

**ORDINANCE NO. 25553-06-2022**

**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-0030, PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES IN CFW-MSD-0030; 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, Sylvania Industrial Park, LLC (Applicant) has filed an application for support of a resolution seeking a Municipal Setting Designation (MSD) for the site known as Sylvania Industrial Park, located at 3201 North Sylvania, Fort Worth, Texas, 76111 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 June 14, 2022; 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-0030**

- (a) CFW-MSD-0030 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-00030 (Exhibit B).
- (b) The designated groundwater beneath CFW-MSD-0030 is a shallow, perched aquifer from depths of approximately fourteen (14) feet 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 and is underlain by confining limestone formations that serve as a regional aquitard that prevents the vertical migrations of the chemical of concern to underlying potable aquifers. The chemicals of concern identified in groundwater beneath the site exceeding applicable Tier 1 Texas Risk Reduction Program (TRRP) Residential Protection Concentration Levels (PCLs) are chlorinated solvents (tetrachloroethene, trichloroethene, cis-1,2-dichloroethene, trans-1-,2- dichloroethene, 1,1-dichloroethene), benzene and petroleum hydrocarbons.
- (c) The use of the designated groundwater in CFW-MSD-0030 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 Local Government Code section 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:**

**CITY SECRETARY:**

*Matthew Murray*

By: Matthew A. Murray  
Assistant City Attorney

*Jannette S. Goodall*

Jannette S. Goodall (Jun 17, 2022 11:05 CDT)

Jannette S. Goodall  
City secretary

ADOPTED: June 14, 2022

EFFECTIVE: June 23, 2022



## **Exhibit A**

### **SYLVANIA INDUSTRIAL PARK, 3201 NORTH SYLVANIA, FORT WORTH, TEXAS**

**BEING** approximately 70.686 acres of land located in the S. GILMORE SURVEY, Abstract No. 590, the JOHN C. McCOMMAS SURVEY NORTH, Abstract No. 1047, and the JOHN C. McCOMMAS SURVEY SOUTH, Abstract No. 1039, City of Fort Worth, Tarrant County, Texas.

Said 70.686 acres of land also being comprised of all of Lot 1, Block 1, American Manufacturing Company of Texas Plant Site, an addition to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-140, Page 61, of the Plat Records of Tarrant County, Texas, and all the tracts indicated as Plant Site, East Parking Lot Site, and lots West of Plant Site in the deed to PRR, Inc., a Texas corporation, recorded in Volume 11125, Page 2048, of the Deed Records of Tarrant County, Texas, and also including all of Lots 1 through 14, Block 7, Highcrest Addition, to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 1964, Page 209, of the Deed Records of Tarrant County, Texas, and all of Lots 8, 9, 10 and 11, Block 5, Diamond Heights Industrial Addition, to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-Y, Page 1, of the Deed Records of Tarrant County, Texas, and all of Lots 12-R, 13-R, 14-R, 15-R and 16-R, Block 5, Diamond Heights Industrial Addition, to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-99, Page 51, of the Deed Records of Tarrant County, Texas, and also incorporating a portion of the right-of-way area of Sylvania Avenue. Said 70.686 acres of land being more particularly described by metes and bounds as follows:

**BEGINNING** at a point at the Southwest corner of the aforesaid Lot 14, Block 7, Highcrest Addition;

**THENCE** N 00° 16' 23" W 832.38 feet, along the West boundary line of said Lots 1 through 14, Block 7, Highcrest Addition and the East right-of-way line of Crabtree Street (a 50 foot wide public right-of-way), to a point at the Northwest corner of said Lot 1, Block 7, Highcrest Addition;

**THENCE** N 89° 43' 34" E 5.00 feet, along the North boundary line of said Lot 1, to a point in the East right-of-way line of Crabtree Street (a 60 foot wide public right-of-way) and the Southwest corner of aforesaid Lot 16-R, Block 5, Diamond Heights Addition, to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-99, Page 51, of the Plat Records of Tarrant County, Texas,

