

CITY OF FREDERICKSBURG CITY COUNCIL MEETING

MONDAY, JUNE 16, 2014 ~ 7:00 p.m.

Law Enforcement Center ~ 1601 East Main Street

Linda Langerhans, Mayor
Graham Pearson, Council Member
Jerry Luckenbach, Council Member

Gary Neffendorf, Council Member
Bobby Watson, Council Member
Kent Myers, City Manager

(REQUEST ALL PAGERS AND PHONES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL.)

A G E N D A

CALL TO ORDER.

Page Ref

PLEDGE OF ALLEGIANCE.

1. **MINUTES** - Consider approval minutes of April 2014 City Council meetings. **1-11**
2. **CONSENT AGENDA-** *All items listed below are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a council member or citizen so requests, in which case the item will be removed from the consent agenda and considered as part of the normal order of business.*
 - A. Appoint Jerry Luckenbach to the Relief Route Task Force.
3. **PUBLIC HEARINGS**
 - A. **PUBLIC HEARING** (Z-1405) by Page Southerland Page, Inc. On behalf of Gable S corporation for a Conditional Use Permit to allow a hotel/motel in the Central Business District on property located at 406 and 412 E. Main St. **12-24**
 - B. **PUBLIC HEARING** (Z-1406) by Carroll Bryla, representing several property owners, to consider a change in the Land Use Plan from Medium Density Residential to Commercial and a change in zoning from R-2 Mixed Residential to C-2 Commercial, on approx. 19.40 acres of land bordered by Franklin St on the north, S. Creek St on the East, Highway St. on the South, and S. Ufer St. on the West. **25-32**
4. **ORDINANCES - RESOLUTIONS - ACTION ITEMS**
 - A. Receive Recommendation and Consider Z-1405
 - B. Receive Recommendation and Consider Ordinance re. Z-1406.
 - C. Consider Ground Transportation Ordinance - 2nd Reading. **33-39**
 - D. Consider Special Events Ordinance - 1st Reading. **40-54**
 - E. Consider Resolution Approving Exchange of Property at 306 E Austin to the Chamber of Commerce. **55**
5. **INDIVIDUAL ITEMS FOR CONSIDERATION AND POSSIBLE ACTION**
 - A. Consider Potential Litigation and Attorney Client Privilege Regarding Charter Amendment and Bond Covenants. **56**
 - B. Golf Department Presentation.

6. **CITY MANAGER'S REPORT**
 - A. New City Telephone System
 - B. Local Labor Task Force
 - C. Employee Recognitions.
7. **ITEMS FOR FUTURE AGENDA**
8. **PUBLIC COMMENTS** - This time is for citizens to address the City Council on issues and items of concern not on this agenda. There will be no City Council action at this time.
9. **COUNCIL COMMENTS** - No discussion or action may take place.
10. **EXECUTIVE SESSION** - Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government code Sections 551.071 (Consultation with Attorney, 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.086 (Economic Development).
 - A. Executive Session - Real Estate - Exchange of Property at 306 E Austin to the Chamber of Commerce.
 - B. Executive Session - Consultation with Attorneys Regarding Potential Litigation and Attorney Client Privilege Regarding Charter Amendment and Bond Covenants.
11. **ADJOURN**

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

REGULAR CITY COUNCIL MEETING
MAY 5, 2014
7:00 PM

On this the 5th day of May, 2014, City Council of the CITY OF FREDERICKSBURG convened in regular session at the City Hall, with the following members present to constitute a quorum:

PRESENT: JERYL HOOVER - MAYOR
TIM DOOLEY - COUNCIL MEMBER
GRAHAM PEARSON - COUNCIL MEMBER
KATHY SANFORD - COUNCIL MEMBER
GARY NEFFENDORF - COUNCIL MEMBER

ABSENT: NONE

ALSO PRESENT: KENT MYERS - CITY MANAGER
SHELLEY BRITTON - CITY SECRETARY
PAT MCGOWAN - CITY ATTORNEY
BRIAN JORDAN - DIR OF DEVELOPMENT SERVICES
BRAD KOTT - DIRECTOR OF FINANCE
CLINTON BAILEY - D.P.W.U.
STEVE WETZ - CHIEF OF POLICE
RUSSELL IMMEL - IT

The meeting was called to order at 7:00 PM, following the Pledge of Allegiance.

CONSENT AGENDA It was moved by Council Member Dooley, seconded by council Member Pearson, to approve the Consent Agenda as follows:

1. Appoint Joyce Spisak as Associate Judge for one term.

All voted in favor and the motion carried.

LIGHTING ORDINANCE - Council held the 2nd reading of the Lighting Ordinance. No action taken.

GROUND TRANSPORTATION ORDINANCE - Council held the 1st reading of the proposed Ground Transportation Ordinance. No action was taken.

RESOLUTION FOR COMMUNITYWIDE BEAUTIFICATION DAY - It was moved by Council Member Sanford, seconded by Council member Pearson, to approve the Resolution for Communitywide Beautification Day, May 10, 2014. All voted in favor and the motion carried.

RESOLUTION

A Resolution of the City Council of the City of Fredericksburg, Texas, approving the Community Clean-Up Program.

WHEREAS, the appearance of the City of Fredericksburg has been, and continues to be, a source of pride for the community and enjoying a clean appearance is one of the benefits of living in Fredericksburg, Texas, and

WHEREAS, City Staff and the Staff of the Texas Department of Transportation (TxDOT) have held a series of meetings with local citizens and organizations to determine priorities for the cleaning up of the roads leading into the City, and for identification of other areas within the City which could be cleaned up with their help as part of an on-going community-wide effort each Spring, and

WHEREAS, the City Staff and Staff of TxDOT worked together under TxDOT's Adopt-A-Highway program, to obtain adoptions of highways leading into the city by working with local citizens and organizations, and to develop the Community Clean-Up Program, and

WHEREAS, The City Council has reviewed and approves the expansion of the Adopt-a-Highway program and the Community Clean-up Program, and desires to evidence its approval by the passage of this resolution,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, that it hereby approves and adopts as a community project with participation by City of Fredericksburg Staff, the expansion of the Adopt-a-Highway Program and the Fredericksburg Community Clean-Up Program, and hereby directs that the Fredericksburg Community Clean-Up Program become a program within the City.

BE IT FURTHER RESOLVED that the City Council of the City of Fredericksburg urges all citizens to participate in these programs and to help to maintain the appearance of the City at all times.

PASSED AND APPROVED this day the 5th of May, 2014, by vote of the City Council of the City of Fredericksburg, Texas.

/s/ Jeryl Hoover, Mayor

Attest:

/s/ Shelley Britton, City Secretary

BED & BREAKFAST REGULATIONS – Director of Development Services Brian Jordan briefed Council on the Bed & Breakfast Regulations and the B&B Compliance Permit. No action taken.

PUBLIC WORKS ORDER MANAGEMENT SYSTEM – Following a presentation by Director of Public Works & Utilities, Clinton Bailey, it was moved by Council Member Neffendorf, seconded by Council Member Sanford, to authorize the Director of Public Works and Utilities to enter into contract negotiations with VUEWorks to provide a GIS-Centric Work Order and Asset Management System for the City. The vote was as follows: AYE: Hoover, Dooley, Neffendorf, Sanford, and Pearson. Motion carried.

REQUEST FOR QUALIFICATIONS FOR ARCHITECTURAL SERVICES FOR ANIMAL SHELTER – It was moved by Council Member Dooley, seconded by Council Member Neffendorf, to approve \$18,000 for Architectural Services for planning, design and cost estimates of

a new Animal Shelter. The vote was as follows: AYE: Hoover, Dooley, Neffendorf, Sanford, and Pearson. Motion carried.

HISTORICAL REVIEW BOARD ANNUAL REPORT – Sharon Joseph, Chairman of the Historic Review Board, presented the board's Annual Report. No action was taken.

PARKING CHANGES ALONG ADAMS STREET FROM THE PRIMARY SCHOOL TO BILLIE DRIVE – Council Member Dooley moved, seconded by Council Member Neffendorf, to approve the parking changes along Adams Street from the Primary School to Billie Drive as presented. The vote was as follows: AYE: Hoover, Dooley, Neffendorf, Sanford, and Pearson. Motion carried.

CITY MANAGER'S REPORT – City Manager Kent Myers reported on (1) June City Council Retreat, (2) City Space and Staffing Study, (3) Comprehensive Plan Update, (4) Employee Recognitions (Clinton Bailey, Clem Castillo, Cliff Hirl).

PUBLIC COMMENT – None.

COUNCIL COMMENT – None.

EXECUTIVE SESSION – At 8:52 PM, Council Member Pearson made a motion to recess the regular session and go into Executive Session. Council Member Neffendorf seconded the motion, and the motion carried. At 9:10 PM, Council Member Sanford made a motion to adjourn the Executive Session and reconvene the regular session. Council Member Neffendorf seconded, the motion carried.

Following Executive Session, the following action was taken:

ANIMAL SHELTER DONATION – No action was taken.

With no further business, Council Member Dooley made a motion to adjourn the meeting at 9:12 PM. Council Member Pearson seconded the motion. Motion carried.

PASSED AND APPROVED this the 16th day of June, 2014.

SHELLEY BRITTON, CITY SECRETARY

LINDA LANGERHANS, MAYOR

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STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

SPECIAL CITY COUNCIL MEETING
MAY 14, 2014
8:30 AM

On this the 14th day of May, 2014, the City Council of the CITY OF FREDERICKSBURG convened in special session at the Law Enforcement Center, with the following members present to constitute a quorum:

(3)

JERYL HOOVER - MAYOR
TIM DOOLEY - COUNCIL MEMBER
KATHY SANFORD - COUNCIL MEMBER
GARY NEFFENDORF - COUNCIL MEMBER
GRAHAM PEARSON - COUNCIL MEMBER

ABSENT: NONE

ALSO PRESENT: LINDA LANGERHANS - MAYOR ELECT
SHELLEY BRITTON - CITY SECRETARY

The meeting was called to order at 8:30 AM.

CANVASS AND APPROVE MAY 10, 2014 ELECTION RESULTS – It was moved by Council Member Dooley, seconded by Council Member Sanford, to adopt the following Order declaring the result of the May 10, 2014 City Election; the vote was unanimous:

ORDER DECLARING RESULT OF MAY 10, 2014 CITY ELECTION

On this the 14th day of May 2014, the City Council in special session open to the public at City Hall, 126 W. Main St., with the following members present to wit:

JERYL HOOVER - MAYOR
TIM DOOLEY - COUNCIL MEMBER
KATHY SANFORD - COUNCIL MEMBER
GARY NEFFENDORF - COUNCIL MEMBER
GRAHAM PEARSON - COUNCIL MEMBER

With no one being absent, constituting a quorum, and passed the following Order and Resolution:

There came to be considered the returns of a City Election on the 10th of May, 2014, for the purpose of an election to vote for Mayor and two (2) Council Members for said city, and an amendment to the City Charter, as set forth in the Order calling said election, and it appearing that said election was in all respects legally held and that said returns were duly and legally made.

IT THIS THEREFORE FOUND, DECLARED, AND SO ORDERED AND RESOLVED by the City Council of the City of Fredericksburg, Texas, that the legally qualified voters at said election held on the 10th day of May, 2014 cast at said election the following votes:

MAYOR

Langerhans - 687
Hoover - 494

COUNCIL MEMBER

Watson - 657
Luckenbach - 683
Dooley - 513

CHARTER AMENDMENT

Approve - 581
Disapprove – 556

TOTAL VOTES CAST: 1212

As shown in the official election returns submitted to the City Council of the City of Fredericksburg, Texas, on May 14, 2014 by the officers holding said election.

IT IS FURTHER FOUND AND DETERMINED that in accordance with the order of this governing body, the City Secretary posted notice of the date, place, and subject of this meeting on the bulletin board located at City Hall, a place convenient to the public, said notice having so posted and remaining posted for at least 72 hours preceding the time on this meeting.

The Order passed unanimously.

PASSED AND APPROVED this the 14th day of May, 2014.

