

Response to Neighborhood Questions Regarding Zoning Case Z 18-05

Development Process and Overall Design Questions

	Comment	Response
D1	Will the City be transparent regarding other developments being considered south of Old Black Colony? Specifically, the proposed development mentioned on page 8 of the October 9, 2018 Planning & Zoning Commission Agenda Item Report. Has this been taken into account when considering rezoning for a R3 development also feeding onto Old Black Colony?	Yes. The City of Buda considers other projects actively in any stage of the development process when nearby. This other project south of Old Black Colony Road will be coming forward with its own process and notification. It is slightly different as it is currently in the extraterritorial jurisdiction where the City does not have land use authority.
D2	Will the developer please share the builders they have been speaking with? We understand the exact builder will not be selected this early in the process, but it would be helpful to assess potential home values and quality if we knew their consideration set.	This is the developer's discretion. Developers do not reveal their builder until the final builder is under contract due to business negotiations.
D3	Should negotiations and plan changes lead to a project more amenable to the concerns of the adjacent neighborhood, how can we have assurances that it will be enforced?	In reviewing the concerns of the neighborhood, most concerns are related to specific site plan elements or subdivision design elements. The message received from the neighborhood is a desire for detailed, enforceable certainty regarding the project design that addresses expressed concerns. This could involve detailed identification of lot orientations, placement & content of open space, street connections etc. It could even go so far as to specify a unique street section. An alternative tool to accomplish this type of legal obligation would be a Planned Unit Development (PUD), which is essentially a custom zoning category specific to a project that allows many of the requested changes to be enforced by the City as though those requirements were now part of the development code. A Planned Unit Development provides the public process for this, and has a greater level of legal enforceability than the R-3 + Innovative Residential TND. A binding site plan could be an exhibit to the Planned Unit Development. A Planned Unit Development provides greater latitude to negotiate with the neighborhood. Some elements requested by the Whispering Hollow neighborhood constitute deviations from some development requirements that would require waivers at the platting stage (such as whether or not to connect to Enchanted Woods and Tree Haven). Issuing a subdivision waiver can be problematic when based primarily on neighborhood opposition rather than by applicant request with associated justification, as it can establish legal precedent issues. In addition, such a waiver would not be granted until the subdivision plat stage, when the Whispering Hollow neighborhood desires assurances of this up-front. Granting this concession within a Planned Unit Development process avoids this potential precedent issue, limiting it to the context of this specific project, and guarantees an outcome up-front. A Planned Unit Development can also have an expiration with reversion clause back to AG-Agricultural zoning if the project does not proceed in a certain period of time.

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D4	What will be the process for consideration going forward?	<p>The Planning and Zoning Commission tabled the project pending further discussions between the Developer and the neighborhood. Based on city staff review, this project could become a Planned Unit Development proposal (see above) in order to address neighborhood concerns.</p> <p>There will be an additional public hearing at both the Planning and Zoning Commission and City Council.</p> <p>City staff is working to coordinate logistics for a meeting between the Whispering Hollow HOA leadership and Developer, and city staff anticipates coordinating logistics for a larger neighborhood meeting between interested residents and the Developer shortly after.</p>
D5	What were the notification requirements for the zoning case?	<p>State law requires that for a zoning change request, the City notify, by 1st class mail, property owners (based on tax roll data) in the city limits within 200 feet of the subject property requesting the zoning change at least 10 days prior to the Planning & Zoning Commission public hearing.</p> <p>The City of Buda, in its locally adopted Unified Development Code, sends this notice to property owners within 400', which is double the requirement of state law and is the widest notification distance found to be used by other cities in Texas. In addition, the City of Buda sends this notice 15 days in advance of the public hearing rather than 10 days. Both of those enhancements to public notification were made in 2017 due to an identified need to broaden outreach. Furthermore, the City posts a sign on the subject property, which is not a requirement of state law but instead a locally adopted requirement.</p> <p>The letter notice is completed using a Geographic Information System (mapping software) to create a 400' buffer around the subject property. That buffer is then used to select the lots inside the city limits that touch the buffer. This lot information includes as Tax ID number (R-number) from Hays Central Appraisal District. This is then joined with a table of owner addresses linked by the R-number. The resulting database is then used to run a mail merge to produce the address labels, and the letters are sent.</p> <p>This same notification process is used for Planned Unit Developments and Specific Use Permits as well.</p>

