

# OUT-OF-CITY UTILITY EXTENSION OR CONNECTION APPLICATION

Updated: October, 2019



## CONTACT INFORMATION

Applicant's Name	Thomas K. Rhodes	Property Owner	Austin D. Hill
Company	TKAR Commercial Real Estate Services	Company	Top of the Hill Properties, LLC
Applicant's Mailing Address	415 N. Guadalupe Street #213, San Marcos, TX 78666	Owner's Mailing Address	4001 Firstview Drive, Austin, TX 78731
Applicant's Phone #	(512) 618-7449	Owner's Phone #	
Applicant's Email	thomas@tkarcres.com	Owner's Email	

## PROPERTY INFORMATION

Subject Property Address: 128 Spring Road  
Total Acreage: 4.851 Tax ID #: R 12279 & R12373  
Legal Description: Lot N/A Block N/A Subdivision N/A  
Development Name / Developer, if available: Spring Ranch Villas

## DESCRIPTION OF REQUEST

Proposed Use: ☒ Residential ☐ Commercial ☐ Industrial ☐ Other: \_\_\_\_\_

Service Requested: ☒ Water ☒ Wastewater note: City wastewater is only available to City water service customers

Type of Request: ☐ Connect to Existing Main ☒ Extend Existing Main to Subject Property\*

\*Utility extensions associated with a Final Plat require approved Public Improvement Construction Plans prior to consideration by City Council

Estimated Utility Demand: \_\_\_\_\_ Current Water Service Area (CCN): City of San Marcos

## AUTHORIZATION

*I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility as the applicant, to be present at meetings regarding this request.*

OCU – Extension Filing Fee \$793	Technology Fee \$13	<u>TOTAL COST \$806</u>
OCU – Connection Filing Fee \$0	Technology Fee \$13	<u>TOTAL COST \$13</u>

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

**APPLY ONLINE – [WWW.MYGOVERNMENTONLINE.ORG/](http://WWW.MYGOVERNMENTONLINE.ORG/)**

## OWNER'S ACKNOWLEDGEMENT AND CONSENT TO ANNEXATION

I hereby certify that I understand all of the following policies of the City of San Marcos regarding out-of-city utility extensions and connections:

1. All costs for utility connections and extensions are to be borne by the owner.
2. The City does not provide wastewater service unless City water service is used.
3. The owner must consent to annexation of the subject property into the City.
4. Utility extensions require a written request for annexation of an area at least 15 feet in width from each property owner along the intended route of the line extension if the subject property is not contiguous to the existing city limits.
5. The owner / applicant / developer waives their option to a development agreement in favor of annexation.

I also certify that I am not seeking vesting of development standards for any project by completing this application.

In consideration of the City's approval of this application, I hereby petition the City for annexation of the property to be served by the utility, and I certify that I am either the owner of the subject property or the duly authorized agent of the owner. I understand that this consent to annexation will be binding on the current and future owners of the subject property, and that this consent will be recorded in the official county records if this request is approved.

Signature: \_\_\_\_\_

Date: 8/20/20

Print Name: Austin Hill

STATE OF TEXAS

COUNTY OF Travis

SWORN TO AND SUBSCRIBED BEFORE ME ON August 20, 2020 (date)

BY Austin Hill

KNOWN PERSONALLY TO ME OR PROVIDED TO ME

BY A PHOTO IDENTIFICATION, TO BE THE PERSON WHO EXECUTED THIS INSTRUMENT

SIGNED Vera S. Dufour

NOTARY PUBLIC, STATE OF TEXAS

MY NOTARY EXPIRES ON 2-24-2022



PROPERTY OWNER AUTHORIZATION

I, Austin D. Hill (owner name) on behalf of  
Top of the Hill Properties, LLC (company, if applicable) acknowledge that I/we  
am/are the rightful owner of the property located at  
128 Spring Road, San Marcos, Texas 78666 (address).

I hereby authorize Thomas K. Rhodes (agent name) on behalf of  
TKAR Commercial Real Estate Services (agent company) to file this application for  
Out of City Utility Extension (application type), and, if necessary, to work with  
the Responsible Official / Department on my behalf throughout the process.

Signature of Owner:



Date:

8/20/20

Printed Name, Title:

Austin Hill, Owner

Signature of Agent:



Date:

8/21/20

Printed Name, Title:

THOMAS K RHODES, OWNER/MANAGER/BROKER

Form Updated October, 2019



Select Development Type:	Type I
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Fixture	Occupancy	Type	Amount
Bathtub	Private	Faucet	139
Bathtub	Public	Faucet	0
Bidet	Private	Faucet	0
Combination Fixture	Private	Faucet	0
dishwashing machine	Private	Automatic	29
Drinking fountain	Offices, etc.	3/8" valve	0
Kitchen sink	Private	Faucet	29
Kitchen sink	Hotel, Restaurant	Faucet	0
Laundry trays(1 to 3)	Private	Faucet	0
Lavatory	Private	Faucet	168
Lavatory	Public	Faucet	0
Service sink	Offices, etc.	Faucet	0
Shower head	Public	Mixing Valve	0
Shower head	Private	Mixing Valve	139
Urinal	Public	1" flush valve	0
Urinal	Public	3/4" flush valve	0
Urinal	Public	flush tank	0
Washing Machine(8 lb.)	Private	Automatic	29
Washing Machine(8 lb.)	Public	Automatic	0
Washing Machine(15 lb.)	Public	Automatic	0
Water closet	Private	Flush Valve	0
Water closet	Private	Flush tank	168
Water closet	Public	Flush Valve	0
Water closet	Public	Flush tank	0
Water closet	Private or Public	Flushometer tank	0
Bedpan Washers	AWWA Fixtures		0
Dental Unit	AWWA Fixtures		0
(Hose-50 ft. Wash Down)			0
-1/2 in	AWWA Fixtures		0
-5/8 in	AWWA Fixtures		0
-3/4 in	AWWA Fixtures		0

AWWA =	74.91	GPM
IPC =	207.72	GPM

This development's lowest Peak Demand from AWWA and IPC is 74.91 gpm. This development will need to install a 1.5" or 2" meter and has a LUE of [ 8.5 ]



# DRENNER GROUP

August 5, 2020

Michael Cosentino  
City Attorney in San Marcos

Re: 4.85 acre tract of land located at the corner of Spring Road and Gordon Road in the City of San Marcos extraterritorial jurisdiction (the "Property")

Dear Mr. Cosentino:

I write to you again on behalf of Top of the Hill Properties, LLC, the owner of the Property (the "Owner").


Please refer to my letter to you of December 3, 2019, as well as my Email to you of March 25, 2020, with respect to the same Property.

As I have made clear in my earlier communications with you, I believe that the City Staff has incorrectly processed applications for development of the Property, and particularly for utility service to the Property, as an **extension** of existing lines under Section 86.003 of the City Code. Accordingly, I reaffirm my position that the City Staff's position in this regard violates the express provisions of City Code. Additionally, the City Staff's requirement that my client extend utilities along Gordon Street violates the "rough proportionality" doctrine under State law as the extension of such utilities is not required to serve the Property and the cost of complying with the City's requirement to do so clearly exceeds the economic impact of the proposed project's impact on the utility system.

In order to mitigate its damages from the City's misapplication of Section 86.003, my client authorizes the City to proceed with the process for utility extension as required by the City under Section 86.003, but it does so while expressly reserving its right to assert in a court of law or any other forum its right to a correct application of Section 86.003 and its rights to the damages or other remedies incurred by my client from the misapplication of Section 86.003 and violation of the "rough proportionality" doctrine. The City has received my client's request for out-of-City utility services and should have all necessary documentation for consideration of this request. Demand is hereby made that City Council consider this request at their next regularly scheduled meeting.

Moreover, as the City Staff has processed the development applications for the Property, the City Staff has continued to require that the pavement widths for the portions of Spring Road and Gordon Street adjacent to the Property be expanded to 26 feet, even though those roads are County roads and the County standard for those roadways is 20 feet. City Staff's position is both inconsistent with City Code and, again, violates the doctrine of "rough proportionality". Demand is hereby made that City Staff agree that the required pavement width on both roadways shall be 20 feet as is consistent with County regulations.

Very truly yours,



Stephen O. Drenner

cc: Thomas Rhodes

# DRENNER GROUP

October 15, 2020

Michael Cosentino  
City Attorney in San Marcos

Re: 4.85 acre tract of land located at the corner of Spring Road and Gordon Road in the City of San Marcos extraterritorial jurisdiction (the "Property").

Dear Mr. Cosentino:


I write to you again on behalf of the Top of the Hill Properties, LLC, the owner of the Property (the "Owner").

Please refer to my previous letters to you of December 3, 2019, March 25, 2020, and August 5, 2020.

On behalf of my client, I continue to assert all arguments made in the prior letters, especially with respect to the City's misapplication of Section 86.003. However, as stated in my letter of August 5, 2020, the continuing delay in processing the utility extension application is causing my client significant damages. Accordingly, and as stated in my August 5, 2020 letter, I hereby demand that you cause the application to proceed and to be considered on the next possible City Council agenda. By my calculation, the next possible City Council date is November 3, 2020. I expressly reserve my client's right to assert in a court of law or any other forum its right to a correct application of Section 86.003 and its right to the damages or other remedies incurred by my client from the misapplication of Section 86.003 and violation of the "rough proportionality" doctrine.

Additionally, City Staff continues to require pavement widths on Spring Road and Gordon Street that exceed the County standards for those roads. City Staff's position is both inconsistent with City Code and, again, violates the doctrine of "rough proportionality."

Very truly yours,



Stephen O. Drenner

CC: Thomas Rhodes