PLANNING & ZONING COMMISSION AGENDA

Wednesday, April 16, 2025, 6:00 PM
Regular Meeting
Helen Kleberg Groves Community Room,
1st Floor – City Hall, 400 W. King Ave., Kingsville, Texas

PLANNING & ZONING COMMISSION

COMMISSION MEMBERS

Mike Klepac

Steve Zamora, Chairman

Debbie Tiffee

Brian Coufa!

Larry Garcia

Idotha Battle

Krystal Emery

CITY STAFF

Herlinda Solis Administrative Assistant

Erik Spitzer
Director of Planning
and Development Services

The following rules of conduct have been adopted by this Commission:

- 1. Give your name and complete address.
- 2. No one may speak more than twice on the same item.
- 3. No one may speak more than 5 minutes at a time without permission from the Chairman.
- 4. No one may speak a second time on a question until every person who wants to speak has done so.
- 5. All submissions of evidence, i.e., photos, drawings, will be retained by the Planning & Zoning Commission and will become a part of the permanent file.

A COPY OF CHAPTER 15 "LAND USAGE", FROM THE CITY OF KINGSVILLE CODE OF ORDINANCES, IS AVAILABLE.

AGENDA

- · CALL TO ORDER
- ROLL CALL
- APPROVAL OF MINUTES OF PREVIOUS MEETING(S) April 2, 2025
- PUBLIC COMMENTS FOR ALL AGENDA & NON-AGENDA ITEMS
- POSTPONEMENTS/ADJUSTMENTS TO THE AGENDA
- OLD BUSINESS None
- NEW BUSINESS –

ITEM #1- Public Hearing on the request from:

Vincent Gerard & Associates Applicant, Robert De Pol, Owner; requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

ITEM #2 -Discuss and Consider Action on the request from:

Vincent Gerard & Associates Applicant, Robert De Pol, Owner; requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

ITEM #3- Public Hearing on the request from:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

ITEM #4- Discuss and Consider Action on the request from:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

ITEM #5- Public Hearing on the request from:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of a Special Use Permit for a Wholesale Bakery Use (Tortilla Factory) in C-2 (Retail) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

ITEM #6- Discuss and Consider Action on the request from:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of a Special Use Permit for a Wholesale Bakery Use (Tortilla Factory) in C-2 (Retail) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

MISCELLANEOUS: Any topic may be discussed but no action may be taken at this time.

ADJOURNMENT

Please call the CITY SECRETARY at 595-8002 to obtain definitive and final City Commission Hearing Date.

It is the intention of the City of Kingsville to comply in all aspects with the Americans with Disabilities Act (ADA). If you plan on attending a meeting to participate or to observe and need special assistance beyond what is routinely provided, the city will attempt to accommodate you in every reasonable manner. Please contact the Planning Secretary, 361-595-8055, at least two business days prior to the meeting to inform the City of your specific needs and to determine if accommodation is feasible.

I certify that this agenda was posted at least seventy-two (72) hours before the commencement of the Planning and Zoning Commission Meeting scheduled for Wednesday, April 16, 2025.

Planning and Development Services

Posted

On 4-11-25
By #18olis

PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES April 2, 2025

Planning and Zoning Members Present

Debbie Tiffee Rev. Idotha Battle Mike Klepac Larry Garcia Krystal Emery

Citizens Present

Staff Present

Dave Kowalski

Erik Spitzer, Planning & Development Services Director Kwabena Agyekum, SNR Planner

Herlinda Solis, Administrative Assistant

1. The meeting was called to order at 6:00 p.m.

2. Discuss and take action on the meeting minutes of last meeting.

Debbie Tiffee made a motion to approve the minutes from January 15, 2025, meeting as presented. Krystal Emery seconded. All in favor, none opposed. Motion carried.

- 3. Public Comments on or off the agenda None
- 4. Postponements None
- 5. Old Business None
- 6. New Business None

Acting Chairman (Larry Garcia) opened the public Hearing at 6:02 PM

7. Public Hearing Public Hearing on the request from:

ITEM #1- Public Hearing on the request from: Edna Oceguera, Applicant, Ramon P Perez, Owner; requesting approval of Re-Zoning from R1 (Single Family) to R3 (Multi-Family) of K T & 1 CO, Block 18, Lot PT 9, PT 10, Acres 10.98, Kingsville, TX 78363 (Property ID 17868).