Comment	Response
Transportation-Related Questions	
Comment	Response
<p>T1 We request that the city complete a traffic study to determine how this project will impact traffic needs while the development is under construction, and once the development is complete. Please take into account implications for the Whispering Hollow neighborhood, especially for residents of Enchanted Woods Trail, Treehaven and Oyster Creek, as well as Old Black Colony and FM 967. As the city completes these reports, we ask that you include the new expansion of Oyster Creek through White Oak Preserve. We believe that will become the neighborhood’s main entrance and exit from FM 967 for Whispering Hollow, Elm Grove, White Oak Preserve and the new development, should it connect with Whispering Hollow. This will especially impact residents on Oyster Creek – including in White Oak Preserve - and Enchanted Woods Trail. Please also include any other developments that may be in discussion in the area that would impact traffic flow in the future.</p>	<p>Staff is aware of the concerns regarding Old Black Colony Road. Unfortunately, a Traffic Impact Analysis was not conducted with the Preliminary Plat that contained Garlic Creek, Elm Grove and Whispering Hollow which totaled over 1,950 homes. It is not clear why such a study was not conducted, as the City did not have professional planning and engineering staff at the time those subdivisions were proposed. The lack of such study and the mitigation that would have likely resulted contributes significantly to the current transportation challenges in the area. State law and court case law prohibits cities from requiring a developer to mitigate traffic beyond their project's anticipated impact. State law does, however, allow cities to use subdivision platting as a tool to acquire the necessary right-of-way. With development of Whispering Hollow and Summer Pointe, the City acquired some additional right-of-way, which is a critical step towards future improvements. The proposed project subject to the zoning request will likewise be required to dedicate right-of-way and be required to prepare traffic impact analyses at the Preliminary Plat stage in accordance with the Unified Development Code. These requirements apply regardless of the type of project, and such studies are dependent upon the exact layout of the subdivision & its access points. This is why such studies are required at the Preliminary Plat stage rather than the zoning stage. The City, as an alternative, can prepare a traffic study for the overall corridor and then calculate a fair share contribution by the developer under its Unified Development Code (may be best solution). This is under discussion.</p> <p>A typical project follows the following steps: Zoning--> Preliminary Plat (and traffic study) --> Final Plat & Subdivision Construction Drawings --> Building Permits for each home</p>

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T2	<p>We understand that Hays County currently owns Old Black Colony. Who will be funding proposed improvements to Old Black Colony? If it's the developer, has the city worked out approvals, permits and such with the County?</p>	<p>This will depend on the outcomes of the traffic study, which is conducted at the Preliminary Plat stage. These studies occur at the preliminary plat stage because the traffic study has to account for the exact number of units, the layout of the units within the property, and the number and positioning of all access points to the subdivision. This study then produces the "roughly proportional" impact of the subdivision and recommended mitigation. In this case, the City may ask the developer to pay a fee-in-lieu towards a study of the entire Old Black Colony Road corridor due to the fragmented land ownership along the corridor in order to achieve a more comprehensive recommendation for improvements.</p> <p>At the time of Preliminary Plat, the developer will need to produce driveway/street cut permits approved by Hays County.</p> <p>Ultimate funding of improvements will likely involve a combination of funding sources. The City of Buda has been using its ability to acquire right-of-way through the subdivision platting process for Whispering Hollow and Summer Pointe, and will continue to do so for other properties along this corridor. Right-of-way acquisition is a critical step toward funding improvements as it eliminates or reduces the need for property acquisition, and the value of that right-of-way can be used in support of matching requirements for some grant programs. The City would be better positioned had a traffic impact analysis and resulting required mitigation been done for Whispering Hollow, Elm Grove and Garlic Creek, such as improvements to adjacent roads, as those neighborhoods are the source of most vehicle trip generation along both the Old Black Colony Road and FM 967 corridors.</p>
T3	<p>How does the plan to develop additional neighborhoods prior to expanding existing roads fit within the statement "planning for civic infrastructure and services in advance of growth?"</p>	<p>This is an aspirational statement and common in plans for many cities. Very few local governments in Texas have the ability to construct roadways in advance of growth, as they must address existing demand first and the funding to support additional infrastructure is tied to tax support from new development (that development should fund itself). Likewise, many cities in Texas do not have regulatory and funding tools to assist in advancing projects prior to growth. Most cities plan improvements to their roadway infrastructure by first acquiring right-of-way through the subdivision platting process to the maximum extent allowed under state law and court case law. This establishes the land necessary to support additional transportation infrastructure, and accelerates a city's ability to pursue roadway improvements.</p>
T4	<p>What are the long-term plans for FM 967?</p>	<p>The City and County are in discussions regarding the future of FM 967 following completion of the Robert S. Light Boulevard extension from S. Loop 4 to FM 2770 and FM 1626, which will also include a grade separated crossing of the railroad. This discussion includes designation of Robert S. Light Boulevard as the new FM 967, with the existing FM 967 transitioning to local control. While the City will be updating its Transportation Master Plan next year, the current plan has emphasized the need to create alternative routes to the existing FM 967 rather than trying to widen further. Robert S. Light's extension furthers this approach. In addition, the City has secured a planning project to evaluate this further from the Capitol Area Metropolitan Planning Organization (the funding pass-thru designee for most state and Federal transportation funding sources).</p>

