



City of Fredericksburg

Zoning Board of Adjustment Meeting Agenda
Wednesday, July 17, 2024 ~ 5:30 PM
Law Enforcement Center
1601 E. Main Street
Fredericksburg, Texas 78624

Marcus Vidrine, Member
Clay Sears, Member
Taylor Williams, Member

Jennifer Eggleston, Member
Eric Hammersen, Member
Jim McAfee, Alternate
Mike Mahoney, Alternate

The City of Fredericksburg Zoning Board of Adjustment will meet in a regular session on July 17, 2024, at 5:30 pm. The meeting will be available for re-watch on the City's website. <https://fredericksburgtx.portal.civicclerk.com>

Written Comments: to be submitted remotely:

1. Must be received by 2 p.m. on Wednesday, July 17, 2024.
2. Complete the Citizen Comment Form online at www.fbgtx.org; or
3. Email your comments to jmusgrove@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. **SWEARING IN OF NEW AND RE-APPOINTMENTS**
3. **ROLL CALL**
4. **ELECT CHAIR AND VICE-CHAIR**
5. **APPROVAL OF MINUTES**
 - A. June 19, 2024 Regular Meeting Minutes
6. **PUBLIC HEARING**

- A. Request #ZBA2024-06: By Kory Keller, To Consider a Variance to Sec. 3.200 - Height - To Allow for a Radio Tower With a Height Greater than 38 Feet for Property Located at 1122 South State Highway 16 and 1097 Post Oak Rd. The Requested Tower Height is 240 Feet.

- i Presentation by the Applicant
- ii Staff Report
- iii Hold a Public Hearing
- iv Take Action on Variance Request

7. ADJOURN

CERTIFICATION

This is to certify that I, Shelby Collier, posted this Agenda before 5:00 pm. on July 12, 2024, 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', written over a horizontal line.

Shelby Collier
Senior Planner

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

BOARD OF ADJUSTMENT
June 19, 2024
5:30 P.M.

On this the 19th day of June 2024, the BOARD OF ADJUSTMENT convened in regular session at the regular meeting place thereof with the following members present to constitute a quorum.

PRESENT JIM MCAFEE - CHAIR
 TAYLOR WILLIAMS
 JENNIFER EGGLESTON
 CLAY SEARS

ABSENT: DEVIN MULLEN
 MARCUS VIDRINE
 ERIC HAMMERSEN

ALSO PRESENT: ANNA HUDSON – Director of Development Services
 MICK MCKAMIE – City Attorney - Virtual
 JAN MUSGROVE – Planner 1

The meeting was called to order at 5:30 P.M. by Jim McAfee.

MINUTES

Taylor Williams made a motion to approve the March 2024 Regular Meeting Minutes. Seconded by Clay Sears. All voted in favor and the motion was carried.

PUBLIC HEARING

Request #ZBA2024-06: By Kory Keller, To Consider a Variance to Sec. 3.200 – Height-To Allow for a Radio Tower With a Height Greater than 38 Feet for Property Located at 1122 South State Highway 16 and 1097 Post Oak Rd. The Requested Tower Height is 240 Feet

A Quorum was not present, so Clay Sears proposed that the item be heard and moved to July 17, 2024, meeting. Jennifer Eggleston 2nd the motion and all voted in favor and the motion was carried.

Request #ZBA2024-07: By Gerald Schoppe, to Consider a Special Exception per Sec. 5.500 – Board of Adjustment Subsection 1A & 1B to allow for a STR-Unoccupied Permit for Property Located at 402 West San Antonio Street.

Anna Hudson, Director of Development Services, stated that the applicant is requesting a Special Exception to allow for a STR-Unoccupied permit for property located at 402 West San Antonio. The property has never operated as a STR.

The property consists of a 13,000 sq ft lot with a 3,000 sq ft, 2-story residence that has Four (4) bedrooms and provides 3 of the required 4 parking spaces. The subject property is located on the corner of South Milam and West San Antonio Street and shares a property line with a CBD zoned property to the north and 2 STR's to the immediate west. Across South Milam Street is the Historic Society property, including the Pioneer Museum, and of the 6 R2 zoned properties across West San Antonio, 5 are STRs. Staff do not believe the operation of an STR at the subject property would disrupt adjacent owners.

In addition, the CBD zoned properties to the north would permit STR-Facilities by right and as the surrounding uses are PF and STRs, Staff finds that the requested use is compatible with the neighborhood.

Jim McAfee administered an oath, Gerald Schoppe and Scott Franzen swore to tell the truth.

