

AGENDA
CITY OF FREDERICKSBURG
BOARD OF ADJUSTMENT

Thursday, March 12, 2015

5:30 P.M.

CITY HALL CONFERENCE ROOM, 126 W. MAIN ST.

- | | | |
|----|--|------------------|
| 1. | Call to Order | <i>PAGE REF.</i> |
| 2. | Approve Minutes of the August 2014 Meeting | <i>Pp 1 - 2</i> |

PUBLIC HEARINGS

- | | | |
|----|--|------------------|
| 3. | <u>PUBLIC HEARING:</u> (ZBA2015-1) by Heinrich and Brenda Boenig to consider a variance to section 29-7 (1) of the Code of Ordinances pertaining to replacement of a sign on property located at 215 W. San Antonio Street in an R-2, Mixed Residential District | <i>Pp 3 - 19</i> |
| 4. | Consider taking action on ZBA2015-1 | |

ADJOURN

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

**BOARD OF ADJUSTMENT
August 14, 2014
5:30 P.M.**

On this the 14th day of August 2014, the BOARD OF ADJUSTMENT convened in regular session at the regular meeting place thereof with the following members present to constitute a quorum:

ROBERT DEMING
BARBARA HEINEN
JIM MCAFEE
GESENA HOUY
CYNTHIA SCROGGINS
DONNIE FINN

ABSENT: MIKE DOOLEY

ALSO PRESENT: BRIAN JORDAN – Director of Development Services
PAT MCGOWAN – City Attorney
TAMMIE LOTH - Development Coordinator

The meeting was called to order at 5:30 P.M. by Robert Deming.

MINUTES

Jim McAfee moved to approve the minutes of the May, 2014 meeting and Barbara Heinen seconded the motion. All voted in favor and the motion carried.

PUBLIC HEARING - (ZBA 2014-4) by Lewis Signs on behalf of Robert T. Rajewski to consider a variance to Section 29-7 of the Code of Ordinances pertaining to maximum sign area allowed on property located at 513 Friendship Lane (Fairfield Inn & Suites). Robert Deming opened Public Hearing ZBA 2014-4 by Lewis Signs on behalf of Robert T. Rajewski to consider a variance to Section 29-7 of the Code of Ordinances pertaining to maximum sign area allowed on property located at 513 Friendship Lane (Fairfield Inn & Suites). Ann Lewis of Lewis Signs, Robert Rajewski, developer, and Dan Venis, Building Foreman were in attendance to present the application. Mr. Rajewski stated the denial of the requested signs came about a month ago after the signs were originally approved six years ago and again a year ago and added he received permission to move the wall sign from the south side of the building to the north side. Mr. Rajewski noted all the permits and fees were paid based on drawings that were presented and returned with the permit and the signs were on those drawings. Mr. Rajewski noted if there were problems with the signs they should have been addressed at the time of permitting. Mr. Rajewski added Marriott has approved the signs and he is not trying to request anything out of the ordinary. Brian Jordan, Director of Development Services, noted the permit Mr. Rajewski obtained is a building permit and not a sign permit. Mr. Jordan stated the site plan was submitted, which included a full set of plans, and those were approved and the signs were shown on the plans, but permits are not issued based on site plan applications and signs are not reviewed through the site

plan approval process. Mr. Jordan noted sign permits are not issued until a developer comes in and requests signage. Mr. Rajewski commented he had to make changes on the fire lane and water and sewer lines during the site plan review process and questioned why he was not told there would have to be changes to the signs. Mr. Jordan explained the changes he made are items that are reviewed during the site plan review process, but signs are not reviewed until an application for a sign permit is submitted. Barbara Heinen asked Mr. Rajewski when he applied for the signs and he noted it was approximately one month ago. Cindy Scroggins asked if this was a common problem and Mr. Jordan noted City Staff does not run into this often, but what would have helped the applicants is if it had been made clear to them that the signs were not reviewed as part of the site plan and building permit application. Mr. Rajewski commented everything should be reviewed at the same time before the developer has spent money and finds out he isn't allowed to have what is shown on the site plan. Mr. Jordan noted the sign ordinance and the amount of signage allowed has not changed from the time of their original site plan application. Mr. Venis asked if the wall sign could be moved from the north side to the west side so vehicles on Highway 87 will be able to see it and Mr. Jordan noted they could if the square footage of the sign is allowed.