/s/ Jeryl Hoover, Mayor

Attest: /s/ Shelley Britton, City Secretary

With no further discussion, Council Member Dooley made a motion to adjourn the meeting at 8:33 AM. Council Member Neffendorf seconded the motion. Motion carried.

PASSED AND APPROVED this the 16th day of June, 2014.

SHELLEY BRITTON, CITY SECRETARY

LINDA LANGERHANS, MAYOR

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

**REGULAR CITY COUNCIL MEETING
MAY 19, 2014
7:00 PM**

On this the 19th day of May, 2014, the City Council of the CITY OF FREDERICKSBURG convened in regular session at the Law Enforcement Center, with the following members present to constitute a quorum:

LINDA LANGERHANS – MAYOR
GARY NEFFENDORF – COUNCIL MEMBER
GRAHAM PEARSON - COUNCIL MEMBER
JERRY LUCKENBACH - COUNCIL MEMBER
BOBBY WATSON - COUNCIL MEMBER

ABSENT:

NONE

ALSO PRESENT:

KENT MYERS - CITY MANAGER

SHELLEY BRITTON – CITY SECRETARY
PAT McGOWAN - CITY ATTORNEY
STEVE WETZ - CHIEF OF POLICE
BRAD KOTT – DIR OF FINANCE
BRIAN JORDAN - DIR. OF DEVELOPMENT SERVICES
JOHN CULPEPPER – DIR EMERGENCY SERVICES
RUSSELL IMMEL – INFORMATION TECH
KRIS KNEESE – ASST CITY ENGINEER

The meeting was called to order at 7:00 PM following the Pledge of Allegiance.

MINUTES – It was moved by Council Member Pearson, seconded by Council Member Neffendorf, to approve the minutes of the March and April 2014 meetings as presented. All voted in favor and the motion carried.

PUBLIC HEARING Z-1403 BY WHATABURGER TO AMEND THEIR CONDITIONAL USE PERMIT TO ALLOW A CHANGE IN THE SIGNAGE ON THE FRONT OF THE BUILDING - It was moved by Council Member Neffendorf, seconded by Council Member Pearson, to recess the regular session and open a Public Hearing on Z-1403 by Whataburger, to amend their Conditional Use Permit to allow a change in the signage on the front of the building. All voted in favor and the motion carried.

Comments were received from Ann Lewis of Lewis Sign, representing Whataburger. There were no other comments from the public. It was moved by Council Member Luckenbach, seconded by Council Member Pearson, to adjourn the Public Hearing and reconvene the regular session. All voted in favor and the motion carried.

REQUEST Z-1403 – It was moved by Council Member Pearson, seconded by Council Member Watson, to deny Request Z-1403 by Whataburger to amend their Conditional Use Permit to allow a change in signage on the front of the building. The vote was as follows: AYE: Langerhans, Watson, Neffendorf, Pearson, and Luckenbach. NAY: None. Motion carried.

PUBLIC HEARING Z-1404 FOR AN AMENDMENT TO SECTION 7.825 OF THE ZONING ORDINANCE PERTAINING TO SPECIAL PROVISIONS APPLICABLE TO CENTRAL FREDERICKSBURG- It was moved by Council Member Neffendorf, seconded by Council Member Luckenbach, to recess the regular session and open a Public Hearing on Z-1404 by to amend Section 7.825 of the Zoning Ordinance Pertaining to Special Provisions Applicable to Central Fredericksburg. All voted in favor and the motion carried.

Comments were received from Ernie Loeffler of the Convention and Visitor Bureau and Tim Lehmberg of the Economic Development Commission in favor of the amendment. There were no other comments from the public. It was moved by Council Member Pearson, seconded by Council Member Neffendorf, to adjourn the Public Hearing and reconvene the regular session. All voted in favor and the motion carried.

REQUEST Z-1404 – It was moved by Council Member Pearson, seconded by Council Member Watson, to approve the amendment to Section 7.825 of the Zoning Ordinance pertaining to special provisions applicable to central Fredericksburg. The vote was as follows: AYE: Langerhans, Watson, Neffendorf, Pearson, and Luckenbach. NAY: None. Motion carried.

ORDINANCE NO. 24-005

AN ORDINANCE AMENDING SECTION 7.824 SPECIAL PROVISIONS APPLICABLE TO CENTRAL FREDERICKSBURG OF THE ZONING ORDINANCE OF THE CITY OF FREDERICKSBURG TO ENLARGE THE AREA SUBJECT TO THE SPECIAL PARKING REGULATIONS, REPEALING INCONSISTENT PROVISIONS, PROVIDING FOR PARTIAL INVALIDITY AND ESTABLISHING AN EFFECTIVE DATE. (Recorded in Ordinance Book)

RESOLUTION TO DENY ATMOS ENERGY'S PROPOSED RATE INCREASE – It was moved by Council Member Pearson, seconded by Council Member Luckenbach, to adopt the Resolution to deny Atmos Energy's proposed rate increase as presented. The vote was as follows: AYE: Langerhans, Watson, Neffendorf, Pearson, and Luckenbach. NAY: None. Motion carried.

RESOLUTION

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS DENYING AN INCREASE IN RATES REQUESTED BY ATMOS ENERGY CORPORATION – MIDTEX DIVISION, SUBMITTED ON OR ABOUT FEBRUARY 28, 2014 UNDER THE RATE REVIEW MECHANISM; FINDING ATMOS' REQUEST UNREASONABLE; DIRECTING ATMOS ENERGY TO REIMBURSE THE CITY'S RATE-CASE EXPENSES; AUTHORIZING THE CITY'S PARTICIPATION IN APPEALS ATMOS MAY TAKE DENYING ITS REQUESTED INCREASE; REQUIRING CITY'S SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, Atmos Energy Corporation-MidTex Division ("Atmos" or "Company") filed a request with the City of Fredericksburg, Texas ("City") on or about February 28, 2014, thereby initiating a ratemaking proceeding to increase its revenue and change its rates within the corporate limits of the City, and specifically to increase its system-wide, annual revenue requirement by approximately \$45.7 million, which is an increase in base rates exclusive of the cost of gas of approximately 9.2%; and

WHEREAS, the City is a regulatory authority under Utilities Code § 103.001 (more commonly referred to as the Gas Utility Regulatory Act ("GURA")) and has exclusive original jurisdiction over Atmos' rates, operations, and services within the City; and

WHEREAS, Section 103.021 of GURA authorizes the City to obtain information from Atmos as necessary to make a determination of the basis for the Atmos' proposed increase in rates in the City; and

WHEREAS, Section 103.022 of GURA provides that Atmos shall reimburse the City its reasonable cost of engaging personnel to assist it in reviewing Atmos' application; and

WHEREAS, the City has participated in prior cases regarding Atmos as part of a coalition of cities known as the Atmos Texas Municipalities ("ATM"); and

WHEREAS, Atmos submitted its application to increase rates under the Rate Review Mechanism ("RRM"); and

WHEREAS, Special Counsel and experts representing ATM have analyzed the data furnished by Atmos, sought and obtained additional data, and have interviewed Atmos' management regarding Atmos' request to increase rates; and

WHEREAS, the City's Special Counsel and rate experts concluded that Atmos' request to increase rates by \$45.7 million is unreasonably high; and

WHEREAS, the City's Special Counsel and rate experts' conclusion that Atmos' request to increase rates by \$45.7 million is unreasonably high is based on numerous elements in Atmos' request that are inconsistent with sound rate-setting and regulatory principles; and

WHEREAS, the City's Special Counsel and rate experts participated in discussions with Atmos to attempt to resolve Atmos' proposed change in rates and increase in revenue through negotiations but were unable to reach agreement; and

WHEREAS, it is anticipated that Atmos will appeal the City's denial of its request to increase rates to the Railroad Commission of Texas and possibly to the courts, thus requiring the continued assistance of Special Counsel and rate experts in those proceedings.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS THAT:

Section 1. The findings set forth in this Resolution are hereby in all things approved.

Section 2. Atmos Energy Corporation-MidTex Division's request to change its rates and to increase its revenue by approximately \$45.7 million is hereby **DENIED**.

Section 3. Pursuant to Utilities Code § 103.022 and under the terms of the Rate Review Mechanism, Atmos is hereby directed to reimburse the City's rate case expenses, as participants in the coalition of cities known as the Atmos Texas Municipalities, for engaging

counsel, rate consultants, and other personnel in assisting the City in its investigation of Atmos' proposed increase in rates, and is further directed to reimburse the City's rate case expenses on a monthly basis for the City's participation in any appeal Atmos seeks of the City's denial of its request to increase rates.

Section 4. This Resolution supersedes any Resolution or Ordinance previously adopted by the City Council to the extent such previously adopted Resolution or Ordinance is inconsistent with this Resolution.

Section 5. The meeting at which this Resolution was approved was in all things conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 6. If any one or more sections or clauses of this Resolution is judged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Resolution and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

Section 7. This Resolution shall become effective from and after its passage.

Section 8. A copy of this Resolution shall be sent to Atmos Energy-Mid-Tex Division, care of Christopher Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75240, and to Special Counsel, Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Avenue, Suite 1250, Austin, Texas 78701.

PASSED AND APPROVED this 19th day of May, 2014.

/s/ Linda Langerhans, Mayor

ATTEST:

/s/ Shelley Britton, City Secretary

CURFEW REGULATIONS – It was moved by Council Member Pearson seconded by Council Member Neffendorf, to renew the Curfew Regulations as presented. The vote was as follows: AYE: Langerhans, Watson, Neffendorf, Pearson, and Luckenbach. NAY: None. Motion carried.

ORDINANCE 24-004

AN ORDINANCE RE-ADOPTING SECTION 20-118 THROUGH 20-123 AND AMENDING SECTION 20-123 THEREOF, OF THE CODE OF ORDINANCES OF THE CITY OF FREDERICKSBURG REGARDING JUVENILE CURFEWS, RE-ESTABLISHING THE NECESSITY THEREOF AND ESTABLISHING AN EFFECTIVE DATE. (Recorded in Ordinance Book)

REVISIONS TO CITY PERSONNEL POLICIES – It was moved by Council Member Luckenbach, seconded by Council Member Watson, to approve the revisions to City Personnel Policies as presented. All voted in favor and the motion carried.

PRESENTATION OF MID-YEAR BUDGET REPORT – Director of Finance Brad Kott presented a comprehensive mid-year budget review.

PROFESSIONAL SERVICES CONTRACT – WWTP REHABILITATION PROJECTS - Asst. City Engineer Kris Kneese presented the Professional Services Contract for the Waste Water Treatment Plant (WWTP) Rehabilitation Projects with HDR Engineering, to include preliminary design, final design, bid and negotiation phase services and construction phase services for the City's proposed WWTP improvements projects identified in the WWTP Master Plan for a fee of \$429,680.00. It was moved by Council Member Pearson, seconded by Council Member Luckenbach, to approve the Professional Services Contract as presented. The vote was as follows: AYE: Langerhans, Watson, Neffendorf, Pearson, and Luckenbach. NAY: None. Motion carried.

COUNCIL APPOINTMENTS – It was moved by Council Member Neffendorf, seconded by Council Member Watson, to appoint Council Member Pearson as Mayor Pro Tem. All voted in favor and the motion carried.

It was then moved by Council Member Luckenbach, seconded by Council Member Neffendorf, to approve the following appointments:

Airport Advisory Board – Jerry Luckenbach

Chamber of Commerce – Graham Pearson

Convention & Visitors Bureau Board – Bobby Watson

Economic Development Commission – Graham Pearson

Relief Route Task Force – Bobby Watson and Linda Langerhans.

All voted in favor and the motion carried.

CITY MANAGER'S REPORT – City Manager Kent Myers reported on (1) June 13 City Council Retreat, (2) Comprehensive Plan Update, (3) Water Conservation Education Program, and (4) Employee Recognitions, including Wynell Herbolt for her work on the Personnel Policies, and Matt Townsend for his work on the city wide cleanup project.

FUTURE AGENDA ITEMS – The Ground Transportation Ordinance and the Public Works Department presentation are slated for the next agenda.

PUBLIC COMMENT – Patrick Moore, CPA, commented on the negative consequences relative to the Charter Amendment passed at the May 10 election.

