ORDINANCE NO. 2011-74

AN ORDINANCE DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN THE CITY OF SAN MARCOS BOUNDED BY CONCHO STREET, MOORE STREET, NORTH STREET, COMANCHE STREET, SHADY LANE, FREDERICKSBURG STREET, HULL STREET, GUADALUPE STREET, IH-35, MCKIE STREET, LBJ DRIVE AND CM ALLEN STREET (APPROXIMATELY 244 ACRES) AS A REINVESTMENT ZONE FOR TAX INCREMENT FINANCING PURPOSES PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; CREATING A BOARD OF DIRECTORS FOR SUCH ZONE; CONTAINING FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECT; AND PROVIDING A SEVERABILITY CLAUSE.

* * * * * * *

WHEREAS, the City Council of the City has determined that the designation of a reinvestment zone by the City, as authorized by the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, Vernon's Texas Codes Annotated (the "Act") within the area of the City as described in Exhibit "A" attached hereto, is in the best interest of the City in accordance with Article VIII, Section 1-g of the Texas Constitution as the area is predominantly open and underdeveloped and substantially impairs the sound growth of the City; and

WHEREAS, the City has prepared a preliminary reinvestment zone project and financing plan, a true and correct copy of which is on file with the City Clerk, which plan provides that a portion of City ad valorem taxes constituting its tax increment, within the "City of San Marcos, Texas Tax Increment Reinvestment Zone No. 5" (the "Zone No. 5") within the area set forth in Exhibit "A", are to be deposited into the hereinafter created tax increment fund, and that taxes of other taxing units may be utilized in the financing of the proposed Zone No. 5; and

WHEREAS, a notice of the December 6, 2011 public hearing on the designation of the proposed Zone No. 5 was published on November 20, 2011 and November 27, 2011, in the *San Marcos Daily Record*, a newspaper of general circulation in the City.

WHEREAS, at the public hearing on December 6, 2011, interested persons were allowed to speak for or against the designation of the proposed Zone No. 5, its boundaries, or the concept of tax increment financing and owners of property in the proposed Zone No. 5 were given a reasonable opportunity to protest the inclusion of their property in the proposed Zone No. 5; and

WHEREAS, evidence was received and presented at the public hearing in favor of the designation of the proposed Zone No. 5 and its boundaries under the provisions of Chapter 311, Texas Tax Code; and

WHEREAS, less than 30 percent (30%) of the property in proposed Zone No. 5 is currently used for residential purposes, as that term is defined in Section 311.006(d) of the Texas Tax Code; and

WHEREAS, the City has provided all information, given all notices and done all other things required by Chapter 311, Texas Tax Code, or other law as a condition to the designation of the proposed Zone No. 5; and

WHEREAS, the total appraised value of taxable real property in the proposed Zone No. 5 does not exceed 50 percent (50%) of the total appraised value of taxable real property in the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

Section 1. **Findings.** a) The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.

b) The City Council further finds and declares that the proposed improvements in Zone No. 5 will significantly enhance the value of all the taxable real property in the proposed Zone No. 5 and will be of general benefit to the City.

c) The City Council further finds and declares that the proposed Zone No. 5 meets the criteria and requirements of Section 311.005(a)(1), (a)(2) and (a-1) of the Texas Tax Code.

d) The City Council, pursuant to the requirements of Chapter 311, Texas Tax Code, further finds and declares:

(1) The proposed Zone No. 5 is a contiguous geographic area located wholly within the corporate limits of the City of San Marcos;

(2) The total appraised value of taxable real property in the proposed Zone No. 5, does not exceed 50 percent (50%) of the total appraised value of taxable real property in the City and in the industrial districts created by the City;

(3) The proposed Zone No. 5 does not contain more than 50 percent (50%) of the total appraised value of real property taxable by Hays County;

(4) The development or redevelopment of the property in the proposed Zone No. 5 will not occur solely through private investment in the reasonably foreseeable future;

(5) Less than 30 percent (30%) of the property in the proposed Zone No. 5 is used for residential purposes within the meaning of Section 311.006(d), Texas Tax Code; and

(6) The improvements proposed to be implemented in the proposed reinvestment Zone No. 5 will significantly enhance the value of all taxable real property in the proposed reinvestment Zone No. 5 and will be of general benefit to the City and the County.

Section 2. Designation of Zone No. 5. The City, acting under the provisions of Chapter 311, Texas Tax Code, including Section 311.005(a)(1), (a)(2), and (a-1) does hereby designate as a reinvestment zone, and create and designate a reinvestment zone over, the area described in Exhibit "A". The reinvestment zone shall hereafter be named for identification as City of San Marcos, Texas Tax Increment Reinvestment Zone No. 5.

