

**City of Kerrville Planning & Zoning Commission Agenda  
Thursday, March 5, 2009, 4:30 p.m.**

**City Hall City Council Chambers, 800 Junction Highway, Kerrville, TX**

The meeting place has wheelchair accessibility and available accessible parking spaces.  
Please call the City of Kerrville Planning Division at (830) 792-8354 seventy two hours (72)  
before the meeting to request accommodations.

Page

**1. 4:30 p.m. Call to Order**

Chair calls the meeting to order; roll call.

**2. Visitor/Citizens' Forum**

Any person with business not scheduled on the agenda is encouraged to briefly speak their ideas to the Commission. Please fill out the SPEAKER REQUEST FORM and give it to the Commission's Secretary prior to the meeting. The number of speakers will be limited to the first ten speakers and each speaker is limited to three minutes. (No formal action can be taken on these items as the Open Meetings Act requires formal action items be posted on an agenda no later than 72 hours before the meeting. If formal action is required, the items will be placed on an agenda for a future meeting.)

**3. Consent Agenda**

All items listed below in the consent agenda are considered routine or ministerial in nature and will be enacted with one motion. There will be no separate discussion of items unless a Commissioner or citizen so requests; in which case the item(s) will be removed from the consent agenda and considered separately.

**3A. Minutes from the meeting of February 19, 2009.**

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**4 Public Hearings**

**4A. Residential Replat: Woodside Addition** – A replat of Lots 1A-4B, Block 1 and Lots 5 and 6, Block 2, located northwest of the Travis Street and Woodside Drive intersection. Zoned: RC. Applicant: Roederer Surveying. (File No. 2009-06)

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**4B. Development Site Plan: Woodside Addition** – A request for a Development Site Plan per Article 11-I-10 c (2), Residential Cluster District of the Zoning Code, for duplex development on Lots 1B and 2A, Block 1 and Lots 5 and 6, Block 2 of the Woodside Addition located at 1603, 1605, 1610 and 1612 Woodside Drive. Zoned: RC. Applicant: Roederer Surveying. (File No. 2009-07)

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**4C. Sign Variance Request** – A request for a variance to the Sign Regulations of the City of Kerrville, Section 27.3D(d) to allow four (4) internally lighted signs and Section 27.3D(e) to exclude the requirement of a masonry frame around the proposed monument sign for property located at 1309 Bandera Highway (Guadalupe National Bank). Zoned: GR. Applicant: Peter Lewis Architect and Associates. (File No. 2009-05)

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**4D. Zoning Change Request** – Consider a recommendation to the City Council of a request to change the zoning from E-29 and E-30 (East Side District) to a PDD (Planned Development District) on approximately 3.06 acres located at the southwest corner of the Memorial Blvd (SH 27) and Loop 534 intersection. Zoned: E-29 and E-30. Applicant: Vordenbaum Engineering, Inc. (File No. 2009-03)

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- 4E. **Zoning Code Amendment** – Consider a recommendation to the City Council of a request to amend Article 11-I-3, Definitions and Interpretation of Words and Phrases, to broaden the list of permitted uses as defined as a Home Occupation, Article 11-I-3(a)(49). Applicant: City of Kerrville. (File No. 2009-09) 32
- 4F. **Zoning Code Amendment** – Consider a recommendation to the City Council of a request to amend Article 11-I-22(b)(5), Planning and Zoning Commission and Board of Adjustment, to reduce the number of consecutive terms a Board of Adjustment member may serve. Applicant: City of Kerrville. (File No. 2009-10) 44
5. **Staff Reports** 49
- 5A. Future Agenda Items. Applicant: Senior Planner
6. **Adjourn** - The next scheduled meeting is Thursday, March 19, 2009.

**BUSINESS OF THE PLANNING AND ZONING COMMISSION  
CITY OF KERRVILLE, TEXAS**

**AGENDA ITEM:** 3A **FOR AGENDA OF:** March 5, 2009

**DESCRIPTION:** Approval of minutes of February 19, 2009.

**APPLICANT(S):** Planning and Zoning Commission Secretary

**ATTACHMENT(S):**

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Minutes from the Commission's February 19, 2009 meeting will be presented for review and consideration at the Commission's next scheduled meeting.

**BUSINESS OF THE PLANNING AND ZONING COMMISSION  
CITY OF KERRVILLE, TEXAS**

**AGENDA ITEM:** 4A **FOR AGENDA OF:** March 5, 2009

**DESCRIPTION:** **Residential Replat: Woodside Addition** – A replat of Lots 1A-4B, Block 1 and Lots 5 and 6, Block 2, located northwest of the Travis Street and Woodside Drive intersection. Zoned: RC. (File No. 2009-06)

**APPLICANT(S):** Roederer Surveying

**ATTACHMENT(S):** Location Map, Plat

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**SUMMARY STATEMENT – FINDING OF FACT**

History/Timeline:

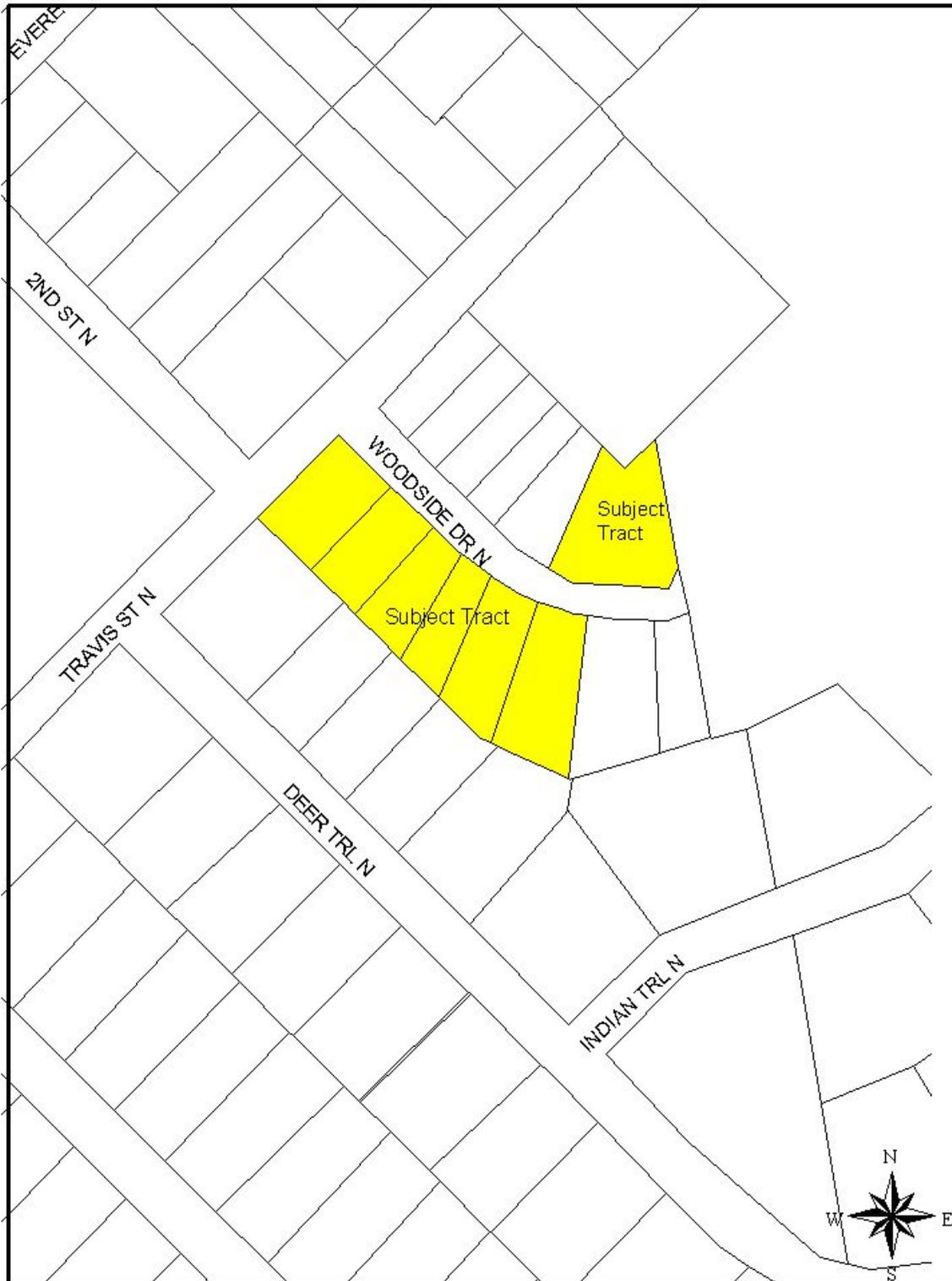
- State law requires public notice and a public hearing prior to Commission action on all residential replats.
- April 11, 1985 – Final plat for Woodside Addition, a 17 lot single family development, approved by the Commission.
- February 2, 2009 – Replat of Lots 1A-4B, Block 1 and Lots 5 and 6, Block 2, Woodside Addition submitted for review and consideration.
- February 18, 2009 – Development Review Committee (DRC) review process completed.
- February 27, 2009 – Staff comments to applicant.
- **March 5, 2009 – Consideration of replat by Commission.**

Summary:

- The proposed replat will correct errors in lot dimensions as shown on the original plat for Lots 1A-4B, Block 1 and reduce utility easements for all lots being replatted.
- The effected franchise utility companies have agreed to the reduced easements as shown.
- The depths of Lots 1A-4A, Block 1 will be reduced by approximately 5-feet to correct the original surveying error.
- The plat correction will result in a building setback encroachment for the residence on Lot 2B, a variance will be required.
- The proposed replat will have no effect on the adjacent lots in Motley Hills, Section 1.

**RECOMMENDED ACTION**

1. Open the public hearing and receive comments, and
2. Approve the replat subject to the following condition(s);
  - a. Dimension utility easements per lot as they will exist, no 'Variable Width' easements.



**BUSINESS OF THE PLANNING AND ZONING COMMISSION  
CITY OF KERRVILLE, TEXAS**

**AGENDA ITEM:** 4B **FOR AGENDA OF:** March 5, 2009

**DESCRIPTION:** **Development Site Plan: Woodside Addition** – A consideration of a recommendation to the City Council of a Development Site Plan per Article 11-I-10 c (2), Residential Cluster District of the Zoning Code, for duplex development on Lots 1B and 2A, Block 1 and Lots 5 and 6, Block 2 of the Woodside Addition located at 1603, 1605, 1610 and 1612 Woodside Drive. Zoned:RC. (File No. 2009-07)

**APPLICANT(S):** Roederer Surveying

**ATTACHMENT(S):** Location Map, Site Plan

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**RC (Residential Cluster) District:**

The primary purpose of the RC (Residential Cluster) District is to permit the development of a mix of residential uses, including, but not limited to, single-family detached dwellings, zero lot line “garden homes”, duplexes and townhouses, subject to certain development regulations that ensure better compatibility of different types of uses within the same zone and/or neighborhood, such as required buffer areas, screening fences, street layouts and/or landscaping.

