

AGENDA
CITY OF FREDERICKSBURG
BOARD OF ADJUSTMENT

Thursday, May 16, 2013

5:30 P.M.

CITY HALL CONFERENCE ROOM, 126 W. MAIN ST.

- | | | |
|----|---|------------------|
| 1. | Call to Order | <i>PAGE REF.</i> |
| 2. | Approve Minutes of the April 2013 Meeting | <i>Pp 1 - 3</i> |

PUBLIC HEARINGS

- | | | |
|----|---|------------------|
| 3. | <u>PUBLIC HEARING:</u> (ZBA2013-2) by Dan & Verna Fritz
at 402 South Creek to consider an administrative appeal to Staff's
interpretation of Section 6.110 of the Zoning Ordinance pertaining to
"Enlarging, expanding, extending, or changing a non-conforming use" | <i>Pp 4 - 15</i> |
| 4. | Consider taking action on ZBA2013-2 | |

ADJOURN

**STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG**

**BOARD OF ADJUSTMENT
April 11, 2013
5:30 P.M.**

On this the 11th day of April 2013, the BOARD OF ADJUSTMENT convened in regular session at the regular meeting place thereof with the following members present to constitute a quorum:

MIKE DOOLEY - Chair
ROBERT DEMING
KATHY SANFORD
KAREN OESTREICH
BARBARA HEINEN
CYNTHIA SCROGGINS

ABSENT: BRYON SCHAETTER

ALSO PRESENT: ANNETTE LOTH – Code Enforcement Officer
TAMMIE LOTH - Development Coordinator

The meeting was called to order at 5:30 P.M. by Mike Dooley.

MINUTES

Barbara Heinen moved to approve the minutes of the August 2012 regular meeting and Cindy Scroggins seconded the motion. All voted in favor and the motion carried.

PUBLIC HEARING - (ZBA 2013-1)- by Pamela and Bubba Schnelle at 134 Boos Lane to consider a variance to Section 29-7, Subsection 6, Item C-2 of the Sign Ordinance pertaining to total sign area for a free standing sign. Mike Dooley opened Public Hearing ZBA 2013-1. Andy Bray of Mustard Design presented the application. Bubba and Pam Schnelle were also present to answer questions. Mr. Dooley noted no letters were received in support or opposition of the request. Mr. Bray stated they are at the meeting specifically for the free standing sign they are requesting. Mr. Bray stated the property is considered an integrated business and that allows for signage on the building face and a free standing sign. Mr. Bray noted the free standing sign is allowed to have multiple tenants listed. Mr. Bray commented the size of the free standing sign is determined by lot frontage and lot frontage is not defined in the sign ordinance, but business frontage is and it is their understanding the definitions are interchanged. Mr. Bray noted they have business and lot frontage on two separate streets and the streets do not intersect or form a corner near or adjacent to their property. Mr. Bray stated they believe they should be able to take the lot frontage on both sides which would allow them 83.6 square feet for the free standing sign. Mr. Bray stated they proposed a 60 square foot free standing sign and it was initially approved, but then determined only one street frontage should be used. Mr. Bray commented it was explained on a corner lot only one street frontage is used to determine allowable size, but since

they are not located on a corner, they should be allowed to use the frontage on both streets. Pam Schnelle noted their business is located on Highway 16 which is a busy highway and it will take some extra time to read the sign due to the rate of speed vehicles will be traveling. Cindy Scroggins noted she drove by the property and it looks like only the backs of buildings face Boos Lane. Barbara Heinen confirmed the bed and breakfast units are on the same property. Mr. Dooley asked if the business only had a Boos Lane address and Mrs. Schnelle commented they now have a Highway 16 address. Mr. Dooley asked to see the definition of a front lot line and Staff provided the page from the zoning ordinance that defines such. Karen Oestreich asked if the issue was they were only allowed a wall sign and not a free standing sign and Mr. Bray noted they are allowed to have a free standing sign, but it would be very small if only one lot frontage is allowed to be used when calculating the allowable square footage of the sign.

STAFF COMMENTS

Annette Loth, Code Enforcement Officer, noted an integrated business is allowed 80 square feet for a wall sign and the applicants request for a 72 square foot wall sign has been approved, but the discrepancy in their request is with the free standing sign because the front lot line is identified as the primary access to the businesses and not the rear access, so that would allow them 32 square feet, or one foot for 5 linear feet, for the frontage on Highway 16.

