



City of Fredericksburg

Zoning Board of Adjustment Meeting Agenda
Thursday, September 21, 2023 ~ 5:30 PM
Law Enforcement Center
1601 E. Main Street
Fredericksburg, Texas 78624

Devin Mullen, Chair
Marcus Vidrine, Vice Chair
Clay Sears, Member
Taylor Williams, Member

Jennifer Eggleston, Member
Jim McAfee, Member
Eric Hammersen, Member

The City of Fredericksburg Zoning Board of Adjustment will meet in a regular session on September 21, 2023, at 5:30 PM. Link to City of Fredericksburg YouTube Channel ([Fredericksburg, Texas USA - YouTube](https://www.youtube.com/c/FredericksburgTexasUSA)) <https://www.youtube.com/c/FredericksburgTexasUSA>).

Written Comments: to be submitted remotely:

Must be received by 2 p.m. on September 21, 2023.

Complete the Citizen Comment Form online at www.fbgtx.org; or

Email your comments to scollier@fbgtx.org

Verbal Comments:

Sign up in-person between 5:00 p.m. and 5:30 p.m. at the Law Enforcement Center, 1601E. Main Street, in order to comment. You will be limited to 3 minutes to speak.

1. CALL TO ORDER

2. ROLL CALL

3. CHAIR'S STATEMENT

4. APPROVAL OF MINUTES

A. July, Regular Meeting Minutes

5. PUBLIC HEARING

A. Request #ZBA2023-04; by Nancy Hall, to Consider a Variance to Sec. 3.100, R1, Single-Family Residential Zoning Ordinance, for Property Located at 204 N Elk. The applicant is requesting a Variance to allow for a STR-Unoccupied Use.

i. Presentation by Applicant

ii. Presentation by Staff

iii. Hold a Public Hearing to receive comments for or against the request

iv. Take action on the variance request

6. DISCUSSION AND POSSIBLE ACTION

- A. Director's Report
- B. Review Short Term Rental Ordinance draft and creation of Special Exception
- C. Discussion on changing meeting day of the week for future Zoning Board of Adjustment meetings

7. ADJOURN

CERTIFICATION

This is to certify that I, Shelby Collier, posted this Agenda before 5:00 PM. on September 15, 2023, on the bulletin board of the City of Fredericksburg City Hall, 126 W. Main St., Fredericksburg, Texas.

A handwritten signature in black ink, appearing to read 'Shelby Collier', written over a horizontal line.

Shelby Collier
Associate Planner

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

BOARD OF ADJUSTMENT
JULY 20, 2023
5:30 P.M.

On this the 20th day of July 2023, the BOARD OF ADJUSTMENT convened in regular session at the regular meeting place thereof with the following members present to constitute a quorum.

PRESENT CLAY SEARS
 MARCUS VIDRINE
 ERIC HAMMERSEN
 TAYLOR WILLIAMS
 JENNIFER EGGLESTON

ABSENT: DEVIN MULLEN
 JIM MCAFEE

ALSO PRESENT: ANNA HUDSON – Interim Director of Development Services
 SHELBY COLLIER – Associate Planner

The meeting was called to order at 5:31 P.M. by Marcus Vidrine.

MINUTES

Taylor Williams made a motion to approve the July Regular Meeting Minutes. Seconded by Clay Sears. All voted in favor and the motion carried.

PUBLIC HEARING

Consider ZBA2023-03 – By Julie Terhune, to Consider a Variance to Sec. 3.700, Front Yard Setback, for Property Located at 520 Winding Way. The Applicant would like to Obtain a Variance to Allow for an Encroachment of 11 Inches to the Front Yard Setback for an Existing Residence.

Eric Hammersen made a motion to open the public hearing. Clay Sears seconded the motion. All voted in favor and the motion carried.

Sharon Armstrong presented the application. She stated that the daughter of the previous owner had inherited the property in its current condition, which includes the existing encroachment. The applicant would like a variance to make the building legal.

The president of the Patio Home Association spoke in favor of the request.

Eric Hammersen made a motion to close the public hearing. Seconded by Taylor Williams. All voted in favor and the motion carried.

Anna Hudson, Director of Development Services presented the application. She stated the applicant is requesting a variance to the front yard setback of 15 feet for property located at 520 Winding Way.

The property is currently for sale and as part of the survey, was discovered to have an existing encroachment. This property was built in 1997 and at the time it was built, was built 11 inches over the front setback.

The lot is approximately 5,527 sq ft in size, has a PUD zoning and is in the Windcrest Subdivision.

The zoning regulations allow for reasonable use of the property, however, and an error was made when the house was built and has only recently been identified with a new survey for the sale of the house. The owner is new to the property, having only come into ownership in February of 2023. The encroachment has existed since the property was built in 1997 and the new owner would like to bring the property into compliance by obtaining a variance acknowledging the encroachment. As the encroachment has existed for more than 20 years, Staff does not believe this minor variance would alter or effect the adjacent properties and will not be noticeable.

Staff recommends approval of the request.

Clay Sears made a motion to approve application ZBA2023-03 as presented. Seconded by Taylor Williams. All voted in favor and the motion carried.

DISCUSSION ITEMS

STR Update. Anna Hudson, Interim Director of Development Services, provided the Board with an update regarding the ongoing discussion surrounding Short-Term Rentals. Two public hearings will be held on September 6th with Planning and Zoning and on October 3rd for City Council to consider amendments to the STR Ordinance.

ADJOURN

With nothing further to come before the Board, Clay Sears moved to adjourn the meeting and Eric Hammersen seconded the motion. All voted in favor and the meeting was adjourned at 5:58 P.M. PASSED AND APPROVED this the 21st day of September 2023.

SHELBY COLLIER, ASSOCIATE PLANNER

DEVIN MULLEN, CHAIRMAN



HISTORIC REVIEW BOARD AGENDA MEMO

DEPARTMENT: Development Services

TO: Zoning Board of Adjustment

FROM: Shelby Collier, Associate Planner

MEETING DATE: September 21, 2023

CATEGORY: PUBLIC HEARING

CAPTION: Request #ZBA2023-04; by Nancy Hall, to Consider a Variance to Sec. 3.100, R1, Single-Family Residential Zoning Ordinance, for Property Located at 204 N Elk. The applicant is requesting a Variance to allow for a STR-Unoccupied Use.

- i. Presentation by Applicant
 - ii. Presentation by Staff
 - iii. Hold a Public Hearing to receive comments for or against the request
 - iv. Take action on the variance request
-

PRESENTATION:

SUMMARY:

An application for a Variance has been submitted to allow a STR-Unoccupied permit to be issued for a property located in an R1, Single Family Residential Zone.

BACKGROUND: The property is located in an R1, Single Family Residential Zone and does not qualify to apply for a Conditional Use Permit as the property does not have 75% of properties in its block (on its side of the street) operating as Short-Term Rentals. The applicant joined a group of neighbors and made an application in July of 2023 to change the zoning from R1, Single Family Residential to R2, Mixed Residential, which would allow the property to obtain a STR-Unoccupied permit. City Council denied this request on July 18th as they did not support the expansion of STR uses into the residential zone.

Applicant: Nancy Hall

Zoning: R1, Single Family Residential [Sec. 3.100](#)

Location: 204 N. Elk

Findings

- The property is currently a Single-Family Residence that was built by the current owners.
- The property was listed for sale (it appears the listing was removed in 08/2023) and, per the realtor, is unsellable as a Single-Family Residence. When last listed, the property was asking \$901,700.

- The Historic District Boundary stops at North Washington and does not cover this area.
- The property has a variety of commercial uses within walking distance, such as The Inn Above Town Creek (107 N. Washington) and Winchester Lodge (415 E Austin).
- The property is also located between the National Museum of the Pacific War (300 Block of East Austin) and the reenactment area of the museum (500 Block of East Austin)
- 17 properties are within 200 ft of the subject property. Of the 17 affected properties, 7 are STR's and 1 is a hotel.
- The lot is greater than 10,000 sf and has two STR permit options by right: STR-B&B, STR-ADU

The Board of adjustment may grant a variance if it makes affirmative findings of fact on each of the criteria described below:

a. The Zoning Regulations applicable to the property do not allow for reasonable use.

The zoning of the property does allow for reasonable use. In this case, the property was built for a single-family residence and has been used as a residence for 20+ years.

b. The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the zoning district in which the property is located.

While the neighborhood is characterized by intense pedestrian and vehicular traffic as well as noise from the combat zone, these circumstances are not unique to the property and affect the entire neighborhood that is zoned R1 which includes properties that front E. Austin Street as well as neighboring properties along N. Elk.

Staff does agree that the circumstances were not created by the owner of the property, rather they are the product of increased development and the result of Commercial Land uses bordering residential zones.

c. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the zoning district in which the property is located.

It is Staffs opinion that if issued, the variance would alter the character of the area. The requested land use is not allowed by right in this zone and, if approved, would be in direct violation and intent of the regulations. If a variance were approved, it would set a precedent that would allow any of the R1 properties in this area to obtain a variance to operate a STR-Unoccupied, which undermines the existing R1, Single Family Residential Zoning Ordinance [Sec. 3.100](#).

FUNDING SOURCE:

FINANCIAL IMPACT:

STAFF RECOMMENDATION:

The City of Fredericksburg went through a 14-month long public process regarding potential amendments to the Short-Term Rental Ordinance with the first Public Meeting addressing this topic occurring on November 30, 2020. All property owners were given notice of potential changes and

provided the opportunity to attend the Public Hearings. The applicant was made aware of the changes as notice was mailed to them regarding the Public Hearing on Friday, February 4, 2022, and upon adoption of Ordinance No. 2022-13, which went into effect April 1, 2022, the STR-Unoccupied use is no longer permitted by right in the R1 Zoning District. Had the applicant submitted a STR permit application prior to April 1, 2022, a permit would likely have been issued and a variance would not be needed. Additionally, as an R1 zoned property greater than 10,000 sf in size there are two STR uses that are allowed by right, STR-B&B and STR-ADU.

The property is located in a busy street with a mix of residential and commercial traffic. However, the circumstances as presented are not unique to this property and do not meet the requirements to obtain a variance. Staff recommends denial of the variance request as presented.

COMMUNITY VISIONING/STRATEGIC INITIATIVES:

ATTACHMENTS:

1. ZBA2023-04 Application
2. ZBA2023-04 Supporting Docs
3. Z-2313 Zoning Map
4. ZBA2023-04 Public Hearing Map
5. ZBA2023-04 Mailing Labels

APPROVAL/REVIEW:



VARIANCE APPLICATION TO BOARD OF ADJUSTMENT

City of Fredericksburg - Development Services Department
126 W. Main St., Fredericksburg, TX 78624 -- (830)997-7521

1. Applicant: NANCY HALL
2. Owner: HALL FAMILY LIVING TRUST
3. Phone: (214) 402-9876 Email: nhall1@swbell.net
4. Description of property involved in this request.
Address: 204 N. ELK
Legal Description: FBG ADDN BLK 59 LOT 4 BOAR
Lot Size: 14,619 sq ft Zoning District: R-1
5. Request is made to the Board of Adjustment that a variance be granted to the following provisions of the Zoning Ordinance.
Section: 3.100 Subsection: 5.400 - 5.401
Item: Short term rental Relating To: CUP-STR unoccupied
Requiring: Request to allow 204 N. ELK to achieve the ability to operate as a short term rental based upon surrounding use of properties.
6. INFORMATION TO BE SUBMITTED BY THE APPLICANT:
 - A. Site plans, preliminary building elevations, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the Variance application:
 - i. Existing and proposed location and arrangement of uses on the site, and on abutting sides within 50-feet.
 - ii. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
 - iii. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.

- iv. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvements related to or necessitated by the proposed use.