There followed discussion about Marriott's requirements and the decreased visibility of the property and the best direction for the wall sign to face. Ann Lewis asked if there was any way they could meet in the middle to allow some variance and Mr. Deming noted the criteria is set for approval and that has to be strictly met in order to be granted a variance. Gesena Houy asked if there are any competitors that have larger signs or more square footage and Mr. Deming stated they have not allowed signs that fall outside of the ordinance allowance. Ms. Heinen added the City has other chain businesses that had to lessen their sign area. Cindy Scroggins noted there are a lot of businesses that have a ground sign and nothing over the front door in order to meet the allowable square footage. Ms. Lewis asked if they could have directional signage in the parking lot and Mr. Jordan stated they could, but there could not be any advertisement on those signs. Donnie Finn agreed the Board needs to be consistent with their rulings.

Gesena Houy moved to deny Application ZBA 2014-4 and Cindy Scroggins seconded the motion. All voted in favor and the motion carried.

With nothing further to come before the Board, Jim McAfee moved to adjourn the meeting and Cindy Scroggins seconded the motion. All voted in favor and the meeting was adjourned at 5:46 p.m.

PASSED AND APPROVED this the 12th day of March, 2015.

SHELLEY BRITTON, CITY SECRETARY

MIKE DOOLEY, CHAIR

VARIANCE BRIEF
Request # 2015-1

APPLICANT: Heinrich and Brenda Boenig

ZONING: R-2 –Mixed Residential

LOCATION: 215 West San Antonio-The Flower Pail

REQUEST: Variance to Section 29-7(1) (Permanent Signs permitted by district), Permissible Residential Sign- Allowable residential signage is identification signs for residential subdivisions and multiple family complexes.

FINDINGS:

- The building frontage is 40 linear feet.
- The property frontage is 67 feet.
- Per the Sign Regulations, the building would not qualify for a sign other than an address sign.

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:

- a. 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. **The existing pole sign, which displays the business name of Pehl's Flower Shop, is a non-conforming sign, in that the sign is taller than five feet and exists in a residential zone, where business signage is not allowed. The sign is also damaged and displays the name of the previous business.**

- b. That all structures on the property for which the sign is proposed that would impede the replacement of a sign was constructed prior to February 17, 1986. **Affirmative.**
- c. That it is impractical to abide by the 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 surrounding sites, structures on surrounding sites, traffic conditions, street layouts and existing natural vegetation. **The existing pole sign, displaying the name of Pehl's Flower Shop is a non-conforming sign, due to the height of the sign, shows damage, wear and tear and is a lighted sign which does not conform to the light requirements for an internally illuminated sign.**
- d. 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:
 - (1) The undesirability of altering a historic site to accommodate a sign which would be permitted with no variance under this Ordinance; **The site location of 215 West San Antonio is in the Historical District. The building is a low rated historic site.**
 - (2) That alternatives permitted by this Ordinance would involve extensive reconstruction of structures; or
 - (3) That alternatives permitted by this Ordinance are prohibitively expensive; or
 - (4) That alternatives permitted by this Ordinance will not effectively identify the subject of the sign. **The only signage allowed in this residential zone is a numbered address sign.**
- e. That the proposed sign has been reviewed by the Historic Review Board if applicable. **Proposed signage has not been reviewed by the Historical Review Board.**
- f. That the proposed variance is as close to the requirements of the Sign Ordinance as is feasible. **In our opinion, the allowance of the requested signage, which is one ground sign measured at 26 square feet, with a maximum height of four feet, is a feasible request to identify the business.**

OPPOSITION/SUPPORT OF REQUEST: To date, staff has received no letters in the support and one letter in opposition of this request.

