

Public Notices

COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND INTENT TO REQUEST RELEASE OF FUNDS – AND FINAL NOTICE AND PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN AND WETLAND

September 9, 2020

City of Kyle, 100 W. Center Street, Kyle, TX, 78640, 512-262-3949

These notices shall satisfy three separate but related procedural requirements for -activities to be undertaken by the City of Kyle.

To: All interested Agencies, USACE, TWDB Floodplain Administrator, Hays County Flood Control, Citizens of Kyle, Texas.

REQUEST FOR RELEASE OF FUNDS

On or about September 25, 2020, the City of Kyle will submit a request to the Texas General Land Office (TGLO) for the release of Supplemental Disaster Recovery Community Development Block Grant (CDBG) funds under program funds under Section 104(f) of Title 1 of the Housing & Community Development Act of 1974 as amended to undertake project known as Windy Hill Road and Drainage Improvements, Contract # B16DH480001 for the purpose of Windy Hill Street improvements – from 500 ft W. of Cherrywood to 500 ft East of Purple Martin Avenue. The City of Kyle shall reconstruct a portion of Windy Hill Road by removing and replacing existing culverts, the roadway, and approaches; when the roadway pavement and structure to add turn lane capacity, install railing and end treatments that meet TxDOT standards; and perform associated appurtenances. Improvements total approximately two thousand one hundred (2100) linear feet.

FINDING OF NO SIGNIFICANT IMPACT

The City of Kyle has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) online file at [https:// www.cityofkyle.com/planning/EA_WindyHillRoadDR._KyleOptimized.pdf](https://www.cityofkyle.com/planning/EA_WindyHillRoadDR._KyleOptimized.pdf) and may be requested for review to Jo Ann E. Garcia, Road Bond Project Manager 520 Ranch to Market Rd 150, Kyle, TX 78640 at 512-262-3949, email: [jgarcia \[at\] cityofkyle.com](mailto:jgarcia@cityofkyle.com) ([jgarcia\[at\]cityofkyle\[dot\]com](mailto:jgarcia@cityofkyle.com)).

FINAL NOTICE AND PUBLIC EXPLANATION OF PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN AND WETLANDS

This is to give notice that the Responsible Entity under Part 58 has conducted an evaluation as required by Executive Order 11988 and 11990, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management and Wetlands Protection. The activity is funded under the HUD Community Development Block Grant Disaster Recovery under DRS 19-280-000-B779. The proposed project(s) is located Windy Hill Road, from 500 ft West of Cherrywood to 500 ft East of Purple Martin Ave., Kyle, Hays County TX The City of Kyle shall reconstruct a portion of Windy Hill Road by removing and replacing existing culverts, the roadway, and approaches; widen the roadway pavement and structure to add turn lane capacity, install railing and end treatments that meet TxDOT standards; and improve associated

appurtenances. Improvements total approximately two thousand one hundred (2100) linear feet. The proposed project(s) limits are approximately from 500 ft W. of Cherrywood to 500 ft East of Purple Martin Ave in Kyle, TX. According to FEMA flood panel 48209C029F, the project is located within .87 acres of a 100-year floodplain. According to a wetland delineation and the National Wetlands Inventory, the project is impacting less than 0.10 acres. Wetland R4SBC – Riverine and Freshwater Emergent.

The City of Kyle has considered the following alternatives and mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values: 1. Moving the project activities to another area was considered but the areas where flooding occurs is at along Windy Hill Road. The infrastructure located within the floodplain and over Richmond Branch is in significant need of improvements to prevent future flooding. 2. Using an alternate form of construction within the wetland was considered, however, the type of construction selected is the most feasible and cost-effective to ensure human health and the environment 3. Not conducting the improvements is not a selected alternative as this would present significant harm to human health and the environment in future heavy rain events.