Mr. Schoppe presented the application, Mr. Schoppe mentioned that he and his wife had lived in the home for 20+ years. They do not believe that the home; because of its location, on a busy street corner (Milam and W San Antonio) would make for a desirable family home and the fact that the home was now surrounded by commercial properties and STRs. They have decided to move to Brady to be near their son and grandchildren. They were seeking a special exception so that the home would be more marketable.

Scott Franzen, Mr. Schoppe's realtor spoke to the fact that the home was a stranded home, and, in his experience, this home would not sell as a single-family residence.

Jennifer Eggleston wanted to know if the property was currently listed and on the market.

Mr. Franzen replied that it was not yet listed.

Jim McAfee swore Mike Mahoney in to speak in public hearing and made a motion to open the Public Hearing. Seconded by Taylor Williams. All voted in favor and the motion was carried.

PUBLIC HEARING:

Mike Mahoney spoke that this would be a party house and that parking on San Antonio would be adversely affected as the home did not have the required off-street parking for a 4-bedroom house. He stated that the City had lowered the stranded properties percentage to 50% to avoid lawsuits, and that the zoning process should be changed. He stated that this would make a great weekend home and asked the board to deny the permit.

Jim McAfee motioned to take it out of public hearing, Clay Sears Seconded the motion.

Clay Sears talked about the fact that the property meets the criteria but only had sufficient off-street parking to accommodate 2 cars, hence the need to reduce the bedroom count from 4 to 2, limiting the permit to an occupancy of 6.

Taylor Williams spoke about the fact that considering the financial aspect of the property was not one of the criteria the board should be considering.

Clay Sears made a motion to Approve Application #ZBA2024-07 with the condition that the occupancy be no more than 6 due to the limited off-street parking. Seconded by Taylor Williams. Votes 2 Aye – Clay Sears and Taylor Williams and 2 Nay – Jim McAfee and Jennifer Eggleston. The motion failed. The application was not approved for a Special Exception.

Taylor Williams made a motion to approve the Minutes for the March 20, 2024, meeting, Clay Sears 2nd the motion. All in favor, minutes were approved.

DISCUSSION ITEMS

Directors Report

Anna Hudson had nothing to report.

ADJOURN

With nothing further to come before the Board, Jim McAfee moved to adjourn the meeting and Clay Sears seconded the motion. All voted in favor and the meeting was adjourned at 6:25 P.M.

PASSED AND APPROVED this the 17th day of July 2024.

JAN MUSGROVE, PLANNER 1

MARCUS VIDRINE, Acting Chair



ZONING BOARD OF ADJUSTMENT AGENDA MEMO

DEPARTMENT: Development Services

TO: Zoning Board of Adjustment

FROM:

MEETING DATE: July 17, 2024

CATEGORY: PUBLIC HEARING

CAPTION: Request #ZBA2024-06: By Kory Keller, To Consider a Variance to Sec. 3.200 - Height - To Allow for a Radio Tower With a Height Greater than 38 Feet for Property Located at 1122 South State Highway 16 and 1097 Post Oak Rd. The Requested Tower Height is 240 Feet.

- i Presentation by the Applicant
 - ii Staff Report
 - iii Hold a Public Hearing
 - iv Take Action on Variance Request
-

PRESENTATION:

SUMMARY:

The applicant requests a variance to the C2 Zoning Ordinance, Sec. 3.210, to allow for a 240 ft tower for property located at 1122 South State Highway 16 & 1097 Post Oak Rd. The maximum height allowed in C2 is 38 Ft. The property currently has a 380 ft tower and wishes to replace the existing tower with a more modern, smaller tower with a max height of 240 ft.

FINDINGS: The property is located in C2 commercial and has an existing legal nonconforming 380 foot tower on site. The applicant is requesting to replace the tower with a more modern, smaller tower with a max. height of 240 feet. Sec. 6.110 of the Zoning Ordinance speaks to legal non-conforming use which is a use or structure which does not conform to the regulations prescribed in the district in which the structure or use is located was in existence and lawfully operating prior to the effective date of the zoning ordinance and has been operating without discontinuance. In this case, the tower was constructed in 1960 and has provided a variety of services such as radio, tv, pager, internet and network connectivity.

Applicant: Kory Keller

Zoning: C2, Commercial.

Location: 1122 South State Highway 16 & 1097 Post Oak Rd

Public Hearing Response: As of June 13, 2024 no responses to the public hearing letters had been received.

