

AGENDA
CITY OF FREDERICKSBURG
PLANNING & ZONING COMMISSION

Wednesday, April 8, 2015

5:30 P.M.

LAW ENFORCEMENT CENTER, 1601 E. MAIN ST.

PAGE REF.

1. Call to Order
2. Approve minutes from the March 2015 Regular Meeting *Pp 1 - 3*

PUBLIC HEARINGS

3. Public Hearing (Z-1501) by Andrew Bray on behalf of Security State Bank and Trust for a Conditional Use Permit to: *Pp 4 - 17*
 - A) Allow a drive through facility associated with a banking service in the CBD, Central Business District, at 118 S. Crockett and
 - B) To allow a standardized business in the Historic Shopping District Overlay on said property
4. Consider making a recommendation on Z-1501
5. Public Hearing (Z-1502) by The City of Fredericksburg to consider an ordinance pertaining to the regulation of Mobile Food Establishments *Pp 18 - 27*
6. Consider making a recommendation on Z-1502

ADJOURN

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

PLANNING & ZONING COMMISSION
March 4, 2015
5:30 P.M.

On this the 4th day of March, 2015 the PLANNING AND ZONING COMMISSION convened in regular session at the Law Enforcement Center with the following members present to constitute a quorum:

JANICE MENKING - Chair
BRENDA SEGNER
STEVE THOMAS
BILL PIPKIN
CHARLIE KIEHNE
DARYL WHITWORTH
CHRIS KAISER

ABSENT: TODD WILLINGHAM
JOE CLOUD

ALSO PRESENT: BRIAN JORDAN - Director of Development Services
PAT MCGOWAN - City Attorney
CLINTON BAILEY - Director of Public Works
TAMMIE LOTH - Development Coordinator

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

PUBLIC HEARINGS

PUBLIC HEARING (Z-1416) BY CONNIE REEH MAIDHOF AND PAUL MAIDHOF TO A) CONSIDER A CHANGE IN THE LAND USE PLAN FROM LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL ON PROPERTY LOCATED AT 302 E. TRAVIS B) CONSIDER A CHANGE IN ZONING FROM R-1, SINGLE FAMILY RESIDENTIAL TO R-2, MIXED RESIDENTIAL ON SAID PROPERTY - Public Hearing Z-1416 remained open from the February, 2015 meeting and Janice Menking noted some public comments were heard at that meeting but the applicant was not present so the public hearing was tabled. Connie Reeh Maidhof presented the application and noted she has been coming to Fredericksburg for a long time and her great, great, great uncle built this structure as a duplex, which was an allowed use at the time and up until the late 1980's when it was re-zoned. Ms. Maidhof noted the upstairs floorplan mirrors the downstairs floorplan and the staircase for the second story exits to the outside so an interior staircase would have to be constructed to use the property as a single residence. Ms. Maidhof noted turning the structure into a single family residence is prohibitive because of the costs that will be involved and noted it has been a duplex for ninety years. Ms. Maidhof stated one of the public comments at the last meeting was that traffic is excessive on Travis Street and agreed that was true, but it is not because of this house and allowing it to be used as a duplex would not increase traffic. Ms. Maidhof noted the property already

has two drives and there is plenty of room on the property for off street parking. Ms. Maidhof added properties across the street are zoned what she is requesting and reiterated she would like to restore the property and use it as it was built and intended.

PUBLIC COMMENTS

Debra Hedgepeth, who owns 210 E. Travis, noted the house is more than deteriorated and is in horrible condition. Ms. Hedgepeth stated if the house is rented there will be multiple cars on the property and the vehicles would have to back out onto the street from the driveway. Ms. Hedgepeth added she believes that will cause cars to begin parking on the street. Ms. Hedgepeth stated the rent will be very low because the house is in such bad shape. Ms. Hedgepeth commented an out of state owner is not vested in the city and noted she is opposed to rezoning the property.

Ms. Maidhof responded that both rental units are one bedroom so there will not be multiple cars on the property. Ms. Maidhof noted there is a two car garage off Lincoln Street and at the end of Travis Street there is a curb cut that would allow an individual to park off the street, turn around on the property and pull onto Travis instead of backing out onto Travis. Ms. Maidhof commented the fact that she does not live here will not affect the rental of the property because there are individuals capable of managing the property. Ms. Maidhof noted they already have a gardener for the property and reiterated she would like to restore the house to what it was. Ms. Maidhof continued she may not live here, but she is vested in Fredericksburg, she has very deep roots here and a very deep love for Fredericksburg.

Brenda Segner moved to close Public Hearing Z-1416 and Chris Kaiser seconded the motion. All voted in favor and the motion carried.

STAFF COMMENTS

Brian Jordan, Director of Development Services, noted the issues that were brought up are not relevant to the land use determination. Mr. Jordan stated he looked at the old zoning maps and prior to 1986 this house was located in a pocket of general residence zoning, which was comparable to R-2 zoning, and in 1986 it was changed to R-1 zoning. Mr. Jordan noted the zoning district line was established along Travis Street. Mr. Jordan commented spot zoning was addressed at the last meeting and if this request is allowed, it would be a classic example. Mr. Jordan stated if the Commission wants to consider this request, an entire area should be considered instead of one lot. Mr. Jordan added the Commission looked at establishing this area as R-2 within the last year and it was not met with approval at any level, the neighbors, City Staff, the Planning & Zoning Commission or the City Council. Mr. Jordan further explained when a change of ownership takes place, the previous use is allowed as long as it is a continuous use, but in this case the use was discontinued and as such, is no longer allowed. Mr. Jordan noted Staff's recommendation that R-1 zoning is appropriate and dictated by the comprehensive plan and recommended denial of the application.

Daryl Whitworth asked if there were any other properties in that area that had something other than a single family residence on them and Mr. Jordan stated there were. There followed discussion from the audience and City Staff regarding properties that are being used as something other than single family residences.

Daryl Whitworth moved to deny Application Z-1416 and Chris Kaiser seconded the motion. All voted in favor and the motion carried.

DISCUSSIONS

UPDATE ON RELIEF ROUTE

Clinton Bailey, Director of Public Works and Utilities, updated the Commission on the committee's progress of the proposed Relief Route and gave a general idea of possible locations.

UPDATE ON VARIOUS PUBLIC WORKS PROJECTS

Clinton Bailey, Director of Public Works and Utilities, gave an informational presentation on some of the larger public works projects that are under construction or planned for development in the near future.

MINUTES

Charlie Kiehne moved to approve the minutes of the February 2015 meeting. Daryl Whitworth seconded the motion. All voted in favor and the motion carried.