The procedure for approval of a Development Site Plan or any amendment thereto shall be the same as for the adoption of a Conditional Use Permit. Any amendment to a Development Site Plan shall be approved in the same manner as the original development site plan.

**Proposal:**

The applicant is proposing to develop duplexes on four (4) lots in the Woodside Addition, Lots 1B and 2A, Block 1 and Lots 5 and 6, Block 2. (All four of these lots were part of the replat of the Woodside Addition.) The Woodside Addition was originally proposed as a zero lot line ‘Garden Home’ development. Of the 17 lots platted in the original Woodside Addition nine (9) are developed with residences. Other subdivisions within the city have developed with a mix of housing types in the same block.

The site plan submitted provides the general layout of the proposed duplex development as well as ‘typical’ plot plans for the proposed duplex developments and provides the information outlined in the zoning code for the subject development.

It should be noted that while the site plan provided shows the setbacks required by the Zoning Code, the minimum separation between structures per the Building Code is 10-feet.

**Informational Comments:**

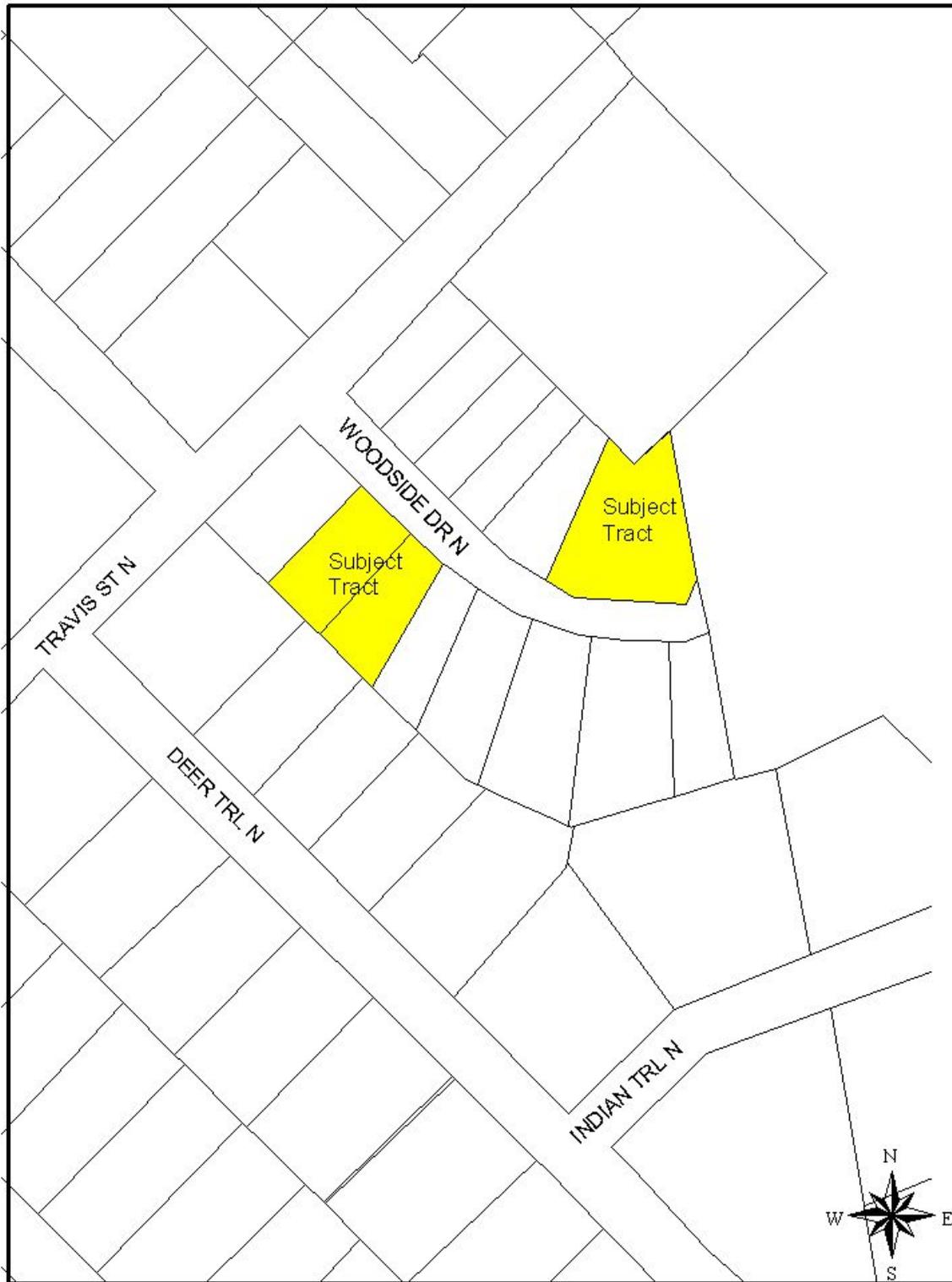
Prior to filing of the replat for Woodside Addition the development site plan must be approved by the Planning and Zoning Commission and the City Council and a copy of the resolution adopting the development site plan shall be filed in the official records of the County Clerk of Kerr County, Texas.

The resolution number and the date of adoption must be noted on the final plat in addition to any other development restrictions as deemed necessary.

Should the Commission recommend approval of the Development Site Plan, as submitted or amended, a resolution to that effect will be submitted to the City Council along with the applicant's request, for their review and consideration at their March 24, 2009 meeting.

### **RECOMMENDED ACTION**

1. Open the public hearing and receive comments, and
2. Render a decision on the requested development site plan and make a recommendation to the City Council.



**BUSINESS OF THE PLANNING AND ZONING COMMISSION  
CITY OF KERRVILLE, TEXAS**

**AGENDA ITEM:** 4C **FOR AGENDA OF:** March 5, 2009

**DESCRIPTION:** **Sign Variance Request** – A variance to the Sign Regulations of the City of Kerrville, Section 27.3D(d) to allow four (4) internally lighted signs and Section 27.3D(e) to exclude the requirement of a masonry frame around the proposed monument sign for property located at 1309 Bandera Highway (Guadalupe National Bank). Zoned: GR. (File No. 2009-05)

**APPLICANT(S):** Peter Lewis Architect and Associates

**ATTACHMENT(S):** Applicant's Request, Location Map, Ordinance No. 2003-07, Sign Variance Procedures, Review Criteria

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**Request:**

An application submitted by Peter Lewis Architect and Associates on behalf of Guadalupe National Bank, has been received, requesting variances to allow internally lighted signs and to exclude the required masonry sign frame around the proposed monument sign for property located at 1309 Bandera Highway (SH 173). The applicant's proposal is better illustrated in Exhibits A and B.

It should be noted that signs currently exist in the GR District that were permitted and constructed prior to the amendment to the Sign Regulations and are nonconforming. Those signs should not be used to justify this request.

**Background:**

The City's Sign Regulations were amended in March 2003 to establish stricter sign regulations within the corridors of SH Loop 534 and SH 173 (Bandera Highway). Two (2) of the provisions for signs in these corridors were;

Lighted Area: The free-standing sign shall be front lit with ground-mounted lights or backlit, **but shall not be internally lit.**

Sign Material: The free-standing sign shall be anchored in a native colored masonry or other similar material to the building(s) constructed on the property **and framed on all four (4) sides by, at a minimum, six inches (6") of native colored masonry, or other material similar to the building(s) constructed on the property.**

See attached Exhibit C.

The property at 1309 Bandera Highway (Guadalupe National Bank) is complete and occupied.

**Procedure:**

The City's Sign Regulations assigns the hearing and disposition of variances under those regulations to the Planning and Zoning Commission (see attached 27.11, Variances from the Sign

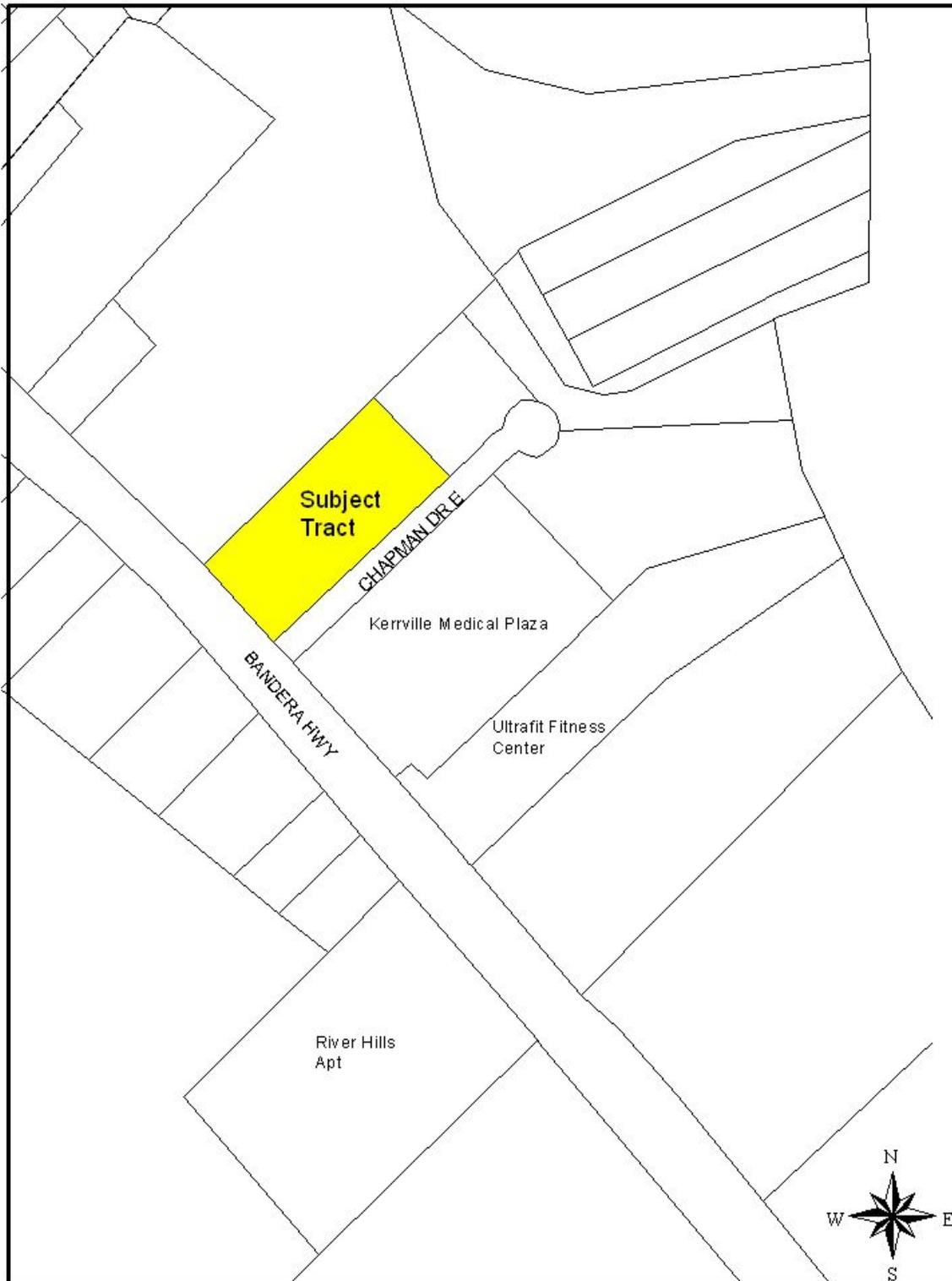
Regulations, Exhibit D). Following submittal of an application the Commission shall hold a public hearing for the request using the same notice requirements as required for a Zoning Ordinance Amendment. Following the public hearing and review of the application and pertinent information, the Commission may grant the variance as presented, modify the request or approve with conditions or deny the request as submitted.

