

**DRAFT Report on Petitions to Create
Pilot Knob Municipal Utility District Numbers 1-5 (MUDs 1-5)**

Status: Proposed as city-service MUDs

Submitted: October 18, 2010

Action deadline: January 16, 2011

Applicant: Mr. Shaun Cranston, P Eng., General Manager
Carma Easton, Inc.

Engineer: Peggy M. Carrasquillo, MS, PE
Jacobs Engineering Group, Inc.

Attorney: Mr. Richard Suttle
Armbrust & Brown, PLLC

Size: 5 MUDs totaling 2,214 acres

Land Use:

<u>Land Use</u>	<u>Units/Sq Ft</u>
Single-family	5,662 units
Townhome	2,418 units
Multi-family	6,729 units
Commercial	3,843,000 sq ft
Hotel Rooms	400 units
Retail	300,000 sq ft
Office	45,000 sq ft
Restaurant	120,000 sq ft
Civic	405,000 sq ft
Open Space	315 acres

Proposed Water: Austin Water Utility Retail*
*portions of MUDs are in Creedmoor-Maha Water Supply Corporation

Proposed Wastewater: Austin Water Utility Retail

Process: 90 day statutory review period including the following board and commission reviews:

11/30/10 Parks Board
12/01/10 Environmental Board (or 12/15)
12/08/10 W/WW Commission
12/14/10 Planning Commission
12/14/10 Urban Transportation Commission
01/13/11 City Council
01/16/11 Statutory Deadline

Issues:

Planning considerations/Impact on annexation

- Creation of MUDs would establish a long term impediment to the ability of the City to annex the area.
- If full purpose annexation is deferred until the MUD bonds are paid in full, this development would be excluded from the City's tax base until 2061.
- The market analysis submitted with the MUD application does not support the level of development proposed in the five MUDs.

The proposed MUDs are located in the City's Desired Development Zone (DDZ), where development should be encouraged. Where City services are available and will be provided to the development, the City's current comprehensive plan suggests that such property should be annexed, which MUD creation would impede. Capital improvements are already under construction in the immediate vicinity.

The developer is proposing \$482.2 million in bonds to finance water, wastewater, drainage, and parks facilities in the five MUDs. Most of this would be for facilities located in the City's ETJ. The City would review and approve each MUD's debt issues. If the City annexes any of the districts before its bonds are paid off, the City would have to assume the balance of the debt for that MUD and reimburse the developer for any unbonded facilities.

The amount of commercial, retail, and office development proposed in the petitions is more than the estimated amount that can be absorbed at build out, even under the most aggressive assumptions in the market analysis. In addition, the number of residential units proposed is significantly more than what can be absorbed at build-out according to the market analysis. The proposal only assumes the construction of one public school within the MUDs, although almost certainly, additional public schools will be required for the area, which will remove land from the tax roll, potentially diminishing the ability of the MUDs to pay off their debt. If the development does not build out as proposed, any delays could jeopardize the marketability of the development, thereby jeopardizing the MUD bonds and potentially creating a financial liability for the City.

The City will be further reviewing the projections and working with the developer to evaluate what are reasonable build-out assumptions.

Water

The Landowner has not provided sufficient information in order to determine:

- 1) the adequacy of the proposed MUDs' water infrastructure to meet the MUDs' needs,
- 2) the phasing of infrastructure, and
- 3) other technical issues.

What is known is that the water Certificates of Convenience and Necessity ("CCN") by Creedmoor or the City cover all five of the proposed MUDs. Creedmoor obtains its

water supply from the City, Barton Springs Edwards Aquifer Conservation District, and Aqua Water Supply Corporation. Generally, the size of existing Creedmoor water mains would not be sufficient to meet the MUDs' development needs. The City's central and south pressure zones would be sufficient to serve the proposed MUDs with the majority of water coming from the south zone through the nearly completed IH 35 Water Project. The City's water mains will be sufficient to meet the MUDs' development needs, but the Landowner would be required to extend the City's infrastructure to and throughout the MUDs.

Water utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria. The City would inspect all water infrastructure construction.

Wastewater

The Landowner has not provided sufficient information in order to determine interim wastewater infrastructure for the beginning phases of the development, and other technical issues.

What is known is that the City's wastewater CCN covers all five of the proposed MUDs. The City's 54-inch wastewater interceptor located along Onion Creek would serve the MUDs, but the Landowner would be required to extend the City's infrastructure to and throughout the MUDs. Wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria. The City would inspect all wastewater infrastructure construction.