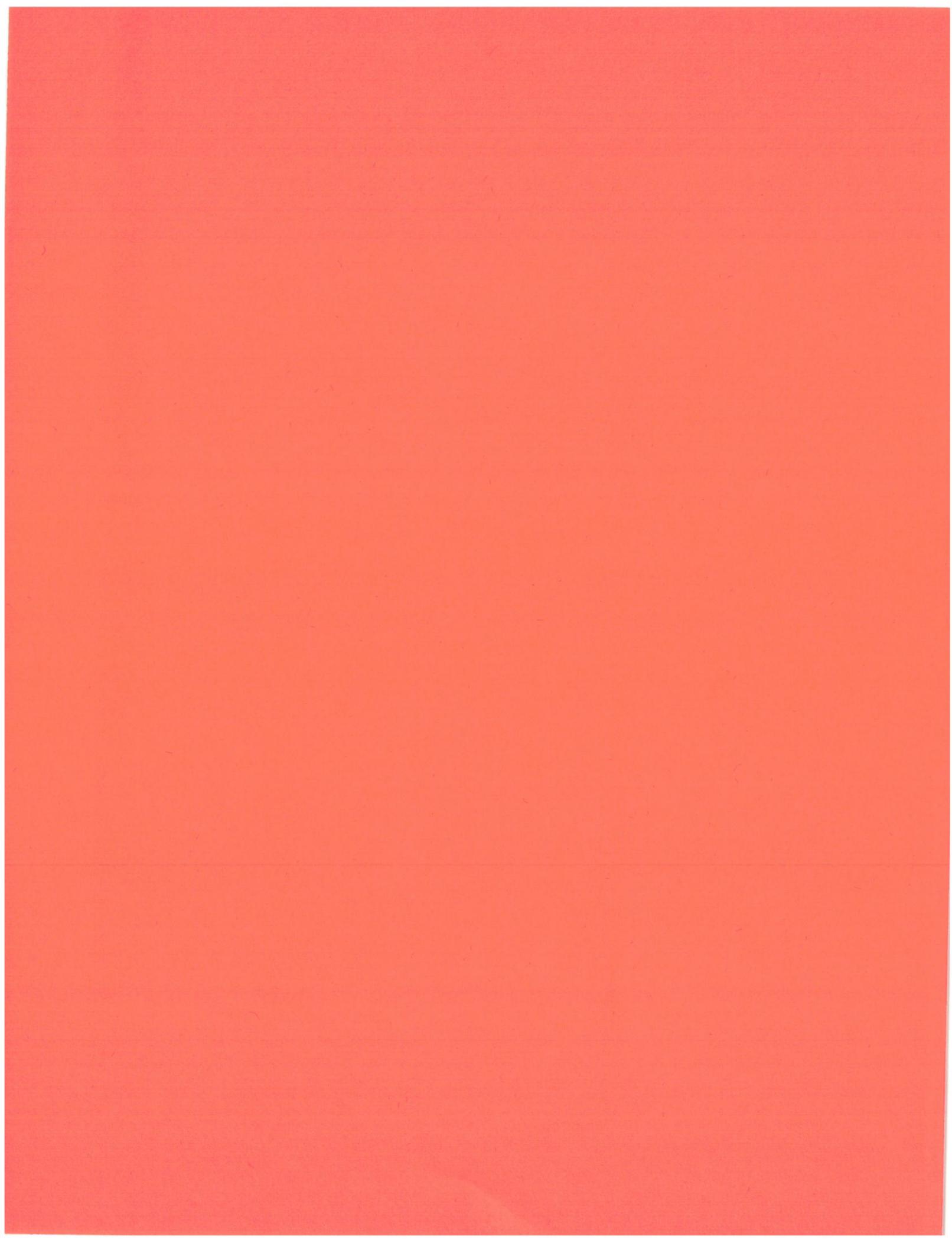
ADJOURN

With nothing further to come before the Commission, Steve Thomas moved to adjourn. Bill Pipkin seconded the motion. All voted in favor and the meeting was adjourned at 6:37 p.m.

PASSED AND APPROVED this 8th day of April, 2015.

SHELLEY BRITTON, Secretary

JANICE MENKING, Chairman



CONDITIONAL USE PERMIT BRIEF

Request Z-1411

- Owner:** Security State Bank and Truct
- Applicant:** Andy Bray, AIA with Mustard Design
- Location:** 202 W. San Antonio Street
- Existing Zoning:** CBD, Central Business District
- Request:** Conditional Use Permit to allow:
1. Drive-through associated with a bank, and
 2. Standardized Business in the Historic Shopping District Overlay.

Site Plan Overview:

- The subject property consists of a single building that was formerly Beckmann Funeral Home and Beckmann Furniture Store. The owners intend to renovate the existing building for use as a drive-through motor bank for Security State Bank and Trust.
- The Site Plan for the parking lot associated with Security Bank was approved by the Commission May, 2013.
- The site will replace the current bank drive-through on W. Austin and N. Crockett.
- The site area is approximately 1.387 acres.
- The plan provides parking for 46 parking spaces, including 2 handicap accessible spaces.
- The site has access from S. Crockett Street and W. San Antonio Street. Primary access to the rear or drive-through portion of the site will be from San Antonio Street.
- Impervious coverage is estimated to be approximately 81% (90% maximum allowed in the CBD District).
- Seven drive-through lanes are proposed, including a commercial lane, and ATM lane.
- The site is bordered by commercial and assembly uses to the west, commercial to the north, public uses to the east and residential and B&B uses to the south.
- Adjacent zoning is CBD, Central Business District to the west, north and east, and R-2 to the south across San Antonio Street.

Review and Evaluation Criteria:

A. CONFORMANCE WITH APPLICABLE REGULATIONS:

- The site complies with applicable regulations, including parking, impervious coverage, building coverage and setbacks.

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

- With the exception of conflicts during certain peak times for school traffic, parades and drive-through traffic, we would expect the use to be compatible with existing and permitted uses in the vicinity.

- C. POTENTIALLY UNFAVORABLE EFFECTS OR IMPACTS ON OTHER EXISTING OR PERMITTED USES ON ABUTTING PROPERTY:**
- We expect the unfavorable effects of the proposed use to be minimal and isolated.
- D. MODIFICATIONS TO THE SITE PLAN WHICH WOULD RESULT IN INCREASED COMPATIBILITY AND WOULD MITIGATE POTENTIALLY UNFAVORABLE IMPACTS:**
- None suggested.
- E. SAFETY AND CONVENIENCE OF VEHICULAR AND PEDESTRIAN CIRCULATION IN THE VICINITY:**
- As mentioned previously, there may be certain times when traffic from school activities, parades and the bank will conflict. However, we do not have any recommended changes to the site that would eliminate this conflict.
- F. PROTECTION OF PERSONS AND PROPERTY FROM EROSION, FLOOD OR WATER DAMAGE, FIRE, NOISE, GLARE:**
- NA.
- G. LOCATION OF LIGHTING AND TYPE OF SIGNS; THE RELATION OF SIGNS TO TRAFFIC CONTROL AND ADVERSE EFFECTS OF SIGNS ON ADJACENT PROPERTIES:**
- All lighting and signage will be required to comply with applicable ordinances.
- H. ADEQUACY AND CONVENIENCE OF OFF STREET PARKING AND LOADING FACILITIES:**
- Number of parking spaces provided exceeds the number required by the code.
- 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:**
- Affirmative.
- 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 proposed use would seem consistent with the CBD regulations.