The Commission shall use the criteria set forth in Article 11-I-23(b) (see attached, Exhibit E) for reviewing and considering variances to the Sign Regulations.

Based on the information and justification provided, Staff does not feel that the threshold for a variance has been reached.

### **RECOMMENDED ACTION**

1. Open the public hearing and receive comments, and
2. Render a decision on the requested variances.





PETER LEWIS  
ARCHITECT + ASSOCIATES

February 2, 2009

Board of Adjustment and Appeals  
City of Kerrville  
800 Junction Highway  
Kerrville, Texas 78028

RE: Guadalupe National Bank – 1309 Bandera Highway  
Sign Variance Request

To whom it may concern:

We respectfully request a variance to the City of Kerrville Sign Ordinance for the following:

A. Monument Sign

- a. Permit an electronic message board; 11'-2"x3'-3", as part of the monument sign.
- b. Permit an internally lit aluminum faced sign; bank logo and "Guadalupe National Bank" in 11" letters

B. Canopy Sign

- a. Permit an electronic message board; 13'-0"x1'-7" underneath the canopy above the teller window
- b. Permit individual internally lit letters on the face of the canopy; "Guadalupe National Bank" in 11" letters

Please refer to attached exhibits for images of the proposed signs.

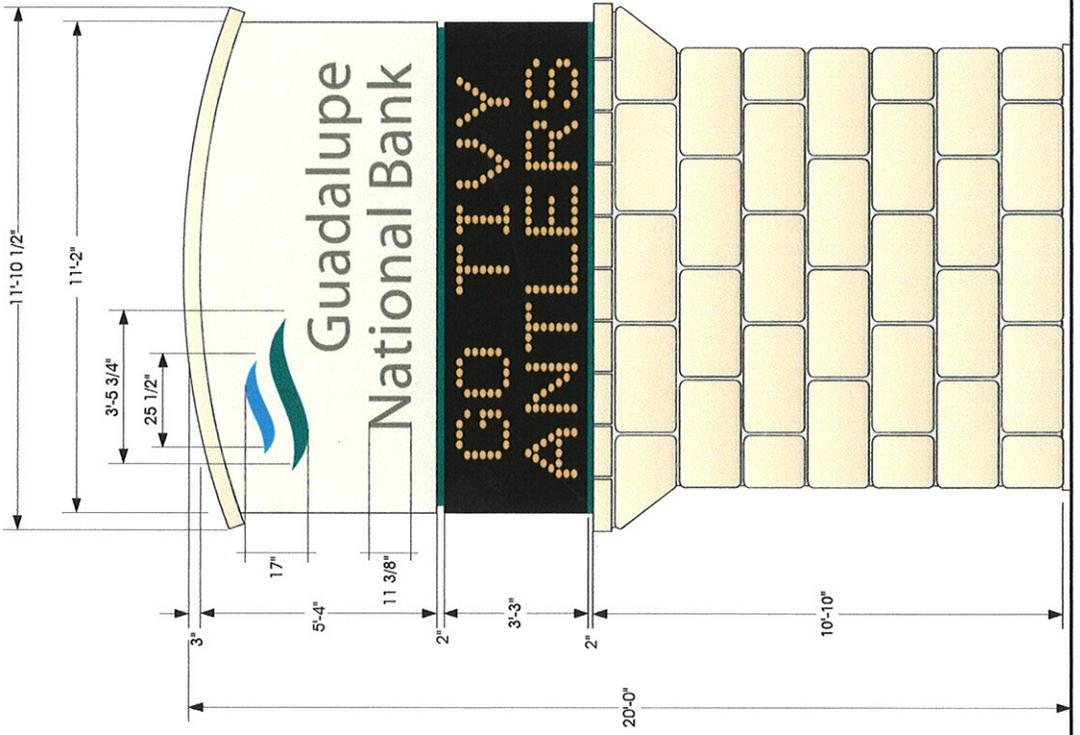
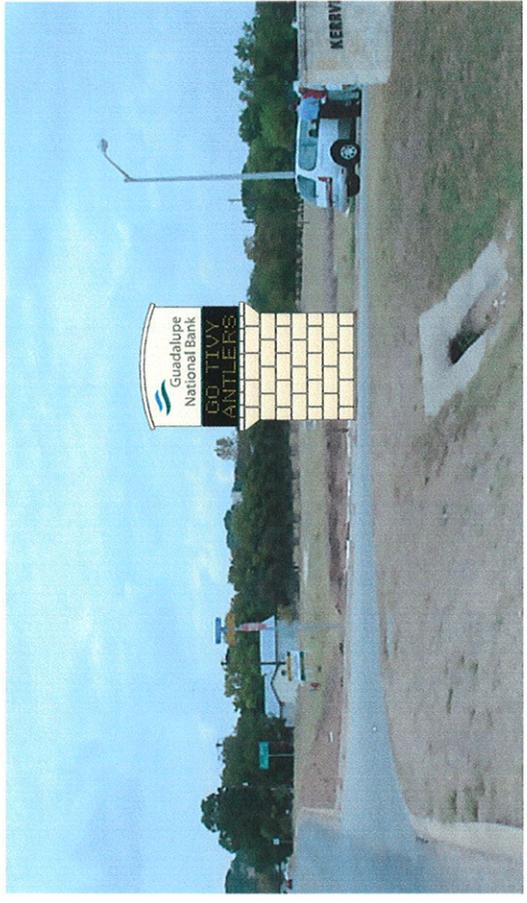
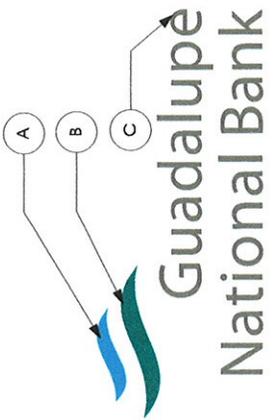
Thank you for your review and assistance in the permitting of this project. Please contact me if you have any questions or need additional information.

Very truly yours,

Peter W. Lewis, Architect

MANUFACTURE AND INSTALL ( 1 ) ONE DOUBLE FACE, INTERNALLY ILLUMINATED POLE SIGN.  
 MAIN F-D TO BE OF ALUMINUM WITH ROUTED COPY AND BACKED WITH WHITE PLEXI / VINYL OVERLAY.  
 SIGN FACE TO BE PAINTED BEIGE .  
 ELECTRONIC MESSAGE CENTER TO BE 34 mm AMBER.

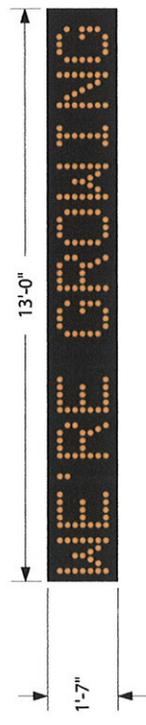
- ELECTRONIC MESSAGE CENTER TO BE 34 mm AMBER.
- DK. GREEN REVEALS
  - LIMESTONE BASE BY OTHERS...
  - A. # 337 PROCESS BLUE
  - B. # 2108 GREEN
  - C. PERFORATED BLACK VINYL OVER WHITE PLEXI



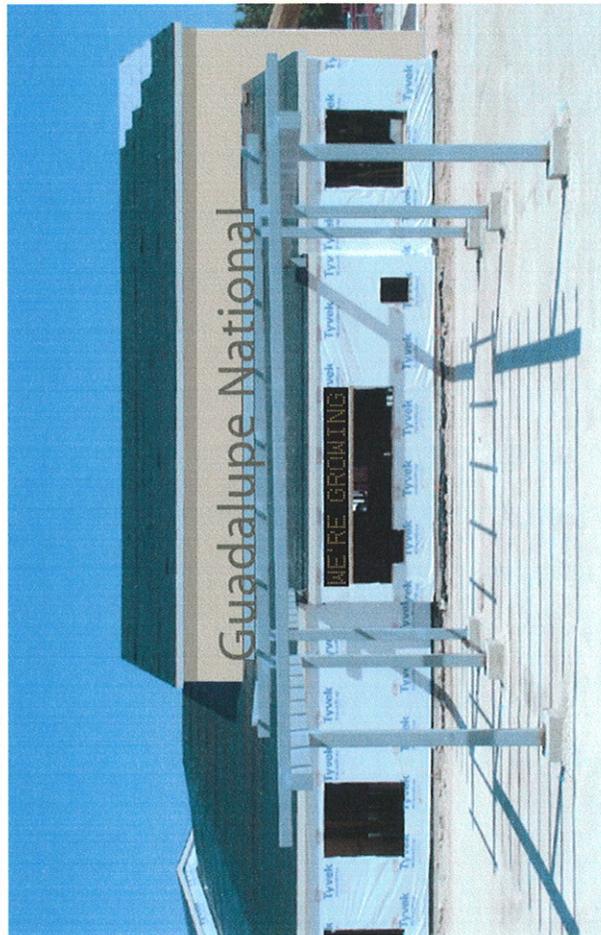
STONEBASE / STONE WORK BY OTHERS



FABRICATE AND INSTALL ( 1 ) ONE SET OF REVERSE CHANNEL, NON-LIT ALUMINUM LETTERS.  
 TO BE MOUNTED ON A RACEWAY.  
 2" RETURNS.  
 PRIMED & PAINTED ...  
 EXTERNAL ILLUMINATION FROM ROOF...