The Board of Adjustment may grant a variance if it makes affirmative findings of **FACT** on EACH of the criteria. The applicant shall give a reason why the request complies with the following criteria:

1. The Zoning Regulations applicable to the property do not allow for a reasonable use.

Reasonable use is restricted based upon the high volume of traffic and traffic congestion on a daily basis surrounding the property, the parking of four buses on Elk and the use of properties that abut subject property (STR's,

2. The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial and are not due to or the result of general conditions in the zoning district in which the property is located.

public facilities
& commercial)

The house was constructed in 1997 by the family who are current owners. Over the past 26 yrs commercial & public facilities have been permitted by the city to the extent that the subject property is literally surrounded by commercial activity

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the Zoning District in which the property is located.

All properties surrounding 204 N Elk, with the exception of 202 N. Elk are short term rentals. None of the properties on the block (except one) are not homesteaded. 202 N. Elk is a vast, 2 story house that currently completely overshadows the subject property. The owners of 202 N. Elk use it occasionally as a 2nd home or allow large groups of friends/family to use on weekends.

- B. **PARKING: ADDITIONAL CRITERIA**-The Board may grant a Variance to a regulation prescribed by this ordinance with respect to the number of off-street spaces required if it makes findings of fact that the following additional criteria are also satisfied:

Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.

204 N. Elk has a 750 sqft 2 car garage attached to the house at the rear of the property. There is a 750 sqft concrete area directly in front of the 2 car garage for another 2 vehicles to park, and an additional area for at least 3 cars.

The granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets.

There is no need to park any vehicles on the street as there is ample off-street parking.

The granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of this ordinance.

As the property stands, zoned R1 for single family residential, there are more safety hazards for children crossing the street or riding bicycles due to the high volume of traffic.

The Variance shall run with the use or uses to which it pertains and shall not run with the site.

Not applicable.

TO WHOM IT MAY CONCERN:

08/23/2023

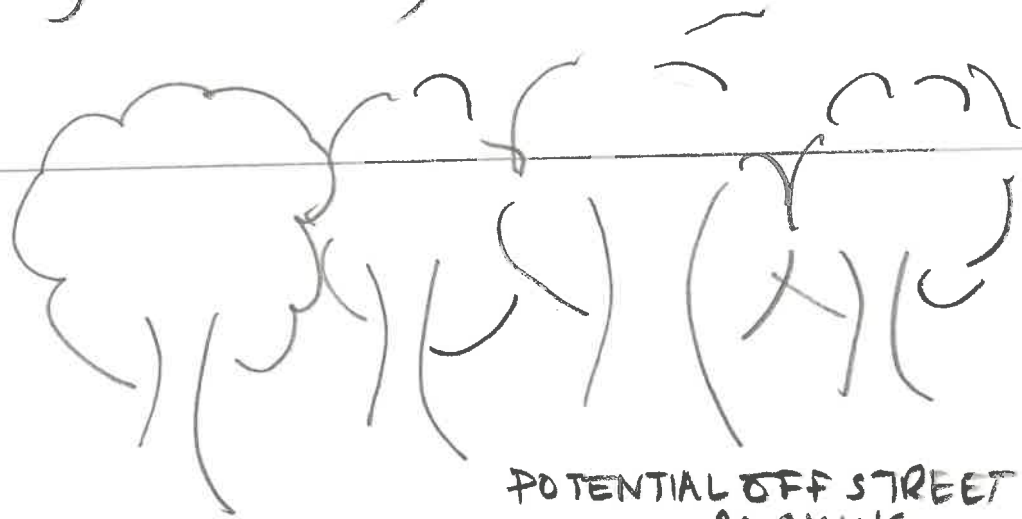
RE: Variance Application to Board of Adjustment

Property: 204 N Elk - seeking STR permit for unoccupied

A couple of other notes since there as limited space to include these items or they did not arise in the questions:

- ✓ Towne Creek crosses under Austin Street at the intersection between the 300 and 400 Blocks. The creek does provide a buffer for the 300 Block and on down the line, but because it crosses under at the 400 block, ALL vehicular and pedestrian traffic is forced to cross onto the west side of Austin street which feeds directly to the Nimitz Museum's reenactment centre directly across the street from 204 N Elk.
- ✓ According to the appraisals district, the Combat Zone (Parcel 60374) did not have anything built there until 2000. The subject property was constructed in 1997 and at that time this block was a neighborhood with no commercial activity or public facilities across the street.
- ✓ Just as one example the city website shows that in the year 2016 there were 150,000 visitors to the Nimitz Museum. (See attached page 8 of CITY OF FREDERICKSBURG DOWNTOWN PARKING STUDY PRESENTED BY THE GOODMAN CORPORATION). This was 7 years ago and with the inception since then of wine tour buses and other tour buses that park on Elk and Austin Street delivering visitors to the reenactment area - the pedestrian and vehicular traffic has only increased.

EXISTING STRUCTURE
(no proposed changes
to existing structures)



POTENTIAL OFF STREET
PARKING

OFF-STREET
PARKING
(concrete
± 750 sq. ft.)

2 CAR

GARAGE

750 sq. ft.

BEDROOM
4

LANDSCAPING

DRIVEWAY

LIVING
&
KITCHEN

2746 sq. ft. in total

BEDROOM 3

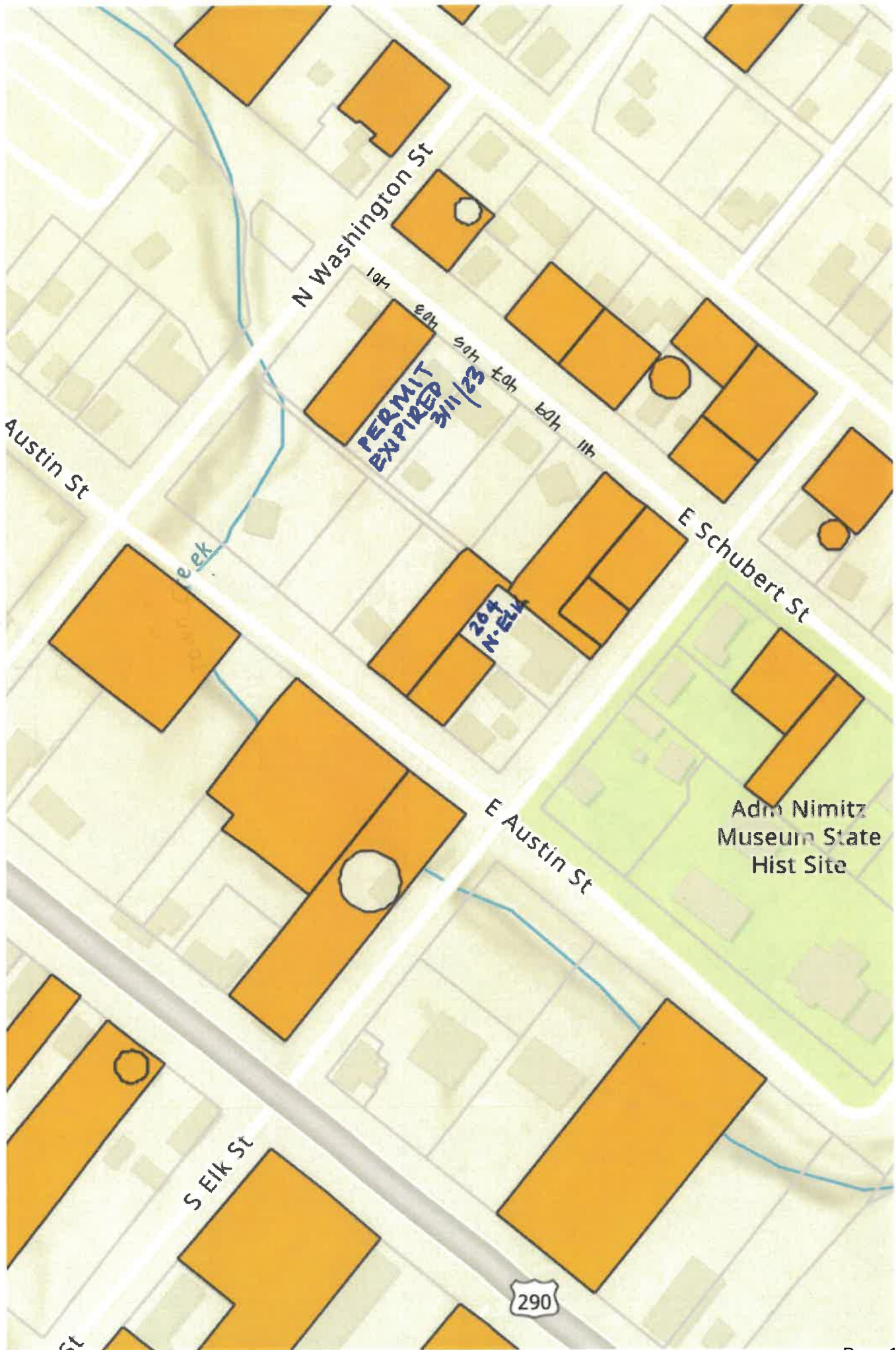
BEDROOM 2

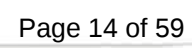
BEDROOM 1

ALLEY

LANDSCAPING

ELIK STREET







Nimitz Museum

National Museum of the Pacific War (Nimitz Museum) (150,000 visitors) – In 2016, the National Museum of the Pacific War, which includes the Admiral Nimitz Museum, had over 150,000 visitors. The museum is dedicated to all those who served in the Pacific War during WWII. It remains as the only institution in the continental US with an exclusive focus on the Pacific Combat Zone during WWII.



Enchanted Rock

Enchanted Rock State Natural Area (over 338,000 visitors) – Enchanted Rock is located 17 miles north of Fredericksburg and saw over 338,000 visitors in 2016. Enchanted rock is a natural land mass comprised of a large granite “rock” that rises over 400 feet in elevation, reaching over 1800 feet above sea level. The Enchanted Rock State Natural Area is part of the Texas State Park system and was recorded as a Texas Historic Landmark in 1936. Many visitors visiting the park typically spend time in the City of Fredericksburg and are often

facilitated by tour bus companies who drop off and pick up in the City.

Texas Hill Country Wineries – The “Texas Hill Country Wine Trail” consists of a series of wineries that can be found throughout the area known as the Texas Hill Country. The majority of these wineries are clustered around the City of Fredericksburg and spread out throughout Gillespie County. A multitude of wine tour bus companies operate throughout Gillespie County and typically include time in Fredericksburg as part of their tour agenda. [Give some information regarding the number of wineries and growth if you have it.]

TIME LINE OF SUBJECT PROPERTY – 204 N ELK STREET

1997 - 204 North Elk Street built by Hall Family.

2000 - Nimitz constructed Combat Zone (public facility) across from 204 N Elk on parcel 60374 on Gillespie County Appraisal District.

2000 – 2022 – STR permits issued to properties on Elk, Schubert & Austin Streets.

10/9/2012 - City Council

- Land use Plan Change (LDR-MDR) and Zoning change (R1-R2) of property located at 416 E. Austin Street (202 N Elk) – corner lot adjacent to subject property.
- Planning and zoning unanimously denied the change because it would not be appropriate.

12/9/2020 - Planning and Zoning

- Request for LDR-MDR and R1-R2 for 305 N Elk & 502 E Schubert.
- Denied due to one property on the block that was not represented in the request, council suggested incorporating 506 E Schubert into the request.

5/17/2021 - City Council Memo

- 305 N Elk, 502 & 506 E Schubert – request Future Land Use and Zoning Change (same as above).
- Staff recommends approval of the requested land use and zoning change based on unanimous approval by Planning and Zoning.

6/9/2021 - Planning and Zoning

- Staff recommends approval of the request for Future Land Use Change and Requested Zoning (as above).
- All voted in Favor.