Reclaimed Water

The Landowner has not provided sufficient information to assess any aspects of the provision of reclaimed water to the proposed MUDs by the City, shown in the petitions as bonded improvements.

Land Use and Development

Development will need to be in compliance with existing regulations at the time of preliminary plan and site development permits, including the city's landscape and tree ordinances, and zoning and corresponding application of impervious cover limits. The MUD should provide superior sustainable development consistent with PUD zoning and Council approved PID policy regarding: COA tree protection and mitigation standards; commercial landscape ordinance design standards; and residential tree requirements for platting and construction plans.

Parks

The proposed MUDs will include approximately 315 acres of regional parks and open space land. The developer is proposing to design and construct a hike-and-bike trail system that could connect to the City's trail system in the future. Other private and public park improvements contemplated include pools, pavilions, and sports/play fields. The MUDs or a property owners' association will maintain and operate the parks and recreational facilities located within the MUDs' boundaries. The applicant is requesting that the planned parks and related improvements be considered sufficient to satisfy

parkland dedication requirements and that no additional parkland dedication or park fees will be required for this project.

Transportation

In reviewing the MUD proposal in terms of transportation infrastructure, city staff will coordinate with Travis County Transportation and Natural Resources Department, Capital Metro, and TxDOT as these agencies have mutual goals and issues in this area. The City of Austin and Travis County have worked extensively with the developers of this proposal, and previously reached commitments regarding right-of-way dedication and funding of major arterials including William Cannon and Slaughter Lane by action of the Travis County Commissioners Court on 09-09-08.

Documents provided in this submittal appear to assume the CAMPO 2030 Mobility Plan. On May 24, 2010, CAMPO updated this by adopting the 2035 Mobility Plan, which is the basis for development review in these areas: right-of-way dedication, reservation, and prioritizing implementation of transportation projects. City and County revenue forecasts are also updated, resulting in fewer projects in the area. The 2035 Plan is now fiscally constrained. The City and Travis County projected revenue forecasts to develop year-of-expenditure project costs, adjusted for future inflation. In doing so, we assumed Public-Private Partnerships on CARMA internal arterial roadways, including dedication of all necessary easement and rights-of-way, pedestrian & bicycle facilities and trails.

Currently, Travis County has submitted an "Illustrative List Amendment" as a Plan amendment, with City of Austin staff support. Illustrative List projects are not supported by projected revenue within the life of the Plan until they are able to move to the fiscally-constrained sections.

The MPO 2035 Plan does not identify significant Public Transportation infrastructure in this area, with one notable exception. Future Slaughter Lane is adopted with High Capacity Lanes/Managed Lanes and could serve as a major corridor for rapid bus transit service. Initial review indicates bus service will be necessary to serve the CARMA proposed uses and associated person/vehicle trip generation. Initial review of the CARMA Easton proposal does not seem to incorporate this necessary component of the transportation system. A future Intermodal Facility will be located at IH 35 and Slaughter Lane, per the adopted CAMPO 2035 Plan.

The overall MUDs 1-5 proposal is equivalent to other already-designated CAMPO Activity Centers. For a number of reasons, consideration should be given to a CAMPO 2035 Plan amendment that might include CARMA Easton as a Small Activity Center as the projected population and jobs are aligned with the definition of a Small Activity Center. Staff would like to discuss this possibility further with the applicant. CAMPO's next cycle of Plan amendments will begin in June 2011, with action by the CAMPO Board in October 2011.

The traffic impact analysis (TIA) does not comply with the technical requirements and scope of study outlined in the Transportation Criteria Manual, Sec. 2.0. A meeting with city staff to discuss the scope of the TIA and the requirements for the TIA content and format will be required as further development applications are prepared.

Public Safety

Additional discussions on public safety, fire protection services in particular, are needed.

During discussions of the Carma project, the developer's representatives expressed some interest in contracting with the City of Austin for the provision of fire protection and emergency response service. It is unclear if the proposed MUDs will be able to contract for these services, and if so, if there is still an interest in pursuing this option. Travis County Emergency Service District # 11 (TCESD # 11) will be the fire protection and emergency service provider for the MUDs until the properties are annexed for full purposes by the City of Austin. During the initial phases of development, before the increased tax base has enabled the ESD to add resources, Austin Fire Department (AFD) units will need to assist in responding to incidents in the MUDs. The transition from the ESD to AFD as primary service providers can become complicated if the project is annexed in phases with both agencies responding to different sections of the project. In addition, the fiscal impacts of annexation on the ESD's tax base could be significant, and potentially put AFD in the position of needing to assist the ESD with incident responses. TCESD # 11 will need to participate fully in the review process for this development.