Mitigation measures include: Earthwork volumes will be calculated and if it is determined fill is needed for the road infrastructure proposed, at the rate of 1 cy: 1cy material. Construction activities at Richmond Branch are covered under Nationwide Permit 14 (Linear Transportation Projects) as loss of WOTUS will be less than 0.1 acres and no discharge in a special aquatic sites will occur, including wetlands. In accordance with the guidelines of NWP 14, all limitations, criteria, and General Conditions should be followed by this project; all applicable guidelines are included environmental documentation. Sediment controls to prevent erosion that prevent impact to area wildlife. Routine monitoring of site prior to and during construction to prevent accidental capture of any animal species. Reseed area with native plants and grasses to prevent erosion and avoid invasive plants. Limit vegetation clearing using TPWD standards and BMPs when clearing is necessary; clearing of vegetation during general bird nesting season (between March and August) will be considered prior to construction and information regarding state listed and rare species will be provided to contractor. Conduct a bird, bat, and turtle surveys prior to and during construction to prevent impact to species; consult environmental checklist for future action if discovered. If wildlife enters the construction area, suspend construction until the animal leaves the area and/or contact TPWD for assistance. Any tree removal will be limited and be consistent with tree management best management practices and TPWD standards. If buried cultural materials are encountered during construction or disturbance activities, work should cease in the immediate area; work can continue where no cultural materials are present. Industry specific best management practices will be implemented to prevent construction runoff through berming and silt fencing. Grant contract amount is \$3,497,686.18.

The project was reevaluated to determine if the alternative chosen to complete the work in the floodplain is valid because the work will not significantly impact the floodplain as the activities are primarily to ensure improved functionality of existing structures such as improved drainage. Based on the evaluation, it is our determination that there is no practicable alternative for partially locating the project in the flood zone. This is due to: 1) the need to rehab the proposed area to prevent ongoing deterioration; 2) an alternate location would not be financially feasible nor practicable; 3) the ability to mitigate and minimize impacts on human health, public property, and floodplain values. Due to proximity of surrounding floodplains, contractor will ensure that best management practices during construction to floodplain and preserve area natural values associated with coastal development, like erosion prevention using silt fencing and returning the area to preconstruction conditions.

There are three primary purposes for this notice. First, people who may be affected by activities in the floodplain and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Commenters are encouraged to offer alternative sites outside of the floodplain, alternative methods to serve the same project purpose, and methods to minimize and mitigate impacts. Second, an adequate public notice program can be an important public

educational tool. The dissemination of information and request for public comment about actions taking place in the floodplain can facilitate and enhance Federal efforts to reduce the risks and impacts associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in the floodplain, it must inform those who may be put at greater or continued risk.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the City of Kyle. All comments received by September 24, 2020; will be considered by the City of Kyle prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing. Written comments regarding the Final Floodplain Notice must be received by September 16, 2020. Address comments to the Attention of Jo Ann E. Garcia, Road Bond Project Manager 520 Ranch to Market Rd 150, Kyle, TX 78640 at 512-262-3949 during the hours of 9:00 AM to 5:00 PM. Comments may also be submitted via email at [jgarcia\[at\] cityofkyle.com](mailto:jgarcia@cityofkyle.com) ([jgarcia\[at\]cityofkyle\[dot\]com](mailto:jgarcia@cityofkyle.com)).

ENVIRONMENTAL CERTIFICATION

The City of Kyle certifies to TGLO that Travis Mitchell, in his capacity as mayor consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. TGLO's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the City of Kyle to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

TGLO will accept objections to its release of fund and the City of Kyle certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the City of Kyle (b) the City of Kyle has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by TGLO; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to Texas General Land Office, Box 12873, Austin, Texas 78711-2873 or by email at [david.camarena.glo \[at\] recovery.texas.gov](mailto:david.camarena.glo@recovery.texas.gov) ([david\[dot\]camarena\[dot\]glo\[at\]recovery\[dot\]texas\[dot\]gov](mailto:david@camarena.glo@recovery.texas.gov)). at address of that office. Potential objectors should contact TGLO to verify the actual last day of the objection period.

Travis Mitchell, Mayor

Public Notice

Notice of Public Hearing

Notice is hereby Given to all interested persons, that:

NOTICE OF APPLICATION AND PRELIMINARY DECISION (NAPD) FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER

RENEWAL PERMIT NO. WQ0011041002

APPLICATION AND PRELIMINARY DECISION. City of Kyle, 100 West Center Street, Kyle, Texas 78640, has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No.

WQ0011041002, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 4,500,000 gallons per day. TCEQ received this application on July 31, 2019.