COUNCIL COMMENT – Graham Pearson welcomed the new members to the council.

EXECUTIVE SESSION – At 8:55 PM, Council Member Pearson made a motion to recess the regular session and go into Executive Session. Council Member Neffendorf seconded the motion, and the motion carried. At 9:50 PM, Council Member Luckenbach made a motion to adjourn the Executive Session and reconvene the regular session. Council Member Neffendorf seconded, the motion carried.

Following Executive Session, the following action was taken:

CONSULTATION WITH ATTORNEYS REGARDING POTENTIAL LITIGATION AND ATTORNEY CLIENT PRIVILEGE REGARDING CHARTER AMENDMENT AND BOND COVENANTS – No action was taken.

With no further business, Council Member Neffendorf made a motion to adjourn the meeting at 9:55 PM. Council Member Pearson seconded the motion. Motion carried.

PASSED AND APPROVED this the 16th day of June, 2014.

SHELLEY BRITTON, CITY SECRETARY

LINDA LANGERHANS, MAYOR

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CITY COUNCIL MEMO

DATE: June 11, 2014

TO: Mayor and City Council

FROM: Brian Jordan, AICP

SUBJECT: Conditional Use Permit to allow a Hotel lodging facility in the CBD, Central Business District at 406 E. Main Street (Z-1405).

Summary:

The applicant is proposing to develop a multi-use project, including 63 full-service hotel rooms, retail and a restaurant. The proposed building will be 3 stories in height and will be positioned at the very front of the property. Parking has been designed beneath and toward the rear of the proposed building. The property contains approximately 1.63 acres, of which 1.47 acres are out of the floodplain, and extends from Main Street to Austin Street. Town Creek crosses the rear portion of the property and the project will include a bridge crossing.

Recommendation:

The Planning and Zoning Commission voted unanimously to recommend approval of the Conditional Use Permit with conditions as noted in the attached staff brief. Staff concurs with the Commission's recommendation of approval. A mix of favorable and unfavorable comments were presented at the meeting. Attached are the official letters submitted. To date, the protest letters received do not represent the 20% threshold requiring a super majority vote to override.

12

The City of Fredericksburg

Background / Analysis:

See attached Zoning Brief for request Z-1405

The Historic Review Board considered and approved the project on June 10, 2014. While the Planning and Zoning Commission and the City Council are considering the use, the Historic Review Board's role was to consider the visual compatibility with surrounding buildings and environment in relation to height, gross volume, proportion, design harmony and setback.

CONDITIONAL USE PERMIT BRIEF

Request Z-1405

Owner: Gable S Corporation, Shaesby Scott

Applicant: Page Southerland Page, Inc., Daniel Brooks, AIA

Location: 406 E. Main Street

Existing Zoning: CBD, Central Business District

Request: Conditional Use Permit to allow a Hotel Lodging facility in CBD, Central Business Zoning district.

Site Plan Overview:

- The property currently contains a single vacant building. The existing building has a Low historic rating and is scheduled to be removed to make room for the proposed project.
- The site area is approximately 1.63 acres (71,220 square feet), of which approximately 1.47 acres (64,027 square feet) are out of the floodplain.
- The project will consist of 63 hotel rooms, 11,644 square feet of retail space and a restaurant. The building will be positioned at the front of the site, with parking located beneath and to the rear of the property.
- A two-way drive is proposed from Austin Street and a single one-way drive is proposed on the east side of the building from Main Street. A bridge will be constructed across the Town Creek into the rear of the property. The rear drive will serve as a fire lane.
- The proposed building will be 3 stories, which is allowed in the CBD (see attached elevations).
- Impervious coverage is estimated to be approximately 89.9% (90% maximum allowed in the CBD District). This calculation is based on the area outside the floodplain.
- The site is bordered by Austin Street on the north, a sporting arms, arts and collectibles facility along with B&B's (Angels Lodge) to the east, commercial and B&B's to the south and a home furnishings store (Auer Haus) to the west.
- Surrounding zoning is CBD to the west, east and south, and R-1 to the north across Austin Street.

Review and Evaluation Criteria:

A. CONFORMANCE WITH APPLICABLE REGULATIONS:

- As designed, the site is compliant regarding applicable zoning regulations, including building height, setbacks, building coverage, impervious coverage and parking.

B. COMPATIBILITY WITH EXISTING OR PERMITTED USES IN ABUTTING SITES:

- The proposed hotel rooms will serve to support retail and cultural uses within the vicinity. The retail and dining area will enhance the shopping experience along Main Street.

C. POTENTIALLY UNFAVORABLE EFFECTS OR IMPACTS ON OTHER EXISTING OR PERMITTED USES ON ABUTTING PROPERTY:

- We do not anticipate unfavorable effects from the proposed use on abutting properties.

D. MODIFICATIONS TO THE SITE PLAN WHICH WOULD RESULT IN INCREASED COMPATIBILITY AND WOULD MITIGATE POTENTIALLY UNFAVORABLE IMPACTS:

- NA.

E. SAFETY AND CONVENIENCE OF VEHICULAR AND PEDESTRIAN CIRCULATION IN THE VICINITY:

- The site has been designed to provide two points of access into the project. The rear access from Austin Street will provide the main access in the parking area proposed for the project and the one-way drive from Main Street will serve as a drop-off point for hotel guests. This configuration will limit the vehicular circulation in the front of the building where pedestrians will be the focus.

F. PROTECTION OF PERSONS AND PROPERTY FROM EROSION, FLOOD OR WATER DAMAGE, FIRE, NOISE, GLARE:

- The property is encumbered by the 100-year floodplain along Town Creek to the rear of the property and is noted on the plan. The applicant has been advised that no structures requiring a permit will be allowed within the floodplain, that the finished floor elevation of all structures abutting the floodplain shall be a minimum of 1' above the base flood elevation, and that the established base flood elevation shall be staked on the ground prior to construction. In addition, the 100-year floodplain shall be designated as a Drainage Easement.
- A Fire Department connection has been provided on the interior of the property, and a fire lane has been designated to the rear of the property.

G. LOCATION OF LIGHTING AND TYPE OF SIGNS; THE RELATION OF SIGNS TO TRAFFIC CONTROL AND ADVERSE EFFECTS OF SIGNS ON ADJACENT PROPERTIES:

- All exterior lighting and fixtures will be selected to minimize negative effects of light pollution and shield light trespass beyond the project site lighting boundary. All signage will require a permit and shall comply with the Sign Ordinance.

H. ADEQUACY AND CONVENIENCE OF OFF STREET PARKING AND LOADING FACILITIES:

- Based on the proposed size, configuration and number of units proposed, adequate parking is provided. The applicant will take advantage of the reduction in the parking requirements recently approved by the City Council. This reduced parking will not apply to the hotel portion of the project.

I. DETERMINATION THAT THE PROPOSED USE IS IN ACCORDANCE WITH THE OBJECTIVES OF THESE ZONING REGULATIONS AND PURPOSES OF THE ZONE IN WHICH THE SITE IS LOCATED:

- While the zoning of the property is CBD, a mixed use development in this block of east Main Street will serve to support the commercial activities in the area and enhance the pedestrian experience downtown.

J. DETERMINATION THAT THE PROPOSED USE WILL COMPLY WITH EACH OF THE APPLICABLE PROVISIONS OF THE ZONING ORDINANCE:

- Affirmative.

K. DETERMINATION THAT THE PROPOSED USE AND SITE DEVELOPMENT, TOGETHER WITH ANY MODIFICATIONS APPLICABLE, THERETO, WILL BE COMPATIBLE WITH EXISTING OR PERMITTED USES IN THE VICINITY:

- The applicant has addressed the site issues required by the Development Review Committee. Final details will be addressed as part of the Construction Plans required prior to issuance of a building permit.

L. DETERMINATION THAT ANY CONDITIONS APPLICABLE TO APPROVAL ARE THE MINIMUM NECESSARY TO MINIMIZE POTENTIALLY UNFAVORABLE IMPACTS ON NEARBY USES AND TO ENSURE COMPATIBILITY OF THE PROPOSED USE WITH EXISTING OR PERMITTED USES IN THE SAME DISTRICT AND THE SURROUNDING AREA:

- Affirmative. Building elevations are provided. Since the property is located within the Historic District, final building design will be subject to Historic Review Board approval. The Historic Review Board is scheduled to consider this project on June 10, 2014.

M. DETERMINATION THAT THE PROPOSED USE TOGETHER WITH THE CONDITIONS APPLICABLE THERETO, WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR MATERALLY INJURIOUS TO PROPERTIES OR IMPROVEMENTS IN THE VICINITY:

- Affirmative

OPPOSITION/SUPPORT OF REQUEST: Three letters received in opposition, and a letter with 10 signatures in favor of the request.

PLANNING AND ZONING COMMISSION RECOMMENDATION: Unanimous approval, conditioned upon the following:

1. Approval of a Landscape Plan prior to issuance of a Building Permit.
2. All external lighting being shielded.
3. Approval of Construction Plans prior to issuance of a Building Permit.
4. Approval of Building Plans by the Historic Review Board prior to issuance of a building permit.
5. The property being replatted into a single tract prior to issuance of a building permit.

STAFF RECOMMENDATION: Staff concurs with the Commission's recommendation.

Plans Site Plan



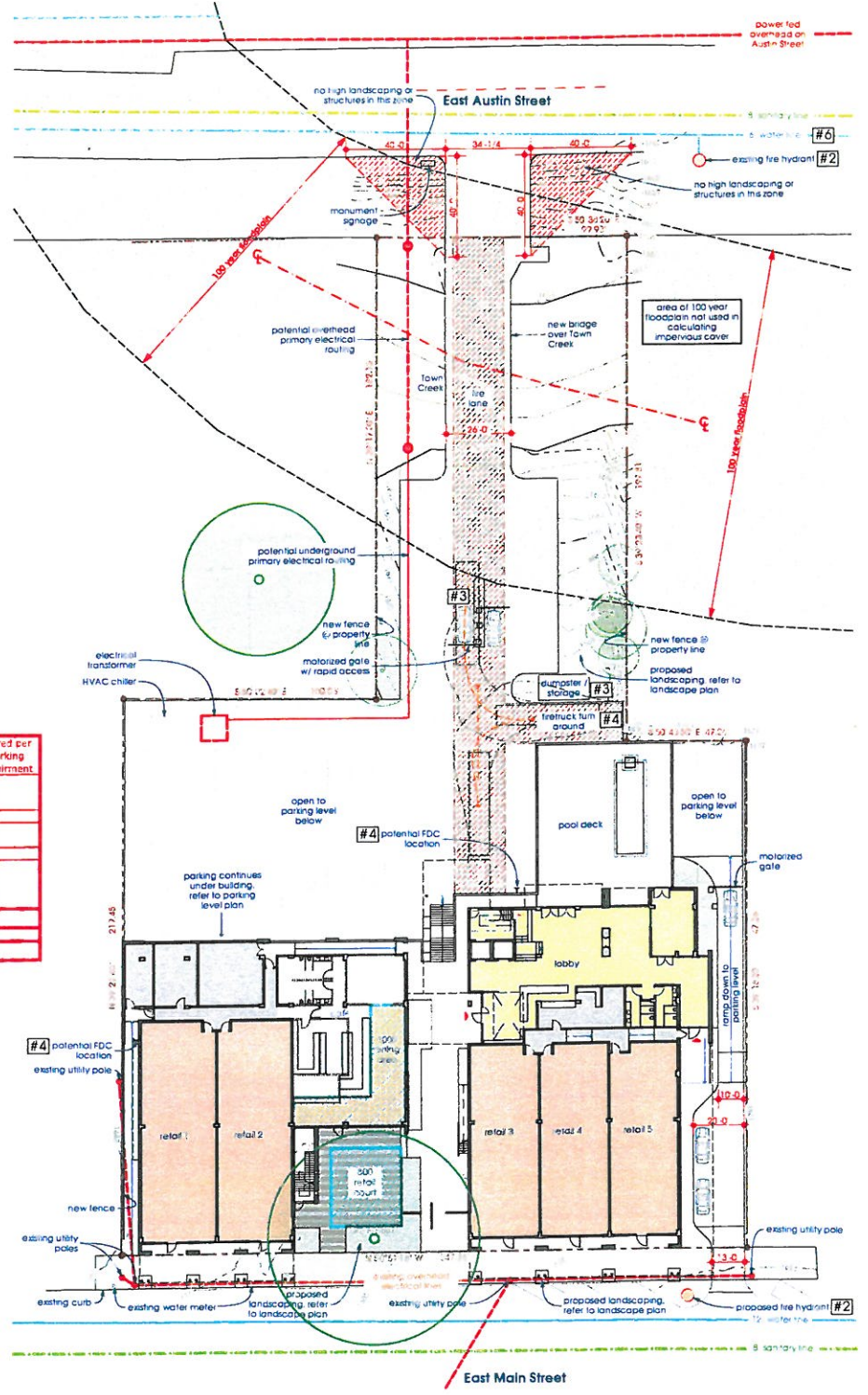
2 aerial map
scale 1" = 100'