Environmental Issues

The drainage plan showing the water quality and drainage ponds are considered schematic only; variances appear to be required, inadequate detail has been provided to review and approve the location of drainage facilities, or to process variances. Complete review and approval of the drainage plan will be deferred to the preliminary plan or PUD stage.

The proposed development is located within the Cottonmouth Creek, North Fork Dry Creek, South Fork Dry Creek, and a small portion of Marble Creek watersheds which are classified as Suburban Watersheds. The site is primarily undeveloped and consists of moderately to gently sloping grasslands and agricultural land with soil characteristics having slow infiltration rates and relatively high runoff potential. The applicant has indicated that areas of the existing drainage basins will stay essentially the same size in post developed conditions due to natural topography.

Runoff from the proposed project site will be conveyed through a system of shallow channels, area inlets, street gutters, street inlets, and storm drain pipes, and will be mitigated with water quality and detention facilities. Stormwater detention is expected to be handled on a regional basis within the project boundary, with a combination of runoff-reducing features to be placed within the separate subdivision areas and detention facilities to be placed along and within the individual creeks within the Easton site. The applicant has indicated that variances from City development code will be required for proposed stormwater detention based on previous discussions with city staff. Any proposed variances cannot be reviewed until the time of preliminary plan or site plan submittals. Therefore, any portion of the proposed MUD layout that may be affected by the need of a variance to the code will only be considered conceptual at this time, and would require final variance approval at a later date to be accepted.

The applicant indicates that water quality treatment for the development will be provided via traditional City of Austin approved water quality treatment facilities in combination with innovative Best Management Practices designed to use physical and biological treatment mechanisms to remove urban stormwater pollutants prior to discharging the treated runoff downstream. Location of water quality ponds and the conceptual wetland areas within the Critical Water Quality Zone (CWQZ) is not permitted per current Code and ECM guidelines. Potential variances are not to be processed as part of MUD petition review, and any proposed floodplain modifications will need to comply with ECM 1.7 guidelines.

Additional information regarding the classification type of the proposed roadways is needed. Roadway crossings shall comply with Code sections 30-5-262 and 25-8-262 respectively. In addition, an exhibit showing the conceptual utility layout in relation to the CWQZ and Water Quality Transition Zone (WQTZ) crossings is needed. The layout should comply with 30-5-261(E) or 25-8-261(E) respectively.

Temporary erosion and sedimentation controls will be utilized during construction. Control features such as rock riffles would be located along channels if necessary to provide permanent erosion and sedimentation control. In addition, ensuring against undesirable streambank erosion by reducing sediment transport, rock riprap also provides diverse aquatic habitat, creates turbulent flows for aeration, and gives the riffle structures a natural appearance.

Portions of the site are located within the FEMA 100-year floodplain as shown on FEMA Flood Insurance Rate Maps. For areas in which the floodplain will change as a result of this development, a floodplain map revision will be processed through FEMA as required.

A Critical Environmental Feature (CEF) Assessment and Hydrogeologic report portion of an Environmental Assessment (EA), as well as a threatened and endangered species habitat assessment (HA) were submitted with the applicant's petition materials. The applicant concluded that three tributaries, nine wetlands, and twenty six ponds are located within the project site. All critical environmental features should be shown on the MUD document. Complete review of the CEF setbacks and variances associated will be deferred to the time of preliminary plan or PUD, including locations of utilities and roadways, relative to setbacks. No other Critical Environmental Features were identified. Based on the requirements of City Code, critical water quality zones and water quality transition zones will be established along each of the three tributaries, as appropriate, based on floodplain and contributing drainage basin. The areas within the project boundary were assessed for suitable habitat for state and federally listed candidate, threatened, and endangered species and found neither the referenced species nor their critical habitat was observed at the project site.

Draft Consent Agreement

The draft Consent Agreement included in the application materials is vague as to the reconciliation of water service issues raised when there are two water service providers located within the MUDs (Creedmoor-Maha Water Supply Corporation and the City of Austin). The Consent Agreement does not contain standard City contract requirements

such as, but not limited to, the donation of easements at no cost to the City, City oversizing costs being based on the size of pipe, and the prohibition of reserving capacity. The Consent Agreement lacks other standard contractual provisions addressing such issues as, but not limited to defaults, maximum service levels, annual reports, liability, and consequences of negative state legislation.

Staff Recommendations:

At this time there is insufficient information to recommend consent to creation of the MUDs.

DRAFT