresh to slightly saline water that is acceptable for most irrigation, public supply and industrial uses. In the southeastern part of Bexar County, the SAWS Twin Oaks Aquifer Storage Recovery Facility (ASRF) stores excess Edwards Aquifer drinking water during rainy times in a large-scale underground water storage facility, saving it to be used during dry periods. This plant will reduce pumping from the Edwards Aquifer during summer months and during drought conditions. Additionally, SAWS is currently developing a brackish groundwater desalination program in southeastern Bexar County, with the plant located at the SAWS Twin Oaks Aquifer Storage and Recovery Site and well sites on adjacent SAWS property. Brackish groundwater is a plentiful, previously untapped local source of water that will help diversify San Antonio's supplies. While these facilities are not within the study areas their regional importance and adjacency are noteworthy.

### **Agriculture and Agribusiness**

*Eco-region* -The majority of southern Bexar County is identified as agricultural or farm land. The South Texas Plains Eco-region can be found in south San Antonio and Bexar County. Historically, these soils of dark clay and sandy loam were covered with grasses. A diversity of plant and animal life characterizes the study area. Principal plants include grasses, mesquite, small live oak, post oak, prickly pear cactus, catclaw, blackbrush, whitebrush, huajillo, huisache, cenizo and others that provide dense cover. Mineral resources include sulfur springs, limestone, kaolin, clay, fuller's earth, greensand, lignite, petroleum, and natural gas. The topography contrasts from gentle rolling to nearly level soils.

Presently, the topography is well suited for agri-business including solar power. The Sun Edison Solar Farms 1 and 2 are located adjacent to the SAWS Dos Rios Water Recycling Center, covering an area of approximately 197 acres on land owned by SAWS. These facilities are

located not within the study area, but are identified due to their adjacency and regional significance.

### Open Space and Parks

Open space regulation is instrumental in preserving habitat, protecting the quality and quantity of water resources, providing an alternative means to manage storm water runoff, promoting good air quality and creating opportunities for recreation and education. The protection and development of natural areas would promote ecotourism and provide opportunities for recreation. Located close to the study area is Mitchell Lake a destination for migratory birds. Bird watching is a fast growing tourist activity across the state of Texas. Another large water feature in the area is Braunig Lake which is used for fishing and as a campground.

### Scenic, Cultural, and Historic Resource Protection

The City extends its Historic Preservation regulation to preserve elements of its cultural heritage including buildings, monuments, acequias and other features within its ETJ. The study area was surveyed in 1973 and in 1999. The two surveys indicate a loss of historic resources, a process that could be abated by the implementation of zoning. Protecting the outstanding scenic and rural qualities of corridors and historic landscapes would provide an impetus for heritage tourism. Corridors that could merit protection are areas along roads with outstanding vistas, historic bridges and railroad rights-of-way.

South San Antonio does not stand isolated from the core city, but rather historically, served as important hinterlands that sustained and nurtured the city. It was in the southern part of Bexar County that the earliest settlers ranched, farmed and provided sustenance for not only themselves but for the citizens of Bejar. The cultural importance of this area should not be overlooked nor underestimated. Importantly, it is within this area that many vestiges of the immensely significant Spanish Colonial heritage remain.

*Texas Public Land* - Land grants in Texas were issued by successive governments of Texas, the Crown of Spain, the Republic of Mexico, the Republic of Texas, and the State of Texas, according to their various laws governing the distribution of the public domain of land.<sup>5</sup> The study area was once part of a land grant certificate issued by the State of Texas in 1845.<sup>6</sup> The type of land grant certificate would most likely be either a Head Right grants or Pre-emptive grants<sup>7</sup> which both the Republic and State of Texas used to encourage immigrants to settle in Texas.

Close to the study area are the historic sites of churches, family and community cemeteries, as well as early communities including Buena Vista, Losoya, Southton and Thelma. Losoya, named after the original Spanish land grant holder, was also located near one of the Spanish Colonial crossings on the Medina River. The town of Losoya got its start after the Civil War. Buena Vista, Thelma and Buena Vista settled in the early 1900s.

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<sup>5</sup> Source: Texas General Land Office, Land Grant Website.

