

## Renee Lyle

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**From:** PUBCOMMENT-OCC  
**Sent:** Friday, February 16, 2024 5:43 PM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; Pubcomment-Dis  
**Subject:** FW: Public comment on Permit Number D09262023033  
**Attachments:** 2024.02.16 - Comment Ltr to TCEQ.pdf

PM  
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Jesús Bárcena  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
Office Phone: 512-239-3319

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**From:** jcarlson@howrybreen.com <jcarlson@howrybreen.com>  
**Sent:** Friday, February 16, 2024 1:51 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number D09262023033

**REGULATED ENTY NAME** LUND FARM MUD

**RN NUMBER:** RN111815627

**PERMIT NUMBER:** D09262023033

**DOCKET NUMBER:**

**COUNTY:** BASTROP, HAYS, TRAVIS

**PRINCIPAL NAME:** LUND FARM MUNICIPAL UTILITY DISTRICT

**CN NUMBER:** CN606185148

**NAME:** MR John Carlson

**EMAIL:** [jcarlson@howrybreen.com](mailto:jcarlson@howrybreen.com)

**COMPANY:**

**ADDRESS:** 164 LUND RD  
ELGIN TX 78621-3850

**PHONE:** 5122943411

**FAX:**

**COMMENTS:** Please see full text of comments in the attached document. A copy will also be faxed and mailed.

Law Offices of John E. Carlson  
164 Lund Road  
Elgin, Texas 78621  
(512) 294-3411

February 16, 2024

**PUBLIC COMMENTS, REQUEST FOR PUBLIC MEETING,  
AND REQUEST FOR CONTESTED CASE HEARING**

**Via Electronic Filing, Certified U.S. Mail, and Facsimile ((512) 239-3311)**

Office of the Chief Clerk (MC-105)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Re: Lund Farm MUD Application (CN606185148 & RN111815627; Permit No. D09262023033)  
Public Comments, Request for Public Meeting & Request for Contested Case Hearing

To Whom It May Concern:

My name is John Carlson. I am writing this letter on behalf of myself and my mother, Margery Carlson. The purpose of this letter is three-fold: (1) to provide public comments on the proposed Lund Farm MUD application that was recently declared administratively complete by the Commission; (2) to request a public meeting on the proposed MUD; and (3) to request a contested case hearing on the MUD application. My address is 164 Lund Road, Elgin, Texas 78621. My mother's address is 711 North Main Street, Elgin, Texas 78621. My best daytime phone number is (512) 294-3411; my mother can be reached through me at that number. The internal TCEQ control number or numbers for the Lund Farm MUD application are referenced above.

**I. BACKGROUND**

**Our Interests**

My mother and I co-own agricultural property located immediately across Lund Road (to the north) from the proposed Lund Farm MUD and development. I personally live on the property and maintain it as my homestead. My mother maintains her residence in the City of Elgin, but comes to the property regularly and is a joint venturer in our family farm operation.

Our property comprises approximately 107.5 acres of farmland with a homestead and farm buildings (house, barn and sheds) bounded by Texas Highway 95 to the east, Lund Road to the south, and County Line Road to the west. My immediate neighbor and landowner to the north is Darryl Carlson. Most

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of our property (approximately 104 acres), including the homestead, is located in Bastrop County; about 3.5 acres in the far western portion of our property is located in Travis County. The Bastrop County Appraisal District Property IDs for the portion of the property located in Bastrop County are R15012 and R15015. The Travis County Appraisal District's Property ID for the property is 358845.

Our property, which has been in the family for almost 100 years, is a working farm. We raise cattle and hay on the property.

We use Lund Road, TX 95, and County Line Road – the same roads that bound the proposed Lund Road MUD and development and will serve as feeder/access roads to that development if it is approved – as our primary (and only) access to our property on a daily basis multiple times a day. We both pay ad valorem taxes to Bastrop County, Travis County, the Elgin Independent School District, the local Austin Community College District, and Travis County Emergency Services District #13 (ESD 13) – the same taxing authorities mentioned in the Lund Farm MUD application as applicable to the proposed MUD and any residents therein. Domestic water to our farm is provided by Aqua Water Supply Corporation. Fire and emergency services to the “homestead” section of the farm are provided by Bastrop/Travis Counties Emergency Services District #1; the westernmost portion of the farm is covered by ESD 13 for fire and emergency services. Water and wastewater services to my mother's home in Elgin is provided by the City of Elgin; her fire and emergency services in Elgin are also provided Bastrop/Travis Counties Emergency Services District #1.

As owners of real property that runs along the entirety of Lund Road from TX 95 to County Line Road, we face the distinct possibility of governmental annexation of right-of-way from our long-held property for any expansion of Lund Road in the future to address the need for a larger, enhanced road that would be immediately adjacent to the 1,800+ new homes and 600+ apartment units proposed for the 570-acre district and development.

For these and other reasons, my mother and I are affected by the potential Lund Farm MUD and development in ways not common to the general public.

**Lack of Notice**

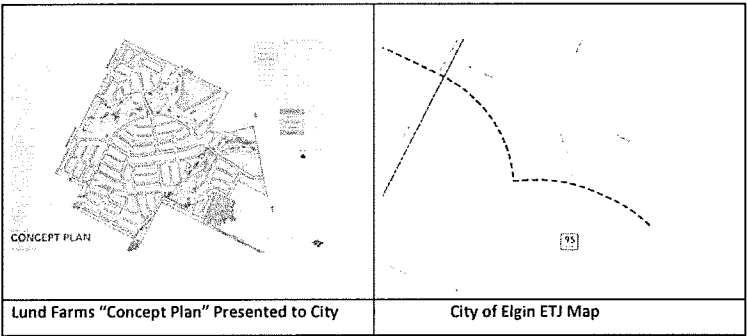
Despite being adjoining landowners, neither my mother nor I received any personal notice of the proposed MUD. No certified letter containing notice. No regular mailing via the USPS. Nothing by e-mail. No copy of the MUD application was ever sent or e-mailed to us, whether by law or as a simple courtesy. No signage of the proposed MUD has ever been posted on the subject property – certainly such as to provide notice of the proposed MUD to drivers-by or affected persons or adjoining landowners like us.

**The Proposed Lund Farm MUD and Development**

**The Proposed Development:** The proposed Lund Farm MUD development encompasses 569.739 acres in Bastrop and Travis Counties, of which 100+ acres are in the floodplain/floodway and cannot be developed no matter what. The land in the proposed district is bounded by TX 95 to the east, Lund Road to the north, County Line Road to the west, and privately-owned properties to the south. The land is currently completely undeveloped and has historically been used only for purely agricultural purposes (cattle, hay, and row crops). There are only two residents on the entire 570-acre tract. The

applicant/developer is proposing to place 1,856 single-family units and 648 multi-family units on this 570-acre tract, as well as approximately nine acres of mixed-use development.

The Proposed MUD is Not Entirely Within the City ETJ as Represented. Contrary to representations made in the applicant's MUD application to the Commission (see, e.g., Application, Attachment N, Preliminary Engineering Report, at p. 5) and in certain City of Elgin council resolutions included with that application<sup>1</sup>, the proposed MUD is not located entirely within the City of Elgin's Extra-Territorial Jurisdiction (ETJ). Instead, per the City's website information, approximately 3/4 of the proposed Lund Farms subdivision is located inside the city's ETJ but the other 1/4 is located outside the ETJ and outside of any City authority:



Density. The City of Elgin (per the 2020-22 U.S. Census) is 6.6 square miles in area, with 11,359 residents. That computes to 1,721 residents per square mile. The 570-acre proposed Lund Farm MUD and development comprises 0.89 square miles, with (per the MUD application) approximately 8,764 new residents expected. That computes to over 9,500 residents per square mile – i.e., over 5x the current Elgin city population density. The development, if approved, will thus almost double the current published population of Elgin by adding less than one square mile – or essentially establish a new city straddling Bastrop and Travis Counties where nothing other than cows and crops have existed.

<sup>1</sup> For example, the August 15, 2023 resolution passed by the Elgin City Council that is attached as Exhibit 12 to Attachment N of the pending application incorrectly states in its recitals that "... Lund Farm Investment LLC and the Lund Farms Municipal Utility District currently owns approximately 570 acres of land located in the City of Elgin Extraterritorial Jurisdiction." (See Application, Appendix N, Exh. 12.) This one recital – which the Council found to be "true and correct" – was and is actually factually incorrect in at least three distinct ways. *First*, as discussed above, approximately one-quarter of the proposed district is not located within Elgin's ETJ (per the City's own website information). *Second*, the "Lund Farms" MUD didn't even exist at the time of the resolution, and still does not. *Third*, because the "Lund Farms" MUD didn't exist it couldn't have "owned" the subject property. This is but one minor example of the irregularities and errors that have thoroughly permeated the City's dealings regarding this proposed district.

The Postage-Stamp Sized Proposed Lots Do Not Comply with Applicable City or County Ordinances. The applicant/developer is proposing to squeeze 1,856 single-family residential lots/homes on the property, and construct an additional 648 multi-family units on the tract, on postage-stamp sized lots. Here are the lot sizes and dimensions that were proposed in the developer's PowerPoint presentation to the City of Elgin, which are consistent with those contained in the MUD application:

SF Product Type	Approx. Yield		Percentage	
35' X 120' ALLEY	90	90	4.8%	4.8%
40' X 120' ALLEY	118	917	6.4%	49.4%
40' X 120' FRONT	799		43.0%	
45' X 120' ALLEY	14	619	6.8%	39.3%
45' X 120' FRONT	805		32.6%	
50' X 120' FRONT	203	203	10.9%	10.9%
60' X 120' FRONT	27	27	1.5%	1.5%
SF TOTAL	± 1,856	± 1,856	100.0%	100.0%
Total Proposed Blocks			85	
Total Proposed Streets			77,710 LF	

In contrast, the City of Elgin's existing ordinances for "R-1" areas mandate a lot width of at least 75 feet along the front building line (see Elgin City Ordinances, Section 46-233(4)) and a minimum lot size of 9,000 square feet (*Id.* at Section 46-233(5)). The City ordinances for "R-2" areas mandate a minimum width of 60 feet (Section 46-265(4)) and minimum lot size of 7,500 square feet (*Id.* at Section 46-265(5)). Under the Elgin City Code of Ordinances, this property would fall under the R-1 designation. But, not a single one of the proposed 1,856 single-family residential lots comes *even close* to meeting the City's R-1 code requirements for lot width and size. (The proposed lots largely fall into the 4,200 to 5,400 square foot range, with frontages of 35 to 45 feet. Even the supposed "largest" lots – a grand total of 27 of them comprising less than 2% of the proposed lots – are 1,800 square feet under the City's minimum lot size requirements and short 15 feet of frontage.) None of the proposed lots come close to even satisfying the more relaxed R-2 requirements. At the county level, the minimum lot size for "Urban Subdivisions" of the sort contemplated is one-quarter acre in Bastrop County – or 10,890 square feet. See Bastrop County Subdivision Regulations, §V(2)(c)(3) (Rev. 04/24/17). Thus, the proposed postage-stamp lot sizes for the subdivision fall even shorter of meeting the applicable county minimum lot-size requirements.

The Proposed High Density of Development Matters. The high proposed density of this project matters – in terms of drainage, run-off, and water quality; pressure on local utilities like water and wastewater; increased pressure on the local school system (in terms of both number of students and school financing); increased road traffic and the insufficiency of the relevant roads; and the like. This applicant/developer is proposing to take over 375 acres of historically pervious cover and (through rooftops, driveways, sidewalks, roadways, and tiny lots) and make it largely impervious – radically

affecting the natural drainage patterns both on the property and downstream of it. Similarly, the proposed dense development will impact both water and wastewater usage and needs.

## II. COMMENTS

The pending application is riddled with flaws, errors and omissions, and fundamentally fails to demonstrate that the organization of the proposed district as requested is feasible and practicable, is necessary, and would be a benefit for the land included in the district. See TEX. WATER CODE §54.021(a); 30 TAC §293.13(b)(1). More specifically, the pending application fails to show that the district as proposed is feasible and practicable and is necessary and would be a benefit to the land included in the district due to:

- (1) the failure of the application to demonstrate the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the failure of the application to demonstrate the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) the failure of the application to show that the district and its system(s) and subsequent development within the district will not have an unreasonable effect on:
  - a. land elevation;
  - b. subsidence;
  - c. groundwater level within the region;
  - d. recharge capability of a groundwater source;
  - e. natural run-off rates and drainage;
  - f. water quality; and
  - g. total tax assessments on all land located within the proposed district.

