



City of Fredericksburg

Zoning Board of Adjustment Meeting Agenda
Wednesday, January 17, 2024 ~ 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 January 17, 2024, at 5:30 PM. Link to City of Fredericksburg YouTube Channel (Fredericksburg, Texas USA - YouTube <https://www.youtube.com/c/FredericksburgTexasUSA>).

Written Comments: to be submitted remotely:

1. Must be received by 2 p.m. on January 17, 2024.
2. Complete the Citizen Comment Form online at www.fbgtx.org; or
3. Email your comments to scollier@fbgtx.org

Verbal Comments:

1. 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. APPROVAL OF MINUTES

- A. September 21, 2023, Regular Meeting Minutes

4. PUBLIC HEARING

- A. Request #ZBA2024-01: By the Hall Family Living Trust for a Special Exception to allow for a STR-Unoccupied use for a R1, Single Family Residential Zoned property located at 204 N. Elk Street.

- i. Presentation by the applicant
- ii. Staff Report
- iii. Hold a Public Hearing
- iv. Take action on the Special Exception

- 5. **EXECUTIVE SESSION - Pursuant to Section 551.071 of the Texas Government Code, the Zoning Board of Adjustment reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed on this agenda.**
- 6. **ADJOURN**

CERTIFICATION

This is to certify that I, Shelby Collier, posted this Agenda before 5:00 PM on 01/11/24, 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', is written above a horizontal line.

Shelby Collier
Associate Planner

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

BOARD OF ADJUSTMENT
SEPTEMBER 21, 2023
5:30 P.M.

On this the 21st day of September 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

DEVIN MULLEN
CLAY SEARS
MARCUS VIDRINE
ERIC HAMMERSEN
JENNIFER EGGLESTON

ABSENT:

TAYLOR WILLIAMS
JIM MCAFEE

ALSO PRESENT:

ANNA HUDSON – Director of Development Services
SHELBY COLLIER – Associate Planner

The meeting was called to order at 5:30 P.M. by Devin Mullen.

MINUTES

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

PUBLIC HEARING

Consider 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.

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

Anna Wynne Smith presented the application. She stated that the family is requesting a variance to allow the property to operate as a STR. The property is located in an area with a high volume of traffic, both pedestrian and vehicular. In addition, the property has several commercial businesses surrounding the property such as a hotel across Austin Street and the Pacific Combat Zone across North Elk Street which adds to the noise and makes the property unsellable as a Single-Family Residence.

Crystal Schessow, the attorney, spoke regarding the property. She said the previous owner was elderly and may not have known to obtain a STR permit prior to the STR Ordinance change.

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

Shelby Collier, Associate Planner, stated the property is located in an R1, Single Family Residential Zone and does not qualify to apply for a Conditional Use Permit. 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 residential zones.

As part of the review Staff found that the zoning of the property does allow for reasonable use and the property has been a residence for 20+ years. In addition, the existence of the hotel and combat zone are not unique to this property as the entire neighborhood which includes additional R1 zoned properties that front East Austin and North Elk.

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, 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 intent of the R1, Single Family Residential Zoning Ordinance.

Staff recommends denial.

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

Michael Mahoney spoke in opposition. He stated that the ordinance is clear, and the request should be denied.

Randy Lochte spoke in support of the request. He stated that his family owns 206 N. Elk, and that the neighborhood is loud and characterized by heavy traffic.

Devin Mullen read submitted public comments.

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

Eric Hammersen made a motion to approve ZBA2023-04 due to the uniqueness of the property. Seconded by Clay Sears. Devin Mullen and Jennifer Eggleston voted in opposition. All others voted in support. With an affirmative vote of three the variance was not approved. All variances require the affirmative vote of four or more.

DISCUSSION ITEMS

Anna Hudson, Director of Development Services, provided the Board with the directors' report which included an update regarding the review of the Short-Term Rental Ordinance draft and the creation of a Special Exception. She also discussed moving the ZBA meeting day of the week for future ZBA meetings.

ADJOURN

With nothing further to come before the Board, Eric Hammersen moved to adjourn the meeting and Clay Sears seconded the motion. All voted in favor and the meeting was adjourned at 7:12 P.M. PASSED AND APPROVED this the 17th day of January 2024.

SHELBY COLLIER, ASSOCIATE PLANNER

DEVIN MULLEN, CHAIRMAN



HISTORIC REVIEW BOARD AGENDA MEMO

DEPARTMENT: Development Services

TO: Zoning Board of Adjustment

FROM: Anna Hudson, Director of Development Services

MEETING DATE: January 17, 2024

CATEGORY: PUBLIC HEARING

CAPTION: Request #ZBA2024-01: By the Hall Family Living Trust for a Special Exception to allow for a STR-Unoccupied use for a R1, Single Family Residential Zoned property located at 204 N. Elk Street.

- i. Presentation by the applicant
 - ii. Staff Report
 - iii. Hold a Public Hearing
 - iv. Take action on the Special Exception
-

PRESENTATION:

SUMMARY:

The applicant is requesting a Special Exception to allow for a STR-Unoccupied property located at 204 N. Elk Street.