Erik Spitzer addressed the Board giving them a quick recap of events: Edna Oceguera, applicant/authorized agent, approached the Planning Department on February 25th, 2025, requesting approval of re-zoning the parcel of land located behind Southgate Mall from R1 (Single Family District) to R3 (Multi-Family District) to support an affordable multi-family housing project, to be called "Casitas Los Ebanos." This parcel of land is currently zoned R1 (Single Family); adjacent parcels of land are currently zoned R1 (Single Family), R3 (Multi-Family) and C2 (Retail). Eleven Notice Letters were sent out to neighbors within the 200 feet buffer and we received no responses.

The applicant is requesting a zoning change from R1 to R3 to accommodate the development of a 62-unit duplex housing project, which will include a pre-kindergarten (Pre-K) facility, leasing office, and community building. The proposed development, known as Casitas Los Ebanos, is intended to provide high-quality, affordable housing for families in need of low-income housing, in compliance with the Low-Income Housing Tax Credit (LIHTC) program. Casitas Los Ebanos has proposed a development for affordable rental housing at approximately US-77 Business, Kingsville, TX.

In summary, these 62 Duplex Units will provide affordable housing opportunities for low-income families, in accordance with the guidelines of the LIHTC program, a Pre-K facility will be incorporated into the development to provide early childhood education services to residents of the development and the surrounding community, a leasing office will serve as the administrative hub for the development, handling resident inquiries, leasing, and property management as well as a community building which will serve as a central space for resident activities and events, promoting community engagement and support among residents.

The proposed zoning district is consistent with the planned development's goals of providing a mixed-use, community-oriented, and family-friendly environment. The proposed use aligns with the vision of creating a well-integrated development that offers both housing and community services in a sustainable and accessible manner.

Mr. Spitzer then presented slides from the applicant's submission, indicating current zoning in the vicinity of the proposed development and selected graphics of the development's initial architectural plans.

ITEM #2 - Discuss and Consider Action on the request from Edna Oceguera, Applicant, Ramon P Perez, Owner; requesting approval of Re-Zoning from R1 (Single Family) to R3 (Multi-Family) of K T & 1 CO, Block 18, Lot PT 9, PT 10, Acres 10.98, Kingsville, TX 78363 (Property ID 17868).

Acting Chairman (Larry Garcia) opened the Action item at 6:11 PM.

Mr. David Kowalski, a real estate development specialist from "CDCB (Come Dream. Come Build)," out of Brownsville, TX introduced himself and spoke about his business of developing single and multi-family homes as well as leasing single and multi-family properties.

Debbie Tiffee asked for clarification on the proposed future development; Mr. Spitzer stated the location was located directly west (behind) the existing Southgate Mall plaza.

Mr. Agyekum stated the entrance to the proposed new development would be located off US HWY 77 and NOT thru the existing Southgate Mall parking lot. Mr. Spitzer stated it would take approximately one year to complete the project; estimated start date is July 2025.

Krystal Emery asked Mr. Agyekum to confirm the only entrance to this new development would be off of US Hwy 77; he confirmed yes...only one entrance. Mrs. Emery also inquired about sidewalks within the new development; Mr. Agyekum confirmed yes that there would be sidewalks.

Mike Klepac made a motion to approve re-zoning of K T & 1 CO, Block 18, Lot PT 9, PT 10, Acres 10.98, Kingsville, TX 78363 (Property ID 17868) from R1 (Single Family) to R3 (Multi-Family); Debbie Tiffee seconded. All in favor, none opposed. Motion carried.

- 8. Miscellaneous Mr. Spitzer addressed the Board and stated that the new Take 5 Oil Change Store opened on 28 March with a final Certificate of Occupancy granted; he also stated Bray's continues to remedy the water damage in the main restaurant in addition to building an outdoor deck area; Stripes/7-11 will open early May...they are still working on their pole sign after striking water during their first 2 attempts; Fuel America still working on their site; HTeaO, Bath & Body Works and Neesen Used Car lot plans still with Bureau Veritas who is conducting plan reviews for us. Also, Somerset at Kingsville Infrastructure plans were reviewed and approved by the City's Engineering Department. Lyte Fiber is still installing fiber underground...approximately 50% complete with installation. Krystal Emery asked if Lyte Fiber would have a local office in Kingsville; Mr. Spitzer stated the closest office would be located in Beeville, TX; he also stated Lyte Fiber does NOT have a commercial solution for fiber as of this date.
- 9. Adjournment Meeting adjourned at 6:20 PM