STAFF RECOMMENDATION: APPROVAL

To paraphrase the owner, "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 new 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 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 existing pole sign, located on the north side of the property is a prohibited sign, due to the height of the sign, shows damage, wear and tear, has external neon illumination, which is against the Sign Code and displays the name of the previous owner's business. The new sign would not be facing residential houses and would appropriately designate the property as a business.

The Variance Request involves the business to be allowed to display a wooden, low to the ground, unlighted, using conforming colors to adhere to the Historical District and would not affect the nature of the residential neighborhood.

In our opinion, the proposal for one sign to be displayed on this property meets the criteria for granting a variance.

VARIANCE REQUEST APPLICATION
TO
BOARD OF ADJUSTMENT

1. APPLICANT: Heinrich Boenig ; Brenda Boenig
2. ADDRESS: 4084 Old Harper Rd. Fredericksburg, Tx
PHONE: 830 669 2104 FAX: _____

3. DESCRIPTION OF PROPERTY INVOLVED IN THIS REQUEST:
ADDRESS: 215 W. San Antonio St.
LEGAL DESCRIPTION: F'bg. Add. Blk 32 Town lot 359-PT
LOT SIZE: 0.216 Ac. ZONING DISTRICT: R-2

4. REQUEST IS MADE HEREWITH TO THE BOARD OF ADJUSTMENT THAT A VARIANCE BE GRANTED TO THE FOLLOWING PROVISIONS OF THE ZONING ORDINANCE:

SECTION: 5 PAGE: 1
SUBSECTION: .652
ITEM: Signs: Additional Criteria
RELATING TO: Replacement of sign
REQUIRING: Removal of existing pole sign; erection of new sign due to change in name of business, damage & vandalism to existing sign.

5. 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:
 - a. Existing and proposed location and arrangement of uses on the site, and on abutting sides within 50-feet.
 - b. 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.
 - c. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.
 - d. 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.

- B. The Building Official and/ or Director of Development Services may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a Variance exists.

6. REASONS FOR THE REQUEST:

Existing sign is damaged; reflects name of previous business at the site. Previous tenants have threatened legal action contingent upon removal of existing sign. Current sign does not reflect the current use of the property, is not in compliance with the sign ordinance.

- A. 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 Zonina Regulations applicable to the property do not allow for a reasonable use.

The property is designated as having a "non-conforming" use in a residential district, although the city zoning map also designates the property as "Historic Shopping District". The existing business at the site needs appropriate signage to indicate current use of the property. Having no signage would be a hardship on the existing business operating legally at the site.

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 existing sign has been vandalized, does not function properly. Another sign on the face of the building was also stolen. Without signage, current business would suffer hardship.

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 proposed signage will be more discreet, more appropriate to the zoning district (in compliance with sign ordinance, wooden, low to ground, not lighted, not interrupting nature of the residential neighborhood).

- 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:

1. 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.

N/A

2. 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

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

N/A

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

N/A

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.

1. 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.

Business name at site has changed; continuing business needs different (current, correct) information on a new sign. Existing sign has been vandalized.

2. 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.

Only structure on property was constructed ~1950 according to previous property owner. Information re: date of construction/improvements is not available from tax records.

3. 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.

Existing sign is a "pole sign", no longer allowed by city sign ordinance. Existing sign may not be changed or replaced as is, according to zoning restrictions.

4. 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
 - b. That alternatives permitted by this Ordinance would involve extensive reconstruction of structures; or
 - c. That alternatives permitted by this Ordinance are prohibitively expensive; or
 - d. That alternatives permitted by this Ordinance will not effectively identify the subject of the sign.