**THENCE** along the Northeast right-of-way line of said Crabtree Street (a 60 foot wide public right-of-way) and the West boundary line of aforesaid Lots 12-R through 16-R, Block 5, Diamond Heights Industrial Addition, to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-99, Page 51, of the Plat Records of Tarrant County, Texas, as follows:

1. NORTHWESTERLY 213.26 feet, along a curve to the left, having a radius of 226.09 feet, and a chord bearing N 27° 06' 33" W 205.44 feet, to a point at the end of said curve;
2. N 54° 19' 33" W 51.11 feet, to a point at the beginning of a curve to the right;

3. NORTHWESTERLY 219.29 feet, along said curve to the right, having a radius of 724.35 feet, and a chord bearing N 45° 37' 22" W 218.45 feet, to a point at the end of said curve;

4. N 36° 59' 52" W 409.70 feet, continuing along the Southwest boundary line of said Block 5 and also the Southwest boundary line of aforesaid Lots 9, 10 and 11, of the aforesaid Diamond Heights Industrial Addition, to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-Y, Page 1, of the Plat Records of Tarrant County, Texas, to a point;

5. NORTHWESTERLY 131.24 feet, along the West boundary line of said Lots 8 and 9, Block 5, with a curve to the left, having a radius of 281.34 feet, and a chord bearing N 50° 22' 52" W 130.05 feet, to a point at the Southwest corner of said Lot 8;

**THENCE** along the Northwest boundary line of said Lot 8, Block 5, Diamond Heights Industrial Addition, as follows:

1. N 27° 52' 08" E 120.88 feet, to a point;

2. N 53° 00' 08" E 120.46 feet, to a point at the Northeast corner of said Lot 8, lying in the Southwest right-of-way line of the Fort Worth and Denver Railway Company Railroad;

**THENCE** N 36° 58' 22" W 594.67 feet, along the Southwest right-of-way line of said Fort Worth and Denver Railway Company Railroad and along the Northeast boundary line of Lots 2-R through 4-R, Diamond Heights Industrial Addition, to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-42, Page 40, of the Plat Records of Tarrant County, Texas, to a point in the South right-of-way line of 33rd Street (a 60 foot wide public right-of-way);

**THENCE** along the South right-of-way line of said 33rd Street, as follows:

1. S 76° 34' 03" E 140.87 feet, to a point at the Northwest corner of aforesaid Lot 1, Block 1, American Manufacturing Company of Texas Plant Site;

2. S 76° 34' 03" E 1,926.65 feet, along the North boundary line of said Lot 1, Block 1, American Manufacturing Company of Texas Plant Site, to a point;

3. S 13° 25' 58" W 5.30 feet, to a point;

4. S 76° 34' 02" E 93.97 feet, to a point;

5. S 41° 47' 06" E 27.13 feet, to a point at the most Easterly Northeast corner of said Lot 1;

**THENCE** S 61° 09' 25" E 146.50 feet, crossing the right-of-way area of said Sylvania Avenue, to a point in the East right-of-way line of said Sylvania Avenue, being the most Easterly Northwest corner of the aforesaid tract of land designated as Parking Lot Tract, in the deed to PRR, Inc., recorded in Volume 11125, Page 2048, of the Deed Records of Tarrant County, Texas;

**THENCE** S 58° 29' 13" E 501.23 feet, along the Northeast boundary line of said Parking Lot Tract, to a point at the beginning of a curve to the right;

**THENCE** SOUTHERLY 66.21 feet, along said curve to the right, having a radius of

36.49 feet, and a chord bearing S 06° 31' 59" E 57.49 feet, to a point at the end of said curve lying in the Southeast boundary line of said Parking Lot Tract;

**THENCE** S 45° 27' 54" W 590.88 feet, along the Southeast boundary line of said Parking Lot Tract, to a point at the most Easterly Southwest corner of said Parking Lot Tract;