ITEMS 1 & 2

PH: 361-595-8055



MEMO

Date:

April 9th, 2025

To:

Planning & Zoning Commission

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the Planning & Zoning Commission for a Special Use Permit for a Wireless Telecommunications Facility with 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

Summary: Items 1 & 2: Vincent Gerard & Associates, Applicant and Robert De Pol, Owner, approached the Planning Department on March 17th, 2025, requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with a 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

Background: Items 1 & 2: In accordance with the City of Kingsville's Land Use Chart, telecommunication mounting structures over 100' tall require a Special Use Exception (SUE); we accomplish this requirement with a Special Use Permit (SUP) application.

Discussion: Items 1 & 2: AT&T Mobility is proposing a wireless site at 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758) to improve coverage in the area. AT&T radio frequency engineers have received numerous complaints from NAS Kingsville customers. This solution will benefit both NAS and existing interior sites within the City of Kingsville. An existing monopole antenna located approximately 2300' northwest (owned by Cellco) has zero additional ground space for increasing capacity, nor does it have adequate height to optimize coverage. This proposed unmanned site will be accessed once per month by a maintenance worker. In addition, the FAA confirmed the future planned structure would not exceed obstruction standards, nor would be a hazard to air navigation.

Erik Spitzer

Director of Planning and Development Services



PLANNING AND ZONING DIVISION MASTER APPLICATION

email: hsolis@cityofkingsville.com / Phone (361) 595-8055

PROPERTY INFORMATION: (Please PRIN	T or TYPE)			
Project Address2025 E GENERAL CAVA	ZOS BLVD_	Nearest Intersection	PAULSON FALLS RD & I	E GENERAL CAVAZOS
(Proposed) Subdivision Name_PAULSONS	SUB	Lot _B	Block	
Legal Description PAULSONS SUB, LOT E	3, ACRES .0			
Existing Zoning Designation C4 COMMERC	CIAL DISTRICT	Future Land Use Plan	n Designation	
OWNER/APPLICANT INFORMATION: (Plea Applicant/Authorized Agent VINCENT GER			one <u>512-328-269</u> 3	
Email Address (for project correspondence				
Mailing Address 5524 Bee Caves Road #K4	City_	Austin	State _TX	Zip_78746
Property Owner DE POL ROBERT	* 1	Phone	FAX_	
Email Address (for project correspondence				
Mailing Address 1702 E 5TH ST.				
Select appropriate process for which appro	oval is sought.	Attach completed ch	necklists with this	application
		· · · · · · · · · · · · · · · · · · ·	reakingto With this	аррисасіон.
Annexation Request	No Fee			Fee Varies
Administrative Appeal (ZBA)		Final Plat		Fee Varies
Comp. Plan Amendment Request Re-zoning Request			<u>.</u>	
✓ SUP Request/Renewal	_ \$250 \$250		N-+	
Zoning Variance Request (ZBA)		Davalanm	Plat	\$50.00
PUD Request			ent Plat	est \$100.00
Please provide a basic description of the preproposed wireless telecommunications fa		ct:		
I hereby certify that I am the owner and application. I further certify that I have true and correct. If any of the informat		amined this applica	tion and know th	ne same to be
approval may be revoked. Applicant's Signature Property Owner's Signature Accepted by:	ion provided		Date:	7/2025

Kleberg CAD Property Search

■ Property Details

Account		
Property ID:	25758	Geographic ID: 152700002000192
Туре:	R	Zoning:
Property Use:		
Location		
Situs Address:	2029 E GENERAL CAVAZO	STX
Map ID:	B2	Mapsco:
Legal Description:	PAULSON'S SUB, LOT B, A	CRES .0
Abstract/Subdivision:	S527	
Neighborhood:		
Owner		
Owner ID:	65801	
Name:	DE POL ROBERT	
Agent:		
Mailing Address:	1702 E 5TH ST PALMETTO, FL 34221	
% Ownership:	100.0%	
Exemptions:	For privacy reasons not all ex	temptions are shown online.

