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## Agenda Item 4A

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September 9, 2016

**SUBJECT:**

Approval to Finance the Required Parking Lot and Site Improvements Adjacent to the On-Campus Privatized Student Housing Project in Brenham, Washington County, Texas

**RECOMMENDATION:**

That the Board approve the alternative to the current design for the financing of the required parking lot and site improvements adjacent to the on-campus privatized student housing project in Brenham, Washington County, Texas, (Attachment B), and authorize the administration to: (1) negotiate and award, and for the District President/CEO to execute, a Professional Services Agreement with Strand and Associates for the design and construction phase services related to the parking lot project on the Brenham campus; and (2) seek bids for the construction of the proposed improvements.

**RATIONALE:**

On August 18, 2015, the Blinn Board of Trustees authorized the administration to commence engagement in a public/private partnership for the construction of a new student housing facility on the Blinn Brenham Campus in Washington County, Texas. In March, 2016, the College became aware of a “wetland” on the current design site, and such “wetland” has necessitated the reconfiguration of the building on the site (Attachment A). Thus, an alternative to the current design has been developed to preserve the favorable interest rate available from the United States Department of Agriculture (USDA) and to expedite construction for occupancy for the Fall 2018. The alternative is divided into two parts: (1) the actual student housing structure, and (2) the required parking lot and site improvements for the student housing structure.

The alternative to the current design will be owned by the National Campus and Community Development Corporation, (NCCD), developed by Servitas, LLC, and funded by the USDA. However, since the USDA will not finance improvements constructed upon a “wetland,” the college seeks to finance the required parking lot and site improvements adjacent to the on-campus student housing with the College’s cash reserves or existing bond funds.

On August 30, 2016, staff met with the members of the Board’s Real Estate and Property Committee to review the above-referenced subject. The Committee recommends approval of the alternative as recommended.

**BUDGETARY CONSIDERATIONS:**

The project will be funded from either the College’s cash reserves or existing bond funds. The estimated cost for the required parking lot and site improvements is \$1,000,000.

**RESOURCE PERSONNEL:**

Trustee Atwood Kenjura, Chair of the Board Real Estate and Property Committee  
Matt Mylykangas, Senior Vice President, Preconstruction and Development, Servitas, LLC.

**ATTACHMENTS:**

Attachment A: Email from Congressmen Michael McCaul's Office

Attachment B: P3 Student Housing PowerPoint

Respectfully Submitted By:



Richard O'Malley

Assistant Vice President, Facilities, Planning and Construction



Mary Hensley, Ed.D.

District President/CEO

**From:** Mikeska, Marita [<mailto:Marita.Mikeska@mail.house.gov>]  
**Sent:** Thursday, September 01, 2016 9:19 AM  
**To:** District President/CEO Blinn College <[president@blinn.edu](mailto:president@blinn.edu)>  
**Cc:** Mel Waxler <[mel.waxler@blinn.edu](mailto:mel.waxler@blinn.edu)>  
**Subject:** USDA

Dr Hensley,

I received the following update from the USDA Liaison.

She was checking with the Community Facilities team and their general counsel regarding the wetland. She received the following background information from them.

The short summary is that they are still bound by statute despite how the wetland came into existence (ie whether it was manmade or natural –more information is below):

Unfortunately, the proposed site has land which meets the statutory definition of “wetland” as defined in the Food Security Act of 1985. Even if it is an “artificial wetland,” Section 363 of the CONACT will still apply. This means that CF loan funds may not be used to finance the conversion of the wetland on the proposed site. Also, in such cases, if non-agency funds are used to convert the wetland, CF loan funds would still be prohibited from being used for any improvement on the wetland area that had been converted. However, CF loan funds may be used to fund those portions of the project that would not be constructed on the filled wetlands.

Here is the guidance from the general counsel:

Sec. 363 states:

**SEC. 363. 7 U.S.C. 2006e PROHIBITION ON USE OF LOANS FOR CERTAIN PURPOSES.**

The Secretary shall not approve any loan under this title to drain, dredge, fill, level, or otherwise manipulate a wetland (as defined in section 1201(a)(16) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(16))), or to engage in any activity that results in impairing or reducing the flow, circulation, or reach of water, except in the case of activity related to the maintenance of previously converted wetlands, or in the case of such activity that is already commenced before November 28, 1990. This section shall not apply to a loan made or guaranteed under this title for a utility line.