Section 3. Board of Directors. That there is hereby created a Board of Directors for Zone No. 5, which shall consist of five (5) members. The City Council shall appoint directors to Positions One and Two and Hays County shall be entitled to appoint a director to Positions Three and Four if Hays County approves the payment of all or part of the tax increment attributable to Hays County. Position Five shall be appointed by mutual agreement and approval of the governing bodies of the City and County.

The directors appointed to Positions One, Three and Five shall be appointed for two year terms, beginning on January 1, 2012, while the directors appointed to Positions Two and Four shall be appointed to one year terms beginning on the effective date of Zone No. 5. All subsequent appointments shall be for two-year terms. The member of the Board of Directors appointed to Position One is hereby designated to serve as chair for the period beginning January 1, 2012 and ending December 31, 2014. Thereafter the City Council shall annually nominate and appoint a member to serve as chair for a term of one year beginning January 1 of the following year. The City Council authorizes the Board of Directors to elect from its members a vice chair and such other officers as the Board of Directors determines.

Section 4. Economic Development. The City Council hereby finds that the designation of Zone No. 5 and the expenditure of moneys on deposit in the Tax Increment Fund are necessary or convenient to the designation of Zone No. 5 or to the implementation of the project plan for Zone No. 5, including payments pursuant to one or more agreements between the City and a Developer of the Hays County Justice Center Building site and as such, constitutes a program to promote local economic development and to stimulate business and commercial activity in the City.

Section 5. Severability. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person to set circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or regulations connected herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

Section 6. Open Meetings. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding its meeting, as required by the Open Meetings Law, Texas Government Code, Ch. 551, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of San Marcos at a regular meeting on the 6th day of December, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. seq. of the Texas Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of San Marcos at a special meeting on the 14th day of December, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. seq. of the Texas Government Code.

APPROVED this 14th day of December, 2011.

Daniel Guerrero, Mayor

ATTEST:

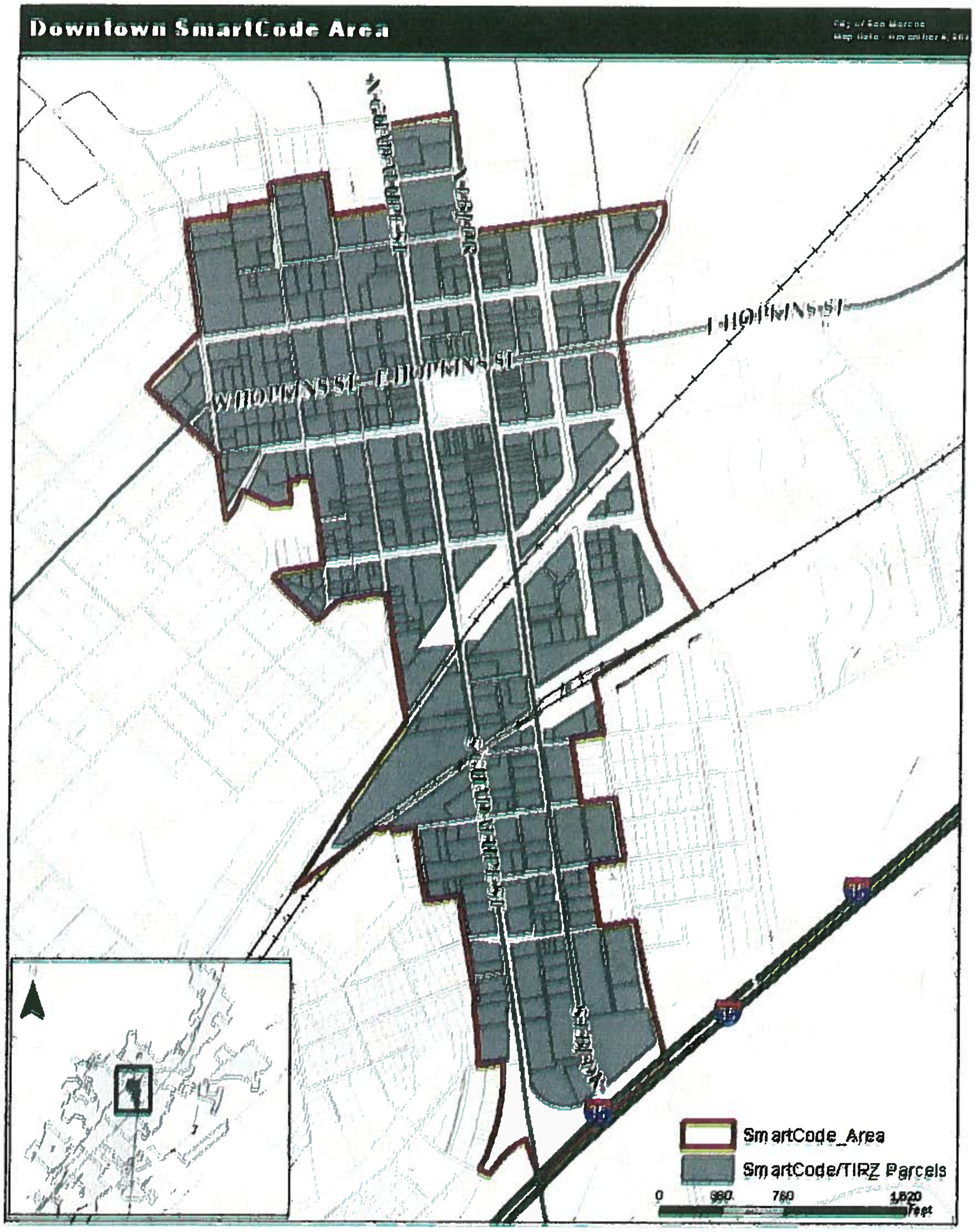
Jamie Lee Pettijohn, City Clerk

APPROVED:

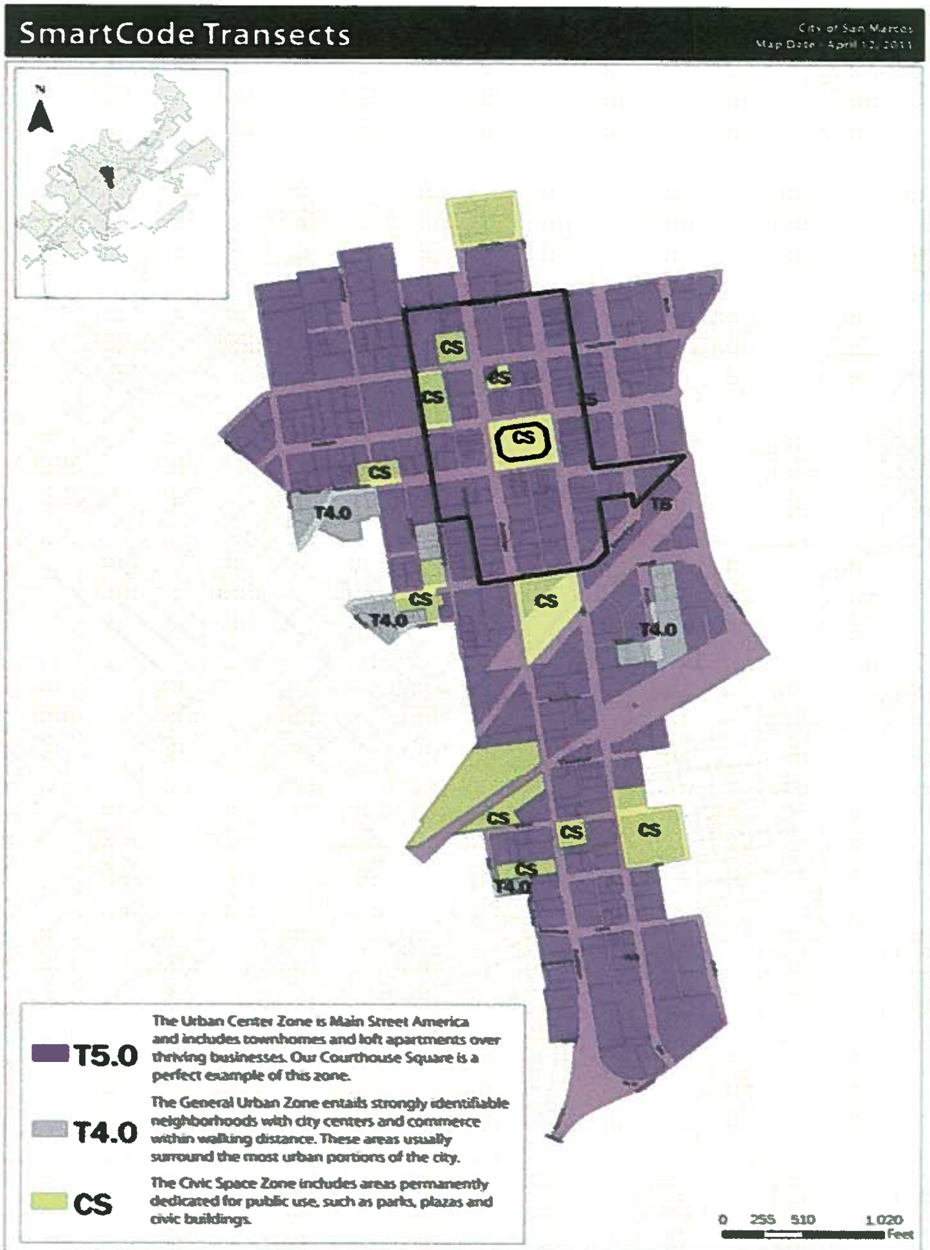
Michael J. Cosentino, City Attorney

EXHIBIT A

THE AREA OF LAND BOUNDED BY CONCHO STREET, MOORE STREET, NORTH STREET, COMANCHE STREET, SHADY LANE, FREDERICKSBURG STREET, HULL STREET, GUADALUPE STREET, IH-35, MCKIE STREET, LBJ DRIVE AND CM ALLEN STREET, APPROXIMATELY 244 ACRES



