

# **Briefing on Proposed Cascades Municipal Utility District No. 1**

**August 13, 2013**

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# **Purpose of Briefing**

Evaluate merits of authorizing  
the creation of the

Cascades Municipal Utility District (MUD) No. 1

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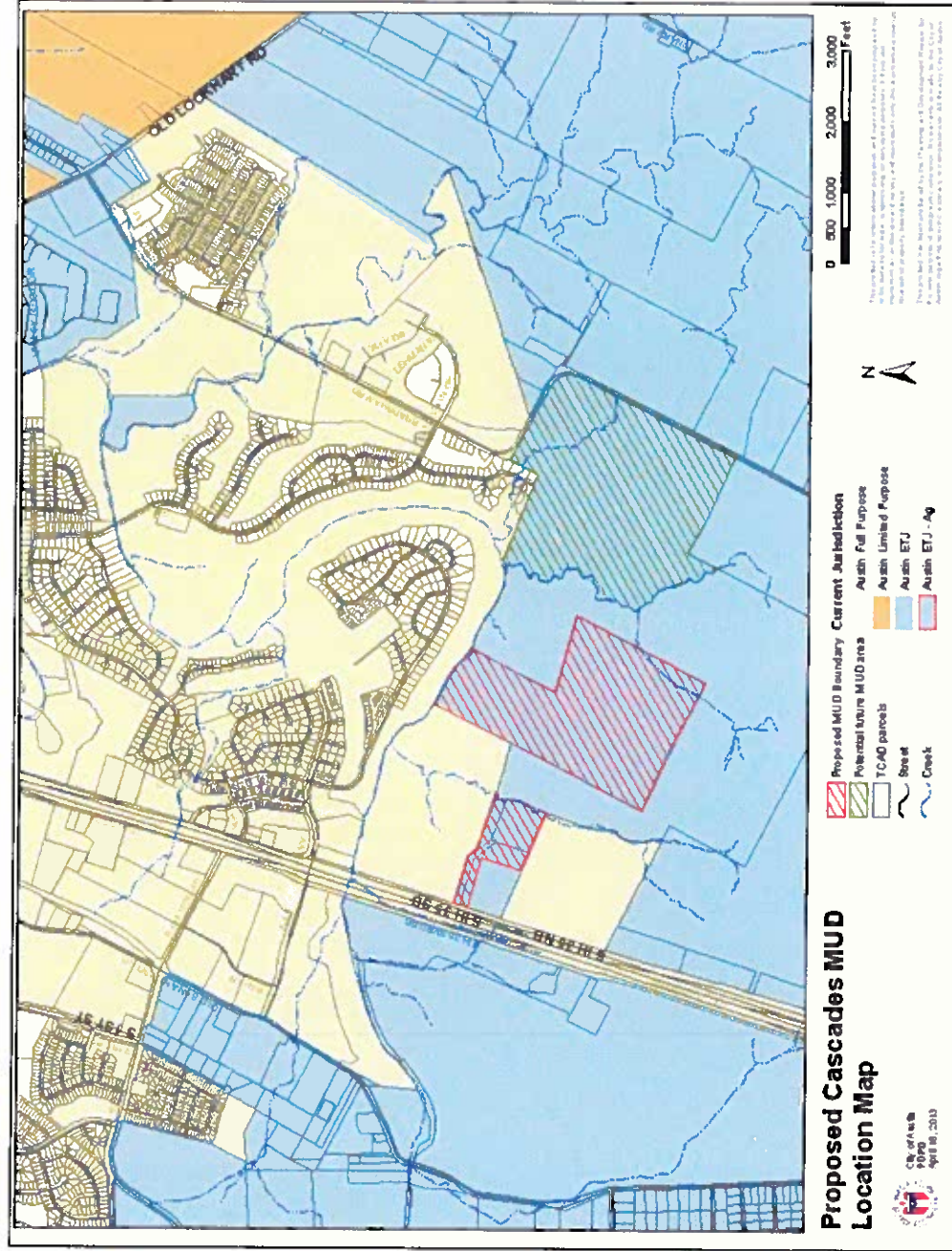
# **Weighing the Benefits and Costs of a Proposed MUD**

Summary Question for Council:

Does the proposed MUD provide sufficient value to the City to warrant City Council's consent to creation of the MUD?

