



# Vested Rights

Per Texas Local Government Code  
Chapter 245

&

El Paso City Code Section 1.04.070

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# TLGC Chapter 245

## Section 245.002. UNIFORMITY OF REQUIREMENTS.

(a-1) Rights to which a permit applicant is entitled under this chapter accrue on the filing of an original application or plan for development or plat application that gives the regulatory agency fair notice of the project and the nature of the permit sought.

(b) If a series of permits is required for a project, the orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time the original application for the first permit in that series is filed shall be the sole basis for consideration of all subsequent permits required for the completion of the project. All permits required for the project are considered to be a single series of permits. (i.e. preliminary plans and related subdivision plats, site plans, and other development permits.)



# Establishing Vested Rights

Typical approvals (permits) that can be used to establish vested rights:

- Land Studies
- Development Plans
- Subdivisions
- Detailed Site Plans

Nineteen (19) plat applications were granted vested rights during 2015.

Additional requests for vested rights were granted for landscape regulations.

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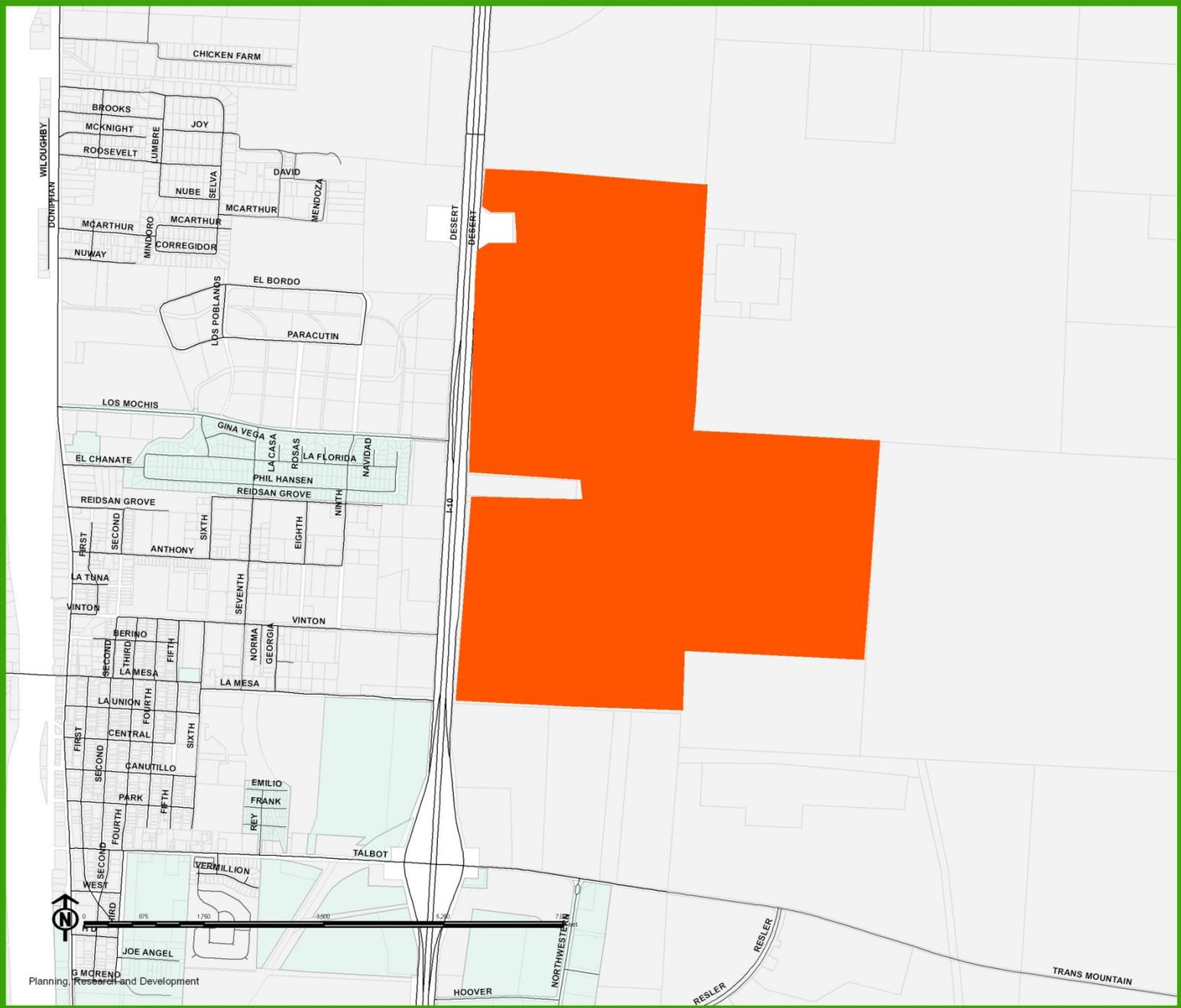