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:**

- NA.

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

In addition to the criteria listed above, the Planning and Zoning Commission and the City Council shall review and evaluate Conditional Use Permit applications for all Standardized Businesses within the Historic Shopping District Overlay using the following criteria:

1. Affirmative finding that the existence of such business will not:

- a) Materially alter the general characteristic of the surrounding area of the small town German and Hill Country environment,
- b) Detract from the uniqueness of, nor materially alter the identity of, the Historic Shopping District,
- c) Contribute to the nationwide trend of standardized offerings, or
- d) Impair the intent of the Standardized Business Ordinance of the Comprehensive Plan of the City; and

2. Affirmative finding that the business will:

- a) Add diversity to the mix of businesses in the area including type of service, amusement, product, price range and the like, and
- b) Complement those businesses already in the Historic Shopping District, and
- c) Help promote and foster the local economic base as a whole, or
- d) Is currently existing in the district or is regionally or locally based or is serving a community need or local demand.

OPPOSITION/SUPPORT OF REQUEST: To date, we have received no letters in support or opposition to this request.

STAFF RECOMMENDATION: While we expect there to be certain times when there are traffic conflicts, we expect these to be isolated and not detract from the functionality of the street and neighborhood. In addition, we believe the banks long term presence in the community, and conditions of the bank drive-through being relocated, support the criteria listed above. Staff recommends approval.



Project Application

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

B. Contact Information (Please complete all items. Attach additional pages as necessary.)

I. Property Owner(s)

Firm Name (if applicable): Security State Bank and Trust

Owner Name:

Address: 118 S. Crockett St., Fredericksburg, TX 78624

Phone:

Fax:

Email:

II. Owner's Agent/Engineer/Surveyor (Main contact person responsible for application)

Role: Agent Engineer Surveyor Other (note role): Architect

Firm Name (if applicable): Andrew E. Bray, AIA

Address: 150 E. Main St., Suite 201, Fredericksburg, TX 78624

Primary Contact Name: Andrew E. Bray, AIA

Phone: (830) 997-7024

Fax: (830) 990-8424

Email: abray@mustarddesign.net

Secondary Contact Name:

Phone:

Fax:

Email:

III. Applicant

Firm Name (if applicable): Mustard Design Architects

Applicant Name (s): Andrew E. Bray, AIA

Address: 150 E. Main St., Suite 201, Fredericksburg, TX 78624

Phone: (830) 997-7024

Fax: (830) 990-8424

Email: abray@mustarddesign.net

IV. Applicant's Agent/Engineer/Surveyor (Main contact person responsible for application)

Role: Agent Engineer Surveyor Other (note role): Architect

Firm Name (if applicable): Mustard Design Architects

Address: 150 E. Main St., Suite 201, Fredericksburg, TX 78624

Primary Contact Name: Andrew E. Bray, AIA

Phone: (830) 997-7024

Fax: (830) 990-8424

Email: abray@mustarddesign.net



Project Application

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126 W. Main St., Fredericksburg, TX 78624 – (830)997-7521

C. Fee Schedule (Please attach appropriate fee to application.)

- Conditional Use Permit Application - \$200
- Site Plan Application - \$200
- Application for Zoning Change - \$200
- Application for Land Use Change - \$200
- Variance Request - \$100
- Minor Plat - \$200
- Replat - \$200
- Amending Plat - \$200
- Preliminary Plat - \$200 plus \$20 per lot
- Final Plat - \$500 plus \$10 per lot

D. Recording Fee Schedule

For plats, a recording fee will be collected when mylars are presented. The check should be made payable to Gillespie County Clerk and the recording fees are \$121.00 for a single lot plat. Each additional lot will increase the recording fee by \$10.00.



March 6, 2015

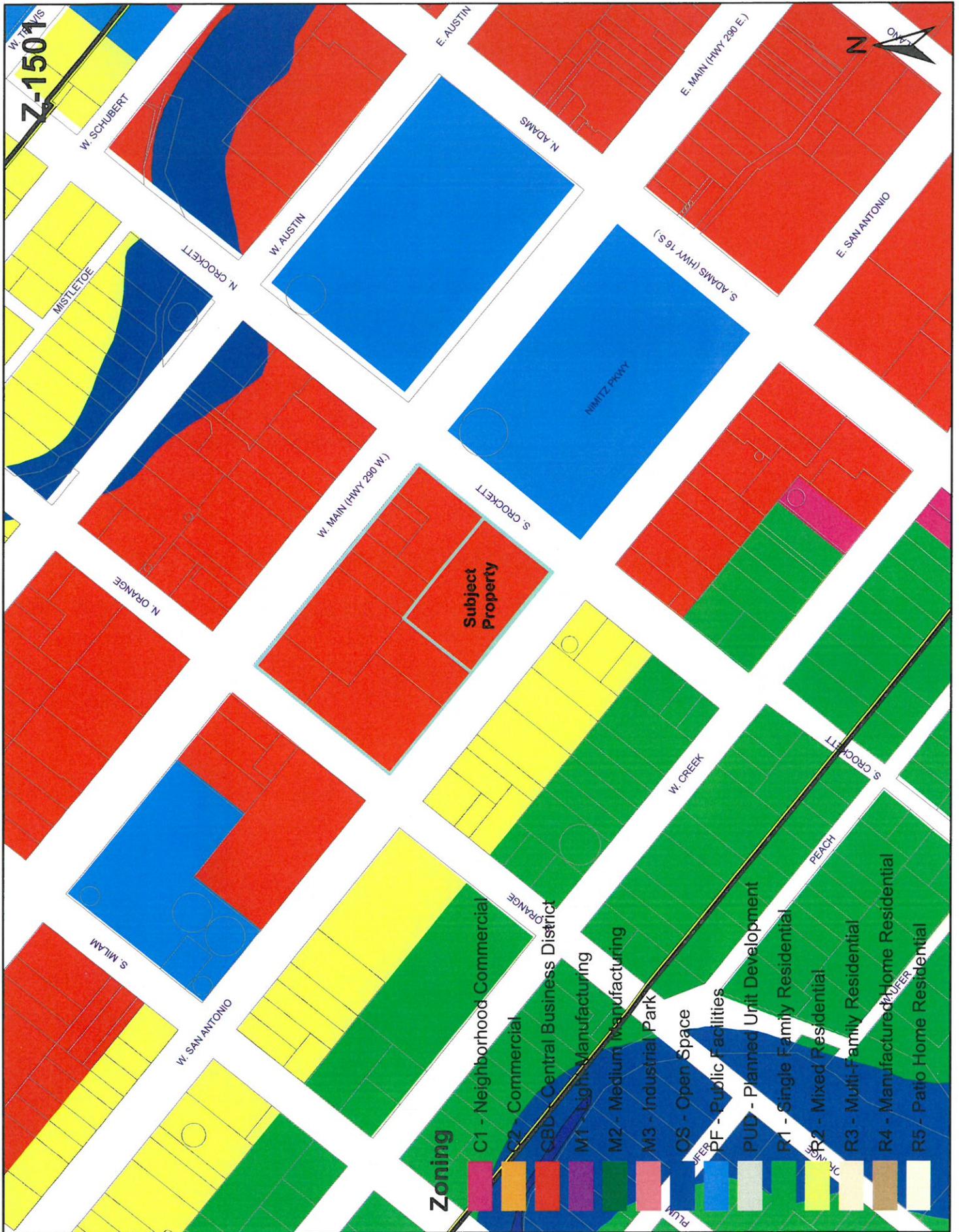
Re: Conditional Use Permit for a drive through motor bank
Security State Bank
118 S. Crockett Street
Fredericksburg, TX 78624