Proposed removal and replacing the existing signage would be much more in keeping with the historical residential nature of the zoning district.

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

Attached sign design proposal is submitted to P&Z Department for review by Sign Department and all other parties applicable to approval of the sign.

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

The proposed sign is designed in size, material, aesthetics to meet all requirements of the sign ordinance

7. **NOTICE TO APPLICANT: YOU, OR YOUR REPRESENTATIVE ARE STRONGLY URGED TO ATTEND THE BOARD OF ADJUSTMENT MEETING AT WHICH YOUR VARIANCE REQUEST WILL BE CONSIDERED-** The Board will consider whatever evidence is presented at that time, and may approve, deny, or postpone consideration of your request. Failure to attend may result in the presentation of inadequate or inaccurate information which may result in denial or postponement.

Signature of Owner: Herwin Boenig Brenda Boenig

Date: Feb. 17, 2015 Fee Paid: \$ 150⁰⁰

8. List of property owners within 200 ft. (Provided by City)

February 17, 2015

To: The Board of Adjustment
City of Fredericksburg
Fredericksburg, TX 78624

From: Heinrich and Brenda Boenig
4084 Old Harper Rd.
Fredericksburg, TX 78624

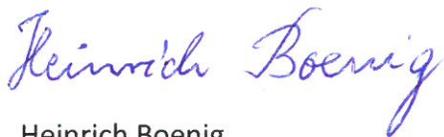
Please find enclosed a VARIANCE REQUEST APPLICATION TO BOARD OF ADJUSTMENT. This request is made on behalf of our tenants, Lara Snyder and David Leary, owners of THE FLOWER PAIL, a full service florist business; and on our behalf as owners of the property leased to the proprietors of THE FLOWER PAIL.

We understand the unique nature of the "non-conforming use permit" allowed for this particular property, and appreciate your considering our request to remove existing signage and to install appropriate signage. Proposed signage will be in complete compliance with the City of Fredericksburg Sign Ordinance, and will pertain to the current business now operating on the property.

Events beyond our control prompted this application procedure, and we feel our tenants are suffering a hardship due to the current signage on the property.

Thank you for your consideration of this request.