BACKGROUND:

Sec. 20-223 - Special Exceptions Available

To qualify for a Special Exception in an R1 zoned area the property must share two (2) or more lot lines, or one (1) or more lot lines for a corner lot, with a property either (i) lawfully operating as a short-term rental unoccupied use or (ii) zoned CBD, C-2, or PF (excluding properties zoned PH with public primary educational facility uses and/or public secondary educational facility uses) and more than fifty (50) percent of the properties within two hundred (200) feet are legally operating as a STR-Unoccupied use or the zoned CBD, C2, or PH (excluding properties zoned PH with public primary educational facility uses and/or public secondary educational facility uses).

This property has 17 properties within 200 ft. 8 are STR-Unoccupied uses, 1 is a CBD zoned property, and 1 is a PF zoned property for a total of 10 properties that are either STR-Unoccupied or CBD or PH. The property qualifies to apply for a Special Exception. Please see the attached surrounding use map.

Application Number: ZBA2024-01

Address: 204 N. Elk

Size of Lot: 14,604 sq ft.

Size of House: 2,746 Sq ft plus a 2-car garage with a 750 sq ft garage apartment.

Bedrooms: 3

Parking Spaces: A 2-car garage is located on the property with enough room to park 2 in the garage and 2-4 in tandem outside the garage.

Zoning: R1, Single Family Residential

Sec. 5.500 of the Zoning Ordinance: In hearing an application for a special exception for short-term rental operations, the board may consider factors such as the following:

Whether such an 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); **The majority of the parcels abutting the subject property are licensed STRs and across North Elk Street is the Admiral Nimitz Combat Re-enactment Zone. Staff does not find it likely that the operation would disrupt adjacent owners.**

Whether operation as a short-term rental in the property's zoning district is compatible with the quality of the surrounding area; **10 of the 17 properties are operating as STR's, a Hotel, or the Admiral Nimitz Combat Zone. The short-term rental use is appropriate.**

Whether such an operation will substantially impact nearby streets, including whether the property provides only limited off-street parking; **The property has adequate off-street parking and should not impact nearby streets.**

Which type of short-term rental, as defined in section 20-220, the applicant seeks to operate; **STR-Unoccupied**

For a short-term rental existing prior to the effective date of chapter 20, article VII of the code, the duration of that short-term rental's operations and the number and type of complaints and/or citations related to that short-term rental; **Not Applicable.**

Whether operation with the terms of the special exception will adversely impact the residential quality of the surrounding neighborhood; **the STR use would front a busy street**

Whether any properties located within a two hundred (200) foot radius of the property are operating with public or private primary or secondary educational facility uses; and
Specific property characteristics of the short-term rental like lot size or large square footage of the structure."

FUNDING SOURCE:

FINANCIAL IMPACT:

STAFF RECOMMENDATION:

Staff finds the circumstances of the property at 204 N Elk to be fitting for a Special Exception. While the area is zoned R1 and has a mix of single family uses and STR uses the fact that this house faces N.Elk which has become a busy cut-through street for locals and visitors it limits the ability of the

house to continue to serve strictly as a single family use. The proposed STR use is compatible for the area in question.

COMMUNITY VISIONING/STRATEGIC INITIATIVES:

ATTACHMENTS:

1. ZBA2023 - 06 Timeline
2. Signed Special Exception Application - Nancy Hall
3. Special Exception Application ATTACHMENT -Nancy Hall
4. ZBA2022-06 Surrounding Use Map
5. ZBA2022-06 Public Hearing Map
6. ZBA2022-06 Mailing Labels

APPROVAL/REVIEW:

_____	Date: January 09, 2024
Shelby Collier, Associate Planner	
_____	Date:
Rachel Raggio, TOASE Attorney	
_____	Date:
Anna Hudson, Director of Development Services	

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,



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

- 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.

EXISTING STRUCTURE
(no proposed changes
to existing structures)



On behalf of my client who unfortunately, could not be here due to a very demanding occupation, we appreciate the opportunity to present 204 N Elk St's case to you. For the record too, I would like to express my appreciation to the Mayor and one of the members of the City Council for directing us to make this variance application to the Board of Adjustment, given the unique conundrum that is 204 N Elk and its stranded status.

The passage of the property is before you in the form of the timeline. In summation, Nancy Hall and her brother inherited this home after the death of their mother in 2022. Their parents built the house and lived there for 25 years. Their widowed mother, due to her mental state of health in the last years of her life was rendered incapable of applying for an STR permit or even making such a decision to do so, at the time when the city issued the Public Hearing notice on February 4th, 2022 allowing for the last chance clamoring for what have become known as "panic permits".

The property was listed for sale on 6th May 2023 at a price that was determined based on a comparative market analysis for a single family residential home in Fredericksburg. The average price per square foot of homes **without** STR permits in FBG at the time was \$365 per square foot and 204 N Elk was listed at \$345 per square foot so well in-line with the FBG pricing standard and that still applies today (4 months later). We had a number of calls, inquiries and showings and all of these provided the same feedback - no one wants to live 360 days a year, in the house because of the location and surrounding commercial and STR activity which has created - the noise from the reenactment area, the regular traffic congestion, the high pedestrian traffic and tour bus parking all along this section of Elk. Now, we did receive an offer and went under contract BUT with a contingency pending a land use & zoning change which was in the works.

Both the city staff and planning and zoning (with a 7/2 vote) approved a change from R1-R2 and low to medium density residential land use on July 5th, the city council denied this on July 18th. The property remained on the market with no showing requests. Calls we received were from people driving by, who assumed the property was commercial but upon learning of the zoning were not interested to look at it. In short this property has proved to be unsellable as an R-1 single family residence. This led to the decision to officially withdraw the listing from the market on August 21st.