RACEWAY MOUNTED HORIZONTAL ( LEVEL )



**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2003-07**

AN ORDINANCE AMENDING ORDINANCE NO. 85-59, SECTION 27 "SIGN REGULATIONS", AS AMENDED, BY AMENDING SUBSECTION 27.3 TO PROHIBIT OFF-PREMISE SIGNS FOR THOSE ZONING DISTRICTS LOCATED WITHIN THE AREAS OF STATE HIGHWAY LOOP 534 AND STATE HIGHWAY 173; REVISING REGULATIONS FOR ON-PREMISE SIGNS IN THE SAME AREAS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

WHEREAS, the City of Kerrville has adopted regulations governing the size, design, and location of signs within the City and its extraterritorial jurisdiction, said regulations being set forth in Section 27 "Sign Regulations" of Ordinance No. 85-59, as amended by Ordinance Nos. 86-17, 86-19, 87-17, 88-10, 88-17, 88-33, 97-08, and 2002-20 (hereafter collectively referred to as "Section 27, as amended" or "the Sign Regulations"); and

WHEREAS, City staff and the City's Planning and Zoning Commission have recently studied the issue of signs within the corridors of State Highway Loop 534 and State Highway 173; and

WHEREAS, both City staff and the City's Planning Zoning Commission have recommended changes to the Sign Regulations applicable to these areas, which will include prohibiting off-premise signs in such areas and revising the regulations for on-premise signs; and

WHEREAS, pursuant to Texas Local Government Code §§211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on March 11, 2003, to consider the final report of the City of Kerrville Planning and Zoning Commission regarding its recommendations on the adoption of an ordinance amending Section 27, as amended, by adding new regulations affecting the location, size, and design of certain outdoor signs; and

WHEREAS, such public hearing was held in the Council Chambers beginning at approximately 6:30 p.m. on March 11, 2003, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission and City staff; and after considering among other things, the character of the various areas of the City and the suitability of particular uses in each area; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City, the City Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Kerrville, Texas, to adopt a revision to the City's zoning regulations relating to the installation, maintenance, location, and design of signs within the City of Kerrville;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. That Subsection 27.3 of Ordinance No. 85-59, as amended, shall be amended by adding a new Paragraph 3:

3. The following signs shall be permitted within the 25E, 26E, 27E, 28E, 29E, 30E, 33S, 35S, 36S, and GR Zoning Districts:
  - A. Banner sign, subject to the following regulations:
    - (1) The entire banner sign covers portions of (1) the outside wall of any building, or (2) a wall or fence which is built along the perimeter of the property, or along the perimeter of a substantial part of such property.
    - (2) The entire square footage of banner signs at one business location shall not exceed 80 square feet.
    - (3) The banner is, and remains in, good condition and without torn, or tattered portions.
  - B. Marquee sign;
  - C. Projecting sign;
  - D. Free-standing sign, subject to the following regulations:
    - (1) In the case of a single building or tenant, one (1) free-standing sign is permitted with the following criteria:
      - (a) Sign Area: The maximum allowable sign area shall be sixty-four (64.0) square feet.
      - (b) Sign Height: The maximum allowable height shall be eight feet (8.0') above the top of the adjacent street or driveway level;
      - (c) Location of Sign: The free-standing sign shall not be located closer than sixty feet (60.0') from another free-standing sign.
      - (d) Lighted Area: The free-standing sign shall be front lit with ground-mounted lights or backlit, but shall not be internally lit.

- (e) Sign Material: The free-standing sign shall be anchored in a native colored masonry or other similar material to the building(s) constructed on the property and framed on all four (4) sides by, at a minimum, six inches (6") of native colored masonry, or other material similar to the building(s) constructed on the property.
- (2) In the case of multiple buildings or tenants one (1) free-standing sign is permitted with the following criteria:
- (a) Sign Area: The maximum allowable sign area shall be one hundred (100.0) square feet.
  - (b) Sign Height: The maximum allowable height shall be fifteen feet (15.0') above the top of the adjacent street or driveway level.
  - (c) Location of Sign: The free-standing sign shall not be located closer than sixty feet (60.0') from any other free-standing sign.
  - (d) Lighted Area: The free-standing sign shall be front lit with ground-mounted lights or backlit, but shall not be internally lit.
  - (e) Sign Material: The free-standing sign shall be anchored in native colored masonry or other materials similar to the building(s) constructed on the property and framed on all four (4) sides by, at a minimum, six inches (6") of native colored masonry, or other material similar to the building(s) constructed on the property.

E. Off-premise signs are prohibited within the 25E, 26E, 27E, 28E, 29E, 30E, 33S, 35S, 36S, and GR Zoning Districts.

SECTION TWO. That based upon the addition of the new Paragraph 3 delineated above, Paragraphs 3 through 8 of Subsection 27.3 shall be renumbered to Paragraphs 4 through 9 respectively.

SECTION THREE. The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in

conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), the City Clerk is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

PASSED AND APPROVED ON FIRST READING, this the 11<sup>th</sup> day of March, 2003.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 25<sup>th</sup> day of March, 2003.

\_\_\_\_\_  
Stephen P. Fine, Mayor

ATTEST:

\_\_\_\_\_  
Sheila L. Brand, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael C. Hayes, City Attorney

- (b) **Variances:** The Board of Adjustment may grant a variance to the Zoning Code as permitted by Article 11-1-22(o)(2) in accordance with the following procedures:
- (1) **Application:** An application for a variance shall be made in writing on forms provided by the Planning Division and filed with the secretary of the Board of Adjustment. An application for a variance shall be deemed complete when all information on the application form is provided and the application is accompanied by the following:
- (i) all fees established by the City Council for such matters; and
  - (ii) a description of the property to which the variance would apply sufficient to identify the location and the boundaries of the property; and
  - (iii) the reason the person is requesting the variance;
  - (iv) the signature, acknowledged by a notary public of-
    - a* the owner of the property; and
    - b* if different than the owner, the signature of the person requesting the variance; and
  - (v) when the variance relates to the development of a specific tract of land, eight (8) copies of a site plan drawn to scale showing existing and proposed development of the property in question.
- (2) **Public Hearing; Notice:** Upon filing of an application for a variance, the director of the Planning Division shall set a date for a public hearing thereon as soon as may be practicable; provided, however, the Board of Adjustment shall hold a public hearing on a request for a variance under this Section (b.) only after the filing of a completed application with the secretary of the Board of Adjustment and in no case earlier than ten (10) days after notice of the time and place of the public hearing has been:
- (i) published in the City's official newspaper; and
  - (ii) sent to the applicant and the owners of all property located within 200 feet of the property which is the subject of the variance by depositing a copy of the notice in the United States Mail, postage prepaid, and pre-addressed according to the address indicated on the last approved City tax rolls.
- (3) **Required Findings of Fact:** No variance shall be granted by the Board of Adjustment until it makes the following findings:
- (i) that there are exceptional circumstances or conditions applicable to the property on which the application is made related to size, shape, area, topography, surrounding condition or location that do not apply generally to other property in the same area and the same zoning district;

- (ii) that the exceptional circumstances or conditions are such that literal enforcement of the provisions of this Chapter would result in an unnecessary hardship inconsistent with the general purpose and intent of this Chapter;
  - (iii) that the granting of such variance will not be contrary to the public interest, materially detrimental to the public welfare, or injurious to the property or improvements in the zoning district or area in which the property is located;
  - (iv) that the granting of such variance will not be contrary to the objectives and principles contained in the comprehensive plan, as amended;
  - (v) that the variance to be granted is the minimum variance that will relieve the proven hardship;
  - (vi) that the variance is not being granted to relieve the applicant of conditions or circumstances:
    - a* which are not inherent in the property itself, but are the result of the use or development of the property, or
    - b* which are caused by a division of land on or after June 16, 1997, other than a division of land resulting from the sale of a property interest to a governmental entity, which division of land caused the property to be unusable for any reasonable development under the existing regulations, or
    - c* which were otherwise self imposed by the present or a previous owner;
  - (vii) that the variance is not grounded solely upon the opportunity to make the property more profitable or to reduce expense to the current or any future owner;
  - (viii) that the variance would not modify or effectively repeal any development or use regulations set forth in a Conditional Use Permit or an ordinance or resolution adopting a Development Site Plan or establishing a Special Use District or Planned Development District which are in addition to the generally applicable use and development regulations set forth in this Chapter;
  - (ix) that the variance would only affect a specific parcel of property and is not of such a general nature as to effectively constitute a change in zoning of said parcel or a larger area without following the procedures set forth in Article 11-1-21.
- (4) **Record of Findings:** In addition to the record of the vote of the members regarding the application, the minutes of the Board of Adjustment shall contain the findings of facts on which its decision was based including, but not limited to, its findings as to the matters set forth in Subsection (3), above, and a description of the extraordinary circumstances found to be affecting the property in question.

- (5) **Decision of the Board:** After receiving all evidence, hearing all argument, and making its findings of fact regarding an application for a variance, the Board of Adjustment may:
- (i) grant the variance as requested;
  - (ii) grant a variance modified in accordance with the findings of the Board of Adjustment; or
  - (iii) deny the variance.
- (6) **Required Vote:** The concurring vote of seventy-five percent(75%) of the members of the Board of Adjustment is required to grant a variance.
- (7) **Effective Date of Variance:** A variance granted by the Board of Adjustment shall become effective after the expiration of ten (10) days from the date of filing its decision with the Planning Division unless the Board specifically establishes a different effective date. The effective date of a variance can be based on the satisfaction of a condition.
- (c) **Filing of Decisions:** Not later than three days, excluding Saturdays, Sundays, and City holidays, after the adjournment of the meeting at which the Board of Adjustment votes pursuant to this Article on an appeal of the act of a City administrative official or on an application for a variance, the secretary of the Board of Adjustment shall file the decision with the Planning Division.
- (d) **Appeals of Board of Adjustment Decisions:** An appeal of a decision of the Board of Adjustment must be prosecuted in accordance with Texas Local Government Code §211.010, as amended.

2. Unless provided otherwise by the City Council, for the purpose of these sign regulations, all land in the extraterritorial jurisdiction shall be subject to the regulations set forth in Subsection 27.3, paragraph 3, above.

#### 27.11 Variances

Variances may be granted to these sign regulations provided that the procedures and standards set out below are followed.

##### 1. Procedures.

- A. Application for a variance shall be filed with the Planning Department two weeks prior to the Planning and Zoning Commission meeting. The application shall include the following:

- (1) Name/address of owner/applicant.
- (2) Address/property legal description.
- (3) Statement that the applicant is the owner or authorized agent, or has a contract for sale.
- (4) Site plans, elevations, improvement plans, and other such drawings, all sufficiently dimensioned land oriented to illustrate the following:
  - i. the location and dimensions of lot lines.
  - ii. the location, appearance, and intended use of buildings and signs on the site, and the approximate location of existing buildings and freestanding signs on abutting lots. (Photographs may be used.)
  - iii. the location of site improvements including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, and lighting, where applicable. (Photographs may be used.)

##### B. Preliminary Conference.

The applicant shall meet with the staff to consider alternatives and the nature of his petition prior to or during the application process.

##### C. Public hearing.

The Planning and Zoning Commission shall hold a public hearing on each application for a variance using the same notice requirements as required for

commission hearings conducted for zoning ordinance amendments. At the public hearing, the Commission shall review the application and shall receive pertinent evidence concerning the proposed variance.