Map of Project Boundaries



Preliminary Project Plan and

Reinvestment Zone Financing Plan

For

City of San Marcos, Texas

Tax Increment Reinvestment Zone No. 5

November 15, 2011

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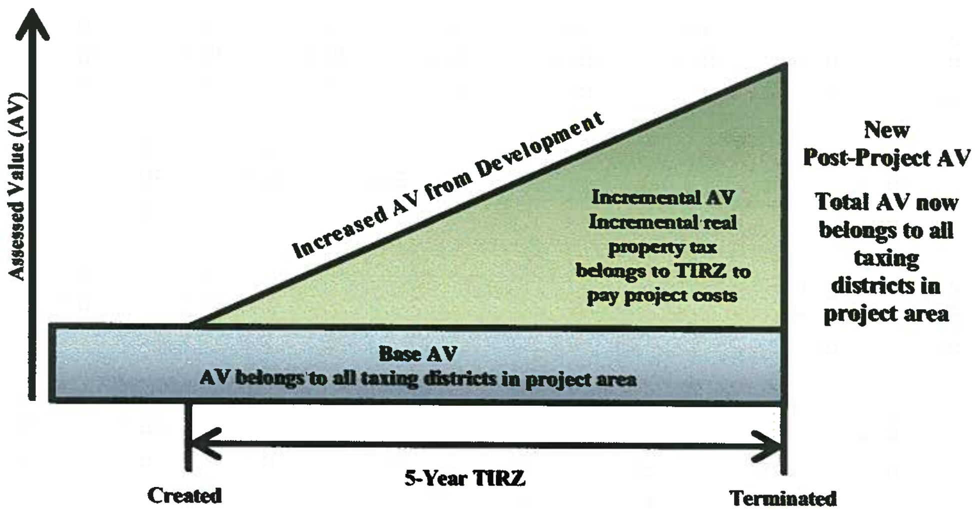


The TIRZ Concept Generally

A tax increment reinvestment zone ("TIRZ") is a financing tool created by the State Legislature to assist cities and counties in developing or redeveloping unproductive, underdeveloped or blighted areas.

Cities may create a TIRZ where conditions exist that substantially impair an area's sound growth and where development or enhancements financed by the TIRZ significantly enhance the value of all the taxable real property in a TIRZ and of general benefit to the city or county.

Prior to creation, the statute requires preparation of a preliminary project plan and reinvestment zone financing plan outlining specific projects to address the existing conditions and the method and means to finance those projects.

Upon creation, the total appraised value of real property located in a TIRZ is established for the year in which it was created. This is known as the base value. As new development occurs in a TIRZ, the value of real property increases.

This additional value above the base value is known as the tax increment. Such tax increment is typically set aside to finance improvements within a TIRZ including public infrastructure. Once all projects are complete or after a defined period of time, a TIRZ is dissolved.

During the life of a TIRZ, a city and other participating taxing jurisdictions collect tax revenue on the base value of a TIRZ as well as sales and use tax revenue generated by new development (unless a city or county agrees that sales tax and use revenue are also part of the increment). When a TIRZ is dissolved, a city and other participating taxing jurisdictions collect tax revenue on the tax increment value created by new development as well.

Executive Summary

The proposed City of San Marcos, Texas (the "City") Tax Increment Reinvestment Zone No. 5 ("Zone No. 5") consists of approximately 244 acres in the downtown core. The Downtown Master Plan, adopted in 2008, identified a number of challenges facing this area. The City has addressed one challenge, zoning standards that are inconsistent and contrary to creating a downtown environment, with the adoption of the San Marcos SmartCode (the "SmartCode") in 2011, putting in place a zoning that is predictable and focused on preserving downtown character while enabling pedestrian-oriented mixed-use development. Some of the other downtown challenges remain: a shortage of Class A office space, the upcoming relocation of three county facilities including the Hays County Justice Center (the "Justice Center"), financing a future commuter rail stop, and the condition of the streetscape in parts of downtown.

One of the financial tools identified in the plan to help address these challenges is the creation of a tax increment reinvestment zone. Under this proposed plan, the City and Hays County (the "County") would participate equally in a five-year tax increment reinvestment zone projected to generate approximately $331,019 over the life of the proposed Zone No. 5. It is currently proposed that Zone No. 5 increment revenues will be allocated for redevelopment of the Hays County "Justice Center" Property as part of a public-private partnership as allowed by Section 311.010(h) of the Texas Tax Code.