So here we are today - seeking a variance to allow the property owners to use this house in a way that is contrary to the local zoning regulations, in other words allow the property to be an unoccupied STR.

First and foremost - in all my discovery - there is no property within FBG that compares to this property and the circumstances of its surroundings. Nothing compares to it. City Staff recommend denial of unoccupied STR use for 204 N Elk as it is "**not unique**" to the others on the block. It is 100% unique - all the others are STR's with the exception of 202 N Elk, which is the massive 2 story house which completely overshadows the subject property and functions like a small hotel as it is a 2nd home/weekend visitation fun house. Additionally, there are no other houses on Austin or Schubert Street that front the major thoroughfare that is the Museum of Pacific War Reenactment Centre and Education Centre.

City Staff say the variance will alter the **character of the street**. The character of the street is defined by commercial use, public facility use and STR use. Over years and years the city has allowed & permitted all the activity that now makes it a completely undesirable home to live in. None of the properties surrounding 204 Elk will be affected by it achieving an STR permit. In fact on the contrary - all these houses will align in their functionality.

City Staff also talk about the concern of this property **setting a precedent for other properties to request the same** - I cannot see how a "stranded property" like 204 N Elk is going to set a precedent ? Stranded property is a term that the city staff used when referring to 204 N Elk and it is - it is a stranded asset in the middle of noise and traffic & commercial activity. This is a one of a kind situation and a variance is created to deal with this - it is awarded on a case by case basis - with the variance device's intended purpose to avoid an unfair and unjust application of the zoning ordinance in unique situations.

A previous application to this committee on June 16th 2022 by the property owner located at 410 S Orange Street, was declined and the exact same reasons were applied by the city, to their recommendations regarding 204 N Elk. These properties are incomparable - Orange is across from a lovely quiet park in a neighborhood whose predominant character is that of single family residential homes with some STR's dotted around. How can this precedent be applied ?

The bottom line is this ! And it may all boil down to a simple case of a math conundrum which only a variance can remedy. Take a look at this.....WHITE BOARD with DIAGRAM

I am here and ready for any questions that you might have !

204 N EIK

desc_



200' Notification Area



Subject Property



Zoning

ZONED



C2 - Commercial



CBD - Central Business Dis



OS - Open Space



PF - Public Facilities



R1 - Single Family Resident



R2 - Mixed Residential

18 Properties

14 Properties are Residential.

2 Properties are Commercial.

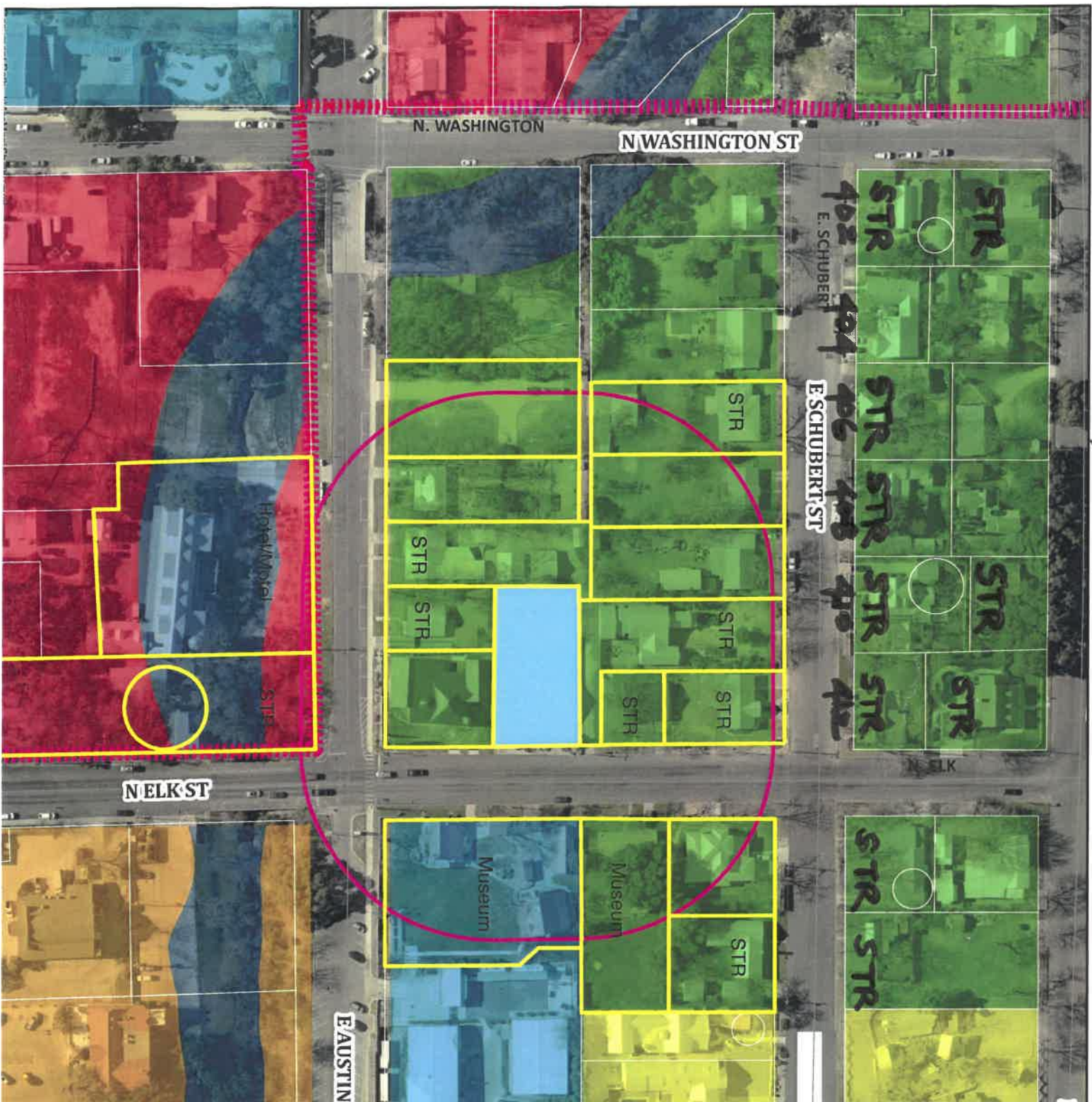
1 Property is Public Facility.

