

AGENDA
CITY OF FREDERICKSBURG
PLANNING & ZONING COMMISSION
Wednesday, January 7, 2015
5:30 P.M.
LAW ENFORCEMENT CENTER, 1601 E. MAIN ST.

PAGE REF.

1. Call to Order
2. Approve minutes from the December 2014 Regular Meeting

Pp 1 - 4

PUBLIC HEARINGS

3. Public Hearing (Z-1415) by MacDonald and Associates, Inc. for a change in zoning from R-1, Single Family Residential to R-3, Multi-Family Residential and C-2, Commercial on approximately 7.3 acres of property fronting on N. Llano Street and N. Adams Street
4. Consider making a recommendation on Z-1415

Pg 5 - 15

DISCUSSIONS

5. Discuss regulations for mobile food vending trucks and trailers

Pp 16 - 17

ADJOURN

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

PLANNING & ZONING COMMISSION
December 3, 2014
5:30 P.M.

On this the 3rd day of December, 2014 the PLANNING AND ZONING COMMISSION convened in regular session at the Law Enforcement Center with the following members present to constitute a quorum:

JANICE MENKING - Chair
BRENDA SEGNER
CHARLIE KIEHNE
TODD WILLINGHAM
STEVE THOMAS
DARYL WHITWORTH
CHRIS KAISER

ABSENT: JOE CLOUD
BILL PIPKIN

ALSO PRESENT: BRIAN JORDAN - Director of Development Services
PAT MCGOWAN - City Attorney
TAMMIE LOTH - Development Coordinator

Janice Menking called the meeting to order at 5:30 P.M.

Steve Thomas stepped down from the Commission for the consideration of P-1423

PLAT

CONSIDER (P-1423) PRELIMINARY PLAT FOR ESTENSON SUBDIVISION, A 2.56 ACRE TRACT OF LAND LOCATED ON MORNING GLORY DRIVE - Dale Sultemeier presented the application. John Klein was also in attendance. Mr. Sultemeier noted Richard Estenson recently purchased the property from the hospital and it is approximately 2.56 acres which he would like to divide into six lots, each approximately four tenths of an acre. Mr. Sultemeier noted the lots will be served by city water and sewer and Central Texas Electric. Mr. Sultemeier stated he needs to do some more analysis on the detention pond to see what the best option for release will be.

Brian Jordan, Director of Development Services, noted this was a simple plat consisting of six lots, each fronting on an existing street. Mr. Jordan noted the right of way shows to be slightly less than 50 feet and City Staff will accept the width as adequate. Mr. Jordan commented this is a preliminary plat and the applicant will have to come back for a final plat approval. Mr. Jordan noted Staff recommendation of approval with the condition the construction plans be approved by the engineering department prior to approval of the final plat. Mr. Jordan added the final easements and necessary details will have to be

worked out.

Charlie Kiehne asked about the detention located in the corner and asked if it was appropriate for the water to cross the adjoining properties. Mr. Sultemeier noted that is how it is shown now, but detention is one of the things they are looking at and they may be re-designed.

Daryl Whitworth asked if City Staff had received any questions from the neighborhood and Mr. Jordan stated they have not, but this application did not require notices to be sent to the neighbors because the use is permitted and complies with the zoning requirements.

Charlie Kiehne moved to approve Application P-1423 with the condition the Engineering Department approve the construction plans prior to approval of the final plat. Daryl Whitworth seconded the motion. All voted in favor and the motion carried.

Steve Thomas returned to the Commission.

CONSIDER MAKING A RECOMMENDATION ON THE DESIGN STANDARDS AND GUIDELINES FOR ENTRY CORRIDORS FROM THE PROPOSED COMPREHENSIVE PLAN ISSUES UPDATE - Brian Jordan, Director of Development Services, distributed a summary of what had been discussed at prior meetings to confirm what is to be recommended to the City Council.

Mr. Jordan started with Architectural Style and noted the intent of section 1.1 is to pick up properties that are outside the Historic District and mark them as landmarks so the Historic Preservation Ordinance will apply and this section could be moved to a guideline. Mr. Jordan added he has a question about section 1.2 and the buildings the standards are applying to needs to be clarified.

Mr. Jordan noted the list on Architectural Materials was determined to be too restrictive and other materials should be added to the list.

Architectural Color was the next standard and Mr. Jordan noted the consensus was allowing 30% of the building to be painted a bright accent color is too large a percentage. Mr. Jordan noted it was also suggested the color requirements be applied to existing buildings that are changing uses.

Mr. Jordan noted the language in section 4.3 of Architectural Features should be modified so it can be enforced and the illustration changed because it does not represent the type of commercial buildings the city is encouraging along entry corridors.

Massing and Scale is the next standard and Mr. Jordan noted the Commission asked for some specific examples and better interpretation on sections 5.2, 5.3 and 5.4.

Mr. Jordan noted the Signage standard is covered with the city's sign ordinance and the only thing suggested was that section 6.8 be eliminated because it conflicts with section 6.1.

The standard for Building Height is covered by the city's existing zoning ordinance and no changes are needed.

Setbacks and Frontage was the next standard and Mr. Jordan noted several suggestions were heard from the Commission but no consensus reached at the prior meetings. Mr. Jordan noted the idea of parking lots in the rear of buildings sounded attractive, but there were concerns about how this would be received for some commercial uses. Section 8.1 was discussed further and it was determined a maximum 25 foot

setback is not always practical and that should be moved to a guideline. Mr. Jordan continued with the suggestions from the Commission which included section 8.2 is not practical, section 8.3 is acceptable, section 8.4 and 8.5 should be moved to guidelines. It was also decided there should not be a requirement for parking to be located on the rear or side.

The Landscaping standard to plant trees every 30 feet was suggested to be changed to every 50 feet as long as TXDOT allows such, section 9.2 be deleted and the landscape ordinance be referenced as the standard.

Lighting was the next standard and Mr. Jordan noted a new lighting ordinance has been adopted and the standard should be changed to reference that ordinance. Mr. Jordan also noted the examples shown should be changed to reflect acceptable “night sky” fixtures.

Mr. Jordan commented the Service Area standard is okay as written.

There were several suggestions on the Parking and Access standard and those include moving section 12.1 to a guideline, eliminate section 12.2, eliminate 12.7 and stay with the existing landscape ordinance and move section 12.8 to a guideline.

Drainage and Stormwater standard was determined to be okay, except a different picture should be considered to the one on page 102.

Streetscape is the final standard and it was suggested section 14.2 be deleted, as in the Landscape section, and a spacing of 50' should be considered.

Mr. Jordan asked the Commission if he summarized their suggestions appropriately and the Commission agreed he did.

Todd Willingham moved to forward the recommendations discussed to the City Council and Chris Kaiser seconded the motion. All voted in favor and the motion carried.

DISCUSSIONS

MOBILE FOOD TRAILERS - Brian Jordan, Director of Development Services, noted the City Manager asked the Planning & Zoning Commission and Staff to look at ways to regulate mobile food trailers and he wanted to get the conversation started. Mr. Jordan noted we have very minimal standards in place right now and the ordinance does not clearly state if a trailer can move back to the same site after they have moved off and their six month time frame has expired. Mr. Jordan commented some items to consider during discussion are which zoning districts should allow mobile food trailers, how long the trailer can stay in place, and the distance the food trailers should be from residential areas. Todd Willingham asked if some guidelines could be collected from other cities and Mr. Jordan noted he is working on getting those. Chris Kaiser commented the six month allowable time frame seems arbitrary and Mr. Jordan noted it does and he is not sure where that came from.

Mr. Jordan stated this item will be put back on a future agenda and the Commission members should give it some thought.

MINUTES

Charlie Kiehne moved to approve the minutes of the November 2014 meeting. Todd Willingham seconded the motion. All voted in favor and the motion carried.