■ Property Values

varioperty values	
Improvement Homesite Value:	\$0 (+)
Improvement Non-Homesite Value:	\$0 (+)
Land Homesite Value:	\$0 (+)
Land Non-Homesite Value:	\$22,470 (+)
Agricultural Market Valuation:	\$0 (+)
Market Value:	\$22,470 (=)
Agricultural Value Loss: ⊙	\$0 (-)
Appraised Value:	\$22,470 (=)
HS Cap Loss: ②	\$0 (-)
Circuit Breaker: 2	\$2,886 (-)
Assessed Value:	\$19,584
Ag Use Value:	\$0

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal

District to verify all information for accuracy.

■ Property Taxing Jurisdiction

Owner: DE POL ROBERT %Ownership: 100.0%

Entity	Description	Tax Rate	Market Value	Taxable Value	Estimated Tax
GKL	KLEBERG COUNTY	0.771870	\$22,470	\$19,584	\$151.16
CKI	CITY OF KINGSVILLE	0.770000	\$22,470	\$19,584	\$150.80
SKI	KINGSVILLE I.S.D.	1.410400	\$22,470	\$19,584	\$276.21
WST	SOUTH TEXAS WATER AUTHORITY	0.065695	\$22,470	\$19,584	\$12.87
CAD	KLEBERG COUNTY APPRAISAL DISTRICT	0.000000	\$22,470	\$19,584	\$0.00

Total Tax Rate: 3.017965

Estimated Taxes With Exemptions: \$591.04

Estimated Taxes Without Exemptions: \$678.14

■ Property L	and
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Туре	Description	Acreage	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
C1	C1	0.93	40,510.80	0.00	0.00	\$22,470	\$0

■ Property Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap Loss	Assessed
2024	\$0	\$22,470	\$0	\$22,470	\$0	\$19,584
2023	\$0	\$16,320	\$0	\$16,320	\$0	\$16,320
2022	\$0	\$14,930	\$0	\$14,930	\$0	\$14,930
2021	\$0	\$15,000	\$0	\$15,000	\$0	\$15,000
2020	\$0	\$13,700	\$0	\$13,700	\$0	\$13,700
2019	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300
2018	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300
2017	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300
2016	\$0	\$9,300	\$0	\$9,300	\$0	\$9,300

■ Property Deed History

Deed Date	Туре	Description	Grantor	Grantee	Volume	Page	Number
3/5/2019	WD	WARRANTY DEED	JOHNSON JOE VAUGHN	DE POL ROBERT			317522
5/12/2008	WDW/ASMP	WARRANTY DEED W/ASSUMPTION	JOHNSON JOE V	JOHNSON JOE VAUGHN	390	270	

Sec. 1. - Land use chart.

The following chart shall set out the land uses within the city:

- P = Permitted
- S = Special use permit required
- X = Special review required
 - = Not permitted (absence of any symbol)

[Land Use Chart on the following pages]

Land Use Chart													
Land Use Description	R1	R2	R2A	R3	R4	МН	C1	C2	С3	C4	11	12	Ag
Dwelling, one-family det.	Р	Р	-	Р	Р	Р	Р	Р	Р				Р
Dwelling, one-family att.		Р	Р	Р	Р		S	Р					Р
Dwelling, two-family	fit 1991	Р		Р	Р		S	Р					
Dwelling, multi- family				Р	P .		Р	Р	Р				
Tiny Homes	to:	Р	Р		ia.	Р			V				
Dwelling, above business									Р				
Work/live units									Р				

						- Grainai	1000					2
P	P		P	P	Р	P	P	P	P			
			ndix	C: Te	elecor	nmu	nica	tions	oft	he Z	oni	ng
S	S		S	S	S	S	Р	Р	Р	Р	Р	P
Р	Р		Р	Р	Р	Р	Р	Р	Р	Р	Р	Р
Р	Р		Р	Р	Р	Р	P	Р	Р	Р	Р	Р
Exe	mpt,	see T	ex. L	-oc. (Gov't	Code	e, §§	51.0	01 a	nd 5	4.00	01
S	S		S	S	P	Р	Р	Р	Р	Р	Р	Р
	As Or S	As per A Ordinar S S P P Exempt,	As per Apper Ordinance S S P P Exempt, see T	As per Appendix Ordinance S S S P P P P Exempt, see Tex. I	As per Appendix C: Te Ordinance S S S S S P P P P P Exempt, see Tex. Loc. 6	As per Appendix C: Telecor Ordinance S S S S S S P P P P P P Exempt, see Tex. Loc. Gov't	As per Appendix C: Telecommunordinance S S S S S S S S S S S S S S S S S S S	As per Appendix C: Telecommunication Ordinance S S S S S S P P P P P P P P P Exempt, see Tex. Loc. Gov't Code, §§	As per Appendix C: Telecommunications Ordinance S S S S S P P P P P P P P P P P P P P	As per Appendix C: Telecommunications of to Ordinance S S S S S S P P P P P P P P P P P P P	As per Appendix C: Telecommunications of the Z Ordinance S S S S S S P P P P P P P P P P P P P	As per Appendix C: Telecommunications of the Zonii Ordinance S S S S S S P P P P P P P P P P P P P

Sec. 15-6-142. - Special use permits.