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# Location of Cascades MUD No. 1


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# Proposed Development

Total Acreage	135 acres
Single-family Detached and Condo	370 units
Multi-family/mixed use (initially rental)	650 units
Multi-family/mixed use/condo (for sale)	438 units
Commercial	22 acres
Projected Population	2,886 residents
Proposed Total Bonds	\$ 36,900,000
Proposed MUD Tax Rate	\$0.97
Proposed Water	Austin Water Utility Retail
Proposed Wastewater	Austin Water Utility Retail

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# Pros and Cons to MUD Creation

## Pros

The applicant is agreeable to incorporating desirable elements that may be considered superior to standard in-City development, including:

- an agreement to forego cost reimbursement for utilities,
- affordable housing,
- tree protection,
- extension of the Onion Creek Trail,
- energy efficient construction,
- provision of a fire station site,
- use of innovative water quality controls, and
- enhanced pedestrian and bicycle facilities.

## Cons

This project meets the Imagine Austin criteria for full purpose annexation at this time. Accordingly, unlike in some areas of the ETJ, creation of a MUD and limited purpose annexation at this location is not necessary to allow the City to extend land use controls.

Disorderly growth and fragmented, inefficient service delivery may occur.

The MUD may be able to expand its boundaries to another specific property in the future, creating further impediments to the city's ability to continue to expand its tax base and increase efficiencies in municipal service delivery.

The City will be prohibited from annexing the area for full purposes for an extended period of time.

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# Applicant's offer contingent on approval of MUD

## Potential improvements to proposed development:

### Affordable Housing

Provide a cash donation of a portion of bonds

Set aside 10% of rental units for households with an income level of 60% or less of MFI for 40 years

Sell 10% of owner occupied units at a price affordable for a household with an income level of 80% MFI

### Art in Public Places

Provide interpretive signage

describing the history of the area and related artwork along the Onion Creek trail system within the MUD



# Applicant's offer contingent on approval of MUD (continued)

Potential improvements to proposed development:	
Public Uses	Construct, operate and maintain a community civic reserve center
Environmental and Drainage	Provide enhanced tree preservation and mitigation  If not participating in the RSMP, detention ponds will be designed to meet the Volumetric Design Procedure
Energy Efficiency	Ensure all buildings achieve a two star rating under the City's Green Building Program



# Applicant's offer contingent on approval of MUD (continued)

Potential improvements to proposed development:	
Parkland and Open Space	Invest \$645,000 in facilities and improvements that would be open to the public
Public Safety	Donate a site for a future fire station
School site	If MUD is allowed to expand in the future, a school site will be donated in additional project area

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# Applicant's offer contingent on approval of MUD (continued)

## Potential improvements to proposed development:

### Transportation

Construct and dedicate a 12-foot wide concrete trail through land to be dedicated to the City as an extension of the Onion Creek Trail

Construct two pedestrian tunnels under Cascades Parkway

Provide buffered bike lanes with restricted on-street parking and minimum five-foot sidewalks on collector streets

Provide a shower/changing facility in the community center for residents and tenants of commercial buildings

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# Applicant's offer contingent on approval of MUD (continued)

Potential improvements to proposed development:	
Urban Design	Sidewalk modules and building placement in commercial and mixed-use multi-family areas will be designed in accordance with Commercial Design Standards
Water and Wastewater	<p>Forgo the \$3.4 million cost reimbursement agreement authorized in 2008</p> <p>Modify the SER to allow for service to additional future development south of the MUD</p>

# Applicant's offer contingent on approval of MUD (continued)

Potential improvements to proposed development:	
Watershed Protection	Utilize innovative water quality controls
	Reduce the use of potable water for onsite irrigation
	Adopt an integrated pest management plan
	Stabilize areas of the creek bank using non-engineered methods and restore riparian areas using native plant species
	Prohibit polluting uses through restrictive covenants

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# **Weighing the Benefits and Costs of a Proposed MUD**

Does the development supported by the MUD provide sufficient benefits to the City and to property in the MUD, when compared to the costs to the City, including delayed annexation, enough to warrant City Council's consent to creation of the MUD?