There is nothing on the City of Fredericksburg website that indicates that City Council took any further action on this approval, yet the zoning map shows that these 3 properties are still zoned R-1. Additionally (see attached) 502 East Schubert had 2 ACTIVE STR permits which expired on 6/20/2023 (renewal may be in process), which they would only have achieved if the zoning was R-2. This zoning change would have had a significant impact on future requests as per below.

05/03/2023 – Planning and Zoning

- 408, 412 & 414 E Austin Street request Future Land Use change from Low Density Residential (LDR) to Commercial (C).
- Request denied by Planning and Zoning with the recommendation that these properties seek a change from LDR - MDR & R1-R2.

07/05/2023 – Planning and Zoning

- 408, 412, 414 E Austin and 204 N Elk request for change from LDR - MDR and R1-R2 approved by Planning and Zoning Committee.
- 7 votes in favor; 2 votes against.

07/18/2023

408, 412, 414 E Austin and 204 N Elk request denied by City Council.

Subject: 204 North Elk Street

Motivation:

I represent the owner of the property who is applying for the variance to achieve an STR permit for the property located at 204 N Elk Street. Please see the attached timeline which shows the history of the property and surrounding areas and indicates the activity over the years to request to change Land Use and Zoning

There is a compelling need to address the manner in which this property has been severely impacted by the city permitting commercial, public and STR operations literally all around it and as it stands R-1 single family residence, is rendered unsellable as it is not a desirable home to permanently reside in. The property was listed for sale on April 6th, 2023. All inquiries, calls & showings provided sufficient feedback to support this evidence - no one who looked at the property would choose to live in the house as a family home & on 2 occasions out-of-town buyers did not even enter the house once they had established its location. The owner did accept an offer from an investor buyer who placed a condition of purchase on achieving a permit to operate the house as a short-term rental. On July 5th, 2023 – Planning and Zoning approved the request to change the land use from LDR to MDR and the zoning from R1- R2 with a vote of 7/2. On July 18th the city council voted to deny the request, which resulted in the contract terminating. The owner has since withdrawn the property from the market as it cannot be sold as it stands today.

Nancy Hall and her brother (neither of whom live in Fredericksburg) inherited this home from their parents. Their mother who lived in the home, passed away in 2022 and due to her state of health prior to her passing, was in no position to rush off prior to the 2022 ordinance going into effect, and acquire an STR permit. Many homeowners in Fredericksburg did indeed hurry to get a permit while they had a small window of time before the April 2022 ordinances went into effect. Of course, Mrs Hall had no knowledge or awareness (nor did her children) of the impending situation nor the implications of such for the future sale of the property. Furthermore this house was built 25 years ago and the neighborhood has transitioned significantly over the years, as the city has granted STR and commercial use surrounding the property & the public facilities of the Nimitz directly across the street.

East Austin and North Elk have become a go-to-detour for traffic to avoid the Main Street/Llano traffic intersection in pursuit of reaching the traffic light on Main Street. Both on weekdays and weekends there is a line of cars backed up two blocks, there are tour buses, wine tour buses and shuttles parked on Elk Street, there is heavy pedestrian traffic headed to the Reenactment site, canon and gun shots fired during the practices for the reenactments and the actual performances. Additionally during school days, the pick up from the Middle School feeds through this area, which simply adds further congestion. The few full time residents on this block have also been affected by the commercial activity on Main Street, particularly noise from The Hive and Karaoke Bar.

Additionally 204 N Elk, does **not** qualify for a CUP for a STR-Unoccupied in an R1 zone - it DOES abut more than 2 STR properties but it DOES NOT meet the 75% requirement (as per Section 3.100), therefore, it does not qualify for a CUP as both items would need to be met, not just one. The only property that does not have an STR permit with a property line abutting 204 N Elk, is 202 N Elk, the large 2 story home on the corner of Austin & Elk which is *not* a full time residence either. This vast home literally towers over 204 N Elk and is used by large groups of either friends or family over the weekends adding more vehicles parked on the street.

204 N Elk is nigh unsellable as a residential single family home due to unmitigable circumstances that were not created by the owner of this property. Every avenue for change has been exhausted as shown by the events of the timeline.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Anna Wynne-Smith', with a stylized, cursive script.

Anna Wynne-Smith
(For and on behalf of The Hall Family Trust)



CITY COUNCIL MEMO

DATE: October 9, 2012

TO: Mayor and City Council

FROM: Brian Jordan, AICP

SUBJECT: Land Use Plan change and Zoning change of property located at 416 E. Austin (Z-1213)

Summary:

The executor of the Estate of 416 E. Austin requested a change in the Land Use Plan from Low Density Residential to Medium Density Residential and a change in the zoning from R-1 Single-family Residential to R-2 Mixed Residential. The property is located at the northwest corner of Austin Street and Elk Street. Since rezoning of this tract by itself would not be appropriate, an option of directing staff to call a public hearing on a larger area was suggested for Commission consideration. Several neighbors opposed the change in zoning.

Recommendation:

The Planning and Zoning Commission voted unanimously to recommend denial of the change in the Land Use Plan from Low Density Residential to Medium Density Residential and the change in zoning from R-1 Single-family Residential to R-2 Mixed Residential. Staff concurs with the Commission's recommendation. The applicant has submitted a request to withdraw this application (attached).

October 10, 2012

City of Fredericksburg
Development Services Department
126 W. Main Street
Fredericksburg, TX 78624-3708
Attn: Mr. Brian Jordan

Subject: Rezoning Request – Z1213
416 E. Austin Street
Zone & Land Use Change Request – Application Withdrawal

Dear Mr. Jordan,

The above named property is owned by the Estate of Antonette Marie Keating of which I am the Executor. On behalf of the Estate, please accept this letter as formal request to withdraw our application for rezoning this property.

Sincerely,



Dean Kuhlmann
Executor to the Estate of Antonette Marie Keating
547 Chimney Cove Drive
Marble Falls, TX 78654
512.762.3370 cell

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

PLANNING & ZONING COMMISSION
December 9, 2020
5:30 P.M.

On this the 9th day of DECEMBER 2020 the PLANNING AND ZONING COMMISSION convened in regular Session at the Law Enforcement Center with the following members present to constitute a quorum:

PRESENT: JANICE MENKING
BRENDA SEGNER
JIM JARREAU
JEFF LAWRENCE
TIM DOOLEY
JILL TABOR
STEVE THOMAS

ABSENT: DARYL WHITWORTH
CHRIS KAISER

ALSO, PRESENT: BRIAN JORDAN – Director of Development Services
DANIEL JONES – City Attorney
SHELBY COLLIER – Development Coordinator

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

MINUTES

Jim Jarreau moved to approve the minutes of the November 2020 meeting and Jill Tabor seconded the motion. All voted in favor and the motion carried.

Chairwoman, Janice Menking invited Public Comment. No comments made.

ELECT VICE CHAIRMEN

Brenda Segner made a motion to elect Tim Dooley as Vice Chairmen. Jim Jarreau seconded the motion. All voted in favor and the motion carried.

PUBLIC HEARING

Consider Z-2018 – Request by Joseph Simmons and Kelly Graham to Consider a Zoning Change from R1, Single Family Residential, to R2, Mixed Residential and change the Land Use Plan from Low Density Residential to Medium Density Residential on Property located at 305 N. Elk Street and 502 E. Schubert Street.

Motion to open Public Hearing made by Tim Dooley seconded by Jim Jarreau. All voted in favor and the motion carried.

Joe Simmons presented the application. He stated he purchased the property several years ago and the property had multiple structures on one R1 Zoned lot. He was informed that he would not be able to Short Term Rent more than one structure on the property thus leaving many structures vacant and not usable. He would like to request a zoning change from R1 to R2 which would allow him to use all the the property.

Glenn Morrow, a property owner within 200 ft of the subject property spoke in protest.

Kristina Seracen, a property owner within 200 ft of the subject property spoke in protest.

Kathy Schreiber, a property owner within 200 ft of the subject property spoke in protest.

Motion to close Public Hearing made by Jim Jarreau seconded by Tim Dooley. All voted in favor and the motion carried.

Brian Jordan, Director of Development, stated the block in question is mostly Medium Density and R-2. And the same situation occurs in the block to the south. Since there is one property remaining in the block not represented in this request, or already zoned R-2, staff does not recommend changing the zoning without also considering that property. Therefore, if the Commission agrees, we recommend delaying action on this request, and calling a public hearing to change the remaining lot in this block (506 E. Schubert) with his request.

Tim Dooley asked Joe Simmons if he would be opened to submitting a joint application with the neighbors who own 506 E. Shubert as recommended by Staff. Joe stated he would like to pursue that option and withdrew his application.

No action was taken on this item as the applicant withdrew his application.

SITE PLAN

Consider SP-2012 – Request by Thomas Duval on behalf of The MacDonald Companies for approval of the Site Plan of The Reserve at Vineyard Oaks for a Multi-Family Apartment Complex located at the North West Corner of South Eagle Street and Friendship Lane.

Brenda Segner recused herself and left the table.

Thomas Duval presented the application on behalf of The MacDonald Companies. He stated it was the applicants desire to develop a 12 building, 152-unit apartment project. Primary access to the property will be provided on South Eagle Street with a secondary access available on Sunrise Street.

Jeffrey Morin voiced his concerns regarding the drainage of this development.

Brian Jordan, Director of Development Services stated Staff recommends approval, conditioned upon approval of the Landscape Plan prior to issuance of a building permit.

Jim Jarreau made a motion to approve Application SP-2012 per Staff recommendation. Tim Dooley seconded the motion. All voted in favor and the motion carried.

ADJOURN

With nothing further to come before the Commission, Jim Jarreau moved to adjourn. Seconded by Jill Tabor. All voted in favor and the meeting was adjourned at 6:42 p.m.

PASSED AND APPROVED this 6th day of January 2021.

SHELBY COLLIER, Development Coordinator

JANICE MENKING, Chairman



CITY COUNCIL MEMO

DATE: May 17, 2021

TO: Mayor and City Council

FROM: Jason Lutz

SUBJECT: Z-2106 – Public Hearing, Consideration, and Recommendation regarding a requested Future Land Use & Zoning change, for property located at 305 N. Elk St. and 502 and 506 E. Schubert St.

Summary:

The applicant is requesting a zoning change from Single-family Residential (R-1) to Mixed Residential (R-2). In order to establish a R-2 zoning district, the Commission will need to modify the City's Future Land Use Plan. The current plan calls out this area as an "Low Density Residential" and must be changed to "Medium Density Residential" Prior to the establishment of the requested zoning. The applicant is requesting the zoning category of R-2 in order to have flexibility to increase the density of the existing STRs in operation on the site.

Recommendation:

P&Z held a public hearing on Wednesday, May 5, 2021 and unanimously recommended approval of the requested land use and zoning change.

Staff recommends approval of the requested land use and zoning change.

Background / Analysis:

Future Land Use:

The City's Land Use plan calls out this area as "Low Density Residential". This use is representative of traditional, single-family detached dwelling units. Low density residential accounts for the largest percentage of residential development in Fredericksburg today and will continue to do so

The City of Fredericksburg

with the development shown on this "Future Land Use Map". The areas designated for low density residential land use are generally not adjacent to major thoroughfares or incompatible land uses, and are in proximity to existing single-family residential land use. Within these areas, the City should encourage a range of lot sizes and housing types in order to promote increased housing diversity and affordability. For this reason, several single-family zoning districts with various lot sizes should be provided in the Zoning Ordinance. For the purpose of discussing Fredericksburg's ultimate population capacity (in the Growth Element of this plan), areas of the City or ETJ designed for low density residential development are assumed to develop at an average of three dwelling units per gross acre.

