



405 Loop Street, Bldg. 100
Buda, TX 78610
(512) 312-0084

City Council Adopts Revised Persimmon Term Sheet

October 20, 2023

At the October 17 meeting, the Buda City Council adopted a revised development Term Sheet for the Persimmon Project located on RM 967 on the Armbruster and Bailey tracts. The Term Sheet identifies the conditions under which the City Council will consider approval of a Development Agreement. The Term Sheet serves as the foundation for a series of agreements that must be negotiated, drafted, and approved by the parties in order for the project to proceed as proposed.

Background

The Persimmon Project is a proposed ~750-acre project that is currently split between the Extra Territorial Jurisdictions (ETJs) of the City of Buda and the City of Austin. The project is primarily residential with a small mix of commercial space located along RM 967. In February 2022, the developer, Milestone Community Builders, took a proposed Development Agreement (DA) to the Buda Planning & Zoning Commission (P&Z) for consideration. The P&Z voted to recommend denial of the Development Agreement to the City Council. The Development Agreement was brought before the Buda City Council in August 2022, at which point the City Council tabled discussions on the DA. In September 2022, the City Council adopted an initial Term Sheet outlining the conditions the City Council would agree to in considering a Development Agreement. Negotiations on the Term Sheet have continued for over a year.

Milestone is actively pursuing two development routes for developing the Persimmon Project.

- **Option 1 - Development Agreement with the City of Buda Option.** Under this scenario, the project would be annexed into the City of Buda, receive utility services through the City of Buda, and would be guided by the City's development standards and regulations. The City would be able to apply zoning standards, regulate an agreed to number of units and density, and require public infrastructure improvements such as roadways, trails, and utility improvements. The Term Sheet in discussion is associated with this option.
- **Option 2 - County Municipal Utility District (MUD) Option.** This option is for the developer to form and develop under a Municipal Utility District (MUD) that they would create and govern using Hays County regulations. Under this option, the development would not be part of the City of Buda, would not receive utility or other services from the City of Buda, and would not follow the City of Buda's development regulations. Because counties do not have zoning regulations under state law, the restrictions that the county could place on the project are limited. The project would be able to increase the density of the housing with more units, add multifamily, industrial components, or other uses incompatible with adjacent properties. Under this scenario, Milestone indicated that they intend to build upwards of 1,000 multifamily units on the project. Hays County would also be limited in negotiating transportation improvements under this

scenario. It is unknown how the development would receive utility services under this scenario, but it could include receiving water and/or wastewater from another surrounding provider, utilizing onsite wells, and/or installation of a package wastewater treatment plant with treated discharge into Little Bear Creek or a land application permit.

Milestone has filed a petition with the Texas Commission on Environmental Quality (TCEQ) to create a MUD that would enable the development to levy a tax within their district to help pay for development and utility infrastructure costs. In September 2023, the City filed a request to TCEQ requesting a contested case hearing on the MUD petition, opposing the creation of the MUD. This request with TCEQ is still pending.

Negotiations

The City has continued to negotiate the terms of the Term Sheet with Milestone to seek a mutually agreeable project that protects the best interests of the Buda community. The City has continued to negotiate terms related to the overall density of the project, including placing a cap on the total number of residential units and lot sizes, mitigating the impact to the City's water supply, transportation improvements and establishing timelines to ensure the project mitigates traffic impacts, along with tree mitigation and other environmental standards that protect the natural environment.

The City's ability to effectively negotiate terms for this project was hampered by recent changes in state legislation. In Texas, landowners and developers have rights far beyond the control of municipalities. Cities previously had the ability to annex areas of land in order to apply zoning standards consistent with the values of the community. In 2017, the Texas Legislature stripped cities of this ability, thus requiring all annexations into a city to be voluntary. The Texas Legislature further eroded a city's ability with the passage of [Senate Bill 2038](#) earlier this year. Senate Bill 2038 requires a city to release a property from its ETJ, if requested. The Persimmon Project previously sought release from the City of Buda's ETJ, which was granted on October 11, 2023. With this release, the City has no ability to regulate any components of the proposed development, unless the developer voluntarily enters into a Development Agreement with the City.

Revised Term Sheet

The revised Term Sheet adopted by the City Council is available for review [here](#). Below are highlights of the latest Term Sheet.

- Establishes required mobility improvements and timelines.
- Dedicates land for a future Fire/EMS Station.
- Reserves land for up to 5 years for a future public-school site.
- Caps the total number of residential units at 2,300, reduced from 2,800 initially.
- Includes a mix of lot sizes.
- No for rent multi-family lots.
- Establishes alternative tree mitigation standards.
- Dedicates new parkland and trails for the public.
- Develops an aquifer storage and recovery well for the City to help meet water demands.
- Developer to seek release from City of Austin ETJ so that the project can be cohesive across jurisdictions.

- In exchange for these items, the City would agree to annex the property, provide utility services, and create both a Tax Increment Refinancing Zone (TIRZ) and a Public Improvement District (PID) to help fund the infrastructure improvements. Please note that the TIRZ and PID would only be payable by properties located within the Persimmon property.

What's Next?

There are still many moving parts related to this project. If Milestone agrees to the revised Term Sheet, then the City will formalize these conditions in a Development Agreement that would require City Council approval. A Planned Development (PD) would also be created that would create the development regulations for the project and note any changes from the City's standards. The City Council would still need to examine the TIRZ and PID financing plans and take actions related to creating them if terms were agreed upon. The property would be annexed into the City.

While the City continues to pursue the Development Agreement with the City of Buda Option, the City will continue to oppose the MUD filing with TCEQ.

To learn more about the proposed project and to review frequently asked questions, please visit the [Quick Facts and FAQs](#) document. If you have questions on the project or would like to provide input, please email communications@budatx.gov.