8 STR Properties

2 Commercial + 1 PF + 8 STRS

= 11 properties of 18 operating nonresidential uses.

Property would qualify for 50% but would NOT qualify for 75%.





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

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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:

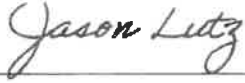
Adjacent zoning in the area is Mixed Residential (R-2) to the east and southeast, Single-family residential (R-1) across the streets to the south, west, and north. Additionally, there are multiple STRs, Commercial, and Public Uses in the general area.

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 Manager Approval



City Attorney Approval

The City of Fredericksburg

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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



City of Fredericksburg

Planning and Zoning Meeting Agenda
Wednesday, July 5, 2023 ~ 5:30 PM
Law Enforcement Center
1601 E. Main Street
Fredericksburg, Texas 78624

Janice Menking, Chair
Jim Jarreau, Member
Daryl Whitworth, Member
Jeff Lawrence, Member
Cindy Scroggins, Member

Tom Musselman, Member
Polly Rickert, Member
Tim Dooley, Vice Chair
Steve Thomas, Member

The City of Fredericksburg Planning and Zoning Commission will meet in a regular session on July 5, 2023, at 5:30 PM. Link to City of Fredericksburg YouTube Channel (Fredericksburg, Texas USA - YouTube <https://www.youtube.com/c/FredericksburgTexasUSA>).

Written Comments: to be submitted remotely:

1. Must be received by 2 p.m. on July 5, 2023.
2. Complete the Citizen Comment Form online at www.fbgtx.org; or
3. Email your comments to scollier@fbgtx.org

Verbal Comments on Agenda Items:

1. Sign up in-person between 5:00 p.m. and 5:30 p.m. at the Law Enforcement Center, 1601 E. Main Street, in order to comment.

You will be limited to 3 minutes to speak.

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES

- A. June 5, 2023 Regular Meeting Minutes

4. PUBLIC HEARING

- A. REQUEST #Z-2313: BY REBECCA RATHER, CLAYTON WALVOORD, BRADLEY OEHLER, DANIELLE SAUNDERS, KATHRYN HARRISON, AND NANCY HALL TO CONSIDER THE FOLLOWING:

1. LAND USE CHANGE FROM LOW DENSITY RESIDENTIAL (LDR) TO MEDIUM DENSITY RESIDENTIAL (MDR) FOR PROPERTIES LOCATED AT 402, 406, 408, 412, 414 AND 416 EAST AUSTIN ST AND 204 N. ELK ST.
2. ZONING CHANGE FROM (R1) SINGLE FAMILY RESIDENTIAL TO (R2) MIXED RESIDENTIAL FOR PROPERTIES LOCATED AT 402,406,408,412, 414 AND 416 EAST AUSTIN STREET AND 204 N. ELK ST.
 - i. Presentation by applicant
 - ii. Staff Report
 - iii. Hold a public hearing to receive comments for or against the request
 - iv. Take action on the land use change and rezone request

- B. REQUEST #Z-2314: REQUEST BY DAN SCULLY TO CONSIDER A CONDITIONAL USE PERMIT PER SECTION 3.510 TO CONSTRUCT FIVE (5) FIRST-FLOOR BED AND BREAKFAST UNITS LOCATED IN THE HISTORIC SHOPPING OVERLAY DISTRICT ON PROPERTY LOCATED AT 111 EAST AUSTIN STREET.
 - I. Presentation By Applicant
 - ii. Staff Report
 - iii. Hold A Public Hearing To Receive Comments For Or Against The Request
 - iv. Take Action On The CUP Request Per Section 3.210 To Allow For First-Floor B&B Units In The Historic Shopping District

5. OTHER ACTION ITEMS

- A. CONSIDER SP-2307 - SITE PLAN AND ENTRY CORRIDOR REVIEW FOR STR-FACILITY COMPLEX THAT INCLUDES A TASTING ROOM AND OFFICE USE FOR PROPERTY LOCATED AT 715 S WASHINGTON.