Area Calculation		parking required per zoning ordinance		parking required per approved parking reduction requirement	
Category	Area	Hotel keys	spaces per key	Hotel keys	spaces per key
Dining area	1,028.26	63	1st 50: 1:1 over 50: 1:1	63	1st 50: 1:1 over 50: 1:1
Hotel	25,596.16				
Retail	11,643.65	Retail s.f.	s.f. per space	Retail s.f.	s.f. per space
Parking Provided		11,644	400	11,644	400
type	Quantity	dining area + retail court s.f.	seats per space	dining area + retail court s.f.	seats per space
HC	4	1800	4	1800	4
HC van	1	15 s.f. per seat		15 s.f. per seat	
compact	22				
drop off	4				
standard	76				
	107				

ZONING SUMMARY: CBD: CENTRAL BUSINESS DISTRICT

FEATURE	REGULATION	ACTUAL
LOT SIZE	MINIMUM LOT AREA = 5,000 SF	71,220 SF
LOT WIDTH	MINIMUM LOT WIDTH= 50 FEET	247 FEET
HEIGHT	MAXIMUM BUILDING HEIGHT, 3 STORIES, 38 FEET	3 STORIES, 38 FEET
FRONT YARD	MINIMUM REQUIRED SETBACK = 0 FEET	0 FEET
STREET SIDE YARD	MINIMUM REQUIRED SETBACK = 0 FEET	NA
INTERIOR SIDE YARD	MINIMUM REQUIRED SETBACK = 0 FEET	WEST=VARIES 0 FT TO 6 FT EAST= 14 FT
REAR YARD	MINIMUM REQUIRED SETBACK = 0 FEET	14 FT
MAXIMUM IMPERVIOUS COVER	90 %	89.9% *NOTE: PERCENTAGE BASED ON AREA OF SITE OUTSIDE OF THE 100 YEAR FLOODPLAIN

NOTE: AVERAGE SLOPE OF SITE IS LESS THAN 10%



1 site plan
scale 1" = 30'

CONDITIONAL USE PERMIT SET - NOT FOR CONSTRUCTION

Fredericksburg, TX Main Street Hotel

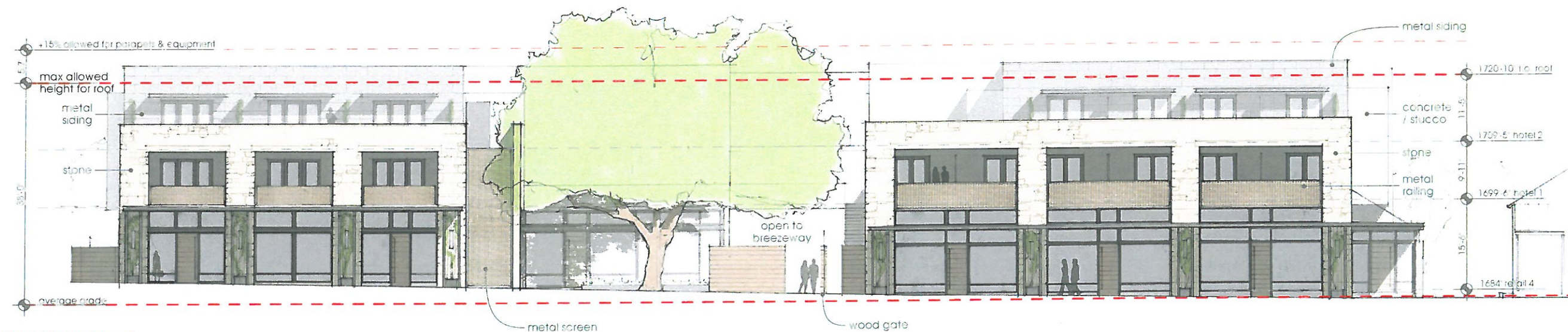


- PARKING LOCATED BEHIND AND BELOW BUILDING TO NOT BE VISIBLE FROM MAIN STREET
- PRESERVATION AND ENHANCEMENT OF HISTORIC OAK TREE
- LANDSCAPE BUFFER BETWEEN STREET PARKING AND PEDESTRIANS ON MAIN STREET
- SINGLE CURB CUT ALONG MAIN STREET TO ENHANCE PEDESTRIAN EXPERIENCE

- UPPER LEVEL OF HOTEL STEPS BACK FROM MAIN STREET TO REFLECT TWO STORY VOLUMES OF EXISTING BUILDINGS ALONG MAIN STREET AND TO NOT BLOCK ANY VIEW OF THE NIMITZ MUSEUM UPON ARRIVAL INTO THE CITY OF FREDERICKSBURG
- PROJECT MASSING CREATES TWO SMALLER BUILDINGS VS. ONE LARGE BUILDING ON MAIN STREET TO REFLECT MASSING OF OTHER HISTORIC BUILDINGS ALONG MAIN STREET

- EXTENSION OF PEDESTRIAN EXPERIENCE ON MAIN STREET FOR THE CENTRAL BUSINESS DISTRICT
- PEDESTRIAN FRIENDLY COURTYARD DIRECTLY OFF OF MAIN STREET
- AWNING ALONG MAIN STREET PROVIDES PROTECTION FOR VISITORS AND EXTENDS CONTINUITY OF MAIN STREET INTO THE CENTRAL BUSINESS DISTRICT

Fredericksburg, TX Main Street Hotel

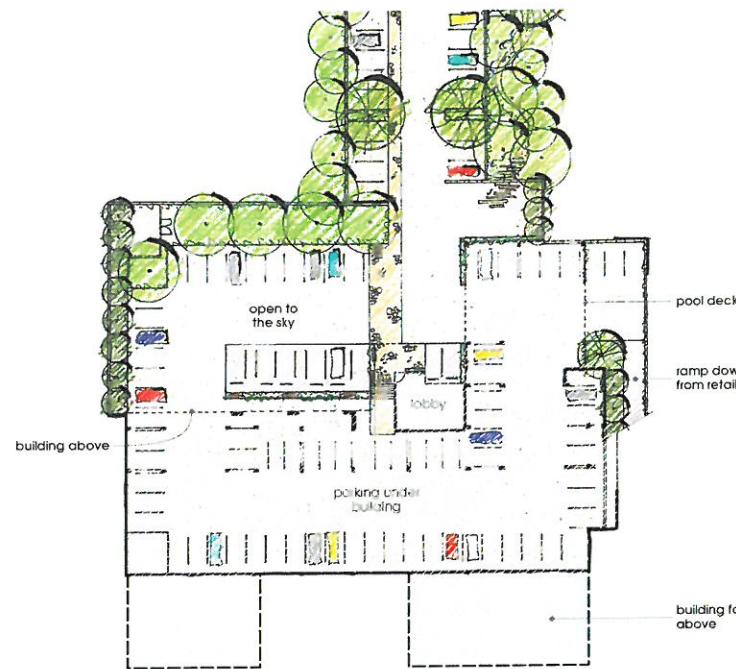


Elevation Main Street



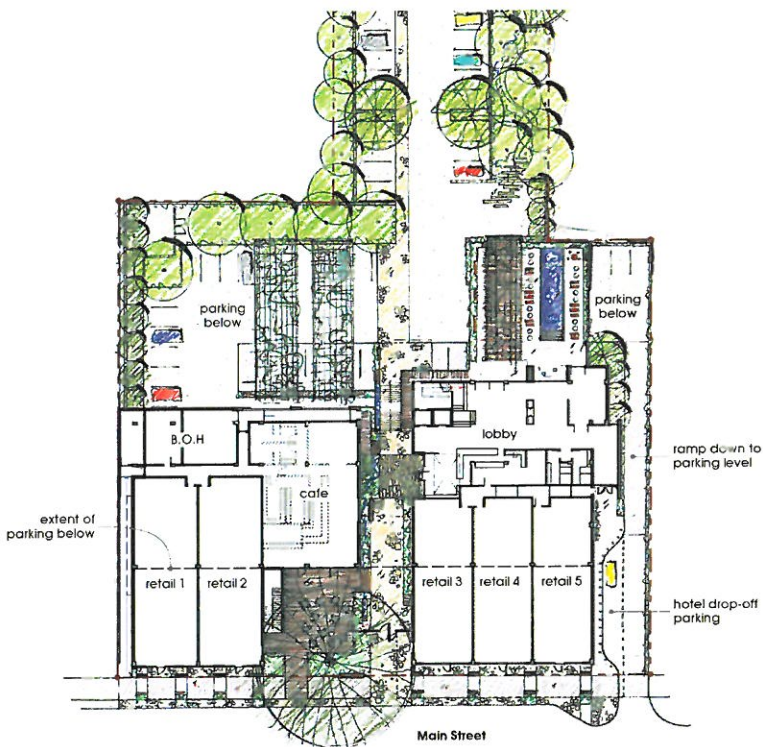
Perspective View Towards Pedestrian Courtyard

- PARKING LOCATED BEHIND AND BELOW BUILDING TO NOT BE VISIBLE FROM MAIN STREET
- PRESERVATION AND ENHANCEMENT OF HISTORIC OAK TREE
- LANDSCAPE BUFFER BETWEEN STREET PARKING AND PEDESTRIANS ON MAIN STREET
- SINGLE CURB CUT ALONG MAIN STREET TO ENHANCE PEDESTRIAN EXPERIENCE



Plan Parking Level

- UPPER LEVEL OF HOTEL STEPS BACK FROM MAIN STREET TO REFLECT TWO STORY VOLUMES OF EXISTING BUILDINGS ALONG MAIN STREET AND TO NOT BLOCK ANY VIEW OF THE NIMITZ MUSEUM UPON ARRIVAL INTO THE CITY OF FREDERICKSBURG
- PROJECT MASSING CREATES TWO SMALLER BUILDINGS VS. ONE LARGE BUILDING ON MAIN STREET TO REFLECT MASSING OF OTHER HISTORIC BUILDINGS ALONG MAIN STREET



Plan Retail Level

- EXTENSION OF PEDESTRIAN EXPERIENCE ON MAIN STREET FOR THE CENTRAL BUSINESS DISTRICT
- PEDESTRIAN FRIENDLY COURTYARD DIRECTLY OFF OF MAIN STREET
- AWNING ALONG MAIN STREET PROVIDES PROTECTION FOR VISITORS AND EXTENDS CONTINUITY OF MAIN STREET INTO THE CENTRAL BUSINESS DISTRICT

REQUEST NO. Z-1405

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

THE PLAN DOES NOT LOOK LIKE FREDERICKSBURG STYLE

Michael W Liston
Signed

5/4/14
Date

MICHAEL W LISTON
Printed Name

411 E MAIN, FRG
Address

(DETACH BELOW)

REQUEST NO. Z-1405

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

- ① Traffic Flow and Congestion increase
② Deterioration of Area aesthetics and peace

Dudley Goulden
Signed

6/4/2014
Date

Dudley Goulden
Printed Name

414 E Austin Street
Address

830-997-1861
PLANNING and Zoning Commission

REQUEST NO. Z-1405

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

Jane Atwell
Signed

Jane Atwell
Printed Name

June 4, 2014
Date

407 N. Washington
Address Fredericksburg, TX

As an interested property owner,
I protest the requested zoning
amendment because I believe
the proposed mid rise hotel
is completely out of proportion
with all perimeter or contiguous
properties ^{on the block.} The 3 story building
will tower over the existing
properties on either side ~~at~~ 402
E. Main and 414 E Main creating a
visual imbalance to the area.
~~It will~~ ^{I believe the scale & proportions will} have a negative effect
on the historical and architectural
landmarks.