TEX. WATER CODE §54.021(b). Among other things and without limitation, for the reasons set forth herein, the Commission must refuse to grant the application because it fails to properly demonstrate that there is a "complete justification for the creation of the district supported by the evidence that the project is feasible, practicable, necessary, and will benefit all the land to be included in the district." See 30 TAC §291.11(d)(5)(j); see also TEX. WATER CODE §54.021(d); 30 TAC §293.13(a).

### A. Drainage and Natural Run-Off Rates

1) The application identifies the wrong drainage system/basin. The application repeatedly states that the natural drainage pattern from the site is in a southwestern direction into "unnamed" tributaries of the "of the East Fork Trinity River":

tributaries of the East Fork Trinity River

(See, e.g., Application, Attachment N, Preliminary Engineering Report, at pp. 5 & 7 (emphasis added).) The East Fork Trinity River is in North Texas, not in Central Texas. By definition, this application is fundamentally and fatally flawed because the applicant didn't even identify or study the correct drainage system/basin. Drainage from this site flows into the *Wilbarger Creek* watershed, which in turn flows into

the *Colorado River*. Further, even a lay person reviewing publicly-available watershed and drainage information would find that the two creeks that flow through the subject property are not "unnamed" tributaries (they are the Elm Creek and Dry Creek tributaries). The application must fail on this subject failure alone because there is zero demonstration that the drainage and natural run-off rates from the proposed MUD and development will not adversely affect the actual drainage system and watershed, including but not limited to the portions of the watershed located within the boundaries of the proposed district.

2) The application indicates that the applicant/developer is proposing to employ only in-stream detention within the floodplain. The threadbare application indicates that the applicant/developer intend to rely entirely or almost entirely on in-stream detention of stormwater runoff within the floodplain. (See, e.g., Application, Attachment N, Preliminary Engineering Report, Exh. 7.) In-stream detention within a floodplain is a disfavored engineering practice in Central Texas. See, e.g., TCEQ Guidance Manual RG-348, at Ch. 3, p. 3-2 ("Where feasible the [stormwater treatment systems] should be located outside of the floodplain.").

3) The application completely fails to address flooding that has been and is occurring downstream due to already-existing recent developments. The proposed application completely fails to address or discuss flooding problems that have been occurring shortly downstream from the proposed Lund Farm MUD/development and are commonly known and regularly suffered by Elginites. For example, most people who live and drive in Elgin (and ultimately those who would live in this proposed development) know that the roadway repeatedly gets flowed over and becomes impassable at and near the intersection of US 290 and County Line Road, shortly downstream from the proposed district along the Elm Creek tributary floodplain, after larger storm events. The City of Elgin has to put out barriers and cones to prevent or turn around traffic when this occurs. But, there is no discussion (at least in part because the applicant failed to even identify the correct drainage system) in the application on the effects of the proposed subdivision (with its huge increase in impervious cover upstream) on the downstream properties and, presumably, on the future residents of the proposed subdivision who would travel on these commonly-used roads. Nor is there any discussion of how the proposed district will affect the downstream properties that are already being affected by newer subdivisions in the Elm Creek watershed such as Peppergrass, Harvest Ridge, and the Eagle's Landing expansion.

4) The application does not propose any water quality ponds at all. The application proposes some in-stream detention ponds, but proposes no water quality ponds whatsoever. Although a substantial portion of the stormwater run-off from the subject property will run off (through Dry Creek) into Travis County, and the boundaries of the proposed district includes property located within Travis County (which has water quality pond requirements), the application contains zero discussion of water quality ponds.

5) The application is nothing more than a tautology in terms of drainage and natural run-off patterns. Ultimately – and notwithstanding the foregoing – the application is a "nothingburger" in terms of substance pertaining to drainage and run-off. Indeed, there is almost no substance at all in the application pertaining to drainage and run-off. There are no calculations or models regarding drainage, run-off, water quality, etc. Instead, the application (which, again, identifies the wrong drainage system/basin) essentially simply says "whatever happens we'll design the system to city, county, and Commission regulations":

Design Considerations

All water, wastewater, and storm sewer projects for the District will be designed and constructed in accordance with applicable ordinances and rules adopted by the City. Counties (drainage and road projects) and TCEQ (water and wastewater projects). All water and wastewater plans will be submitted to the TCEQ as required for review and approval prior to construction.

(Application, Attachment N, Preliminary Engineering Report, at p. 6.) And:

(F) Effect of District Activity on Water Quality

As previously stated, all drainage projects will be designed to comply with Travis County or Bastrop County regulations as applicable, including any regulations related to stormwater quality. All construction within the District will include erosion control measures that comply with the Storm Water Pollution Prevention Plans (SWPPP) overseen by TCEQ.

(Application, Attachment N, Preliminary Engineering Report, at p. 17.)

Those statements are completely meaningless and ultimately worthless, because there is nothing at all to evaluate. The Commission would be abdicating its statutory and regulatory authority if it approves an application that is as threadbare as this one is.

**B. Water**

1) The application identifies Aqua WSC as water “retailer” but fails to identify the water wholesaler and source. The application identifies Aqua Water Supply Corporation, a rural water supply corporation, as the water “retailer” to this proposed new district. (Application, Attachment N, Preliminary Engineering Report, at p. 16.) But it completely fails to explain who the supposed producer and *wholesaler* of water to the proposed subdivision is, and further fails to specify whether this non-identified wholesaler of water is capable of providing sufficient quantities of water to this district. It correctly states that “AQUA obtains its supply from groundwater sources” (see Application, Attachment N, Preliminary Engineering Report, at p. 6.), but this statement is misleading and moot since the water is not being proposed to come from Aqua wells. In fact, Aqua was never going to be the wholesale provider of water to the putative MUD; that water was to come from the City of Elgin on a wholesale basis. But, nobody reading this application would have any accurate information about who would provide water on a wholesale basis, as opposed to a retail basis, to this proposed MUD/development.

2) Aqua is not the supposed retailer, as represented in the application. As I understand it, the City of Elgin has very recently voted (on or about January 23, 2024) to either take over the role of retailer of water to the putative MUD, to purchase the rights to the applicable portion of the CCN from Aqua WSC, or otherwise to step into Aqua’s shoes with respect to retail provision of water to the proposed district/subdivision. (The actual resolution is difficult to find on the City’s website.) In any event, if the City of Elgin is now being touted as the retail provider of water to the proposed district, then the application is incorrect vis-à-vis its “water” analysis and should be denied for this additional reason.

3) The City of Elgin’s ability to provide either water services to this proposed MUD is disputed and unproven. The application contains conclusory statements that adequate water services are available (through Aqua) but provides zero details supporting these conclusions. Moreover, it fails to demonstrate that the City of Elgin – whether as wholesaler, or as both wholesaler and retailer, has the wherewithal to provide domestic water sufficient to support this proposed 2,500-home, 8,700+ resident development. Indeed, that is a matter of dispute. In a recent interview with the Elgin Courier, Taylor Christian, a long-time water scientist with the Texas Water Development Board, clearly disputed the Elgin City Manager’s recent contentions to the Elgin City Council that the City of Elgin has the ability to provide the water and wastewater services it is committing to provide in the future or that the City has engaged in adequate water and wastewater planning. (See, Elgin Courier, “In Consideration of Water”) (Jan. 24, 2024 ed.) (In consideration of water | Elgin Courier). In addition to misstating the basic facts about who is going to provide water to this proposed MUD, the application fails to demonstrate that there is in fact adequate water supply available to service this huge development.

**C. Wastewater**

1) The application fails to establish that the City of Elgin has adequate capacity to treat wastewater from the district. With respect to wastewater collection and treatment, the application states that “[t]he proposed District is located within the CCN of the City” and that “[w]astewater from the District will be treated by the City, which will use existing treatment facilities to serve the ultimate build-out demands for the District.” (Application, Attachment N, Preliminary Engineering Report, at p. 7 (emphasis added).) It projects that the District would need a capacity of 693,000 gallons per day at build-out.<sup>2</sup> (Id.) But, the application fails to demonstrate that the City of Elgin has the capacity to handle and treat such quantities on a daily basis with its existing facilities. (As of the date the applicant filed its application, the City’s sole wastewater treatment plant (the “LCRA Elgin WWTP” (Regulated Entity No. RN101992691)) was permitted to discharge an annual average flow of 0.95 million gallons per day.)

2) The application fails to establish that 693,000 additional gallons of wastewater per day can be treated by the City in a manner that protects water quality and health. The City of Elgin’s wastewater collection and treatment system has a poor track record of satisfying regulatory requirements pertaining to wastewater treatment facilities (WWTFs). The Commission issued notices of violations to the City in April 2020 for unauthorized discharges (TCEQ Investigation No. 1707526) that were ultimately resolved. But, there are presently apparently six outstanding/active violations associated with the Elgin WWTF (see TCEQ Violation Track Nos. 856925, 855393, 846350, 853296, 859441 & 860775) and one pending open enforcement action (TCEQ Enforcement Case No. 64857). The application does not show

<sup>2</sup> These are the applicant’s estimates. We specifically reserve the right to comment on the reasonableness or propriety of those estimates in the future.

that the projected amounts of additional wastewater from the proposed district can be treated by the City, using its existing WWTF and system, as proposed, in a manner that adequately protects water quality and health.

3) As with drainage and run-off, the application is nothing more than a tautology in terms of wastewater. Again, the applicant is essentially just saying that it will comply with applicable regulations with respect to wastewater and provides no actual data or studies. This tautology does not satisfy the statutory and regulatory requirements that the district will not have an unreasonable effect on water quality and human health.

#### D. Water Quality

There is absolutely nothing in the application, which misidentified the actual watershed and drainage system, from which the Commission can divine or discern that local or regional water quality – whether on-site or offsite – will be protected by this putative MUD. The matters raised in subsections II(A), (B) and (C) above are incorporated for all purposes herein insofar as they also address water quality issues.

#### E. Subsidence

The applicant asserts in the application that “There is not a problem with subsidence in this part of the state as AQUA’s groundwater wells are spread around the County. Therefore, the District will have no unreasonable effect on groundwater levels in the region.” (See Application, Attachment N, at p. 17.) In addition to being a bald assertion, the statement is based on flawed information and a faulty premise. As noted above, the application states that Aqua Water Supply Corporation will be providing *retail* water services to the proposed district, but fails to state that any such water would be sold *wholesale* by the City of Elgin. In other words, all groundwater to be provided to the proposed district would be pumped from City wells and not from Aqua wells. Thus, the applicant looked at the wrong wells, and areas surrounding those wells, when it presented its threadbare and wholly insufficient subsidence analysis.

#### F. Recreational Facilities

Section 293.11(a)(10) of Title 30 of the Texas Administrative Code states that “if the petition anticipates recreational facilities being an intended purpose, [the applicant must provide] a *detailed* summary of the proposed recreational facility projects, projects’ estimated costs, and proposed financing methods for the projects as part of the preliminary engineering report ...”. 30 TAC §293.11(a)(10) (emphasis added). The preliminary engineering report contained in this application states that “the proposed District will construct recreational facilities consisting of trails, parks and landscaping” and purports to provide a “conceptual layout of the proposed “recreational improvements” at Exhibit 6. (See Application, Attachment N, at p. 8 & Exh. 6.) But there is nothing “detailed” about these supposed recreational improvements. Instead, the “concept plan” that was included simply shows some floodplain areas and makes a vague reference to an “Amenities Center.” (See *id.*) There is simply no “detail” here for the Commission or anyone else looking at this application to review.

#### G. The Developer’s Lack of Qualifications

1) The applicant/developer is woefully unqualified. The application fails to establish that this developer is qualified to undertake this substantial proposed project. In fact, it establishes just the

opposite: this developer has no qualifications whatsoever for this project. The developer is “Lund Farm Investment, LLC.” Lund Farm Investment, LLC was formed in Texas on November 8, 2021, with Ziaosha Yang identified as the organizer. (See Exhibit “A,” attached.) The company has no demonstrated track record regarding MUDs, or any development at all, in Texas. In its application, this developer purports to have developed two projects in Central China: (1) “No. 6 Huagoushan Community” in Tongren, China, between 2007 and 2018; and (2) “Nanyue Clearwater Community,” also in Tongren, China, between 2018 and 2019. (See Application, Attachment N, at Exh. 10.) But, as a threshold matter, neither of these two developments in China could *possibly* have been developed by this developer because this developer wasn’t even formed until late 2021. Further, both supposed developments were done in China – not in the U.S. much less in Texas. And, the attachment indicates that the “Nanyue” development was never completed – which is a red flag. The other two “developments” attributed to this developer – both of which also pre-dated the formation of the LLC and thus can’t even be fairly attributed to this company – comprise a total of two *single family* homes (one 6,600 square feet, and the other 5,500 square feet) in New York state. (See *id.*) This developer’s resume is both pretty strange and incredibly weak, and the application utterly fails to show that this applicant/developer has the skill, experience, or competency to successfully develop a 570-acre, 2,500 unit residential and mixed-use community in Texas.