Findings:

- The property is located in C2, Commercial Zone, which currently operates as a commercial property with staging of heavy equipment and warehousing.
- The current tower is 380 feet tall with guy wires and the requested tower will be 240 feet without guy wires.
- The existing 380-foot tower is a legal nonconforming use and has existed since the 1960's.
- The proposed 240 tower would decrease the height by 120 feet and up-graded technology to allow for improved connectivity.

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 allow for reasonable.

The zoning of the property does allow for reasonable use but in this case, the applicant is requesting permission to modify a part of the site that has been in existence for 60 (sixty) 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.

The property has long served as the home of Allen Keller Construction and has included the existing 380 ft tower since the 1960's. The tower is unique to this property as there are few towers located within the city limits, and it provides services to the city and surrounding areas. The plight of the owner is unique and not the result of general conditions in the zoning district and the replacement of the existing 380 ft tower with a 240 ft freestanding tower, would be an improvement of the current situation.

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.

The variance would not alter the character of the area as this property already has a tower far exceeding the allowed 38 ft maximum height. In addition, the applicant is requesting permission to improve the existing condition by demolishing the existing tower and constructing a tower that is 120 ft shorter than the existing 380 ft tower.

Additionally, under state law, the Board of Adjustment may authorize a variance if it is "not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done." Texas Local Gov't Code § 211.009(a)(3). State law further provides that the Board may consider the following factors to determine whether an unnecessary hardship exists:

1. the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;

2. compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur; N/A
3. compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
4. compliance would result in the unreasonable encroachment on an adjacent property or easement; or N/A
5. the municipality considers the structure to be a nonconforming structure.

The municipality considers the tower a legal nonconforming structure per Sec. 6.100 of the Zoning Ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the demolition of the existing tower and construction of the 240 ft freestanding tower with the condition that the placement of the new tower adheres to the required building setbacks.

ATTACHMENTS:

1. ZBA2024-06 Variance Application
2. Nexstream Memo for ZBA2024-06_Variance Application
3. 2403 AK MP Tower Deliverables 04.15.24
4. ZBA2024-06 Public Hearing Map Updated
5. ZBA2024-06 Mailing Labels

APPROVAL/REVIEW:



Shelby Collier, Senior Planner

Rachel Raggio, TOASE Attorney

Anna Hudson, Director of Development Services

Date: June 13, 2024

Date:

Date:



VARIANCE APPLICATION TO BOARD OF ADJUSTMENT

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

-
1. Applicant: Kory Keller
 2. Owner: Spring Canyon Ranch, Ltd
 3. Phone: 830-997-2118 Email: kkeller@allenekllercos.com
 4. Description of property involved in this request.
Address: 1122 South SH 16, Fredericksburg, TX 78624
Legal Description: Lot 3 of the Spring Canyon Subdivision
Lot Size: 2.234 Acres Zoning District: C-2
 5. Request is made to the Board of Adjustment that a variance be granted to the following provisions of the Zoning Ordinance.
Section: 7.250 Subsection: _____
Item: _____ Relating To: tower height
Requiring: Radio towers operated by licensed amateur radio operators no more than sixty (60) feet in height plus fifteen (15) feet for antennae.
A Conditional Use Permit shall be required to exceed tower and antennae height of sixty (60) feet and fifteen (15) feet respectively.
 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.

CK# 1525 \$500.00
\$250 = Application
\$250 = Notices

- 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.

The existing 380' height tower with guy wires is proposed to be replaced with a 240' height self standing tower.

The zoning regulations do not allow the tower to be greater than 75'. The existing tower has operated on the property since the 1960s for many local users and communications.

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.

The original tower was constructed prior to city annexation and has been in continuous use for many users.

Most users of the tower do not need the original height and can transfer to the new shorter tower.

Additionally, the removal of the guy wires allows for better redevelopment of the site rather than outside construction storage.

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.

The ultimate goal is to redevelop this site to an office / warehouse and commercial multi use center as the current user moves the construction and trucking operations out of town. The new tower will not restrict uses of adjoining properties. The adjacent property is undeveloped but proposed for multi use and multi family which are compatible with the tower. The proposed tower will improve local access to communications.

- 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.

Tower will have no added traffic associated with it.

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.

N/A related to parking or vehicles other than during demolition of existing and construction of new.

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

N/A related to parking.

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

N/A related to parking.

- c. **SIGNS: ADDITIONAL CRITERIA**-The Board may grant a Variance to a regulation prescribed by the Sign Ordinance with respect to the placement of signs, the height of signs or the area of signs if it affirmatively finds each of the following.

That a sign is being replaced. For the purposes of this Section, replacement shall include the erection of a new or different sign due to the removal of another sign for any reason, including the change of name of a business, whether from change of ownership, business being conducted, or otherwise, the change of a sign for a continuing business containing the same or different information as the sign being replaced, and the replacement of signs due to damage or vandalism.