Therefore, I have 5 concerns.

1) Will the new building, with 0 set
back on Main and 38' in height
at its lowest point, be more
prominent than the ^{other} historical
landmarks in the area, including
the Nimitz Hotel.

- 2) Will the retail spaces, cafe, and spa attract unique, independent entrepreneurs, or will they be a target for additional formula businesses?
Do we need to add rooms with 23 hotels?
- 3) Will having 107 parking places create traffic congestion and pedestrian safety issues?
- 4) Will the tree, which is the focal point of the new project, be able to withstand the extensive building process?
- 5) Will the proposed plan promote the historical, cultural, social, and architectural identity of Fredericksburg?

To summarize:

THE Proposed Plan for the 3 story midrise looks appropriate for an URBAN shopping and Lodging center, but NOT historical FREDERICKSBURG!

(DETACH BELOW)

REQUEST NO. Z-1405

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

We need this motel on this block & the extra retail business also.

Signed James W. Chude

Date 6-4-14

Printed Name JAMES W. CHUDE

Address 413 E. MAIN

* Concerns about design

(DETACH BELOW)

REQUEST NO. Z-1405

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

Signed Barbara Heinen

Date 06-04-2014

Printed Name Barbara Heinen

Address 403 East Main
Keidel Inn

I am not protesting the hotel complex, but I have concerns about the design of the front of the building. It is difficult to tell from the black and white drawings but appears to be contemporary. I just want to make sure it blends in with Fredericksburg architectur



GABLE S CORPORATION

PO Box 4515
Austin, Texas 78765

Tel 512 659 8425
Fax 512 453 7672

Planning & Zoning Commission
126 W. Main St.
Fredericksburg, Texas 78624

Regarding: 406 East Main Street - Conditional Use Permit

Dear Planning & Zoning Commission Members:

The following is a list of property owners and/or representatives of property within 200' of the proposed project at 406 East Main, all of whom have expressed their support for the desired use and general project program. We have worked hard to develop a project that will provide our neighbors and community benefit.

Respectfully,

Shaesby A. Scott

Owner / Representative

Property / Business

	Mike Hoge Pres/CEO ADMIRAL NIMITZ FND
	J.E. CAUTEN: SONS 414 E. MAIN
	405 E. MAIN

	Tammy Sikes Absolute Charm & Scarlett
--	---------------------------------------

	DAVID BERKMAN/BERKMAN BOOKS
--	-----------------------------

	Michael Earth Treasures Gallery
--	---------------------------------

	Rebecca Ralser 408 E Austin St.
--	---------------------------------

	415/417 E. Main St.
--	---------------------

	Ron Ross 415 E Austin
--	-----------------------

TIM T. TAYLOR
PROMOTOR

(24)

WHISTLE PK SQUARE
421-425 E. MAIN



CITY COUNCIL MEMO

DATE: June 11, 2014

TO: Mayor and City Council

FROM: Brian Jordan, AICP

SUBJECT: Change in the Land Use Plan from Medium Density Residential to Commercial, and a change in zoning from R-2 Mixed Residential to C-2 Commercial on approximately 19.4 acres fronting on Franklin Street, Creek Street and Highway Street (Z-1406).

Summary:

The subject property is made up of three tracts and three different owners. Approximately 6 acres are owned by the Gillespie County Livestock Company, 6 acres are owned by Daniel and Verna Fritz and 7.4 acres are owned by heirs represented by Carroll Bryla, et al. The property owned by Gillespie County Livestock Company is part of the auction facility, the property owned by the Fritz's is the veterinary clinic and the property represented by Carroll Bryla is currently vacant. The applicant's have requested that the zoning on all three tracts be changed from R-2, Mixed Residential to C-2, Commercial to enable them to expand their businesses and better utilize the property.

Recommendation:

The Planning and Zoning Commission voted unanimously to recommend approval of a change in the Land Use Plan from Medium Density Residential to Commercial and a change in zoning from R-2 Mixed Residential to C-1, Neighborhood Commercial. No letters were received for this request. Staff concurs with the Commission's recommendation.

29

The City of Fredericksburg

Background / Analysis:

See attached Zoning Brief for request Z-1406



The City of Fredericksburg

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

ZONING CHANGE BRIEF

Rezoning Request # Z-1406

OWNERS:

Tract 1: Gillespie Livestock Company Inc.
Tract 2: Daniel and Verna Fritz
Tract 3: Carroll Bryla, representing various owners.

APPLICANT:

Carroll Bryla

LOCATION:

Property fronts on Franklin Street, Creek Street and Highway Street (See attached map).

SIZE:

Approximately 19.4 acres

EXISTING ZONING:

R-2, Mixed Residential

PROPOSED CHANGE:

1. Change in the Land Use Plan from Medium Density Residential to Commercial, and
2. Change in Zoning from R-2 to C-2 Commercial

FINDINGS:

- The entire property consists of three tracts, including 6 acres owned by Daniel and Verna Fritz, 6 acres owned by the Gillespie County Livestock Company, and 7.4 acres owned by various heirs represented by Carroll Bryla.
- The Fritz property is the home of the Gillespie County Animal Center, Gillespie Livestock Company utilizes their portion for animal storage, etc. and the tract owned by the heirs represented by Carroll Bryla is vacant.
- The existing main Gillespie County Livestock Company building and operation located at the corner of Longhorn and Highway Street is currently zoned C-2 Commercial (see attached zoning map).
- Water and Sanitary sewer are available to serve this property.
- Adjacent zoning is R-2 to the north, east and south, and C-2 to the west (see attached zoning map).
- The Land Use Plan identifies the subject property as well as the adjoining property to the north, east and south as Medium Density Residential. Property to the west is identified as Commercial.
- Adjacent land uses include residential to the north and east, a mix of residential, senior housing and commercial to the south, and a mix of housing and commercial to the west.

LAND USE PLAN: The Land Use Plan identifies the subject property as 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.

The Commercial land use designation may include retail and office uses as well as the light commercial activities that typically need some outdoor storage, display and sales area. For the most part, this land use category is found in areas where a mix of non-residential uses already exists and where change is not anticipated. The Commercial land use designation does not distinguish between light and heavy commercial activities.

In considering a Land Use Plan or Zoning change, the Planning and Zoning Commission shall make the following determinations prior to forwarding a recommendation to the Council.

- A. Will the proposed change enhance the site and the surrounding area? **While the change may enhance the site from the owner’s perspective, certain heavier commercial activities would not enhance the surrounding residential neighborhoods.**
- B. Is the proposed change a better use than that recommended by the Future Land Use Map? **The Medium Density land use category seems appropriate as a transition between the commercial activities to the west and the residential neighborhoods to the east. This may be accomplished with lighter commercial activities as well.**
- C. Will the proposed use impact adjacent residential areas in a negative manner? Or, will the proposed use be compatible with, and/or enhance, adjacent residential areas. **Certain commercial activities, such as the auction facility, do not seem compatible with the surrounding neighborhood. On the other hand, the veterinary clinic which is located much closer to the residential area, seems to be a little more compatible. The point here is that it really depends on the nature and characteristics of the commercial use to determine compatibility.**
- D. Are uses adjacent to the proposed use similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility? **Although the auction facility has coexisted with the surrounding neighborhood for many years, the use itself is not compatible with residential land uses. On the other hand, the veterinary clinic seems to be more compatible with the neighborhood. As for proposed uses, heavier commercial activities would be**

incompatible with the surrounding neighborhood, where lighter commercial activities may be fine.

- E. Can the proposed use be served by the available public facilities and services? **The site is large enough to serve potential uses permitted within the commercial designation. Utility infrastructure is available and adequate to serve commercial uses. Roadway infrastructure, on the other hand, would not be adequate to serve intensive commercial activities.**
- F. Does the proposed use present a significant benefit to the public health, safety and welfare of the community? Would it contribute to the City's long-term economic well-being? **Only certain commercial activities would seem to present a significant benefit to the welfare of the community, given the proximity to the residential neighborhood.**

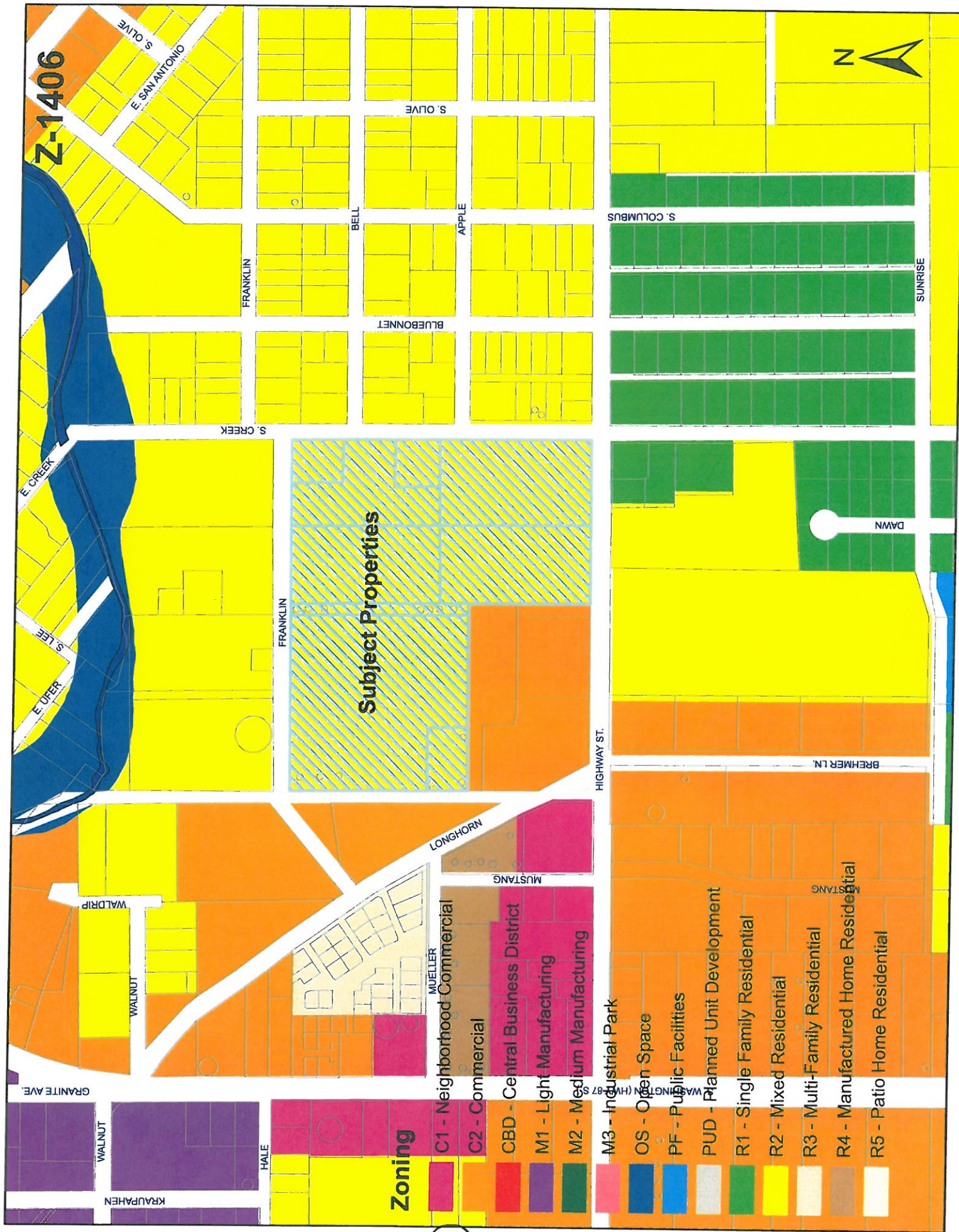
ZONING: The proposed zoning change from R2 to C-2 would represent a significant change in the zoning pattern within this area. The R-2 zoning represents a transition or buffer between the commercial activity to the west and the primarily single family neighborhood to the east. In evaluating the uses permitted in C-2, many would seem incompatible with residential in such close proximity. Uses in C-1, however, could be compatible, given the nature of the use and design of the site.