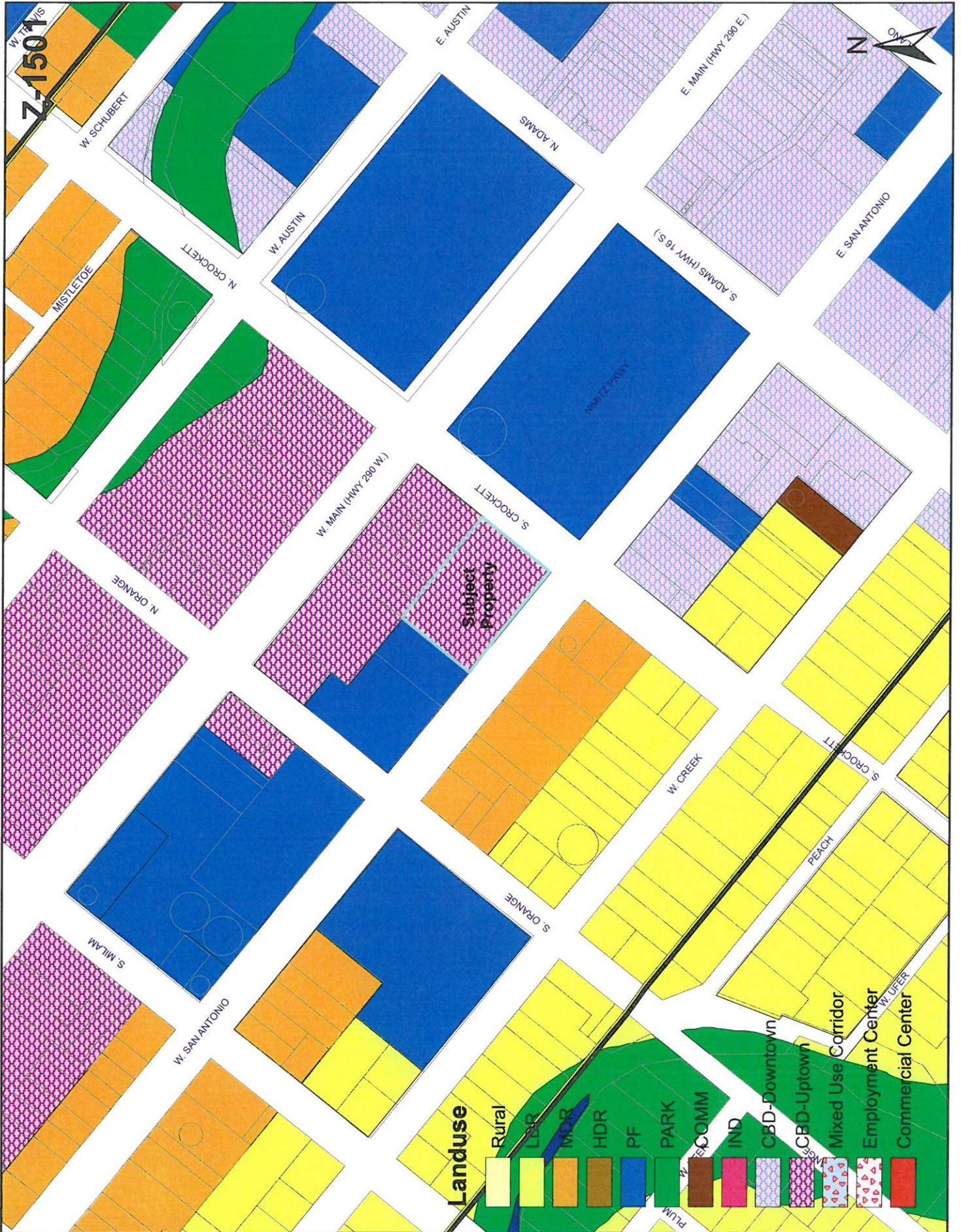
We are proposing for approval of the renovation to the existing Beckmann Funeral for the use of a drive through motor bank for Security State Bank and Trust. The facility is located on 1.387 acres at the corner of South Crockett and West San Antonio Street. The lot is located in the existing CBD zoning district and within the Historic District overlay. The conditional use permit is proposed for the drive through component of the bank as well as standardized business.