She pulled the Food Security Act of 1985 language that is referenced here (16 USC 3801 (a)(16)/ 1201(a)(16) of the FSA, - this is a wrong cite (it still cites to the Public Law). Anyway, there are two wetland terms used in the Food Security Act of 1985 and the correct cites are below:

There is a converted wetland definition at 16 USC 3801(a)(7) which states:

(7) (A) The term “converted wetland” means wetland that has been drained, dredged, filled, leveled, or otherwise manipulated (including any activity that results in impairing or reducing the flow, circulation, or reach of water) for the purpose or to have the effect of making the production of an agricultural commodity possible if—

(i) such production would not have been possible but for such action; and

(ii) before such action—

(I) such land was wetland; and

(II) such land was neither highly erodible land nor highly erodible cropland.

(B) Wetland shall not be considered converted wetland if production of an agricultural commodity on such land during a crop year—

(i) is possible as a result of a natural condition, such as drought; and

(ii) is not assisted by an action of the producer that destroys natural wetland characteristics.

And there is a wetland definition cite at 16 USC 3801(a)(27):

(27) The term “wetland”, except when such term is part of the term “converted wetland”, means land that—

(A) has a predominance of hydric soils;

(B) is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(C) under normal circumstances does support a prevalence of such vegetation.

For purposes of this Act, and any other Act, this term shall not include lands in Alaska identified as having high potential for agricultural development which have a predominance of permafrost soils.

Neither one of these terms contemplate an artificial vs. a naturally occurring wetland. Based on this language, She believes the answer to the question raised below is that 363 does not distinguish between an artificial and naturally occurring wetland. If the Report calls it a wetland and it meets the above criteria, then 363 would apply.

I hope this information is helpful to you and the Blinn Board.

Marita

**Marita Mikeska**

Constituent Liaison

Office of Congressman Michael McCaul (TX-10)

Chairman, House Committee on Homeland Security

[2000 S. Market Street, Suite 303](#)

[Brenham, Texas 77833](#)

Office: [979/830-8497](#); Fax: [979/830-1984](#)

[Marita.Mikeska@mail.house.gov](mailto:Marita.Mikeska@mail.house.gov)