OPPOSITION/SUPPORT OF REQUEST: None to date.

PLANNING AND ZONING COMMISSION RECOMMENDATION: The Commission voted unanimously to recommend changing the Land Use Plan from Medium Density to Commercial and the zoning from R-2, Mixed Residential to C-1 Neighborhood Commercial.

STAFF RECOMMENDATION: Staff is comfortable with the zoning pattern as it presently exists. However, we understand that the existing businesses are restricted from any changes given the fact that non-conforming uses cannot be enlarged or expanded. In evaluating this proposal, we must consider the impact of the proposed change on the surrounding neighborhood. As such, we believe that certain uses within the C-2 District could be detrimental to the neighborhood, and do not recommend this change.

Staff concurs with the Commission's recommendation of approval.

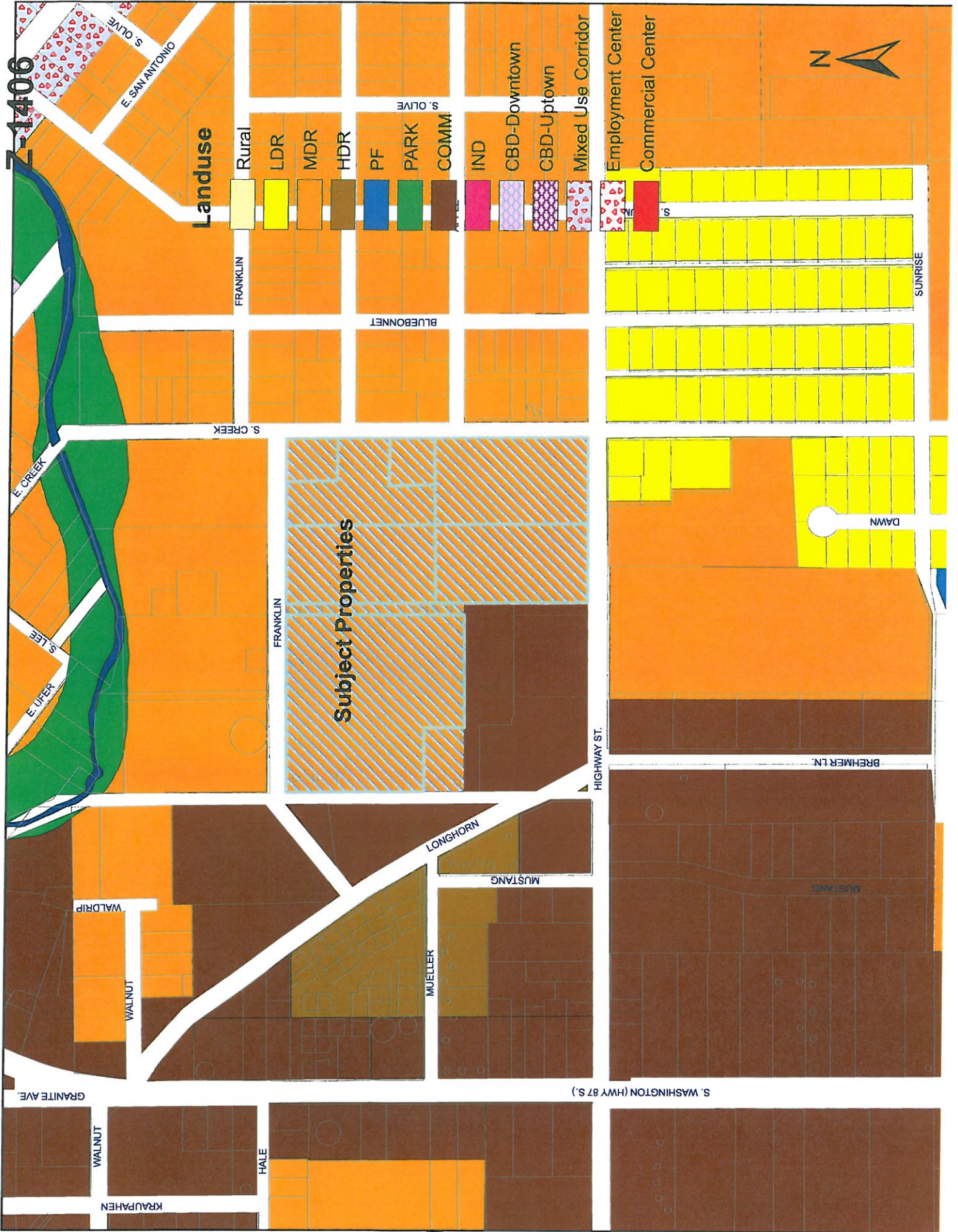


Z-1406

Subject Properties

Zoning

- C1 - Neighborhood Commercial
- C2 - Commercial
- CBD - Central Business District
- M1 - Light Manufacturing
- M2 - Medium Manufacturing
- M3 - Industrial Park
- OS - Open Space
- PF - Public Facilities
- PUD - Planned Unit Development
- R1 - Single Family Residential
- R2 - Mixed Residential
- R3 - Multi-Family Residential
- R4 - Manufactured Home Residential
- R5 - Patio Home Residential







CITY COUNCIL MEMO

DATE: June 16, 2014

TO: Mayor and City Council

FROM: Kent Myers, City Manager

SUBJECT: Proposed Revisions-Transportation Code

Summary:

The Transportation Code which regulates taxicabs, tour buses and other ground transportation providers needs to be revised to better protect the public.

Recommendation:

It is recommended that the Council conduct the second reading of the attached ordinance and provide any changes that you would like to make prior to approval of this ordinance.

Background / Analysis:

The previous Police Chief identified the need to revise our current Transportation Code due to the fact the City was experiencing an increasing number of transportation providers and he wanted to insure that the public was adequately protected. The review of the Code continued with our current Chief and has involved other City staff, including the City Secretary and City Attorney.

(33)

The City of Fredericksburg

Last September, a revised transportation code ordinance was presented to the Council. During the Council discussion of the ordinance, several transportation providers voiced concerns about the proposed changes including the provision for permitting vehicles and the requirement for operators to provide the City with drivers licenses for all of their current and future drivers.

During this discussion, Councilman Pearson volunteered to meet with the transportation providers to discuss and try to resolve their concerns. Several meetings were held between the Council member and these providers which resulted in the attached ordinance being presented to the Council for your consideration. If approved, this ordinance would take the City out of the business of permitting and regulating transportation providers. They could continue to operate as long as they met insurance and signage requirements.

The first reading of this ordinance was approved without any additional revisions at the last City Council meeting.

34

The City of Fredericksburg

5/14/14

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50, VEHICLES FOR HIRE, OF THE CODE OF ORDINANCES OF THE CITY OF FREDERICKSBURG AMENDING THE ENTIRETY OF ARTICLE II, TAXICABS, PROVIDING FOR DEFINITIONS, INSURANCE AND SIGNAGE REQUIREMENTS FOR TAXI AND PEDICAB SERVICE, PROVIDING FOR PARTIAL INVALIDITY, REPEAL OF INCONSISTENT PROVISIONS AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Fredericksburg has determined that the City's existing regulations concerning the operation of taxi and other transportation services for hire should be revised; and

WHEREAS, the City Council has also determined that to further promote the safety and welfare of the travelling public and the citizens of the City, Pedicabs for hire should also be regulated; and

WHEREAS, in order to accomplish the revision and the additional regulation, Chapter 50 of the Code of Ordinances should be amended as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS THAT THE FOLLOWING ORDINANCE BE AND IS HEREBY ENACTED AND THAT CHAPTER 50, VEHICLES FOR HIRE, ARTICLE II BE AND IS HEREBY AMENDED TO READ AS FOLLOWS, AND THAT THE FREDERICKSBURG CITY CODE BE AND IS HEREBY AMENDED BY ADDING A NEW ARTICLE TO BE NUMBERED ARTICLE IV WHICH SHALL READ AS FOLLOWS:

Chapter 50 GROUND TRANSPORTATION SERVICES

Sec. 50-19.- Definitions.

Sec. 50-20. - Offenses and Penalties.

Sec. 50-21 - Sign Regulations.

Sec. 50-22 - Insurance Required.

Sec. 50-19 - Definitions.

- (a) *City* means the City of Fredericksburg, Texas.
- (b) *Driver* or *chauffeur* means every person in actual charge of operation of a GTS vehicle whether as owner or agent, servant or employee of the owner.
- (c) *Ground Transportation Service (GTS)* means a transportation service using any taxicab, any and every automobile or motor-propelled vehicle including limousines and all other motor propelled vehicles however classified (whether as a shuttle, airport shuttle, jitney etc.) used for the transportation of passengers for hire over the public streets of the City, and shall include Pedicabs. The same shall be subject to the provisions of this chapter irrespective of whether the operation extends beyond the City limits, or whether the service charges rates for distance traveled or for waiting time, or for both, or for the trip, or at rates per hour, per day, or per month, or whether such vehicle is routed to predetermined destinations, regular or irregular routes or destinations under the direction of such passenger or passengers, or such person or persons hiring the same, with the following exceptions:
 - (1) Motor buses transporting to or from school or college,
 - (2) Ambulances or other emergency vehicles operating under permit from this City or another City or governmental entity,
 - (3) Vehicles rented or leased for operation by the person actually driving the same, unless such vehicle is transporting for compensation persons other than the one who actually rented or leased the same,
 - (4) Courtesy vehicles operated to or from the airport to hotels, motels, parking lots, or car dealerships or rental agencies by the owners of such entities for their patrons for no compensation,
 - (5) Any vehicle being operated pursuant to a franchise or permit legally issued by the Texas Railroad Commission or the Interstate Commerce Commission (example: Greyhound Grey-line busses),
 - (6) Vehicles operated for a funeral home in the performance of funeral services,
 - (7) Vehicles used in a ride-share/carpool, operated by individual employees or employers to transport a person or persons on a prearranged basis between their homes and places of employment or other places of common destination if free or if only a fee calculated to reasonably cover expenses is charged or

- (8) Vehicles used by or funded by governmental agencies for transit systems (examples: City bus system or Alamo Area Council of Governments).
- (d) *Taxicab* means a chauffeured motor vehicle having a rated passenger capacity of eight or less which typically operates on irregular routes and schedules and on a call-and-demand basis.
- (e) *Pedicab* shall mean a device with three (3) or four (4) wheels propelled by human power exerted through a belt, chain, or gears capable of carrying a driver and one (1) or more passengers, with a maximum of four (4) on a platform made as part of the device. A pedicab may have an electric assist motor to help the driver move the pedicab.

Sec. 50-20- Offenses and Penalties

- (a) It shall be unlawful for any person or entity to own or operate a GTS when not in compliance with the provisions of this chapter.
- (b) Each violation of this chapter shall constitute a separate offense and each offense shall be punishable as a Class C misdemeanor. Each day the violation exists shall be considered a separate violation for the purpose of punishment. Punishment is governed by Section 1-6 of this Code of Ordinances as set forth for health, safety and welfare violations.

Sec. 50-21 - Sign Regulations.

Each Taxicab and Pedicab shall have the business name and phone number affixed to both front doors with lettering clearly visible and readable.

Sec. 50-22- Insurance Required.

- (a) Each GTS shall have and maintain insurance and a certificate of insurance reflecting insurance coverage as herein prescribed. The GTS shall keep in full force and effect while providing GTS service a policy of public liability insurance, issued by an insurance company fully authorized to do business in this state and performable in Gillespie County, Texas, insuring the public against any loss or damage that may result to any person or property from the operation of such service, vehicle or vehicles.

(b) The minimum amounts of public liability and property damage insurance required for the operation of a GTS, shall be as follows:

- (1) One Million (\$1,000,000) Combined Single Limit or
- (2) Five Hundred Thousand (\$500,000) per person with One Million (\$1,000,000) each accident bodily injury and Two Hundred Fifty Thousand \$250,000 property damage.