In order to be eligible for Zone No. 5 tax increment revenues for the "Justice Center" Property, projects shall facilitate the following:

1. Jobs that are sustainable and provide economic benefit to the San Marcos community
2. Development that supports the commercialization of technology and research
3. Development that maximizes potential under the SmartCode
4. Walkable mixed use development that provides opportunities for professional office and urban residential as well as civic institutional components
5. Infrastructure improvements that facilitate place-centric contexts and/or place-based linkages to the future rail station and/or to the Square
6. Development that leverages and supports additional adjacent development in terms of design under the SmartCode, pedestrian contexts and market potential

Because of the site's location on three frontages in the geographic center of the downtown area, streetscape improvements will be part of any development. However, the true value of this approach is that it powerfully leverages tax increment revenues for economic development beyond streetscape or maintenance improvements on a given block. The potential increase in tax base can help in supporting possible future passenger rail through primary job creation along with associated secondary and tertiary jobs. This approach also will encourage the engagement of higher education and other potential research partners through the focus on technology and research, ultimately ensuring that the site will be developed to its highest and best use.

If the disposition of the "Justice Center" Property is not facilitated within the terms of Zone No. 5 or will not result in the policy outcomes delineated above, alternative projects will be delineated for the use of Zone No. 5 tax increment revenues.

Location

As proposed, Zone No. 5 extends from Texas State University to the North, to IH-35 to the South, CM Allen and McKie on the East and several blocks to the West.

All of the land within proposed Zone No. 5 is part of the Downtown SmartCode District and currently includes a number of different types of uses including commercial, retail, restaurants and offices within the boundaries.

As provided in the April 1, 2010 economic analysis prepared for the City by Urban Advisors for the Downtown Master Plan, the City's goal is to encourage a mix of new uses to accommodate additional housing, office space, retail and parking facilities. Designation of Zone No. 5 assists the City in implementing the Downtown Master Plan and the SmartCode.

Table 1 - Proposed Project Costs

ITEM	PROJECT	ESTIMATED ZONE NO. 5 PROJECT COSTS
1	Construction and Redevelopment of Hays County Justice Center site/building*	$ 331,019
	TOTAL ESTIMATED PROJECT COSTS:	$ 331,019

*Tax increment revenues may be used to directly pay certain Justice Center site improvements or used to reimburse a developer pursuant to a public-private partnership.

Project Overview and Project Costs

This Table 1 summarizes the currently anticipated Project Costs to be financed within Zone No. 5.

1. **Redevelopment of Hays County "Justice Center" Property**

If Hays County issues a request for qualifications, request for proposals or other similar vehicles in order to secure a public-private partnership approach or other disposition for the redevelopment or adaptive reuse of the "Justice Center" property, then tax increment revenues of the proposed Zone No. 5 shall be made available for infrastructure or other improvements allowed by law or for reimbursement of expenditures in infrastructure or other improvements by the successful entity or consortium in connection with the disposition of the "Justice Center" Property. Reimbursements shall be based on project investments that meet the priority policies delineated in the Executive Summary in coordination with Hays County.

2. **Infrastructure supporting cohesive redevelopment**

If Hays County does not dispose of the "Justice Center" through the process described above, proposed Zone No. 5 tax increment revenues shall be made available to facilitate investment in infrastructure or other improvements allowed by law that facilitate the following potential projects. These projects are also subject to the six priority points outlined in the "Executive Summary". This Project and Finance Plan will be amended as may be required by law to accommodate additional uses of the tax increment revenues within Zone No. 5:

a. Redevelopment projects adjacent to the Texas State Campus, providing improved usage of underutilized properties and better transitions between the campus and downtown. Such projects shall ideally facilitate the creation of primary jobs within a mix of residential, office and retail uses.

b. Redevelopment adjacent to Transit Oriented Development (TOD) associated with the area identified as potential future rail station by the Lone Star Rail District. This area is bounded by CM Allen Street, E. San Antonio Street, S. Edward Gary Street and the railroad tracks and is located approximately two blocks from the Courthouse square.

c. Redevelopment or other projects that provide cohesive and sustainable development advancing the Downtown Master Plan and/or that improves linkages among the River, the future TOD/rail station area, the Square and the Texas State Campus. Such projects may include improved sidewalks, signage, bicycle racks, and other elements facilitating multiple modes of transportation.

d. Projects that advance the aims of the Downtown Master Plan to provide a "Chain of Ponds" to help slow and purify stormwater runoff before it reaches the River, to improve pedestrian and bicycle linkages.

TEXAS TAX CODE
SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS
CHAPTER 311. TAX INCREMENT FINANCING ACT
Sec. 311.011. PROJECT AND FINANCING PLANS

(a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality or county that designated the zone.