N/A related to signs

That all structures on the property for which the sign is proposed that would impede the replacement of a sign were constructed prior to February 17, 1986.

That it is impractical to abide by existing placement, height or area regulations due to the placement, size of construction of existing structures in relationship to the physical characteristics of the site. For purposes of illustration, physical characteristics may include topography of the site or the surrounding sites, structures on surrounding sites, traffic conditions, street layouts and existing natural vegetation.

That the other types of signs which are permitted by this Ordinance cannot practically be used. In making this determination of practicality, the Board may consider

- A. The undesirability of altering a historic site to accommodate a sign which would be permitted with no variance under this Ordinance; or
- a. That alternatives permitted by this Ordinance would involve extensive reconstruction of structures; or
 - 1. That alternatives permitted by this Ordinance are prohibitively expensive; or
 - 2. That alternatives permitted by this Ordinance will not effectively identify the subject of the sign.

ii. That the proposed sign has been reviewed by the Historic Review Board if applicable.

iii. That the proposed variance is as close to the requirements of the sign ordinance as is feasible.

Staff Use Only

Application No: _____
Payment Type: _____

Date: _____



DATE: April 16, 2024

TO: The City of Fredericksburg
Development Services Department
Zoning Board of Adjustment
126 W. Main Street
Fredericksburg, TX 78624

FROM: Nexstream
415 S Washington
Fredericksburg, TX 78624

SUBJECT: Variance Application ZBA2024-06

Applicant: Kory Keller
Email: kkeller@allenkellerco.com

Property involved in request:
1122 South SH 16
Fredericksburg, TX 78624
Lot 3 of the Spring Canyon Subdivision
Zoned: C-2

The purpose of this memorandum is to expand understanding on the utilization and benefit of the existing and proposed tower site.

The current tower provides connectivity to a diverse array of residential, organizational, and commercial users throughout the greater Fredericksburg area. A sampling of these include Fischer and Wieser, the Gillespie County Fair Association, the Admiral Nimitz Museum and Combat Zone, Fredericksburg Brewery, Hangar Hotel, Holy Ghost Lutheran Church, Bridge Church, Grand Central Milam, Mustard Design, West End Pizza, Stonewall Volunteer Fire Department, Oktoberfest, LCRA, Ranch Radio Group, KHCB Christian Radio, among numerous other professional offices, clinics, etc. All current clients and residences would continue to receive connectivity through the proposed 240' tower.

For additional consideration, the current tower cannot support cellular carriers. By upgrading the vertical assets, as proposed, with a structure engineered for multi-carrier capability, there is potential to further improve cellular coverage throughout the city and surrounding area.

A handwritten signature in blue ink that reads 'Hilory Parker'.