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T5	We encourage the City to do more research on potential impact on home values for residents of adjacent neighborhoods. We believe that the Estates of Whispering Hollow will be most affected at first, should streets connect to the new development.	<p>The City is considering this and has requested that the developer prepare an alternative design consistent with neighborhood desires to not directly connect Enchanted Woods Trail and Treehaven Court. It is important to note, however, that these two streets exceeded the maximum length of a dead-end street. They were allowed to be built on the basis that they would eventually connect to another development. This can be addressed.</p> <p>The Developer is preparing a revised project based on this feedback regarding connections to the Whispering Hollow neighborhood.</p>
T6	Why is the proposed neighborhood connecting to Enchanted Woods Trail and Treehaven Court? Does it have to connect?	<p>The City's Unified Development Code requires developments to provide street stub-outs to adjacent undeveloped land to facilitate future development and interconnection. This is why the two streets terminate with a barrier instead of a cul-de-sac, as they were intended to connect. This requirement exists to facilitate connectivity between neighborhoods, providing multiple alternative routes for access, and applies regardless of the type of development or zoning being connected. This can be potentially eliminated through use of a Planned Unit Development or waiver. A Planned Unit Development establishes such an elimination up-front during the zoning process, while a waiver would occur later in the subdivision platting process at the discretion of the Planning & Zoning Commission and City Council.</p>
T7	Please consider an alternative plan that meets the required connectivity ratio without relying on Enchanted Woods Trail and Treehaven connecting to the new development. IE, a plan with fewer turns or an additional entrance/exit to the development from Old Black Colony. If there is not an alternative that meets the required connectivity ratio, please request the waiver that was referenced during the 10/9/18 meeting.	<p>The City is considering this and has requested that the developer prepare an alternative design consistent with neighborhood desires to not directly connect Enchanted Woods Trail and Treehaven Court. It is important to note, however, that these two streets exceeded the maximum length of a dead-end street. They were allowed to be built on the basis that they would eventually connect to another development. This can be addressed.</p> <p>The Developer is preparing a revised project based on this feedback.</p>
T8	We assume that the city will need to purchase land from residents along Old Black Colony should the city widen the road and add bike paths and sidewalks. Has the city already approached those residents? What is the status of these requests?	<p>The City has not approached any property owners along Old Black Colony Road regarding acquisition of right-of-way. Buda, like most cities, uses the subdivision development process to acquire needed right-of-way for free as an exaction to developers based on their impact to transportation infrastructure. This was done with Whispering Hollow and Summer Pointe, and will be done with the subject property as well as the project referenced across the street.</p>

