

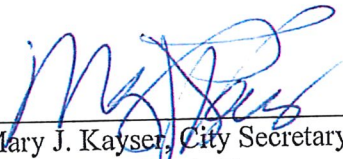


STATE OF TEXAS §

COUNTIES OF TARRANT, DENTON, JOHNSON, PARKER AND WISE §

I, MARY J. KAYSER, City Secretary of the City of Fort Worth, Texas do hereby certify that the attached and foregoing is a true and correct copy of Ordinance No. 23086-01-2018, which was duly presented and adopted by the City Council of the City of Fort Worth, Texas, at a regular session held on the 23<sup>rd</sup> day of January, 2018, as same appears of record in the Office of the City Secretary.

WITNESS MY HAND and the Official Seal of the City of Fort Worth, Texas, this  
5<sup>th</sup> day of February, 2018.

  
\_\_\_\_\_  
Mary J. Kayser, City Secretary  
City of Fort Worth, Texas



ORDINANCE NO. 23086-01-2018

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF FORT WORTH (1986), AS AMENDED, BY THE AMENDMENT OF CHAPTER 12.5, "ENVIRONMENTAL PROTECTION AND COMPLIANCE," ARTICLE IV "GROUNDWATER AND SURFACE WATER QUALITY," BY AMENDING APPENDIX "A" "MUNICIPAL SETTING DESIGNATION SITES IN FORT WORTH," BY THE ADDITION OF SECTION 24 DESIGNATING CFW-MSD-0027, PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES IN CFW-MSD-0027; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A FINE OF UP TO \$2,000.00 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Fort Worth Transportation Authority (Applicant) has filed an application for support of a resolution seeking a Municipal Setting Designation (MSD) for the site known as 2417 East Long Avenue, Fort Worth, Texas, the metes and bounds description being attached hereto as Exhibit "A" (Site); and

**WHEREAS**, notice to all interested parties has been provided in accordance with all applicable law and a public hearing has been held on the matter on January 23, 2018; and

**WHEREAS**, upon passage of a supporting resolution by the City Council, Applicant intends to file a separate application with the Executive Director of the Texas Commission on Environmental Quality (TCEQ) for certification of an MSD for the Site pursuant to Texas Health and Safety Code, Chapter 361, Subchapter W; and

**WHEREAS**, Applicant has continuing obligations to satisfy applicable statutory and regulatory provisions concerning groundwater contamination investigation and response actions at the Site; and

**WHEREAS**, the City Council of the City of Fort Worth is of the opinion that it is in the best interest of the public to support Applicant's application to the Texas Commission on Environmental Quality for a Municipal Setting Designation for the Site; and

**WHEREAS**, in order for the TCEQ to certify the Site the city must prohibit the potable use of groundwater from beneath the Site; and

**WHEREAS**, a public drinking water supply system exists that supplies or is capable of supplying drinking water to the Site, and property within one-half mile of the Site; and

**WHEREAS**, where public drinking water is available, the potable use of groundwater in designated areas should be prohibited to protect public health and welfare when the quality of the groundwater presents an actual or potential threat to human health;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, AS FOLLOWS:

**SECTION 1.**

Chapter 12.5 "Environmental Protection and Compliance," Article IV, "Groundwater and Surface Water Quality," Appendix A, "Municipal Setting Designation Sites in Fort Worth," of the Code of the City of Fort Worth (1986) as amended, is hereby amended by the addition of Section 24 to read as follows:

## APPENDIX A – MUNICIPAL SETTING DESIGNATION SITES IN FORT WORTH

### 24. CFW-MSD-0027

- (a) CFW-MSD-0027 is defined and designated as follows:  
Being a tract of land situated in the City of Fort Worth, Tarrant County, Texas and being more particularly described by metes and bounds description (Exhibit A) and map of CFW-MSD-00027 (Exhibit B).
- (b) The designated groundwater beneath CFW-MSD-0027 is shallow, perched, discontinuous groundwater that occurs at depths of approximately three to nine feet below the ground surface. The affected shallow groundwater is underlain by a confining layer, the Fort Worth Limestone, approximately 200 to 300 feet in thickness that serves as a regional aquitard preventing vertical migrations of the chemical of concern to underlying potable aquifers. The chemical of concern identified in groundwater beneath the site exceeding applicable Tier 1 Texas Risk Reduction Program (TRRP) Residential Protection Concentration Levels (PCLs) is tetrachloroethylene.
- (c) The use of the designated groundwater in CFW-MSD-0027 for potable and irrigation purposes is hereby prohibited. This prohibition is necessary because the contaminant concentrations exceed potable water standards.
- (d) The City will provide advance written notice to the Texas Commission on Environmental Quality, as much as is practicable, prior to enacting an ordinance repealing or amending this section.

### SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

### SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any

court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

#### **SECTION 4.**

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than two thousand dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

#### **SECTION 5.**

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of the ordinances amended in Section 1, which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.


#### **SECTION 6.**

The City Secretary of the City of Fort Worth, Texas is hereby directed to publish the caption summarizing the purpose of this ordinance and the penalty for violating this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by V.T.C.A. Local Government Code Subsection 52.013

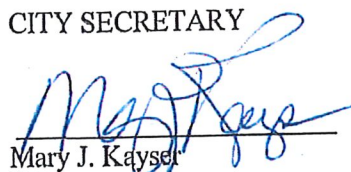
**SECTION 7.**

This ordinance shall be in full force and effect after its passage and publication as required by law,  
and it is so ordained.

APPROVED AS TO FORM AND LEGALITY:

  
~~Melinda Ramos~~ *Christa R. Lopez-Reynolds*  
Senior Assistant City Attorney

CITY SECRETARY

  
Mary J. Kayser

ADOPTED: January 23, 2018

EFFECTIVE: February 2, 2018

## Exhibit A

2417 East Long Avenue

Metes and Bounds

21.174 Acres Tract

Parcels 545A and 545C

Seburn Gilmore Survey

An Addition to the City of Fort Worth, Tarrant County, TX

BEING 21.174 acres of land located in the SEBURN GILMORE SURVEY, Abstract No. 590, Fort Worth, Tarrant County, Texas, and being all of the 19.673 acre tract of land, and 1.501 acre tract of land, conveyed to Fort Worth Transportation Authority, by deeds recorded in the County Clerk's file Number D217030021 and D217030021, of the Deed Records of Tarrant County, Texas. Said 21.174 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1" iron pipe found, at the Northwest corner of said 19.673 acre tract, and the said POINT OF BEGINNING also lying in the Southeast right-of-way line of the 100 foot wide right-of-way conveyed to the Dallas Area Rapid Transit System, by the deed recorded in Volume 10146, Page 640, of the Deed Records of Tarrant County, Texas;

THENCE N 63° 09' 58" E 495.30 feet, along the Northwest boundary line of said Tract III and the Southeast right-of-way line of said D.A.R.T. Railroad, to a 5/8" iron rod, found at the West corner of a tract of land designated as Parcel 8, in deed to St. Louis Southwestern Railway Company of Texas, recorded in Volume 59, Page 472, and Volume 763, Page 345, of the Deed Records of Tarrant County, Texas;

THENCE continuing along the Northwest boundary line of said 19.673 acre Tract, and the Southeast right-of-way line of said St. Louis Southwestern Railway Company of Texas, as follows:

1. N 89° 45' 58" E 111.40 feet, to a ½" iron rod marked "Brittain & Crawford" set;
2. N 63° 09' 58" E 406.80 feet, to a ½" iron rod marked "PRICE", found at the most Northerly Northeast corner of said 19.673 acre tract, same point being the West corner of aforesaid 1.501 acre tract,

THENCE along the North boundary line of said 1.501 acre tract, and continuing along the Southeast right-of-way line of said St. Louis Southwestern Railway, as follows:

1. N 63° 09' 58" E 327.34 feet, to a ½" iron rod marked "Brittain & Crawford" set;
2. N 77° 18' 58" E 143.90 feet, to a ½" iron rod marked "Brittain & Crawford" set;
3. N 89° 23' 42" E 32.24 feet, to a ½" iron rod marked "Brittain & Crawford" set, at the Northeast corner of said 1.501 acre tract, and the Northwest corner of Lot 5-R, Block 1-R, Diamond Heights Industrial Addition, an addition to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Cabinet B, Slide 2423, of the Plat Records of Tarrant County, Texas, from which a metal fence post bears S 87° E 1.25 feet;