2) The developer is also radically undercapitalized and has failed to demonstrate that it has the financial wherewithal to undertake this proposed project. The application also affirmatively establishes that Lund Farm Investment, LLC does not have the financial resources to undertake this massive development project. The application estimates that construction costs for the project (including water, wastewater, drainage, recreational improvement, and road construction) will total \$50,369,377.<sup>3</sup> Non-construction costs for any bond issues adds another \$14,500,624 according to the applicant’s own cost estimates – totaling \$64,870,000 in projected costs. But, the single financial statement that the applicant has provided – a balance sheet for Lund Farm Investment, LLC as of December 31, 2022 – indicates that the company has only \$330,000 in funds that could be used toward the multimillion dollar construction costs. (See Application, Attachment N, at Exh. 11.) Further, the balance sheet reflects both negative retained earnings and negative net income. In addition to failing to show that this developer has the skill, experience or competency to undertake this proposed development project, the applicant has completely failed to show that it has the financial capacity or ability to fund the development of any hypothetical first 100-acre (or 50- or 20-acre) phase of the development project, much less multiple phases over time or the entire project.

#### H. Other Matters

##### 1) Fire and Emergency Services.

The portion of the proposed district that is located in Bastrop County is located within the district of Bastrop/Travis Counties Emergency Service District #1 (a/k/a North Bastrop County Fire Rescue). The western portion of the proposed district that is located in Travis County is located in the district of Travis County Emergency Services District #13. Leaders of both emergency services districts report that their districts were not and have not been consulted on their ability to provide fire and EMS services to the proposed district, the projected 2,500 new homes and apartments, and the 8,700+ new persons contemplated to live within the district, or how the proposed MUD district would affect their ability to

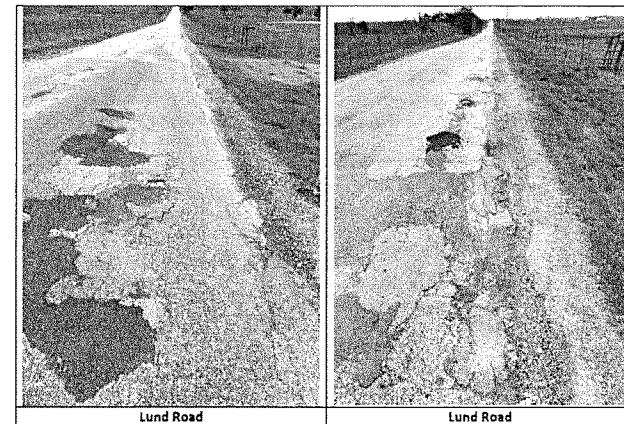
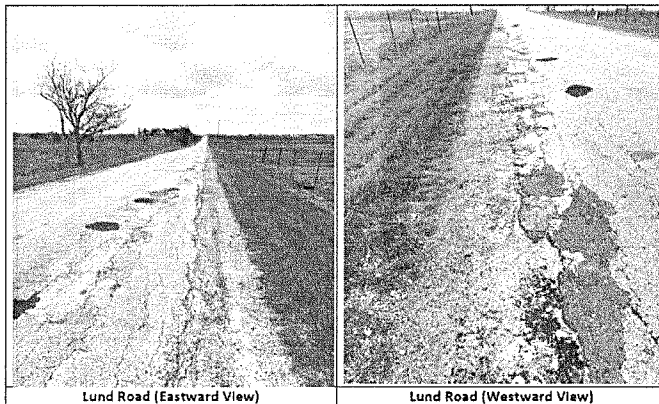
<sup>3</sup> These are the applicant’s estimates. Again, we specifically reserve the right to comment on the reasonableness or propriety of those estimates in the future.

provide fire and emergency services throughout their respective emergency services districts. The application simply *presumes* that these two emergency services districts can accommodate this massive and sprawling proposed new development and its 8,700+ projected residents. It fails to demonstrate that the organization of the proposed MUD, as requested, is feasible and practicable insofar as the critical issues of fire and emergency services are implicated.

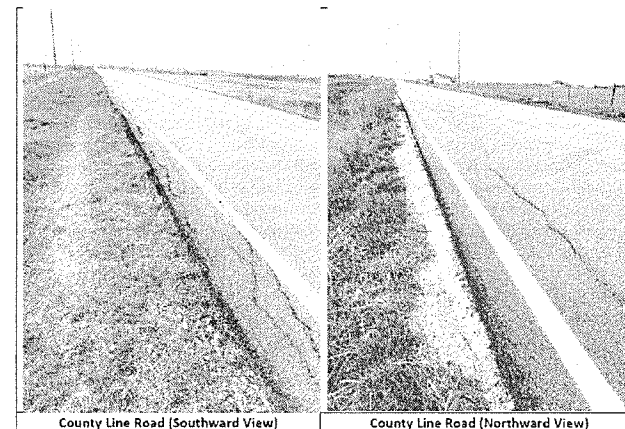
2) Roads and Traffic.

The proposed district would be bounded by TX 95 to the east, Lund Road to the north, and County Line Road to the west. TX 95 is a two-lane state highway with intermittent passing and turning lanes between Elgin and Coupland. Lund Road is a rural county road, without improved shoulders, that is (supposedly) maintained by Bastrop County (except for a short portion to the west where it intersects with County Line Road in Travis County). County Line Road in the vicinity of the proposed district is a rural two-lane county road – also without improved shoulders – maintained by Travis County.

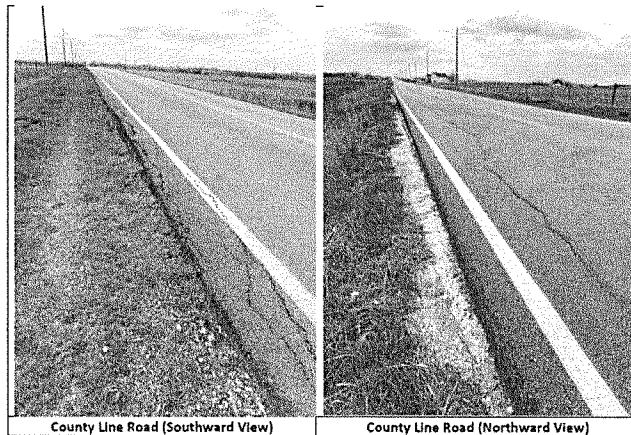
Anybody who drives Lund Road knows that it narrow, poorly-maintained, and potentially hazardous even with its current relatively low traffic levels. Indeed, the “improved” asphalt roadway is pocked with potholes and the road is not wide enough for two vehicles traveling at speed to pass each other without at least one vehicle driving part way off the road surface:



Further, anybody who drives County Line Road is similarly aware that that rural county road is neither designed nor built to handle traffic from a new 570-acre development with 8,700+ residents:







Finally, all Elginites are painfully aware of how poor the City and other entities have been and continue to be in terms of planning, improving, and building roadways in areas in and near some new subdivisions that have been built within the existing city limits. The FM1100/Avenue C corridor from TX-95 to County Line Road in Elgin is highly congested, with stop/start traffic and traffic jams, each morning and each evening when area schools start and schools let out – in large part because the relevant governmental entities failed to properly plan for increased traffic due to other Elgin-area developments and then failed to fund road improvement projects.

The application fails to address road and traffic issues raised by the proposed MUD and development with these three public roads that would provide access to and from the proposed development (and thus directly affect any residents of the proposed district in addition to those of us who live and drive in this area). There are no road/traffic studies that properly or meaningfully address issues pertaining to these three public roads in connection with substantially increased traffic. Nothing states how any needed roadway improvements would be paid for or who would pay for them.

### 3) Schools.

This proposed 2,500 LUE, 8,700+ resident proposed development will likely place an additional 3,000 to 3,500 additional students into the Elgin public school system which, per the Elgin ISD's own website, is ranked #1,084 of all 1,196 school districts in Texas. Assuming for argument's sake an average property value of \$270,000 per residential property (the applicant's number), each property will only contribute approximately \$4,000 in school taxes – far less than the \$11,500 it costs the Elgin ISD to educate each student each year. The proposed district and development will be a huge net drain on the Elgin ISD budget.

### 4) Legal and Procedural Irregularities.

This whole process has been rife with various legal and procedural irregularities. For example, as noted above (see footnote 1), the City of Elgin's various resolutions pertaining to this developer and development are simply factually inaccurate in their recitations. As another example, in September of 2023 shortly before this application was filed the Elgin City Council was asked to vote on a proposed "Strategic Partnership Agreement" between the City of Elgin and the "Lund Farm Municipal Utility District" even though the Lund Farm MUD was an "entity" that didn't even exist. There was no record of this supposed MUD in the TCEQ database at that time because it hadn't been formed. Nevertheless, the City voted to enter into a contract with a non-existent entity. Moreover, the proposed Strategic Partnership Agreement was purportedly being sought pursuant to Section 43.0751 of the Texas Local Government Code, which addresses (among other things) matters pertaining to MUDs, municipalities, and annexation of land. TEX. LOCAL GOV'T CODE §43.0751. Subsection (b) of that statute states that "[t]he governing bodies of a municipality and a district may negotiate and enter into a written strategic partnership agreement for the district by mutual consent." But, at the time there was no "governing body" of this yet-to-be-formed with whom the City could even negotiate. And, Subsection (d) of the statute requires both a municipality and a MUD desiring to enter into a strategic partnership agreement both hold at least two public meetings each after proper notice has been posted before either adopts such an agreement. But here, there was only a non-existent "entity" that couldn't possibly have held any such public meetings – yet the City nevertheless ignored the statutory public meeting requirements and voted to adopt and enter into the agreement. Further, subsection (e) of the statute mandates that "[t]he governing body of a municipality may not adopt a strategic partnership agreement before the agreement has been adopted by the governing body of the affected district." Here, the Elgin City Council adopted the agreement in violation of this statute because there was no MUD "entity" with a governing body that could possibly have adopted the agreement first. The City resolutions and purported agreement upon which the applicant is relying are a legal house of cards.

### 5) Notice: Due Process.

As set forth above, even though we are adjoining landowners we received no personal notice of the application of any sort. Nor, upon information and belief, did any persons who own and/or reside on property adjacent or proximate to the proposed district. The lack of adequate notice, and a meaningful opportunity to be heard, violates basic precepts

## III. INCORPORATION OF PRIOR COMMENTS

The public comments regarding the Lund Farm MUD application that were electronically filed by John Carlson on or about January 20, 2024 are incorporated for all purposes herein.

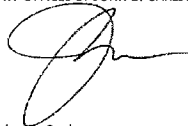
## IV. REQUEST FOR PUBLIC MEETING AND CONTESTED CASE HEARING

For the foregoing reasons:

- 1) We request that a public meeting be held on the proposed MUD and development; and
- 2) We request a contested case hearing on the pending application.

Sincerely,

LAW OFFICES OF JOHN E. CARLSON

A handwritten signature in black ink, appearing to be 'John E. Carlson', written over a horizontal line.

John E. Carlson

*/s/ Margery Carlson (\*by permission)*

---

Margery R. Carlson

**Exhibit "A"**

**Form 205  
(Revised 05/11)**

Submit in duplicate to:  
Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
512 463-5555  
FAX: 512 463-5709  
**Filing Fee: \$300**



This space reserved for office use.

**Certificate of Formation  
Limited Liability Company**

**Article 1 – Entity Name and Type**

The filing entity being formed is a limited liability company. The name of the entity is:

Lund Farm Investment LLC

The name must contain the words "limited liability company," "limited company," or an abbreviation of one of these phrases.

**Article 2 – Registered Agent and Registered Office**  
(See instructions. Select and complete either A or B and complete C.)

☒ A. The initial registered agent is an organization (cannot be entity named above) by the name of:

Capitol Corporate Services, Inc.

OR

☐ B. The initial registered agent is an individual resident of the state whose name is set forth below:

First Name M.I. Last Name Suffix

C. The business address of the registered agent and the registered office address is:

206 E. 9th Street, Suite 1300 Austin TX 78701  
Street Address City State Zip Code

**Article 3—Governing Authority**

(Select and complete either A or B and provide the name and address of each governing person.)