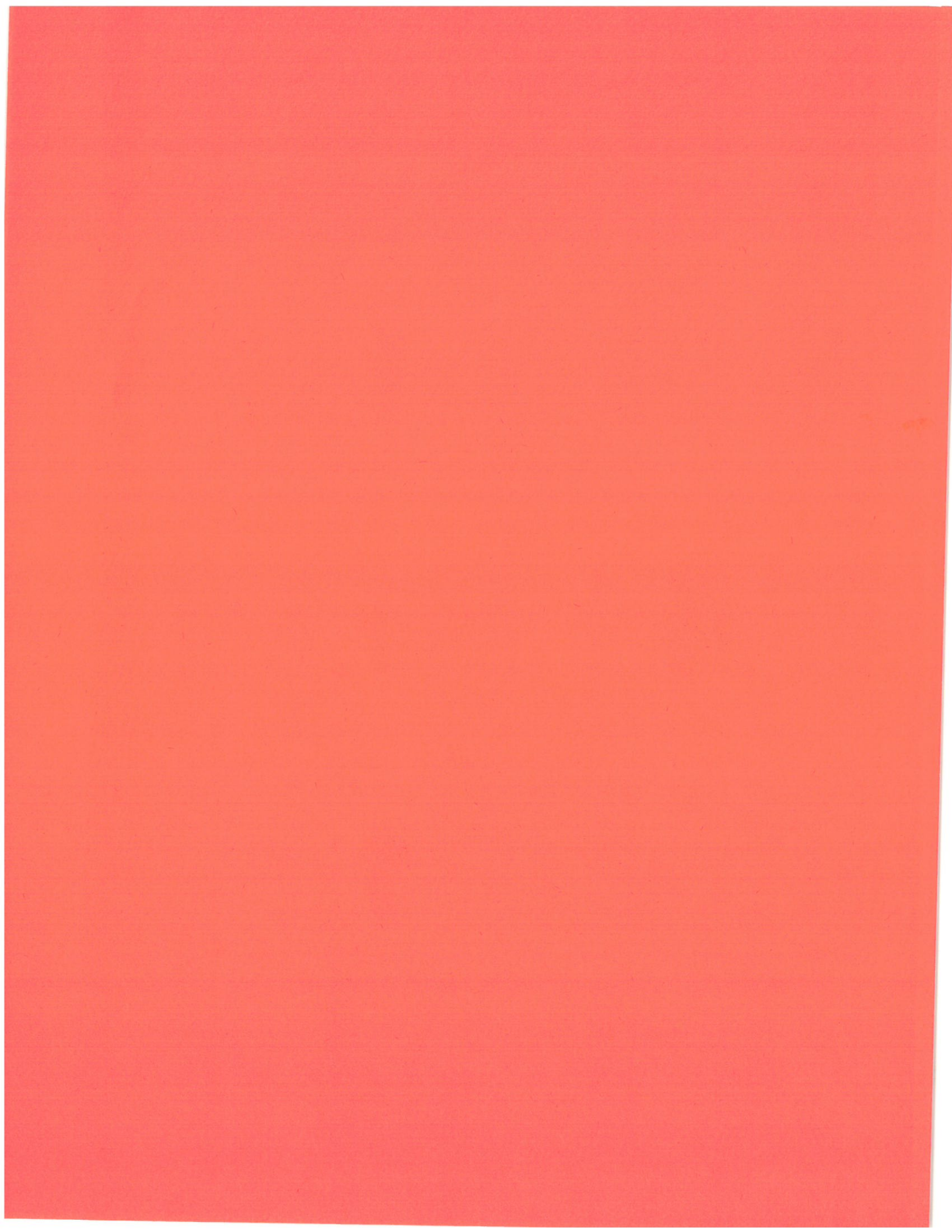
ADJOURN

With nothing further to come before the Commission, Chris Kaiser moved to adjourn. Brenda Segner seconded the motion. All voted in favor and the meeting was adjourned at 6:31 p.m.

PASSED AND APPROVED this 8th day of January, 2015.

SHELLEY BRITTON, Secretary

JANICE MENKING, Chairman



ZONING CHANGE BRIEF

Rezoning Request # Z-1415

OWNER/APPLICANT: MacDonald and Associates, Inc.

LOCATION: N. Llano Street, west of American Bank of Texas (See attached map).

SIZE: Approximately 7.3 acres.

EXISTING ZONING: R-1, Single Family Residential

PROPOSED ZONING: C-2 Commercial on portion fronting on N. Llano Street and R-3 Multi-Family Residential on portion fronting on N. Adams Street

FINDINGS:

- The property is made up of two tracts extending from N. Llano Street to N. Adams Street, and are currently undeveloped.
- The properties were rezoned in the same manner being requested at this time in 2003, and subsequently rezoned back at the request of the property owners. The accompanying map shows these properties.
- Utilities are currently available to serve the properties.
- The property adjoining the subject property to the north and south is zoned C-2 along N. Llano Street and R-2 Multi-family Residential on N. Adams Street. The zoning on the adjoining property is identical to what is being requested.
- The Land Use Plan identifies the property fronting on N. Llano Street as Mixed Use Corridor and the area fronting N. Adams Street as Medium Density Residential.

LAND USE PLAN: The Mixed Use designation represents an effort to change the typical pattern of strips of underperforming commercial development that often line highways and arterials. Rather than limiting the properties along major entry corridors to commercial uses, this category offers a variety of higher density residential and mixed use opportunities. The policy of allowing a mix of uses along major roadways supports a change in development from a pattern of older commercial structures to new projects with a variety of uses, including mixed use within an individual project or building. In the process, it reduces the excess commercial capacity along these corridors and creates locations for more affordable housing.

The Medium Density Residential category includes single family detached dwellings on smaller lots and attached dwelling units, such as duplex and townhomes. Medium density land uses often provide housing for “empty Nesters” who may not want the

maintenance of a large-lot single-family home, and for young families who may find a townhome or duplex more affordable than a single-family home. They play an important role in providing workforce housing as well. These residential uses can provide a buffer between lower density residential areas and more intensive residential, non-residential or mixed use areas.

ZONING: The proposed zoning will roughly split these tracts in half, with the half fronting on N. Llano Street being C-2 Commercial and the half fronting on N. Adams being R-3, Multi-family residential. This proposed zoning configuration would be consistent and essentially identical to the existing zoning to the north and south (see the attached zoning map).

OPPOSITION/SUPPORT OF REQUEST: We have not received any comments regarding this request.

STAFF RECOMMENDATION: The proposed zoning is consistent with the land use and zoning pattern on the adjoining properties. Approval is recommended.



LAND USE - ZONING

☒ APPLICATION FOR RE-ZONING- \$200.00

APPLICATION IS HEREBY MADE TO THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION TO AMEND THE ZONING ORDINANCE AND THE ZONING DISTRICT MAP OF THE CITY OF FREDERICKSBURG AS HEREINAFTER SET FORTH

1. APPLICANT: MacDonald and Associates, Inc.
2. ADDRESS: 2951 Fall Creek Road, Kerrville, TX 78028
PHONE NUMBER: (830) 257-5323 FAX NUMBER: (830) 257-3168
3. APPLICANT EMAIL ADDRESS: tjmacdonald@macdonald-companies.com
4. OWNER (IF DIFFERENT FROM APPLICANT): Mary Hseng, Caroline Basser, Charles Nagel, Emily Decker, and
5. ADDRESS: C/o Mike Starks, 116 E. Austin St., Fredericksburg, TX Christina Arramhede
6. PHONE NUMBER: 990-8708 FAX NUMBER: _____
7. OWNER EMAIL ADDRESS: mikestarks@mikestarks.com
8. DESCRIPTION OF PROPERTY INVOLVED IN THIS REQUEST:
ADDRESS: Corner of Llano Hwy. and Lower Crabapple Road - 108 Lower Crabapple
LEGAL DESCRIPTION: Tracts 3 and 4AR, Nagel Subdivision
LOT SIZE: 7.3 acres
9. ZONING CHANGE REQUESTED FROM R1 ZONING DISTRICT TO C2 (front) and R3(rear) ZONING DISTRICT
10. JUSTIFICATION FOR REQUEST: The proposed zone change would be consistent with the zoning on either side of this property, and with the Future Land Use map.
11. ARE THERE ANY DEED RESTRICTIONS WHICH WOULD PREVENT THIS PROPERTY FROM BEING USED IN THE MANNER HEREIN PROPOSED? No
12. EXISTING IMPROVEMENTS ON PROPERTY: If there are any structures on the property, attach a plot plan, drawn to scale (to fit on an 11 x 17" paper, if possible) showing the location and size of all existing structures and their distance from the lot lines, plus proposed development plans if any.
13. CONFORMANCE WITH LAND USE PLAN: ☒ YES ☐ NO
An application for re-zoning will not be accepted unless the requested zoning classification conforms to the Comprehensive Land Use Plan. An applicant may apply for a change in the Comprehensive Land Use Plan. An applicant may apply for a change in the Comprehensive Land Use Plan concurrently with a re-zoning application. However, the Planning & Zoning Commission and the City Council shall consider and make its recommendation or decision on the Comprehensive Land Use Plan change prior to the re-zoning.

☒ APPLICATION FOR LAND USE PLAN CHANGE-\$200.00

APPLICATION IS HEREBY MADE TO THE CITY COUNCIL AND THE PLANNING & ZONING COMMISSION TO AMEND THE LAND USE PLAN MAP OF THE CITY OF FREDERICKSBURG AS HEREIN SET FORTH:

14. CHANGE REQUESTED FROM: _____ LAND USE TO _____ LAND USE.
15. SIGNATURE OF APPLICANT: [Signature]
Note: If the applicant is not the legal owner of the property, A signed statement by the owner that the applicant is the authorized agent of the owner of the property, or the signature of the owner is required:
SIGNATURE OF OWNER: [Signature]
19CC6B65C132468...

DATE: _____

FEE PAID: _____ ☒ Re-zoning ☐ Land Use Plan Change

TITLE SEARCH: _____
Note: A current title search must be submitted with the application

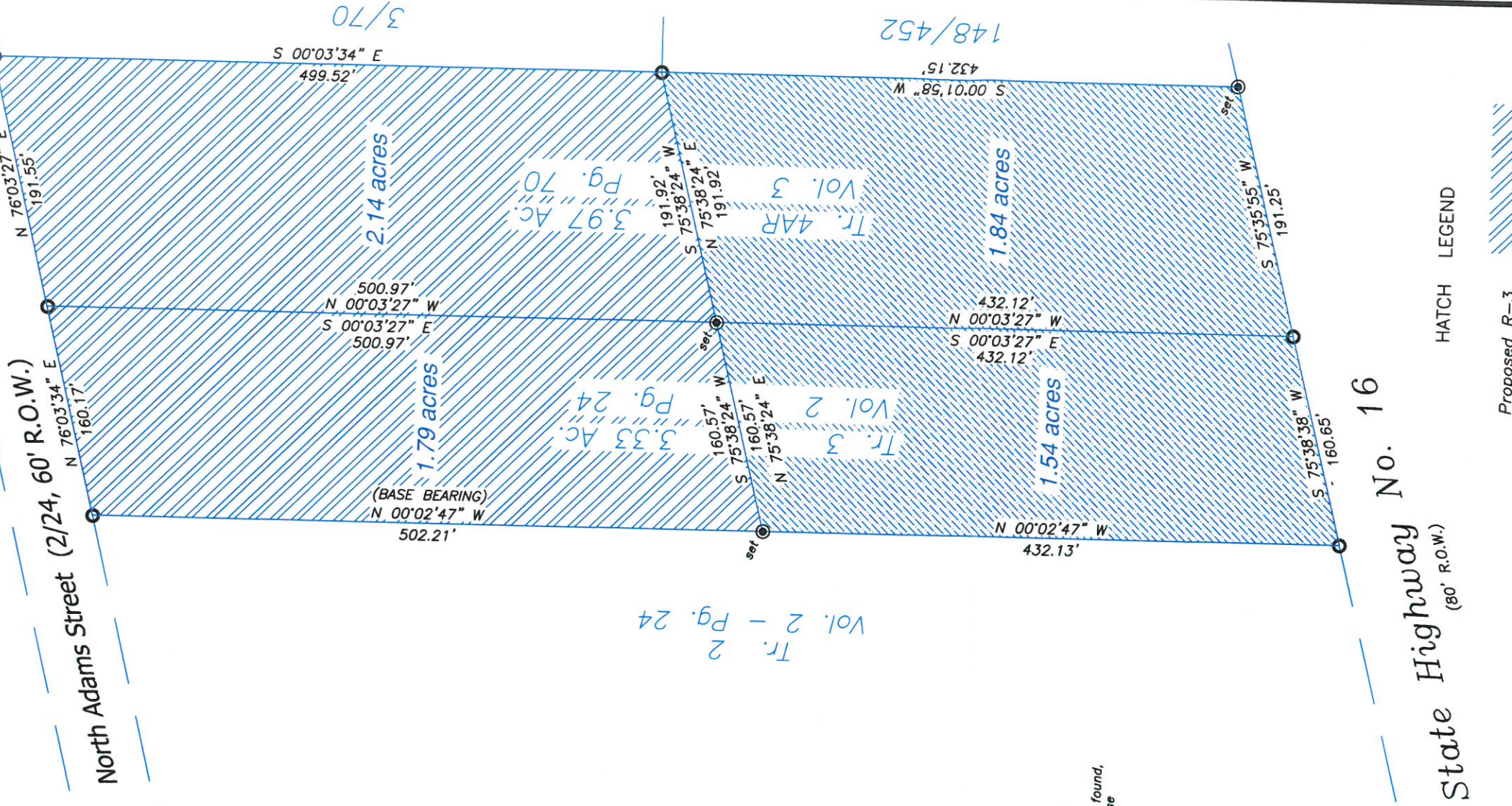
16. CONSENT OF LIEN HOLDER: *Note: If this property is encumbered by Lien, consent of the Lien holder is required.*