Sincerely,



Heinrich Boenig



Brenda Boenig





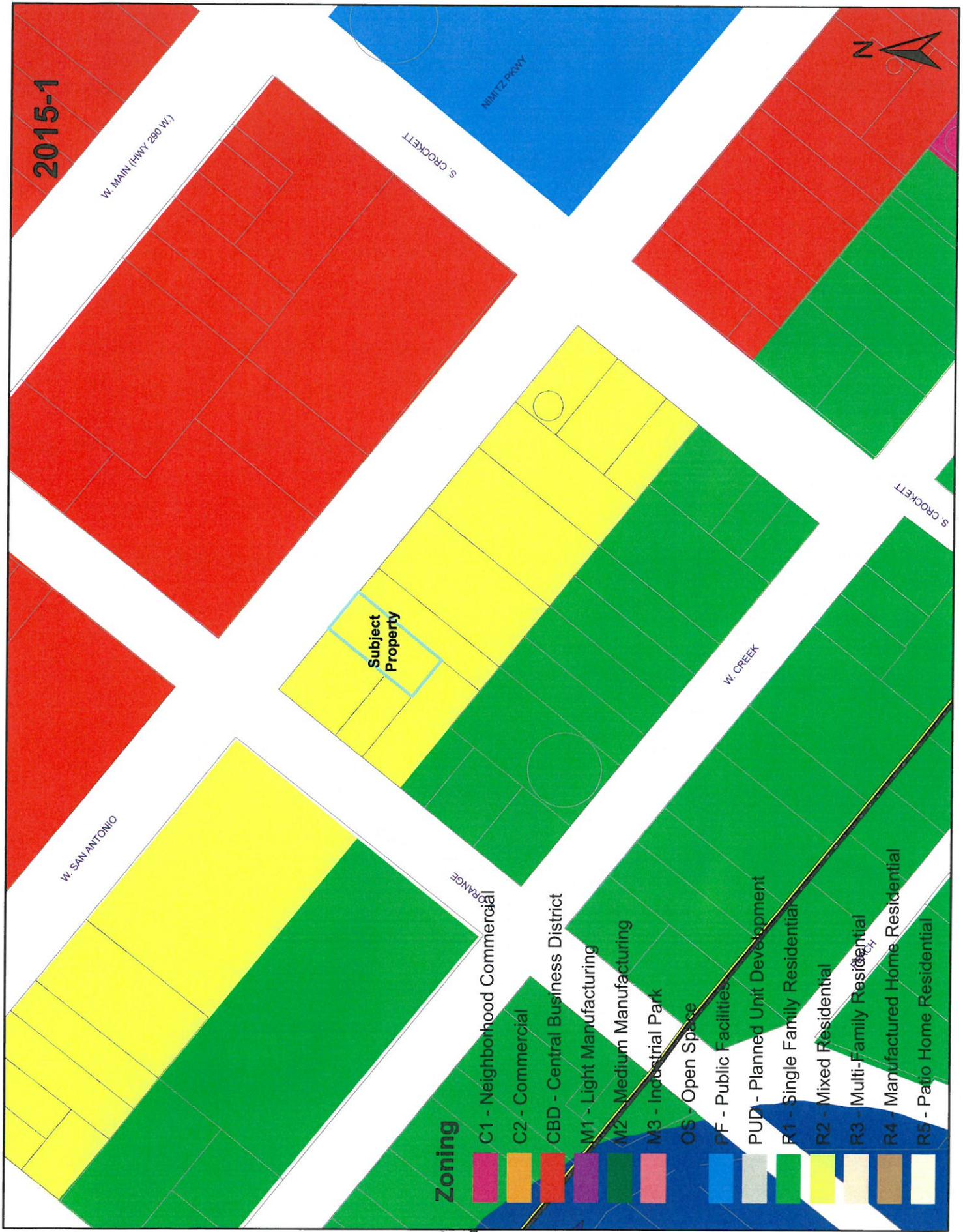
The proposed sign is made of wood; approximately 26" square; painted in colors compatible with the existing business, a full service florist; displaying the firm's logo and geographic / mailing address. Supporting posts are 4" x 4" square, topped with approximately 3.5" round finials. The maximum height of the sign from ground to top is expected not to exceed 40".