☐ A. The limited liability company will have managers. The name and address of each initial manager are set forth below.

☒ B. The limited liability company will not have managers. The company will be governed by its members, and the name and address of each initial member are set forth below.

<b>GOVERNING PERSON 1</b>					
NAME (Enter the name of either an individual or an organization, but not both.)					
IF INDIVIDUAL					
First Name	M.I.	Last Name	Suffix		
OR					
IF ORGANIZATION					
Blossoms L&Y Development LLC					
Organization Name					
ADDRESS					
5 Brookville Lane	Brookville	NY	USA	11545	
Street or Mailing Address		City	State	Country	Zip Code

<b>GOVERNING PERSON 2</b>					
NAME (Enter the name of either an individual or an organization, but not both.)					
IF INDIVIDUAL					
First Name	M.I.	Last Name	Suffix		
OR					
IF ORGANIZATION					
Organization Name					
ADDRESS					
Street or Mailing Address		City	State	Country	Zip Code

<b>GOVERNING PERSON 3</b>					
NAME (Enter the name of either an individual or an organization, but not both.)					
IF INDIVIDUAL					
First Name	M.I.	Last Name	Suffix		
OR					
IF ORGANIZATION					
Organization Name					
ADDRESS					
Street or Mailing Address		City	State	Country	Zip Code

**Article 4 – Purpose**

The purpose for which the company is formed is for the transaction of any and all lawful purposes for which a limited liability company may be organized under the Texas Business Organizations Code.

**Supplemental Provisions/Information**

Text Area: [The attached addendum, if any, is incorporated herein by reference.]

--

Organizer

The name and address of the organizer:

Xianzhou Yang

Name

5 Brookville Lane

Brookville

NY 11545

Street or Mailing Address

City

State

Zip Code

Effectiveness of Filing (Select either A, B, or C.)

A. ☒ This document becomes effective when the document is filed by the secretary of state.

B. ☐ This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: \_\_\_\_\_

C. ☐ This document takes effect upon the occurrence of the future event or fact, other than the passage of time. The 90<sup>th</sup> day after the date of signing is: \_\_\_\_\_

The following event or fact will cause the document to take effect in the manner described below:

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Date: November 8, 2021

Signature of organizer

Xianzhou Yang

Printed or typed name of organizer

Form 401-A  
(Revised 12/09)



Acceptance of Appointment  
and  
Consent to Serve as Registered Agent  
§5.201(b) Business Organizations Code

The following form may be used when the person designated as registered agent in a registered agent filing is an individual.

Acceptance of Appointment and Consent to Serve as Registered Agent

I acknowledge, accept and consent to my designation or appointment as registered agent in Texas for

Name of represented entity

I am a resident of the state and understand that it will be my responsibility to receive any process, notice, or demand that is served on me as the registered agent of the represented entity; to forward such to the represented entity; and to immediately notify the represented entity and submit a statement of resignation to the Secretary of State if I resign.

X:

Signature of registered agent

Printed name of registered agent

Date (mm/dd/yyyy)

The following form may be used when the person designated as registered agent in a registered agent filing is an organization.

Acceptance of Appointment and Consent to Serve as Registered Agent

I am authorized to act on behalf of Capitol Corporate Services, Inc.

Name of organization designated as registered agent

The organization is registered or otherwise authorized to do business in Texas. The organization acknowledges, accepts and consents to its appointment or designation as registered agent in Texas for:

Lund Farm Investment LLC

Name of represented entity

The organization takes responsibility to receive any process, notice, or demand that is served on the organization as the registered agent of the represented entity; to forward such to the represented entity; and to immediately notify the represented entity and submit a statement of resignation to the Secretary of State if the organization resigns.

X:

Signature of person authorized to act on behalf of organization

Krista Abair, Asst. Secretary on behalf  
of Capitol Corporate Services, Inc.

Printed name of authorized person

11/8/2021

Date (mm/dd/yyyy)

Law Offices of John E. Carlson  
164 Lund Road  
Elgin, Texas 78621  
(512) 294-3411

February 16, 2024

**PUBLIC COMMENTS, REQUEST FOR PUBLIC MEETING,  
AND REQUEST FOR CONTESTED CASE HEARING**

Via Electronic Filing, Certified U.S. Mail, and Facsimile ((512) 239-3311)

Office of the Chief Clerk (MC-105)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Re: Lund Farm MUD Application (CN606185148 & RN111815627; Permit No. D09262023033)  
Public Comments, Request for Public Meeting & Request for Contested Case Hearing

REVIEWED

FEB 22 2023

By

PM  
H

To Whom It May Concern:

My name is John Carlson. I am writing this letter on behalf of myself and my mother, Margery Carlson. The purpose of this letter is three-fold: (1) to provide public comments on the proposed Lund Farm MUD application that was recently declared administratively complete by the Commission; (2) to request a public meeting on the proposed MUD; and (3) to request a contested case hearing on the MUD application. My address is 164 Lund Road, Elgin, Texas 78621. My mother's address is 711 North Main Street, Elgin, Texas 78621. My best daytime phone number is (512) 294-3411; my mother can be reached through me at that number. The internal TCEQ control number or numbers for the Lund Farm MUD application are referenced above.

**I. BACKGROUND**

**Our Interests**

My mother and I co-own agricultural property located immediately across Lund Road (to the north) from the proposed Lund Farm MUD and development. I personally live on the property and maintain it as my homestead. My mother maintains her residence in the City of Elgin, but comes to the property regularly and is a joint venturer in our family farm operation.

Our property comprises approximately 107.5 acres of farmland with a homestead and farm buildings (house, barn and sheds) bounded by Texas Highway 95 to the east, Lund Road to the south, and County Line Road to the west. My immediate neighbor and landowner to the north is Darryl Carlson. Most

*FAX...FAX...FAX...FAX...FAX*

**Law Offices of John E. Carlson**

164 Lund Road  
Elgin, Texas 78621  
(512) 294-3411  
(512) 474-8557 Fax

February 16, 2024

PLEASE DELIVER TO: TCEQ

Fax# 512-239-3311

FAX FROM: Law Offices of John E. Carlson  
512-294-3411 mobile  
512-474-8557 fax

TOTAL PAGES: 21  
(Including Cover Page)

Comment: Lund Farm MUD – Public  
Comments and Requests

**CONFIDENTIALITY NOTICE:** The information contained in this facsimile transmission is confidential and privileged attorney/client information intended only for the addressee above. Persons delivering this communication to the addressee are hereby notified not to read the accompanying information. Any further dissemination or divulging of this communication, or any part thereof, is prohibited. If you have received this transmission in error, please notify us immediately by telephone & return the original transmission to the above address by U. S. Mail. You will be reimbursed reasonable expenses upon request. Thank you.

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Page 2

of our property (approximately 104 acres), including the homestead, is located in Bastrop County; about 3.5 acres in the far western portion of our property is located in Travis County. The Bastrop County Appraisal District Property IDs for the portion of the property located in Bastrop County are R15012 and R15015. The Travis County Appraisal District's Property ID for the property is 358845.

Our property, which has been in the family for almost 100 years, is a working farm. We raise cattle and hay on the property.

We use Lund Road, TX 95, and County Line Road – the same roads that bound the proposed Lund Road MUD and development and will serve as feeder/access roads to that development if it is approved – as our primary (and only) access to our property on a daily basis multiple times a day. We both pay ad valorem taxes to Bastrop County, Travis County, the Elgin Independent School District, the local Austin Community College District, and Travis County Emergency Services District #13 (ESD 13) – the same taxing authorities mentioned in the Lund Farm MUD application as applicable to the proposed MUD and any residents therein. Domestic water to our farm is provided by Aqua Water Supply Corporation. Fire and emergency services to the “homestead” section of the farm are provided by Bastrop/Travis Counties Emergency Services District #1; the westernmost portion of the farm is covered by ESD 13 for fire and emergency services. Water and wastewater services to my mother's home in Elgin is provided by the City of Elgin; her fire and emergency services in Elgin are also provided Bastrop/Travis Counties Emergency Services District #1.

As owners of real property that runs along the entirety of Lund Road from TX 95 to County Line Road, we face the distinct possibility of governmental annexation of right-of-way from our long-held property for any expansion of Lund Road in the future to address the need for a larger, enhanced road that would be immediately adjacent to the 1,800+ new homes and 600+ apartment units proposed for the 570-acre district and development.

For these and other reasons, my mother and I are affected by the potential Lund Farm MUD and development in ways not common to the general public.

#### Lack of Notice

Despite being adjoining landowners, neither my mother nor I received any personal notice of the proposed MUD. No certified letter containing notice. No regular mailing via the USPS. Nothing by e-mail. No copy of the MUD application was ever sent or e-mailed to us, whether by law or as a simple courtesy. No signage of the proposed MUD has ever been posted on the subject property – certainly such as to provide notice of the proposed MUD to drivers-by or affected persons or adjoining landowners like us.

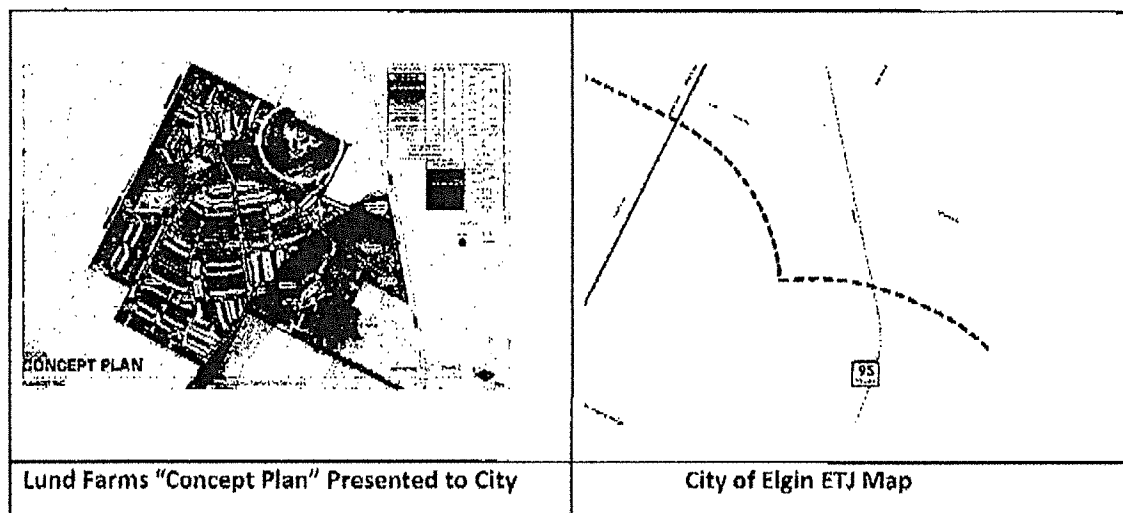
#### The Proposed Lund Farm MUD and Development

The Proposed Development. The proposed Lund Farm MUD development encompasses 569.739 acres in Bastrop and Travis Counties, of which 100+ acres are in the floodplain/floodway and cannot be developed no matter what. The land in the proposed district is bounded by TX 95 to the east, Lund Road to the north, County Line Road to the west, and privately-owned properties to the south. The land is currently completely undeveloped and has historically been used only for purely agricultural purposes (cattle, hay, and row crops). There are only two residents on the entire 570-acre tract. The

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applicant/developer is proposing to place 1,856 single-family units and 648 multi-family units on this 570-acre tract, as well as approximately nine acres of mixed-use development.

The Proposed MUD is Not Entirely Within the City ETJ as Represented. Contrary to representations made in the applicant's MUD application to the Commission (see, e.g., Application, Attachment N, Preliminary Engineering Report, at p. 5) and in certain City of Elgin council resolutions included with that application<sup>1</sup>, the proposed MUD is not located entirely within the City of Elgin's Extra-Territorial Jurisdiction (ETJ). Instead, per the City's website information, approximately 3/4 of the proposed Lund Farms subdivision is located inside the city's ETJ but the other 1/4 is located outside the ETJ and outside of any City authority:



Density. The City of Elgin (per the 2020-22 U.S. Census) is 6.6 square miles in area, with 11,359 residents. That computes to 1,721 residents per square mile. The 570-acre proposed Lund Farm MUD and development comprises 0.89 square miles, with (per the MUD application) approximately 8,764 new residents expected. That computes to over 9,500 residents per square mile – i.e., over 5x the current Elgin city population density. The development, if approved, will thus almost double the current published population of Elgin by adding less than one square mile – or essentially establish a new city straddling Bastrop and Travis Counties where nothing other than cows and crops have existed.