SIGNATURE OF LIEN HOLDER: N/A _____

17. LIST OF PROPERTY OWNERS WITHIN 200 FT. (Provided by City)

DATE:	14
CHECKED BY:	d.a.s.
DRAWING NO.:	S-14-5872
SHEET	1 OF 1

Lower Crabapple Road (R.O.W. varies)



LEGEND

- 1/2 inch dia. iron rod found
- 3/8 inch dia. iron rod found, unless noted otherwise
- electric meter pad
- Verizon riser box
- Time Warner riser box
- gas meter
- water valve
- air conditioning unit
- utility pole
- sewer manhole
- fire hydrant

HATCH LEGEND

- Proposed R-3 Zoning
- Proposed C-2 Zoning



Prepared from an on the ground survey performed under my direction and supervision.

Dale Allen Sultemeier
Registered Professional Land Surveyor
No. 4542 - State of Texas

Dec. 12, 2014

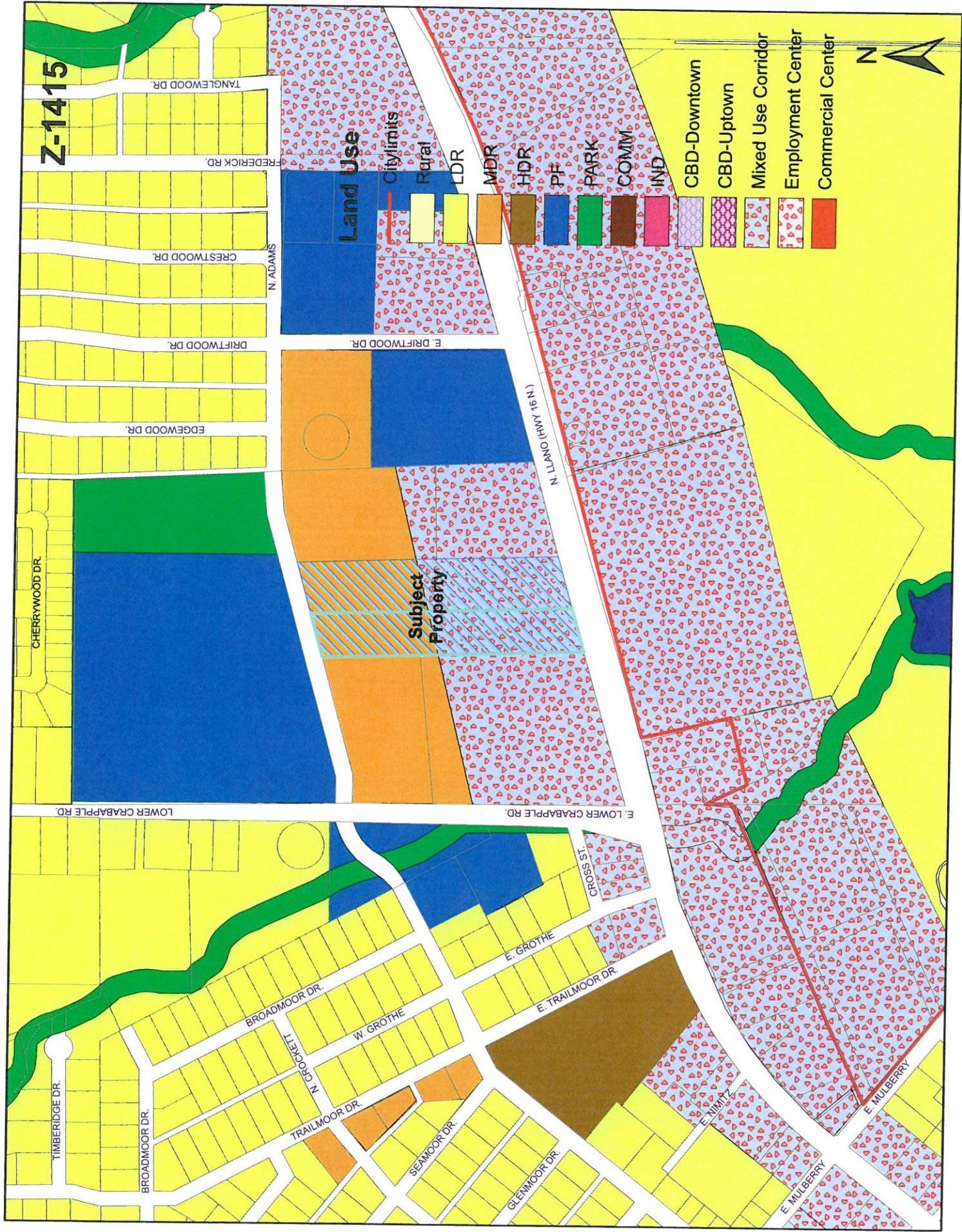
SULTEMEIER SURVEYING & ENGINEERING

Boundary-Title-Topographic-Construction Surveys
Engineering - Land Development Services
805 North Lano Street
Fredericksburg, Texas 78624
(830) 990-1221 Fax (830) 990-1222
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sultemeiersurveying.com
LICENSED SURVEYING FIRM: 100930-00



A SCHEMATIC SHOWING
PROPOSED ZONING CHANGES TO
TRACTS 3 & 4AR IN THE NAGEL
SUBDIVISION,
GILLESPIE COUNTY, TEXAS.









**NOTICE OF PUBLIC HEARING FOR
A CHANGE IN ZONING**

HEARING

DATE: JANUARY 7, 2015

TIME: 5:30 PM

REQUEST

NUMBER: Z-1415

The **PLANNING & ZONING COMMISSION** of the City of Fredericksburg will hold a public hearing at the above stated time and date in the conference room of the Law Enforcement Center, 1601 E. Main St., to consider a request for a change in the Land Use Plan and Zoning.

According to City Tax Records, you are the owner of real property within 200' of the proposed change. You are **not** required to attend the meeting, but if you care to attend, you will be given full opportunity to be heard. If you cannot attend the hearing, but wish to comment on the request, please detach the response form below and return it to the City of Fredericksburg, 126 W. Main St., Fredericksburg, TX 78624. All protests must be submitted in writing.

The decision of the **PLANNING & ZONING COMMISSION** is a recommendation only. Final approval must be by action of the **CITY COUNCIL**. The public hearing by the **CITY COUNCIL** is scheduled as follows:

HEARING

DATE: JANUARY 19, 2015

TIME: 6:00 PM

REQUEST

NUMBER: Z-1415

For additional information, contact Director of Development Services, Brian Jordan at 830-997-7521.

APPLICANT: MacDonald & Associates, Inc.

LOCATION: 1700 block of N. Llano

(see accompanying map)

REQUEST: Zoning change from R-1, Single Family Residential to C-2, Commercial and R-3, Multi-Family Residential on approximately 7.3 acres of land fronting on N. Llano Street (map of area proposed for C-2 and R-3 zoning is available in the Planning Department)

(DETACH HERE)