The facility is located at 941 New Bridge Drive, in the City of Kyle, Hays County, Texas 78640. The treated effluent is discharged directly to Plum Creek in Segment No. 1810 of the Guadalupe River Basin. The designated uses for Segment No. 1810 are primary contact recreation, aquifer protection, and high aquatic life use. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44atbc468bbddd36of816825of&marker=-97.8'35?77%2C29.967777&level=1?>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the Kyle Public Library, 550 Scott Street, Kyle, Texas.

PUBLIC COMMENT/ PUBLIC MEETING. You may submit public comments or request a public meeting about this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FORA CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision. A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE

FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period. TCEQ may act on an application to renew a permit for discharge of wastewater without providing an opportunity for a contested case hearing if certain criteria are met.

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality,

P.O. Box 13087, Austin, TX 78711-3087 or electronically at WW14.tceq.texas.gov/epic/eComment/ within 30 days from the date of newspaper publication of this notice.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at ww14.tceq.texas.gov/epic/eComment, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at 1-800-687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en Español, puede llamar al 1-800-687-4040.

Further information may also be obtained from City of Kyle at the address stated above or by calling Mr. Timothy Samford, at 512-262-3024.

Issuance Date: July 8, 2020

WQ0011041002

Public Notice

Notice of Public Hearing

Notice is hereby Given to all interested persons, that:

The City of Kyle shall hold a public hearing on a request by Richard B. Schmeltekopf, Linda Hill Schmeltekopf, Laura Lynn S. and Julian Lehman (Z-20-0059) to rezone approximately 16 acres of land from Retail Service District 'RS' to Mixed Use District 'MXD' and to rezone approximately 14 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' with 6.40 acres to remain as Retail Service District 'RS' for properties located on the north corner of Philomena Drive and IH-35, in Hays County, Texas.

The Planning and Zoning Commission may recommend, and the City Council may consider, assigning any zoning district which is equivalent or more restrictive.

A public hearing will be held by the Planning and Zoning Commission on Tuesday, July 28, 2020 at 6:30 P.M.

A public hearing will be held by the Kyle City Council on Tuesday, August 4, 2020 at 7:00 P.M.

This is planned as a virtual meeting taking place at <https://www.cityofkyle.com/kyletv/kyle-10-live. >; Should the COVID-19 disaster be repealed between the date of this notice and the date of the public hearing, the location will be at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640. Please check the agenda for the proper location.

Owner: Richard B. Schmeltekopf, Linda Hill Schmeltekopf, Laura Lynn S. Lehman and Julius Lehman

Agent: David Cancialosi

Permit Partners

(512) 593-5361

Publication Date: July 8, 2020

Z-20-0059

Public Notice

Notice of Public Hearing

Notice is hereby Given to all interested persons, that:

The City of Kyle shall hold a public hearing on a request by LC 2012 Investments, LP (Z-20-0057) to assign original zoning to approximately 15.48 acres of land from Agriculture 'AG' to Retail Service District and to assign original zoning to approximately 12.25 acres of land from Agriculture 'AG' to Multi-Family Residential-3 'R-3-3' for property located on the southwest corner of Kohler's Crossing and I-35 Frontage Road, in Hays County, Texas.

The Planning and Zoning Commission may recommend, and the City Council may consider, assigning any zoning district which is equivalent or more restrictive.

A public hearing will be held by the Planning and Zoning Commission on Tuesday, June 9, 2020 at 6:30 P.M.

A public hearing will be held by the Kyle City Council on Tuesday, June 16, 2020 at 7:00 P.M.

This is planned as a virtual meeting taking place at <https://www.cityofkyle.com/kyletv/kyle-10-live. >; Should the COVID-19 disaster be repealed between the date of this notice and the date of the public hearing, the location will be at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640. Please check the agenda for the proper location.

Owner: LC 2012 Investments, LP

Agent: Clint Nolen

Kalterra Capital Partners, LLC

(214) 675-2499

Publication Date: May 20, 2020

Z-20-0057

Public Notice

Notice of Public Hearing

NOTICE IS HEREBY GIVEN TO ALL INTERESTED PERSONS, THAT:

The City of Kyle shall hold a public hearing on a request by Ky-Tex Properties, LP (Z-20-0060) to rezone approximately 6.67- acres of land from PUD (Single Family Attached District 'R-1-A') to PUD (Retail Service District 'RS') & rezone approximately 8.20-acres from PUD (Single Family Attached District 'R-1-A') to a Planned Unit Development 'PUD' (Single Family Residential District 3, 'R-1-3') for property located within the 800 block of Rebel Drive, north of Gregg Clark Park, in Hays County, Texas.

