



Legislation Text

File #: ORD-3456, Version: 1

Conduct a public hearing and consider adopting Ordinance No. 3456 Prohibiting the Use of and Contact with Designated Groundwater Beneath 59.49± Acres of Land Generally Located at 1880 Valley View Lane to Facilitate Certification of a Municipal Setting Designation by the Texas Commission On Environmental Quality; and take appropriate action.

BACKGROUND:

Municipal Settings Designation (MSD) is regulated by the Texas Commission on Environmental Quality (TCEQ). MSDs can be used when groundwater at a potential development location within a city has contaminants. Groundwater is defined as water present below ground surface. TCEQ receives, processes, and certifies MSD applications. TCEQ can only certify an application if there is local city support. City Council has the option to support or not support an MSD application. In 2016 City Council approved Ordinance 3416 stipulating the application and review process for Municipal Settings Designations in Farmers Branch.

An MSD is an official designation given to property within a municipality that certifies that the designated groundwater at the property is not used as a potable water, and is prohibited from future use as potable water because that groundwater is contaminated in excess of the applicable potable water protective concentrations. Potable water is defined as water that is used for drinking, showering, bathing, cooking purposes, or for irrigating crops intended for human consumption. Potable water protective concentrations are the maximum concentrations of a contaminant in groundwater that is protective of human health. These concentrations are specific to each contaminant. The prohibition is in the form of a city ordinance or a restrictive covenant that is enforceable by the city and filed in the property records. The MSD property can be a single property, multi-property, or a portion of property.

Because the groundwater underlying the designated property(ies) will be prohibited for use as potable water if an MSD application is certified, there must be an alternative source potable water for the properties. This is provided by the City of Farmers Branch via its water distribution system.

DISCUSSION:

CADG Mercer Crossing Holdings, LLC submitted an application to the City seeking a resolution of support from City Council for the MSD application to the Texas Commission on Environmental Quality (TCEQ). This is the second MSD application the City has received since the approval of the MSD Ordinance.

The “Designated Property” for which this Municipal Setting Designation (“MSD”) Application has been completed is 59.49 and consists of three tracts of land located at 1880 Valley View Lane (West Tract), 1880 Valley View Lane (East Tract), and 1800 Lakeway Boulevard, Farmers Branch, Dallas County, Texas 75234. The Designated Property is located between Valley View Lane and Wittington Place and between Hutton Drive and Chartwell Crest. The Designated Property is currently undeveloped vacant land. The 1880 Valley View Lane (West Tract) is currently owned by Edina Park Plaza Associates, LP. The 1880 Valley View Lane - East Tract is currently owned by ART GNB, Inc. The 1800 Lakeway Boulevard tract is currently owned by CADG Mercer Crossing Holdings, LLC. CADG Mercer Crossing is a perspective purchaser and is the MSD Applicant.

Current adjacent properties are commercial interests consisting of office buildings and undeveloped property. Original use of the area began in the early 1940's as gravel pits until at least 1979. Commercial developments in the area began between 1958 and 1968 with the site development first noted in 1968 aerial photographs.

The Designated Property and surrounding properties are zoned Planned Development. Anticipated future use of the Site is residential development.

The affected property ("Site") is located within the MSD Designated Property at 1880 Valley View Lane (West Tract). The Site is approximately 34.00 acres and is currently undeveloped.

The Site was originally developed between 1958 and 1963 as a commercial building. The Site was used for the manufacturing and packaging of pickled food products from 1963 to 1971. The site was then used for the manufacture of lead automotive batteries from approximately 1971 until 2001. The property was vacated by September 2002 with all Site structures demolished by 2010.

The only identified environmental conditions at the MSD Designated Property occur on the Site (1880 Valley View Lane - West Tract). The Site's groundwater is impacted by the heavy metals arsenic and cadmium and the chlorinated solvent "vinyl chloride". This groundwater impact at the Site exceeds TCEQ Texas Risk Reduction ("TRRP") Tier 1 Residential Assessment Levels (RALs) for the chemicals of concern ("COCs"). Currently, Arsenic is the only COCs that exceed the groundwater ingestion PCL. Cadmium and vinyl chloride have not exceeded the groundwater ingestion PCL for past 3 quarterly sampling events. Other chemicals historically detected in the groundwater are cis-1,2-dichloroethene (cis-DCE), trans-1,2-dichloroethene (trans-DCE), 1,2,3-trichlorobenzene, barium, chromium, mercury, and selenium. These chemicals were detected in groundwater at concentrations below the groundwater PCL. Detections for the heavy metal "barium" appear to be consistent with natural background levels. No other contaminants were detected in the groundwater above the various method detection limits. The source of the release appears to be from activities associated with the manufacture of lead automotive batteries from approximately 1971 to 2001.

By prohibiting the use of contaminated groundwater as potable water, the applicant potentially has a less expensive and faster alternative to existing state environmental regulations governing the investigation and cleanup of contaminated groundwater. Based on a review of groundwater well installations by the applicant and consultant, there are no known wells that would be affected by the identified contamination. In addition, the consultant attests based their review and information available, that the concentrations of contaminants found in the groundwater identified in their investigation beyond the boundary established in the MSD application more than likely does not exceed non-ingestion protective concentration levels. They also certify they met requirements of the City ordinance, including fully delineating the contamination plume. Because the City provides potable water to all residents via the City water distribution system, there is no need to allow access to the underlying groundwater at this location(s).

RECOMMENDATION:

City Administration recommends adopting Ordinance No. 3456 Prohibiting the Use of and Contact with Designated Groundwater Beneath 59.49± Acres of Land Generally Located at 1880 Valley View Lane to Facilitate Certification of a Municipal Setting Designation by the Texas Commission On Environmental Quality.

POSSIBLE COUNCIL ACTION:

1. Motion to close public hearing and adopt Ordinance No. 3456 as presented.
2. Motion to close public hearing and adopt Ordinance No. 3456 with modifications.
3. Motion to table Ordinance 3456.

ATTACHMENTS:

1. Farmers Branch MSD Application - 1880 Valley View Lane
2. 1880 Valley View Lane Survey Map
3. Ordinance 3456