To establish a zoning district of R-2 for this property, the Land Use Plan must be amended to "Medium Density Residential". This use category includes single family detached dwellings on smaller lots and attached dwelling units, such as duplex units 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. An average of 8 dwelling units per gross acre is assumed for these areas.

The Future Land Use Plan shows that the subject tract is adjacent to future land uses of "Low Density Residential to the west and south, Medium Density Residential to the east, and Public Facilities (Nimitz) in the immediate area.

Zoning:

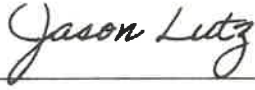
Adjacent zoning in the area is Mixed Residential (R-2) to the east and southeast, Single-family residential (R-1) across the streets to the south, west, and north. Additionally, there are multiple STRs, Commercial, and Public Uses in the general area.

One of the lots in the subject area is undeveloped, while the other two lots are being utilized as STRs.

Given the fact that R-2 would bring the entire block into one consistent zoning district, staff can support this requested change.

The City of Fredericksburg

Attachments: Draft Ordinances, owner summary justification, protest map, and protest letters.



Department Approval



City Attorney Approval



City Manager Approval

The City of Fredericksburg

126 W. Main St. • Fredericksburg, Texas 78624-3708 • (830) 997-7521 • Fax (830) 997-1861

Agenda Packet Page 65

REQUEST #Z-2106 REQUEST BY JOESPEH SIMMONS TO:

- A. **CONSIDER A LAND USE CHANGE FROM LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL FOR PROPERTY LOCATED AT 305 N. ELK STREET AND 502 AND 506 E. SCHUBERT STREET.**
- B. **CONSIDER A ZONING CHANGE FROM R1, SINGLE FAMILY RESIDENTIAL, TO R2, MIXED RESIDENTIAL FOR PROPERTY LOCATED AT 305 N. ELK STREET AND 502 AND 506 E. SCHUBERT STREET.**

Jim Jarreau made a motion to open the Public Hearing. Seconded by Jeff Lawrence. All voted in favor and the motion carried.

Joe Simmons presented the application. He stated it was his desire to change the Zoning from R1 to R2 as his property has 3 units on site and he would like to be able to rent all three units as Short-Term Rentals.

Glenn Morrow spoke in protest. He is concerned about the increase in traffic as this is already a busy area as well as noise and parking.

Mark Messer spoke in protest. He would like to keep his quiet neighborhood.

Raydeen Borchers spoke in protest. She has lived in this neighborhood for 20 years and is saddened that due to short term rentals, her and her grandchildren are no longer able to enjoy the lovely back yard as the guests are often rude and ill mannered. She does not support increasing the density to allow for more of that behavior.

The Walch Family spoke in protest.

Jim Jarreau made a motion to close the Public Hearing. Seconded by Jill Tabor. All voted in favor and the motion carried.

Jason Lutz, Director of Development stated the applicant is requesting a zoning change from Single-family Residential (R-1) to Mixed Residential (R-2). To establish a R-2 zoning district, the Commission will need to modify the City's Future Land Use Plan. The current plan calls out this area as an "Low Density Residential" and must be changed to "Medium Density Residential" Prior to the establishment of the requested zoning. The applicant is requesting the zoning category of R-2 to have flexibility to increase the density of the existing STRs in operation on the site.

Staff recommends Approval of the requested Future Land Use change and requested zoning, as presented.

Jim Jarreau made a motion to recommend Approval of Application Z-2106. Tim Dooley Seconded the motion. All voted in favor and the motion carried.

Planning + Zoning
June 9, 2021

502 E Schubert

~ 2 PERMITS IN R-1 ZONING?

Avenu Permit Number	CORRECT Permit Number	GRANICUS Registration Number	Permit Status	Issued date	Expiration date	STR OR HM PHYSICAL ADDRESS
8056001530	HM34423		ACTIVE			417 E MAIN ST
8056001480			ACTIVE	10/18/2021	9/30/2022	418 E SCHUBERT ST
8056000620	8056001897		ACTIVE	10/19/2021	9/14/2022	418 PLUM ST
8056002012			ACTIVE	2/11/2022	1/31/2023	418 W AUSTIN ST
8056000621	8056001898		ACTIVE	3/11/2022	3/11/2023	418 W CREEK ST
			ACTIVE	2/11/2022	1/31/2023	420 W AUSTIN ST
8056000403	8056001648		ACTIVE	12/2/2021	10/14/2022	426 E ORCHARD ST
8056002015			ACTIVE	3/11/2022	3/11/2023	434 S MILAM ST
	ETJ8196		ACTIVE			469 OAK HAVEN RD
	ETJ13862		ACTIVE			48 KNEESE RD
	ETJ34335		ACTIVE			496 RANCH ROAD 1631
	HM103376		ACTIVE			500 S WASHINGTON ST
8056001399			ACTIVE	8/31/2021	8/31/2022	501 E CREEK ST
	HM27261		ACTIVE			501 E MAIN ST
8056000062	8056000795	STR22-0010	ACTIVE	6/20/2022	6/20/2023	502 E SCHUBERT ST
8056000063	8056000793	STR22-0009	ACTIVE	6/20/2022	6/20/2023	502 E SCHUBERT ST
8056001710			ACTIVE	1/21/2022	11/30/2022	502 N ORANGE ST
8056001718			ACTIVE	1/21/2022	11/30/2022	502 N ORANGE ST
8056000607	8056001902		ACTIVE	2/9/2022	1/31/2023	502 S EAGLE ST #101
8056000619	8056001896		ACTIVE	2/28/2022	1/31/2023	502 S EAGLE ST #201
8056000475	8056001689		ACTIVE	12/2/2021	12/2/2022	502 S EAGLE ST #202
8056000532	8056001814		ACTIVE	1/14/2022	12/31/2022	502 S EAGLE ST #302
8056000171	8056001172		ACTIVE	7/16/2021	7/20/2022	503 W UFER ST
8056000172	8056001170		ACTIVE	7/16/2021	7/20/2022	503 W UFER ST
8056000535	8056001591		ACTIVE	11/10/2021	10/11/2022	504 CORA ST
8056000476	8056001550		ACTIVE	12/2/2021	10/9/2022	504 SHAW AVE
8056001442			ACTIVE	10/13/2021	7/22/2022	504 W CREEK ST
8056001537			ACTIVE	9/20/2022	9/20/2022	505 BLUEBONNET ST
8056001515			ACTIVE	10/29/2021	10/29/2022	505 E CREEK ST
8056001513			ACTIVE	12/2/2021	12/31/2022	505 N MILAM ST

Legend Z-2313

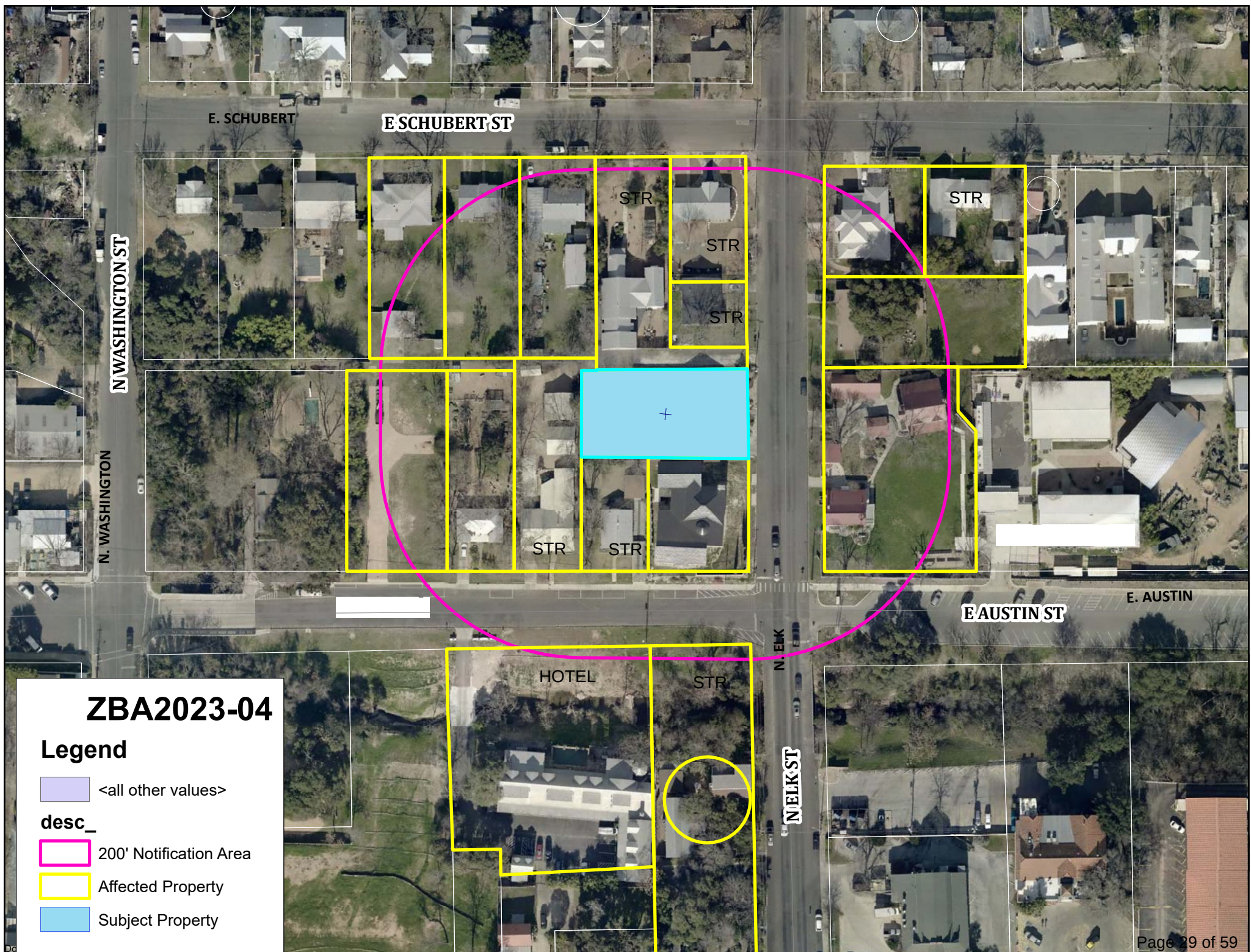
Zoning

ZONED

- C2 - Commercial
- CBD - Central Business District
- OS - Open Space
- PF - Public Facilities
- R1 - Single Family Residential
- R2 - Mixed Residential



Legend



ZBA2023-04

Legend

-  <all other values>
- desc_**
-  200' Notification Area
-  Affected Property
-  Subject Property

Jason & Hailey Kemp
3209 Evening Breeze Way
Pflugerville, TX 78660

Jay Brady
1614 Sidney Baker Ste 200
Kerrville, TX 78028

Willie & Elmeria Madche
411 E Schubert
Fredericksburg, TX 78624

Mark & Shelly Messer
6101 Wildwood Dr
McKinney, TX 75072

Anchorage Haus LLC
13275 S Hillcreek Rd
Whitehouse, TX 75791

Randall & Danielle Lochte
2161 Lightstone
Fredericksburg, TX 78624

Adeak Enterprises LLC
18502 Upper Bay Rd
Houston, TX 77058

Bradley & Amy Oehler
2501 Shire Ridge Dr
Austin, TX 78732

Clayton & Megan Walvoord
11664 Country Road 994
Celina, TX 75009

Rebecca Rather
408 E Austin
Fredericksburg, TX 78624

Kathryn Harrison
8 W Ledge Stone Dr
Fredericksburg, TX 78624

Ashton & Danielle Saunders
18502 Upper Bay Rd
Houston, TX 77058

Jimmie & Su Lee
424 E Main
Fredericksburg, TX 78624

Admiral Nimitz Foundation
340 E Main
Fredericksburg, TX 78624

Guten Morgan Haus LLC
349 Crabapple Rd
Blanco, TX 78606

Kristine & Gina Seracen
209 N Elk
Fredericksburg

ZBA2023-04 – 204 N. Elk



HISTORIC REVIEW BOARD AGENDA MEMO

DEPARTMENT: Development Services

TO: Zoning Board of Adjustment

FROM:

MEETING DATE: September 21, 2023

CATEGORY: DISCUSSION AND POSSIBLE ACTION

CAPTION: Review Short Term Rental Ordinance draft and creation of Special Exception

PRESENTATION:

SUMMARY:

Planning & Zoning met on September 7, 2023, and made a recommendation to City Council regarding changes to the Short Term Rental Ordinance. Of interest to the Zoning Board of Adjustment, is the creation of a Special Exception procedure.