The Planning and Zoning Commission may recommend, and the City Council may consider, assigning any zoning district which is equivalent or more restrictive.

A public hearing will be held by the Planning and Zoning Commission on Tuesday, August 11, 2020 at 6:30 P.M.

A public hearing will be held by the Kyle City Council on Tuesday, August 18, 2020 at 7:00 P.M.

This is planned as a virtual meeting taking place at <https://www.cityofkyle.com/kyletv/kyle-10-live>. Should the COVID-19 disaster be repealed between the date of this notice and the date of the public hearing, the location will be at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640. Please check the agenda for the proper location.

Agent: Brett Corwin, Project Manager

Inermandeco, GP, LLC

(512) 434-9684

Owner: Ky-Tex Properties, LP

Publication Date: July 22, 2020

Z-20-0060

Public Notice

Notice of Public Hearing

Notice is hereby Given to all interested persons, that:

The City of Kyle shall hold a public hearing on a request by John H. Spooner Revocable Trust (Z-20-0061) to assign original zoning to approximately 128.58 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3' and approximately 30.27 acres of land to Residential Townhome 'R-1-T' and approximately 20.37 acres of land to Community Commercial 'CC' for property located off of E. Post Road, just north of Quail Ridge Subdivision, in Hays County, Texas.

The Planning and Zoning Commission may recommend, and the City Council may consider, assigning any zoning district which is equivalent or more restrictive.

A public hearing will be held by the Planning and Zoning Commission on Tuesday, September 8, 2020 at 6:30 P.M.

A public hearing will be held by the Kyle City Council on Tuesday, September 15, 2020 at 7:00 P.M.

This is planned as a virtual meeting taking place at [; Should the COVID-19 disaster be repealed between the date of this notice and the date of the public hearing, the location will be at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640. Please check the agenda for the proper location](https://www.cityofkyle.com/kyletv/kyle-10-live.)

Owner: John H. Spooner Revocable Trust

Agent: John Hines, P.E.

Dannenbaum Engineering

(512) 427-3237

Publication Date: August 19, 2020

Z-20-0061

Public Notice

Notice of Public Hearing

Notice is hereby Given to all interested persons, that:

The City of Kyle shall hold a public hearing on a request by Dacy Lane, LLC (Z-20-0062) to rezone approximately 4.66 acres of land from Retail Service District 'RS' to Residential Condominium District 'R-1-C' for property located on Bebee Road, just west of Dacy Lane, in Hays County, Texas.

The Planning and Zoning Commission may recommend, and the City Council may consider, assigning any zoning district which is equivalent or more restrictive.

A public hearing will be held by the Planning and Zoning Commission on Tuesday, September 8, 2020 at 6:30 P.M.

A public hearing will be held by the Kyle City Council on Tuesday, September 15, 2020 at 7:00 P.M.

This is planned as a virtual meeting taking place at <https://www.cityofkyle.com/kyletv/kyle-10-live. >; Should the COVID-19 disaster be repealed between the date of this notice and the date of the public hearing, the location will be at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640. Please check the agenda for the proper location.

Owner: Dacy Lane, LLC

Jonathan W. Cheng

Agent: Hugo Elizondo, Jr., P.E.

Cuatro Consulting Ltd.

(512) 312-5040

Publication Date: August 19, 2020

Z-20-0062

Supporting Documents

- [Z-20-0056 - Location Map 285.92 KB](#)
- [Z-20-0057 - Location Map 198.23 KB](#)
- [Z-20-0058 - Location Map 51.88 KB](#)
- [Z-20-0059 - Location Map 315.89 KB](#)
- [Z-20-0060 - Location Map 159.18 KB](#)
- [RENEWAL PERMIT NO. WQ0011041002 Fact Sheet 5.63 MB](#)
- [Windy Hill FONSI, Intent to request release of funds, final notice of public explanation of activity in floodplain and wetland 109 KB](#)
- [Windy Hill Environmental Document 92.86 MB](#)