D. Report of the Planning Department.

The Planning Department shall review the application or proposal and shall be filed with the Planning and Zoning Commission prior to the public hearing.

E. Action by the Planning and Zoning Commission.

The Commission may grant the variance as presented, or in a modified form, or subject to conditions, or it may deny the application on the grounds of being incompatible with a neighboring use, traffic safety, the purpose statements as listed herein, or that will give one business an unfair competitive advantage over other businesses.

2. Evaluation Criteria

A. The Planning and Zoning Commission shall use the criteria set forth for Article 11-I-23(b.) for the granting of variances to the Zoning Code when considering variances to this ordinance.

B. Notwithstanding a., above, no variance may be granted for signs that are listed as a prohibited sign(s) in Subsection 27.2 of this ordinance.

27.12 Amortization in Event of Invalidity. In the event any provision of state law authorizing the prohibition, removal or alteration of signs after a period of amortization is held invalid; or any provision of the City sign ordinance, or any regulation, action, or decision, thereunder, is held invalid; or, any period of amortization set by the Municipal Board of Sign Control is ever held to be invalid; then the amortization period for any sign invalidly amortized under any such law, ordinance, regulation, action of decision, shall be, and is, June 3, 1994.

Except, however, this ordinance shall not apply to those signs whose amortization period was established as one year or less.

27.13 Definitions.

Sign: Any letters, figures, trademarks, or devices designed to inform people of the identity of an individual, firm, profession, business, product, goods, or service, and which is (are) recognizable from any public right-of-way. Some, but not all, kinds of signs are defined as follows:

1. Sign, "A-Frame": See definition of "Sign, Unattached".

**BUSINESS OF THE PLANNING AND ZONING COMMISSION  
CITY OF KERRVILLE, TEXAS**

**AGENDA ITEM:** 4D **FOR AGENDA OF:** March 5, 2009

**DESCRIPTION:** **Zoning Change Request** – Consider a recommendation to the City Council of a request to change the zoning from E-29 and E-30 (East Side District) to a PDD (Planned Development District) on approximately 3.06 acres located at the southwest corner of the Memorial Blvd (SH 27) and Loop 534 intersection. Zoned: E-29 and E-30. (File No. 2009-03)

**APPLICANT(S):** Vordenbaum Engineering, Inc.

**ATTACHMENT(S):** Location Map, Concept Plan, Draft Ordinance

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Project Timeline:

- February 2, 2009 – An application for a Planned Development District is accepted by the City for review and consideration.
- February 19 & 20, 2009 – In accordance with Statute and local ordinance, notice of the required public hearing was published in The Kerrville Daily Times and notices mailed to all property owners within 200-feet of the subject tract.
- February 18, 2009 – Development Review Committee (DRC) review process completed.
- **March 5, 2009 – Public hearing before the Planning and Zoning Commission (P&Z) and consideration of a recommendation to the City Council.**
- March 24, 2009 – Public hearing before the City Council and consideration of an ordinance approving the PDD.
- April 14, 2009 – Second and final ordinance reading approving the PDD.

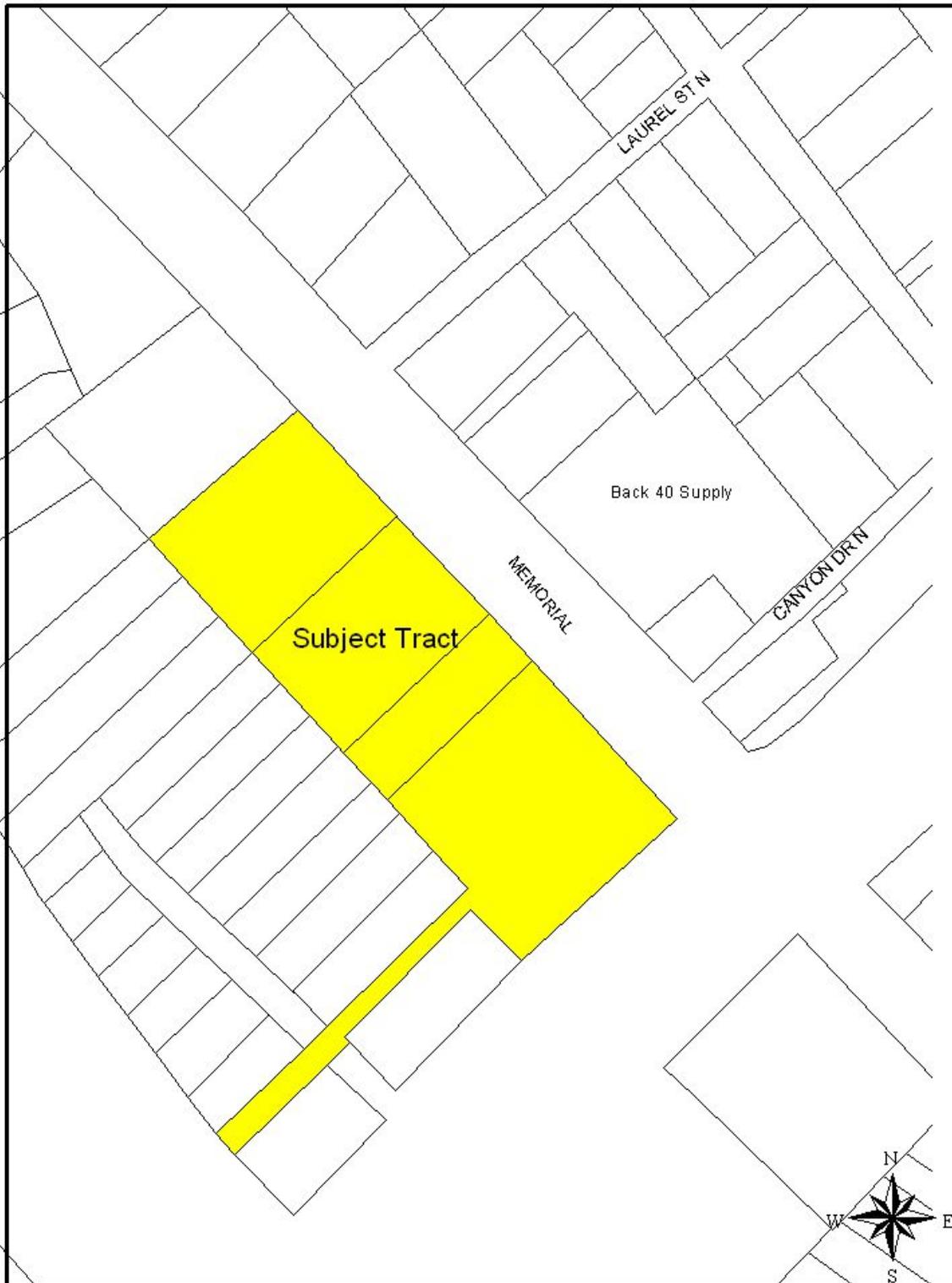
PDD Process:

- Article 11-I-15 of the Zoning Code describes Planned Development Districts (PDD) and the process by which they are considered. PDD's are zoning districts that can be considered for permitting land uses not normally allowed in the zoning district in which the property is located. A PDD is governed by a site plan and any other development regulations associated with a City Council approved ordinance. A PDD effectively becomes a "stand alone" zoning district similar to those districts already described in the Zoning Code.
- No underlying right exists to approve a PDD request. The fact that the P&Z and City Council may review an application for a zoning change does not mean it must be approved. The burden falls on the applicant to show the use would be a benefit to the particular area and to the general welfare of the City.
- The P&Z and Council may impose requirements and conditions of approval as are needed to ensure that a use requested by a PDD is compatible and complementary to adjacent properties.

- The applicant's request is to change the zoning on approximately 3.06 acres from E-29 and E-30 to a PDD to allow a mixed-use development allowing fuel sales and retail as outlined in the attached ordinance.
- As presented in the applicant's concept plan, the proposed development will consist of a 4000 square foot convenience store with fuel sales and a 18,270 square foot retail center. Access is shown from both Memorial Blvd (SH 27) and Loop 534, TxDOT has reviewed the access shown and granted preliminary approval.
- Prior to submission of any building and/or engineering plans for construction, the applicant shall submit a planned development site plan for review and approval per Article 11-I-15 of the Zoning Code.
- Based on the proposed concept plan and uses outlined in the attached ordinance, staff recommends approval of the zoning change.
- The attached draft ordinance proposed by staff is consistent with previous PDD ordinances reviewed by the Commission and Council.

#### **RECOMMENDED ACTION**

1. Open the public hearing and receive comments, and
2. Recommend to the City Council approval of the PDD subject to the conditions outlined in the attached ordinance.





**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2009- \_\_\_\_**

**AN ORDINANCE CREATING A “PLANNED DEVELOPMENT DISTRICT” ON AN APPROXIMATE 3.06 ACRE TRACT OF LAND OUT OF THE SAMUEL WALLACE SURVEY NUMBER 112, WITHIN THE CITY OF KERRVILLE, TEXAS, AND GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE MEMORIAL BLVD (SH 27) AND LOOP 534 INTERSECTION, ADOPTING A LIST OF PERMITTED USES FOR SAID DISTRICT, ADOPTING A CONCEPT PLAN AND CONDITIONS RELATED TO THE DEVELOPMENT OF SAID DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ESTABLISHING A PENALTY OR FINE NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; ORDERING PUBLICATION; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT**

**WHEREAS**, the City Planning and Zoning Commission and the Governing Body of the City of Kerrville, Texas, in compliance with the City Charter and the State law with reference to the creation of Planned Development Districts under Article 11-I-15 of the Zoning Code of the City of Kerrville, Texas, and amending the official zoning map adopted thereby, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings and affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Kerrville, Texas, finds that the health, safety and general welfare will be best served by the creation of a Planned Development District for Mixed-Use development, subject to the special conditions and restrictions set out hereinafter on the property described in Section One hereof;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** That the property described below is removed from Zoning Districts E-29 and E-30 (East Side District) and placed in a newly created “Planned Development District” for Mixed-Use development;

Being an approximate 3.06 acre tract of land out of the Wallace Survey No. 112, in the City of Kerrville, Kerr County, Texas as recorded in the Real Property Records of Kerr County, Texas.