- (A) All requests for permits in districts which involve uses listed as special uses in § 15-6-19 and areas designated as an overlay district shall be referred to the City Planner.
- (B) Special uses are conditional upon a demonstration of conditions and facts by the applicant that the special use is appropriate to the site.
- (C) The Planning Department shall collect a fee of \$250.00 to cover the cost of advertising and the mailing of announcements regarding pending special use permit applications to all property owners within 200 feet of the site for which the special use permit is requested.
- (D) Applicants shall supply suitable plans and information concerning the location, function and characteristics of any use proposed to the Planning Department prior to the scheduling of any hearing. The Planning Department shall evaluate the proposed use and submit preliminary recommendations to the Planning and Zoning Commission.
- (E) The City Planner shall evaluate all requests for special use permits and shall submit the application to the Planning Commission and to the City Commission unless he finds:
 - (1) There is inadequate information upon which to evaluate the request;
 - (2) The applicant requests a deferral; or
 - (3) The applicant withdraws the application.
- (F) The Planning Department, after receiving authorization from the City Commission by ordinance, shall authorize the Building Inspector to issue a special use permit. Conditions may be attached to the permit to assure compliance with the intent and purposes of this article and further the public welfare.

(1962 Code, § 11-6-6)

Sec. 1. - Zoning districts where telecommunications facilities are authorized.

Telecommunication		Zoning District Type								
Facility Type	Nonresidential	Residential ²	Historical/Cultural	Reference						
Amateur Radio Towers under 50 feet (15 m)	Yes	Yes	No	§ 15-6-48(B)						
Self-supporting Latti	ce, Guyed and Otl	her Towers	I .	L						
- 0 to 50 feet (15 m)	Yes	No	No	§ 15-6-48(D)						
- over 50 feet (15 m)	SUE ^{3,4}	No	No	§ 15-6-48(D)						
Monopole Towers			I							
- 0 to 85 feet (26 m)	Yes	SUE ³	No	§ 15-6-48(C)						
- over 85 feet (26 m)	SUE ^{3,4}	No	No	§ 15-6-48(D)						
Alternative Mounting	Structures									
- 0 to 100 feet (30 m)	Yes	SUE ^{3,5}	Stealth	§ 15-6-48(E) (1)						
- over 100 feet (30 m)	SUE ³	SUE ³	Stealth	§ 15-6-48(E) (2)						
Antenna Only Mountings										
- electronic transmission towers	Yes	Yes	Stealth	§ 15-6-49(B) (3)						

- existing telecom towers over 40 feet (12 m)	Yes	Yes	Stealth	§ <u>15-6-49</u> (B) (1)
- utility poles over 40 feet 12 m)	Yes	Yes	Stealth	§ 15-6-49(B) (1)
- light poles over 40 feet (12 m)	Yes	Yes	Stealth	§ 15-6-49(B) (1)
- conforming billboards	Yes	Yes	Stealth	<u>§ 15-6-49</u> (B) (5)
- building-mounted panels	Stealth	Stealth ⁶	Stealth	§ 15-6-49(B) (6)
- building-mounted whips	Yes	Yes ⁶	Stealth	§ 15-6-49(B) (7)
- roof-mounted arrays	Yes ⁷	Yes ⁷	Stealth	§ 15-6-49(B) (7)
Dish Antenna Mount	tings			
- building/roof- mounted under 3.3 feet (1 m) in diameter	Yes	Yes	Stealth	§ 15-6-49(C) (4)
- building/roof- mounted under 6.6 feet (2 m) in diameter	Yes ⁷	Yes ⁷	Stealth	§ 15-6-49(C) (5)