Currently, a Conditional Use Permit is required for an STR-unoccupied in R2 in the Historic District, to expand a non-conforming STR, and for a new STR-unoccupied in R1 if it meets certain criteria. A CUP requires Planning & Zoning recommendation and City Council approval. Instead of the CUP process, the proposed ordinance utilizes a Special Exception that would be approved by the Zoning Board of Adjustment based on new criteria.

BACKGROUND:

Current:

Sec. 5.500. - BOARD OF ADJUSTMENT.

The Board of Adjustment shall have the following powers:

Variances. To authorize upon appeal in specific cases such variance from the terms of the Zoning Property Development Regulations and Sign Ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provision of the Zoning Regulations will result in unnecessary hardship, and so that the spirit of the Zoning Regulations shall be observed and substantial justice done. See Section 5.600.

Administrative Appeals. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the Zoning Regulations. See Section 5.700.

Historic Review Board Appeals. To hear and decide appeals where the applicant disagrees with a ruling provided by the Historic Review Board.

Proposed new language:

Sec. 20-223 Special Exceptions Available.

An owner and/or operator seeking to operate a short-term rental may apply for a special exception in the following circumstances, subject to the regulations outlined in section 5.500 of the City zoning ordinance:

- (1) To permit short-term rental unoccupied operations within the Historic Overlay district where it overlaps with the R-2 zoning district.
- (2) To permit short-term rental facility operations in the R-2 zoning district if the property immediately abuts a non-residential zoning district or a planned unit development district with commercial uses.
- (3) To permit short-term rental unoccupied operations in the R-1 zoning district if (1) the property shares two (2) or more lot lines, or one (1) or more lot lines for a corner lot, with a property lawfully operating as a short-term rental unoccupied use, and (2) more than fifty (50) percent of the properties within a two hundred (200) foot radius are lawfully operating as a short-term rental unoccupied use.
- (4) To permit short-term rental operations with an expanded occupancy maximum or exception to parking requirements.
- (5) To permit short-term rental operations in the historic shopping district overlay involving the operation of a short-term rental use on the first floor of any new construction or converted existing structure.

FUNDING SOURCE:

FINANCIAL IMPACT:

STAFF RECOMMENDATION:

COMMUNITY VISIONING/STRATEGIC INITIATIVES:

ATTACHMENTS:

1. Summary of PandZ recommendations on STR Amendments
2. STR Ordinance DRAFT_P&Z

APPROVAL/REVIEW:



MEMO

DATE: September 13, 2023

FROM: Anna Hudson, Director of Development Services

SUBJECT: DRAFT STR Amendments – Planning & Zoning Recommendations

This serves as a summary of the recommendation made by the Planning & Zoning Commission on September 7, 2023, of the draft Short Term Rental Ordinance. A formal red-line version will be made available before the City Council Public Hearing meeting on Tuesday, October 3, 2023, at 9:00 am. Please check the City's STR webpage for updates. <https://www.fbgtx.org/845/Short-Term-Rentals>

P&Z's recommendations include the following changes to the August 15th Draft:

- Remove R3 as a permitted use district for STRs
- Further define Long Term Rentals and allow switching from STR to LTR
- Add 24 Hr Contact name & number to physical permit to be posted on STR
- At permit renewal:
 - Life Safety requirements of new ordinance must be met
 - Occupancy limit of 12 for all new and existing STR permits
 - Parking regulations to apply to renewals but ease burden on 1 and 2-bedroom existing units
 - Special Exception can be applied for if unable to meet new requirements
- Allow tandem parking without limit
- Remove basic sanitation language and remove history requirements
- Life Safety requirements to align with International Building Code
- Change Response Time of 24 Hr Contact from 20 minutes to 30 minutes
- Change Special Exception requirements in R1 to 75% density instead of 50%
- Require remittance of H.O.T. within 30 days of notification of delinquency

If the proposed draft is approved as currently presented, the following changes will go into effect:

- No new Condominium STRs

The City of Fredericksburg

- Require 1 parking space per bedroom with no parking credit for on-street parking (on-street parking still allowed, but no credit given towards obtaining a permit)
- Special Exceptions will be handled by Zoning Board of Adjustment instead of Conditional Use Permits by City Council and Planning & Zoning Commission
- Special Exceptions would apply to:
 - R1 Unoccupied (two property lines & 75% of other properties have STR permit)
 - R2 Historic District Unoccupied
 - R2 Facility abutting a non-residential zoning district or a PUD that allows commercial uses
 - Increase of occupancy
 - Inability to meet parking/occupancy requirements
- Existing Permits may transfer within 90 days
- No Change to R2 density
- Max occupancy of 12
- Enforcement will include 3 minor violations counting as 1 Major Violations. 3 Major violations within 12 months will require City Council review and permit may be suspended for up to 90 days.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FREDERICKSBURG, TEXAS, REPEALING SECTION 5.401, "ADDITIONAL REQUIREMENTS FOR SHORT-TERM RENTAL USES," OF APPENDIX B, "ZONING ORDINANCE," OF THE FREDERICKSBURG MUNICIPAL CODE; AMENDING SECTION 2.100, "DEFINITIONS," OF APPENDIX B, "ZONING ORDINANCE," BY REVISING DEFINITIONS RELATED TO SHORT-TERM RENTALS; ADDING A NEW ARTICLE VII, "SHORT-TERM RENTALS," TO CHAPTER 20, "OFFENSES AND MISCELLANEOUS PROVISIONS," TO PROVIDE FOR THE REGULATION AND PERMITTING OF SHORT-TERM RENTALS; CREATING A NEW SECTION 4.400, "GENERAL REGULATIONS FOR SHORT-TERM RENTALS," IN APPENDIX B, "ZONING ORDINANCE," TO PROVIDE FOR ZONING REGULATIONS RELATED TO SHORT-TERM RENTALS; AMENDING SECTION 5.500, "BOARD OF ADJUSTMENT," OF APPENDIX B, "ZONING ORDINANCE," TO AUTHORIZE THE BOARD OF ADJUSTMENT TO GRANT SPECIAL EXCEPTIONS RELATED TO SHORT-TERM RENTALS; AMENDING MISCELLANEOUS PROVISIONS IN APPENDIX B, "ZONING ORDINANCE," TO ENSURE CONSISTENCY WITH THE AMENDMENTS HEREIN; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Fredericksburg, Texas (the "City"), is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution, and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City ("City Council") recognizes the City's desirability as a premier tourist destination, as well as the importance of maintaining affordable housing for long-term residents of the City, and has therefore determined that the regulation of short-term rental properties is in the best interest of the public; and

WHEREAS, the City Council has previously adopted regulations governing short-term rentals and appointed a Short-Term Rental Task Force in Fall 2022 to analyze the particular issues faced by the City and to provide recommendations on approaches to improve the previously adopted regulations; and

WHEREAS, the City Council and Planning & Zoning Commission of the City have held multiple joint work sessions to evaluate the recommendations of the Task Force, recommendations of City staff, and data on short-term rental issues within the City; and

WHEREAS, the City Council and Planning & Zoning Commission have heard and reviewed extensive comments by members of the public, including citizens of the City expressing complaints as to noise, density, parking, and other adverse effects related to the operation of short-term rentals in residential areas, as well as non-resident owners of short-term rental properties within the City expressing their commitment to supporting the

City's tourism industry; and

WHEREAS, in consideration of the information, recommendations, and public comments provided, the City Council now seeks to amend the City's short-term rental regulations; and

WHEREAS, the purpose of the regulations set forth herein is to provide a procedure to allow the rental of private residences to visitors on a short-term basis, while ensuring that such rental use does not cause adverse impacts to residential neighborhoods due to the intensive nature of the use creating excessive traffic, noise, density, and other adverse effects, and additionally to ensure that the number of occupants within such rental units do not exceed the design capacity of the structure causing health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions; and

WHEREAS, the City Council has determined that the enforcement of such regulations will promote the public health, safety and welfare of its citizens and the general public; ensure consistency in land uses and development; and protect the rights of property owners, residents, and visitors in the City of Fredericksburg.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS;

SECTION 1

Section 5.401, "Additional requirements for short-term rental uses," of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code is hereby repealed.

SECTION 2

Section 2.100, "Definitions," of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code is amended by deleting the following definitions:

“LOCAL CONTACT PERSON. The Owner, Operator, or person designated by the Owner or the Operator, who shall be available 24 hours per day for the purpose of responding to concerns or requests for assistance related to the Owner's Short-term Rental.

OPERATOR. The Owner or the Owner's authorized representative who is responsible for advertising and/or operating a Short-term Rental.

SHORT-TERM RENTAL (STR). Any structure used for transient or guest lodging accommodations, rented for compensation of a dwelling unit, which includes but is not limited to a single-family residence, townhouses, and other residential use real estate improvements, in which the public may obtain sleeping accommodations for a period less than 30 consecutive days. This term applies regardless of whether the dwelling was originally constructed or zoned as a residential dwelling. This term does not apply to multi-family projects or apartment complexes. This term is a general definition and the various types of STRs are further defined in this Section 2.100.

SHORT-TERM RENTAL, ACCESSORY. A short-term rental providing transient or guest lodging accommodations for compensation within a lawful Guest House on the same lot as the primary structure which is the principal residence of the Owner (as evidenced by a current residence homestead exemption filed with the Gillespie Central Appraisal District) or the Local Contact Person (as evidenced by a sworn affidavit of principal residency). The Guest House shall not exceed the size of the primary structure. For purposes of this definition, the term "principal residence" refers to a person's primary or chief residence that the person actually occupies on a regular basis.

SHORT-TERM RENTAL, B&B. A short-term rental providing transient or guest lodging accommodations for compensation within the rooms of the primary structure which is the principal residence of the Owner (as evidenced by a current residence homestead exemption filed with the Gillespie Central Appraisal District) or the Local Contact Person (as evidenced by a sworn affidavit of principal residency). Separate short-term rental permits shall be required for each separate bedroom unit within a Short-Term Rental, B&B which may be rented. For purposes of this definition, the term "principal residence" refers to a person's primary or chief residence that the person actually occupies on a regular basis.

SHORT-TERM RENTAL, BEDROOM. A short-term rental bedroom shall be defined as a room within a structure used for Short-Term Rental purposes, with a minimum size of 70 square feet, plus a closet directly accessible from the room, that meets all the minimum international building code and fire code regulations regarding bedroom sizes, ingress, and egress.

SHORT-TERM RENTAL, CONDOMINIUM. Short-term rental located in a complex or housing group that is part of a declared and recorded condominium regime.

SHORT-TERM RENTAL, DWELLING UNIT. A structure or room that is rented separately from other rental units on the property, for the purpose of transient or guest lodging. Each individual short-term rental dwelling unit shall be required to obtain a separate short-term rental permit.