6. DISCUSSION ITEMS

- A. Director's Report

- 7. EXECUTIVE SESSION Pursuant to Section 551.071 of the Texas Government Code, the Planning and Zoning Commission reserves the right to adjourn into closed session at any time during the course of this meeting to consult with their attorney regarding any item listed on this agenda.**

8. ADJOURN

CERTIFICATION

This is to certify that I, Shelby Collier, posted this Agenda at 1:00 PM. on June 30,2023, on the bulletin board of the City of Fredericksburg City Hall, 126 W. Main St., Fredericksburg, Texas.



City of Fredericksburg

City Council Regular Meeting Agenda
Tuesday, July 18, 2023 ~ 9:00 AM
Law Enforcement Center
1601 E. Main Street
Fredericksburg, Texas 78624

Jeryl Hoover, Mayor
Bobby Watson, Mayor Pro Tem
Tony Klein, Councilmember

Randy Briley, Councilmember
Emily Kirchner, Councilmember
Clinton Bailey, City Manager

The City of Fredericksburg City Council will meet in a regular session on Tuesday, July 18, 2023, at 9:00 AM. Link to City of Fredericksburg YouTube Channel (Fredericksburg, Texas USA - YouTube <https://www.youtube.com/c/FredericksburgTexasUSA>).

The City Council welcomes citizen participation and comments at all City Council Meetings on Agenda Items.

Comment Card for Written or Verbal Comments-submitted by 4:00 p.m. the day before the meeting.

- i. Complete the Comment Card online at www.fbgtx.org;
- ii. Make sure to check the appropriate box (verbal or written);
- iii. Only one (1) agenda item per Comment Card.

Sign up in person between 8:30 a.m. and 9:00 a.m. at the meeting location.

- i. Only one (1) agenda item per Comment Card;
- ii. Speakers will be limited to 3 minutes to speak. **Please Note:** The Mayor can reduce the number of minutes for any speaker during Public Comment on a single agenda item depending on the number of people who sign up for it.
- iii. Any citizen with handouts should provide them to the City Secretary before speaking. If you wish the City Council to receive your handouts for the meeting, please provide ten (10) copies; if not, the City Council will receive your handouts the following day.

NOTE: The City Council may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for discussion. An announcement will be made of the basis for the Executive Session discussion. The City Council may also publicly discuss any item listed on the agenda for Executive Session.

1. CALL TO ORDER

2. INVOCATION

Clint Pluenneke, Pastor of Holy Ghost Lutheran and St. Paul Lutheran, Cave Creek, will lead the Invocation.

3. PLEDGE OF ALLEGIANCE

4. CEREMONIAL MATTERS/PROCLAMATIONS/EMPLOYEE RECOGNITION

5. COUNCIL COMMENTS

6. CONSENT

THE FOLLOWING ITEMS MAY BE ACTED UPON IN A SINGLE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THESE ITEMS WILL BE HELD UNLESS PULLED AT THE REQUEST OF A MEMBER OF THE CITY COUNCIL.

- A. Consider approval of the Wednesday, July 5, 2023, City Council Regular Meeting Minutes.

7. ORDINANCES, RESOLUTIONS AND PUBLIC HEARINGS

- A. Consider a request by Rebecca Rather, Clayton Walvoord, Bradley Oehler, Danielle Saunders, Kathryn Harrison, and Nancy Hall for the following (Z-2313) (Anna Hudson, Director of Development Services):
1. Land Use Change from Low-Density Residential (LDR) to Medium-Density Residential (MDR) for properties located at 402, 406, 408, 412, 414, and 416 E. Austin Street and 204 N. Elk Street; and
 2. Zoning Change from (R1) Single Family Residential to (R2) Mixed Residential for properties located at 402,406,408,412, 414, and 416 E. Austin Street and 204 N. Elk Street
 - i. Presentation by applicant
 - ii. Staff Report
 - iii. Hold a public hearing to receive comments for or against the request
 - iv. Take action on Ordinance 2023-08 adopting a change in the Comprehensive Plan of the City of Fredericksburg, specifically in the Land Use Map, as to approximately 2.76 acres of land, comprised of Fredericksburg Addition block 59 lot 476 & unnumbered, Fredericksburg Addition block 59 lot 477, Fredericksburg Addition block 59 lot 478-PT, Fredericksburg Addition block 59 lot 478-PT & 479-PT, includes 12' strip between Townlots, Fredericksburg Addition block 59 lot 479R, -B&B-, Fredericksburg Addition block 59 lot 480BR-PT, Fredericksburg Addition block 59 lot 480AR, as shown on the map of Fredericksburg, Texas and environs by the German Emigration Company, Townlots – 476, 477, 478, 479 & 490 , located at 402,406,408,412, 414 and 416 E.Austin Street and 204 N. Elk Street, situated in the City of Fredericksburg, Texas; Land Use Change from Low-Density Residential (LDR) to Medium-Density Residential (MDR); and; providing that the change become a part of the Comprehensive Plan, and providing for an effective date
 - v. Take action on Ordinance 2023-09 amending the Zoning Ordinance of the City and changing the Zoning District as to approximately 2.76 acres of land, comprised of Fredericksburg Addition block 59 lot 476 & unnumbered, Fredericksburg Addition block 59 lot 477, Fredericksburg Addition block 59 lot