REQUEST NO. Z-1415

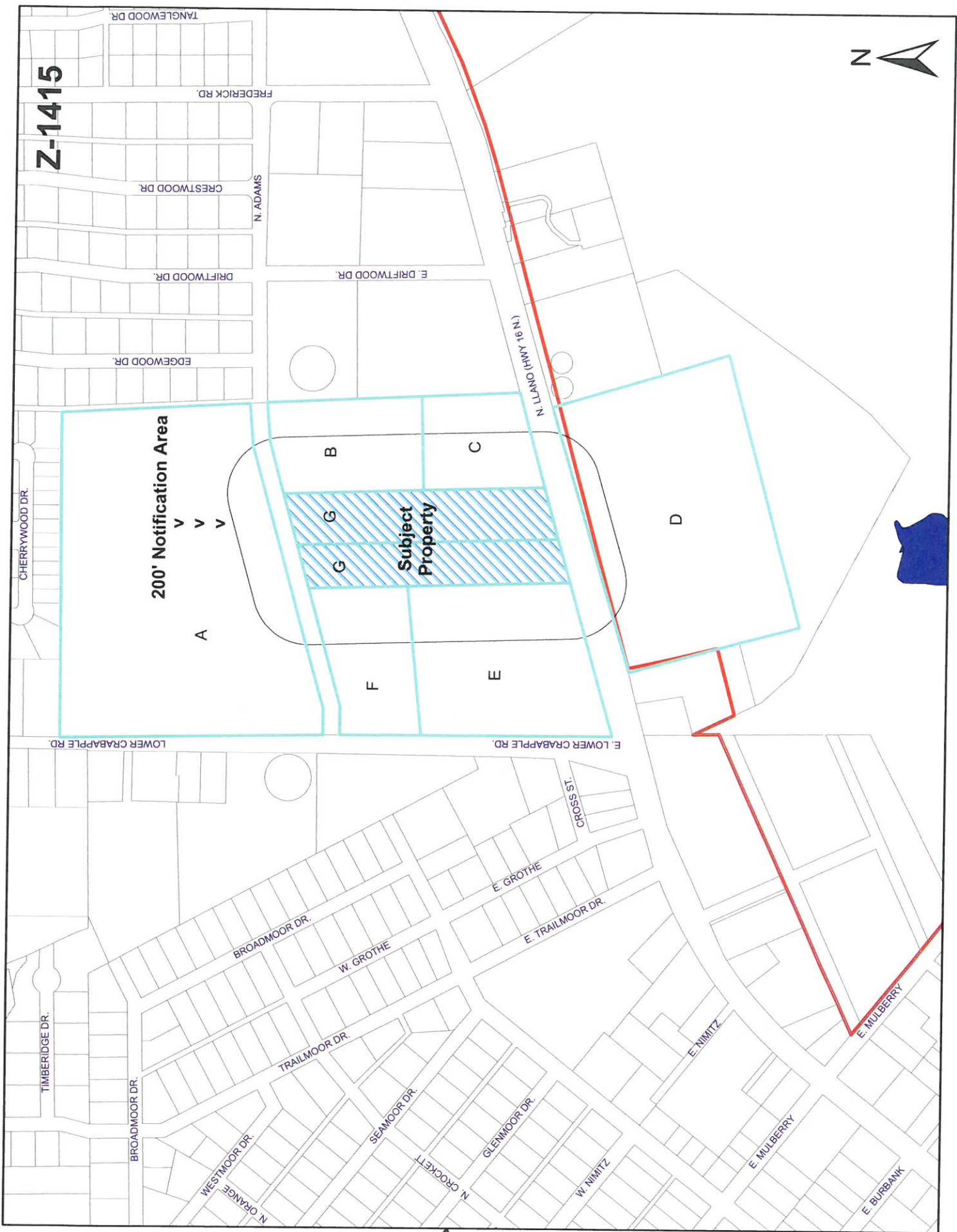
As an interested property owner, I (Protest)(Approve) the requested zoning amendment represented by the above file number because:

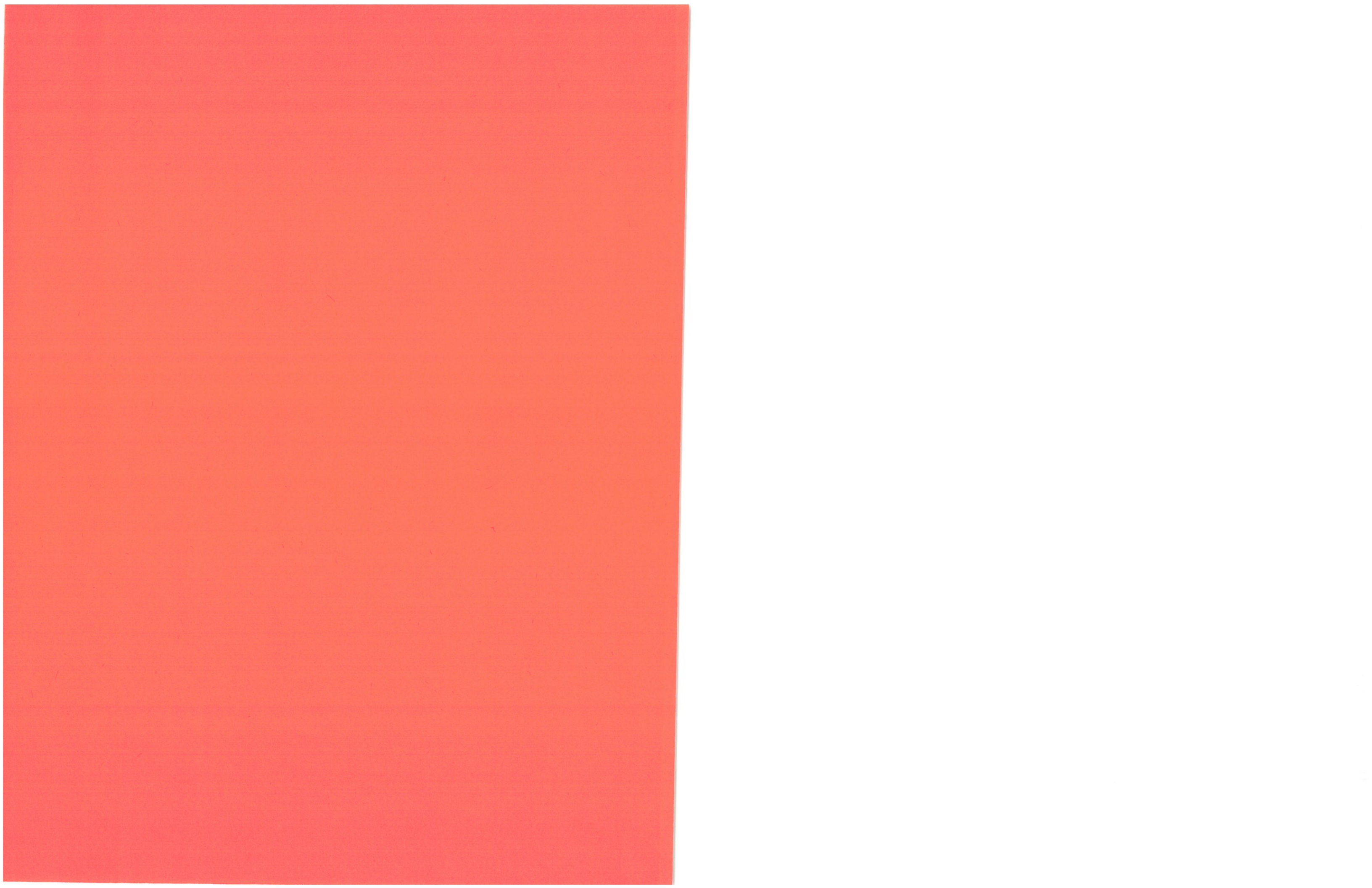
Signed _____

Date _____

Printed Name _____

Address _____







MEMO

DATE: January 2, 2015

TO: Planning and Zoning Commission

FROM: Brian Jordan, AICP

SUBJECT: Discuss regulations for Mobile Food Vending Trucks/Trailers

Summary:

Currently, the City has a very limited set of regulations pertaining to mobile food vending trucks/trailers. In short, they are covered in our Temporary/Accessory Use regulations section of the Zoning Ordinance. The provisions state that the temporary use of mobile trailer units or similar portable structures for non-residential uses, located in districts other than the Historic Overlay District where the use is a permitted use, and limited to a maximum period of six (6) months.

There are currently two such units permitted within the city limits. The first is located at 515 E. Highway Street and the other at 702 S. Washington Street. We have had others located throughout town and each of them has been limited to a 6 month time frame.

Recommendation:

Discuss the potential regulations pertaining to such facilities.

The City of Fredericksburg

Background / Analysis:

Although not addressed in the Ordinance, the staff has always applied several specific requirements. First of all, the City/County Sanitarian, Kelli Olfers, requires that the unit be permitted under her standards. In addition, we apply the following items such as owners permission, restrooms, hours of operation, graywater discharge, parking/access, signage, trash receptacles, grease trap, outdoor dining, zoning and that there are no outstanding taxes or leins on the property.

Attached are copies of regulations from Lubbock, Kerrville, San Marcos and College Station. These should just be considered as examples and not recommended standards.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 8, "BUSINESSES AND AMUSEMENTS", BY ADDING ARTICLE 8.19, "MOBILE FOOD VENDORS", TO THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, TO ALLOW FOR AND REGULATE MOBILE FOOD VENDORS; REQUIRING AN INSPECTION AND PERMITS; ESTABLISHING A FEE, DISTANCE REQUIREMENTS, AND HOURS OF OPERATION; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION

WHEREAS, the City Council of the City of Lubbock, Texas deems it in the best interest of the health, safety, and welfare of the citizens of Lubbock to amend the Code of Ordinances to allow for and regulate the operation of mobile food vendors and require an inspection and permits prior to them conducting business; and

WHEREAS, this new Article 8.19 does not regulate ice cream trucks as Ice Cream Sales Vehicles are currently regulated by Article 8.14 of the Code of Ordinances; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the Code of Ordinances, City of Lubbock, Texas, is hereby amended by adding an Article, to be numbered 8.19, which said Article reads as follows:

Section 8.19.001 Definitions

Commissary Location. An established location where food service providers can prepare and store their food, as well as a location to store a Mobile Unit while not in use.

Edible Goods. All food products designed for human consumption.

Food Service Establishment. Any business that sells edible goods from a fixed location and has been inspected and approved by the Environmental Health Department, including commercial kitchens and commissaries, and shall specifically exclude accessory or self-serve retail food sales.

Mobile. The state of being in active, but not necessarily continuous, movement; capable of being moved and not permanently fixed or placed.

Mobile Food Vendor. Any person that sells edible goods from a Mobile Unit within the City of Lubbock, except a person who has been issued a permit to operate an Ice Cream Sales Vehicle who is regulated pursuant to Article 8.14 of the Code of Ordinances of the City of Lubbock.