**SECTION TWO.** The property described in Section One, above, may be developed subject to the following:

- A. Permitted Uses: The following uses and any development regulations specified by said use and not listed herein, shall be permitted in the “Planned Development District”;
1. Fuel Sales, in association with a convenience store;
  2. Department, variety and general merchandise stores;
  3. Specialty clothing and shoe stores;
  4. Drug stores;
  5. Sporting goods stores;
  6. Toy, gift and novelty stores;
  7. Stationery stores;
  8. Book stores;
  9. Camera and photographic supply;
  10. Florists;
  11. Limited restaurants;
  12. Beauty Parlors and/or barber shops;
  13. Health or fitness studios/salons and massage therapy;
  14. Portrait photography studios;
  15. Repair services of personal items such as shoes, watches and jewelry;
  16. Self service Laundromats;
  17. Professional offices;
  18. Camera repair shops;
  19. Commercial art, photography, art and graphics;
  20. Employment agencies;
  21. Postal services;
  22. Blue printing and photo copying services;
  23. Car wash, in association with fuel sales and a convenience store.
- B. Concept Plan: The development of this property shall be substantially in accordance with the Concept Plan attached, **Exhibit A**.
- C. Parking: The design and number of parking spaces shall be in accordance with the regulations in effect at the time that individual building permits are submitted to the City. All required parking spaces shall be constructed of asphalt or concrete and be marked and kept available for customers and employees.
- D. Sidewalks: The construction of sidewalks shall be required and in accordance with the regulations in effect at the time building permits are submitted.

- E. Setbacks and Height Requirements: The Planned Development District shall be developed with the following minimums;
1. Front Yard Setback: 30 feet
  2. Rear Yard Setback: 30 feet
  3. Interior Side Yard Setback: 10 feet
  4. Exterior Side Yard Setback: 15 feet
  5. Fuel Sales Canopy: Front Yard: 15 feet; Side Yard – 15 feet
  6. Maximum Height: 35 feet
- F. Signage: The design, installation, location and maintenance of signs shall comply with City regulations regulating signs existing at the time of permitting and installation.
- G. Landscaping Regulations: Landscaping shall be installed in accordance with the following:
1. Planting materials planted on the property shall be on the list of recommended plants set forth in the most recent edition of Recommended Plants for the Kerrville Area published by the City at the time of planting.
  2. There shall be a landscaped area of no less than seven and one-half feet (7.5') wide parallel to and along the entire length of Memorial Blvd and Loop 534.
  3. All landscaping shall be maintained in a healthy, growing condition.
- H. Screening: Screening shall be required and in accordance with the regulations in effect at the time individual building permits are submitted to the City.
- I. Trash and Other Solid Waste: Solid waste collection bins and dumpsters shall be equipped with lids and screened with a gate with an opaque screen on one side and masonry material finished to look substantially like the adjacent building on the remaining three sides.
- J. Parking Lot Lighting: All outside pole lights shall be of a “shoe box” design and shall be located, shielded and aimed in such a manner so as not to allow light to directly fall on adjacent roadways and/or properties.
- K. Outside Storage: The outside storage of any materials, supplies, inventory and/or equipment, whether contained in cargo containers or other similar containers or buildings, is prohibited.
- L. Platting: The development of this property shall be subject to the City’s Subdivision Regulations, which includes submittal and approval of a plat.

**SECTION THREE.** The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION FOUR.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION FIVE.** The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in **Article III** of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

**SECTION SIX.** In accordance with **Section 3.07** of the City Charter and Texas Local Government Code §52.013(a), the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

**PASSED AND APPROVED ON FIRST READING, this the \_\_\_\_ day of \_\_\_\_\_, A.D., 2009.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_ day of \_\_\_\_\_, A.D., 2009.**

\_\_\_\_\_  
Todd A. Bock, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Michael C. Hayes, City Attorney

**BUSINESS OF THE PLANNING AND ZONING COMMISSION  
CITY OF KERRVILLE, TEXAS**

- AGENDA ITEM:** 4E **FOR AGENDA OF:** March 5, 2009
- DESCRIPTION:** **Zoning Code Amendment** – Consider a recommendation to the City Council to amend Article 11-I-3, Definitions and Interpretation of Words and Phrases, to broaden the list of uses as defined as a Home Occupation, Article 11-I-3 (a)(49). (File No. 2009-09)
- APPLICANT(S):** City of Kerrville
- ATTACHMENT(S):** Mr. Mendoza’s Request, Home Occupation (49), Personal Services I (80), Business Services I (19).
- 

Background:

During the January 27, 2009, City Council meeting, Mr. A.W. (Tony) Mendoza, 415 W. Main Street, appeared during Citizens Forum to request an amendment to the City’s Zoning Code by adding gunsmithing to the list of uses allowed as a ‘Home Occupation’.

In his letter, to Council, see attached, Mr. Mendoza stated that he is a custom knife maker and gunsmith. The gunsmithing consists of customizing pistols and rifles for match shooting competitions. (see Mr. Mendoza’s agenda bill and attachments). Following his presentation, Council directed staff to begin the Zoning Code amendment process.

Home occupations are generally defined as being incidental and secondary to the primary residential use of the property and are conducted in a limited manner which creates little exterior indication of the activity and which does not create a nuisance or otherwise adversely impact adjacent properties or the residential character of the neighborhood.

Home Occupation:

Article 11-I-3 (a)(49), of the current Zoning Code, the uses allowed as home occupations are generally those uses consistent with the ‘Personal Services I’ category. (A list of those uses is attached). Other uses allowed by right and listed under the Home Occupation category are uses that generally do not promote substantially greater “traffic” in numbers or character than would normally be associated with a dwelling used solely for residential purposes. Gunsmithing is a permitted use in the ‘Business Services I’ category which also permits bail bond agencies, furniture repair and taxidermy. None of which would be appropriate uses in a residential neighborhood. Uses allowed as home occupations should not adversely impact the residential character of the neighborhood.

In his letter, Mr. Mendoza stated that the majority of his work is mailed, via Fed Ex or UPS and returned in the same manner.

Summary:

While in this particular case allowing gunsmithing may seem to be a minor amendment to the ordinance, the change will not limit this activity solely to Mr. Mendoza or the residence at 415 W. Main Street but allow the use as a Home Occupation throughout the City. Should the Commission recommend approval of this Zoning Code amendment, as requested or modified, an ordinance to that effect will be submitted to the City Council along with the attached support information, for their review and consideration at their March 24, 2009 meeting.

### **RECOMMENDED ACTION**

1. Open the public hearing and receive comments, and
2. Render a decision on the requested Zoning Code amendment.

TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS

SUBJECT OF REQUEST: *Amendment to zoning code*

AGENDA DATE: *1.27.09* DATE SUBMITTED:

REQUESTED/SUBMITTED BY: *A. W. Mendoza* PHONE: *(830) 890-5098*

ORGANIZATION REPRESENTING: *Self*

MAILING ADDRESS: *415 West Main, Kerrville, Texas 78028*

EMAIL ADDRESS: *AWMACHAIR@YAHOO.COM*

EXHIBITS/INFORMATION: *Attachments*

APPROVED FOR SUBMITTAL BY CITY MANAGER:



WILL THIS ITEM REQUIRE CITY COUNCIL TO AUTHORIZE THE  
EXPENDITURE OF CITY FUNDS? YES: \_\_\_\_\_ NO: X

IF YES, STATE AMOUNT REQUESTED: \$ \_\_\_\_\_

DESCRIPTION OF REQUEST

*Amendment to the City of Kerrville zoning code by adding gunsmithing to the list of uses allowed as a home occupation as defined in ART. II - 1-3(A)49.*

RECOMMENDED COUNCIL ACTION

A. W. Mendoza  
415 West Main  
Kerrville, Texas 78028

City Council  
Kerrville, Texas

Attn: Brenda Craig / Heather Spivey

Ref: Amendment to Zoning Code

Dear Council,

I am requesting an amendment to the zoning code by adding custom gunsmithing to the list of uses allowed as a home occupation as defined in art.II-1-3(a)49.

My wife and I have recently relocated to Kerrville. I am a custom knife maker as well as a custom gunsmith. I customize pistols and rifles for accuracy in Match Shooting sports. The majority of my work (~95%) is sent to me via Fed Ex or UPS. I return the work in the same manner. I also order firearms for active law enforcement officers and active military personnel with a letter of approval from the Senior OIC. I DO NOT sell firearms retail nor do I keep a stock of firearms for sale. We have an active security system that I plan to improve upon if our application is approved.

I am a Viet Nam veteran and am disabled (not military related). To be able to work at home is very important to us as we are on a fixed Social Security disability income. This will enable us to add to our income as well as contribute to sales tax revenues through the sale of parts used. This added income is extremely important to us.

Please find attached sales documents that allowed me to work from my home at our previous address. Waivers were given due to my disability and no heavy equipment being involved.

Thank you for your consideration.

Sincerely,

A. W. Mendoza



# CITY OF WILDWOOD LICENSE

To Whom It May Concern:

JH2006-2007

Know that:  
*Wildwood Customs*

has made application and paid to the City of Wildwood, Missouri the applicable license fee imposed by ordinance.  
NOW THEREFORE, said Licensee is hereby authorized to carry on the home occupation of:

*Gunsmithing, Custom Knife Maker*

at the following location:  
*17022 Old Hollow Ct.*

within the City of Wildwood, for the period ending June 30, 2007.

*Susan Lynn Betters*  
City Clerk

(SEAL)

*Edward L. Marshall*  
Mayor  
*Kevin D. Bruehl*  
Director of Finance

# State of Missouri

## MISSOURI RETAIL SALES LICENSE

LICENSEE:

WILDWOOD CUSTOMS  
17022 OLD HOLLOW CT  
WILDWOOD MO 63040  
MENDOZA ANTONIO WASHINGTON

LICENSE ISSUED:

MAY 30, 2006

MENDOZA JOAN LEE

MISSOURI TAX IDENTIFICATION NUMBER: 19468954

THE ISSUANCE OF THIS LICENSE IS CONTINGENT UPON THE LICENSEE'S COMPLIANCE IN ALL RESPECTS WITH THE REQUIREMENTS OF CHAPTER 144, RSMO, AND THE RULES PROMULGATED THEREUNDER.

THIS LICENSE IS VALID UNTIL CANCELLED AND SURRENDERED BY THE LICENSEE OR REVOKED BY THE DIRECTOR OF REVENUE.

THIS LICENSE MUST BE PROMINENTLY DISPLAYED IN THE PLACE OF BUSINESS.

DIRECTOR OF REVENUE



THIS BUSINESS IS REGISTERED INSIDE THE CITY LIMITS OF WILDWOOD IN THE COUNTY OF ST LOUIS AND YOU ARE LIABLE TO COLLECT AND REMIT ALL APPLICABLE STATE AND LOCAL SALES TAXES.

THIS LICENSE IS NOT ASSIGNABLE OR TRANSFERABLE



**LICENSE (18 U.S.C. Chapter 44)**

In accordance with the provisions of Title I, Gun Control Act of 1968, and the regulations issued thereunder (27 CFR Part 478), you are licensed to engage in the business specified in this license, within the limitations of Chapter 44, Title 18, United States Code, and the regulations issued thereunder, until the expiration date shown. See "WARNINGS" and "NOTICE" on reverse.