THENCE S 00° 22' 45" E 114.93 feet, along the East boundary line of said 1.501 acre Tract and the West boundary line of said Lot 5-R, to a ½" iron rod marked "Brittain & Crawford" set;

THENCE continuing along the East boundary line of said 1.501 acre tract, as follows:

1. S 70° 11' 32" W 98.21 feet, to a ½" iron rod marked "Brittain & Crawford" set;
2. S 00° 21' 33" E 135.42 feet, to a broken concrete monument found, at the Southeast corner of said 1.501 acre tract, same point being the Northeast corner of aforesaid 19.673 acre tract;

THENCE S 00° 21' 33" E 610.81 feet, to a ½" iron rod marked "Brittain & Crawford" set at the Southeast corner of said 19.673 acre Tract, said point lying in the North right-of-way line of Long Avenue (a 110' wide public right-of-way);

THENCE along the South boundary line of said 19.673 acre tract, and the North right-of-way line of said Long Avenue, as follows:

1. SOUTHWESTERLY 690.38 feet, along a curve to the right, having a radius of 1945.34 feet, a central angle of 20° 20' 01", and a chord bearing of S 79° 18' 08" W 686.76 feet, to a ½" iron rod marked "PRICE", found at the end of said curve;
2. S 89° 29' 16" W 618.88 feet, to a 3/8" iron rod found at the Southwest corner of said 19.673 acre Tract, same point being the Southeast corner of the tract of land conveyed to Southwest Petroleum Corporation, by the deed recorded in Volume 2041, Page 446, of the Deed Records of Tarrant County, Texas;

THENCE N 00° 03' 23" W 440.08 feet, along the West boundary line of said 19.673 acre Tract, and the East boundary line of said Southwest Petroleum Corporation tract, to the POINT OF BEGINNING, containing 21.174 acres (922,327 square feet) of land.