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Comment		Response
Parks-Related Questions		
Comment		Response
P1	The plans that have been presented indicate the inclusion of park space, which helps build the community character. What features or activities will the park include?	Features and activities of the planned park spaces depend on whether the parks will be dedicated to and owned by the City of Buda or an owners' association. When planned for dedication to the City, the improvements are reviewed and recommended by the Parks & Recreation Commission based on the needs identified in the City of Buda Parks, Recreation, Trails and Open Space Master Plan, and then approved as part of the Preliminary Plat with the Planning & Zoning Commission. In this circumstance, staff anticipates the parks will be owned & maintained by an owners' association. In those circumstances, projects pay a fee-in-lieu of parkland dedication & development, and then often wait to see what demographics emerge in the neighborhood.
P2	The current plan has the park placed on Old Black Colony, which will be an increasingly busy road. Has safety been assessed of the placement? Will kids be playing in that park?	Placement of parks along thoroughfares is a common practice in all cities. Both the Whispering Hollow Park and the Summer Pointe Park are located in linear fashion along Old Black Colony Road. It is often used as a technique to preserve the character of a corridor. Safety is always a consideration in these circumstances, and the approach to such safety considerations is dependent on the ownership of the park as well as the types of equipment & facilities planned.

Environment-Related Questions

Comment		Response
E1	Has an environmental study been done in relation to this proposed development? If not, will one be completed prior to a project like this being approved?	The Developer has conducted a Phase I Environmental Assessment. This is not a requirement of the City of Buda.
E2	Will the city please evaluate the impact continued development have on wildlife in the area? Wildlife, including deer, rabbits, foxes, opossums, are often spotted in this area and are good for the environment.	With any development, wildlife displacement takes place. The plan to preserve a large amount of trees in contiguous open spaces helps to diminish the negative impacts to wildlife by preserving shelter & habitat.
E3	The proposed development and Whispering Hollow fall within the Edwards Aquifer zone. Do drainage plans of the new development ensure we feed the recharge zone, without causing potential flooding to other homes?	The City of Buda has extensive requirements regarding the regulation of storm water runoff to address the quantity/amount of runoff as well as water quality to protect streams as well as underground water sources. All projects, regardless of type, are subjected to these standards. The subject property is located in the Transition Zone, which is not a specially regulated Edwards Aquifer Zone. The Edwards Aquifer Contributing Zone and Recharge Zone are further west and are regulated due to their impact to aquifer recharge quantity and water quality.
E4	What types of trees are being protected in the new development? Was an arborist consulted in the process? Some types of trees, such as Post Oak, often do not survive construction. We saw this happen after the development of Whispering Hollow. The builder did their best effort to save trees. However, several post oaks died soon after surrounding land was disturbed.	The City updated its tree protection requirements with the Unified Development Code re-write in 2017 to address some of these concerns regarding preservation of trees in proximity to a building footprint, prescribing stronger standards for protection of critical root zones during and after construction. In reviewing the tree survey for the property, it is comprised primarily of elm, cedar elm and live oak. The report indicates only one post oak. It also contains several species that are not classified as protected species, including cedar (ashe juniper), mesquite, hackberry and chinaberry.

Comment	Response
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Comprehensive Plan-Related Questions