Mobile Unit. Means and includes:

- (1) A mobile food truck: a self-contained motorized unit from which a Mobile Food Vendor offers for sale or sells edible goods to the public;

- (2) A concession cart: a mobile vending unit that must be moved by non-motorized means from which a Mobile Food Vendor offers for sale or sells edible goods to the public; or
- (3) A concession trailer: a vending unit that is pulled by a motorized unit and has no power to move on its own from which a Mobile Food Vendor offers for sale or sells edible goods to the public.

Stationary Location. Position of the Mobile Unit when not in motion and addressing the public for the purpose of sales.

Section 8.19.002 Inspections, Permits and Fee

- (a) A Mobile Food Vendor shall complete and submit an application for a Mobile Food Vending Permit to the Director of Planning and shall complete all required inspections through the Fire Marshal's Office and the Environmental Health Department. The fee for submitting an application for a Mobile Food Vending Permit shall be \$250.00, said fee to be paid at the time the application is submitted to the Director of Planning.
- (b) A Mobile Food Vendor shall obtain: i) a Mobile Food Vending Permit issued by the Planning and Zoning Department; and ii) a Food Service Permit from the Environmental Health Department prior to conducting business in the City of Lubbock. All required inspections from the Fire Marshal's Office must be successfully completed prior to consideration and approval of a Mobile Food Vending Permit by the Planning and Zoning Department.
- (c) The Mobile Food Vending Permit issued by the Planning and Zoning Department shall be valid for one (1) year from the date of permit issuance.

Section 8.19.003 Permitted Locations

Subject to the provisions of this Article, Mobile Food Vendors shall be permitted to conduct business in the following zoning districts:

C-3, C-4, IHC, IHI, M-1, M-2, CB1, CB2, CB3, CB4, CB5, and CB6.

Section 8.19.004 Distance Regulations

- (a) A Mobile Food Vendor shall not conduct business within any residential or apartment zoning district. A Mobile Food Vendor shall not conduct business within two hundred (200) feet of the boundary line of any residential or apartment zoning district.
- (b) A Mobile Food Vendor shall not conduct business within two hundred (200) feet of the primary entrance of an open and operating Food Service Establishment.

This buffer may be reduced upon receiving written, notarized permission from the owner of said establishment.

- (c) If a new Food Service Establishment opens within the two hundred (200) foot buffer of a Mobile Food Vendor as set forth in (b) above, the Mobile Food Vendor must receive written, notarized permission from the new establishment's owner to continue operating at that location.
- (d) A Mobile Food Vendor shall not locate closer than nine (9) feet to any front property line (adjacent to any street) or any rear property line (adjacent to any alley). The Mobile Food Vendor shall not locate a Mobile Unit in such a manner or location that obstructs or causes to be obstructed the passage of any sidewalk, street or alley or any other public place, by causing people to congregate at or near the Mobile Unit.
- (e) A Mobile Food Vendor shall not locate on any private property without written permission to do so and must comply and leave the property if asked to leave by the property owner. A copy of the owner's written and notarized permission to operate in a specific location signed by the owner shall be kept within the Mobile Unit at all times.

18.09.005 Hours of Operation

No Mobile Food Vendor shall operate between the hours of 3:00 am and 6:00 am. The Mobile Unit shall be properly stored at its Commissary Location as required by Section 18.09.007 and shall not be left or stored at any alternate location.

18.09.006 Mobile Food Vendor Requirements

The following regulations shall apply to Mobile Food Vendors:

- (a) A Mobile Food Vendor shall comply with all regulations established by the Environmental Health Department and the Fire Marshal's Office and maintain compliance with all requirements with regard to permitting.
- (b) Each Mobile Unit shall be equipped with a portable trash receptacle and the Mobile Food Vendor shall be responsible for proper disposal of solid waste and waste water in compliance with the Code of Ordinances of the City of Lubbock.
- (c) No noise which is loud or noxious shall project from the Mobile Unit.
- (d) A Mobile Unit shall be parked on a properly paved surface as set forth in Section 40.01.003 (108)(A) of the Code of Ordinances of the City of Lubbock, Texas, when at a Stationary Location.
- (e) A Mobile Unit shall not block any fire lane or drive aisle.
- (f) No Mobile Unit may park on a lot without a primary structure, unless the Mobile Unit is conducting business in the Central Business District. Any parking lot in

the Central Business District occupied by a Mobile Unit shall comply with the Central Business District Design Guidelines.

- (g) A Mobile Food Vendor shall register a Commissary Location with the Environmental Health Department at which the Mobile Unit shall be stored when a Mobile Food Vendor is prohibited from conducting business as set forth in Section 18.09.005.
- (h) No Mobile Food Vendor shall conduct business in the public right of way and shall not block access to any parcel or alley, unless a proper Street Use License is approved by the City of Lubbock pursuant to Section 36.01.004 of the Code of Ordinances.
- (i) No Mobile Unit shall locate in such a manner as to cause any obstruction within a visibility triangle as set forth in Section 40.03.2196 of the Code of Ordinances.
- (j) It shall be unlawful for any person to operate as a Mobile Food Vendor without complying with the Texas Food Establishment Rules as amended from time to time.
- (k) A Mobile Unit shall be inspected by the Lubbock Fire Marshal's Office prior to the issuance of a Mobile Food Vending Permit. The inspection shall take place at the Fire Marshal's Office and shall include the following:
 - (1) A valid driver's license and current Texas Department of Public Safety License plates and State inspection sticker, except for a Concession Cart which is not required to have license plates or an inspection sticker. The Mobile Unit must be in good working order.
 - (2) A Mobile Unit must have a 2A:10B:C sized extinguisher with an annual inspection tag from a Texas licensed inspection company or a receipt indicating purchase within the past year. If frying media (grease) is used, a Class K extinguisher shall be required in the Mobile Unit. Any Mobile Unit equipped with an automatic extinguishing system shall have a current (bi-annual) inspection tag from a Texas licensed inspection company. All Mobile Units shall maintain ten (10) feet of clearance for access. Mobile Units equipped with an automatic extinguishing system shall maintain ten (10) feet of clearance from combustible structures. Mobile Units not equipped with an automatic extinguishing system that produce grease laden vapors shall maintain a fifty (50) foot distance from combustible structures or parked, unattended vehicles.
 - (3) All cooking appliances in the Mobile Unit shall be of an approved type, listed and labeled, for the use intended. Appliances shall be installed in accordance with the manufacturer's instructions. Coleman, camp stoves or the equivalent shall be prohibited. All cooking appliances shall have an approved, labeled and listed on-off valve.

(4) All propane and natural gas appliances shall be pressure tested annually and have only approved listed parts and no rubber hoses shall be allowed. All piping shall be in accordance with Natural Fire Protection Association 58 and be protected from physical damage. Mounting and placement of containers shall comply with Natural Fire Protection Association 58 and Texas Department of Transportation regulations. The capacity limit of propane and natural gas containers or cylinders shall be determined by the Fire Marshal's Office after consideration of features that secure and protect the container.

(5) Cooking surfaces in the Mobile Unit shall be kept clean of grease build-up. Trash containers and debris shall be emptied regularly. Extension cords shall not be utilized for appliances. Appliances shall be plugged directly into electrical outlets.

(6) The Fire Marshal's Office is herein authorized to conduct all inspections as necessary to determine the extent of compliance at any time.

18.09.007 Commissary Location

- (a) Any Mobile Unit stored on a commercial lot shall be entirely enclosed within a building, or hidden from view behind the primary structure.
- (b) Any Mobile Unit stored in a residential area shall comply with the Code of Ordinances of the City of Lubbock as to the recreational vehicle standards for storage.

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable as provided by Section 1.01.004 of the Code of Ordinances of the City of Lubbock, Texas.

SECTION 3. THAT should any paragraph, section, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary of the City of Lubbock, Texas, is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

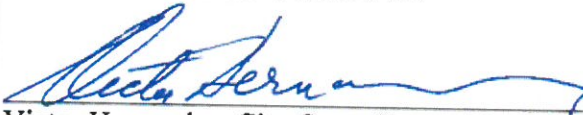
Passed by the City Council on second reading on _____.

GLEN C. ROBERTSON, MAYOR

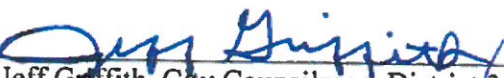
ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Victor Hernandez, City Councilman, District 1



Jeff Griffith, City Councilman, District 3

APPROVED AS TO FORM:



Chad Weaver, City Attorney

Sec. 58-36. - Mobile food establishment.

- (a) *Exclusions.* This section does not apply to those vehicles which are permitted, approved, or authorized to distribute food by the city pursuant to a retail food establishment permit or temporary food establishment permit.
- (b) *Permit requirements; inspections.*
- (1) No person or business shall operate a mobile food establishment or vend food afoot that does not possess a valid mobile food establishment permit from the regulatory authority as provided in this section. The permit shall specify the type of food authorized to be vended, the manner in which the food is to be vended, and include a description of any vehicle to be used in the food vending operation.
 - (2) A person seeking a mobile food establishment permit from the regulatory authority shall make application on a form provided by the regulatory authority and shall provide all of the following information as part of the application:
 - a. The name and address of the owner and/or operator;
 - b. If the applicant represents a corporation, association, or partnership, the names and addresses of the officers or partners;
 - c. The name under which the food vending operation will be operated;
 - d. A description of the types of food or specific foods to be vended; for example prepackaged peanuts, prepackaged candy, prepackaged food not potentially hazardous and nonperishable food, nonprepackaged food, and so forth;
 - e. The manner of mobile food vending operation to be conducted; for example foot vending, truck, trailer, pushcart, and so forth;
 - f. A description of any vehicle to be used in the mobile food vending operation along with the license, registration, and vehicle identification number;
 - g. The address and food establishment permit number of the commissary required by this section;
 - h. A notarized statement from the owner of a commissary stating that the mobile food establishment uses the facility as its base of operation; and
 - i. Where applicable, a written agreement from a business within 150 feet from where the mobile food establishment will operate for the establishment's employees to have use of a flushable restroom during operation hours.
 - (3) Upon receiving an administratively complete permit application, the regulatory authority shall make appropriate inspections of the food, equipment, vehicles, and other reasonable inspections concerned with the mobile food vending operation and shall issue a permit and a sticker only if:
 - a. The application complies with subsection (2), above; and
 - b. The inspection(s) reveals compliance with the applicable requirements of all federal, state, and local regulations, including this chapter, governing the proposed mobile food establishment operation.
 - (4) City council will establish the mobile food establishment permit fee.