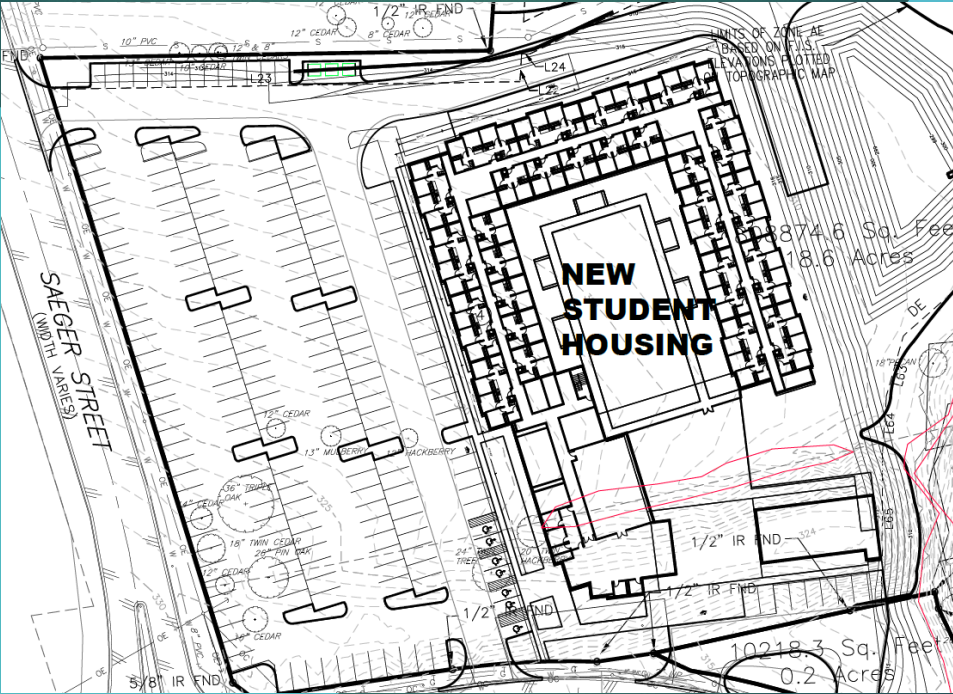
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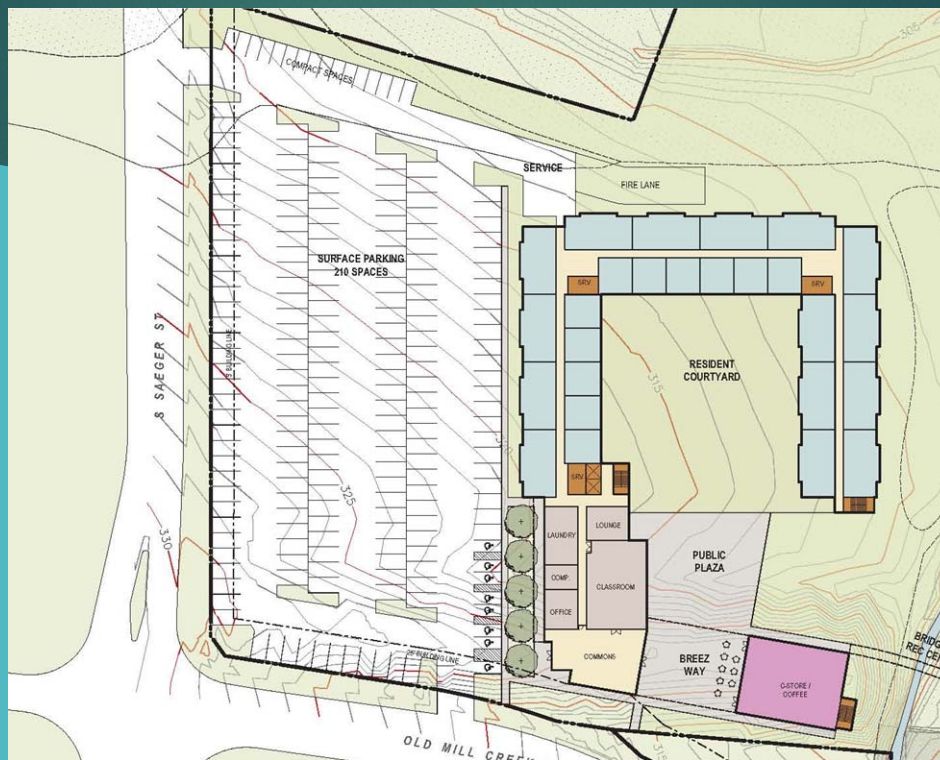
# P3 Student Housing

SEPTEMBER 5, 2016

# Wetlands Shown on Site Plan



# Current Design



SERVITAS

# Project Information

- ▶ 70 – 2 bedroom / 1 bathroom
- ▶ 78 – 4 bedroom / 2 bathroom
- ▶ 1 – Residence Director
- ▶ 453 beds total
- ▶ Approximately 159,000 square feet
- ▶ \$32,405,000 total cost
- ▶ Semester Rents
  - ▶ 2 bd / 1 ba - \$2,950
  - ▶ 4 bd / 2 ba - \$2,900



# Alternative to the Current Design

- ▶ 68 – 2 bedroom / 1 bathroom
- ▶ 82 – 4 bedroom / 2 bathroom
- ▶ 1 – Residence Director
- ▶ 465 beds total
- ▶ Approximately 162,000 square feet
- ▶ \$32,055,000 total cost
- ▶ Semester Rents
  - ▶ 2 bd / 1 ba - \$2,950 (possible -6%)
  - ▶ 4 bd / 2 ba - \$2,900 (possible -6%)