<sup>1</sup> For example, the August 15, 2023 resolution passed by the Elgin City Council that is attached as Exhibit 12 to Attachment N of the pending application incorrectly states in its recitals that "... Lund Farm Investment LLC and the Lund Farms Municipal Utility District currently owns approximately 570 acres of land located in the City of Elgin Extraterritorial Jurisdiction." (See Application, Appendix N, Exh. 12.) This one recital – which the Council found to be "true and correct" – was and is actually factually incorrect in at least three distinct ways. *First*, as discussed above, approximately one-quarter of the proposed district is not located within Elgin's ETJ (per the City's own website information). *Second*, the "Lund Farms" MUD didn't even exist at the time of the resolution, and still does not. *Third*, because the "Lund Farms" MUD didn't exist it couldn't have "owned" the subject property. This is but one minor example of the irregularities and errors that have thoroughly permeated the City's dealings regarding this proposed district.



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The Postage-Stamp Sized Proposed Lots Do Not Comply with Applicable City or County Ordinances. The applicant/developer is proposing to squeeze 1,856 single-family residential lots/homes on the property, and construct an additional 648 multi-family units on the tract, on postage-stamp sized lots. Here are the lot sizes and dimensions that were proposed in the developer's PowerPoint presentation to the City of Elgin, which are consistent with those contained in the MUD application:

SF Product Type	Approx. Yield		Percentage	
80' X 120' ALLEY	90	90	4.8%	4.8%
80' X 120' FRONT	118	917	6.4%	49.4%
80' X 120' FRONT	799		43.0%	
45' X 120' ALLEY	14	619	0.8%	33.3%
45' X 120' FRONT	605		32.6%	
60' X 120' FRONT	203	203	10.9%	10.9%
60' X 120' FRONT	27	27	1.5%	1.5%
SF TOTAL	± 1,856	± 1,856	100.0%	100.0%
Total Proposed Blocks			85	
Total Proposed Streets			77,710 LF	

In contrast, the City of Elgin's existing ordinances for "R-1" areas mandate a lot width of at least 75 feet along the front building line (see Elgin City Ordinances, Section 46-233(4)) and a minimum lot size of 9,000 square feet (*Id.* at Section 46-233(5)). The City ordinances for "R-2" areas mandate a minimum width of 60 feet (Section 46-265(4)) and minimum lot size of 7,500 square feet (*Id.* at Section 46-265(5)). Under the Elgin City Code of Ordinances, this property would fall under the R-1 designation. But, not a single one of the proposed 1,856 single-family residential lots comes *even close* to meeting the City's R-1 code requirements for lot width and size. (The proposed lots largely fall into the 4,200 to 5,400 square foot range, with frontages of 35 to 45 feet. Even the supposed "largest" lots – a grand total of 27 of them comprising less than 2% of the proposed lots – are 1,800 square feet under the City's minimum lot size requirements and short 15 feet of frontage.) None of the proposed lots come close to even satisfying the more relaxed R-2 requirements. At the county level, the minimum lot size for "Urban Subdivisions" of the sort contemplated is one-quarter acre in Bastrop County – or 10,890 square feet. See Bastrop County Subdivision Regulations, §V(2)(c)(3) (Rev. 04/24/17). Thus, the proposed postage-stamp lot sizes for the subdivision fall even shorter of meeting the applicable county minimum lot-size requirements.

The Proposed High Density of Development Matters. The high proposed density of this project matters – in terms of drainage, run-off, and water quality; pressure on local utilities like water and wastewater; increased pressure on the local school system (in terms of both number of students and school financing); increased road traffic and the insufficiency of the relevant roads; and the like. This applicant/developer is proposing to take over 375 acres of historically pervious cover and (through rooftops, driveways, sidewalks, roadways, and tiny lots) and make it largely impervious – radically

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affecting the natural drainage patterns both on the property and downstream of it. Similarly, the proposed dense development will impact both water and wastewater usage and needs.

## II. COMMENTS

The pending application is riddled with flaws, errors and omissions, and fundamentally fails to demonstrate that the organization of the proposed district as requested is feasible and practicable, is necessary, and would be a benefit for the land included in the district. See TEX. WATER CODE §54.021(a); 30 TAC §293.13(b)(1). More specifically, the pending application fails to show that the district as proposed is feasible and practicable and is necessary and would be a benefit to the land included in the district due to:

- (1) the failure of the application to demonstrate the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the failure of the application to demonstrate the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) the failure of the application to show that the district and its system(s) and subsequent development within the district will not have an unreasonable effect on:
  - a. land elevation;
  - b. subsidence;
  - c. groundwater level within the region;
  - d. recharge capability of a groundwater source;
  - e. natural run-off rates and drainage;
  - f. water quality; and
  - g. total tax assessments on all land located within the proposed district.

TEX. WATER CODE §54.021(b). Among other things and without limitation, for the reasons set forth herein, the Commission must refuse to grant the application because it fails to properly demonstrate that there is a "complete justification for the creation of the district supported by the evidence that the project is feasible, practicable, necessary, and will benefit all the land to be included in the district." See 30 TAC §291.11(d)(5)(J); see also TEX. WATER CODE §54.021(d); 30 TAC §293.13(a).

### A. Drainage and Natural Run-Off Rates

1) The application identifies the wrong drainage system/basin. The application repeatedly states that the natural drainage pattern from the site is in a southwestern direction into "unnamed" tributaries of the "of the East Fork Trinity River":

tributaries of the East Fork Trinity River | 1

(See, e.g., Application, Attachment N, Preliminary Engineering Report, at pp. 5 & 7 (emphasis added).) The East Fork Trinity River is in North Texas, not in Central Texas. By definition, this application is fundamentally and fatally flawed because the applicant didn't even identify or study the correct drainage system/basin. Drainage from this site flows into the *Wilbarger Creek* watershed, which in turn flows into

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the *Colorado River*. Further, even a lay person reviewing publicly-available watershed and drainage information would find that the two creeks that flow through the subject property are not “unnamed” tributaries (they are the Elm Creek and Dry Creek tributaries). The application must fail on this abject failure alone because there is zero demonstration that the drainage and natural run-off rates from the proposed MUD and development will not adversely affect the actual drainage system and watershed, including but not limited to the portions of the watershed located within the boundaries of the proposed district.

2) The application indicates that the applicant/developer is proposing to employ only in-stream detention within the floodplain. The threadbare application indicates that the applicant/developer intend to rely entirely or almost entirely on in-stream detention of stormwater runoff within the floodplain. (See, e.g., Application, Attachment N, Preliminary Engineering Report, Exh. 7.) In-stream detention within a floodplain is a disfavored engineering practice in Central Texas. See, e.g., TCEQ Guidance Manual RG-348, at Ch. 3, p. 3-2 (“Where feasible the [stormwater treatment systems] should be located outside of the floodplain.”).

3) The application completely fails to address flooding that has been and is occurring downstream due to already-existing recent developments. The proposed application completely fails to address or discuss flooding problems that have been occurring shortly downstream from the proposed Lund Farm MUD/development and are commonly known and regularly suffered by Elginites. For example, most people who live and drive in Elgin (and ultimately those who would live in this proposed development) know that the roadway repeatedly gets flowed over and becomes impassable at and near the intersection of US 290 and County Line Road, shortly downstream from the proposed district along the Elm Creek tributary floodplain, after larger storm events. The City of Elgin has to put out barriers and cones to prevent or turn around traffic when this occurs. But, there is no discussion (at least in part because the applicant failed to even identify the correct drainage system) in the application on the effects of the proposed subdivision (with its huge increase in impervious cover upstream) on the downstream properties and, presumably, on the future residents of the proposed subdivision who would travel on these commonly-used roads. Nor is there any discussion of how the proposed district will affect the downstream properties that are already being affected by newer subdivisions in the Elm Creek watershed such as Peppergrass, Harvest Ridge, and the Eagle’s Landing expansion.

4) The application does not propose any water quality ponds at all. The application proposes some in-stream detention ponds, but proposes no water quality ponds whatsoever. Although a substantial portion of the stormwater run-off from the subject property will run off (through Dry Creek) into Travis County, and the boundaries of the proposed district includes property located within Travis County (which has water quality pond requirements), the application contains zero discussion of water quality ponds.

5) The application is nothing more than a tautology in terms of drainage and natural run-off patterns. Ultimately – and notwithstanding the foregoing – the application is a “nothingburger” in terms of substance pertaining to drainage and run-off. Indeed, there is almost no substance at all in the application pertaining to drainage and run-off. There are no calculations or models regarding drainage, run-off, water quality, etc. Instead, the application (which, again, identifies the wrong drainage system/basin) essentially simply says “whatever happens we’ll design the system to city, county, and Commission regulations”:

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#### Design Considerations

All water, wastewater, and storm sewer projects for the District will be designed and constructed in accordance with applicable ordinances and rules adopted by the City, Counties (drainage and road projects) and TCEQ (water and wastewater projects). All water and wastewater plans will be submitted to the TCEQ as required for review and approval prior to construction.

(Application, Attachment N, Preliminary Engineering Report, at p. 6.) And:

#### **(F) Effect of District Activity on Water Quality**

As previously stated, all drainage projects will be designed to comply with Travis County or Bastrop County regulations as applicable, including any regulations related to stormwater quality. All construction within the District will include erosion control measures that comply with the Storm Water Pollution Prevention Plans (SWPPP) overseen by TCEQ.

(Application, Attachment N, Preliminary Engineering Report, at p. 17.)

Those statements are completely meaningless and ultimately worthless, because there is nothing at all to evaluate. The Commission would be abdicating its statutory and regulatory authority if it approves an application that is as threadbare as this one is.

#### **B. Water**

1) The application identifies Aqua WSC as water "retailer" but fails to identify the water wholesaler and source. The application identifies Aqua Water Supply Corporation, a rural water supply corporation, as the water "retailer" to this proposed new district. (Application, Attachment N, Preliminary Engineering Report, at p. 16.) But it completely fails to explain who the supposed producer and *wholesaler* of water to the proposed subdivision is, and further fails to specify whether this non-identified wholesaler of water is capable of providing sufficient quantities of water to this district. It correctly states that "AQUA obtains its supply from groundwater sources" (see Application, Attachment N, Preliminary Engineering Report, at p. 6.), but this statement is misleading and moot since the water is not being proposed to come from Aqua wells. In fact, Aqua was never going to be the wholesale provider of water to the putative MUD; that water was to come from the City of Elgin on a wholesale basis. But, nobody reading this application would have any accurate information about who would provide water on a wholesale basis, as opposed to a retail basis, to this proposed MUD/development.

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2) Aqua is not the supposed retailer, as represented in the application. As I understand it, the City of Elgin has very recently voted (on or about January 23, 2024) to either take over the role of retailer of water to the putative MUD, to purchase the rights to the applicable portion of the CCN from Aqua WSC, or otherwise to step into Aqua's shoes with respect to retail provision of water to the proposed district/subdivision. (The actual resolution is difficult to find on the City's website.) In any event, if the City of Elgin is now being touted as the retail provider of water to the proposed district, then the application is incorrect vis-à-vis its "water" analysis and should be denied for this additional reason.

3) The City of Elgin's ability to provide either water services to this proposed MUD is disputed and unproven. The application contains conclusory statements that adequate water services are available (through Aqua) but provides zero details supporting these conclusions. Moreover, it fails to demonstrate that the City of Elgin – whether as wholesaler, or as both wholesaler and retailer, has the wherewithal to provide domestic water sufficient to support this proposed 2,500-home, 8,700+ resident development. Indeed, that is a matter of dispute. In a recent interview with the Elgin Courier, Taylor Christian, a long-time water scientist with the Texas Water Development Board, clearly disputed the Elgin City Manager's recent contentions to the Elgin City Council that the City of Elgin has the ability to provide the water and wastewater services it is committing to provide in the future or that the City has engaged in adequate water and wastewater planning. (See, Elgin Courier, "In Consideration of Water") (Jan. 24, 2024 ed.) (In consideration of water | Elgin Courier). In addition to misstating the basic facts about who is going to provide water to this proposed MUD, the application fails to demonstrate that there is in fact adequate water supply available to service this huge development.