- (5) A permit holder shall post the sticker in a conspicuous place for public viewing within the premises where such food establishment is authorized to be established, maintained, or operated. In addition, the permit holder shall have available on-site the latest inspection report issued by the regulatory authority.
 - (6) Mobile food establishment permits are valid for only one year from the date of issuance unless sooner suspended or revoked.
 - (7) Mobile food establishment permits are not transferrable or assignable and shall be considered revoked should such occur.
 - (8) Where the character of the food vending operation is changed from that specified in the permit, the permit shall be considered revoked.
 - (9) Every mobile food establishment permit must be renewed each year in like manner as the original permit application, except that the report from the chief of police as required above, shall be renewed every two years from the date of issuance as background checks are valid for two years.
 - (10) The regulatory authority may suspend or revoke a mobile food establishment permit if the regulatory authority determines that:
 - a. An applicant obtained the mobile food establishment by knowingly providing false information on the application;
 - b. A person involved in food vending is infected with or is a carrier of any foodborne communicable disease;
 - c. The continuation of the person's mobile food establishment permit presents a significant public health threat; or
 - d. The mobile food establishment violates the terms and conditions of its permit.
 - (11) The regulatory authority shall make routine, unannounced inspections of mobile food establishments, and commissaries when applicable, to determine whether or not the vending operation is being conducted in such a manner as to comply with the conditions of the permit, the provisions of this section, other applicable city ordinances, including this chapter, and state and federal law.
 - (12) The regulatory authority may take or retain samples of food and other substances used in the preparation of food for examination and the detection of unwholesome and deleterious qualities. The regulatory authority may condemn and forbid the sale of or cause to be removed or destroyed, any food which is adulterated, tainted, diseased, fermented, decaying, or otherwise unwholesome, unclean, or harmful to health. The owner, operator, or other person in charge of such food shall immediately and in the presence of the regulatory authority, destroy such adulterated, tainted, diseased, fermented, decaying, or otherwise unwholesome, unclean food as directed by the regulatory authority.
- (c) *Operational requirements and restrictions.*
- (1) Mobile food establishments are subject to the following requirements and restrictions:
 - a. It shall be unlawful for any mobile food establishment to sell any potentially hazardous food without a permit within the city.
 - b. It shall be unlawful for any mobile food establishment to sell from a stand or other temporary structure located upon any public street, sidewalk, right-of-way, or other adjacent public or private area without a permit as required under this chapter.

- c. Where a mobile food establishment is permitted as a restricted unit, the establishment shall not prepare, assemble, or cook foods. Exceptions exist to allow for the preparing, assembling, and/or cooking of packaged frozen foods, simple snow cones or simple raspas, corn roasters, or commercially prepackaged items.
 - d. It shall be unlawful for the operator of a mobile food establishment to remove any food from the mobile establishment to vend from a stand or other temporary structure located upon any public street, sidewalk, right-of-way, or other adjacent public or private area without a permit as required by this section.
 - e. It shall be unlawful to operate a mobile food establishment on a street where a traffic hazard exists or may be created.
 - f. It shall be unlawful for a mobile food establishment to sell nonfood items.
 - g. Mobile food establishments may apply for permission to operate in city parks subject to applicable park regulations.
- (2) Mobile food establishments may operate on private property where the property is properly zoned, the operator receives written permission from the property owner for use of a working restroom, and the operator locates within 150 feet of the restroom. An operator is prohibited from parking and operating from an unimproved lot or parking overnight.
 - (3) A route based vendor shall not operate at a location for more than 30 minutes.
 - (4) Where a mobile food establishment uses tables and chairs, the establishment will be required to comply with applicable parking requirements and the provision of restroom facilities for customers.
 - (5) In addition to this article, mobile food establishments shall comply with state and federal law and nothing in this article shall exempt an establishment from the city's zoning regulations.
 - (6) Unless written permission is granted by the appropriate school, no person shall operate a mobile food establishment within 300 feet of the property line of any public or private elementary, middle, or high school one hour before, during, and after school hours.
 - (7) No person shall operate a mobile food establishment within 50 feet of a residential district.
 - (8) Mobile food vending operations shall comply with the separation and distance requirements required by the city's building and fire codes.
 - (9) It shall be unlawful to operate a mobile food establishment within the central business district with the exception of establishments who have obtained a special permit from the city in addition to having all required valid mobile food establishment permit(s). The city manager shall have authority to establish policies and procedures governing the issuance and regulation of the special permit for mobile food establishments within the central business district.
- (d) *Sanitation requirements.* Mobile food establishments shall comply with the following unless specifically addressed otherwise:
- (1) Mobile food establishments shall comply with all sanitation and construction regulations as outlined in V.T.C.A., Administrative Code § 229.169 of the Texas Food Establishment Rules unless specifically addressed in this section.
 - (2) A mobile food establishment shall be operated from a commissary and shall return to the commissary each day of operation for cleaning and servicing. The mobile food establishment shall document each visit to the commissary and shall make that documentation available for

inspection. Mobile food establishments dispensing fresh fish and shrimp; prepackaged novelty ice cream; and individual portion size nonperishable foods such as pickles, candy, peanuts and including snow cones/shaved ice/raspas are exempt from this provision.

- (3) Mobile food establishments that dispense snow cones/shaved ice/raspas, shrimp, fish, shellfish, or crustacea shall provide a gravity fed hand washing system, soap, and paper towels.
 - (4) Liquid waste resulting from any mobile vending operation shall be stored in permanently installed retention tanks of at least 15 percent larger capacity than the water supply tank but of no less than 30-gallon capacity and shall be drained and thoroughly flushed during servicing operations. All liquid waste shall be discharged to an approved sanitary sewage disposal system at the commissary or at a location specifically approved by permit.
 - (5) All food that requires packaging or preparation by the mobile food establishment shall be processed in the commissary that is required as a support facility for an establishment.
 - (6) Mobile food establishments dispensing snow cones/shaved ice/raspas shall be designed so as to enable the operator of the unit to protect the equipment, syrup, ice, and utensils used in the operation of the unit from dust, insects, and rodents while the unit is in transit or overnight storage.
 - (7) Mobile food establishments shall provide waste containers for customers.
- (e) *Sanitation requirements for unrestricted mobile food sales.* In addition to the sanitation requirements described above, establishments preparing and vending food from an unrestricted mobile food establishment shall comply with the following requirements:
- (1) A mobile food establishment servicing area shall be provided at the required commissary and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and the draining of liquid waste separate from the location provided for water servicing and for the loading and the unloading of food and related supplies.
 - (2) The commissary shall provide a date/time device, with associated means to record the date and time, and require each mobile food establishment that is serviced to document the date and time of arrival and departure from the commissary. The mobile food establishment will make available for inspection the record of the date and time of the servicing at the commissary.
 - (3) Approved water storage facilities for potable water shall be provided on the mobile food establishment and shall be of sufficient capacity (minimum 25 gallons) to furnish enough water for food preparation, utensil cleaning, sanitizing, and hand washing. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil, or grease and it shall be kept capped when not being used to fill the storage facility. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water and gas distribution pipes or tubing shall be constructed and installed in accordance with public health and plumbing standards as set out by city ordinances. The water for said operations shall be from an approved source.
 - (4) A ten-gallon capacity heating device, or an instantaneous heater, capable of producing water at 110 degrees Fahrenheit shall be provided in the mobile food establishment.
 - (5) All food service operations shall be carried on from within the mobile food establishment.

- (6) Any additional equipment or the arrangement thereof other than approved when the permit was issued shall be prohibited unless approved in advance by the regulatory authority.

(Ord. No. 2011-14, § 2, 7-12-2011)



Portable Food Establishment

Application Checklist and Permitting Process

Step 1: Permit Application

- ☐ Complete a Temporary Structure Permit Application including an overall site plan and floor plan of the facility (\$150);
 - Site Plan should include:
 - Setbacks from structures and property lines
 - Show pavement or parking area surface and access
 - Locate electrical service or meter loop
 - Any storage or restroom facilities
 - Floor Plan should include:
 - All mechanical equipment
 - Sinks and Drains
 - Cooking Appliances
 - Storage of hazardous materials/ fuel supplies
 - Cold storage/ Ice Machines
 - Hot holding (storage)
 - Potable Water holding tank and size (volume)
 - Wastewater holding tank
- ☐ Complete an application for a food establishment permit (\$200)
(electronic fee \$10)

Step 2: Set up onsite

- ☐ Pick up a copy of the approved permit from the permit center
 - If Electrical service is needed apply for a separate permit and install service at this time
- ☐ Set up the portable food service facility on site including electrical (No food products should be present at this time)
- ☐ Call (512) 805-2630 to schedule both the site and health inspections after the facility is set up

Step 3: Begin Operation

- ☐ After the Final Inspection is complete the Health Department will issue the food permit and you may begin operation



Portable Food Establishment Requirements and Standards

Location Standards/ Zoning

Downtown SmartCode District:

- All facilities in the downtown SmartCode district need to be oriented towards the pedestrian. Food service facilities are required to be located at the front of the lot and any vehicular parking in the rear of the lot

All other zoning districts:

- Any portable food establishment located on a lot with an existing business must be located behind the front façade of the main structure
- A Conditional Use Permit (CUP) is required for any portable food establishment located on a vacant lot except any property zoned Heavy Commercial (HC)

Building Department Standards

Restrooms:

- Any Portable Food Establishment with outside seating must provide restrooms for the public
- Any Portable Food Establishment without outside seating must provide employee restrooms
- Restrooms can be provided in one of the following ways:
 - Portable Restrooms (should be screened and security protected against vandalism); or
 - Provide a letter of agreement with a business owner within 300 feet for the use of adequately sized existing facilities