478-PT, Fredericksburg Addition block 59 lot 478-PT & 479-PT, -includes 12' strip between Townlots-, Fredericksburg Addition block 59 lot 479R, - B&B, Fredericksburg Addition block 59 lot 480BR-PT, Fredericksburg Addition block 59 lot 480AR, as shown on the map of Fredericksburg, Texas, and environs by the German Emigration Company, Townlots – 476, 477, 478, 479 & 490, located at 402,406,408,412, 414 and 416 E. Austin Street and 204 N. Elk Street, situated in the City of Fredericksburg, Texas; changing said property from (R1) Single Family Residential, to (R2) Mixed Residential; and providing for an effective date

8. OTHER ACTION ITEMS AND UPDATES

- A. Take action on a request to waive a security deposit, reservation fees, and policy for the Veterans Council of Gillespie County to bring "The Moving Wall", a third-scale replica of the Vietnam Veterans Wall in Washington DC, to the Pioneer Pavilion in either April or May 2025 (Andrea Schmidt, Director of Parks and Recreation)
- B. Continued discussion regarding the need for affordable housing (Mayor Hoover)
- C. Discuss and provide direction on the Hotel Occupancy Tax (HOT) process (Councilmember Briley and Councilmember Klein)

9. CITY MANAGER'S REPORT

- A. City Manager Update
- B. Recycling Discussion

10. ITEMS FOR FUTURE AGENDA

- A. Review the Future Agenda spreadsheet

11. ADJOURN

CERTIFICATION

This is to certify that I, Shelley Goodwin, posted this Agenda at 10:20 a.m. on July 13, 2023, on the bulletin board of the City of Fredericksburg City Hall, 126 W. Main St., Fredericksburg, Texas.



Shelley Goodwin, TRMC/CMC
City Secretary



**SPECIAL EXCEPTION 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, Trustee
2. Property Owner (if different from Applicant): Hall Family Living Trust
3. Applicant Phone: 214-402-9876 Applicant Email: nhall1@swbell.net
4. Description of Subject Property:

Address: 204 N. Elk, Fredericksburg, TX 78624

Legal Description: FBG ADDN BLK 59 LOT 480AR

Zoning Classification: R-1

5. Application is made to the Board of Adjustment that a special exception be granted pursuant to the following section of the Zoning Ordinance:

Section: 5.500 – Board of Adjustment Subsection (circle one): (a)(1)

Details of Requested Special Exception: The subject home is stranded among commercial properties, homes rented for short terms, and homes not occupied permanently, and public areas. It is not reasonably capable of long-term residential use because of its location, and it cannot be sold for a reasonable sum as anything other than a home able to be rented out for short terms. The home shares two or more lot lines with homes lawfully operating as short-term rentals as shown in the labeled map attached hereto.

6. INFORMATION TO BE SUBMITTED BY THE APPLICANT:

A. Complete short-term rental application as required by Section 20-221 of the Fredericksburg Municipal Code (excluding application fee; if a special exception is granted, the short-term rental owner and/or operator must promptly pay the short-term rental application fee required by the City Fee Schedule). Applications are available at the City's website: <https://www.fbgtx.org/845/Short-Term-Rentals>.

B. Fee(s) required by the City Fee Schedule.

C. In accordance with the Fredericksburg Zoning Ordinance, the Board of Adjustment may consider the following factors in hearing an application for a short-term rental special exception. The applicant may, but is not required to, address any of

these factors, or provide any additional information in support of the request, by attaching a written response and/or exhibits to this form.

- 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. For a short-term rental existing prior to the effective date of chapter 20, article VII of the code, the duration of that short-term rental's operations and the number and type of complaints and/or citations related to that short-term rental;
- vi. Whether operation with the terms of the special exception will adversely impact the residential quality of the surrounding neighborhood;
- vii. Whether any properties located within a two hundred (200) foot radius of the property are operating with public or private primary or secondary educational facility uses; and
- viii. Specific property characteristics of the short-term rental like lot size or large square footage of the structure.

7. ACKNOWLEDGEMENT: I have read this application form and understand that filing the application and paying the fee does not guarantee an affirmative action by the Zoning Board of Adjustment. I further understand that a concurring vote of 75 percent of the members of the board is necessary in order to obtain a special exception.

Nancy Hall
Applicant
December 20, 2023
Date

Property Owner (if different from Applicant)

Date

STAFF USE ONLY

Application No: _____ Date: _____ Payment Type: _____

SPECIAL EXCEPTION APPLICATION – ANSWER 6.C. SUPPLEMENT

204 N. ELK STREET, FREDERICKSBURG TX 78624

- 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).

No:

The Texas Supreme Court has held multiple times since 2018 that short-term leasing is a residential use. *See Tarr v. Timberwood Park Owners' Ass'n, Inc.*, 556 S.W.3d 274 (Tex. 2018); *Jbrice Holdings, LLC v. Wilcrest Walk Townhomes Ass'n*, 644 S.W.3d 179 (Tex. 2022).

Owner Hall will manage the home to ensure that tenants engage in usual and ordinary residential behaviors, no different than tenants for any other duration of lease.

The immediately-surrounding homes are either already rented out for short terms or else, in the case of the large home on the corner of N. Elk and E. Austin (416 E. Austin), is not occupied full-time by anyone, it being a second- or vacation-home used intermittently and for short terms by the owners and their friends and guests.

Across the street is a major museum which causes more disruption than any home. It and surrounding public amenities cause a large amount of traffic and parking, including bus and van traffic and parking.

Also nearby, across E. Austin, is a business-zoned district. There, there is another home rented for short terms and then, next to that, a hotel.