The coverage required may carry a deductible of no more than Five Thousand (\$5,000) dollars.

Passenger liability exclusions are expressly prohibited.

Each driver shall be specifically listed as an approved driver on such policy of insurance.

- (c) In the event that any insurance policy is canceled the GTS service shall be terminated until the required insurance is reinstated. GTS service may not be operated at any time the insurance required hereby is not in effect.
- (d) Every policy of insurance issued to comply with the provisions hereof shall be issued by an insurance company with a minimum "A. B. Best" rating of at least B+.
- (e) All GTS drivers shall maintain a copy of the required insurance within the GTS vehicle at all times and display the same to any peace officer upon request.
- (f) No person shall drive a GTS vehicle with passengers without being then covered by the insurance required herein and listed thereon as an approved driver.

-----End of Code Text-----

Severability / Invalidity.

If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end, the provisions of this ordinance are declared to be severable.

Repealer

All ordinances and parts of ordinances in conflict with the provisions of this ordinance

are hereby repealed.

Penalties

Without limiting any other remedies available to the City of Fredericksburg, penalties provided for in the Code Ordinances of the city of Fredericksburg shall apply to violations hereof.

Effective Date

This ordinance shall take effect from and after the date of its passage and publication in accordance with the law.

PASSED AND APPROVED this the ____ day of June, 2014.

Linda Langerhans, Mayor
City of Fredericksburg

Attest:

Shelley Britton, City Secretary
City of Fredericksburg

Approved as to form:

Pat McGowan, City Attorney
City of Fredericksburg



CITY COUNCIL MEMO

DATE: June 11, 2014

TO: Mayor and City Council

FROM: John Culpepper, Director of Emergency Services

SUBJECT: Proposed Special Events Ordinance

Summary:

The Special Events Ordinance regulates Special Events conducted on City property by providing definitions, checklist and permit requirements, timeframes, insurance requirements, process, appeals, and penalties..

Recommendation:

It is recommended that the Council conduct the first reading of the attached ordinance and provide any changes prior to the second reading and approval of this ordinance.

Background / Analysis:

The City of Fredericksburg encourages special events for the enjoyment of our citizens and visitors, to celebrate our cultural heritage and for the promotion of the City. Some gatherings and organized activities may place unique demands on public resources or pose a potential danger to public health, safety and welfare. In order to plan for these demands and ensure the health and safety of our

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The City of Fredericksburg

community, it is necessary that the City receive advance notice of these events. City Council met in retreats on 7 June 2013 and 21 February 2014 to consider, discuss, and make recommendations to the City of Fredericksburg Special Events Policy. On 17 March at a regular Council Meeting the Council approved the Special Events Policy and the time-line for implementation. The only fees associated with the Special Events policy are the rental fees for City facilities and any Temporary Health Permits that may be required. The attached Special Events Ordinance is the backbone of the policy which is scheduled for full implementation on 1 July 2014.

6/9/2014

ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 36 SPECIAL EVENTS, TO THE CODE OF ORDINANCES OF THE CITY OF FREDERICKSBURG PROVIDING DEFINITIONS, CHECKLIST AND PERMIT REQUIREMENTS, TIMEFRAMES, REQUIREMENTS FOR ISSUANCE OF PERMIT, APPEAL; PROVIDING FOR PARTIAL INVALIDITY, PENALTIES AND AN EFFECTIVE DATE.

WHEREAS, The City recognizes the need to encourage and promote events for the greater good, cultural diversity and promotion of the City. Some gatherings and organized activities, due to their size and special requirements, may place unique demands on public resources or pose a danger to public health, safety and welfare. In order to plan for these demands on public resources and ensure that public health and safety is protected, it is necessary that the City receive advance notice of these events. The provisions of this Chapter are intended to address those concerns and are not intended to place unnecessary burden on any right of association or freedom of expression; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS THAT THE FOLLOWING ORDINANCE BE AND IS HEREBY ENACTED AND THAT CHAPTER 36 SPECIAL EVENTS SECTIONS 36.100 THROUGH 36.111 BE ADDED TO THE CODE OF ORDINANCES OF THE CITY OF FREDERICKSBURG AS FOLLOWS:

Chapter 36

SPECIAL EVENTS

Sec. 36-100 Definitions

Applicant means a person or entity who intends to hold a Special Event. An agent of an Applicant may prepare and submit the documentation required hereunder with proper authority submitted along with the Sponsor/Promoter/Sponsor Checklist. The Applicant, along with and in addition to anyone else who violated the provisions hereof, shall be a responsible party under the provisions hereof,

and will be subject to fines and punishment for violations and/or for violations of the terms of this Chapter.

Checklist means a written submission to the City, on forms provided by the City, of information about the Special Event.

City means the City of Fredericksburg, Texas, acting through its City Manager.

City Manager means the City Manager of the City of Fredericksburg or his or her designee which may include one or more persons or a committee.

City Owned Property means any property in the City designated as a park, playground, recreational facility, swimming pool or hike and bike path, or other City-owned property, including streets, and shall include buildings, parking lots and driveways in such areas.

First Amendment Activity means all expressive and associative activity on public streets that is protected by the United States and Texas Constitutions, including speech, press, assembly and the right to petition.

First Amendment Event means an event where the sole or principal object is First Amendment Activity.

Parade means any assembly, march, demonstration or procession upon public streets within the City including persons, animals, or vehicles that is reasonably likely to interfere with the normal flow or regulation of traffic.

Seasonal Special Event means an event that occurs in a specific season and is scheduled throughout the season on non-sequential days, and may use a single Special Event Permit.

Special Event means a temporary event, gathering or activity, including but not limited to parades, bike races, marathons, walk-a-thons, fireworks displays, concerts, carnivals other types of races and festivals, First Amendment Events, and Seasonal Special Events which involve one or more of the following activities:

- (a) Closing or partial closing of a public street for a period in excess of two (2) hours;
- (b) Blocking or restricting City-owned property;
- (c) Blocking or restricting access to City Parks unless otherwise authorized by the City Parks and Recreation Department under its reservation policies;
- (d) Sale of merchandise, food or beverages on City-owned property;
- (e) Erection of a tent equal to or greater than two hundred (200) square feet in area on City-owned property;
- (f) Installation of a stage, band-shell, trailer, van, grandstand, bleachers or other portable building or structure on City-owned property;

- (g) Placement of portable toilets on City-owned property;
- (h) Events reasonably expected to have more than 300 people per day on City-Owned property;
- (i) Placement of temporary no-parking signs in a public right-of-way or on City-owned property; or
- (j) Placement of pedestrian boundary markers on City-owned property.

Special Event Permit means written authorization from the City Manager to hold a Special Event.

Special Event Rules and Regulations means the guidelines, rules, regulations, policies and procedures developed as set forth in Sec. 36-108 below. Special Event Rules and Regulations may include, but are not limited to the following: processes; procedures; cost recovery for public safety sanitation and transportation personnel; safety regulations; resource requirements; and surety and insurance requirements. Special Events must additionally adhere to all other relevant City Ordinances or provisions of State Law.

Sec. 35- 101 Checklist Required

(a) It shall be unlawful for any Person to hold a Special Event, sponsor a Special Event or cause a Special Event to be held without first having submitted a Promoter/Sponsor Event Checklist.

(b) A Promoter/ Sponsor Event Checklist is not required for:

(1) events conducted entirely on the property of a religious institution, educational institution, college, or university campus. City, State or Federal streets or parking lots for multi-tenant buildings, regardless of location, shall not be considered part of a religious institution, educational institution, college or university campus;

(2) events on property owned or controlled by the City subject to a contract, lease or management/operating agreement with a person or entity where the agreement addresses events on the property or the event is included within the permitted uses in the agreement;

(3) processions of vehicles operated in compliance with traffic laws or a procession of pedestrians excluding organized walks, runs, parades and the like, in compliance with traffic laws along or upon public sidewalks, public parks, or private property;

(4) events held for National Night Out;

(5) funerals and Funeral processions;

(6) First Amendment Activity conducted entirely on sidewalks, in public parks or on private property in compliance with traffic laws and any other applicable City Ordinances (for example, handbills, placing property in rights of way, health laws etc); or

(7) events conducted under the supervision of or with the permission of a governmental entity on property owned, leased, or operated by a governmental entity other than the City.

Sec. 36- 102 Permit Required

(a) It shall be unlawful for any Person to hold a Special Event, sponsor a Special Event or cause a Special Event to be held without first having obtained a Special Event Permit from the City Manager if the Special Event requires any City services for which compensation is not made under contract with the City.

(b) No Special Event Permit shall be denied nor shall the Applicant be given less favorable consideration as to time, manner, or place based upon:

(1) race, color, creed, religion, gender, domestic relationship status, parental status, sexual orientation, transgender, gender identity or gender expression, national origin, political affiliation or any other prohibited characteristic of the Applicant and/or the participants of the Special Event; or

(2) the message of the Special Event, or the identity or associational relationships of the Applicant and/or participants; or

(3) any assumption or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the Special Event, provided that reasonable accommodation as to time, manner, and place may be required in order for the City to provide the resources necessary for police, fire and emergency services to preserve and protect public health, safety and welfare.

(c) The necessity of obtaining a permit will be made by the City Manager based upon the information submitted in the Promoter/ Sponsor Event Checklist. In making such determination, the City Manager shall reasonably interpret the information in the Promoter/ Sponsor Event Checklist, and may use past experience with the type of event, inaccuracies in the completion of the checklist, omissions in the same and lack of substantiation of stated items if requested.

Sec. 36-103 Contents of Promoter/Sponsor Checklist

(a) An Applicant shall file a Promoter/Sponsor Checklist ("Checklist") with the City upon forms provided by the City.

(b) The Promoter/Sponsor Checklist shall set forth as a minimum the following information, and will be supplemented at the request of the City in order for the City to determine whether or not a Permit Application is required or if the information submitted is incomplete:

- (1) the name of the Special Event,
- (2) the name, address and telephone numbers of the Applicant and the Sponsor or Promoter if different from Applicant along with proper authority if applicable,
- (3) the proposed location(s) and address(es) for the Special Event,
- (4) a description of the activities of the Special Event,
- (5) the date(s) and time(s) the Special Event will start and terminate,
- (6) the time at which on-site activities in preparation for the Special Event will begin.
- (7) whether a street closure longer than two (2) hours is requested for the Special Event.
- (8) whether any City property will be blocked,
- (9) whether merchandise, food or beverages will be sold,
- (10) general description of tents to be erected, if any,
- (11) general description of any temporary structures, toilets, signs, trailers or boundary markers to be placed, if any,
- (12) estimated number of persons who are expected to attend per day for the duration of Special Event.

(c) The Applicant is responsible for updating this information prior to the event, and the City requirements may be amended as a result of an increase or decrease in the number of persons expected to attend or other change in circumstances. The minimum will be the number of advance sales or registrations.

(d) Within thirty five (35) days following the submission of the Checklist and any supplemental information requested, the City Manager will determine whether or not a Special Events Permit is required, and Applicant will be notified using the contact information on the Checklist.

Sec. 36-104 Application for Permit

A Special Event Permit shall not be issued until a completed Special Event Permit Application, together with any additional information requested, and payments of all applicable fees, if any, are received by the City.

The Special Event Permit Application must demonstrate compliance with this ordinance, the Special Event Rules and Regulations, and other applicable law.

Sec. 36-105 Permit Application Requirements

(a) An Applicant shall file a Special Event Permit Application ("Application") with the City upon forms provided by the City, and the Application shall not be acted upon until it is complete and all applicable fees, if any, are paid.

(b) The Application shall set forth as a minimum the following information, and will be supplemented at the request of the City for all information which cannot be known at the time of application, or which is determined to be incomplete following submission:

(1) the time at which on-site activities in preparation for the Special Event will begin.

(2) the date and time when clean-up of the property will be complete.

(3) any transportation plan, traffic plan, parking plan or street closure requested for the Special Event.