Mr. Bray stated the primary access for the warehouse / storage building located on the property is off Boos Lane and noted there are two access drives off Boos Lane. Mr. Bray commented this a very unique property in town. Mr. Bray commented the definition of lot frontage is where the applicants and the City are disagreeing because they believe both frontages should be considered for the signage. Robert Deming noted a similar request has come before the Board before and the applicants were only allowed to use one street of their frontage to figure the allowable square footage of signage. Ms. Loth stated the City has to consider where the primary access will be and use that as the lot frontage. Karen Oestreich commented since the property is almost out of the city limits, it wouldn't bother her as much to have a larger sign. Cindy Scroggins noted she has learned it is difficult to work the rules subjectively. Ms. Oestreich stated the precedence they would be setting, should the sign be allowed in the size the applicants are requesting, is what scares her. Ms. Scroggins agreed if the request is allowed, it will be brought up again when someone else requests a variance for a sign. Mr. Deming noted the property is almost unique, but it is not unique. Mr. Bray commented the property is more unique than anything because it faces two separate streets and the streets do not form a corner, so it is not anything that has been done before and by following the ordinance and allowing the sign, they are following the zoning ordinance instead of setting a precedence. Ms. Scroggins noted there are some lots on Main Street that go through from Main Street to Austin Street and Mr. Deming noted the lot adjacent to the subject property goes through to both streets and they could claim the same benefit of a larger sign, so the request is clearly not a unique situation. Ms. Scroggins asked which ordinance prevails, the sign ordinance or the zoning ordinance, and Ms. Loth noted the two are designed to work together and noted they were the same ordinance until 2008 when the sign ordinance was separated out. Ms. Loth stated it may be different if there were businesses that face Boos Lane, but they all face Highway 16. Mr. Bray argued that fact is not stated in the zoning ordinance. Jim McAfee commented the question is if the frontage on Boos Lane should be allowed. Mr. Dooley stated he is trying to think of somewhere there is a sign on a lot where the lot goes

through to two streets. Mr. Deming commented he finds it hard to believe both frontages would be allowed because that is not the intent of the ordinance. Mr. Dooley noted he doesn't believe the sign ordinance addresses through lots very well, but it is not ambiguous and probably isn't correct because if there are 2 accesses, you may want to divide your signs between both streets. Mr. Deming noted the intent of both the zoning ordinance and sign ordinance is to only consider one frontage when calculating allowed signage and it is not up to the Board of Adjustment to split hairs on the definitions. Mr. Dooley closed Public Hearing ZBA2013-1.

Robert Deming moved to deny request ZBA2013-2 on the grounds they would be expanding the definition of signage that is allowed. Cindy Scroggins seconded the motion. All voted in favor with the exception of Mike Dooley who voted in opposition because the code is not ambiguous.

With nothing further to come before the Board, Barbara Heinen moved to adjourn the meeting and Jim McAfee seconded the motion. All voted in favor and the meeting was adjourned at 6:06 p.m.

PASSED AND APPROVED this the 16th day of May, 2013.

SHELLEY BRITTON, CITY SECRETARY

MIKE DOOLEY, CHAIR



Memo

To: Board of Adjustment
From: Brian Jordan, AICP
Date: May 10, 2013
Re: Administrative appeal of Staff's interpretation of Section 6.110 of the Zoning Ordinance pertaining to enlarging, expanding, extending or changing a non-conforming use in a residential zoning district.

Dr. Dan Fritz of the Gillespie Animal Center submitted preliminary drawings (attached) to make changes to the front portion of the building located at 402 S. Creek Street. Section 6.110 A, 1. of the Zoning Ordinance, Continuation of a Nonconforming Use in Residential Districts, states that a non-conforming use shall not be enlarged, expanded, extended or changed. The subject property was annexed into the City in 1994 and is currently zoned R-2, Mixed Residential District. The staff denied the permit on the basis that the improvements proposed represent an enlargement, expansion, extension and change from the existing use.

Pursuant to the provision of Section 5.700 of the Zoning Ordinance, the owners have requested an opportunity for an administrative appeal before the City's Board of Adjustment. This section of the ordinance is intended to afford review of administrative actions taken pursuant to the Zoning Regulations where such actions may be in error. The grounds noted for the applicants appeal are that the property owner does not believe that the requested building permit will result in "enlarging, expanding, extending, or changing the continuance of a non-conforming use" as set forth in Section 6.110.

Opposition or Support of Appeal: We have received 3 letters in support of the appeal and none in opposition.