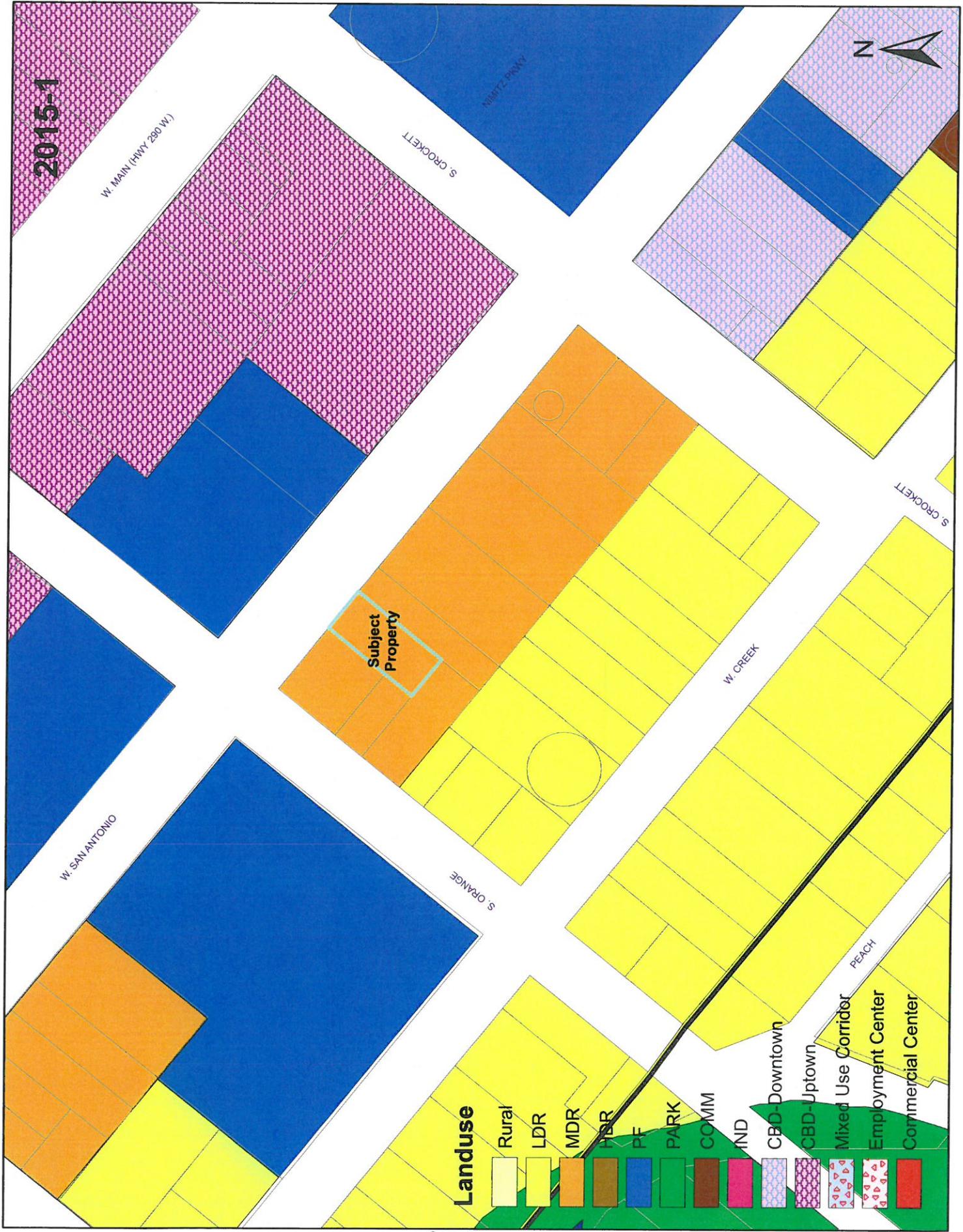
The proposed location of the sign would be within the grass lawn before the flower shop, either

- a. immediately to the west side of the sidewalk approaching the front door, or
- b. immediately to the east side of the sidewalk approaching the front door, or
- c. at the location of the existing pole sign.