All signage will require a separate permit

Any platform structure must be at least 3' by 3' and requires a separate permit if over 7" high

Propane Container must be stored outside and screened or interior per DOT regulations

Food Permit must be renewed on an annual basis through the Health Department

Onsite storage buildings are not permitted. Any storage under the trailer must be screened

Health Department

All foods must be from an approved source (labeled)

Hot and Cold hold equipment

- Hot 135°F or above
- Cold 41°F or below

Thermometers are required (cold hold, hot hold and stem type for cooked foods)

Only single service/use items are allowed (i.e. Styrofoam, plastic or paper)

Plumbing

- Self-contained pressurized (by pump) hot and cold potable water system
 - Hand washing sink
 - 3 compartment ware wash sink (must have capacity for largest piece of ware/ equipment)
 - Permanently installed wastewater holding tank (15% greater in size than potable water capacity)

Covered Trash Receptacles

Clean and Enclosed Unit/ Vehicle. Smooth, easily cleanable, & non-absorbant surfaces

Proper sanitization of all food contact surfaces

All employees must have a valid Food Handlers Training Certificate

All portable food establishments must provide a copy of Texas Sales Tax certificate

If a portable establishment is not commercially designed, a plan or drawing to show the layout of the establishment must be submitted



City of San Marcos
Community Services - Environmental Health

PORTABLE FOOD ESTABLISHMENT Application

NOTE: This application must be filled out completely. INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.
Application for a permit does not guarantee that a permit will be granted. Permit approval is based upon compliance with State and local ordinances. On request, the permit fee will be refunded in the event no permit is issued. Requests for refunds must occur within one year of application date. PERMITS ARE NON-TRANSFERABLE.

BUSINESS NAME: _____

Telephone #: _____ Cell: _____ Email: _____

Address of Temporary Structure: _____ When to be Installed: _____

Vehicle: Truck Van StepVan Trailer Pushcart Car Other (Specify) _____

Vehicle Make _____ Model _____ Year _____

Color _____ License Plate _____ State _____ VIN _____

Texas Sales Tax Number _____ Type of Food to be Sold _____

Days and Times of Operation _____ Electric Desired: _____ (If yes, separate permit required)

OWNER: _____ DL # _____ DOB _____

Residence Address _____

City _____ State _____ Zip Code _____ Telephone # _____

Mail Renewals to: _____

City _____ State _____ Zip Code _____

Check One: Individual Firm ☐ Partnership Corporation

CENTRAL PREPARATION FACILITY (Residence not allowed)

NAME: _____

Address _____

City _____ State _____ Zip Code _____ Telephone # _____

Days and Times at CENTRAL PREP FACILITY _____

PROVIDE SITE PLAN indicating location of temporary structure in relation to other structures, parking lots and property lines.
****See Portable Food Establishment requirements for additional information. Permit expiration date is posted on the permit.**
The portable food establishment must be inspected at permit approval, call for final inspection when set up. 512.805.2630

Permit Fees: \$360.00

All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief. If any of this information is incorrect, the permit may be revoked by the building or health officials. Applicant acknowledges that the permit applied for shall be subject to all provisions of the ordinances of San Marcos under which the permit is granted, and shall be subject to all provisions of the statutes and rules adopted under the statutes of the State of Texas governing retail food establishments.

Signature of Applicant

Date



City of San Marcos Community Services - Environmental Health

Mobile Food Establishment Requirements

Mobile Food Establishment– A vehicle mounted food establishment designed to be readily moveable. A mobile food vendor is required to have a permit to sell within the city limits of San Marcos. Permit fee is \$200.00 and expires one year from date of issue

Minimum Requirements for a mobile food establishment:

- All foods must be from an approved source. (labeled)
- Hot and Cold hold equipment: Hot 135°F or above and Cold 41°F or below
- Thermometers are required (cold hold, hot hold and stem type for cooked foods)
- Only single service/use items are allowed (i.e. styrofoam, plastic or paper)
- Plumbing
 - Self –contained pressurized (by pump) hot and cold potable water system
 - Hand washing sink (equipped with soap and paper towels)
 - 3 compartment ware wash sink (must have capacity for largest piece of ware/equipment)
 - Permanently installed wastewater holding tank (15% greater in size than potable water capacity)
- Covered trash receptacles
- Clean and enclosed unit/vehicle. Smooth, easily cleanable, & nonabsorbent surfaces
- Proper sanitization of all food contact surfaces
- All employees must have a valid Food Handler's Training Certificate
- All mobile food establishments must provide a copy of Texas sales tax certificate
- If a mobile food establishment is not commercially designed, a plan or drawing to show the layout of the mobile unit must be submitted

Mobile food establishments must operate from an approved central preparation facility, (*Residential home facility is not allowed*) this central preparation facility shall meet all Texas Food Establishment Rules, and hold a current food establishment permit. Mobile food establishments shall return to that central preparation facility for replenishing of supplies, and servicing of the establishment. If the central prep facility is located outside the City of San Marcos, valid copies of the food establishment's permit and most recent inspection are required.

All of the above requirements must be met before a permit will be issued. Selling, vending or soliciting cannot take place on publicly owned property or "right of way" without an agreement with the appropriate agency. (ie City Parks)

ORDINANCE NO. 2012-3408

AN ORDINANCE AMENDING CHAPTER 4, "BUSINESS REGULATIONS" BY AMENDING SECTION 20 "MOBILE FOOD VENDORS", TO THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That CHAPTER 4, "BUSINESS REGULATIONS" be amended BY AMENDING SECTION 20 "MOBILE FOOD VENDORS", to the Code of Ordinances of the City of College Station, Texas, as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than Twenty-Five Dollars (\$25.00) or more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 26th day of April, 2012.

APPROVED:

Nancy F. Berry
Mayor

ATTEST:

Sherry Mashburn
City Secretary

APPROVED:

Adam C. Jones
City Attorney

EXHIBIT “A”

That **CHAPTER 4, “BUSINESS REGULATIONS”** be amended **BY AMENDING SECTION 20 “MOBILE FOOD VENDORS”**, be added to the Code of Ordinances of the City of College Station, Texas and is to read as follows:

SECTION 20 MOBILE FOOD VENDORS

A. DEFINITIONS

- (1) **Edible Goods** shall include, but are not limited to:

 - (a) Prepackaged food including, but not limited candy, beverages, and ice cream.
 - (b) Prepared food including, but not limited to hot dogs, deserts, and pizza.
 - (c) On-site prepared food including, but not limited to shaved ice, sandwiches, and tacos)

- (2) **Food Service Establishment** shall mean businesses that Sell Edible Goods and have been inspected and approved by the Brazos County Health Department, including commercial kitchens and commissaries, and shall specifically exclude accessory or self-serve retail food sales.

- (3) **Mobile** shall mean the state of being in active, but not necessarily continuous, movement.

- (4) **Mobile Food Vendors** shall mean any business which Sells Edible Goods from a non-Stationary Location within the City of College Station. The term shall include, but not be limited to:

 - (a) Mobile food trucks: A self-contained motorized unit Selling items defined as Edible Goods.
 - (b) Concessions carts: Mobile vending units that must be moved by non-motorized means
 - (c) Concession trailers: A vending unit which is pulled by a motorized unit and has no power to move on its own.

- (5) **Non-refrigerated** shall mean Edible Goods that are not required to be kept at a temperature below forty-one (41) degrees Fahrenheit according to the federal Food and Drug Administration and the Texas Food Establishment Rules.

- (6) **Sell** shall mean the act of exchanging a good for a profit or in return for a donation.

- (7) **Stationary Location** shall mean the position of the Mobile Food Vendor when not in motion and addressing the public for the purpose of sales.

B. PERMIT AND APPLICATION

- (1) **Permit** - Every Mobile Food Vendor shall have a permit issued by the City of College Station Planning and Development Services Department to conduct business in the City.
- (2) **Application**- An applicant shall apply for a permit on a form promulgated by the City of College Station Planning and Development Services Department.
- (3) The application shall be processed through the following method:
 - (a) Application submitted to the City of College Station,
 - (b) Application shall be reviewed by designated City Staff,
 - (c) City Staff shall inform the Brazos County Health Department when the application is eligible for approval by the City,
 - (d) Brazos County Health Department may then accept an application from a Mobile Food Vendor,
 - (e) Following notification from the City, Brazos County Health department may issue a permit when their application is eligible for approval,
 - (f) Applicant shall submit their Brazos County Health Department permit to City of College Station
 - (g) The City of College Station may then, and only then, approve a Mobile Food Vendor permit.
- (4) **Permit Form** - A complete application shall require the following information from the applicant to be considered:
 - (a) Name of applicant,
 - (b) Legal name of business or entity,
 - (c) State of Incorporation or filing of a partnership or articles of association,
 - (d) If applicable, Copy of Chapter or Articles of Incorporation and current listing of directors, partners, or principles (publicly traded companies are exempted),
 - (e) Sales tax number with a copy of sales tax permit,
 - (f) Signed permission from the private property owner,
 - (g) Name, phone number, and driver's license number of business owner,
 - (h) Contact name and phone number for Mobile food vending unit while in route,
 - (i) Copy of permits to do business in Texas for foreign companies,
 - (j) Description of product being sold,
 - (k) Description of attached signage,
 - (l) Vehicle Identification Number and description of Mobile food vending unit,
 - (m) A signed affidavit under oath with photo identification that each individual applicant:
 - (i) Has no unpaid civil judgments against him or her in any State or U.S. possession which arise from a business activity which would have been covered by this Section if in effect at the time in the jurisdiction where such judgments are of record.

(ii) A statement of all convictions in any state, the United States or U.S. possession within the last ten (10) years.