C. Wastewater

1) The application fails to establish that the City of Elgin has adequate capacity to treat wastewater from the district. With respect to wastewater collection and treatment, the application states that "[t]he proposed District is located within the CCN of the City" and that "[w]astewater from the District will be treated by the City, which will use existing treatment facilities to serve the ultimate build-out demands for the District." (Application, Attachment N, Preliminary Engineering Report, at p. 7 (emphasis added).) It projects that the District would need a capacity of 693,000 gallons per day at build-out.<sup>2</sup> (*Id.*) But, the application fails to demonstrate that the City of Elgin has the capacity to handle and treat such quantities on a daily basis with its existing facilities. (As of the date the applicant filed its application, the City's sole wastewater treatment plant (the "LCRA Elgin WWTP" (Regulated Entity No. RN101992691)) was permitted to discharge an annual average flow of 0.95 million gallons per day.)

2) The application fails to establish that 693,000 additional gallons of wastewater per day can be treated by the City in a manner that protects water quality and health. The City of Elgin's wastewater collection and treatment system has a poor track record of satisfying regulatory requirements pertaining to wastewater treatment facilities (WWTFs). The Commission issued notices of violations to the City in April 2020 for unauthorized discharges (TCEQ Investigation No. 1707526) that were ultimately resolved. But, there are presently apparently six outstanding/active violations associated with the Elgin WWTF (see TCEQ Violation Track Nos. 856925, 855393, 846350, 853296, 859441 & 860775) and one pending open enforcement action (TCEQ Enforcement Case No. 64857). The application does not show

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<sup>2</sup> These are the applicant's estimates. We specifically reserve the right to comment on the reasonableness or propriety of those estimates in the future.

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that the projected amounts of additional wastewater from the proposed district can be treated by the City, using its existing WWTF and system, as proposed, in a manner that adequately protects water quality and health.

3) As with drainage and run-off, the application is nothing more than a tautology in terms of wastewater. Again, the applicant is essentially just saying that it will comply with applicable regulations with respect to wastewater and provides no actual data or studies. This tautology does not satisfy the statutory and regulatory requirements that the district will not have an unreasonable effect on water quality and human health.

#### D. Water Quality

There is absolutely nothing in the application, which misidentified the actual watershed and drainage system, from which the Commission can divine or discern that local or regional water quality – whether on-site or offsite – will be protected by this putative MUD. The matters raised in subsections II(A), (B) and (C) above are incorporated for all purposes herein insofar as they also address water quality issues.

#### E. Subsidence

The applicant asserts in the application that “There is not a problem with subsidence in this part of the state as AQUA’s groundwater wells are spread around the County. Therefore, the District will have no unreasonable effect on groundwater levels in the region.” (See Application, Attachment N, at p. 17.) In addition to being a bald assertion, the statement is based on flawed information and a faulty premise. As noted above, the application states that Aqua Water Supply Corporation will be providing *retail* water services to the proposed district, but fails to state that any such water would be sold *wholesale* by the City of Elgin. In other words, all groundwater to be provided to the proposed district would be pumped from City wells and not from Aqua wells. Thus, the applicant looked at the wrong wells, and areas surrounding those wells, when it presented its threadbare and wholly insufficient subsidence analysis.

#### F. Recreational Facilities

Section 293.11(a)(10) of Title 30 of the Texas Administrative Code states that “if the petition anticipates recreational facilities being an intended purpose, [the applicant must provide] a *detailed* summary of the proposed recreational facility projects, projects’ estimated costs, and proposed financing methods for the projects as part of the preliminary engineering report ...”. 30 TAC §293.11(a)(10) (emphasis added). The preliminary engineering report contained in this application states that “the proposed District will construct recreational facilities consisting of trails, parks and landscaping” and purports to provide a “conceptual layout of the proposed “recreational improvements” at Exhibit 6. (See Application, Attachment N, at p. 8 & Exh. 6.) But there is nothing “detailed” about these supposed recreational improvements. Instead, the “concept plan” that was included simply shows some floodplain areas and makes a vague reference to an “Amenities Center.” (See *id.*) There is simply no “detail” here for the Commission or anyone else looking at this application to review.

#### G. The Developer’s Lack of Qualifications

1) The applicant/developer is woefully unqualified. The application fails to establish that this developer is qualified to undertake this substantial proposed project. In fact, it establishes just the

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opposite: this developer has no qualifications whatsoever for this project. The developer is "Lund Farm Investment, LLC." Lund Farm Investment, LLC was formed in Texas on November 8, 2021, with Ziaosha Yang identified as the organizer. (See Exhibit "A," attached.) The company has no demonstrated track record regarding MUDs, or any development at all, in Texas. In its application, this developer purports to have developed two projects in Central China: (1) "No. 6 Huagoushan Community" in Tongren, China, between 2007 and 2018; and (2) "Nanyue Clearwater Community," also in Tongren, China, between 2018 and 2019. (See Application, Attachment N, at Exh. 10.) But, as a threshold matter, neither of these two developments in China could *possibly* have been developed by this developer because this developer wasn't even formed until late 2021. Further, both supposed developments were done in China – not in the U.S. much less in Texas. And, the attachment indicates that the "Nanyue" development was never completed – which is a red flag. The other two "developments" attributed to this developer – both of which also pre-dated the formation of the LLC and thus can't even be fairly attributed to this company – comprise a total of two *single family* homes (one 6,600 square feet, and the other 5,500 square feet) in New York state. (See *Id.*) This developer's resume is both pretty strange and incredibly weak, and the application utterly fails to show that this applicant/developer has the skill, experience, or competency to successfully develop a 570-acre, 2,500 unit residential and mixed-use community in Texas.

2) The developer is also radically undercapitalized and has failed to demonstrate that it has the financial wherewithal to undertake this proposed project. The application also affirmatively establishes that Lund Farm Investment, LLC does not have the financial resources to undertake this massive development project. The application estimates that construction costs for the project (including water, wastewater, drainage, recreational improvement, and road construction) will total \$50,369,377.<sup>3</sup> Non-construction costs for any bond issues adds another \$14,500,624 according to the applicant's own cost estimates – totaling \$64,870,000 in projected costs. But, the single financial statement that the applicant has provided – a balance sheet for Lund Farm Investment, LLC as of December 31, 2022 – indicates that the company has only \$330,000 in funds that could be used toward the multimillion dollar construction costs. (See Application, Attachment N, at Exh. 11.) Further, the balance sheet reflects both negative retained earnings and negative net income. In addition to failing to show that this developer has the skill, experience or competency to undertake this proposed development project, the applicant has completely failed to show that it has the financial capacity or ability to fund the development of any hypothetical first 100-acre (or 50- or 20-acre) phase of the development project, much less multiple phases over time or the entire project.

#### H. Other Matters

1) Fire and Emergency Services.

The portion of the proposed district that is located in Bastrop County is located within the district of Bastrop/Travis Counties Emergency Service District #1 (a/k/a North Bastrop County Fire Rescue). The western portion of the proposed district that is located in Travis County is located in the district of Travis County Emergency Services District #13. Leaders of both emergency services districts report that their districts were not and have not been consulted on their ability to provide fire and EMS services to the proposed district, the projected 2,500 new homes and apartments, and the 8,700+ new persons contemplated to live within the district, or how the proposed MUD district would affect their ability to

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<sup>3</sup> These are the applicant's estimates. Again, we specifically reserve the right to comment on the reasonableness or propriety of those estimates in the future.

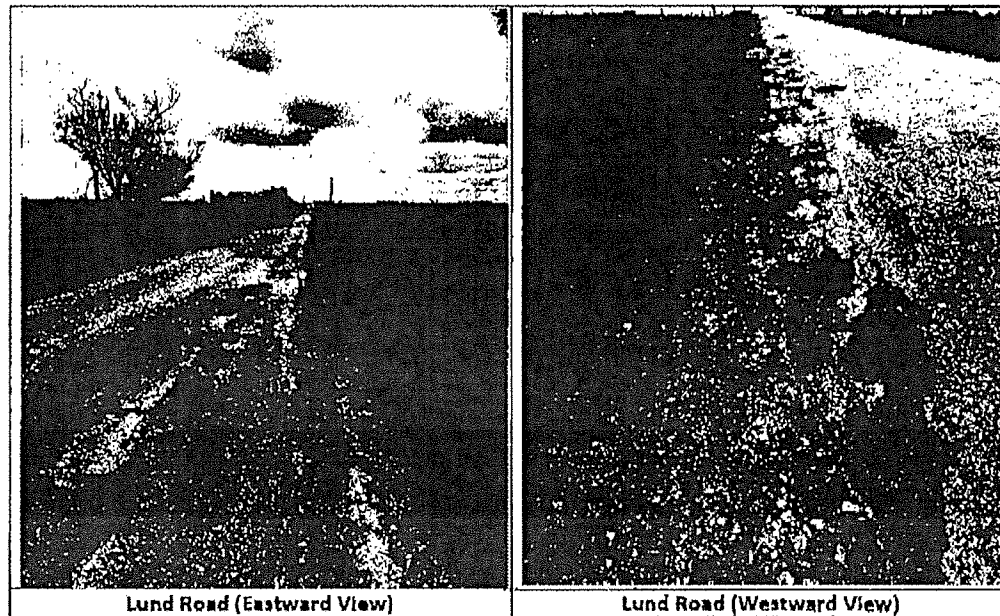
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provide fire and emergency services throughout their respective emergency services districts. The application simply *presumes* that these two emergency services districts can accommodate this massive and sprawling proposed new development and its 8,700+ projected residents. It fails to demonstrate that the organization of the proposed MUD, as requested, is feasible and practicable insofar as the critical issues of fire and emergency services are implicated.

2) Roads and Traffic.

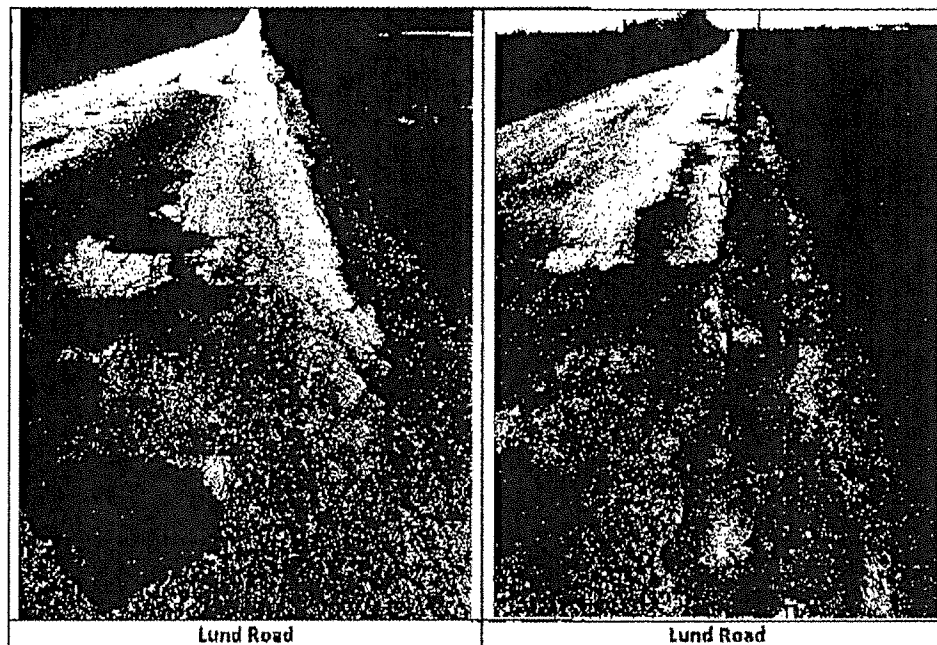
The proposed district would be bounded by TX 95 to the east, Lund Road to the north, and County Line Road to the west. TX 95 is a two-lane state highway with intermittent passing and turning lanes between Elgin and Coupland. Lund Road is a rural county road, without improved shoulders, that is (supposedly) maintained by Bastrop County (except for a short portion to the west where it intersects with County Line Road in Travis County). County Line Road in the vicinity of the proposed district is a rural two-lane county road – also without improved shoulders – maintained by Travis County.