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# Board and Commission Reviews

Parks and Recreation Board	June 25, 2013
Water and Wastewater Commission	July 10, 2013
Environmental Board	August 7, 2013
Planning Commission	August 13, 2013
Urban Transportation Commission	August 13, 2013

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# Next Steps

## City Council Schedule

Set public hearing  
on consent agreement

August 8, 2013

Conduct public hearing and  
take action on consent agreement

August 29, 2013

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**Cascades Municipal Utility District No. 1 (MUD)  
One Volume Report  
July 11, 2013**

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## **BACKGROUND**

In January 2013, Onion Associates, Ltd. submitted a petition requesting the City's consent to the creation of the Cascades MUD. The proposed MUD includes 223 acres located along the south side of Onion Creek east of IH 35 South in Travis County, Texas. The site is undeveloped and proposed future development includes single family and multi-family residential, commercial, and park land uses.

<b>Cascades MUD Assumptions</b>		
<b>Description</b>		
	Acreage	136
	Population at Build-out	2,886
<b>Land Use</b>		
	Single Family Residential Units	370
	Condos/Town Homes	1,088
	Commercial sq ft (non-retail)	62,000
	Retail sq ft	63,555
	Community Center	1
	Parkland/Open Space acres	5
<b>Financial</b>		
	Assessed Value at Build-out	\$232,519,026
	MUD Bond Reimbursables	\$36,900,000
	Proposed MUD Tax Rate	\$0.97/\$100

## **CITY PROCESS**

The City's practice regarding new MUDs is to require enabling legislation in order to have certain protections for the City in the MUD bill, including a City representative on the Board. Negotiation of a consent agreement would follow. On March 26, 2013, legislation was filed to create this MUD. On April 11, 2013, City Council approved a resolution in support of this special legislation. This resolution, however, does not limit the Council's action on the Applicant's MUD application after it has been reviewed by boards and commissions.

The City Code process for applications for new MUDs requires review by staff and boards and commissions prior to action by Council, including the Parks Board, Environmental Board, Urban Transportation Commission, Planning Commission, and Water and Wastewater Commission.

If Council does not consent to the creation of this MUD at the conclusion of the Board and Commission reviews described above, the City could commence full purpose annexation, extending city regulations and services to the area; execute a cost reimbursement agreement; and the Applicant would likely build a standard subdivision similar to the development described in the approved preliminary plan. The legislation provides that if the City does not consent to the MUD, the MUD would dissolve automatically on September 1, 2014.

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## CITY MUD POLICY

The City's adopted MUD policy, Resolution No. 20110217-030, states that requests for consent to creation of a district shall be evaluated according to the following:

- Benefits to the City exceed those that would result through the standard development process or other types of districts,
- Applicant commitment to provide superior development,
- Adherence to the City's comprehensive plan,
- Provision of extraordinary public benefits including environmental improvement, affordable housing, community amenities, connectivity with other city infrastructure, open space, school sites, public safety sites, and public transportation infrastructure,
- City land use control,
- Water and wastewater service provided by the City of Austin,
- Applicant will contribute a portion of infrastructure without reimbursement by the MUD or the City,
- MUD financing allows City to redirect CIP funds to other high priority needs,
- Will not impair the City's future annexation of the MUD or adjacent property, or impose costs not mutually agreed upon, and
- Located entirely in the City's ETJ.

## STAFF EVALUATION

### Pros to MUD Creation:

The Applicant is agreeable to incorporating many desirable elements into the proposed Cascades at Onion Creek subdivision, which are described in greater detail on the following pages of this report.

### Cons to MUD Creation:

The City will be prohibited from annexing the area for full purposes for at least 30 years so that property owners would be allowed to pay taxes that support MUD bonds in lieu of city taxes which support amenities and quality of life that benefit taxpayers city wide.

The MUD may be able to expand its boundaries to another specific property in the future, creating further impediments to the city's ability to continue to expand its tax base and increase efficiencies in municipal service delivery.

Disorderly growth and fragmented, inefficient service delivery may occur.