Recommendation: While do not object to the improvements and we understand that the proposed improvements are intended to make the facilities more convenient for customers, and that the proposed additions will generally fall within the current roof line, in our opinion, the additions represent an enlargement, expansion, extension and a change to the current facility. Denial is recommended.

GORDON E. SAUER

Attorney-at-Law

A PROFESSIONAL CORPORATION

POST OFFICE BOX 836

114 EAST AUSTIN STREET

FREDERICKSBURG, TEXAS 78624

AC (830) 997-4315

FACSIMILE (830) 990-2868

April 12, 2013

City of Fredericksburg
Attn: Mr. Brian Jordan
Director of Development
Fredericksburg, Texas 78624

VIA HAND DELIVERY

RE: Dan Fritz/Gillespie Animal Center

Dear Brian:

Pursuant to the provision of Section 5.700 of the Zoning Ordinance, I hereby request the opportunity for an administrative appeal before the City of Fredericksburg's Board of Adjustment.

Our appeal is in connection with the denial of a building permit requested by Dan Fritz/Gillespie Animal Center for certain improvements to his existing structure located at 402 South Creek Street. As I understand our previous discussions, the denial of the building permit was based upon an interpretation by the City of Section 6.110 of the Zoning Ordinance.

Please let me know the next available date and time for appearance before the Board of Adjustment.

Your cooperation in this regard is appreciated.

Respectfully submitted,

A handwritten signature in dark ink, consisting of a large, stylized capital 'G' followed by a capital 'S' and a period.

Gordon E. Sauer

GES/tm

cc: Dr. Dan Fritz

Brian Jordan

From: Gordon Sauer [gordon@hillcountrytitles.com]

Sent: Friday, April 26, 2013 3:44 PM

To: 'Brian Jordan'

Brian –

Thank you for your memorandum of April 23, 2013. In connection with the Board of Adjustment meeting on May 16th, what time of day will this meeting occur?

Pursuant to Section 5.700 of the Zoning Ordinance, the grounds for our requested appeal are that the property owner does not believe that the requested building permit will result in “enlarging, expanding, extending, or changing the continuance of a non-conforming use” as set forth in Section 6.110.

Dan and Verna appreciate the opportunity of presenting their appeal to the Board of Adjustment and I appreciate your cooperation in placing this matter on the meeting agenda.

Regards,

Gordon E. Sauer
P. O. Box 836
114 East Austin Street
Fredericksburg, Texas 78624
(830) 997-4315
(830) 990-2868 FAX
gordon@hillcountrytitles.com

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4/29/2013

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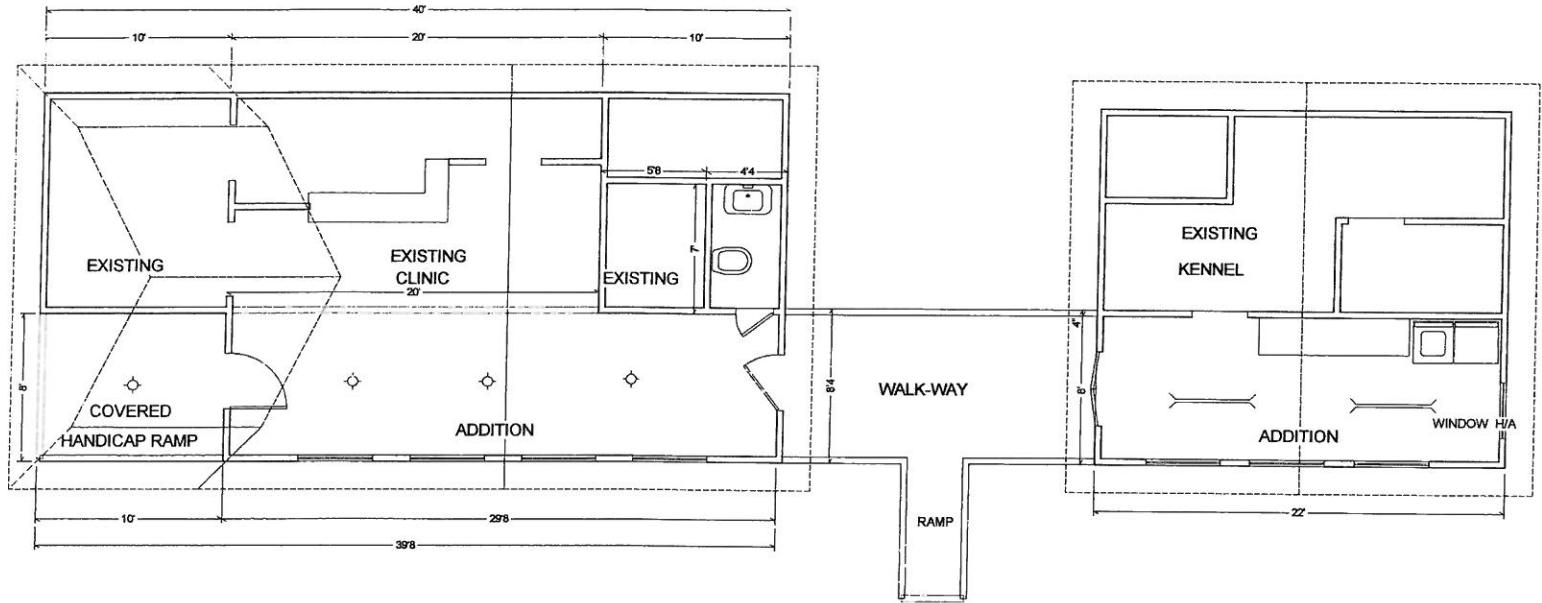
BURROW CUSTOM BUILDER LLC