DIRECT ATF  
CORRESPONDENCE  
TO

Chief, Federal Firearms Licensing Center (FFLC)  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
2600 Century Parkway NE Suite 110  
Atlanta, Georgia 30345-3104  
Telephone: 1-866-662-2750 Fax: 1-866-257-2749  
E-mail: NLC@atf.gov ATF website: http://www.atf.gov

LICENSE  
NUMBER

**5-43-189-01-9F-03971**

EXPIRATION  
DATE

**June 1, 2009**

NAME

**MENDOZA, ANTONIO W**

**Premises Address** CHANGES? You must notify the FFLC at least 30 days before the mc

**17022 OLD HOLLOW CT  
WILDWOOD, MO 63040-**

TYPE OF LICENSE

**01-DEALER IN FIREARMS OTHER THAN DESTRUCTIVE DEVICES**

CHIEF, FEDERAL FIREARMS LICENSING CENTER (FFLC)

*Kimberly H. Irwin*  
Kimberly H. Irwin

**PURCHASING CERTIFICATION**

I certify that this is a true copy of a license issued to me to engage in the business specified

(SIGNATURE OF LICENSEE)

**Mailing Address** CHANGES? Mail is NOT forwarded. Notify the FFLC of any changes.

**MENDOZA, ANTONIO W  
17022 OLD HOLLOW CT  
WILDWOOD, MO 63040-**

The licensee named herein shall use a reproduction of this license to assist a transferor of firearms to verify the identity and the licensed status of the licensee as provided in 27 CFR Part 478. The signature on each reproduction must be an ORIGINAL signature.

- (43) **Funeral Services:** The on-site provision of services related to the preparation of the human dead for interment, including, but not limited to, the arranging and managing of funerals and the holding of memorial services.
- (44) **Garage Sale:** A sale of used household or personal articles not exceeding four (4) days in length which is:
- (i) open to the public;
  - (ii) held on a residential premises owned by one of the sellers; and
  - (iii) conducted more than ninety days after a similar sale at the same premise.
- (45) **Group Medical Care Facility:** A type of dwelling unit in which a continuum of nursing or medical care or services is provided to people with terminal or incapacitating illness, or with conditions which require regular nursing services or attending physician services, regardless of whether people who do not require such care also reside in the dwelling unit. A group medical care facility shall include any facility which requires a license issued by the Texas Department of Health or its successor agency as a Special Care Facility.
- (46) **Guidance Services:** A use providing counseling, guidance, recuperative, vocational, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, previous incarceration, drug addiction, or similar condition, either on a residential or daytime care basis.
- (47) **Height:** The vertical distance measured from grade to the highest roof surface, or to the highest point of any structure erected on a roof of a building; whichever is greater; provided, however, church spires, belfries, communication antennae, and water towers shall not be considered when determining the maximum height of a structure.
- (48) **Homestay:** An owner-occupied single-family dwelling that provides lodging for compensation to a single group not exceeding five people for periods not exceeding three consecutive days, with no fewer than ten (10) days occurring between the end of one three day period and the beginning of the next three day period.
- (49) **Home Occupation:** An occupation, business, or activity occurring in a dwelling unit, or an accessory building or garage associated with a dwelling unit, which:
- (i) is managed and owned by a person residing in the dwelling unit;
  - (ii) has no more than one employee who is not a member of the immediate family of the owner/manager; or be a member of the immediate family of the owner who does not live in the same dwelling unit;
  - (iii) has no commercial display visible from the exterior of the dwelling unit;
  - (iv) has no commercial show window visible from the exterior of the dwelling unit;
  - (v) requires no outdoor storage of materials, supplies, or equipment used in the business;

- (vi) does not have vehicles or trailers parked on the premises in a place visible from adjoining property or public rights-of-way which identify by signs the occupation, business or activity are;
- (vii) except for an unlighted name plate or business sign with a face not more than two square feet attached flush to the building, uses no exterior sign to identify the occupation or business or to indicate the means of access to the business, including, but not limited to, any directional sign;
- (viii) does not generate pedestrian traffic, vehicular traffic or vehicular parking substantially greater or substantially different in kind or character than that ordinarily associated with a similar dwelling used solely for residential purposes;
- (ix) requires the use of no more than three off-street parking spaces constructed on the premises;
- (x) is no more dangerous to life, personal safety, or property than any other activity ordinarily carried on with respect to a dwelling unit used solely for residential purposes;
- (xi) does not result in the production of noise, odors, or fumes that constitute a public or private nuisance to neighboring properties;
- (xii) subject to conformance with paragraphs (i) through (xi), above, may include:
  - (a) Child care for up to six children under the age of fourteen years of age for a period of less than 24 hours a day; provided, however:
    - (1) in no case shall the total number children related to the caretaker by birth, adoption, marriage or conservatorship plus the number of children not related to the caretaker exceed a total of twelve children; and
    - (2) care must be provided in compliance with all applicable state and federal regulations, including, but not limited to, Title 40, Chapter 715, Texas Administrative Code, as amended.
  - (b) instructional classes that are associated with art, dance, music, handicrafts, hobbies, health or fitness, and similar subjects;
  - (c) grooming of dogs and cats of not more than four at any one time, provided that none are boarded as a kennel;
  - (d) massage therapy, chiropractic care, or facial, hair, and nail salons, provided that no more than two clients may be served at one time;
  - (e) repair of small personal items such as watches or jewelry;
  - (f) photographic studios;
  - (g) seamstress or tailoring services;

- (h) small custom manufacturing services; or
  - (i) multi-level marketing or similar sales businesses based within the home;
  - (xiii) does not involve the repair of vehicles, large equipment, or large appliance, unless:
    - (a) not more than one vehicle or appliance is located on the property for purposes of repair; and
    - (b) all work is carried on out of sight from the public by screening or conducting all work indoors; and
    - (c) no vehicle left for repairs may be parked on a public street;
  - (xiv) does not involve retail sales except as part of a home-based multi-level marketing business or as incidental to another permissible home occupation.
- 
- (50) **Hospital Services:** The provision of medical, psychiatric, or surgical services for sick or injured persons, including convalescent services, primarily on an inpatient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees or visitors.
  - (51) **Hotel; Motel:** A facility that primarily provides short-term lodging services involving rooms for rent with or without board, even if the facility has located on the same premises a restaurant or cocktail lounge as a secondary use.
  - (52) **Institutional and Public Use Facilities:** Middle schools, high schools, colleges, golf courses, public facilities, churches, and other facilities and locations for the assembly of the public, including auditoriums and convention facilities.
  - (53) **Junk:** Old, worn out, or discarded material or items which may or may not be salvageable for some other use.
  - (54) **Junk Yard:** Shall have that meaning as set forth in Art.9-V- I of the Code of Ordinances.
  - (55) **Kennels:** Shall have the same meaning as set forth in Art.10-1-3, Sec.(a)(l)j of the Code of Ordinances.
  - (56) **Laundry Services:** The provision of laundering, dry cleaning or dyeing services other than those classified as Personal Services, including, but not limited to, bulk laundry and cleaning plants, diaper services, and linen supply services.
  - (57) **Life Care Development:** A residential community for the housing and care of retired, elderly, and/or disabled people. The uses described below are included within this definition provided that each is a part of or associated with the operation of the life care development community:
    - (i) Independent living in single family units;

- (ii) the business is operated from a stall, tent, trailer, or other non-permanent facility or structure in an area where sales of goods from such structure or facility requires the establishment of a Special Use District regardless of whether or not the goods are at all times visible to the public.
- (77) **Open Space:** An area on a lot that is open and unobstructed to the sky except for the ordinary projections of cornices and eaves.
- (78) **Park and Recreation Services:** Publicly owned and operated parks, playgrounds, recreation facilities, and open spaces.
- (79) **Personal Care Facility:** A dwelling unit in which food, shelter, and minor medical treatment under the direction and supervision of a physician, or services which meet some need beyond boarding or lodging are provided to residents of that dwelling unit, including care provided to more than four (4) unrelated foster children, but not including such care provided to any family member residing with his family in a one-family dwelling. Residents of a personal care facility depend on staff to provide them with varying degrees of assistance in every day living, but are not considered dangerous to themselves or others and require only occasional or temporary services by professional medical or nursing personnel. A personal care facility includes any facility that requires a license issued by the Texas Department of Health or its successor agency, but does not include a facility which requires a license as a Special Care Facility.

(80) **Personal Services - I:** Frequently or recurrently needed services of a personal nature provided in a building with a floor area of not greater than five thousand (5,000) square feet, including, but not limited to;

- (i) beauty parlors and/or barber shops;
- (ii) day care centers;
- (iii) health or fitness studios/salons and massage therapy;
- (iv) pet services;
- (v) portrait photography studios;
- (vi) repair services of personal items such as shoes, watches, and jewelry;
- (vii) schools primarily engaged in instructional or informational classes related to art, dance, gymnastics, cheerleading, trampoline and tumbling, or martial arts;
- (viii) seamstress and/or tailor shops.

(81) **Personal Services - II:** All of Personal Services - I without respect to the square footage of the building used, plus uses involving more intensive personal services, including, but not limited to:

- (i) guidance services;
- (ii) kennels with a maximum boarding capacity of less than twelve (12) animals;
- (iii) mini-storage;

(17) **Building Construction, Specialist:** The use of land by an establishment for an operation primarily involving special trade contracting work including, but not limited to, plumbing, electrical, painting, plastering, carpentry, air conditioning, custom rock masonry (not including rock quarrying and stockpiling), welding, fencing, overhead doors, or other similar uses; provided, however, if the establishment includes the additional operations described in Subsection (16), above, the use shall be defined as Building Construction, General.

(18) **Building Lot:** A lot, or a portion of a lot, or combination of lots when used for the construction of one building or commercial center.

(19) **Business Services I:** The use of land for the purpose of primarily engaging in the provision of services to firms as well as to individuals, and utility services not otherwise restricted by this Chapter, including, but not limited to:

- (i) bail bonding agencies;
- (ii) bicycle repair shops;
- (iii) cablevision, radio, and television stations;
- (iv) camera repair shops;
- (v) commercial art, photography, art and graphics;
- (vi) employment agencies;
- (vii) gunsmith and locksmith shops;
- (viii) Job and vocational training centers;
- (ix) musical instrument, radio, and television repair;
- (x) postal services;
- (xi) reupholstery and furniture repair;
- (xii) taxidermy businesses that (a) do not conduct on-site the evisceration and processing of animal carcasses or (b) whose on-site evisceration and processing operations have been determined by the Commission to not have a heavier impact on surrounding properties than other uses defined as Business Services I;
- (xiii) telephone and electric company offices (excluding storage and maintenance yards, but including telecommunications serving centers).