This project meets the Imagine Austin criteria and state law requirements for full purpose annexation at this time. Accordingly, unlike in some areas of the ETJ, creation of a MUD and limited purpose annexation at this location is not necessary to allow the City to extend land use controls.

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## DEPARTMENTAL ANALYSIS OF ISSUES

Staff from multiple City departments have reviewed the proposal and met with the applicant to discuss desired City outcomes as expressed in the City's MUD policy. Normally staff would not recommend that the City consent to the creation of a MUD at a location such as this due to its proximity to existing development and completed road and utility infrastructure. The overall negative impact of creating a MUD includes the limitations on the City's ability to annex the area and the precedent of supporting creation of a MUD adjacent to the existing city limits.

The staff has assessed the benefits and drawbacks of the Cascades MUD proposal as discussed below. The benefits identified below assume that the City would immediately annex the property upon the filing of a site plan or subdivision plan and applicable City ordinances would have applied. The applicant's response to staff recommendations are offered contingent upon approval of the MUD. The applicant, unless otherwise stated below, has committed to provide each of the "Benefits" in a Consent Agreement.

### Affordable Housing

The market analysis for this project suggests the average lot sales price of approximately \$50,148 and an average home value of \$210,000 would be market justified. The average value for a multi-family condo unit within this project is \$126,167. Current median family income (MFI) in the Austin metropolitan statistical area is \$73,200. Consistent with the trend of other developers requesting special consideration from the City, and if Council consents to the creation of a MUD, the applicant has committed to provide the following "Benefits" in regard to affordable housing:

#### Benefits:

- A \$545,800 financial contribution to the City's affordable housing program equal to 2% of the net reimbursements for "hard" construction costs received by the Applicant out of the district's bonds.
- 10% of the residential rental units within the district will be set aside by restrictive covenant for households with an income level of 60% or less of the MFI for a period of 40 years.
- 10% of the owner-occupied residential units within the district by restrictive covenant will be priced, at the time of their initial offering for sale, at a price that is affordable to a household with an income level of 80% of the MFI.

#### Deficiencies:

- None

### Annexation

Over the years, staff has recommended against the creation of new political subdivisions (including MUDs) in the City's ETJ because of the impact they have on the City's otherwise unimpeded ability to annex territory. State law requires that upon annexation, the City must dissolve the MUD and assume its bonded indebtedness. The applicant proposes approximately \$36.9 million dollars in MUD bonds to finance improvements for this development. If the MUD is annexed before this debt is paid in full, the City must absorb the remaining debt at the expense to ratepayers citywide. The impact on annexation is arguably the most significant detriment to creation of this MUD.

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The proposed MUD is located entirely within the City's extraterritorial jurisdiction and is contiguous to the City's full purpose jurisdiction. This project meets the Imagine Austin criteria for annexation, and the Planning and Development Review Department recommends that it should be annexed for full purposes in 2013 so the City can extend all of its regulatory and taxation authority. MUDs can be annexed for limited purposes to extend City planning and zoning authority, but they are incompatible with full purpose annexation due to the high property tax burden resulting from MUD bond debt.

**Benefits:**

- None

**Deficiencies:**

- Projected cash flows provide an analytical tool for assessing the expected annual financial impact to the City of a proposed annexation. Estimated revenue and requirements associated with annexation of the Cascades development based on the assumption that the area will build out as anticipated and if it were to be annexed this year results in a **positive 25-year NPV of \$6.2 million**. This analysis is not intended to identify or predict exact costs or revenue. Under this analysis the annexation would break even at year 15.

Full Purpose Annexation Scenario		
	Assessed Value at Build-out	\$232,519,026
	Annual City Property Tax – O&M	\$875,128
	Annual City Property Tax – G.O. Debt	\$276,670
	Annual City Sales Tax	\$95,333
	25-year NPV of annexation	\$6,161,075
	Austin Water Cost Reimbursement	(\$3,445,939)

**Art in Public Places**

Art in public places can be considered a benefit to the City. If Council consents to the creation of a MUD, the applicant has committed to provide the following "Benefits" in regard to public art:

**Benefits:**

- An art master plan for the project which includes the following language, requested by City Staff, in the Consent Agreement:  
 "The Applicant will prepare a Public Art Master Plan, which will identify opportunities, guiding principles and locations within the Project for outdoor art installations to be implemented and managed by the Applicant. All subsequent operations and maintenance of the artwork will be the responsibility of the Applicant or the owners association."
- Interpretive signage and related artwork along the Onion Creek trail system describing the history of the area.