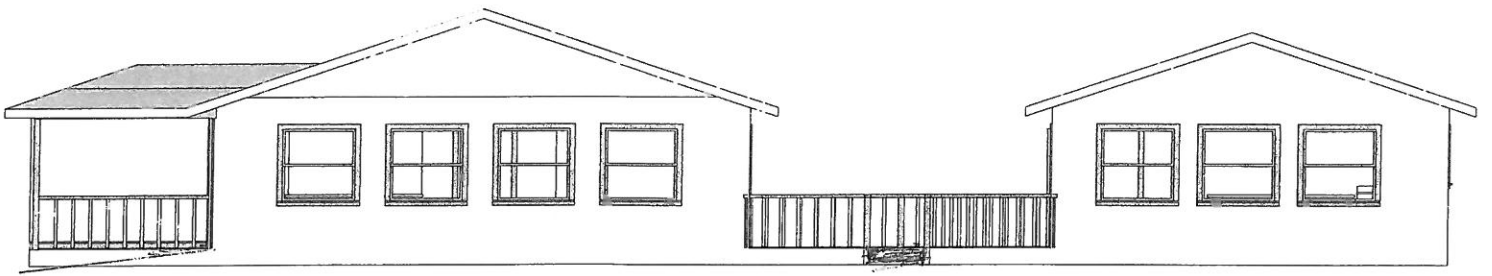
GILLESPIE ANIMAL CLINIC

402 S. CREEK ST.

ADDITION

496 Sq Ft.







05/09/2013



05/09/2013



05/09/2013



2013-2

S CREEK

FRANKLIN

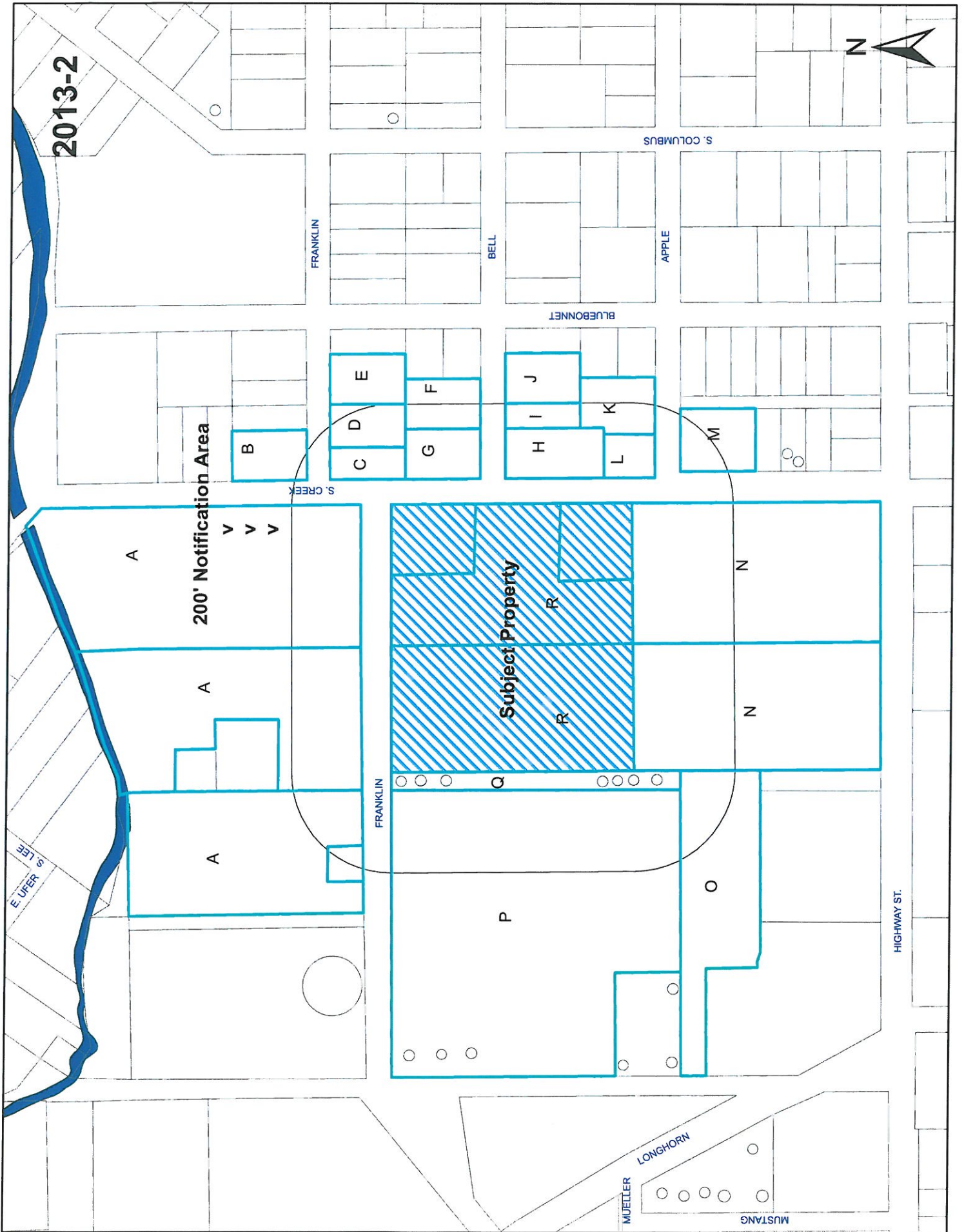
BELL

BLUEBONNET

APPLE

S COLUMBUS

FRANKLIN



Letter	Owner	
A	Larry J. & Linda B. Nevels	
B	Daisy Massey	
C	Judy A. Siracusa	
D	Charles C. Crain	
E	Phillip E. & Debra S. Lietz	
F	Darryl Ross Weidenfeller	
G	Jane H. Scofield	
H	Thomas Riley & Courtney Pelech	
I	Larry B. & Janet S. Shaw	
J	Michael J. Ottmers	
K	Mark & Mary Harrison	
L	Kenneth L. Maxwell	
M	Joseph F. & Sharon D. Schandua	
N	Gillespie Livestock Co., Inc.	
O	Gillespie Livestock Co., Inc.	
P	Carroll J. Bryla	
Q	Dennis Wunderlich et al	
R	Daniel J. Fritz	

2013-2



City of Fredericksburg
126 West Main Street
Fredericksburg, TX 78624

NOTICE OF PUBLIC HEARING ON AN ADMINISTRATIVE APPEAL

HEARING DATE: May 16, 2013

TIME: 5:30 P.M.

APPEAL NO. 2013-2

The BOARD OF ADJUSTMENT of the City of Fredericksburg will hold a public hearing at the above stated time and date in the Conference Room of City Hall, 126 W. Main St. to consider an administrative appeal request as indicated below.

According to City Tax Record, you are the owner of real property within 200' of the requested appeal. You are not required to attend the hearing, 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, Texas 78624. All protests must be submitted in writing.

The decision of the BOARD OF ADJUSTMENT on the requested administrative appeal is final. For additional information please do not hesitate to contact the Development Services Department at 830-997-7521.

APPLICANT: Dan and Verna Fritz

ADDRESS OF THE SUBJECT PROPERTY: 402 South Creek

EXPLANATION OF REQUEST: An administrative appeal to Staff's interpretation of Section 6.110 of the Zoning Ordinance pertaining to "enlarging, expanding, extending, or changing a non-conforming use"

(detach here)

Appeal No. 2013-2

As an interested property owner, I (PROTEST) (APPROVE) the requested appeal represented by the above appeal number because:

Signed

Address