

# Mayor and Council Communication

**DATE:** 05/23/23

**M&C FILE NUMBER:** M&C 23-0421

**LOG NAME:** 23MSD-032 THE FOUNDRY AP FW

## **SUBJECT**

(CD 9 / Future CD 9) Conduct Public Hearing and Adopt Resolution Supporting the Application of Asana Partners, LLC for a Municipal Setting Designation for the Property Located at 200 and 212 Carroll Street and 2708, 2709 and 2712 Weisenberger Street, 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"

(PUBLIC HEARING - a. Report of City Staff: Daniel Miracle; 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 to allow the public the opportunity to give testimony on the application of Asana Partners, LLC for approval of a Municipal Setting Designation for the property located at 200 and 212 Carroll Street and 2708, 2709 and 2712 Weisenberger Street, an approximately 1.373 acre tract of land located in the Weisenberger Addition, Tract 2 and 4, Block 7, and Tract 3, Block 12, City of Fort Worth, Tarrant County, Texas;
  2. Adopt the attached resolution supporting Asana Partners, LLC 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 March 1, 2023, Asana Partners, LLC filed an application with the City seeking support of a Municipal Setting Designation (MSD) for property located 200 and 212 Carroll Street and 2708, 2709 and 2712 Weisenberger Street, Fort Worth, Texas 76107.

Staff from the Planning and Data Analytics, Transportation and Public Works, Development Services, Water, and Code Compliance - Environmental 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 City Hall Annex, 908 Monroe Street, 7<sup>th</sup> Floor Conference Room on Tuesday, May 2, 2023.

The groundwater that is sought to be restricted is shallow, perched, discontinuous groundwater that occurs at depths of approximately fifteen (15) to fifty (50) feet below the ground surface. The affected shallow groundwater is underlain by the Pawpaw formation (Kpd). The Pawpaw formation consists of medium gray to yellowish gray limestone that forms topographic benches, weathers dark gray with yellowish brown patches, with a thickness 30-100 feet. The western portion of the site is underlain by the Fort Worth Limestone and Duck Creek Formation undivided (Kfd). The Fort Worth Limestone consists of limestone and clay with a thickness of 25-35 feet. The Duck Creek Formation consists of aphanitic limestone with pyrite nodules with a thickness of 30-100 feet 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 chemicals of concern detected in the designated groundwater is tetrachloroethene. The tetrachloroethene contamination is attributed to historic, non-specific, activities 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 half mile of the MSD boundary. All undeveloped properties within a half 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 32<sup>nd</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.

The location is in COUNCIL DISTRICT 9 / FUTURE COUNCIL DISTRICT 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 Director of Finance 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:** David B. Carson 6336

Expedited