(b) The project plan must include:

(1) a description and map showing existing uses and conditions of real property in the zone and a map showing proposed uses of that property;
(2) proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable;
(3) a list of estimated non-project costs; and
(4) a statement of a method of relocating persons to be displaced, if any, as a result of implementing the plan.

(c) The reinvestment zone financing plan must include:

(1) a detailed list describing the estimated project costs of the zone, including administrative expenses;
(2) a statement listing the proposed kind, number, and location of all proposed public works or public improvements to be financed by the zone;
(3) a finding that the plan is economically feasible and an economic feasibility study;
(4) the estimated amount of bonded indebtedness to be incurred;
(5) the estimated time when related costs or monetary obligations are to be incurred;
(6) a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit anticipated to contribute tax increment to the zone that levies taxes on real property in the zone;
(7) the current total appraised value of taxable real property in the zone;
(8) the estimated captured appraised value of the zone during each year of its existence; and
(9) the duration of the zone.

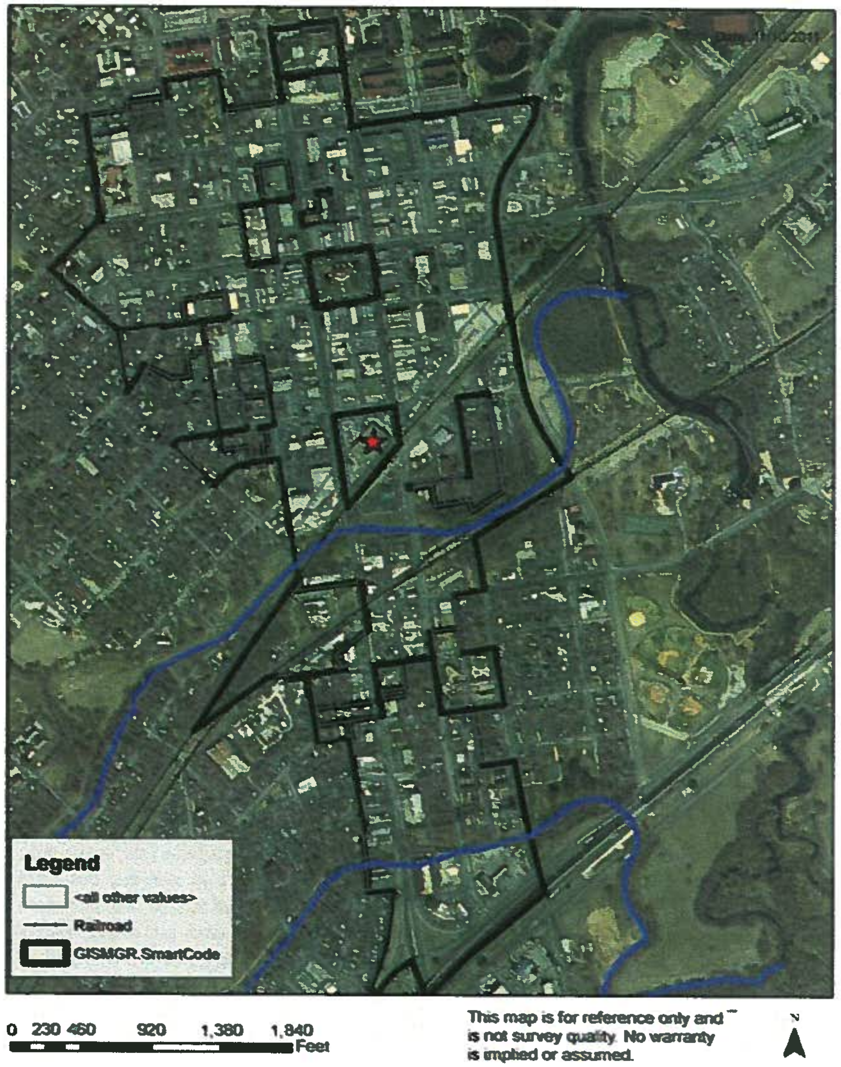
Project and Finance Plan

The purpose of Zone No. 5 is to pay or reimburse a developer of the Hays County Justice Center for costs associated with the construction and redevelopment by the developer of the Justice Center site/building.

Expenditures associated with the design and construction of Zone No. 5 Projects, as well as other specific project-related costs, will be funded by tax increment revenues derived from increases in property values resulting from the new development in Zone No. 5.

If Hays County does not dispose of the Justice Center through the process described above, the City will amend this Project and Finance Plan as may be necessary in accordance with law to accommodate the other redevelopment goals and projects outlined under "Project Overview and Project Costs."