**Deficiencies:**

- None

**MUD Bonds**

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The reality is that the longer the term of the bonds the longer the City must wait to annex the area.

**Benefits:**

- None

**Deficiencies:**

- The Applicant has submitted a Bond Capacity pro forma showing a 25-year bond schedule in accordance with the City's MUD policy. Staff recommends that the term of the bonds be decreased to 15 years with the first bond issuance starting within a 10-year period. A shorter bond term would reduce the negative impact of delayed full purpose annexation on the City's general fund.

**MUD Boundary Expansion**

Any further expansion of the MUD is a significant risk to the City. Presumably the expanded MUD would require additional bond capacity to develop, creating further constraints to the City's ability to annex.

**Benefits:**

- The Applicant will donate a site for a school if he is able to expand the MUD boundary.

**Deficiencies:**

- The Applicant requests that a 158 acre tract in the ETJ be designated as additional project area that may be annexed to the district in the future.

**Drainage**

The applicant is not proposing on-site stormwater detention and is agreeable to the following methods of detention pending demonstration that there will be no adverse impact to downstream properties:

**Benefits:**

- Participation in the RSMP for the entire project. (215 acres has received conditional approval to participate in the RSMP by letter dated May 1, 2007 and 12 acres has received conditional approval to participate in the RSMP by letter dated September 19, 2012)
- If RSMP is not approved, the development will design their detention pond to meet the Volumetric Design Procedure.

**Deficiencies:**

- None

**Energy Efficiency**

**Benefits:**

- The Applicant has agreed to include the following language in the Consent Agreement, as recommended by City Staff: "All buildings will achieve a two star rating under the City's Austin Energy Green Building program using the applicable ratings versions in effect at the time ratings applications are submitted for individual buildings."

**Deficiencies:**

- None

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### **Parkland and Open Space**

The proposed Cascades MUD does not meet the parkland dedicated requirement for land. The trail described below is also described as a benefit in the transportation section of this report.

Additional "Benefits" that the applicant has committed to provide if Council consents to the creation of a MUD include:

#### **Benefits:**

- An extension of the Onion Creek Trail from IH35 through the entirety of the project, with connectivity of the Onion Creek Trail within the project through an easement dedicated to the City.
- The Onion Creek Trail extension through the project will be constructed of 12-foot wide concrete, with 2-foot shoulders, which exceeds City design criteria and meets the additional width requested by the City's neighborhood connectivity division.
- All park land, open space and trails will be open for use by the public.
- Park facilities will be owned and maintained by either the homeowners association or the district.
- A Park Facility Investment of \$200 per LUE, or \$226,400 is required; the developer has agreed to fund at least \$645,000 in improvements, including playing fields, an observation pier, soccer field and extensive hike and bike trail improvements, which will be owned by the district and open to the public.

#### **Deficiencies:**

- The proposed Cascades MUD does not meet the parkland dedicated requirement for land; however, the 15.04 acre parkland deficiency is being met by a fee-in-lieu. The Parks & Recreation Department and the Developer have agreed to acquire a third party appraisal to determine the price per acre in order to determine the fee owed for 15.04 acres.

### **Public Facilities**

Similar to other new developments and what homebuyers expect to find in newer neighborhoods, the applicant is proposing to incorporate a community civic reserve center in the project.

Other public facilities that MUDs have donated in the past include land for schools. This project is located within the Austin Independent School District. AISD has indicated that this development would add approximately 376 students over all grade levels. Although this development by itself would not generate enough students to merit a school site, population projections and development trends indicate a new elementary school for the southeast area of Austin will be needed within the next five years. The applicant has indicated that a school site will not be made available within original project area but could be made available within any additional project area that is added to the MUD in the future.