SHORT-TERM RENTAL, FACILITY. A facility or complex containing multiple short-term rental dwelling units (up to eight units) on a single lot, for transient or guest lodging where sleeping accommodations are provided for compensation. Any facility or complex, located in a commercial zoning district, containing multiple short-term rental dwelling units on a single lot, shall be developed in accordance with the multi-family regulations of the base zoning district.

SHORT-TERM RENTAL PERMIT. A permit issued by the City authorizing the use of a privately owned dwelling as a Short-term Rental.

SHORT-TERM RENTAL, UNOCCUPIED. A short-term rental providing transient or guest lodging accommodations for compensation within a lawful structure, that is not located on the same lot as the property owner's principal residence, and which includes, but is not limited to, a single-family residence, townhouses, duplexes, and other residential real estate improvements."

SECTION 3

Chapter 20, "Offenses and Miscellaneous Provisions," of the Fredericksburg Municipal Code is hereby amended by adding a new Article VII to read as follows:

"ARTICLE VII. – SHORT-TERM RENTALS

Sec. 20-220. – Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

24-HOUR CONTACT. The local responsible party who can be contacted regarding emergencies, immediate concerns, and complaints from the public. Said individual must be available in person or by phone at all times during any occupant's rental term for the short-term rental. If called, the 24-hour contact must respond to such call within 20 minutes, and shall either resolve the issue or be present at the premises within one (1) hour of receiving a call from the director, the police department, code enforcement, or other City staff. A 24-hour contact must be authorized to make decisions regarding the premises and its occupants.

BATHROOM. An enclosed space containing one or more bathtubs, showers, or both, as well as one or more toilets, lavatories or fixtures serving similar purposes.

BEDROOM. A room used or intended to be used for sleeping purposes and not as a kitchen, bathroom, living room, closet, hallway, utility space, reading nook, alcove, entry way, garage, patio or breezeway.

BLOCK. A tract of land bounded by streets, or a combination of streets, public parks, railroad rights-of-way, shorelines of waterways or corporate limits.

CODE or CITY CODE. The Fredericksburg Municipal Code.

DEPARTMENT. The development services department of the City.

DIRECTOR. The director of development services of the City or their designee.

OCCUPANT. The person(s) who has/have lawfully obtained the exclusive use and possession of a short-term rental from the owner and/or operator, as well as any invitee(s) of such person(s).

OPERATOR. The owner or local responsible party tasked with managing a property operating as a short-term rental on behalf of the owner.

OWNER. The individual or entity who owns a property operating as a short-term rental.

PERMIT. The permit issued pursuant to the terms of this article authorizing the operation of a short-term rental.

SHORT-TERM RENTAL. The rental for compensation of any residence or residential structure, or a portion of a residence or residential structure, for the purpose of transient or guest overnight lodging accommodations for a period of less than thirty (30) consecutive days. Short-term rentals may include but are not limited to single-family residences, townhomes, duplexes, and other residential dwelling units, regardless of whether the dwelling was originally constructed or zoned as a residential dwelling. Short-term rentals shall not include hotels or motels. A short-term rental is further subject to the provisions of chapter 20, article VII of the City Code.

SHORT-TERM RENTAL ACCESSORY or STR-ADU. A short-term rental operating within a lawful accessory dwelling unit on the same lot as the primary structure, in which the primary structure is (a) the owner's homestead as evidenced by a current homestead exemption filed with the Gillespie Central Appraisal District or (b) the primary residence of the 24-hour contact, as evidenced by a sworn affidavit to be provided with the short-term rental permit application. The accessory dwelling unit shall comply with section 8.220 of the City zoning ordinance.

SHORT-TERM RENTAL B&B or STR-B&B. A short-term rental that operates on a residential property in which the owner, operator, or 24-hour contact resides as their principal residence (as evidenced by a current residence homestead exemption filed with the Gillespie Central Appraisal District or a sworn affidavit). Separate short-term rental permits, with a maximum of four units, shall be required for each separate bedroom unit operating as a short-term rental within a short-term rental B&B.

SHORT-TERM RENTAL FACILITY or STR-FACILITY. A facility or complex, owned or operated by a single owner or operator, containing multiple short-term rental units (up to eight units) operated for short-term rental purposes on a single lot. Each unit within an STR-Facility shall require a separate short-term rental permit.

SHORT-TERM RENTAL UNOCCUPIED or STR-UNOCCUPIED. A short-term rental within a lawful residential dwelling that is not occupied by the owner, operator, or 24-hour contact and is not an accessory dwelling unit.

Sec. 20-221. – Short-Term Rental Permitting and Inspections.

It shall be unlawful for any owner, operator, or other person to advertise, offer to rent or rent, lease, sublease, license or sublicense a residential property within the City as a short-term rental for which a permit application has not been properly made and filed with

the department, and a permit issued.

(a) Permit Application; Fees

- i. A separate permit application must be submitted for each individual short-term rental.
- ii. A permit application shall be made upon forms furnished by the City for such purpose and shall be accompanied by the nonrefundable application fee identified in the city fee schedule.

(b) Permit Term; Renewals; Conditions

- i. Each individual short-term rental shall be assigned a unique permit number by the City to remain assigned to the short-term rental through any property ownership transfers.
- ii. An owner and/or operator shall obtain a unique permit for each short-term rental unit operating within an STR-Facility or STR-B&B.
- iii. Permits shall be valid for a term of two years.
- iv. A permit holder shall apply for renewal prior to permit expiration on a form furnished by the City for such purpose. The permit holder shall either update the information required on the initial application form or provide a certification affirming that the information previously submitted is still accurate. A complete application for renewal received after the expiration of a current permit shall be treated as an application for a new permit in accordance with section 20-221(a). Notwithstanding the foregoing, the permit holder of a short-term rental located in a zoning district where the short-term rental use is no longer permitted by right may transfer said permit pursuant to section 20-221(d).
- v. Upon issuance, each short-term rental shall receive a physical permit, indicating the permit number, property address, maximum occupancy, and expiration date, that shall be posted at or near the exterior front door of every short-term rental. The physical permit may be posted inside a front window at or near the exterior front door such that it is easily viewed from the exterior of the structure.

(c) Transfers of Ownership

- i. A short-term rental permit may be transferred to a new property owner upon submission of a complete short-term rental permit application prior to commencing short-term rental operations under new ownership. A permit transfer shall be required upon transfer of more than 50% of the ownership interest in any short-term rental, including any such transfer of interest in a legal entity owning a short-term rental.

- ii. For properties located in zoning districts where short-term rental uses are no longer permitted by right, a short-term rental permit may be transferred subject to the following regulations.
 - 1. A permit transfer shall be required upon transfer of more than 50% of the ownership interest in any short-term rental, including any such transfer of interest in a legal entity owning a short-term rental.
 - 2. The new owner must submit a new permit application in accordance with this section 20-220 within the time period for voluntary discontinuance of a nonconforming use identified in section 6.110 of the City zoning ordinance, beginning on the date of closing on the property or, in the absence of a closing date, other effective date of the transfer of interest.
 - 3. In the event the new owner fails to submit a short-term rental permit application within the time period identified in section 6.110, the short-term rental use must be discontinued, and the short-term rental permit shall not be transferred or issued, pursuant to section 6.110 of the City zoning ordinance governing the abandonment of nonconforming uses.
 - 4. Notwithstanding the foregoing, the owner of any short-term rental located in a zoning district where the short-term rental use is no longer permitted by right who, on the effective date of this ordinance, has timely filed an appeal of a short-term rental permit application denial with the city manager, may obtain a vesting determination from the city manager allowing said owner to obtain a short-term rental permit without regard to such zoning prohibition but subject to all other regulations herein. The city manager may issue a formal vesting determination based on a short-term rental's prior lawful operations, relevant application dates, and any other mitigating factors.

(d) Inspections

- i. Prior to permit issuance, the director shall perform an initial inspection of the short-term rental premises to determine compliance with all applicable codes, laws, and regulations. No permit shall be issued until the premises successfully passes such inspection.
- ii. Prior to permit renewal, the director may perform a renewal inspection of the short-term rental premises to determine compliance with all applicable codes, laws, and regulations.
- iii. Additional inspections shall be conducted in the following circumstances:

1. Upon transfer of ownership;
 2. When an owner or operator makes modifications to the short-term rental property that would increase or reduce the property's maximum occupancy, alter the property's evacuation plan, or otherwise affect the health and safety of any occupant; and
 3. When complaints are filed regarding property conditions related to health and safety concerns.
- iv. An owner or operator may refuse to consent to an inspection. In the event the owner or operator does not authorize the director to enter and inspect the premises, the director is authorized to seek a warrant pursuant to article 18.05 of the Texas Code of Criminal Procedure, as amended. Any warrants issued will constitute authority for the director to enter upon and inspect the rental unit described therein.
 - v. If, upon completion of any inspection, the premises are found to be in violation of one or more provisions of this section, the director shall provide written notice of such violation and shall set a re-inspection date. If a property fails to pass an inspection, a re-inspection fee will be charged in accordance with the City fee schedule. A property cannot be occupied as a short-term rental while its status is noted as being in violation.
- (e) Public Information. All permits issued under this article constitute public information, subject to the terms of the Public Information Act.

Sec. 20-222. - Regulations.

- (a) Duration of rental period. An owner and/or operator shall not rent or lease a short-term rental unit for a period of less than one (1) night. If an owner and/or operator seeks to operate a short-term rental property as a long-term rental for a rental term of thirty (30) or more days, the owner and/or operator shall notify staff in accordance with section 20-226(d) in order to preserve the property's short-term rental permit.
- (b) Occupancy. The maximum number of persons permitted to stay in a short-term rental is limited to two (2) persons per bedroom as defined herein, plus two (2) additional persons; however, no short-term rental shall permit the cumulative total number of occupants to exceed twelve (12) persons. An owner or operator may indicate a reduced occupancy maximum on a short-term rental permit application or an advertisement for a short-term rental. Notwithstanding the foregoing, an owner or operator may apply for a special exception in accordance with this article and section 5.500 of the City zoning ordinance in order to increase the occupancy maximum for a short-term rental.
- (c) Parking restrictions. A short-term rental owner and/or operator must provide one on-site parking spot per bedroom operating as a short-term rental. Additionally, it shall be unlawful for an occupant to park a motor vehicle on an unimproved surface, or for an

owner and/or operator to permit such parking. All motor vehicles are further subject to the parking requirements of Chapter 44, Article VI of the Code. Tandem parking is permitted for a maximum depth of two vehicles, so long as no part of any parked vehicle obstructs a public right-of-way.

(d) Life Safety.

i. The short-term rental must be equipped with:

1. Working smoke alarms, meeting the requirements of Section 92.254 of the Texas Property Code, with a minimum of one on each floor level and one in each room used as a bedroom; and
2. A minimum of one working carbon monoxide detector on each floor or level; and
3. A minimum of one 2A:10B:C type fire extinguisher (a standard five-pound extinguisher) properly mounted within seventy-five (75) feet of all portions of the structure on each floor.

ii. All gas appliances shall be properly ventilated outside the home.

iii. Emergency escape openings shall comply with the City's currently adopted International Residential Code (IRC), with at least one emergency escape opening for each bedroom opening directly to the outdoors.

iv. An evacuation plan shall be posted in each bedroom.

v. Any room that does not comply with this subsection (e) shall not be used as a bedroom, and where equipped with a door, shall remain locked at all times when the dwelling is being used as a short-term rental. Any non-compliant bedroom shall not be included in the maximum occupancy calculation for the short-term rental, nor be advertised as a bedroom.

(e) Access to basic sanitation. Each bedroom of a residence or portion of a residence used as a short-term rental must provide interior access to a bathroom, such that an occupant shall have access to a bathroom without exiting the residence, regardless of whether such bathroom is private or shared.