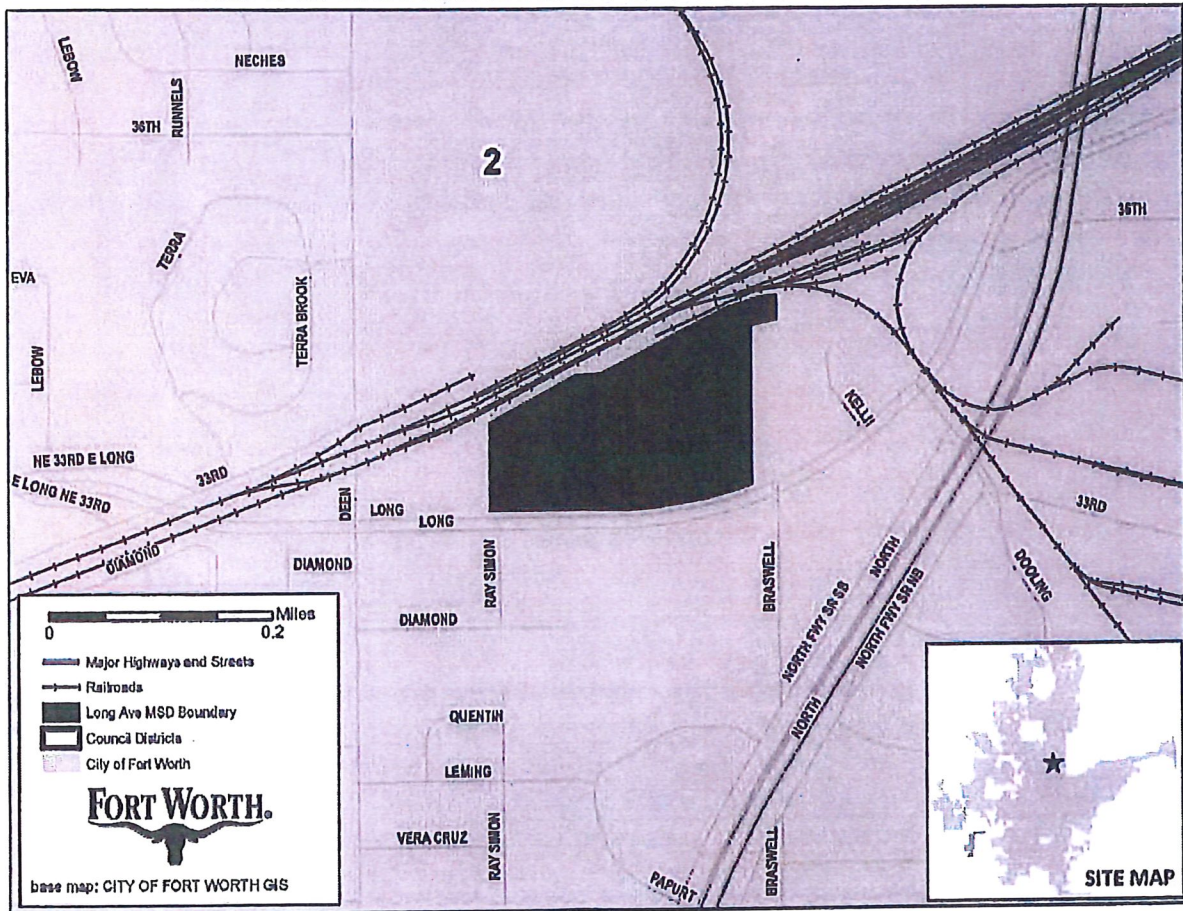


# Exhibit B

2417 Long Avenue

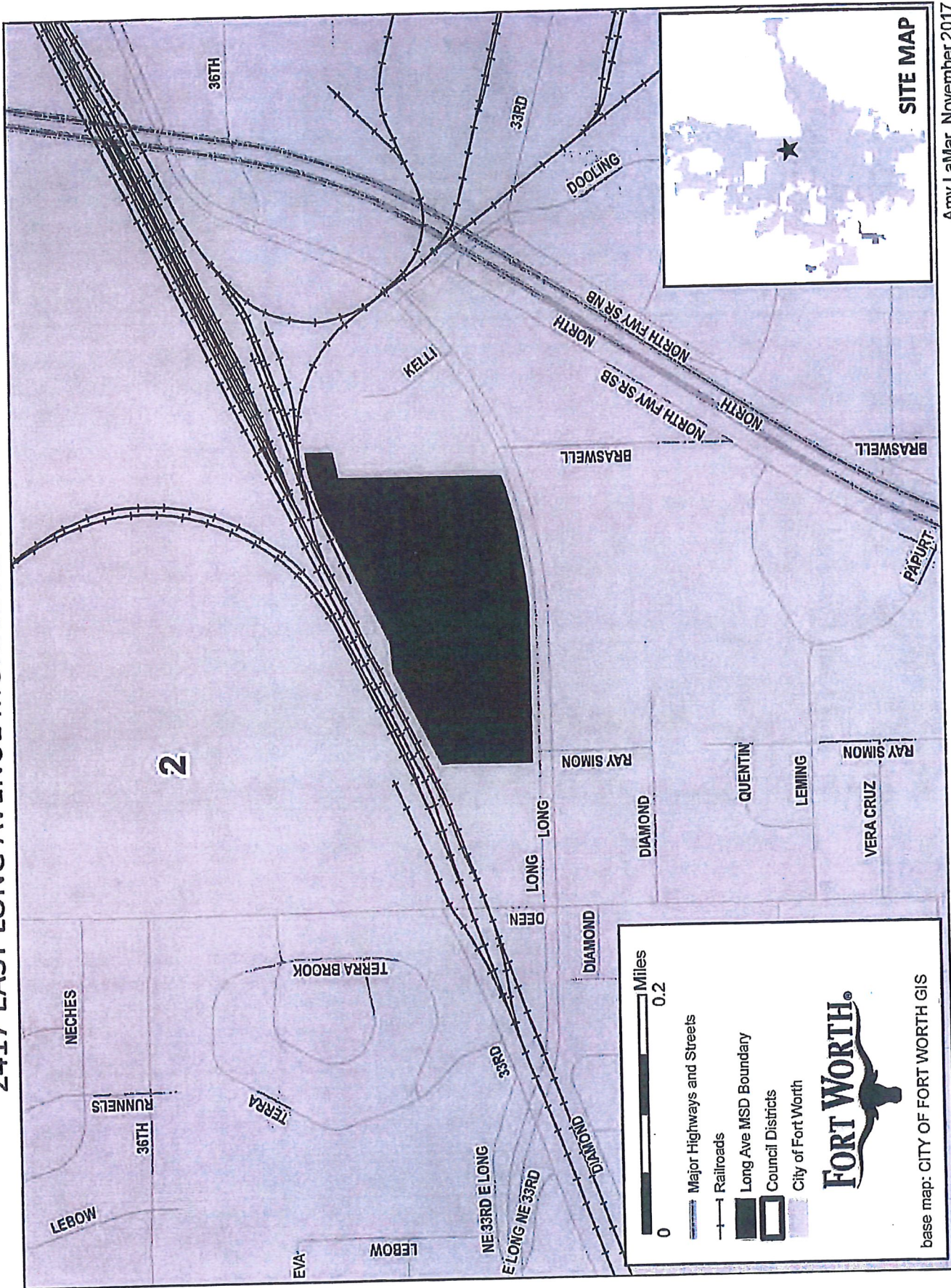
21.174 Acres Tract

## 2417 EAST LONG AVENUE MUNICIPAL SETTING DESIGNATION





# 2417 EAST LONG AVENUE MUNICIPAL SETTING DESIGNATION

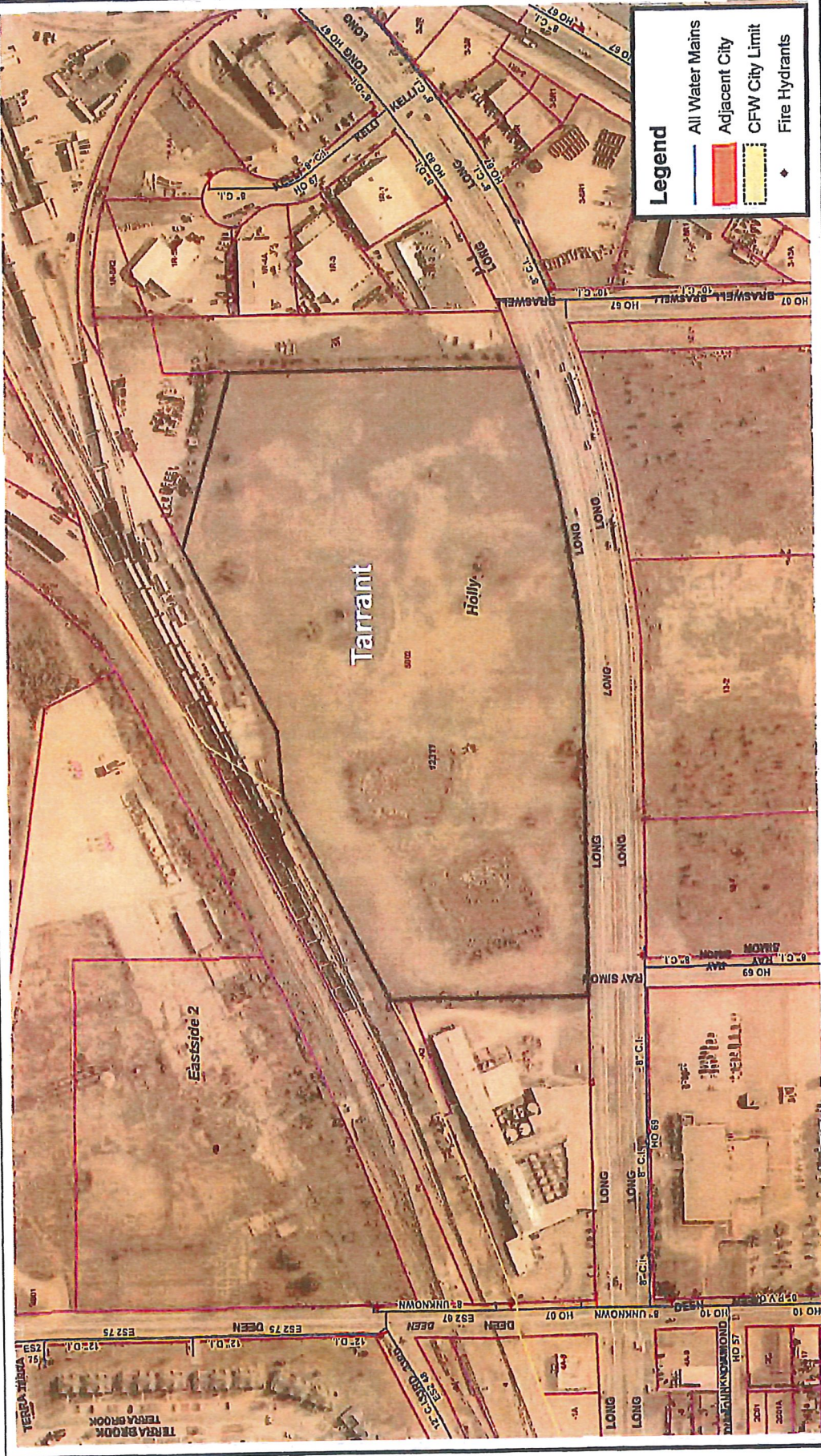


base map: CITY OF FORT WORTH GIS

Map Source: X:107\_ENVIRONMENTAL\GIS\MC\_Reports

Amy LaMar November 2017





**Legend**

- All Water Mains
- Adjacent City
- CFW City Limit
- ◆ Fire Hydrants



2417 E. Long Avenue

11/10/2017



**City of Fort Worth, Texas**  
**Mayor and Council Communication**

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**COUNCIL ACTION: Approved on 1/23/2018 - Ordinance No. 23086-01-2018 & Resolution No. 4897-01-2018**

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**DATE:** Tuesday, January 23, 2018

**REFERENCE NO.:** G-19210

**LOG NAME:** 23MSD 2417 E LONG AVE

**SUBJECT:**

Conduct Public Hearing, Adopt Resolution Supporting the Application of Fort Worth Transportation Authority, for a Municipal Setting Designation for the Property Located at 2417 E. Long Avenue, Fort Worth, Texas, to the Texas Commission on Environmental Quality and Adopt Ordinance Prohibiting the Potable Use of Designated Groundwater from Beneath the Site (COUNCIL DISTRICT 2)

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**RECOMMENDATION:**

It is recommended that the City Council:

1. Conduct a public hearing on the application of the Fort Worth Transportation Authority, for approval of a Municipal Setting Designation for the property located at 2417 East Long Avenue, a combined 21.174-acre tract, more fully described as Parcel 545A and Parcel 545C, Seburn Gilmore Survey, Abstract No. 590, Fort Worth, Tarrant County, Texas, to allow the public the opportunity to give testimony;
  2. Adopt the attached resolution supporting the Applicant'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 23, 2017, the Fort Worth Transportation Authority filed an application with the City seeking support of a Municipal Setting Designation (MSD) for a property located at 2417 E. Long Avenue, Fort Worth, Texas.

Staff from the Planning and Development, Transportation and Public Works, 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 Diamond Hill Community Center on December 14, 2017.

The groundwater that is sought to be restricted is shallow, perched, discontinuous groundwater that occurs at depths of approximately three to nine feet below the ground surface. The affected shallow groundwater is underlain by a confining layer, the Fort Worth Limestone, approximately 200 to 300 feet in thickness, that serves as a regional aquitard preventing the 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 tetrachloroethylene, which is likely the result of historic contamination resulting from operations at Archived Superfund Site – Stauffer Chemical Company (Stauffer, EPA ID – TXD008014417), which is north of the MSD location and upgradient for groundwater.

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 with 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 (MSD). The purpose of an MSD is to provide a means by which 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 27th within Fort Worth city limits.

Approval of this MSD application by the Texas Commission on Environmental Quality will support the advancement of the TEX Rail system by allowing necessary rights-of way to be obtained without unnecessary requirements placed on the developer to take actions to address historic contaminated groundwater. There are currently no land use plans for these areas beyond establishing rights-of-way.

The location is in COUNCIL DISTRICT 2.

This M&C does not request approval of a contract with a business entity.

**FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that this action will have no material effect on City funds.

**FUND IDENTIFIERS (FIDs):**

**TO**

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount

**FROM**

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount

**CERTIFICATIONS:**

**Originating Department Head:**

Fernando Costa (6122)

Brandon Bennett (6345)

**Additional Information Contact:**

Cody Whittenburg (5455)

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