MAP SHOWING EXISTING USES AND CONDITIONS OF REAL PROPERTY IN BOUNDARIES OF ZONE NO. 5



Existing Uses

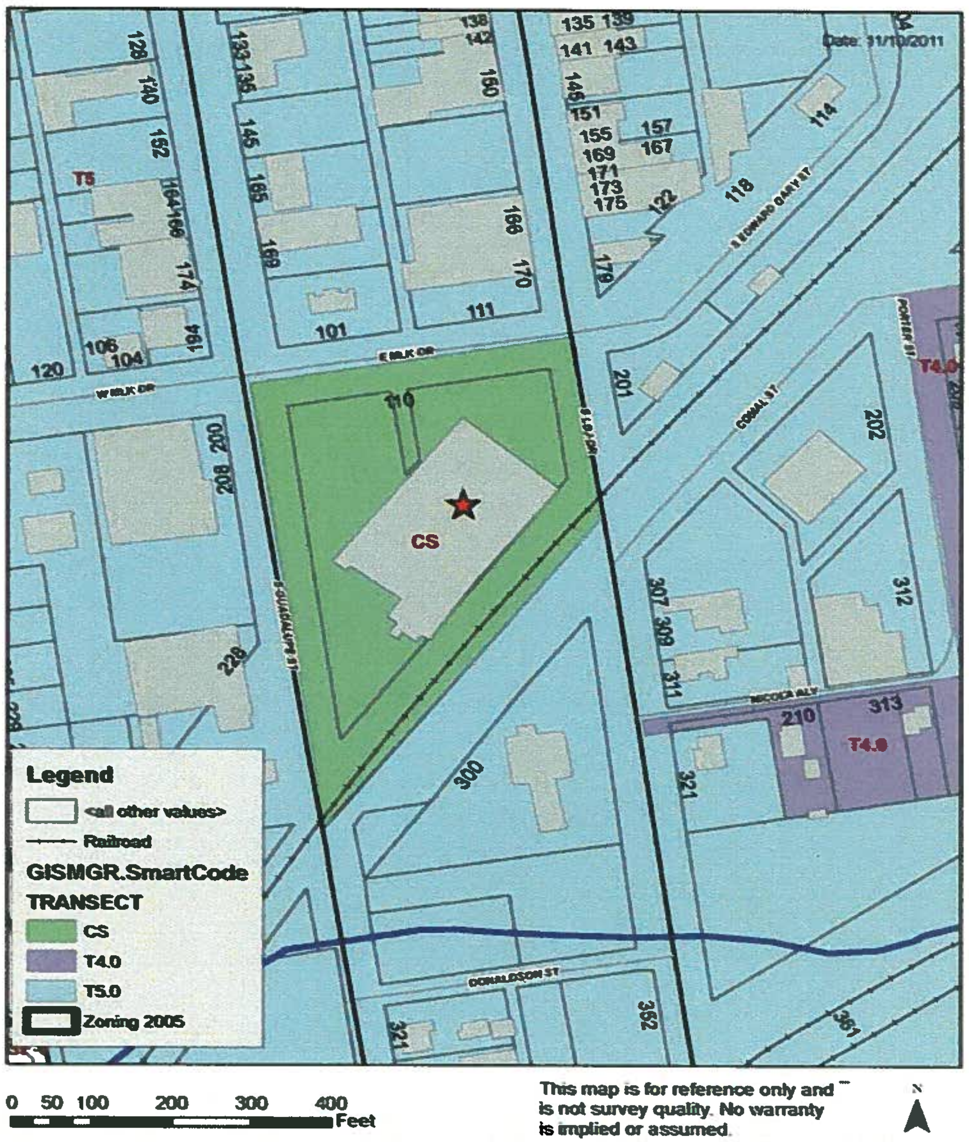
1. Map showing existing uses and conditions of real property in Zone No. 5

Zone No. 5 consists of approximately 244 acres of commercial, retail, restaurants and office uses within the City's previously designated Downtown SmartCode District.

Development and redevelopment of the property within Zone No. 5's boundaries is necessary because the area is undeveloped or underdeveloped and because of obsolete platting, deterioration of structures or site improvements, or other factors, arrests the sound growth of the City's downtown.

The map on this page illustrates the current condition of the land.

Proposed Uses



Proposed Projects

1. Map showing proposed improvements to and proposed uses of that property

Improvements proposed for Zone No. 5 are primarily related to the construction and redevelopment of the Hays County Justice Center.

Changes to Municipal Ordinances

1. Proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable;

The City does not expect any changes to zoning ordinances, the master plan, building codes or other ordinances as a result of the designation of Zone No. 5.

Estimated Non-Zone No. 5 Projects

2. A list of estimated Non-Zone No. 5 Projects

The City expects to continue developing projects included in its capital improvement plan ("CIP") that benefit areas within Zone No. 5 from CIP funds.