# Examples of Vested Projects

	Submitted	Approved
<b>Enchanted Hills Land Study</b>	2007	2008
✓ Enchanted Hills Unit One	2009	2009
✓ Enchanted Hills Unit Two	2009	2011
✓ Enchanted Hills Unit Three	2011	2012
✓ Enchanted Hills Unit Four	2015	2015
<b>Desert Springs Land Study</b>	2008	2009
✓ Desert Springs Unit One	2010	2012
✓ Desert Springs Unit Two	2010	2012
✓ Desert Springs Unit Three	2010	2014
✓ Desert Springs Unit Five	2011	2012
✓ Desert Springs Unit Six	2013	2014

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# ENCHANTED HILLS LAND STUDY

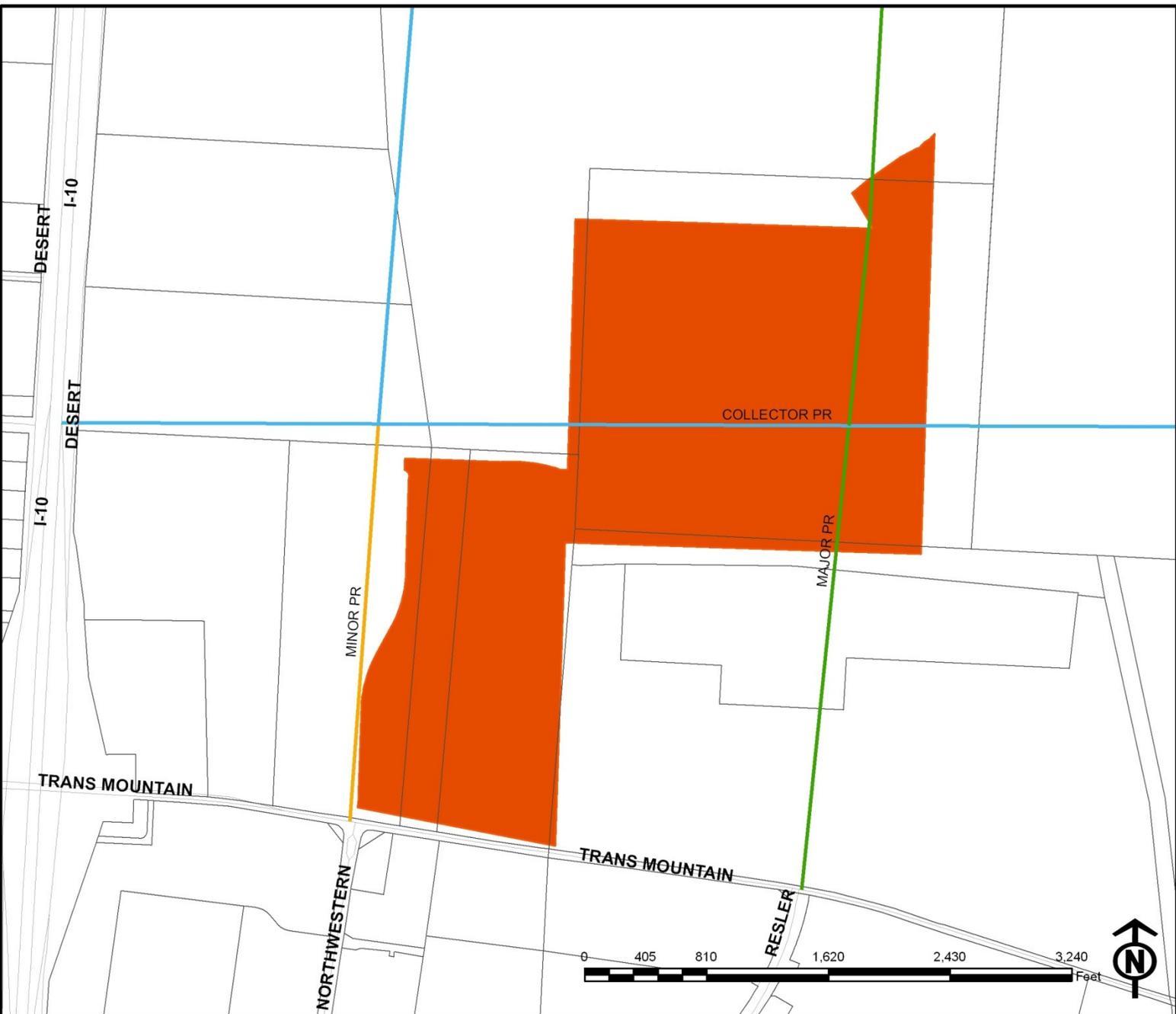


# ENCHANTED HILLS LAND STUDY

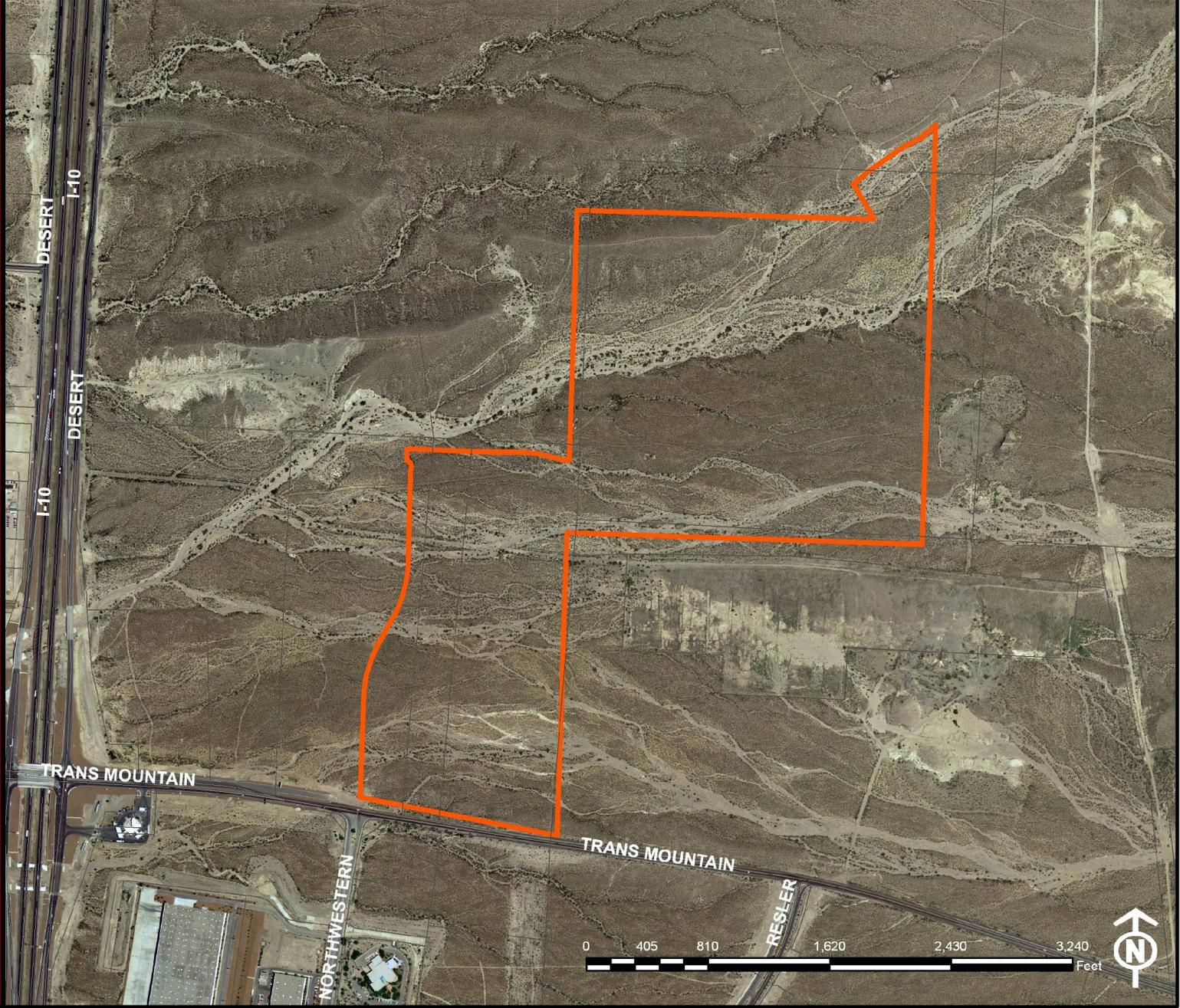


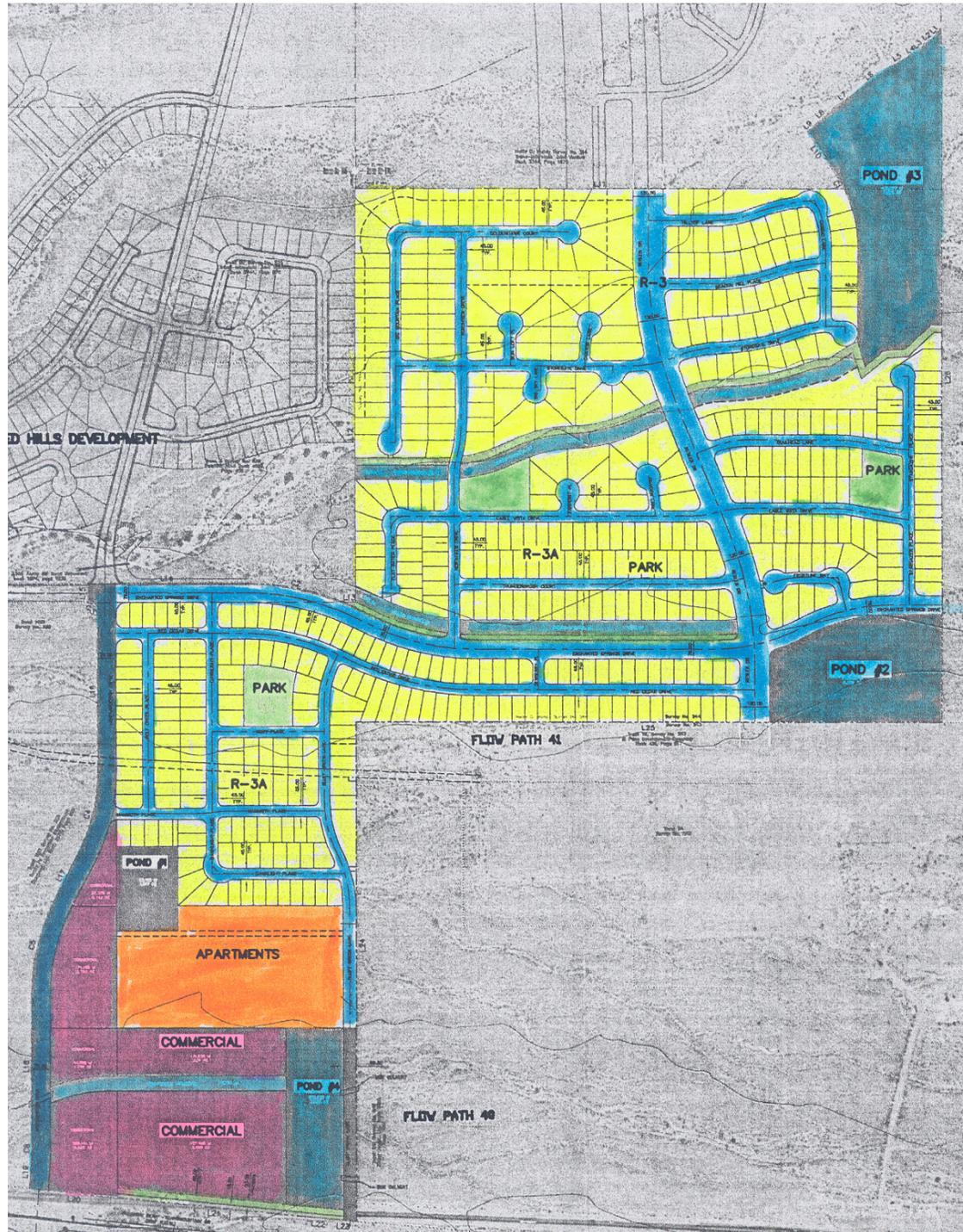


# DESERT SPRINGS LAND STUDY



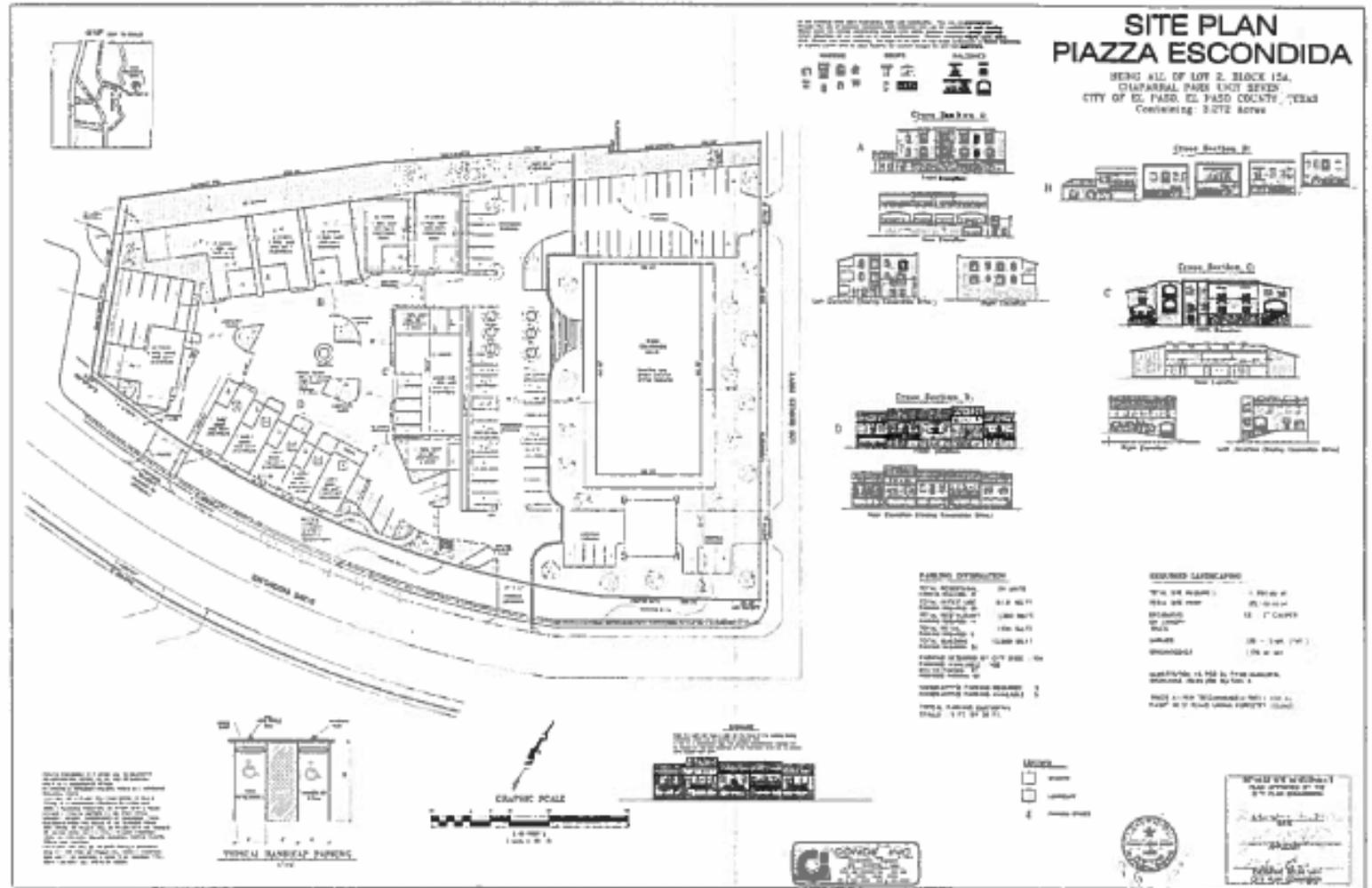
# DESERT SPRINGS LAND STUDY







# Examples of Vested Projects



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## City Code Section 1.04.070

- A. Purpose.** The purpose of this section is to establish a process and procedure for the issuance of local permits for projects in accordance with the provisions of **Texas Local Government Code, Chapter 245** or successor statute.
