

# Mayor and Council Communication

**DATE:** 11/17/20

**M&C FILE NUMBER:** M&C 20-0858

**LOG NAME:** 23HICKMAN MSD

## **SUBJECT**

(CD 8) Conduct Public Hearing, Adopt Resolution Supporting the Application of the Hickman Family Limited Partnership for a Municipal Setting Designation for the Property Located Near the Intersection of Interstate Highway 35 West and West Risinger Road, Fort Worth, Texas, to the Texas Commission on Environmental Quality, and Adopt Ordinance Prohibiting the Potable Use of Designated Groundwater from Beneath the Site Pursuant to Chapter 12.5, Article IV, Division 2 "Municipal Setting Designation" (Continued from a Previous Meeting)

(PUBLIC HEARING - a. Report of City Staff: Cody Whittenburg; b. Public Comment; c. Council Action: Public Hearing and Act on M&C)

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## **RECOMMENDATION:**

It is recommended that City Council:

1. Conduct a public hearing on the application of the Hickman Family Limited Partnership, for approval of a Municipal Setting Designation for the property located near the intersection of Interstate Highway 35 West and West Risinger Road an approximate 6.6074-acre tract, more fully described as being located in the George Hamilton Survey, Abstract No. 751 and in the James J. Scott Survey, Abstract No. 1449, Fort Worth, Tarrant County, Texas to allow the public the opportunity to give testimony;
2. Adopt the attached resolution supporting the Hickman Family Limited Partnership's application to the Texas Commission on Environmental Quality for a municipal setting designation for the site; and
3. Adopt the attached ordinance prohibiting the potable use of designated groundwater from beneath the site.

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## **DISCUSSION:**

On October 2, 2020, the Hickman Family Limited Partnership filed an application with the City seeking support of a Municipal Setting Designation (MSD) for a property located near the Intersection of Interstate Highway 35 West (I-35W) and West Risinger Road, Fort Worth, Texas.

Staff from the Planning and Data Analytics, Transportation and Public Works, Development Services, and Water Departments were given the application to review. No comments or concerns were received. Notice was issued, as required by ordinance, and a public meeting was held at the Chisholm Trail Community Center on November 11, 2020.

The groundwater that is sought to be restricted is shallow, perched, discontinuous groundwater that occurs at depths of approximately fourteen (14) to twenty (20) feet below the ground surface. The affected shallow groundwater is underlain by a confining layer of approximately 200 to 450 feet in thickness that serves as a regional aquitard preventing vertical migrations of the chemical of concern to underlying potable aquifers. The affected shallow groundwater is not a designated, recognized major or minor aquifer. The chemical of concern detected in the designated groundwater is trichloroethene (TCE). The TCE contamination is attributed to historic, non-specific, illegal dumping on the subject property.

The Fort Worth Water Department provides water service to all existing residential and commercial/industrial properties located in the area and within a ½ mile of the MSD boundary. All undeveloped properties with ½ mile of the site are eligible to receive water service from the Fort Worth Water Department in accordance with the Texas Water Service Certificate of Convenience and Necessity (CCN) No. 12311 (City of Fort Worth) and the City of Fort Worth Policy for the Installation of Community Services.

In 2003, a state law came into effect creating the concept of a Municipal Setting Designation. The purpose of an MSD is to provide a means by which the Texas Commission on Environmental Quality (TCEQ) may limit the scope of investigations and response actions for groundwater contamination at a site, provided the groundwater is prohibited for use as a potable water source. "Potable water" means water used for drinking, showering, bathing, or cooking, or for irrigating crops intended for human consumption. A person, typically a developer, must apply to TCEQ for certification of their property as an MSD. If granted, they will not be required to clean up designated groundwater within the MSD to drinking water standards, although other cleanup standards such as inhalation and contact must still be met. The application will not be approved by the TCEQ if the municipality where the site is located does not give formal approval. That approval must be by means of a City Council resolution supporting the application and an ordinance prohibiting potable use of groundwater in the MSD.

In January 2005, the City Council adopted an ordinance creating a procedure for persons applying to the TCEQ for an MSD to get support of that application from the City Council. The procedure includes filing an application with the City, Staff review of the application for potential impacts to City interests, a public meeting held for the purpose of providing information on the application to the affected community, and a public hearing. This MSD application is the 29<sup>th</sup> within Fort Worth city limits.

Approval of this MSD application by the Texas Commission on Environmental Quality will support the usage of the subject property consistent with the current zoning without unnecessary requirements placed on the developer to take actions to address historic contaminated groundwater. There are currently no land use plans for this site other than remaining undeveloped for the foreseeable future.

The location is in COUNCIL DISTRICTS 8 and 9.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

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**FISCAL INFORMATION / CERTIFICATION:**

The Financial Management Services Director certifies that approval of these recommendations will have no material effect on City funds.

**Submitted for City Manager's Office by:** Valerie Washington 6199

**Originating Business Unit Head:** Brandon Bennett 6322

**Additional Information Contact:** Cody Whittenburg 5455