<sup>6</sup> Land grant certificate issued by the State of Texas in 1845; Source: Texas General Land Office, GIS Mapping Website

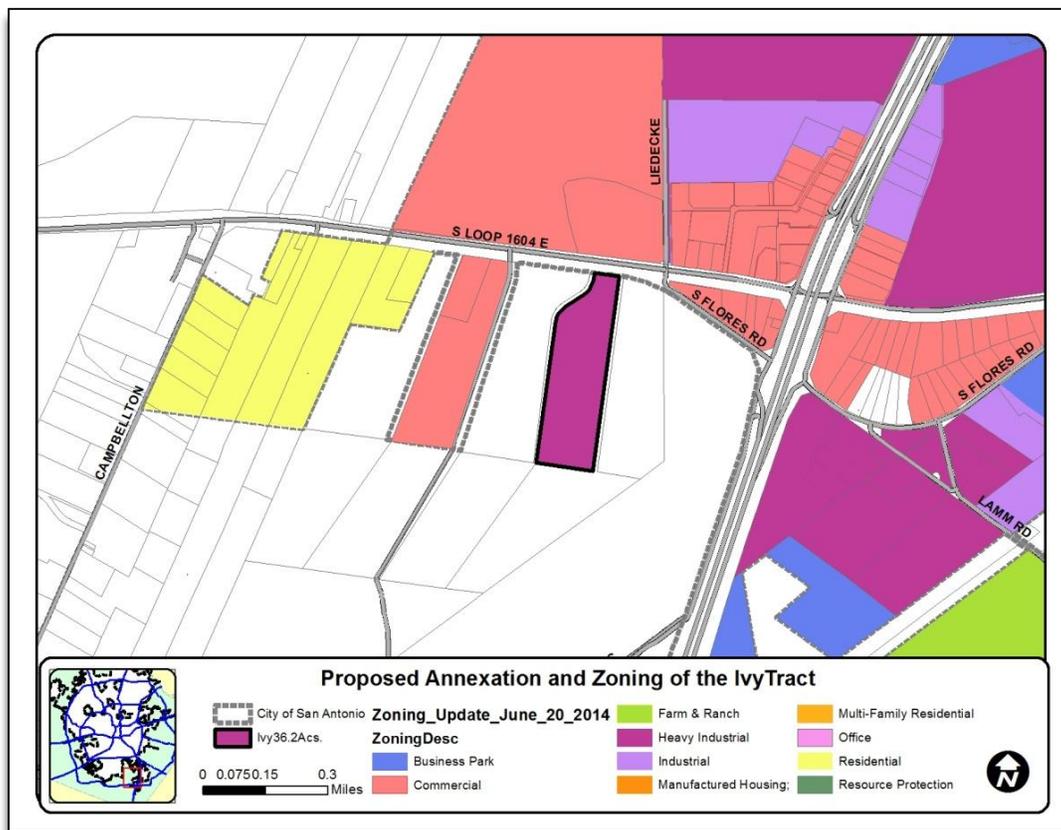
<sup>7</sup> Source: Texas General Land Office, Land Grant Website/ Categories of Land Grants

## Proposed Zoning for the Area

This section identifies the proposed zoning of the area upon annexation. There is an opportunity for public comments regarding the proposed zoning, which will be considered at the proposed limited-purpose annexation public hearings. The Zoning Commission will conduct at least one public hearing and make a recommendation to the City Council regarding the proposed rezoning. Subsequently, the City Council will conduct a public hearing and adopt any zoning amendments concurrently with the proposed limited purpose annexation.

*Current Sector Plan Land Use Classifications* - The study area is subject to the Heritage South Sector Plan. The Heritage South Sector Plan, a component of the Comprehensive Master Plan of the City, currently satisfies the requirements of §43.127 (b) of the Local Government Code as a land use and intensity plan and will continue to serve as a basis for services and capital improvement project planning. The Sector Plan currently provides the overall vision and policy guidance for regulations in this area, including zoning policy. Thereafter, suitable zoning districts will be recommended for the area based on the amended plan.

The proposed zoning for the annexation area is Heavy Industrial District, “I-2.” The Heavy Industrial district allows uses that are highly hazardous, environmentally severe in character and/or generate very high volumes of truck traffic. These districts are located with convenient access to existing and future arterials, thoroughfares and railway lines. Examples of permitted uses: acetylene gas manufacturing & storage, asphalt products manufacturing, boiler & tank works, chemical process clothing manufacturing, grain drying & milling, petro-chemical bulk storage.