In sum, leasing the home for short terms is entirely consistent with, and not more disruptive than, surrounding residential and business uses.

- ii. Whether operation as a short-term rental in the property's zoning district is compatible with the quality of the surrounding area;

Yes, for the reasons stated above.

- iii. Whether such operation will substantially impact nearby streets, including whether the property provides only limited off-street parking;

No, for the reasons stated above.

The subject home has ample off-street park. It has a large, 2-car garage plus a 2-car driveway in front of the garage, plus more paved area for parking surrounding that.

In any event, as concerns parking, the home will continued to be used for residential purposes. The Texas Supreme Court has held multiple times since 2018 that short-term leasing is a residential use. *See Tarr v. Timberwood Park Owners' Ass'n, Inc.*, 556 S.W.3d 274 (Tex. 2018); *Jbrice Holdings, LLC v. Wilcrest Walk Townhomes Ass'n*, 644 S.W.3d 179 (Tex. 2022). Therefore, those who rent the homes for short-terms will cause no worse traffic or parking than any other tenant or occupant. The home will be occupied residentially as it always has been, so whatever parking has historically been allowed for these blocks will not change.

iv. Which type of short-term rental, as defined in section 20-220, the applicant seeks to operate;

STR.

v. For a short-term rental existing prior to the effective date of chapter 20, article VII of the code, the duration of that short-term rental's operations and the number and type of complaints and/or citations related to that short-term rental;

vi. Whether operation with the terms of the special exception will adversely impact the residential quality of the surrounding neighborhood.

No, for the reasons already stated.

vii. Whether any properties located within a two hundred (200) foot radius of the property are operating with public or private primary or secondary educational facility uses; and

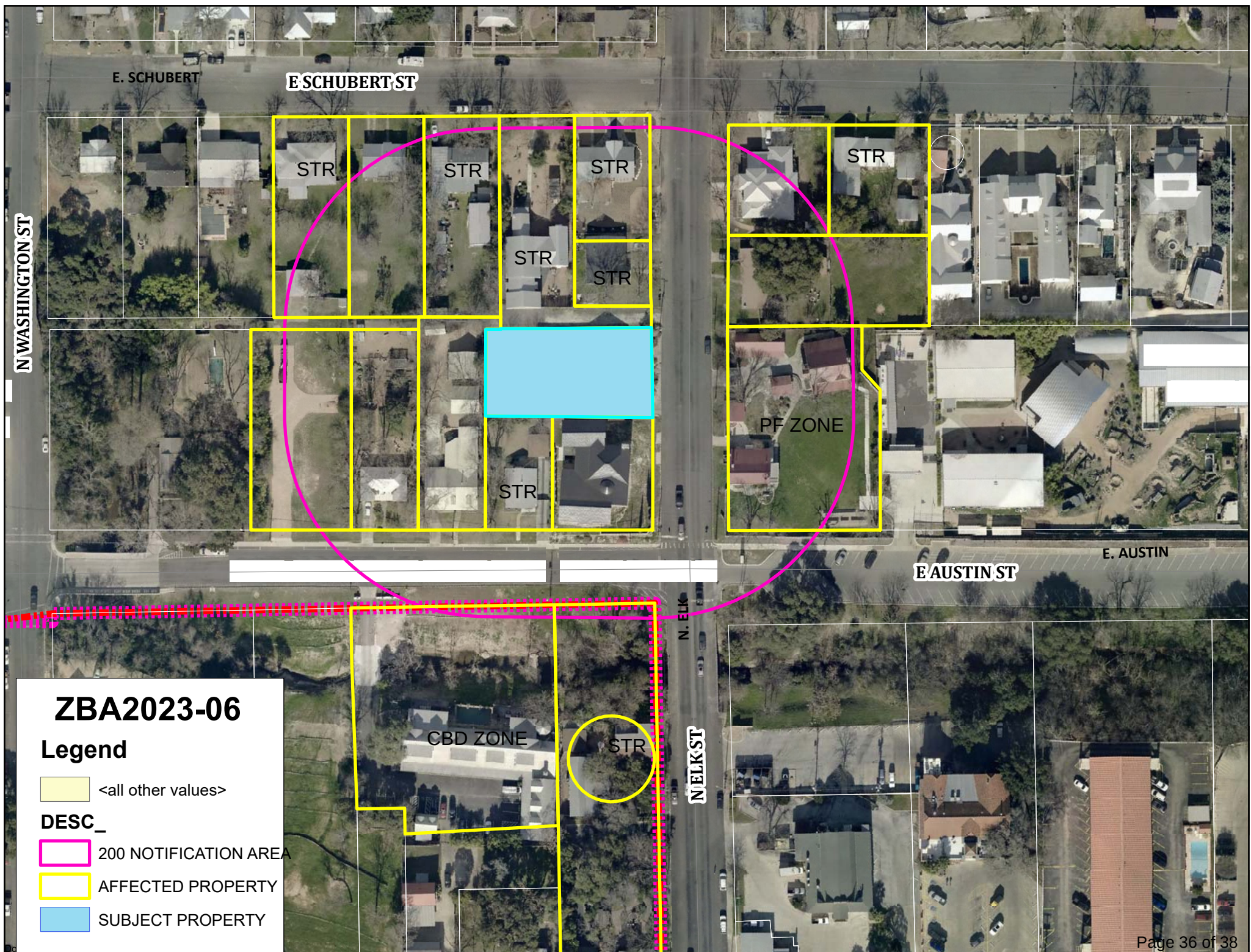
viii. Specific property characteristics of the short-term rental like lot size or large square footage of the structure.