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<p>C1 The Buda 2030 Comprehensive Plan states the following: “Based on an assessment of the natural resources, the greatest development potential exists in the eastern areas of Buda where land is relatively flat and there are fewer environmental constraints. Still, the City of Buda must take care to ensure development does not significantly alter the landscape that characterizes Buda and the Central Texas region. Preservation of natural resources is important in helping to preserve the character of the community. Additionally, significantly altering the landscapes can result in problems with other systems such as flood control, erosion, and the general ecosystem as habitats are disturbed and removed.” Does the current R3 rezoning request align with this statement? Does the underlined portion of the statement support the consideration of this planned development in a different section of Buda, including the “Emerging Growth District” on the east side of IH-35?</p>	<p>The 2030 Comprehensive Plan does not state that such development should be constrained exclusively to the Emerging Growth District. This is further reflected on the chart found on page 213 in the Comprehensive Plan depicting appropriate, conditionally appropriate and inappropriate development types by character district. In addition, the description paints a broad brush regarding the geographic characteristics of each part of Buda. In this instance, the subject property is quite flat even though it is in the Green Growth Character District. An R-3 zoning in the Emerging Growth Character District, in contrast, had some significantly steep slopes and also had regulated wetlands present. The subject property, due to low slopes, is not expected to require any mass grading.</p> <div style="text-align: center;"> <p>CHARACTER DISTRICT AND MIXED USE NODES: APPROPRIATE DEVELOPMENT TYPES</p> <table border="1"> <thead> <tr> <th rowspan="2"></th> <th colspan="10">Development Type</th> </tr> <tr> <th>Fixed Use</th> <th>Regional Retail Center</th> <th>Neighborhood Shopping Center</th> <th>Office</th> <th>Industrial Park or Distribution Cr</th> <th>Low Density Single Family & Agriculture Use (> 1 acre)</th> <th>Medium Density Single Family (0.25-1 acre)</th> <th>High Density Single Family (<0.25 acre)</th> <th>Attached Housing</th> <th>Multifamily (for sale or rent units)</th> <th>Cluster Development</th> </tr> </thead> <tbody> <tr> <td colspan="11">CHARACTER DISTRICTS</td> </tr> <tr> <td>Green Growth District</td> <td>●</td> <td>×</td> <td>●</td> <td>●</td> <td>×</td> <td>○</td> <td>●</td> <td>●</td> <td>●</td> <td>○</td> <td>●</td> </tr> <tr> <td>Emerging Growth District</td> <td>●</td> <td>○</td> <td>●</td> <td>●</td> <td>×</td> <td>○</td> <td>●</td> <td>●</td> <td>●</td> <td>○</td> <td>●</td> </tr> <tr> <td>Heritage District</td> <td>●</td> <td>×</td> <td>●</td> <td>●</td> <td>×</td> <td>●</td> <td>●</td> <td>●</td> <td>●</td> <td>○</td> <td>○</td> </tr> <tr> <td>Industrial Growth District</td> <td>○</td> <td>×</td> <td>×</td> <td>○</td> <td>●</td> <td>○</td> <td>×</td> <td>×</td> <td>×</td> <td>○</td> <td>○</td> </tr> <tr> <td>Business Growth District</td> <td>●</td> <td>○</td> <td>○</td> <td>●</td> <td>○</td> <td>×</td> <td>×</td> <td>○</td> <td>○</td> <td>○</td> <td>○</td> </tr> <tr> <td>Interstate Corridor</td> <td>●</td> <td>●</td> <td>×</td> <td>●</td> <td>○</td> <td>×</td> <td>×</td> <td>×</td> <td>×</td> <td>●</td> <td>×</td> </tr> </tbody> </table> </div>		Development Type										Fixed Use	Regional Retail Center	Neighborhood Shopping Center	Office	Industrial Park or Distribution Cr	Low Density Single Family & Agriculture Use (> 1 acre)	Medium Density Single Family (0.25-1 acre)	High Density Single Family (<0.25 acre)	Attached Housing	Multifamily (for sale or rent units)	Cluster Development	CHARACTER DISTRICTS											Green Growth District	●	×	●	●	×	○	●	●	●	○	●	Emerging Growth District	●	○	●	●	×	○	●	●	●	○	●	Heritage District	●	×	●	●	×	●	●	●	●	○	○	Industrial Growth District	○	×	×	○	●	○	×	×	×	○	○	Business Growth District	●	○	○	●	○	×	×	○	○	○	○	Interstate Corridor	●	●	×	●	○	×	×	×	×	●	×
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<p>C2 Would you please clarify what the intent is behind gateways mentioned in the Buda 2030 Comprehensive Plan? Page 14 of the Buda 2030 Comprehensive Plan states, “COMMUNITY IDENTITY – Community identity addresses the objectives and recommendations in order to make Buda a unique community with a great small-town character, active neighborhoods, and many entertainment and recreation opportunities. Key actions include establishing gateways and using the UDC to incorporate community identity elements in new developments, streetscaping, and design standards.”</p>	<p>The UDC does contain standards for how new developments are designed to appear from existing streets classified as a collector or above, especially when the rear of lots faces towards the road.</p> <p>The concept at the time was to address wayfinding within subdivisions and delineate when neighborhoods transitioned from one to another. This was made significantly more complicated by a Supreme Court case that effectively said a City could not regulate the content of signs in the right-of-way if it allowed placement of signs in the street right-of-way. This means that only governmental signs can be placed. The City has not determined how best to approach the concept of these gateways within and between subdivisions in light of these changes to the policy environment.</p>																																																																																																									