**Map 3: Proposed Annexation Area and Proposed Zoning**

# City of San Antonio Limited Purpose Annexation Regulatory Plan for the Ivy Tract

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Prepared by

Department of Planning & Community Development

September 5, 2014

# REGULATORY PLAN FOR THE IVY TRACT

This section constitutes the regulatory plan, prepared in accordance with Section 43.123 (d) of the Texas Local Government Code. The regulatory plan identifies:

- Land Use and Development Regulations
- Future Full Purpose Annexation

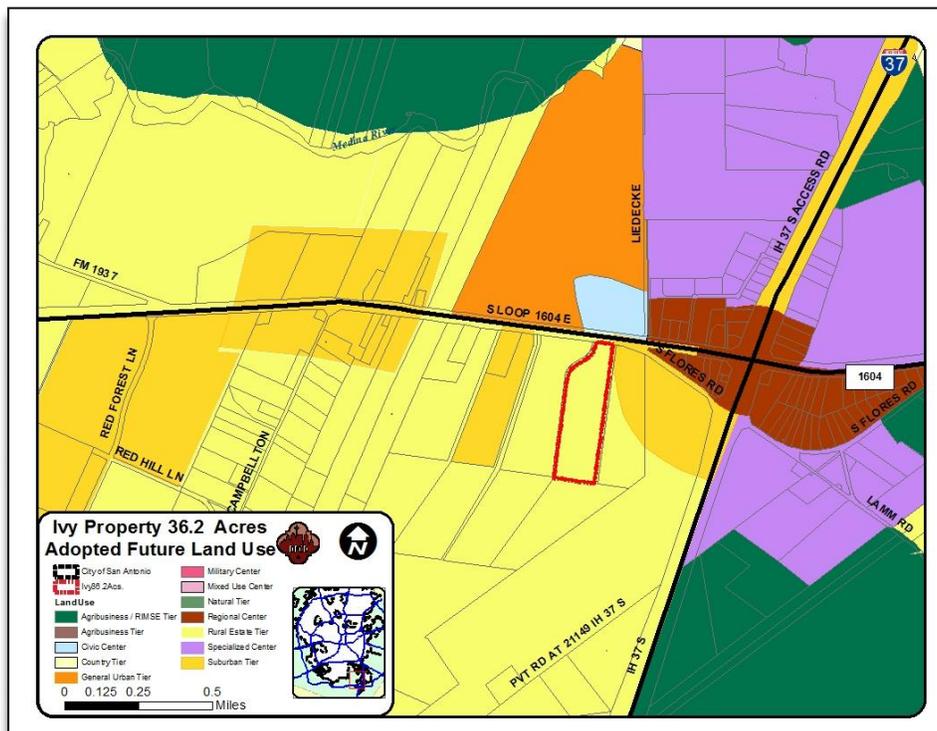
## Land Use

### Existing Land Use

The proposed annexation area, Ivy Tract, is currently vacant and previously had an agricultural use as classified by Bexar County Appraisal District. Adjacent properties are in agricultural use and are under non-annexation agreements. Currently sporadic commercial uses and clusters of limited industrial uses exist along the expressways. An energy corridor is also developing along IH-37, which is a gateway to the Eagle/Ford shale formation to the south and southwest of Bexar County.

### Current Sector Plan

The study area is subject to the Heritage South Sector Plan, which is a component of the Comprehensive Master Plan of the City. The Heritage South Sector Plan currently satisfies the requirements of §43.127 (b) of the Local Government Code as a land use and intensity plan and will continue to serve as a basis for services and capital improvement project planning. Thereafter, suitable zoning districts will be recommended for the area based on the amended plan. (See the Planning Study for information regarding the proposed zoning.)