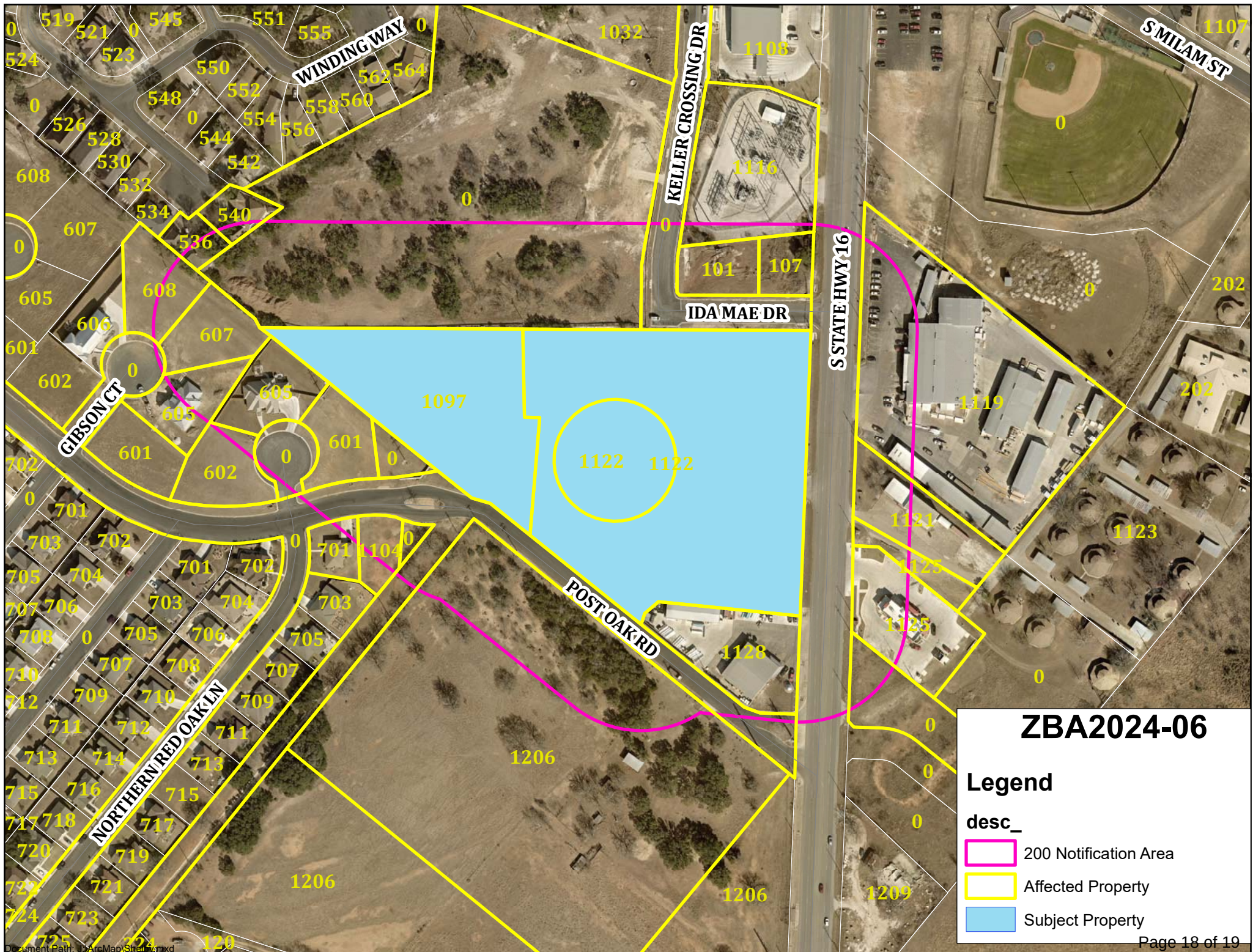
Hilory Parker
COO
Nexstream

Direct: 512.870.8311
Email: hparker@nexstream









NUVISTA DEVELOPMENT LLC
1121 S ABE ST
SAN ANGELO, TX 76903

TIMOTHY & LARA BOBO
714 W LIVE OAK
FREDERICKSBURG, TX 78624

LCRA TRANSMISSION SERVICES
PROPERTY TAX DEPARTMENT
P.O. BOX 220 M/S D-140
AUSTIN, TX 78767

LN REAL ESTATE LLC
7595 TECHNOLOGY WAY STE 500
DENVER, CO 80237

THOMSON REAL ESTATE INVESTMENTS
2003 SISTERDALE RD
BOERNE, TX 78006

KNOPP NURSING HOME #2
1208 NORTH LLANO
FREDERICKSBURG, TX 78624

STSJ GROUP LLC
P.O. BOX 2402
FREDERICKSBURG, TX 78624

PENICK ESTATE LIMITED PARTNERSHIP
141 E MAIN
FREDERICKSBURG, TX 78624

IVI ACRES LLC
804 E MAIN
FREDERICKSBURG, TX 78624

KEESEEE PARTNERS LTD
118 W CREEKVIEW DR
FREDERICKSBURG, TX 78624

OAKS OF WINDCREST POA
11844 BANDERA RD #466
HELOTES, TX 78023

SPRING CANYON RANCHES LTD
P.O. BOX 393
FREDERICKSBURG, TX 78624

CITY OF FREDERICKSBURG
126 W MAIN
FREDERICKSBURG, TX 78624

HUGH FULLER
540 WINDING WAY CT
FREDERICKSBURG, TX 78624

KEVIN MONTGOMERY
536 WINDING WAY
FREDERICKSBURG, TX 78624

RYAN & MOACA JOHLE
4912 PLUM PEACH BEND
AUSTIN, TX

ALEXANDRU & IOANA JINGOIU
1275 WEATHERSFIELD WAY
SAN JOSE, CA

ROBERT MORRIS
605 GIBSON CT
FREDERICKSBURG, TX 78624

XINBO TAN
605 ATKINS CT
FREDERICKSBURG, TX 78624

CHANGBIN TAN & SUN LI
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ZACARIAS ALBITER
707 ALFRED ST
FREDERICKSBURG, TX 78624

HUGO ALBITER & INES LEON
804 N ORANGE
FREDERICKSBURG, TX 78624