(20) **Business Services II:** The use of land for the purpose of primarily engaging in the provision of services to firms as well as to individuals, but which are deemed to be a more intensive use of property than uses defined as Business Services I, including, but not limited to:

- (i) appliance sales or repair, used;

**BUSINESS OF THE PLANNING AND ZONING COMMISSION  
CITY OF KERRVILLE, TEXAS**

**AGENDA ITEM:** 4F **FOR AGENDA OF:** March 5, 2009

**DESCRIPTION:** **Zoning Code Amendment** – Consider a recommendation to the City Council to amend Article 11-I-22 (b)(5), Planning and Zoning Commission and Board of Adjustment, to reduce the number of consecutive terms a Board of Adjustment member may serve. (File No. 2009-10)

**APPLICANT(S):** City of Kerrville

**ATTACHMENT(S):** Article 11-I-22, City of Kerrville Zoning Code

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At their January 27, 2009 meeting, City Council discussed establishing common term limits for City Council appointed Boards and Commissions. Specifically discussed at that meeting was the Board of Adjustment.

To bring the Board of Adjustment into line with other boards and commissions will require reducing the number of consecutive terms a member may serve from three (3) to two (2).

**Current Statement:**

**Term Limits:** No member or alternate member shall serve more than three (3) consecutive full terms on the Board of Adjustment without having at least one (1) full year off of the board between terms.

**Proposed Statement:**

**Term Limits:** No member or alternate member shall serve more than two (2) consecutive full terms on the Board of Adjustment without having at least one (1) full year off the board between terms.

Should the Commission recommend approval of this Zoning Code amendment, as presented or modified, an ordinance to that effect will be submitted to the City Council for their review and consideration at their March 24, 2009 meeting.

**RECOMMENDED ACTION**

1. Open the public hearing and receive comments, and
2. Render a decision on the requested Zoning Code amendment.

Art. 11-I-22 PLANNING AND ZONING COMMISSION AND BOARD OF ADJUSTMENT  
(Reference to Ordinance No. 2008-24)

(a) PLANNING AND ZONING COMMISSION: The City Council shall provide for the appointment of a Planning and Zoning Commission, which may be referred to as the Commission.

1. Membership

(i) Regular Members: The Commission shall be composed of five (5) regular members. At least four (4) of these members shall be residents and eligible voters of the City; one (1) member may reside in the City's extraterritorial jurisdiction (ETJ), and that person must be an eligible voter of Kerr County. Regular members shall be appointed by a majority vote of the City Council.

(ii) Alternate Members: The City Council shall appoint two (2) alternate members to the Commission. Alternate members shall either be a resident and eligible voter of the City or shall reside within the City's ETJ and be an eligible voter of Kerr County, but not more than one (1) alternate member may reside within the ETJ. Alternate members shall serve on the Commission in place of an absent regular member when requested to do so by the chair so that all cases to be heard by the Commission may be heard by a minimum of at least four (4) members when possible. Alternate members may only participate in meetings if called to act and then acting as a regular member for the entire meeting. Even where not called upon to act as a regular member, alternate members shall attend all meetings and are subject to the attendance requirement as provided within this Article.

2. Terms of Appointment: All members of the Commission shall be appointed to serve two (2) year terms beginning and ending on January 1 of the appropriate years. The terms of two (2) of the members appointed shall expire in odd numbered years. The terms of the remaining three (3) members shall expire in even numbered years. One alternate member shall serve a term ending in an odd numbered year and one alternate member shall serve a term ending in an even numbered year. The City Council may appoint members to the Commission for terms of lesser duration than two (2) years when making the initial appointments or when otherwise necessary to comply with the provisions of this Article.

3. Procedural Rules: Unless a conflict exists in state law or this Article, the Commission and its members shall be subject to the *Procedural Rules for Kerrville City Boards* as adopted by the City Council and subject to amendment at any time. These Rules, which shall apply to the meetings of the Commission, establish attendance requirements for all members of the Commission and establish a removal process.

4. Term Limits: No regular member shall serve more than three (3) consecutive full terms on the Commission without having at least one (1) full year off the Commission between terms.

5. Organization and Rules

(i) Meetings: The Commission shall hold its regular meetings on the first and third Thursdays of each month beginning at 4:30 p.m. in the City of Kerrville City Council Chambers.

- (ii) **Elections:** The Commission shall each year at its first regular meeting of the new year elect a chair and vice-chair from among the regular members. The Commission may elect such other officers as it deems necessary from the membership.
- (iii) **Quorum:** Three (3) members, which may include an alternate member but only where substitution for and acting as a regular member, shall constitute a quorum to transact business.

6. **Duties and Powers**

- (i) **Comprehensive Plan:** The Commission shall formulate and recommend to the City Council for adoption a Comprehensive Plan for the orderly growth and development of the City and its environs. On a yearly basis, the Commission shall review and if necessary recommend such changes in the Plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety and general welfare of the citizens of the City.
- (ii) **Zoning Plan:** The Commission shall formulate a zoning plan (ordinance) as may be deemed best to carry out the goals of the Comprehensive Plan; hold public hearings and make recommendations to the City Council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in state law.
- (iii) **Platting:** The Commission shall exercise all powers of a Commission as to approval or disapproval of plans, plats, or replats as set out by state law and the City's subdivision regulations.
- (iv) **Zoning Changes:** The Commission shall initiate for consideration at public hearings, proposals for the original zoning of annexed areas or for the change of zoning district boundaries on an area wide basis.
- (v) **Variances:** The Commission shall consider and take appropriate action, upon written request, variances as prescribed to the City's subdivision and sign regulations.
- (vi) **Ordinance Review:** The Commission shall from time to time recommend such changes to the subdivision regulations, sign regulations, and any other ordinance the City Council assigns to their review that will facilitate the general health, safety and welfare of the citizens of the City."

(b) **BOARD OF ADJUSTMENT**

- (1) **Creation:** There is hereby created the City of Kerrville Zoning Board of Adjustment, otherwise known in this Zoning Code as the "Board of Adjustment".
- (2) **Membership; Appointment:** The Board of Adjustment shall be composed of five (5) members, all of whom shall be residents and qualified voters of the City of Kerrville, Texas. The members of the Board of Adjustment shall be appointed by a majority vote of the members of the City Council.

- (3) **Term of Appointment:** Members of the Board of Adjustment shall be appointed to serve two year terms beginning and ending on September 30 of the appropriate years. The terms of two of the members appointed shall expire in odd numbered years. The terms of three of the members shall expire in even numbered years. The City Council may appoint members of the Board of Adjustment for terms of lesser duration than two years when making the initial appointments to the Board of Adjustment or when otherwise necessary to comply with the provisions of this Article.
- (4) **Vacancies:** Upon the death, resignation, or removal from office of any member or alternate member of the Board of Adjustment prior to the end of the member's term, the City Council shall appoint a successor as a member or alternate member, respectively, of the Board of Adjustment, who shall hold that position for the unexpired term of the person who he is appointed to succeed.
- (5) **Term Limits:** No member or alternate member shall serve more than three (3) consecutive full terms on the Board of Adjustment without having at least one (1) full year off of the board between terms.
- (6) **Removal:** After issuance of written charges to the member or alternate member and a public hearing before the City Council, a member or alternate member of the Board of Adjustment may be removed prior to the end of his term upon a finding of cause for removal by a majority of the City Council.
- (7) **Absences:** Cause for removal of a member of the Board of Adjustment by the City Council shall be deemed to exist if during any period of twelve consecutive months for any reason other than a medical reason which prevents the member's attendance, the member is absent from the greater of:
  - (i) three (3) duly called meetings of the Board of Adjustment, or
  - (ii) 25% of the duly called meetings of the Board of Adjustment.
- (8) **"Duty Called meetings":** The phrase "duly called meetings" as used in Section (g.), above, includes all regular and special called meetings of the Board of Adjustment and all meetings of subcommittees of the Board of Adjustment on which the member serves.
- (9) **Alternate Members:** The City Council will appoint two (2) alternate members of the Board of Adjustment who shall be qualified voters of the City of Kerrville to serve concurrent terms as the regular members. During their term alternate members will serve on the Board in place of an absent member when requested to do so by the chairperson of the Board so that all cases to be heard by the Board of Adjustment shall always be heard by a minimum of four (4) members. One alternate member shall serve a term ending in an odd-numbered year, and one alternate member shall serve a term ending in an even numbered year. Sections (f.) and (g.), above, shall also apply to alternate members of the Board of Adjustment, except that the determination of the number of absences in Section (g.) shall be based only on the meetings at which the alternate member's presence was requested by the chairperson in order to serve in place of an absent member.
- (10) **Meetings; Procedures:** Meetings of the Board of Adjustment shall be held at the call of the chairperson and at such others times as the members of the Board determine. The Board of Adjustment may adopt rules to govern its meetings; provided, however, such rules shall be consistent with this Chapter, the City Charter, and applicable state law. All meetings of the Board of Adjustment shall be open to the public.

- (11) **Meeting Records:** The secretary shall keep a record of all proceedings of the Board of Adjustment, showing the vote of each member upon each question, or, if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the City Clerk and shall be a public record.
- (12) **Officers:** Officers of the Board of Adjustment shall be a chairperson, vice-chairperson, and secretary who shall be appointed by the members of the Board from among its members. The officers for the Board of Adjustment shall be appointed at the first meeting of the board, and thereafter such appointments shall be made at the first meeting held after October 1 of each year. Officers of the Board of Adjustment shall serve a term of one year, said term ending on September 30 after the date of election. An officer of the Board may not serve in the office elected for more than two consecutive terms.
- (13) **Authority of Chairperson:** It shall be the duty of the chairperson (or in the absence of the chairperson, the vice-chairperson) to preside at all meetings of the board. "The chairperson or, in the absence of the chairperson, the vice-chairperson, may administer oaths and compel the attendance of witnesses.
- (14) **Office of the Board:** The office of the Board of Adjustment shall be the Office of the Planning Division, City of Kerrville, 800 Junction Highway, Kerrville, Kerr County, Texas 78028.
- (15) **Authority of the Board of Adjustment:** In addition to such other powers as may be granted from time to time by ordinance, the Board of Adjustment shall have the following authority:
  - (i) **Appeal from Administrative Official:** Pursuant to Article I ] -1-23(a), the Board of Adjustment shall hear and decide an appeal that alleges an error in any order, decision, or determination made by an administrative official of the City in the interpretation or enforcement of Chapter 211 of the Texas Local Government Code, as amended, or this Chapter; and
  - (ii) **Grant Variances:** Pursuant to Article I 1-1-23(b), to grant upon written request variances from the height, yard, area, coverage, floor-to-area, and buffering regulations and required number of parking and loading spaces prescribed by this Chapter, which variances are not contrary to the public interest, and which, because of special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.

**BUSINESS OF THE PLANNING AND ZONING COMMISSION  
CITY OF KERRVILLE, TEXAS**

**AGENDA ITEM:** 6A **FOR AGENDA OF:** March 5, 2009

**DESCRIPTION:** Future Agenda Items

**APPLICANT(S):** Gordon Browning, Senior Planner

**ATTACHMENT(S):**

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There are no items currently scheduled for the Commission's March 19, 2009 meeting.