(f) Signage. All signs must comply with the City sign ordinance, as applicable, set forth in chapter 29 of the Code. Short-term rental uses may erect a nameplate sign, which shall be considered a sign exempted from certain regulations under section 29-5(3) of the Code, provided that such sign is not more than two square feet in area and is attached to the structure.

(g) Food Service. Only overnight guests may be served meals except in zones permitting restaurant use. Such meals shall be limited to continental-type breakfast consisting of pastries prepared by a licensed provider, milk, cereal, fruit, fruit juice and coffee, unless the facility meets the State of Texas and Gillespie County Health Division requirements for commercial food service.

(h) 24-Hour Contact. The owner and/or operator must designate the name and contact information of a 24-hour contact who shall be the local responsible party who can be contacted regarding emergencies, immediate concerns, and complaints from the public. Said individual must be available in person or by phone at all times during any occupant's rental term for the short-term rental. If called, the 24-hour contact must respond to such call within 20 minutes, and shall either resolve the issue or be present at the premises within one (1) hour of receiving a call from the director requesting the 24-hour contact's presence. A 24-hour contact must be authorized to make decisions regarding the premises and its occupants.

(i) Advertising. The owner and/or operator shall not advertise or promote, or allow another to advertise or promote, the short-term rental without including the following information on the listing: City permit number, occupancy maximum, parking plan, house rules, and a street-view image of the front of the property.

(j) Conduct on premises. Each short-term rental owner, operator, and occupant shall comply with all requirements of the City Code. Owners and/or operators shall be responsible for informing occupants of all relevant City Codes and occupants' liability for violations of same. In addition, the following shall be unlawful:

- i. Conduct that would violate the City noise ordinance contained in chapter 20, article VI of the Code, in residential zoning districts or planned unit developments with residential uses, including, but not limited to, the following outside areas: decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas;
- ii. Conduct that would violate the City trash ordinance contained in chapter 32 of the Code;
- iii. Operating exterior string and flood lights in violation of chapter 5, article XV of the Code; and
- iv. Using or permitting the use of the short-term rental for the purpose of selling illegal drugs; selling alcohol or another activity that requires a permit or license under the Alcoholic Beverage Code; or operating as a sexually oriented business.

(k) Host Rules. The owner and/or operator shall post in a conspicuous location of the short-term rental premises a packet containing, at a minimum, host rules with the following information:

- (1) Maximum number of occupants;

- (2) Location of required off-street parking and prohibition of parking on unimproved areas;
 - (3) Quiet hours (10:00 p.m. to 7:00 a.m. in residential zones);
 - (4) Waste pick-up requirements, including location of waste and recycling receptacles;
 - (5) Exterior lighting requirements due to Dark Sky regulations;
 - (6) List of HOA rules, if applicable;
 - (7) 24-hour contact name and phone number;
 - (8) Operator contact name and phone number;
 - (9) Property cleanliness requirements;
 - (10) Flooding hazards and evacuation routes, as well as information on the emergency siren system and other safety features;
 - (11) Emergency and non-emergency numbers; and
 - (12) Notice that failure to conform to City ordinances constitutes a violation of the Code for which an occupant may be cited.
- (l) Hotel occupancy taxes. In accordance with chapter 41, article IV, the owner and/or operator of the short-term rental property shall register with the City finance department to pay hotel occupancy taxes prior to the date that the short-term rental permit application is submitted, and the owner and/or operator must remit all applicable hotel occupancy taxes in a timely manner pursuant to applicable laws.
- (m) Request for occupancy history. Upon request of the director, the owner of a property used as a short-term rental shall remit, within thirty (30) days, an accounting of all rental activity and the hotel occupancy taxes paid therefor.
- (n) Application information to be updated. Within ten (10) business days of any change to information provided on the permit application form, other than a change of ownership, the owner or operator of a short-term rental shall notify the City of such change by providing an amended application form.

Sec. 20-223 Special Exceptions Available.

An owner and/or operator seeking to operate a short-term rental may apply for a special exception in the following circumstances, subject to the regulations outlined in section 5.500 of the City zoning ordinance:

- (1) To permit short-term rental unoccupied operations within the Historic Overlay district where it overlaps with the R-2 zoning district.

(2) To permit short-term rental facility operations in the R-2 zoning district if the property immediately abuts a non-residential zoning district or a planned unit development district with commercial uses.

(3) To permit short-term rental unoccupied operations in the R-1 zoning district if (1) the property shares two (2) or more lot lines, or one (1) or more lot lines for a corner lot, with a property lawfully operating as a short-term rental unoccupied use, and (2) more than fifty (50) percent of the properties within a two hundred (200) foot radius are lawfully operating as a short-term rental unoccupied use.

(4) To permit short-term rental operations with an expanded occupancy maximum or exception to parking requirements.

(5) To permit short-term rental operations in the historic shopping district overlay involving the operation of a short-term rental use on the first floor of any new construction or converted existing structure.

Sec. 20-224 Enforcement; Repeat Offenses; Suspension; Revocation.

(a) Enforcement.

- i. If the owner, operator, or any occupant of the short-term rental property fails or refuses to comply with the standards and requirements contained herein, the City may initiate enforcement action against the owner, operator, or any occupant, including, but not limited to, the immediate issuance of a citation.
- ii. Failure to timely remit applicable hotel occupancy tax is a violation under this article and shall result in a 60-day permit suspension upon notice by the director if all applicable tax is not paid within ninety (90) days of the issuance of a delinquency notice.
- iii. Any advertisement, whether it be online or in print, promoting the availability of a property within the City for rent for a period of less than thirty (30) days shall constitute prima facie evidence of the property's use as a short-term rental.
- iv. For citations issued to the owner and/or operator of a short-term rental, the address information provided for each owner and/or operator on the permit application shall be presumed valid for the purposes of serving such citations.

(b) Repeat Offenses; Suspension; Revocation.

- i. Violations of this article shall be classified as follows:
 1. Minor violations shall include violations related to parking, solid waste, water, vegetation or brush, lighting, signage, and other

miscellaneous code violations not specific to short-term rental operations and not presenting a threat to health and safety.

2. Major violations shall include violations related to health and safety, occupancy, noise, a failure to update application information or provide occupancy history, an unresponsive 24-hour contact, non-remittance of hotel occupancy tax, unlawful advertisements, and operations without a permit. Three citations for minor violations within a twelve (12) month period shall constitute one major violation.
- ii. If the director finds that the owner, operator, or any occupant of a short-term rental accumulates three (3) citations for major violations within a 12-month period, the director shall refer the short-term rental permit to City Council for review. Upon consideration of evidence presented by staff, City Council may suspend the permit for ninety (90) days.
 - iii. If the director finds that a property is the subject of five or more violations of federal law, state law, or the other provisions of the City Code outside of this article within the previous 24-month period, the director shall refer the short-term rental permit to City Council for review. Upon consideration of evidence presented by staff, the City Council may suspend the permit for ninety (90) days. City Council may consider factors including (1) the frequency of any repeated violations; (2) whether a violation was committed intentionally or knowingly; and (3) any other information that demonstrates the degree to which the owner or occupant has endangered public health, safety, or welfare.
 - iv. If a permit is referred to City Council for review more than two times within a 24-month period and the property ownership has not changed, City Council may revoke the permit or suspend the permit for a period between ninety (90) and one hundred eighty (180) days, based on factors including (1) the frequency and severity of any repeated violations; (2) whether a violation was committed intentionally or knowingly; and (3) any other information that demonstrates the degree to which the owner or occupant has endangered public health, safety, or welfare.

Sec. 20-225 Appeal.

(a) The director's denial of an application for a permit to operate a short-term rental, whether an initial application or a renewal application, may be appealed to the City Council in accordance with the provisions of this section. Enforcement of this article shall be stayed during the pendency of any appeal pursuant to this section.

(b) An appeal filed under this section must be filed with the director no later than the 20th day following the date on which the permit was denied. The appeal must be sworn

and must identify each alleged point of error, facts and evidence supporting the appeal, and reasons why the action of the director should be modified or reversed.

(c) The City Council shall, at the next regularly scheduled City Council meeting following the expiration of fourteen (14) calendar days following the perfection of the appeal, hear the appeal, and may affirm, modify, or reverse an application denial. The City Council shall give written notice of a decision on an appeal to the appellant.

(d) An appellant who seeks judicial review of the City Council's review on appeal, or of the City Council's decision to revoke or suspend a permit, must file a petition with a court of competent jurisdiction located in Gillespie County, Texas, not later than the 30th day after receipt of the written notice of the decision.

Sec. 20-226 Applicability to Existing Operations; Nonconforming Uses; Discontinuance of Operations.

(a) The regulations identified herein shall apply uniformly to existing and new short-term rentals.

(b) The owner and/or operator of a property used as a short-term rental who held a valid short-term rental permit prior to the effective date of this article, and who is unable, fails, or refuses to obtain a permit renewal due to noncompliance with the regulations herein following the effective date of this article shall discontinue the short-term rental use within sixty (60) days of the notice of permit denial. Notwithstanding the foregoing and to the extent applicable, such owner and/or operator may apply for a special exception in accordance with section 5.500 of the City zoning ordinance.

(c) All legal nonconforming short-term rental uses located in zoning districts where short-term rental uses are no longer permitted by right shall be subject to the abandonment of nonconforming use provisions contained in section 6.110 of the City zoning ordinance.

(d) It shall be a defense to any permit denial based on the abandonment of a nonconforming use that the short-term rental use was suspended for repair or renovation, for the property owner's use as a primary residence, or for use as long-term rental housing, and the property owner notified the department of such suspension of use before the expiration of the voluntary discontinuance period described by subsection 20-226(c)."

SECTION 4

Section 2.100, "Definitions," of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code is amended by adding the following definitions, inserted alphabetically to read as follows:

"SHORT-TERM RENTAL. The rental for compensation of any residence or residential structure, or a portion of a residence or residential structure, for the purpose of transient or guest overnight lodging accommodations for a period of less than thirty (30)

consecutive days. Short-term rentals may include but are not limited to single-family residences, townhomes, duplexes, and other residential dwelling units, regardless of whether the dwelling was originally constructed or zoned as a residential dwelling. Short-term rentals shall not include hotels or motels. A short-term rental is further subject to the provisions of chapter 20, article VII of the City Code.

SHORT-TERM RENTAL ACCESSORY or STR-ADU. A short-term rental operating within a lawful accessory dwelling unit on the same lot as the primary structure, in which the primary structure is (a) the owner's homestead as evidenced by a current homestead exemption filed with the Gillespie Central Appraisal District or (b) the primary residence of the 24-hour contact, as evidenced by a sworn affidavit to be provided with the short-term rental permit application. The accessory dwelling unit shall comply with section 8.220 of the City zoning ordinance.

SHORT-TERM RENTAL B&B or STR-B&B. A short-term rental that operates on a residential property in which the owner, operator, or 24-hour contact resides as their principal residence (as evidenced by a current residence homestead exemption filed with the Gillespie Central Appraisal District or a sworn affidavit). Separate short-term rental permits, with a maximum of eight units, shall be required for each separate bedroom unit operating as a short-term rental within a short-term rental B&B.

SHORT-TERM RENTAL FACILITY or STR-FACILITY. A facility or complex, owned or operated by a single owner or operator, containing multiple short-term rental units (up to eight units) on a single lot, for transient or guest lodging where sleeping accommodations are provided for compensation. Any facility or complex located in a commercial zoning district and containing multiple short-term rental dwelling units on a single lot shall be developed in accordance with the multi-family regulations of the base zoning district.

SHORT-TERM RENTAL UNOCCUPIED or STR-UNOCCUPIED. A short-term rental within a lawful residential dwelling that is not occupied by the owner, operator, or 24-hour contact and is not an accessory dwelling unit."