(4) the number and types of animals and vehicles that are part of the Special Event. The Applicant is responsible for updating this information prior to the event, and the City requirements may be amended as a result of an increase or decrease in the number of animals and/or vehicles expected to attend. The minimum will be the number of advance registrations.

(5) the location and size of tents, awnings, canopies, food service booths, or other temporary structures shall be shown on a map.

(6) details for all requested signage shall be included.

(7) the location and orientation of loud speakers and any other amplification devices shall be shown on a map.

(8) details regarding food service including planned cooking.

(9) details regarding alcohol sales or serving, if any, and if so, a copy of the alcohol permit.

(10) details for planned amusement rides.

(11) map(s) showing streets and pedestrian ways that are impacted as well as site setup showing ingress and egress for pedestrians and vehicles and all equipment and barriers that will be used in connection with the Special Event.

(12) for Parades, a route map, approximate number of participants and type of participants (ex. animals, floats, etc.), and proof that all property owners adjacent to the Parade route have been notified of the route, date and duration of the Parade, or the date by which they will be notified, Such notice shall not be given more than one month in advance and no less than one week.

(13) sales tax permit number(s)

(14) insurance certificate for the Special Event showing the City as an additional insured in the amounts set forth in the Special Events Rules and Regulations as promulgated by the City Manager.

(15) any other information which the City Manager finds is necessary under Special Events Rules and Regulations set forth in Sec. 36-108 or Standards/Requirements for Issuance of Special Event Permit set forth in Sec. 36-109.

Sec. 36-106 Fees and Costs

(a) The fee for a Special Events Permit will be found in Appendix A of this Code of Ordinances in the event the same are enacted.

(b) Applicant shall pay all required fees, including site rental, with the Special Event Permit Application, and Applicant shall at the same time be required to pay all fees and costs required by other City ordinances to conduct specific activities in conjunction with or as part of a Special Event.

(c) If the City determines that a Special Event may require the special attention and involvement of City personnel or City facilities, the City shall notify the Applicant. Prior to issuance of a Special Event Permit:

(1) Applicant and City shall agree upon the additional costs the City will incur as a result of the Special Event and Applicant shall pay those costs to the City and

(2) Applicant shall agree in writing to pay any additional costs to the City incurred as a result of the Special Event within five (5) days of the date upon which the City informs the Applicant of the amount of such additional costs, but in no event less than seven business days prior to the event.

(d) No Special Event Permit Fee shall be charged for a First Amendment Event. An Applicant for a Special Event Permit shall pay fees for street closures to conduct specific activities in conjunction with or as part of a First Amendment Event, but the

amount of the fees shall not be in excess of the City's cost to close the street(s) for traffic control.

(e) No Special Permit application fees are refundable. If the event does not occur, fees paid in advance for City Services which have not already been used shall be refunded.

Sec. 36-107 Timeframes and Deadlines

(a) A Promoter/Sponsor Checklist shall be filed not more than three hundred sixty-five 365 days or less than sixty (60) days before the commencement of the proposed Special Event. The City Manager may consider a Checklist that is filed less than sixty (60) days before the commencement of the proposed Special Event in the event the Applicant could not have met the deadline because the event had not been planned for more than 60 days and the same will not place an undue burden on the City staff or resources

(b) A Special Event Permit Application shall be filed no more than three hundred sixty-five 365 days or less than twenty-five (25) days before the commencement of the proposed Special Event. The City Manager may consider a Special Event Application that is filed less than twenty-five (25) days before the commencement of the proposed Special Event in the event the applicant could not have met the deadline because the event had not been planned for more than twenty-five (25) days, the same will not place an undue burden on the City staff or resources and applicable late fees, if any, are paid with the application.

(c) The City may issue a Special Event Permit for a First Amendment Event when the Special Event Permit Application is filed less than twenty-five (25) days before the commencement of the First Amendment Event if the event had not been planned for more than twenty-five (25) days, and provided there is adequate time for the City to process the Application and to assure that there are adequate traffic measures in place for the orderly movement of the First Amendment Event participants and traffic. The City and the Applicant shall communicate with the police department and fire department prior to the First Amendment Event.

(d) When a timeframe or deadline established in this Section results in an Application being due on a weekend, holiday or a day the City is closed for business, the Application shall be due on the business day immediately following said weekend, holiday or closed business day.

Sec. 36-108 Application Process and Review

The Special Event Permit Application will be processed and reviewed pursuant to the Special Events Rules and Regulations which shall be promulgated by the City Manager based on health and safety concerns, and the reasonable availability of City resources which may be required, and on other applicable City Ordinances or Code provisions.

Sec. 36-109 Standards/ Requirements for Issuance of Special Event Permit

(a) A Special Event Permit will be issued only if the City Manager finds that he following requirements, as are applicable to the Special Event will be met and that adequate provision therefor will be made:

(1) requirements of City Ordinances/ Code provisions and of the State and Federal Governments are met,

(2) the Special Event will not unnecessarily interrupt the safe and orderly movement of traffic near its location or route,

(3) the Special Event will not require the diversion of a number of police officers to properly police the Special Event locale or movement of a procession or parade along the route and the adjacent areas which will significantly impair adequate police protection for the City as a whole,

(4) the concentration of people, animals, and vehicles at assembly points will not significantly impair proper fire and police protection or ambulance service to areas at or near such assembly points or the City or County as a whole.

(5) a Parade is scheduled to move from its point of origin to its point of termination without unreasonable delays in route,

(6) all licenses and permits, restrictions, regulations, fees for the City services, if any, safeguards or conditions as set forth in any Special Event Rules and Regulations as promulgated by the City Manager have been submitted, and approved.

(b) The City Manager is authorized to interpret and has the authority to modify the same to fit individual circumstances where the standard cannot be strictly met, is inapplicable to the specific Special Event or if additional modifications are deemed necessary by individual City departments for the safe and orderly conduct of a Special Event. The City Manager is further authorized to require an Applicant to

institute other safeguards or activities to protect the safety of the public from circumstances which may arise from a specific Special Event.

(c) It is understood that no Applicant is assured the ability to close a street. All street closures longer than two (2) hours are granted by the City Council, and those two (2) hours or less are granted by the Chief of Police.

Sec. 36-110 Denial or Revocation of a Permit

(a) The City Manager shall deny issuance of a Special Event Permit if:

(1) The Special Event will conflict in time or location with another Special Event or event for which an Application has been submitted or approved prior to the one subsequently requested,

(2) The Special Event, if held, would violate, the Special Event Rules and Regulations, any City ordinance or any other applicable law,

(3) The City manager determines that there is a false or misleading statement or omission of material fact on a Promoter/Sponsor Checklist or Special Event Application, and the same is not corrected within the time for submission of an application,

(4) The Applicant has violated this ordinance or has had a Special Event Permit revoked within the preceding twelve (12) months,

(5) The Applicant fails to provide proof of a license or permit required by any City ordinance or other applicable law for the Special Event,

(6) The Applicant fails to provide proof that the insurance requirements for the Special Event have been met, or

(7) The Special Event would significantly impair the delivery of normal or emergency public services or constitutes a public health or safety threat.

(b) If the City Manager determines that the Special Event Permit shall be denied, the City Manager shall consider alternatives to the time, place or manner of the Special Event that would allow the Special Event to occur.

(c) Revocation of a Special Event Permit:

(1) If the Police Chief, Fire Marshal, Emergency Services Director, Health Department Director or Sanitarian, Building Official or Code Enforcement Officer ("City Official") or their designated representative, finds that any of the provisions of this ordinance, another City ordinance, Special Event Rule or Regulation, or other applicable law is being violated, he or she shall immediately notify the City

Manager and based on that information, the City Manager shall attempt to solve the issue at hand and if it cannot be solved the City Manager will determine whether the Special Event Permit shall be revoked. Notice and an opportunity to be heard by the City Manager shall be given to the Applicant prior to revocation if reasonably possible and if the cause for revocation does not involve an immediate threat to the health and safety of any individual or property. If revoked, the Special Event shall immediately terminate and cease activity upon notification to the Applicant. Failure to terminate the activity shall constitute a separate offense.

(2) When, in the judgment of any of the above designated City Officials, a violation exists which requires immediate abatement, and the Applicant does not abate the violation immediately upon notice from said City Official, the City official shall have authority to revoke a Special Event Permit in the absence or unavailability of the City Manager. If revoked, the Special Event shall immediately terminate and cease activity upon notification to the Applicant.

(3) The City Manager, or other City Official in the absence of the City Manager as described above, may revoke a permit wherein a material false or misleading statement or omission of material fact on a Promoter/Sponsor Checklist or Special Event Application is discovered after the Special Event Permit was issued so that the terms of the permit would require significant revision or if the scope of the Special Event has so changed that the terms of the original permit require significant revision which presents an unreasonable burden on the City resources.

Sec. 36-111 Appeal

- (a) If the City Manager denies the issuance of a Special Event Permit, or revokes an issued Special Event Permit, the Applicant shall promptly be notified in writing. Such written notice shall include the reasons for the decision to deny or revoke the Special Event Permit. The Applicant may appeal the denial or revocation to the City Council which shall make a ruling on the appeal, if time permits prior to the event. The City Council shall not be required to call a special meeting to accommodate an appeal.
- (b) If a City Official other than the City Manager revokes an issued Special Events Permit, the Applicant shall promptly be notified in writing. Such written notice shall include the reasons for the decision to deny or revoke the

Special Event Permit. The Applicant may appeal the denial or revocation to the City Manager which shall make a ruling on the appeal and attempt to resolve the issue if time permits prior to the event. If no resolution can be made, the Applicant may appeal the revocation to the City Council which shall make a ruling on the appeal if time permits prior to the event. The City Council shall not be required to call a special meeting to accommodate an appeal.

(c) If a Special Event Permit is revoked the event shall cease. No fees, whether they are application fees, or fees paid for City services shall be refunded if a Special Event Permit is revoked. The City shall not be liable for any costs or damages associated with denial of or revocation of a Special Events Permit.

-----End of Code Text-----

SEVERABILITY OR INVALIDITY

If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, or in any exception to or limitation upon any provision contained herein be held to be unconstitutional, invalid or ineffective, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect, and to this end, the provisions of this ordinance are declared to be severable.

EFFECTIVE FOLLOWING PUBLICATION

This ordinance shall be effective from and after July 1, 2014 following its passage and publication in accordance with the law. The City Secretary of the City of Fredericksburg is hereby directed to publish notice of this Ordinance as required by law to become effective.

PENALTIES

Penalties provided for in the Code Ordinances of the city of Fredericksburg shall apply to violations hereof.

PASSED AND APPROVED this the ___ day of June, 2014.

Linda Langerhans, Mayor
City of Fredericksburg, Texas

ATTEST:

Shelley Britton, City Secretary

APPROVED:

Pat McGowan, City Attorney



CITY COUNCIL MEMO

DATE: June 16, 2014

TO: Mayor and City Council

FROM: Kent Myers

SUBJECT: Exchange of Property-306 East Austin Street

Summary:

The Chamber of Commerce is interested in acquiring the city-owned property located at 306 East Austin Street. The City has an outstanding lease obligation to the Chamber which might be exchanged for this property.

Recommendation:

It is recommended that the City approve the attached resolution authorizing the exchange of the city-owned property at 306 East Austin Street for the release of our current lease obligation based upon certain terms and conditions that will be discussed in Executive Session.

Background / Analysis:

This item is scheduled for discussion during executive session before the Council takes action. Prior to adjourning into executive session, a representative from the Chamber of Commerce may want to make some comments regarding their interest in this property.

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The City of Fredericksburg



CITY COUNCIL MEMO

DATE: June 16, 2014

TO: Mayor and City Council

FROM: Kent Myers, City Manager

SUBJECT: Potential Litigation-Charter Amendment

Summary:

At Monday's Council meeting, an executive session has been scheduled to obtain additional legal guidance regarding the implementation of the recently-approved Charter amendment.

Recommendation:

It is recommended that the Council consider whether or not legal action regarding the new Charter amendment would be in the best interests of the City.

Background / Analysis:

Background information and legal analysis will be provided to the Council during executive session.

(5)

The City of Fredericksburg