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Comment		Response
School-Related Questions		
Comment	Response	
S1	The new development will be zoned for Buda Elementary, which will increase bus traffic once the new school opens on Old San Antonio Road. Please evaluate if buses can safely route on Old Black Colony, Enchanted Woods Trail and Treehaven, given the narrow nature of the roads. Also please evaluate the impact on increased traffic on FM 967.	The City of Buda understands that buses already operate on Old Black Colony Road. The City of Buda does not have any authority over the actions of the school district nor does it have authority to prescribe methods to address campus capacity or specific bus routing.
S2	We request the city to evaluate potential response time for first responders and how that can be impacted by the limitations of existing roads (narrow, cars parked in the street) in Whispering Hollow neighborhood and Old Black Colony.	The City of Buda is discussing potential alternative street sections to address this concern for the new project, as the project will have garages accessed from alleys. This provides greater flexibility to design the streets to accommodate larger vehicles. The City has requested that the developer prepare an alternative design consistent with neighborhood desires to not directly connect Enchanted Woods Trail and Treehaven Court. It is important to note, however, that these two streets exceeded the maximum length of a dead-end street. They were allowed to be built on the basis that they would eventually connect to another development. This can be addressed, however, these connections are also to provide alternative routes for first responders.
S3	What are projected attendance per school after the development, and how does that compare to school capacity?	The City of Buda does not have any authority over the actions of the school district nor does it have authority to prescribe methods to address campus capacity. Cities cannot consider school district issues in evaluating zoning cases.
S4	Will you please share the long-term vision of where future schools will be located? What are the city's plans to improve street infrastructure ahead of building new school sites?	The City of Buda does not have any authority over the actions of the school district nor does it have authority to prescribe methods to address campus capacity. Cities cannot consider school district issues in evaluating zoning cases. Schools are treated like any other development project in that they are required to extend necessary utilities to their site, address traffic impacts, etc. When possible for larger projects, the City will coordinate discussions between the school district and Developer regarding potential need for school sites.
S5	The development is currently zoned for Buda Elementary. We understand that there may be rezoning again in a year, once the new Buda Elementary location opens. Is there a potential for other existing neighborhoods to be rezoned as well, such as Cullen Country and Garlic Creek? Are residents of those neighborhoods aware of this potential, if it exists?	The City of Buda does not have any authority over the actions of the school district nor does it have authority to prescribe methods to address campus capacity. Cities cannot consider school district issues in evaluating zoning cases.

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Infrastructure, Including Water and Drainage		
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11	How will the increased development impact water supply?	The City of Buda has sufficient water supply to meet the demand of this project. The City of Buda has diversified water supply sources including Edwards Aquifer wells, surface water from the Guadalupe Blanco River Authority and the Alliance Regional Water Authority. The City of Buda encourages and requires conservation in recognition of water as a finite resource, allows the water system to operate efficiently and because conservation helps to to keep rates lower.
12	Existing drainage concerns must be addressed. The plan for the new development seems to do a good job of directing drainage away from homes within the new development, but feeds drainage toward the Estates of Whispering Hollow, in addition to properties North and East of the development. Only one retention pond and no green space to absorb drainage between new and existing neighborhoods is a concern.	Two pond facilities were proposed with the project. They are considered detention ponds, meaning that they are dry most of the time. This is the most common form of stormwater management, particularly for subdivisions with smaller drainage areas. Topography tends to dictate the location of such facilities in order to meet local ordinance and state law requirements to not create an adverse impact. When the section of Whispering Hollow containing Treehaven and Enchanted Woods was built, the underground stormwater infrastructure was designed to pass-thru a portion of the stormwater from the subject property, provided that the subject property designs their stormwater ponds to match runoff from pre-development conditions. Again, this is normal, required practice.