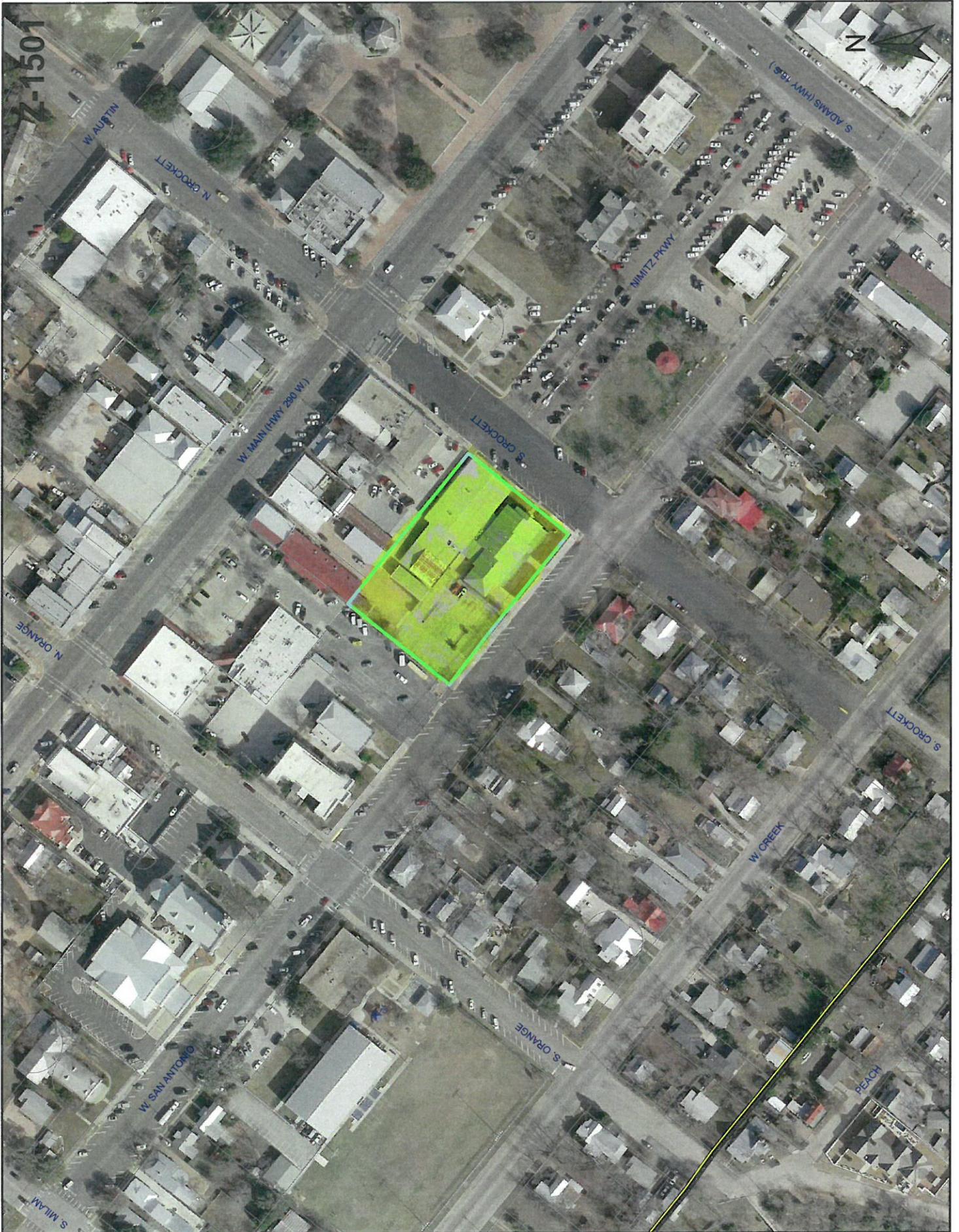
Security State Bank and Trust currently has an existing motor bank located within the CBD and Historic District at the corner of North Crockett and Austin Street. This location will be closed and operations moved to the new location proposed.

Hours of operation are anticipated to be Monday thru Friday 8am -6pm. The facility may have approximately 15 employees of which 8-10 may be on site at the same time. The current zoning ordinance does not require off street parking to be provided for this facility due to its location within central Fredericksburg and the special parking provisions. Off street parking has been provided including accessible parking typical for this project type.

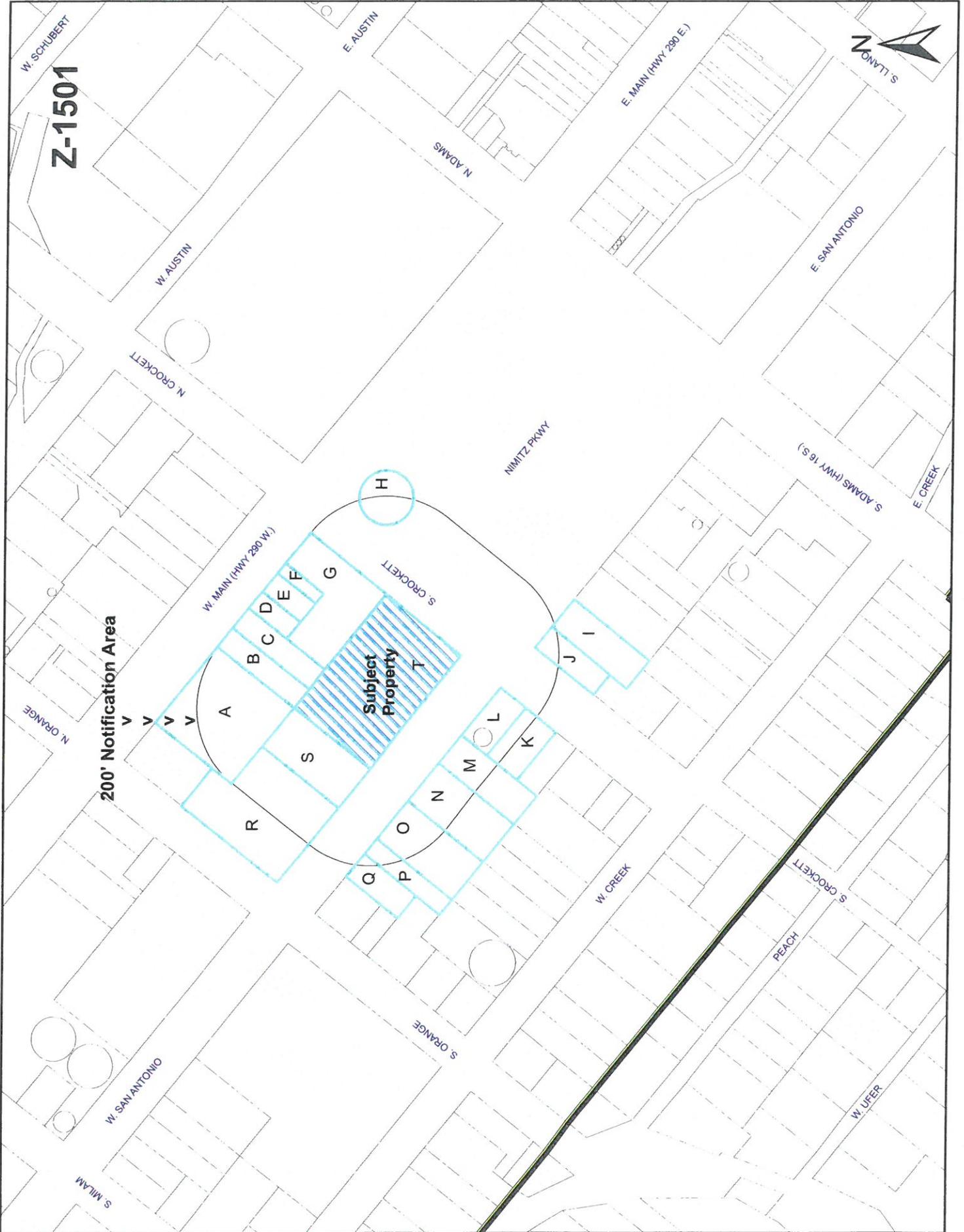
With eighteen locations throughout the hill country Security State Bank and Trust is a local business with strong support and involvement in the Fredericksburg community. Security State Bank was born in the heart of Fredericksburg, Texas and still resides in the former Buckhorn Saloon building at 201 West Main. In 1941 a group of local businessmen saw a need for a new bank to better serve the community's needs. On April 12, Security State Bank officially opened for business in the old saloon building. The white-tailed deer was used as the bank's logo as a salute to the simple beginnings of our first property. We propose that Security State Bank and Trust, is a standardized business that has and will continue to serve the community.