- B. Applicability.** This section shall be applicable to permits issued under the City Code. An applicant requesting approval shall submit a vested rights application to the city if the applicant believes that a project has been vested. A permit, for purposes of determining whether a project is vested, is defined as **a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.**



## City Code Section 1.04.070

- C. Application.** The application shall include the following information and documents:
1. A narrative description of the grounds for submittal of the application;
  2. A copy of each approved or pending application which is the basis for the contention that the project or permit is vested;
  3. The date of submittal of the application for the permit which the applicant contends vests the project;
  4. Any subsequent applications submitted or permits issued towards completion of the project;
  5. Identification of any current standards which petitioner agrees can be applied to the application at issue;
  6. A copy of any prior vested rights determination involving the same land; and
  7. Whenever the petitioner alleges that a permit or project subject to expiration under this section should not be terminated, a description of the event or events constituting progress toward completion of the project.



## City Code Section 1.04.070

**H. Dormant permits and projects.** Projects that become dormant shall not be entitled to vested status. A project becomes dormant and the project expires when progress toward completion of the project has not occurred.

3. A project shall expire after the fifth anniversary of the date in which the first permit application was filed for the project if no progress has been made towards completion of the project.

4. Progress towards completion of the project shall include any one of the following:

- a. An application for a final plat or plan is submitted to a regulatory agency;
- b. A good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
- c. Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