SECTION 5

Section 4.400 of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code is hereby added to read as follows:

"Sec. 4.400 General Regulations for Short-Term Rental Uses

(a) Short-term rentals shall be subject to the permitting requirements and regulations contained in chapter 20, article VII of the Code. Such uses shall be permitted ("P") in only specific zoning districts as follows, as well as planned unit developments where short-term rental use is identified as a permitted use, and shall otherwise comply with all regulations identified in chapter 20, article VII:

STR USE	ZONING DISTRICT													
	R-1	R-1-A	R-2	R-3	R-4		R-5	RURAL RESIDENTIAL	C-1	C-1.5	C-2	CBD	MU-1	MU-2
STR-ADU	P		P	P					P	P	P	P	P	P
STR-B&B	P		P	P					P	P	P	P	P	P
STR-FACILITY				P					P	P	P	P	P	P
STR-UNOCCUPIED			P (except in HO)	P					P	P	P	P	P	P

(b) The zoning board of adjustment is authorized to hear applications for special exceptions in order to allow short-term rental operations, subject to this section, section 5.500 of the zoning ordinance, and in conjunction with section 20-223 of the Code, in the following circumstances and subject to the regulations outlined in chapter 20, article VII:

(1) To permit short-term rental unoccupied operations within the Historic Overlay district where it overlaps with the R-2 zoning district.

(2) To permit short-term rental facility operations in the R-2 zoning district if the property immediately abuts a non-residential zoning district or a planned unit development district with commercial uses.

(3) To permit short-term rental unoccupied operations in the R-1 zoning district if (1) the property shares two (2) or more lot lines, or one (1) or more lot lines for a corner lot, with a property lawfully operating as a short-term rental unoccupied use; and (2) more than fifty (50) percent of the properties within a two hundred (200) foot radius are lawfully operating as a short-term rental unoccupied use.

(4) To permit short-term rental operations with an expanded occupancy maximum or exception to parking requirements.

(5) To permit short-term rental operations in the historic shopping district overlay involving the operation of a short-term rental use on the first floor of any new construction or converted existing structure.”

SECTION 6

Section 5.500 of Appendix B, “Zoning Ordinance,” of the Fredericksburg Municipal Code is hereby amended to add a special exception provision as follows:

“Special Exceptions. To hear and decide, upon application, special exceptions to the terms of the zoning ordinance. The term “special exception” shall mean a deviation from the requirements of the zoning regulations herein established. Special exceptions shall be granted only when the board finds that such special exceptions will not adversely affect the value and use of adjacent or neighboring property or be contrary to the public interest. The variance procedures outlined in sections 5.600-5.690 shall be utilized for special exceptions to the extent applicable.

(a) Special exceptions may be granted only in the following circumstances:

- (1) To permit short-term rental unoccupied operations within the Historic Overlay district where it overlaps with the R-2 zoning district.
- (2) To permit short-term rental facility operations in the R-2 zoning district if the property immediately abuts a non-residential zoning district or a planned unit development district with commercial uses.
- (3) To permit short-term rental unoccupied operations in the R-1 zoning district if (1) the property shares two (2) or more lot lines, or one (1) or more lot lines for a corner lot, with a property lawfully operating as a short-term rental unoccupied use, and (2) more than fifty (50) percent of the properties within a two hundred (200) foot radius are lawfully operating as a short-term rental unoccupied use.
- (4) To permit short-term rental operations with an expanded occupancy maximum or exception to parking requirements.
- (5) To permit short-term rental operations in the historic shopping district overlay involving the operation of a short-term rental use on the first floor of any new construction or converted existing structure.

(b) In hearing an application for a special exception, the board may consider factors such as the following:

- i. Whether such operation is likely to disrupt adjacent owners’ right to the quiet enjoyment of their property (for example, by considering whether lot sizes are small enough that noise is likely to affect neighboring property owners);
- ii. Whether operation as a short-term rental in the property’s zoning district is compatible with the quality of the surrounding area;
- iii. Whether such operation will substantially impact nearby streets, including whether the property provides only limited off-street parking;
- iv. Which type of short-term rental, as defined in section 20-220, the applicant seeks to operate;
- v. Whether operation with a higher occupancy limit will not adversely

impact the residential quality of the surrounding neighborhood; and

- vi. Specific property characteristics of the short-term rental like lot size or large square footage of the structure.”

SECTION 7

Table 7.863 “Off-Street Parking” of Section 7.860 “Design Standards” of Appendix B, “Zoning Ordinance,” of the Fredericksburg Municipal Code is hereby amended by deleting the use classification and minimum off-street parking requirements for the short-term rental, condominium use classification and by amending the use classifications and minimum off-street parking requirements for the following use classifications: short-term rental, unoccupied; short-term rental, accessory; short-term rental, B&B; and short-term rental, facility.

USE CLASSIFICATION	MINIMUM OFF-STREET PARKING REQUIREMENTS

Short-term Rental Unoccupied	Parking spaces shall be provided at a ratio of 1 space per bedroom. In no case shall the number of required off-street parking spaces be reduced below two (2) spaces. Tandem parking is allowed for a maximum depth of two vehicles, so long as no part of any parked vehicle obstructs a public right-of-way.
Short-term Rental Accessory	2 spaces for the primary structure, plus 1 space per each bedroom in the accessory structure used for short-term rental operations. In no case shall the number of required off-street parking spaces be reduced below two (2) spaces. Tandem parking is allowed for a maximum depth of two vehicles, so long as no part of any parked vehicle obstructs a public right-of-way.
Short-term Rental B&B	2 spaces for the primary structure, plus 1 space per each bedroom within the primary structure used for short-term rental operations. Tandem parking is allowed for a maximum depth of two vehicles, so long as no part of any parked vehicle obstructs a public right-of-way.

Short-term Rental Facility	2 spaces for the primary structure, plus 1 space per each bedroom within the primary structure used for short-term rental operations. Tandem parking is allowed for a maximum depth of two vehicles, so long as no part of any parked vehicle obstructs a public right-of-way.

SECTION 8

The following sections of Appendix B, “Zoning Ordinance,” of the Fredericksburg Municipal Code (“Code”) are hereby amended as follows:

1. Section 3.100, “R-1: Single Family Residential,” is hereby amended by replacing the references to “Section 5.401” with references to “Chapter 20, Article VII of the Code” and by deleting the provision that reads as follows:

“Short-term Rental, Unoccupied (With a STR permit and adherence to Section

5.401)

- If 2 or more lot lines (only 1 or more lot lines required for a corner lot) are abutting a lawfully permitted "STR Unoccupied" use (STR B&B and STR Accessory uses are not included in this calculation); and
- If 75% or more of the properties on the same side of the street, between intersecting streets, are a lawfully permitted "STR Unoccupied" use (STR B&B and STR Accessory uses are not included in this calculation)."

2. Section 3.110, "R-2: Mixed Residential," is hereby amended by replacing the references to "Section 5.401" with "Chapter 20, Article VII of the Code" and by deleting the provision that reads as follows:

"Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401) If the property is immediately abutting a Non-Residential Zoning District (Open Space not included), or a PUD that allows commercial uses."

3. Section 3.120, "R-3: Multi-Family Residential," is hereby amended by replacing the references to "Section 5.401" with "Chapter 20, Article VII of the Code" and by deleting the provision that reads as follows:

"Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401)."

4. Section 3.200, "C-1: Neighborhood Commercial," is hereby amended by replacing the references to "Section 5.401" with "Chapter 20, Article VII of the Code" and by deleting the provision that reads as follows:

"Short-term Rental, Condominium (Section 5.401)."

5. Section 3.205: "C-1.5: Medium Commercial," is hereby amended by replacing the references to "Section 5.401" with "Chapter 20, Article VII of the Code" and by deleting the provision that reads as follows:

"Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401)."

6. Section 3.210, "C-2: Commercial," is hereby amended by replacing the references to "Section 5.401" with "Chapter 20, Article VII of the Code" and by deleting the provision that reads as follows:

"Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401)."

7. Section 3.220, "CBD: Central Business District," is hereby amended by replacing the references to "Section 5.401" with "Chapter 20, Article VII of the Code" and by deleting the provision that reads as follows:

“Short-term Rental, Condominium (Section 5.401).”

8. Section 3.510, “HSD: Historic Shopping District Overlay,” of Appendix B, “Zoning Ordinance,” of the Fredericksburg Municipal Code is hereby amended by deleting the following provision:

“A Conditional Use Permit is required for any new construction of any type of STR use, or for conversion of any existing structure to any type of STR use, if located on the first floor, and the review and evaluation criteria of section 5.461 shall be used as applicable.”

9. Section 3.800, “MU-1: Mixed Use – Infill,” is hereby amended by replacing the references to “Section 5.401” with “Chapter 20, Article VII of the Code” and by deleting the provision that reads as follows:

“Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401).”

10. Section 3.810, “MU-2: Mixed Use – Corridor,” is hereby amended by replacing the references to “Section 5.401” with “Chapter 20, Article VII of the Code” and by deleting the provision that reads as follows:

“Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401).”

11. Section 6.110, “Continuance of a Nonconforming Use,” is hereby amended by deleting the following provision:

“A non-conforming short-term rental use shall not be considered voluntarily discontinued if the use is suspended for repairs, modifications, additions, or remodels, or if the owner of the property utilizes the property as their personal residence, for a period not to exceed 365 consecutive days.”

SECTION 9

This Ordinance shall be cumulative of all provisions of ordinances and of the Fredericksburg Municipal Code, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 10

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 11

Any person, firm, or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-6 of the Fredericksburg Municipal Code. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 12

All rights and remedies of the City of Fredericksburg are expressly saved as to any and all violations of the provisions of the Fredericksburg Municipal Code, as amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance, but may be prosecuted until final disposition by the courts.

SECTION 13

The City Secretary is hereby directed to publish the caption and penalty clause of this Ordinance in the official newspaper of the City as required by Section 3.12 of Article III of the Charter of the City of Fredericksburg.

SECTION 14

This Ordinance shall be in full force and effect from and after the date of its passage, as provided by the Fredericksburg City Charter and the laws of the State of Texas.

PRESENTED AND PASSED this ____ day of _____, 2023, at a regular

meeting of the City Council of the City of Fredericksburg, Texas.

Mayor

ATTEST:

City Secretary



HISTORIC REVIEW BOARD AGENDA MEMO

DEPARTMENT: Development Services

TO: Zoning Board of Adjustment

FROM: Anna Hudson, Director of Development Services

MEETING DATE: September 21, 2023

CATEGORY: DISCUSSION AND POSSIBLE ACTION

CAPTION: Discussion on changing meeting day of the week for future Zoning Board of Adjustment meetings

PRESENTATION:

SUMMARY:

The standing meeting date is the third Thursday of the month at 5:30 at the Law Enforcement Center.

BACKGROUND:

ZBA previously met on the 2nd Thursday when meetings were held at City Hall. Several ZBA members have expressed difficulty in making 3rd Thursday meetings. Staff has spoken to the LEC administration and found Mondays to be the best option for evening meetings.

FUNDING SOURCE:

FINANCIAL IMPACT:

STAFF RECOMMENDATION:

COMMUNITY VISIONING/STRATEGIC INITIATIVES:

Business Visioning
Government Vision
Family Life Vision
Quality of Life Vision

ATTACHMENTS:

1. 2023 Development Calendar

APPROVAL/REVIEW:

2023 Development Calendar



LEGEND

	City Council
	Planning & Zoning
	Historic Review Board
	Zoning Board of Adjustment
	Holiday
	Development Review Meeting
	Completeness Check Deadline
	P&Z Filing Date
	HRB Filing Date
	ZBA Filing Date

* City Council and Planning and Zoning will both meet on July 5, 2022.

JANUARY

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29	30	31				

FEBRUARY

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MARCH

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APRIL

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JUNE

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NOVEMBER

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DECEMBER

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