Method of Relocation

3. A statement of a method of relocating persons to be displaced as a result of implementing the plan.

Designation of Zone No. 5 is not anticipated to cause relocation of any residents.

List of Estimated Zone No. 5 Project Costs

1. A detailed list describing the estimated Project Costs of Zone No. 5, including administrative expenses

Table 1 itemizes the estimated Zone No. 5 Project Costs. Currently there are no administrative expenses estimated to be incurred over the 5-year life of Zone No. 5.

Statement of Proposed Public Works

2. A statement listing the kind, number, and location of all proposed public works or public improvements in Zone No. 5

The improvements that Zone No. 5 is designed to facilitate will be located at the current Justice Center site. These improvements will assist with the development and redevelopment of the Downtown SmartCode District including the development and redevelopment of the Hays County Justice Center. This map illustrates the location of the proposed improvements.

Economic Feasibility Study/Information

3. An Economic Feasibility Study/Information

In connection with the proposed development of the property within proposed Zone No. 5 the City has previously commissioned studies outlining the goals and feasibility of the redevelopment of the Downtown SmartCode District as set forth in Schedule A. This Finance Plan is economically feasible since all Project Costs are paid only from tax increment revenues as the become available.

Estimated Bonded Indebtedness

4. The estimated bonded indebtedness to be incurred

The City currently anticipates paying Project Costs or reimbursing a developer for qualified Project Costs solely from tax increment revenues on an annual basis. No bond indebtedness will be incurred for Zone No. 5.

Time when Costs/Obligations Incurred

5. The time when costs or monetary obligations are to be incurred

When payment of costs or reimbursements of costs are to be made is a function of the availability of Zone No. 5 tax increment revenues. Schedule B is a projection of tax increment revenues expected to be available to pay or reimburse Zone No. 5 Project Costs.

Participating Jurisdictions

Taxing Jurisdiction	2011 Total Tax Rate (1)	% Dedicated
City of San Marcos	$0.53020/$100	70%
Hays County	$0.42480/$100	70%

(1) 2011 Tax Rate for purposes of illustration only. Tax Rate will be levied from year to year by the City and County, respectively, and will vary.

Financing, Expected Sources of Revenue

6. A description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay Project Costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit that levies taxes on real property in Zone No. 5.

Methods of Financing. The Project Costs will be paid directly for site improvements or tax increment will be used to reimburse a developer for certain Zone No. 5 Project Costs. Project Costs will be paid soley from tax increment revenues of Zone No. 5 as they are realized by Zone No. 5.

Sources of Tax Increment Revenue. The tax increment revenue necessary to pay the Zone No. 5 Project Costs is expected to come from increased property values in Zone No. 5 due to the construction of improvements. Schedule B displays the projected assessed valuations resulting from the construction are shown in Schedule D. These new tax increment revenues will be used to pay or reimburse a developer for Zone No. 5 Project Costs.

This Plan is based on a contribution rate (and current tax rates which are subject to change) shown from the City and County.

Current Appraised Value of Property

7. Current Total Appraised Value of Property in Zone No. 5

The total current appraised value within Zone No. 5 as of January 1, 2011 is $105,712,363.

Estimated Captured Value

8. Estimated Captured Value of Zone No. 5 in Each Year of Existence

The estimated captured appraised value of Zone No. 5 during each year of its existence is shown on Schedule B - Projected Assessed Valuation.

Duration of Zone

9. Duration of Zone

The duration of Zone No. 5 is 5 years. Zone No. 5 will take effect on the date it is created, and it is anticipated that the City Council will establish January 1, 2011 as the base year of Zone No. 5. Zone No. 5 will terminate on December 31, 2016.

Schedule A
Economic Feasibility Study/Information

Schedule B
Projected Assessed Valuations

3% av increase with 70% contribution

Year	Assessed Value	Tax AV Increment	City of San Marcos Revenue Share		Hays County Revenue Share		Cumulative
			Tax Rate	Annual	Tax Rate	Annual	Total
2011	105,712,363						
2012	108,883,734	3,171,371	0.37114	$ 11,770	0.29736	$ 9,430	$ 21,201
2013	112,150,246	6,437,883	0.37114	$ 23,894	0.29736	$ 19,144	$ 43,037
2014	115,514,753	9,802,390	0.37114	$ 36,381	0.29736	$ 29,148	$ 65,529
2015	118,980,196	13,267,833	0.37114	$ 49,242	0.29736	$ 39,453	$ 88,695
2016	122,549,602	16,837,239	0.37114	$ 62,490	0.29736	$ 50,067	$ 112,557
				$ 183,776		$ 147,243	$ 331,019

Assumptions:
70% City Contribution ($0.5302*.7=$0.37114)
70% County Contribution ($0.4248*.7=$0.29736)
3% increase per year after 2011

Downtown SmartCode Area

City of San Marcos
Map Date - March 4, 2011