#### **Benefits:**

- A community civic reserve center.
- If the proposed additional project area is added to the MUD, a school site will be made available within that area.

#### **Deficiencies:**

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- School site not made available within original project area.

### **Public Safety**

The City will be required to provide public safety services to the area upon full purpose annexation. Travis County and the Emergency Service District (ESD) will continue to provide these services to the area prior to annexation. In the past, some MUDs have provided sites and funding for public facilities such as fire stations. If Council consents to the creation of a MUD, the developer is agreeable to donating a site for a future fire station containing two net buildable acres. The location will be designated as part of the PUD process, and will be a site mutually agreeable to the Applicant and AFD within the project. This represents a potential future opportunity cost as the City would not be able to utilize the site until after full purpose annexation and funding for construction and staffing of a new station are secured.

#### **Benefits:**

- A fire station site containing two net buildable acres. The location will be designated as part of the PUD process, and will be a site mutually agreeable to the Applicant and AFD within the project.
- As agreed with City staff, the initially designated fire station site may be relocated to another site within the project in the future with the approval of the City.

#### **Deficiencies:**

- None

### **Transportation**

A significant drawback to creating a MUD and excluding these properties from the City's full purpose jurisdiction for the next several decades is that the CapMetro service area will not be extended to incorporate this new development and residents will not have access to CapMetro services. Staff requested and the applicant rejected the donation of a 10-acre site for a multi-modal transit center similar to what other developers have provided. The trail described below is also described as a benefit in the parkland and open space section of this report

The applicant has committed to provide the following "Benefits" if Council consents to the creation of the MUD:

#### **Benefits:**

- Provide connectivity of the Onion Creek Trail within the project in order to provide connectivity between MUD amenities and City amenities outside the MUD District boundary.
- Install two ADA-compliant, sixteen-foot wide pedestrian/bicycle tunnels under Cascades Parkway to provide connectivity to parks and other destinations without crossing major roads within the project.
- Provide bicycle routes, including a connection to the Onion Creek greenway, to connect to existing or planned bicycle routes.
- Dedicate and construct in accordance with American Association of State Highway and Transportation Officials standards of a publicly accessible twelve-foot wide concrete multi-use path with two-foot graded area with a maximum 1V:6H slope on each side identified as

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the Onion Creek Greenway / Route 963.0002 within COA Bicycle Master Plan within the boundaries of the MUD.

- Provide for collector street(s) buffered bicycle lanes (consisting of a six-foot six-inch bicycle lane with a two-foot buffer between bicycle lane and motor vehicle lane in accordance with National Association of City Transportation Officials guidance) with restricted on-street parking and minimum five-foot sidewalks (seven-foot sidewalks in a 15-foot module if Commercial Design Standards apply).
- Bicycle parking for multi-family, amenity center(s), and mixed-use/commercial meeting City Code requirements.
- Provide a minimum of one shower/changing facility within the civic reserve community center that will be available for use by the public.

**Deficiencies:**

- No donation of a 10-acre site for a multi-modal transit center.
- Properties in the MUD will be excluded from CapMetro service area.

**Tree Preservation and Mitigation**

Tree preservation is important; trees provide many benefits to the community and can significantly enhance property values, however, this financial benefit will accrue mainly to properties located within the project and represents a minimal financial benefit to the City as a whole. Small saplings that are well cared for will have grown up to be great trees by the time this MUD could be annexed. The applicant has committed to provide the following "Benefits" if Council consents to the creation of the MUD:

**Benefits:**

- A tree preservation plan in consultation with the City's arborist during the PUD process that, at a minimum will satisfy the requirements of the City's tree preservation ordinance, Protected and Heritage Tree, with additional emphasis given to trees less than 19" in diameter, where feasible, counting towards or fulfilling the tree planting/preservation requirements.
- A tree care plan, prepared by a certified arborist, will be provided for construction-related impacts within the critical root zone of all trees that are required to be preserved.
- Properly maintained landscaping, subject to any applicable water use or other restrictions imposed by the City or other governmental authority.
- Upon reclaimed water being brought to the project, use reclaimed water for irrigation in open space areas where such use is economically feasible, subject to any applicable water use restrictions imposed by the City.
- A tree corridor planned in consultation with the City's arborist along the Onion Creek Trail extension.
- Implementation of species diversity in any landscaping or revegetation requirement, using no more than 25% of any one species.
- A minimum of three trees selected from the City's appropriate species list will be provided on each residential lot.