Map 1: Proposed Annexation Area – Adopted Future Land Use Plan

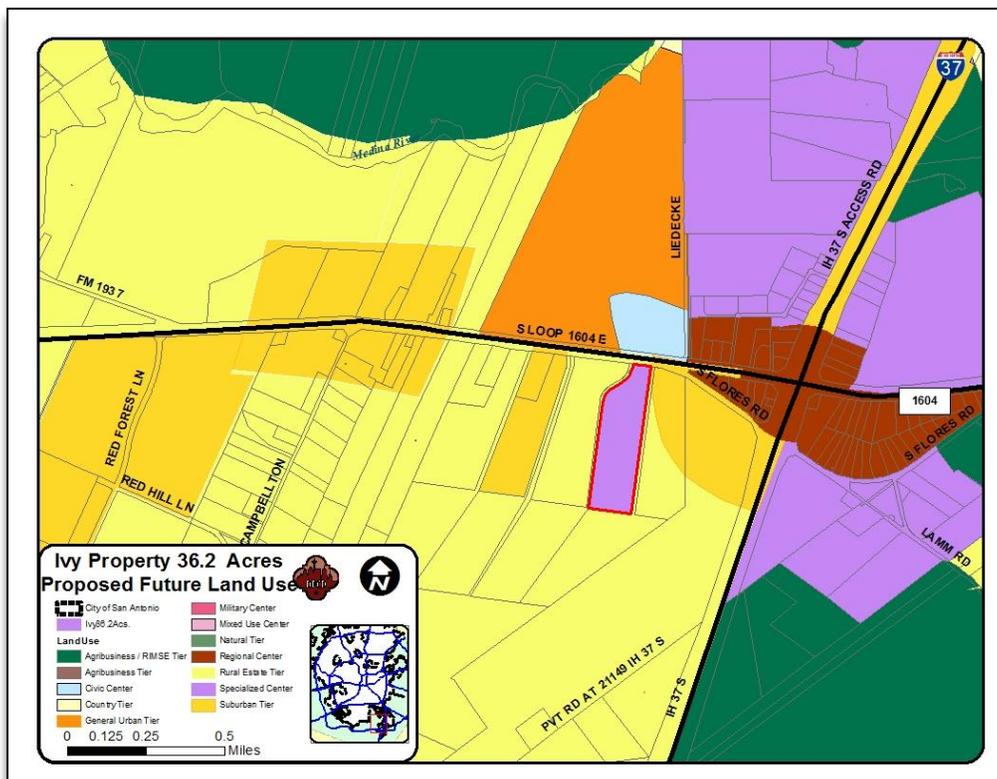
### Future Sector Plan Land Use Classifications - Tiers and Centers

The Sector Plan future land use plans were prepared utilizing the concept of “Centers” and “Tiers” which allow for a range of compatible residential and non-residential uses within each Center and Tier. The land use classifications are referred to as “Tiers” or “Centers” to represent the Sector Plan’s goals. The Sector Plan establishes “Tiers” that range in density from “Urban” to “Natural Tiers”. “Centers” were established in order to locate preferred areas for coordinated investment. These included new Mixed-Use and Regional Centers as well as the incorporation of existing features. The “heavy industrial” land use classification is referred to in the Sector Plan as a “Specialized Center” area. The Civic Center land use classification was expanded to incorporate governmental and quasi-governmental uses, such as the new Texas A&M University - San Antonio campus.

The Major Thoroughfare Plan (MTP) provides policy guidance regarding the location and types of major roadways to be constructed in the future. Currently, the MTP is used to locate major and minor nodes for commercial development and regulate the location of densities in regards to the zoning.

### Proposed Future Land Use

The proposed annexation area is designated in the Rural Estate Tier. The proposed amendment to Specialized Center from Rural Estate Tier is consistent with the proposed use of the proposed annexation area. The Specialized Center is appropriate for this area, near the intersection of IH-37 and Loop 1604, and is complimentary to the existing land uses and future land use classifications along Loop 1604.



Map 2: - Proposed Future Land Use Plan Amendment

## **Development Regulations Following Limited Purpose Annexation**

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The following planning, zoning, health and safety ordinances will be enforced in the areas upon completion of annexation for limited purposes:

- Building Code (Chapter 6 of the Municipal Code)
- Electricity Code (Chapter 10 of the Municipal Code)
- Fire Prevention Code (Articles III and IV of Chapter 11 of the Municipal Code)
- Solid Waste Code, specifically pertaining to Lot Clearance (Article VII of Chapter 14 of the Municipal Code)
- Licenses and Business Regulations specifically pertaining to Salvage Yards and Auto Dismantlers (Article VII of Chapter 16 of the Municipal Code)
- Plumbing Code (Chapter 24 of the Municipal Code)
- Signs and Billboards (Chapter 28 of the Municipal Code)
- Water and Sewers (Chapter 34 of the Municipal Code) excluding services and fees for Drainage Utility Services authorized by the Texas Local Government Code, Section 552.044(4)(A) and adopted in Section 34-1111 of the City Code.
- Unified Development Code (Chapter 35 of the Municipal Code), including, but not limited to, zoning regulations and all subsequent amendments, replacement ordinances, and related technical and illustrative manuals to these ordinances.