**THENCE** S 31° 38' 23" W 250.68 feet, crossing the right-of-way line of aforesaid Sylvania Avenue again, to a point in the West right-of-way line of said Sylvania Avenue, lying at the Southeast corner of the 4.126 acre tract of land contained as a portion of the Plant Site Tract described in the deed to PRR, Inc., recorded in Volume 11125, Page 2048, of the Deed Records of Tarrant County, Texas, also lying in the Northwest right-of-way line of the Texas and Pacific Railroad Company right-of-way;

**THENCE** S 45° 27' 54" W 1,622.37 feet, along a line 50.0 feet Northwest of and parallel to the centerline of said Texas and Pacific Railroad Company railroad, to a point at the Southwest corner of said 4.126 acre tract lying in the East right-of-way line of the Fort Worth and Denver Railway Company right-of-way;

**THENCE** NORTHEASTERLY 354.02 feet, along the East right-of-way line of said Fort Worth and Denver Railway Company Railroad and the West boundary line of said 4.126 acre tract of land, with a curve to the left, having a radius of 1,418.39 feet, and a chord bearing N 24° 44' 55" E 353.10 feet, to a point at the South corner of aforesaid Lot 1, Block 1, American Manufacturing Company of Texas Plant Site;

**THENCE** NORTHEASTERLY 105.88 feet, continuing along the East right-of-way line of said Fort Worth and Denver Railway Company Railroad and the West boundary line of said Lot 1, Block 1, American Manufacturing Company of Texas Plant Site, with a curve to the left, having a radius of 1,418.39 feet, and a chord bearing N 15° 28' 20" E 105.85 feet, to a point;

**THENCE** S 89° 35' 35" W 306.40 feet, crossing said Fort Worth and Denver Railway Company Railroad right-of-way and running along the South boundary line of aforesaid Lot 14, Block 7, Highcrest Addition, to the POINT OF BEGINNING containing 70.686 acres of land.