This is a very typical home of 2,750 square feet. New uses and homes around it dwarf it. Surrounding short-term rental homes are similar in scale.

Incorporation by Reference

The prior variance application for this property is attached hereto and incorporated herein by reference. It contains illustrative maps and drawings supporting the answers provided above.

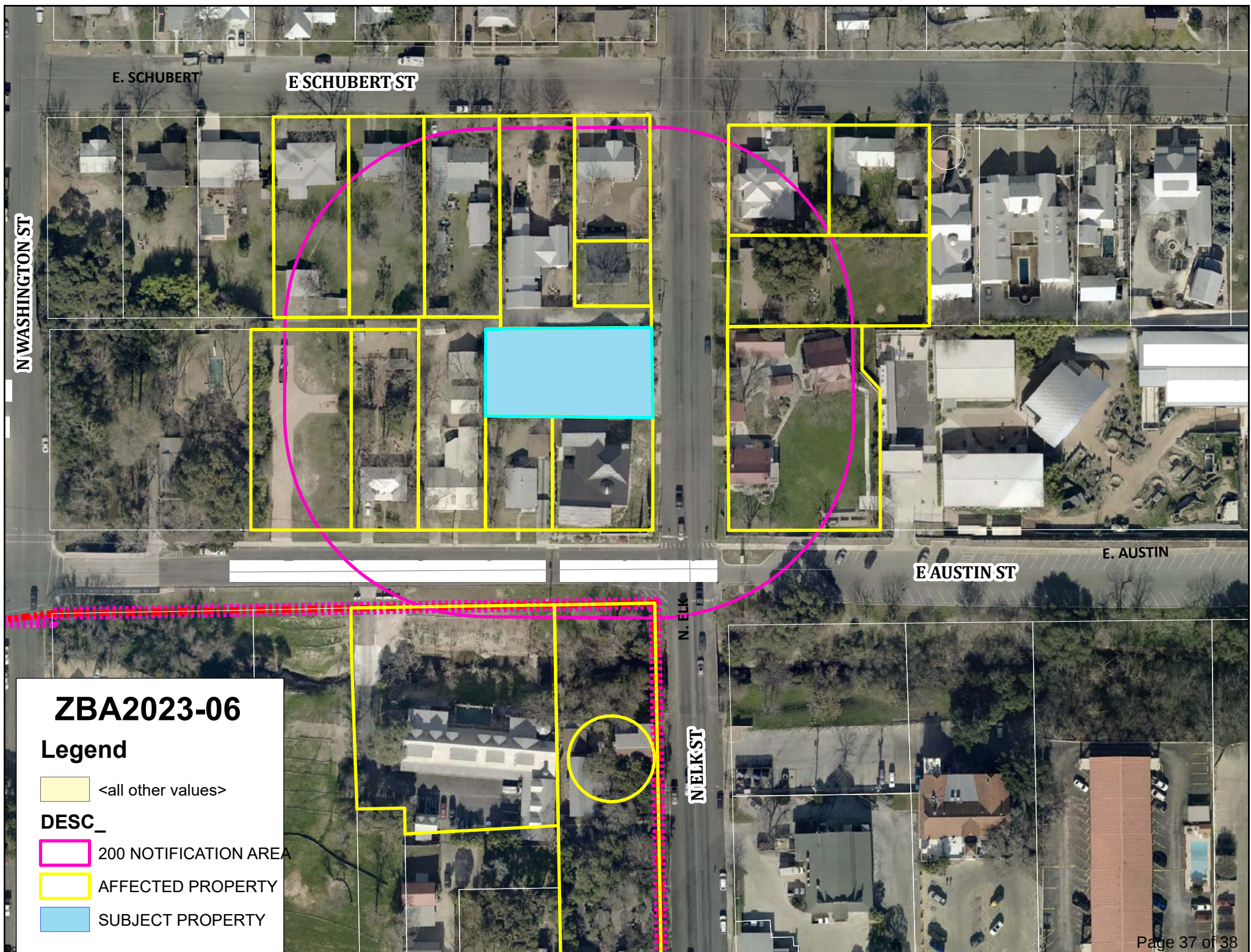
In addition, a photo of the home at 416 E. Austin is attached.



ZBA2023-06

Legend

-  <all other values>
-  200 NOTIFICATION AREA
-  AFFECTED PROPERTY
-  SUBJECT PROPERTY



ZBA2023-06

Legend

-  <all other values>
-  200 NOTIFICATION AREA
-  AFFECTED PROPERTY
-  SUBJECT PROPERTY

JASON & HAILEY KEMP
3209 EVENING BREEZE WAY
PFLUGERVILLE, TX 78660

JAY BRADY
1614 SIDNEY BAKER ST 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
1164 COUNTY 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 ST
FREDERICKSBURG, TX 78624

ADMIRAL NIMITZ FOUNDATION
340 E MAIN ST
FREDERICKSBURG, TX 78624

KRISTINA & GINA SERACEN
209 N ELK
FREDERICKSBURG, TX 78624

GUTEN MORGAN HAUS LC
349 CRABAPPLE RD
BLANCO, TX 78606

ZBA2022-06 – 204 N Elk