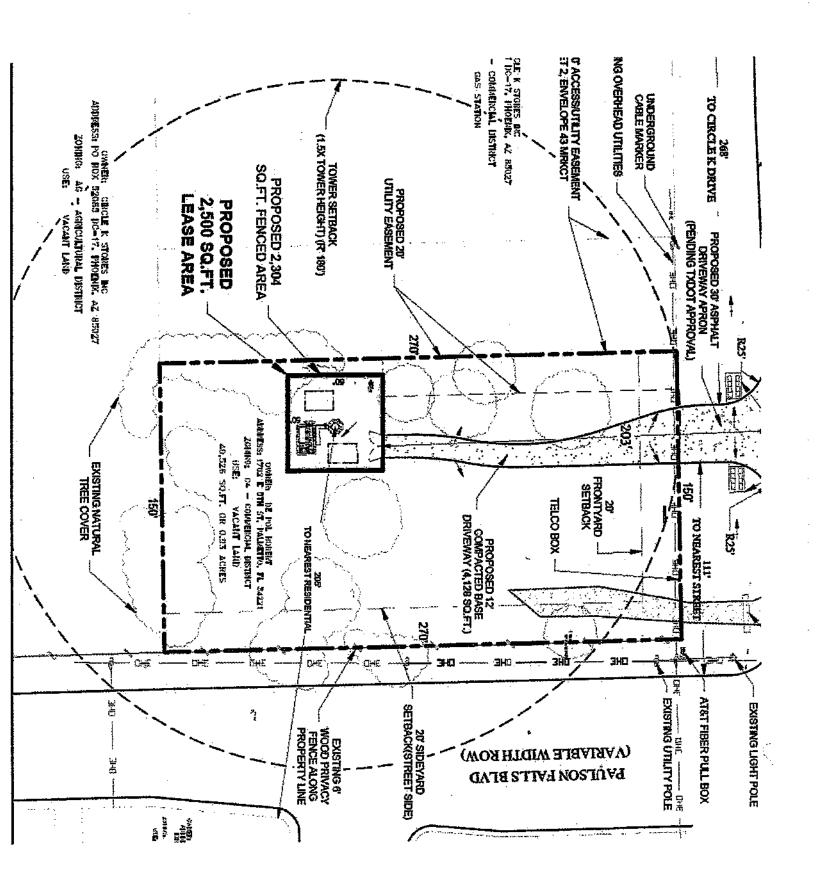
- building/roof- mounted over 6.6 feet (2 m) in diameter	Yes ⁸	Yes ⁸	Stealth	§ 15-6-49(C) (6)
- ground-mounted under 10 feet (3 m) in diameter	Yes	Yes	Stealth	§ 15-6-49(C) (3)
- ground-mounted over 10 feet (3 m) in diameter	Yes	No	Stealth	§ 15-6-49(C) (3)

Notes:

- ¹ For the purpose of this article and table, *NONRESIDENTIAL* means zoning districts C-1, C-2, C-3, C-4, I-1 and I-2.
- ² For the purpose of this article and table, *RESIDENTIAL* means zoning districts R-1, R-2, R-3, R-4, MH and Ag.
- ³ SUE means a special use exception, obtained under § 15-6-142, is required by § 15-6-48(B).
- ⁴ In an I-2 zoning district, there is no tower-height limitation and SUE is not required.
- ⁵ Alternative mounting structures 100 feet (30 meters) or less in height that are also used to provide lighting to parks, stadiums, athletic fields, school playgrounds, tennis courts and other recreational areas are permitted, by right, in residential districts.
- ⁶ Nonresidential and multifamily structures only.
- ⁷ Nonresidential and multifamily structures.

Structures in excess of 100,000 square feet (900 square meters) of floor area.

(Ord. 2001-15, passed 8-13-01)