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Letter	Owner	
A	Knopp & Metzger, Inc.	247 W. Main
B	Knopp & Metzger, Inc.	229 W. Main
C	Knopp & Metzger, Inc.	225 W. Main
D	DCJBK Bell Family Limited Partnership	219 W. Main
E	Ferguson Family Properties, LP	215 W. Main
F	Ferguson Family Properties, LP	211 W. Main
G	Security State Bank & Trust	201 W. Main
H	County of Gillespie	125 W. Main
I	Sharon Gail Joseph	123 W. San Antonio
J	Randall M. Turner	125 W. San Antonio
K	William Daniel Meskill	204 S. Crockett
L	Judy C. Boatwright	202 S. Crockett
M	Barbara Beckmann Hagel	203 W. San Antonio
N	Claudia L. Parker	207 W. San Antonio
O	Jean L. & Beverlyn Dubose	209 W. San Antonio
P	Sylvia Cook	211 W. San Antonio
Q	Heinrich & Brenda Boenig	215 W. San Antonio
R	St. Mary's Catholic Church	214 W. San Antonio
S	St. Mary's Catholic Church	214 W. San Antonio
T	Security State Bank & Trust	202 W. San Antonio

Z-1501



**NOTICE OF PUBLIC HEARING FOR
A CONDITIONAL USE PERMIT**

HEARING
DATE: **APRIL 8, 2015**

TIME: **5:30 PM**

REQUEST
NUMBER: **Z-1501**

The **PLANNING & ZONING COMMISSION** of the City of Fredericksburg will hold a public hearing at the above stated time and date in the conference room of the Law Enforcement Center, 1601 E. Main St., to consider a request for a change in the Land Use Plan and Zoning.

According to City Tax Records, you are the owner of real property within 200' of the proposed change. You are **not** required to attend the meeting, 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, TX 78624. All protests must be submitted in writing.

The decision of the **PLANNING & ZONING COMMISSION** is a recommendation only. Final approval must be by action of the **CITY COUNCIL**. The public hearing by the **CITY COUNCIL** is scheduled as follows:

HEARING
DATE: **APRIL 20, 2015**

TIME: **6:00 PM**

REQUEST
NUMBER: **Z-1501**

For additional information, contact Director of Development Services, Brian Jordan at 830-997-7521.

APPLICANT: Security State Bank & Trust

LOCATION: 202 W. San Antonio

(see accompanying map)

REQUEST: Conditional Use Permit for 1) A drive through facility associated with a banking service in the Central Business District and 2) a Standardized Business in the Historic Shopping District Overlay

(DETACH HERE)

REQUEST NO. Z-1501

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

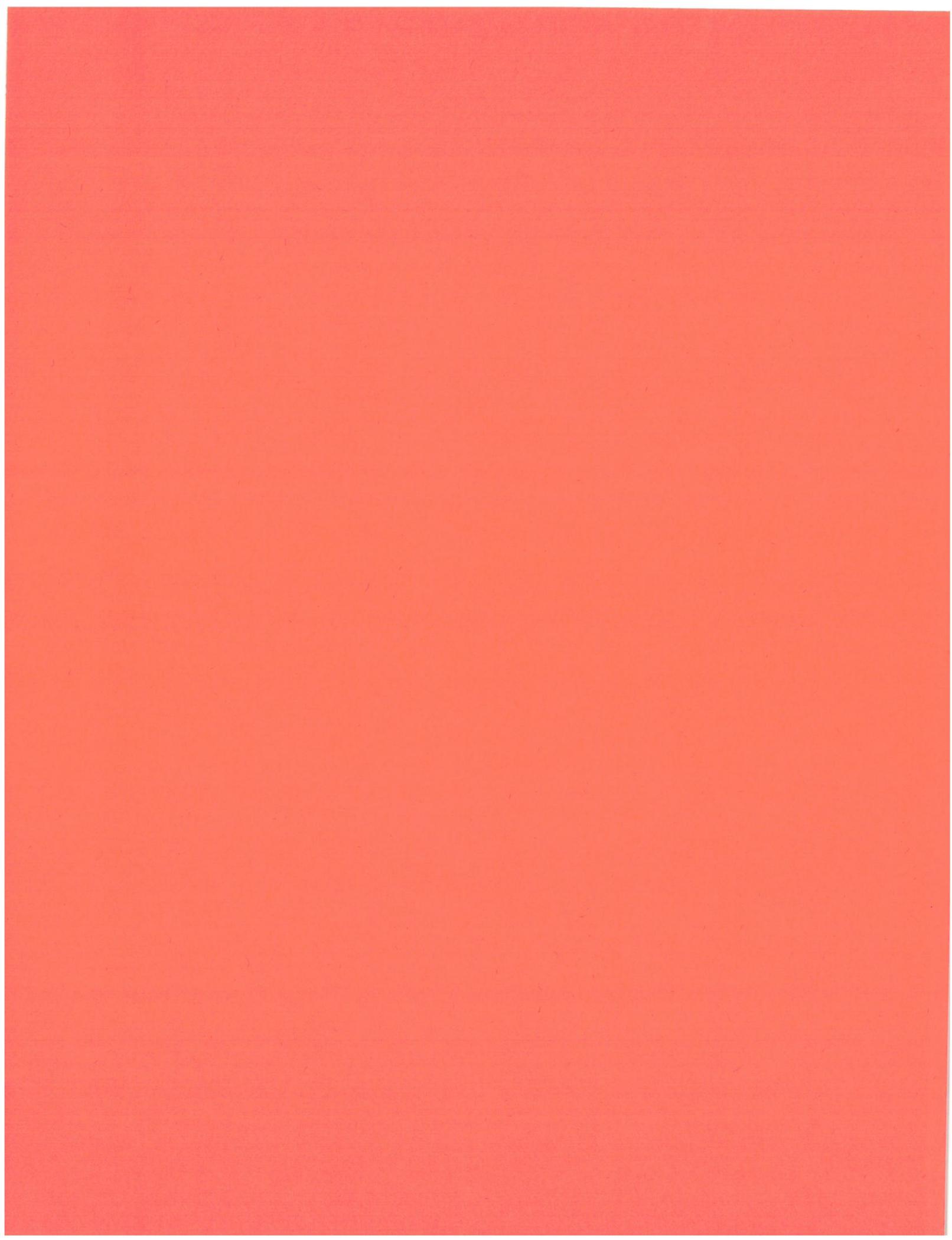
Signed

Date

Printed Name

Address

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CITY COUNCIL MEMO

DATE: April 2, 2015

TO: Planning and Zoning Commission

FROM: Brian Jordan, AICP, Director of Development Services

SUBJECT: Ordinance Regulations for Mobile Food Establishments (Z-1502)

Summary:

Currently, the City has a very limited set of regulations pertaining to mobile food vending trucks/trailers. In short, they are covered in our Temporary/Accessory Use regulations section of the Zoning Ordinance. The provisions permit the temporary use of mobile trailer units or similar portable structures for non-residential uses, located in districts other than the Historic Overlay District where the use is a permitted use, and limited to a maximum period of six (6) months. Additional criteria for each such use have been established, including compliance with all Gillespie County Health Division requirements, and items such as owners permission, restrooms, hours of operation, graywater discharge, parking/access, signage, trash receptacles, grease trap, outdoor dining, zoning and that there are no outstanding taxes or liens on the property.