**Deficiencies:**

- None

**Urban Design**

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Good urban design should be standard of new development. Developers who expect to be competitive should acknowledge that potential homebuyers presume to find these elements in modern communities. The results provide significant benefits to future property owners however and will benefit the project significantly more than the City as a whole.

The applicant has committed to provide the following "Benefits" if Council consents to the creation of the MUD:

**Benefits:**

- Sidewalk modules and building placement for the commercial and mixed-use multifamily areas will be designed in accordance with the Commercial Design Standards (Subchapter E) with:
  - Cascades Parkway is designated as a Core Transit Corridor;
  - the other roadways within these areas designated as Urban Roadways; and
  - lots over five acres designed according to Internal Circulation Route standards.

**Deficiencies:**

- None

**Water and Wastewater**

**Benefits:**

- A Certificate of Convenience and Necessity (CCN) release agreement from Creedmoor-Maha WSC and payment of all related release fees. The release has been processed by USDA, Creedmoor-Maha's lender, and the removal of the property from Creedmoor-Maha's CCN and its inclusion into the City's CCN is in process at the Texas Commission on Environmental Quality (TCEQ). The City would be the retail provider of water and wastewater service and collect all fees including capital recovery fees. Applicant will fully support the City's CCN application to the TCEQ
- Waive reimbursement of the \$3,445,939 amount authorized by City Council Resolution No. 20081218-005 on December 18, 2008, for reimbursement of the actual construction costs, engineering, design, and project management costs associated with the 24-inch water interceptor that would cross through the property.
- The Applicant has agreed to do the following, at the Applicant's cost:
  - construct a wastewater main within the project appropriately sized to convey the flows from the eastern single-family portion of the proposed MUD and an additional 430 gpm of peak wet weather flow to allow wastewater service for an additional 125 acres south of the proposed MUD; and
  - dedicate to City without cost at least two (2) appropriately sized wastewater easements at the southern boundary of the MUD District.
- The Applicant has agreed to following clarifications to the Service Extension Request requirements, as recommended by City staff:
  - Water: The addition of a second water feed into the proposed MUD when the development reaches 600 LUEs, with the preferred second feed being an extension of the proposed 24-inch water interceptor from its eastern terminus to the City's existing 42-inch water interceptor in Bradshaw Road and, if easements for the preferred location cannot be secured, the alternative being an extension of the proposed 16-inch water main along the IH35 frontage of the MUD south along IH35 to the existing 42-inch water interceptor.

- Wastewater: The addition of a 12-inch wastewater main with a minimum slope of 1.2% originating from the middle “wastewater tie-in” on the City’s existing 24-inch wastewater interceptor and running south parallel to the creek that bisects the project to the southern boundary of the MUD.

**Deficiencies:**

- None

**Watershed Protection**

**Benefits:**

- Innovative water quality controls, including additional capture volume of approximately 25%, biofiltration and vegetative filter strips.
- Reduce the use of potable water for onsite irrigation, including providing rainwater harvesting for the community civic reserve center.
- Integrated Pest Management Plan.
- Restore riparian areas using only of native plant species.
- Stabilize areas of the creek bank using non-engineered methods.
- Prohibit polluting uses.

**Deficiencies:**

- None

**Austin Resource Recovery**

Similar to if the project was annexed for full purposes, solid waste and recycling services will be provided by the City. However, property owners would not be obligated to comply with City Ordinances until full purpose annexation.

**Benefits:**

- Solid waste and recycling services will be provided by the City.

**Deficiencies:**

- Property owners in the MUD would not be obligated to comply with City Ordinances.

**BOARD AND COMMISSION RECOMMENDATIONS**

Parks and Recreation Board	Recommended 06/25/13
Water and Wastewater Commission	Recommended 07/10/13
Planning Commission	07/23/13
Environmental Board	08/07/13
Urban Transportation Commission	08/13/13