- d. Fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
- e. Utility connection fees or impact fees for the project have been paid to a regulatory agency.



## City Code Section 1.04.070

### I. Vesting does not apply to:

1. A permit that is at least two years old, is issued for the construction of a building or structure intended for human occupancy or habitation, and is issued under laws, ordinances, procedures, rules, or regulations adopting only:
  - a. Uniform **building, fire, electrical, plumbing, or mechanical codes** adopted by a recognized national code organization; or
  - b. Local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons;
2. Municipal zoning regulations **that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size** or that do not change development permitted by a restrictive covenant required by a municipality;
3. Regulations for **sexually oriented businesses**;
4. Municipal or county ordinances, rules, regulations, or other requirements affecting **colonias**;

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## City Code Section 1.04.070

5. **Fees** imposed in conjunction with development permits;
6. Regulations for annexation **that do not affect** landscaping or tree preservation or open space or park dedication;
7. Regulations for utility connections;
8. Regulations to prevent imminent destruction of property or injury to persons from flooding that are effective only within a flood plain established by a federal flood control program and enacted to prevent the flooding of buildings intended for public occupancy;
9. Construction standards for public works located on public lands or easements; or
10. Regulations to prevent the imminent destruction of property or injury to persons if the regulations do not:
  - a. Affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project; or
  - b. Change development permitted by a restrictive covenant required by a municipality.



# TLGC Chapter 245

Sec. 245.001. DEFINITIONS.

Sec. 245.004. EXEMPTIONS.

Sec. 245.005. DORMANT PROJECTS.

## Questions?

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