Recommendation:

Approve the attached ordinance.

The City of Fredericksburg

Background / Analysis:

The proposed ordinance establishes the zoning districts where Mobile Food Establishments will be permitted. These include C-2, CBD, M-1, M-2, M-3, PF and PUD (where commercial uses are allowed) districts. No Mobile Food Establishment shall be allowed in the Historic Overlay District.

A permit application shall be required for all Mobile Food Establishments. The requirements for obtaining a permit are outlined in Section 8-117. The permit will be issued by the Regulatory Authority which will be the Gillespie County Health Division, who will issue the permit on an annual basis.

Mobile Food Establishments will be required to comply with all fire safety procedures established by the Fire Marshal, utilize a Central Preparation Facility, demonstrate that the vehicle is readily moveable, have access to restroom facilities within 150' , and comply with all regulations of the zoning district in which it is located with regard to parking, setbacks and any others that are applicable. As long as the unit is in compliance with the criteria established, there will be no limit on the length of time they are at a location.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FREDERICKSBURG TO ADD MOBILE FOOD ESTABLISHMENTS AS PRINCIPAL PERMITTED USES IN CERTAIN ZONING DISTRICTS, TO AMEND SECTION 8.100 OF THE ZONING ORDINANCE TO ADD MOBILE FOOD ESTABLISHMENTS AS AN EXCEPTION TO THE REQUIREMENTS OF TEMPORARY USE TYPES, TO ADD SECTION 8-117 TO ARTICLE V. FOOD ESTABLISHMENT REGULATIONS OF CHAPTER 8- BUSINESSES, ADDING REGULATIONS FOR MOBILE FOOD ESTABLISHMENTS, DEFINITIONS, REPEAL OF INCONSISTENT PROVISIONS, SEVERABILITY, PENALTIES, EFFECTIVE DATE AND CODE PUBLICAITON.

WHEREAS, The City Council of the City of Fredericksburg has determined that there is a need for revision of the City's ordinances to provide for Mobile Food Establishments as a desired addition to the range of food services within the City of Fredericksburg, and

WHEREAS, the City Council has directed the staff to draft a proposed ordinance permitting and regulating such uses, and

WHEREAS, public hearings, before the Planning and Zoning Commission and the City Council of the City of Fredericksburg have been duly noticed and held regarding such proposed ordinance, as is hereinafter set out, and

WHEREAS, the Planning and Zoning Commission has determined that the zoning changes outlined in the following ordinance are in conformity with the uses established by the Comprehensive Land Use Plan of the City of Fredericksburg and is consistent with the objectives of the City of Fredericksburg Zoning Ordinance, and has recommended to the City Council of the City of Fredericksburg, based upon its findings that the rezoning be enacted, and the following ordinance be adopted, and

WHEREAS, the City Council has specifically found, following public hearing, that such changes are consistent with the objectives of the City of Fredericksburg Zoning Ordinance and the Comprehensive Land Use Plan of the City of Fredericksburg, and that the proposed regulations of Mobile Food Establishments should be adopted, and

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

The Zoning Ordinance of the City of Fredericksburg is hereby partially amended as follows:

Mobile Food Establishments, as defined in Chapter 8 Businesses, Article V, Food Establishment Regulations Sec.8-109 of the Code of Ordinances of the City of Fredericksburg be and are hereby added as Principal Permitted Uses to the following sections and Zoning Districts:

Sec. 3.210.- C-2: Commercial District, but not in any right of way or public easement

Sec. 3.220.- CBD: Central Business District but not in any right of way, public easement or in the Historic Overlay District

Sec. 3.300.- Industrial District but not in any right of way or public easement

Sec. 3.310.- M-1: Light Manufacturing District but not in any right of way or public easement

Sec. 3.320.- M-2: Medium Manufacturing District but not in any right of way or public easement

Sec. 3.330.- M-3: Industrial Park District but not in any right of way or public easement

Sec. 3.600.- PF: Public Facilities District but not in any right of way or public easement

Sec. 3.700.- PUD: Planned Unit Development District but not in a PUD which permits residential use, and not in any right of way or public easement

Sec. 8.100 Temporary Use Types

L. Temporary use of mobile trailer units or similar portable structures including tents and like structures for non-residential uses, located in districts other than the Historic Overlay District (HO) where the use is a permitted use, and limited to a maximum period of six (6) months. Exception: KIOSK located in the Historic Overlay District (HO) where the use is a permitted use. (KIOSK as used herein is meant as an informational, non-manned structure). Permitted Mobile Food establishments are governed by Chapter 8 Article V. of this Code of Ordinances and are therefore not Temporary Use Types for the purposes of this section.

CHAPTER 8 BUSINESSES

ARTICLE V. FOOD ESTABLISHMENT REGULATIONS of the Code of Ordinances of the City of Fredericksburg is hereby partially amended as follows to amend Sec. 8-109 (b) specifically the definition of Mobile Food Establishment, and to add Sec. 8-117:

Sec. 8-109. - Adoption of Texas food establishment rules.

(b) Unless amended by this article, all definitions will be the same as the State of Texas rules, as the same may be amended from time to time.

Mobile Food Establishment means a vehicle mounted, self or otherwise propelled, self-contained food service operation designed to be readily movable (including, but not limited to, catering trucks, trailers, push carts and roadside vendors) and used to store, prepare, display, serve or sell food. The mobility of a Mobile Food Establishment units must completely maintained at all times. No drive-through service shall be permitted from a Mobile Food Establishment. A roadside vendor is classified as a Mobile Food Establishment. (A Mobile Food Establishment unit does *not* mean a stand, a booth, push carts and portable cooler type operations capable of being transported by one person which are not included and are not permitted under this ordinance. Such operations are permitted only with the zoning that would permit them, and they are subject to all other applicable health and safety regulations.)