Anybody who drives Lund Road knows that it narrow, poorly-maintained, and potentially hazardous even with its current relatively low traffic levels. Indeed, the “improved” asphalt roadway is pocked with potholes and the road is not wide enough for two vehicles traveling at speed to pass each other without at least one vehicle driving part way off the road surface:

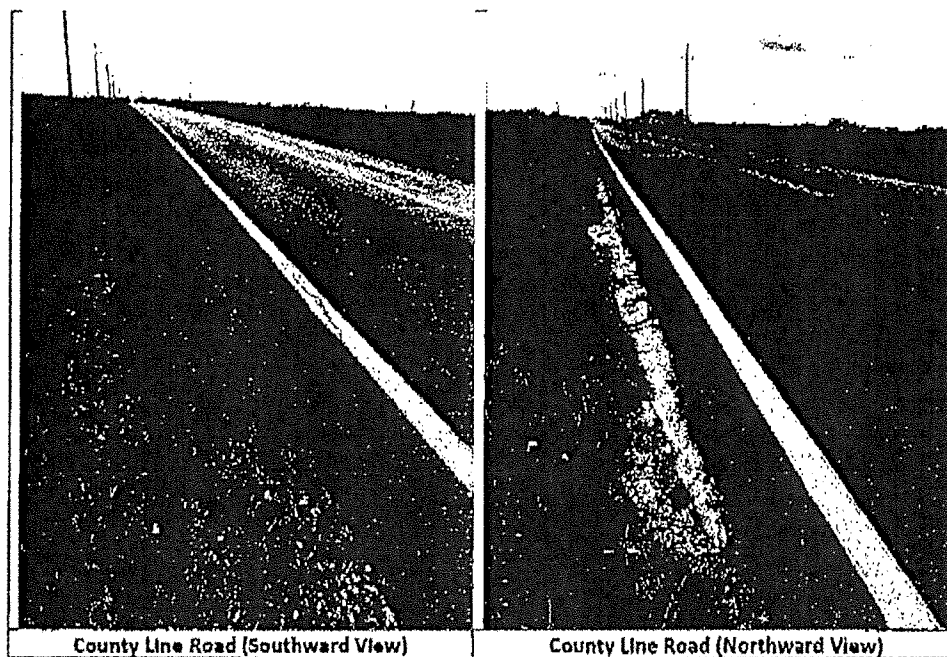




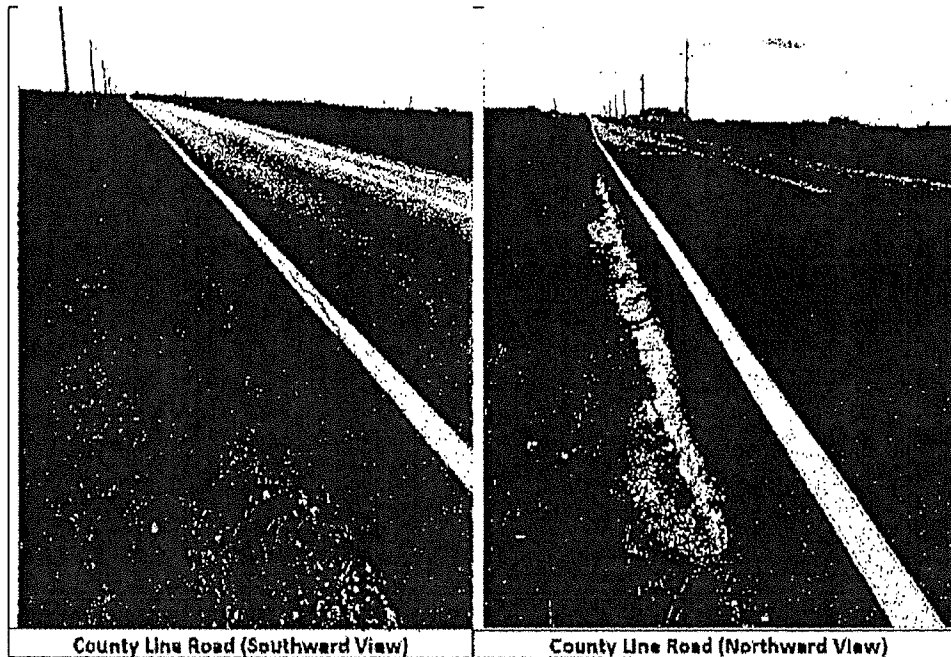
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Further, anybody who drives County Line Road is similarly aware that that rural county road is neither designed nor built to handle traffic from a new 570-acre development with 8,700+ residents:



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Finally, all Elginites are painfully aware of how poor the City and other entities have been and continue to be in terms of planning, improving, and building roadways in areas in and near some new subdivisions that have been built within the existing city limits. The FM1100/Avenue C corridor from TX-95 to County Line Road in Elgin is highly congested, with stop/start traffic and traffic jams, each morning and each evening when area schools start and schools let out – in large part because the relevant governmental entities failed to properly plan for increased traffic due to other Elgin-area developments and then failed to fund road improvement projects.

The application fails to address road and traffic issues raised by the proposed MUD and development with these three public roads that would provide access to and from the proposed development (and thus directly affect any residents of the proposed district in addition to those of us who live and drive in this area). There are no road/traffic studies that properly or meaningfully address issues pertaining to these three public roads in connection with substantially increased traffic. Nothing states how any needed roadway improvements would be paid for or who would pay for them.

3) Schools.

This proposed 2,500 LUE, 8,700+ resident proposed development will likely place an additional 3,000 to 3,500 additional students into the Elgin public school system which, per the Elgin ISD's own website, is ranked #1,084 of all 1,196 school districts in Texas. Assuming for argument's sake an average property value of \$270,000 per residential property (the applicant's number), each property will only contribute approximately \$4,000 in school taxes – far less than the \$11,500 it costs the Elgin ISD to educate each student each year. The proposed district and development will be a huge net drain on the Elgin ISD budget.

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4) Legal and Procedural Irregularities.

This whole process has been rife with various legal and procedural irregularities. For example, as noted above (see footnote 1), the City of Elgin's various resolutions pertaining to this developer and development are simply factually inaccurate in their recitations. As another example, in September of 2023 shortly before this application was filed the Elgin City Council was asked to vote on a proposed "Strategic Partnership Agreement" between the City of Elgin and the "Lund Farm Municipal Utility District" even though the Lund Farm MUD was an "entity" that didn't even exist. There was no record of this supposed MUD in the TCEQ database at that time because it hadn't been formed. Nevertheless, the City voted to enter into a contract with a non-existent entity. Moreover, the proposed Strategic Partnership Agreement was purportedly being sought pursuant to Section 43.0751 of the Texas Local Government Code, which addresses (among other things) matters pertaining to MUDs, municipalities, and annexation of land. TEX. LOCAL GOV'T CODE §43.0751. Subsection (b) of that statute states that "[t]he governing bodies of a municipality and a district may negotiate and enter into a written strategic partnership agreement for the district by mutual consent." But, at the time there was no "governing body" of this yet-to-be-formed with whom the City could even negotiate. And, Subsection (d) of the statute requires both a municipality and a MUD desiring to enter into a strategic partnership agreement both hold at least two public meetings each after proper notice has been posted before either adopts such an agreement. But here, there was only a non-existent "entity" that couldn't possibly have held any such public meetings – yet the City nevertheless ignored the statutory public meeting requirements and voted to adopt and enter into the agreement. Further, subsection (e) of the statute mandates that "[t]he governing body of a municipality may not adopt a strategic partnership agreement before the agreement has been adopted by the governing body of the affected district." Here, the Elgin City Council adopted the agreement in violation of this statute because there was no MUD "entity" with a governing body that could possibly have adopted the agreement first. The City resolutions and purported agreement upon which the applicant is relying are a legal house of cards.

5) Notice; Due Process.

As set forth above, even though we are adjoining landowners we received no personal notice of the application of any sort. Nor, upon information and belief, did any persons who own and/or reside on property adjacent or proximate to the proposed district. The lack of adequate notice, and a meaningful opportunity to be heard, violates basic precepts

### III. INCORPORATION OF PRIOR COMMENTS

The public comments regarding the Lund Farm MUD application that were electronically filed by John Carlson on or about January 20, 2024 are incorporated for all purposes herein.

### IV. REQUEST FOR PUBLIC MEETING AND CONTESTED CASE HEARING

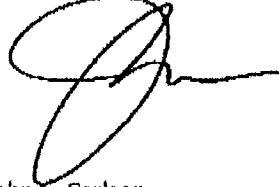
For the foregoing reasons:

- 1) We request that a public meeting be held on the proposed MUD and development; and
- 2) We request a contested case hearing on the pending application.

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Sincerely,

LAW OFFICES OF JOHN E. CARLSON

A handwritten signature in black ink, appearing to be 'John E. Carlson', written over a horizontal line.

John E. Carlson

*/s/ Margery Carlson (\*by permission)*

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Margery R. Carlson

## **Exhibit "A"**

**Form 205**  
**(Revised 05/11)**

Submit in duplicate to:  
 Secretary of State  
 P.O. Box 13697  
 Austin, TX 78711-3697  
 512 463-5555  
 FAX: 512 463-5709  
**Filing Fee: \$300**



This space reserved for office use.

## Certificate of Formation

### Limited Liability Company

#### Article 1 – Entity Name and Type

The filing entity being formed is a limited liability company. The name of the entity is:

Lund Farm Investment LLC

The name must contain the words "limited liability company," "limited company," or an abbreviation of one of these phrases.

#### Article 2 – Registered Agent and Registered Office

(See instructions. Select and complete either A or B and complete C.)

☒ A. The initial registered agent is an organization (cannot be entity named above) by the name of:

Capitol Corporate Services, Inc.

OR

☐ B. The initial registered agent is an individual resident of the state whose name is set forth below:

First Name	M.I.	Last Name	Suffix
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C. The business address of the registered agent and the registered office address is:

206 E. 9th Street, Suite 1300	Austin	TX	78701
<i>Street Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>

#### Article 3—Governing Authority

(Select and complete either A or B and provide the name and address of each governing person.)

☐ A. The limited liability company will have managers. The name and address of each initial manager are set forth below.

☒ B. The limited liability company will not have managers. The company will be governed by its members, and the name and address of each initial member are set forth below.

GOVERNING PERSON 1				
NAME (Enter the name of either an individual or an organization, but not both.)				
IF INDIVIDUAL				
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
OR				
IF ORGANIZATION				
<u>Blossoms L&amp;Y Development LLC</u>				
<i>Organization Name</i>				
ADDRESS				
5 Brookville Lane	Brookville	NY	USA	11545
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Country</i>	<i>Zip Code</i>

<b>GOVERNING PERSON 2</b>				
NAME (Enter the name of either an individual or an organization, but not both.)				
IF INDIVIDUAL				
First Name	M.I.	Last Name	Suffix	
OR				
IF ORGANIZATION				
Organization Name				
ADDRESS				
Street or Mailing Address		City	State	Country Zip Code

<b>GOVERNING PERSON 3</b>				
NAME (Enter the name of either an individual or an organization, but not both.)				
IF INDIVIDUAL				
First Name	M.I.	Last Name	Suffix	
OR				
IF ORGANIZATION				
Organization Name				
ADDRESS				
Street or Mailing Address		City	State	Country Zip Code

#### Article 4 – Purpose

The purpose for which the company is formed is for the transaction of any and all lawful purposes for which a limited liability company may be organized under the Texas Business Organizations Code.

#### Supplemental Provisions/Information

Text Area: [The attached addendum, if any, is incorporated herein by reference.]

**Organizer**

The name and address of the organizer:

Xiaozhou Yang

Name

5 Brookville Lane

Street or Mailing Address

Brookville

City

NY 11545

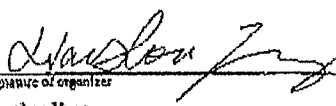
State Zip Code

**Effectiveness of Filing** (Select either A, B, or C.)

- A. ☒ This document becomes effective when the document is filed by the secretary of state.
- B. ☐ This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: \_\_\_\_\_
- C. ☐ This document takes effect upon the occurrence of the future event or fact, other than the passage of time. The 90<sup>th</sup> day after the date of signing is: \_\_\_\_\_
- The following event or fact will cause the document to take effect in the manner described below:

**Execution**

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Date: November 8, 2021  
Signature of organizerXiaozhou Yang

Printed or typed name of organizer



**Form 401-A**  
(Revised 12/09)



**Acceptance of Appointment  
and  
Consent to Serve as Registered Agent  
§5.201(b) Business Organizations Code**

The following form may be used when the person designated as registered agent in a registered agent filing is an individual.

<u>Acceptance of Appointment and Consent to Serve as Registered Agent</u>		
I acknowledge, accept and consent to my designation or appointment as registered agent in Texas for		
<i>Name of represented entity</i>		
I am a resident of the state and understand that it will be my responsibility to receive any process, notice, or demand that is served on me as the registered agent of the represented entity; to forward such to the represented entity; and to immediately notify the represented entity and submit a statement of resignation to the Secretary of State if I resign.		
<b>X:</b>	<i>Signature of registered agent</i>	<i>Printed name of registered agent</i>
		<i>Date (mm/dd/yyyy)</i>

The following form may be used when the person designated as registered agent in a registered agent filing is an organization.