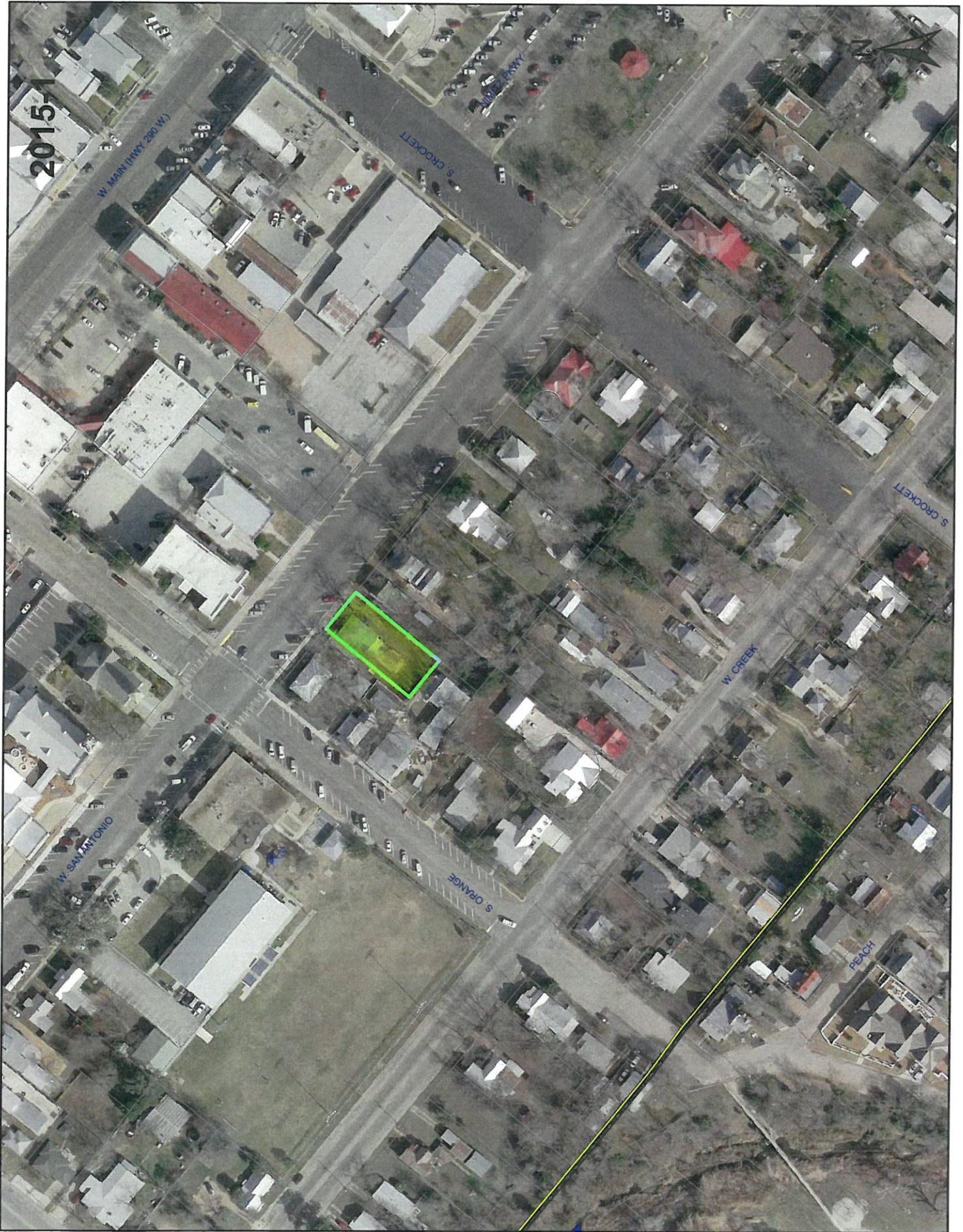


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2015-1



16



NOTICE OF PUBLIC HEARING ON VARIANCE REQUEST

HEARING DATE: March 12, 2015

TIME: 5:30 P.M.

APPEAL NO. 2015-1

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

According to City Tax Record, you are the owner of real property listed below, or are the owner within 200' of the requested variance. You are not required to attend the hearing, but if you care to attend you will be given full opportunity to be heard. If you cannot attend the hearing, but wish to comment on the request, please detach the response form below and return it to the City of Fredericksburg, 126 W. Main St., Fredericksburg, Texas 78624. All protests must be submitted in writing.

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

APPLICANT: Heinrich and Brenda Boenig

ADDRESS OF THE SUBJECT PROPERTY: 215 W. San Antonio St.
(See accompanying map)

EXPLANATION OF REQUEST: Variance to section 29-7(1) of the Code of Ordinances pertaining to replacement of a sign on property located in the R-2, Mixed Residential Zoning District

(detach here)

Appeal No. 2015-1

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

Signed

Address

2015-1

MAIN (HWY 290 W.)



200' Notification Area

V V V

Subject Property

W. SAN ANTONIO

S. ORANGE

W. CREEK

S. CROCKETT

PEACH