Sec. 8-117- Mobile Food Establishments

(a) Permit Application

A person who, or entity (hereinafter referred to as applicant, person or operator) which seeks to operate a mobile food establishment must submit to the Regulatory Authority a written application for a permit on a form provided by the Regulatory Authority. The application must include:

- (1) name and address of the applicant and the applicant's identification number as shown on a current and valid government-issued identification document that includes a photograph of the applicant,
- (2) type of vehicle to be used for the proposed Mobile Food Establishment;
- (3) proof of sales tax and use permit,
- (4) an itinerary of locations where sales occur,
- (5) other information reasonably required by the Regulatory Authority,
- (6) the authorized signature of each applicant,
- (7) a notarized statement from the owner of a Central Preparation Facility stating the Mobile Food Establishment uses the facility as its base of operation (for the purposes hereof a Central Preparation Facility is a facility that is an approved and permitted retail food establishment at which food is prepared, stored, and wrapped; and the Mobile Food Establishment is supplied with fresh water and ice; and emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the Mobile Food Establishment utensil-washing sink. Use of a private residence as a Central Preparation Facility is prohibited),
- (8) a notarized statement from the owner of the property to be used for the Mobile Food Establishment permitting such use,

- (9) if at one location for more than two hours, a written agreement from a business within 150 feet for employees of the Mobile Food Establishment to have use of flushable (not port-a potty) restrooms (or other facilities as approved by the health authority) during hours of operation,
- (10) proof of fire inspection where applicable,
- (11) proof of compliance with parking regulations,
- (12) location of trash receptacles separate from the main business on the same property if any,
- (13) a notarized statement from the owner of a waste disposal facility stating the Mobile Food Establishment uses the facility in its disposal operation, and
- (14) the required fee for a Mobile Food Establishment which shall be the same as for other food establishments, may be temporary or annual, and which must accompany an application.

(b) Regulatory Authority permit

For a Mobile Food Establishment permit, the Regulatory Authority shall:

- (1) issue a permit (and this may be the same as an approved application) provided all of the requirements of all applicable laws, ordinances and regulations including fire safety procedures established by the Fire Marshal pursuant to the Fire Safety Code of the City of Fredericksburg are met,
- (2) describe on the permit any operating restrictions and
- (3) provide the permit holder a permit listing such restrictions, if any, and that indicates the permit expiration date.

(c) Must Display Permit

A person operating a Mobile Food Establishment shall promptly display the permit on the unit where it is readily visible (as designated by the Regulatory Authority).

(d) Suspension or revocation of Permit

The Regulatory Authority may inspect a Mobile Food Establishment at any time, and may suspend or revoke a Mobile Food Establishment permit if the Regulatory Authority determines that:

- (1) the operator fails to continue to comply with all applicable laws, ordinances and regulations,
- (2) an applicant obtained the Mobile Food Establishment permit by knowingly providing false information on the application,
- (3) a person is infected with or is a carrier of any foodborne communicable disease,
- (4) the continuation of the person's Mobile Food Establishment permit presents a significant public health or fire threat, or
- (5) the Mobile Food Establishment violates the terms and conditions of any restriction or written agreement with the Regulatory Authority. If a written agreement with the Regulatory Authority terminates without fault by the Mobile Food Establishment, the operator has ten days to replace the required written agreement without constituting a violation.

(e) Items to be sold.

- (1) A person operating a Mobile Food Establishment may only sell a food item described in the permit.
- (2) A person operating a Mobile Food Establishment may not sell a non-food item except for items which are related to the food served (for example souvenir cups containing the beverage sold) .

(f) Sanitary Requirements

- (1) A person operating a Mobile Food Establishment shall equip the interior of the Mobile Food Establishment with an attached trash receptacle approved by the Regulatory Authority for the use of persons working in the Mobile Food Establishment. The operator must hold, store, and dispose of solid and liquid waste in a receptacle approved by the Regulatory Authority and must comply with any other applicable City Code requirements.
- (2) A person who operates a Mobile Food Establishment must meet all of the following additional requirements:
 - (A) A Mobile Food Establishment shall provide only single service articles for use by the consumer.
 - (B) A Mobile Food Establishment shall comply with any regulations the Regulatory Authority adopts regarding time, temperature, plumbing, access to water, operation and maintenance requirements for Mobile Food Establishments.

(C) A Mobile Food Establishment shall comply with any regulations the Regulatory Authority adopts regarding a Mobile Food Establishment's provisions, mandatory central preparation facility, serving area and operations.

(D) A Mobile Food Establishment shall demonstrate that the vehicle is readily moveable if requested by the Regulatory Authority.

(E) A Mobile Food Establishment shall comply with all requirements of the Regulatory Authority prohibiting alteration, removal, attachments, placement or change in, under, or upon the Mobile Food Establishment that would prevent or otherwise reduce ready mobility of the Mobile Food Establishment unit.

(F) If at one location for more than two hours, a written agreement from a business within 150 feet of the Mobile Food Establishment, allowing employees of the mobile food establishment to have use of flushable (no-porta-potty) restrooms (or other facilities as approved by the health authority) during hours of operation must be provided.

(G) The Regulatory Authority shall require each Mobile Food Establishment to come, on an annual basis, to a location designated by the Regulatory Authority for an inspection.

(H) All food and food supplies must be stored within the mobile unit.

(I) Except as provided in Subsection (g) of this section, a person who operates a Mobile Food Establishment may not place waste, food, equipment, or supplies outside of the permitted unit and must conduct its operational activities within the Mobile Food Establishment.

(J) Mobile Food Establishments must comply with all regulations of the zoning district in which it is located with regard to parking, setbacks and any others that are applicable.

(K) No signage shall be placed anywhere other than on the Mobile Food Establishment unit.

(4) The Regulatory Authority may require that Mobile Food Establishments found by it to violate mobile food establishment regulations to come for a re-inspection at a location designated by the Regulatory Authority.

(g) Recycling

Subsection (2) (I) of this section does not apply to trash, recycling, or composting receptacles that a person uses while operating a Mobile Food Establishment. An operator of a Mobile Food Establishment may place trash, recycling, or composting receptacles outside of, and detached from, the Mobile Food Establishment when the establishment is open for business.

(h) Use of Public Property.

A person who operates a Mobile Food Establishment may not go into a City park or other City owned property to sell, offer for sale, or display a food item, unless the person's activity is authorized by:

- (1) a park property rental agreement; or
- (2) written permission of the director of the Parks and Recreation Department.

_____ End of Code Text _____

REMAINDER OF PROVISIONS

The remainder of each provision, Section or Chapter of the Code of Ordinances of the City of Fredericksburg will remain in full force and effect, except as amended by this ordinance.

DEFINITIONS

Words and phrases used in this chapter shall have the meanings set forth in this section. Terms that are not defined, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth therein. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

REPEALER

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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.

PENALTIES

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

EFFECTIVE FOLLOWING PUBLICATION

This ordinance shall be effective from and after the date of 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.

CODE PUBLICATION

The publishers of the Code of Ordinances of the City of Fredericksburg are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors, if any, and to format and number paragraphs to conform to the existing Code.

PASSED AND APPROVED this the _____ day of April, 2015.

Linda Langerhans, Mayor
City of Fredericksburg

ATTEST:

Shelley Britton, City Secretary

APPROVED AS TO FORM:

Pat McGowan, City Attorney