<u>Acceptance of Appointment and Consent to Serve as Registered Agent</u>		
I am authorized to act on behalf of <u>Capitol Corporate Services, Inc.</u>		
<i>Name of organization designated as registered agent</i>		
The organization is registered or otherwise authorized to do business in Texas. The organization acknowledges, accepts and consents to its appointment or designation as registered agent in Texas for:		
<u>Lund Farm Investment LLC</u>		
<i>Name of represented entity</i>		
The organization takes responsibility to receive any process, notice, or demand that is served on the organization as the registered agent of the represented entity; to forward such to the represented entity; and to immediately notify the represented entity and submit a statement of resignation to the Secretary of State if the organization resigns.		
<b>X:</b>	<i>Signature of person authorized to act on behalf of organization</i>	<i>Printed name of authorized person</i>
		<i>Date (mm/dd/yyyy)</i>

**Laurie Gharis**

**From:** eFax Corporate <message@inbound.efax.com>  
**Sent:** Friday, February 16, 2024 2:09 PM  
**To:** Fax3311  
**Subject:** Corporate eFax message from "unknown" - 21 page(s)  
**Attachments:** FAX\_20240216\_1708114113\_878.pdf

Login

## Service Notification

You have received a 21 page fax at 2024-02-16  
14:08:33 CST.

\* The reference number for this fax is  
usw2a.prod.afc\_did7-1708113486-15122335236-878.  
Please [click here](#) if you have any questions regarding  
this message or your service. You may also contact  
Corporate Support:

### US

Email: [corporatesupport@mail.efax.com](mailto:corporatesupport@mail.efax.com)  
Phone: 1 (323) 817-3202 or 1 (800) 810-2641

### EU

Email: [corporatesupporteu@mail.efax.com](mailto:corporatesupporteu@mail.efax.com)  
Phones:  
+44 2030055252  
+33 171025330  
+49 800 0003164  
+35 314380713

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[corporatesupport@mail.efax.com](mailto:corporatesupport@mail.efax.com)

#### Phone:

1(323) 817-3202  
1(800) 810-2641 (toll-free)

Thank you for using the eFax Corporate service!

## Renee Lyle

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**From:** PUBCOMMENT-OCC  
**Sent:** Monday, January 22, 2024 3:08 PM  
**To:** Pubcomment-Dis; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Cc:** Info  
**Subject:** FW: Lund Farm MUD (CN606185148 & RN11815627) -- Request for Contested Case Hearing and Proper Notice

H

**From:** John Carlson <jcarlson@howrybreen.com>  
**Sent:** Saturday, January 20, 2024 4:52 PM  
**To:** Info <Info@tceq.texas.gov>  
**Subject:** Lund Farm MUD (CN606185148 & RN11815627) -- Request for Contested Case Hearing and Proper Notice

To Whom It May Concern:

I am trying to submit a comment and request for contested case hearing about the referenced MUD application. FYI, your website is impossible to use; hence, I've had to go this route. I have screen shots of the unresponsiveness or common-sense usability of your website in connection with my attempts to submit a response and request for a contested case hearing. It's a pity that the state's websites are so unusable for average folks...

My name is John E. Carlson. I live and own property immediately across Lund Road (to the north) in Bastrop (and a portion of Travis County) from the proposed Lund Farm MUD. My address is 164 Lund Road, Elgin, Texas 78621. My property (co-owned with my mother, Margery Carlson), comprises approximately 107.5 acres of farmland with a homestead bounded by TX 95 to the east, Lund Road to the south, and County Line Road to the west. My immediate neighbor to the north is Darryl Carlson. My best daytime phone number is (512) 294-3411. The internal TCEQ control number or numbers for the MUD application are referenced above.

My mother and I oppose the proposed Lund Farms MUD on multiple grounds, including:

- 1) The notice provided was woefully insufficient. It was buried in an Austin American-Statesman paper that nobody reads. I have not seen two notices, and the one notice in the Statesman (which nobody I know now subscribes to) was insufficient. I live across the street from the proposed MUD, and failed to receive any normally-recognized actual notice – whether in the form of a mailed letter, a certified letter, or a sign or other posted notice of the proposed MUD on or about that property. Most people like me would have no notice whatsoever of this proposed MUD development under these circumstances. The supposed notice violates my due process rights, as well as the due process rights of others (such as, but not limited to, other adjacent landowners, downstream landowners, and taxpayers in nearby affected districts (such as Elgin ISD, City of Elgin, and Bastrop County taxpayers, and others)).
- 2) The proposed application is not reasonable in terms of projected construction costs, tax rates, or sewer rates. Among other things, and without limitation, the proposed MUD does not fairly or accurately contemplate the costs to taxpayers in either the City of Elgin, Bastrop County, or Travis County with respect to infrastructure, road, utility or similar costs. According to the developer's submissions to the City of Elgin, it is proposing to develop 1800 single-family living units and another 650 apartment LUEs, in addition to an (yet-to-be-disclosed) school location and 8-9 acres of mixed use development. The roadways – including County Line Road in Travis County, Lund Road in Bastrop and Travis Counties, and Texas 95 in Bastrop County – are not capable of handling such a development and the proposed MUD application fails to explain how the MUD/developer will provide the

infrastructure to adequately handle traffic (other than a bland promise to provide some right-of-way that will be a mere fraction of the ultimate road-related costs). Further, in September of 2023, the developer and the City of Elgin purported to enter into a supposed "Strategic Partnership Agreement" that violated the law. Specifically, the Elgin City Council voted to approve an agreement with an "entity" that didn't even exist. At the time, there was no record of this supposed Lund Road MUD in the TCEQ database. In an Austin Business Journal article about the proposed Lund Farm subdivision published earlier this Texas Local Government Code, as the Lund Farm MUD never had actually been created at that time. Indeed, Lund Farm MUD didn't have a website, as one would expect from an existing and operational MUD. (See, e.g., Brushy Creek Municipal Utility District - Brushy Creek MUD (bcmud.org).) Needless to say, it's a highly unusual if not unprecedented situation for a City or any other actual legal entity to enter into a contract with a non-existent one. That proposed Strategic Partnership Agreement was ostensibly made pursuant to Section 43.0751 of the Texas Local Government Code, which addresses (among other things) matters pertaining to MUDs, municipalities, and annexation of land. But, Subsection (b) of that statute states that "[t]he governing bodies of a municipality and a district may negotiate and enter into a written strategic partnership agreement for the district by mutual consent." How could the Lund Farm MUD "negotiated" this proposed agreement with the City of Elgin when it didn't even exist, much less have a "governing body" that could even engage in such negotiations? Moreover, Subsection (d) of the statute requires both a municipality and a MUD desiring to enter into a strategic partnership agreement both hold at least two public meetings each after proper notice has been posted before either adopts such an agreement. How could a non-existent "entity" like the not-yet-formed Lund Farm MUD hold any such public meetings? "It" never attempted to hold two such meetings in this instance because "it" didn't exist. And, subsection (e) of the statute mandates that "[t]he governing body of a municipality may not adopt a strategic partnership agreement before the agreement has been adopted by the governing body of the affected district." The Elgin City Council was asked to adopt the agreement in violation of this statute, since a non-existent "entity" with no apparent governing body could have adopted this agreement first. Because of the foregoing, a number of the recitals contained in the proposed agreement were materially untrue even though the agreement purported to state that the recitals were "true and correct."

- 3) The proposed MUD – with almost 2500 proposed residential LUE's – will never pay for itself in terms of school or property taxes. The 8,000-plus proposed residents will unduly burden the Elgin ISD and other taxing entities. Neither the Elgin Fire Department nor the relevant Bastrop/Travis County emergency services department (which are largely if not completely volunteer) were consulted about this proposed MUD and their ability to service it, before the MUD application was filed.
- 4) The proposed MUD will have an unreasonable effect on natural run-off and drainage. Among other things, and without limitation, the developer plans to put 1,800 single-family units and 650 apartment units (with all their impervious cover and its implications) on 570 acres that are immediately upstream from properties that are already being negatively affected by increased drainage from recent Elgin-area residential developments. Further, and again without limitation, the information submitted by the developer to the Elgin City Council indicated that here the developer plans to use in-stream detention to supposedly "control" the inevitable additional run-off, a plan that no reasonable drainage engineer would sign off on. Additionally, the proposed MUD has only hypothetical plans for wastewater treatment for 2,500 (!) living units, and has (at least as far as I can tell based on opaque information provided by local governmental entities) has not entered into an actual agreement for residential water.
- 5) The proposed MUD will also have an unreasonable effect on the total tax assessments on lands located within the district.

**My mother (Margery Carlson) and I oppose this application and specifically request a contested case hearing on this application.**

John E. Carlson  
164 Lund Road  
Elgin, Texas 78621  
(512) 294-3411

Margery R. Carlson  
711 North Main Street  
Elgin, Texas 78621  
(512) 281-2174

**Renee Lyle**

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**From:** PUBCOMMENT-OCC  
**Sent:** Tuesday, February 20, 2024 9:05 AM  
**To:** Pubcomment-Dis; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Lund Farm MUD

PM  
H

**From:** Gary Johnson <[grbrjohnson@sbcglobal.net](mailto:grbrjohnson@sbcglobal.net)>  
**Sent:** Friday, February 16, 2024 5:00 PM  
**To:** CHIEFCLK <[chiefclk@tceq.texas.gov](mailto:chiefclk@tceq.texas.gov)>  
**Subject:** Lund Farm MUD

Office of Chief Clerk (MC-105)  
Texas Commission of Environmental Quality  
P.O. Box13087  
Austin, TX 78711-3087

Re: Lund Farm MUD Application (CN606185148 &RN111815627: Permit No. D09262023033)  
Request for Public Meeting and Request for Contested Case Hearing

To Whom it May Concern:

My name is Gary Johnson. I am writing on behalf of myself, my wife, Barbara Johnson and my son, Terry Johnson. Our family owns over 400 acres of land that is fully involved in agriculture production consisting of row crops, hay and beef cattle. Our farm is located on Skog Road several miles northwest of the proposed development. We use SH 95, Lund Road and County Line Road on a regular basis and are very concerned about all the additional traffic the proposed subdivision will bring to the area. The existing roads will not handle the major increase in traffic. Also, the proposed pavement and impervious surfaces in the development area will increase runoff and overload the existing drainage structures at stream crossings. Drainage and water quality issues have not been adequately addressed.

I am also a commissioner for Travis county Emergency Services District # 13 and have served as treasurer since 2006 when the district was formed. A portion of the proposed development lies within Travis County that is east of County Line Road. Travis County ESD # 13 has not received any notification of the proposed development or any question regarding emergency services.

My wife and I also maintain a residence in Austin and the address is 1011 Red Cliff Dr. Austin, TX 78758. My best daytime phone number is (512) 739-8449. My son, Terry is a resident of Elgin and his address is 108 Antietam Trail, Elgin, TX 78621 His best daytime phone number is (512) 565-5422.

I sincerely request that a public meeting be held and also request a Contested Case Hearing.

Sincerely,

Gary N. Johnson

**Renee Lyle**

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**From:** PUBCOMMENT-OCC  
**Sent:** Friday, February 16, 2024 5:46 PM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; Pubcomment-Dis  
**Subject:** FW: Proposed wastewater permit near Elgin, Texas

H

Jesús Bárcena  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:  
[www.tceq.texas.gov/customersurvey](http://www.tceq.texas.gov/customersurvey)

**From:** CHIEFCLK <chiefclk@tceq.texas.gov>  
**Sent:** Friday, February 16, 2024 4:26 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** FW: Proposed wastewater permit near Elgin, Texas

For D-09262023-033

**From:** Mitchell Schroeder <mkschroed17@yahoo.com>  
**Sent:** Friday, February 16, 2024 4:19 PM  
**To:** CHIEFCLK <chiefclk@tceq.texas.gov>  
**Subject:** Proposed wastewater permit near Elgin, Texas

Hello,

I'm Mitchell Schroeder, and I own land on Roemer Road north of Elgin. It has come to my attention that a huge housing addition along with sewage treatment capabilities is being proposed in the area of Lund Road and County Line Road. The proposed treated effluent would be discharged into Elm Creek, which further to the south is already being overloaded with sewage and street runoff from new developments on County Line Road and FM 1100.

I believe this proposal needs more public input, perhaps a public meeting or hearing on this matter to answer questions and address concerns that affected neighbors will have, not only pollution and flooding concerns but also water, electric, and road concerns.

Please consider having some sort of hearing before granting this permit.

Thank you,

Mitchell Schroeder  
226 Roemer Road  
Elgin, TX 78621  
512-825-8912

Sent from Mail for Windows