- (n) A bond in the sum of not less than One Thousand and No/100 (\$1,000.00) Dollars, executed by the Mobile Food Vendor with two or more good and sufficient sureties satisfactory to the Finance Director, which bond shall be payable to the Mayor of the City of College Station, and his successors in office, for the use and benefit of any person or persons entitled thereto, and conditioned that the principal and sureties will pay all damages to persons caused by or arising from or growing out of any action of the Mobile Food Vendor while conducting business in the City of College Station, Texas. The bond shall remain in full force and effect for the entire duration of the permit provided herein and for two full years after such permit expires. The bond shall not be required for the sale of goods in interstate commerce.
- (o) Copy of the Brazos County Health Department permit issued to the Food Service Establishment.
- (p) Copy of written permission to utilize the private facilities of the Food Service Establishment.

(5) Permit Fee

- (a) The application for a Mobile Food Vendor permit shall be \$500.00. Each Mobile Food Vendor Unit shall be permitted separately.
- (b) Mobile Food Vendor permits shall be valid for one (1) year from the date of permit issuance.
- (c) Upon renewal the applicant must provide a new application, payment of a \$250.00 renewal fee, and new permitting documentation upon permit renewal. The applicant must submit the application and renewal fee within thirty (30) days after expiration of the permit or must reapply as a new applicant.
- (d) Concession carts shall apply under a reduced fee of \$250 for initial application, and \$125 for a renewal.

(6) Permit Denial - A permit may be denied where:

- (a) An applicant is found to have an unpaid civil judgment(s) against him which relates to the duties and responsibilities of the permitted occupation which shall be determined by the nature and the amount of the judgment, the relationship of the judgment to the purpose of the permit and the extent that the permit would allow someone to engage in further activity that would lead to unsatisfied civil judgments, or
- (b) An applicant has been convicted of a crime which directly relates to the duties and responsibilities of the licensed occupation which shall be determined by the nature and seriousness of the crime, the relationship of the crime to the purpose of the permit and the extent that the permit would allow someone to engage in further criminal activity, or;

- (c) The required information is incomplete or incorrect or shows that a person is not otherwise entitled to conduct business as a Mobile Food Vendor.
- (d) The opportunity to reissue a permit has been denied due to previous violations as described in this Section.

(7) **Display of Permit** - Every permit, including those from the City of College Station and Brazos County Health Department, shall be displayed at all times in a conspicuous place where it can be read by the general public on the Mobile Food Vendor's truck, concession cart, or concession trailer.

(8) **Permit Revocation or Suspension**

- (a) A permit may be revoked upon conviction of any offense committed by an individual operating as a Mobile Food Vendor in the City of College Station while engaged in the permitted business, or if a final conviction occurs or is found to have existed at the time of application, or if civil judgments, as set forth above, are placed or found of record against an applicant. A permit may be suspended in the event of pending charges of a crime, as set forth above, upon a magistrate's determination of probable cause in connection with such charges.
- (b) A permit may be revoked for non-conformity to the application location specifications or requirements as well as to non-conformity to an approved location plan or diagram.
- (c) Any employee working for an applicant permitted as an employer under this Section above may be denied the right to solicit under such permit, or such rights may be suspended or terminated, under the same circumstances and procedures which apply to the holder of the permit. Revocation or suspension of an employer's permit terminates all employee permits.
- (d) A permit may be suspended or revoked for not complying with the requirements of this Section, or any other ordinances, or laws.

(9) **Appeal of Permit Revocation, Suspension, or Denial**

- (a) The notice of revocation, suspension, or denial of a permit shall include the procedure for appealing the suspension, revocation, or denial.
- (b) If a City official revokes, suspends or denies a Mobile Food Vendor permit, the holder or applicant of the permit which has been revoked, suspended, or denied shall have the right of appeal to the City of College Station Planning and Development Services Director or designee by submitting an appeal in writing to the Director within ten (10) business days of the revocation, suspension, or denial.
- (c) Pending action on the appeal, a permit which has been revoked or suspended shall be considered revoked or suspended.
- (d) If a written appeal is not submitted within ten (10) business day of revocation, suspension, or denial, or if the appeal is denied, the permit shall hence be considered revoked, suspended, or denied.

(10) Reapplication After Revocation, Suspension, or Denial of Permit

If a Mobile Food Vendor or applicant is not in compliance with this section or any other ordinances, laws, or the approved vendor application, the following actions will be taken:

- (a) 1st violation- A warning may be issued, or the permit may be revoked or suspended and the vendor may become ineligible for new or reissued permit for three (3) months.
- (b) 2nd violation- Permit will be revoke and the vendor may become ineligible for new or reissued permit for three (3) months.
- (c) 3rd violation- Permit will be revoke and the vendor will become ineligible for new or reissued permit for one (1) year.
- (d) If an applicant’s permit has been denied and the appeal is denied the applicant may not reapply for three (3) months.

C. ZONING AND LOCATION RESTRICTIONS

(1) Distance Regulations

- (a) No Mobile Food Vendor shall conduct business within any single-family residential or agricultural zoning district, including townhouse districts, but may be located in such districts when serving and within one hundred (100) feet to a property with an active building permit or located within a public park facility.
- (b) A Mobile Food Vendor may not be located within one hundred (100) feet of the primary entrance of an open and operating fixed-location Food Service Establishments outside of Northgate. This buffer may be reduced upon receiving written permission from said establishments.
- (c) **Northgate Only-** A Mobile Food Vendor may not be located within one hundred (100) feet of an existing business lawfully operating as a restaurant as defined by the Unified Development Ordinance within Northgate. This buffer may be reduced upon written permission from said restaurants.

(2) A Mobile Food Vendor shall not conduct sales at a Stationary Location:

- (a) For a duration exceeding five (5) hours per location per day.
- (b) **Northgate Only** - For a duration exceeding five (5) hours per location, except from 10:00 pm to 2:00 am in the NG-1 Northgate Core zoning district.
- (c) For a duration exceeding thirty (30) minutes on any public street designated on the City of College Station’s Thoroughfare Plan as a Minor Collector or lesser.
- (d) On any public street designated on the City of College Station’s Thoroughfare Plan as a Major Collector or greater.
- (e) In congested areas where the operation impedes vehicular or pedestrian traffic.
- (f) In a designated bike lane.
- (g) Between the hours of 2:00 am and 5:00 am.

(3) Northgate and Wolf Pen Creek District

- (a)** Concession carts, permitted as a Mobile Food Vendor, may be located only within the Northgate zoning districts and Wolf Pen Creek district when operating at a mixed-use development. Carts must be positioned as to not disrupt pedestrian traffic and must maintain an abutting five-foot (5) clear space.
- (b)** A Mobile Food Vendor may not be located within twenty (20) feet of another Mobile Food Vendor.

(4) Location Regulations

- (a)** No Mobile Food Vendor shall locate on any private property without written permission to do so and must comply if asked to leave by the property owner or City official. A copy of the written permission to operate in a specific location, signed by the private property owner, shall be kept within the Mobile vending unit at all times.
- (b)** No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any motor vehicle without permission of the owner.
- (c)** No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill upon any premises if requested by the property owner or City official not to do so, or if there is placed near or at the entrance thereof a sign bearing the words "no advertisement".
- (d)** No person shall Sell or offer for sale any item upon any premises if requested by the property owner or City official not to do so, or if there is placed at or near the entrance thereof a sign bearing the words "no peddlers or vendors", "no trespassing", or "no solicitors."

D. MOBILE FOOD VENDOR REQUIREMENTS

The following regulations shall apply to Mobile Food Vendors within any zoning district:

- (1)** Each unit shall be equipped with a portable trash receptacle, and shall be responsible for proper disposal of solid waste and waste water in the sanitation facility legally accessed by the Food Service Establishment. All disturbed areas must be cleaned following each stop at a minimum of twenty (20) feet of the sales location.
- (2)** Continuous music or repetitive sounds shall not project from the Mobile unit.
- (3)** A five-foot (5) clear space can be maintained around the Mobile food vending unit.
- (4)** The Mobile unit will be subject to inspection upon permit application through the Building Division of the Planning and Development Services Department and the Fire Marshal, and may be subject to random inspection and upon reissuance of the permit.
- (5)** No sales are allowed within public park facilities while park concession units are operating.
- (6)** A "No Smoking" sign must be posted next to the order window or area.
- (7)** A tagged fire extinguisher shall be kept accessible as directed by the City of College Station Fire Marshal or designee.

- (8) An extinguishing vent hood, Type 1 or other if approved by the City of College Station Fire Marshal, shall be required when the cooking process produces grease laden particles within the Mobile unit. Said hood shall require testing in the presence of a College Station Fire Marshal designee.

E. OFFENSES AND REGULATIONS

- (1) It shall be unlawful for any individual as the agent or employee of another regulated under this Section to Sell Edible Goods in the City unless its principal or employer has received a permit under this Section.
- (2) A permit issued under this Section is not transferable.
- (3) It shall be unlawful for an individual to Sell Edible Goods while displaying a valid permit issued by the City of College Station in the name of another individual, organization, or entity.
- (4) It shall be unlawful for any individual directly or through an agent or employee to Sell goods within the corporate limits of the City after the expiration of the permit issued by the City of College Station under this Section.
- (5) It shall be unlawful for an individual directly or through an agent or employee to misrepresent on the permit affidavit any acts that are regulated under this Section.
- (6) It shall be unlawful for any individual directly or through his agents or employees to represent that the issuance of a permit by the City of College Station constitutes the City's endorsement or approval of the product for sale.
- (7) It shall be unlawful to operate a Mobile Food Vendor operation that is not in compliance with the Texas Food Establishment Rules as amended from time to time.
- (8) A Mobile Food Vendor permit may only be granted to a business that is associated with a Food Service Establishment, as defined by this ordinance, unless the Mobile Food Vendor is not required to obtain a permit from the Brazos County Health Department
- (9) A violation of this Section is a Class C misdemeanor and shall be punished by a fine pursuant to the General Penalty set out in Chapter 1, Section 5, of this Code of Ordinances.

F. EXEMPTIONS

Individuals selling only Non-Refrigerated farm products in an unrefined state shall be considered as a Mobile Food Vendor, as defined by this ordinance, but shall be exempt from the requirements of this Section.