Notwithstanding the Municipal Code references above, the following exceptions shall be established if this area is annexed for limited purposes:

- Property owners will be allowed to erect, maintain, and repair traditional barbed wire or electric fences used in conjunction with agricultural, farming or ranching operations.
- Limited sales and possession of fireworks is permitted in areas annexed for limited purposes in accordance with Ordinance No. 97683.
- Fees will be waived for property owners seeking to register existing uses as non-conforming rights.

### **Disclaimers**

The City has made a good-faith effort to provide accurate references to the Municipal Code sections in which the ordinances described above are codified. In the event that a portion of the Municipal Code listed above contains a reference to a portion of the Municipal Code or another City Ordinance that is not listed above then, to the extent necessary to either provide meaning to or to carry out the meaning of the listed portions, the referenced portions of the Local Government Code, Municipal Code or other City Ordinances shall also apply. Any failure to list all relevant Municipal Code references is inadvertent and will not affect enforcement of the ordinances by the City. Further, any and all exhibits contained herein are intended for reference purposes only and shall not be construed to be final. All exhibits shall be deemed “final” upon adoption of this draft Limited Purpose Annexation proposal.

The adopted regulatory plan must be the same as the proposed regulatory plan unless the San Antonio City Council finds and states in the ordinance the reasons for adoption of a different

regulatory plan. The City of San Antonio City Council, by ordinance, may change an adopted regulatory plan if, in the ordinance making the change, the City Council finds and states the reasons for the adoption of the change.

## Excerpts from the Unified Development Code

### 35-703 Newly Annexed Territory.

Nonconforming rights may be granted to newly annexed areas in accordance with the following provisions and upon payment of the fees specified in Appendix "C". All applications for nonconforming rights must be filed within sixty (60) days of the effective date of annexation.

**(a) Incomplete construction.** Construction may be completed on any structure legally under construction upon annexation provided:

- (1) The owner or his designated representative applies to the director of in Appendix "C" for a permit to authorize further work on the structure stating the proposed use of the structure and attaching thereto the plans and specifications relating to the construction; and
- (2) The construction is completed within two (2) years of the effective date of annexation. Action on the permits shall be taken by the director of development services within fifteen (15) days from the date of application. The director shall deny the permit if he finds that the construction will not meet the requirements of the building, fire protection, or minimum housing codes and other applicable ordinances and codes of the city. If the permit is refused, the construction work shall cease until necessary corrections are made.

**(b) Proposed construction.** Proposed construction may be completed upon a finding by the zoning commission that sufficient evidence exists that planning for the proposed use was in progress prior to annexation, as prescribed by Appendix "B" to this chapter. Within fifteen (15) days from the date of such filing, the director shall present the evidence to the zoning commission for their determination, unless the applicant agrees to a longer period. The applicant shall have twelve (12) months from the date of the zoning commission's favorable determination to secure all building permits. After that time, the nonconforming rights shall expire.

**(c) Master Development plans.** Newly annexed areas may be entitled to nonconforming rights for a master development plan upon favorable consideration by the zoning commission. The property owner must submit an application as prescribed by Appendix "B" of this chapter. The zoning commission shall conduct a public hearing on the nonconforming rights master development plan after giving notice to the owners of property within two hundred (200) feet in the manner provided in section 35-403 for a rezoning. The purpose of the public hearing shall be to ascertain (1) the extent to which development of the master development plan had progressed prior to annexation and (2) the extent to which the master plan complies with the policies and objectives of the city's Land Use Plan. If the zoning commission approves the master development plan, construction in conformance with the plan must begin within one (1) year, with all portions of the plan either completed or under construction within five (5) years from the date of annexation.

After that time, the nonconforming rights shall expire. (*Ord. No. 98697 §§ 4 and 6*)(*Ord. No. 100126*)

## **Future Full Purpose Annexation**

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The areas subject to this Limited Purpose Annexation will be included within the City's full purpose jurisdiction within three (3) years of the effective date of the limited purpose annexation ordinance unless the date for full purpose annexation is postponed by written agreement between the City and a majority of the affected landowners.

### **Planning Milestones**

State law requires specific steps be completed by the City for each of the three years after an area is annexed for limited purposes leading toward the full-purpose annexation of the areas.

- By the end of the first year, the City must prepare a land use and intensity plan to be a basis for services and capital improvement project (CIP) planning.
- By the end of the second year, the City must include the area in the long-range financial forecast and in the City's program to identify future CIP projects.
- By the end of the third year, the City must include CIP projects intended to serve the area in the adopted CIP program and identify potential sources of funding.