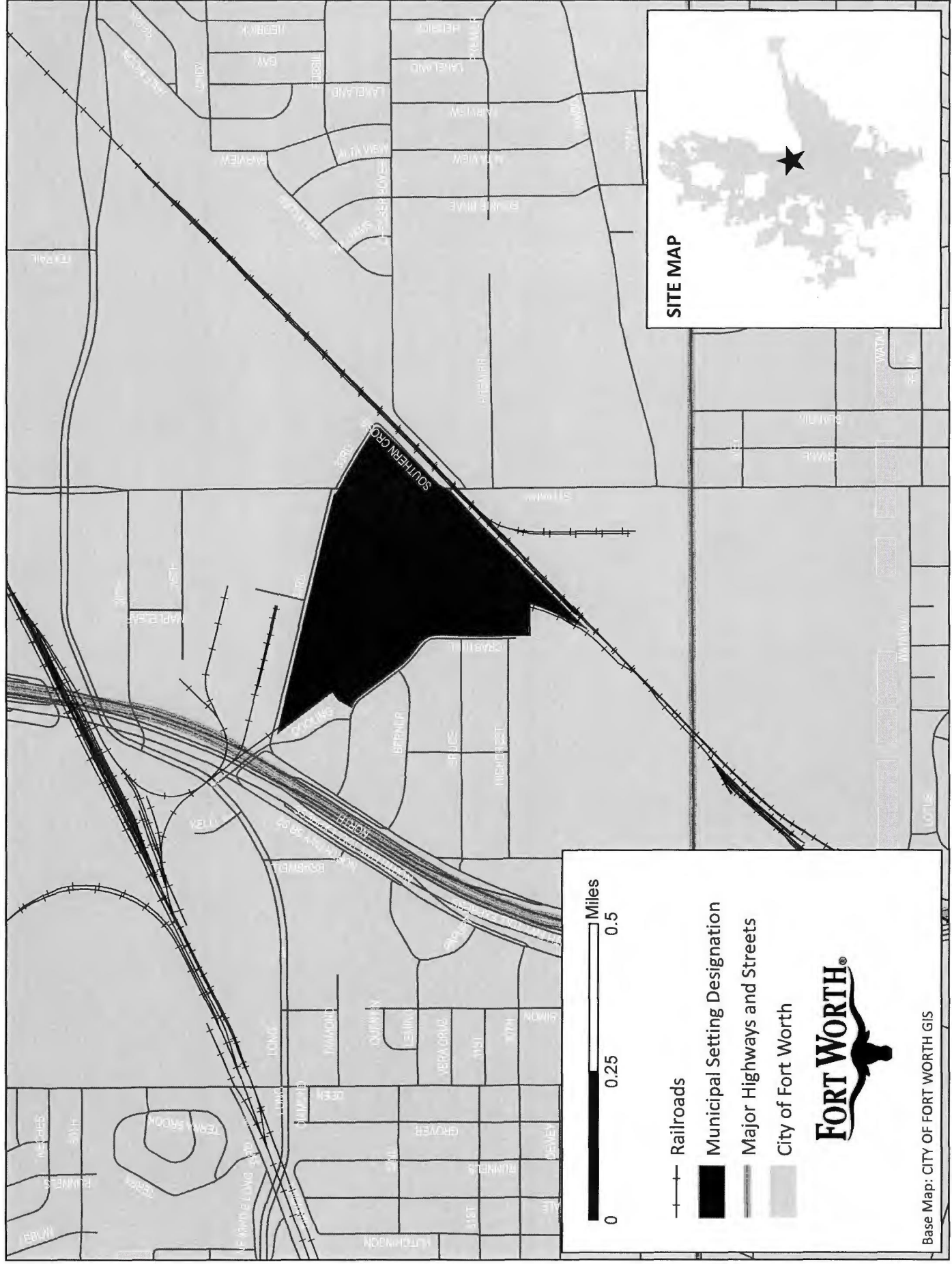
## Exhibit B

### 3201 North Sylvania - Sylvania Industrial Park, LLC MUNICIPAL SETTING DESIGNATION



Amy LaMar | April 2022 | Map Source: X:\07\_ENVIRONMENTAL\GIS\MC\_Reports

# 3201 North Sylvania - Sylvania Industrial Park, LLC MUNICIPAL SETTING DESIGNATION



# Mayor and Council Communication

DATE: 06/14/22

M&C FILE NUMBER: M&C 22-0420

LOG NAME: 23 MSD #30 SYLVANIA INDUSTRIAL PARK

## SUBJECT

(CD 2) Conduct Public Hearing and Adopt Resolution Supporting the Application of Sylvania Industrial Park, LLC for a Municipal Setting Designation for the Property Located at 3201 North Sylvania 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 Pursuant to Chapter 12.5, Article IV, Division 2 "Municipal Setting Designation"

(PUBLIC HEARING - a. Report of City Staff: Hayley Mann; 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 Sylvania Industrial Park, LLC for approval of a Municipal Setting Designation for the property located at 3201 North Sylvania Avenue, an approximately 70.686-acre tract of land located in the S. Gilmore Survey, Abstract No. 590, the John C. McCommas Survey North, Abstract No. 1047, and the John C. McCommas Survey South, Abstract No. 1039, City of Fort Worth, Tarrant County, Texas and also incorporating a portion of the right-of-way of North Sylvania Avenue;
2. Adopt the attached resolution supporting Sylvania Industrial Park, LLC '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 April 11, 2022, Sylvania Industrial Park, LLC filed an application with the City seeking support of a Municipal Setting Designation (MSD) for property located 3201 North Sylvania Avenue, Fort Worth, Texas 76111.

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 Riverside Community Center on Thursday, May 26, 2022.

The groundwater that is sought to be restricted is shallow, perched, discontinuous groundwater that occurs at depths of approximately five (5) to nineteen (19) 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 chlorinated solvents (tetrachloroethene, trichloroethene, cis-1,2-dichloroethene, trans-1,2-dichloroethene, 1,1-dichloroethene), benzene and petroleum hydrocarbons. The chlorinated solvents 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 30<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.

The location is in COUNCIL DISTRICT 2.

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  
Cody Whittenburg 5455