Kingsville Coverage Evaluation Plots

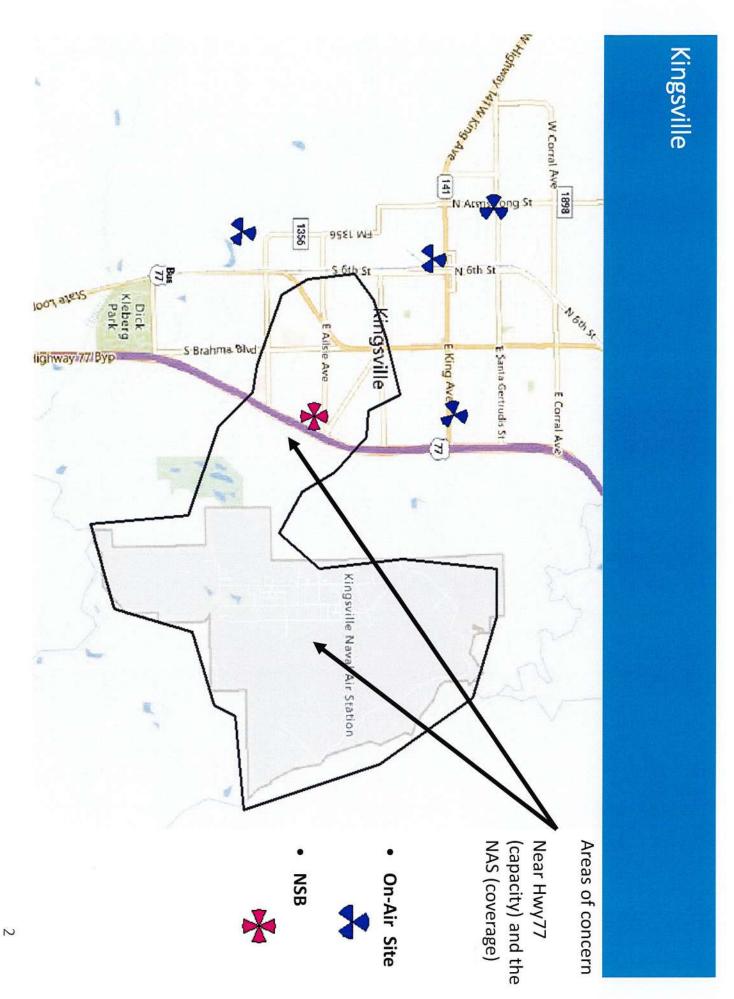
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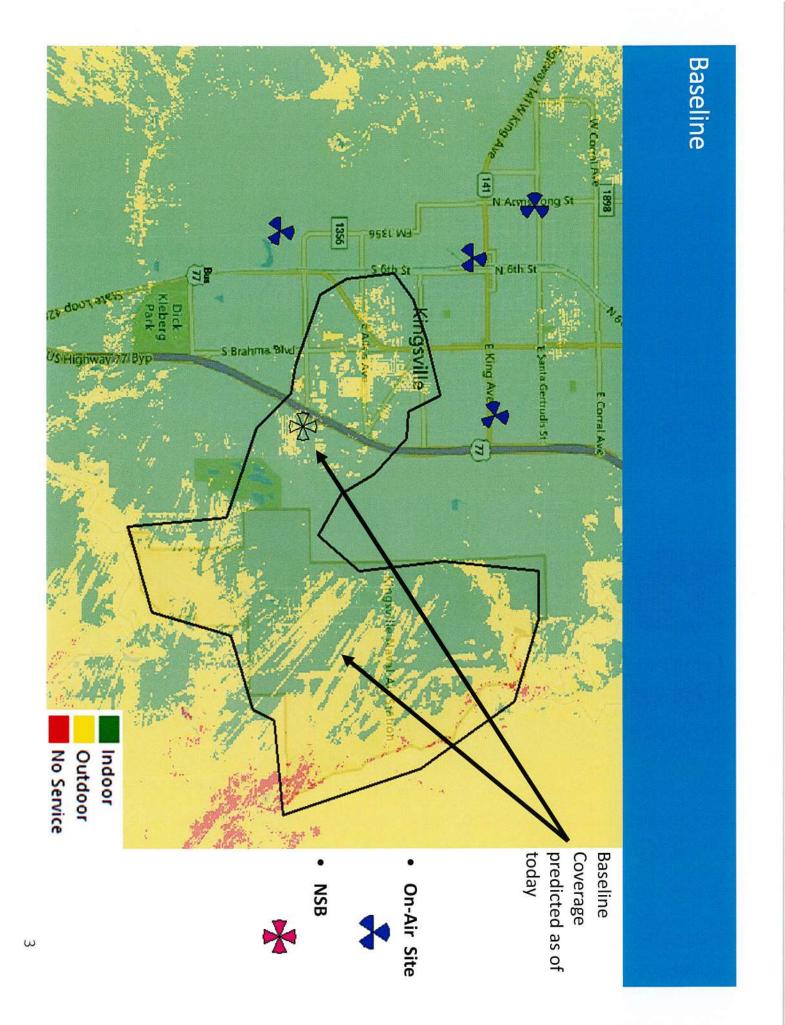
New Site Solution - FA 15470650 Neesen

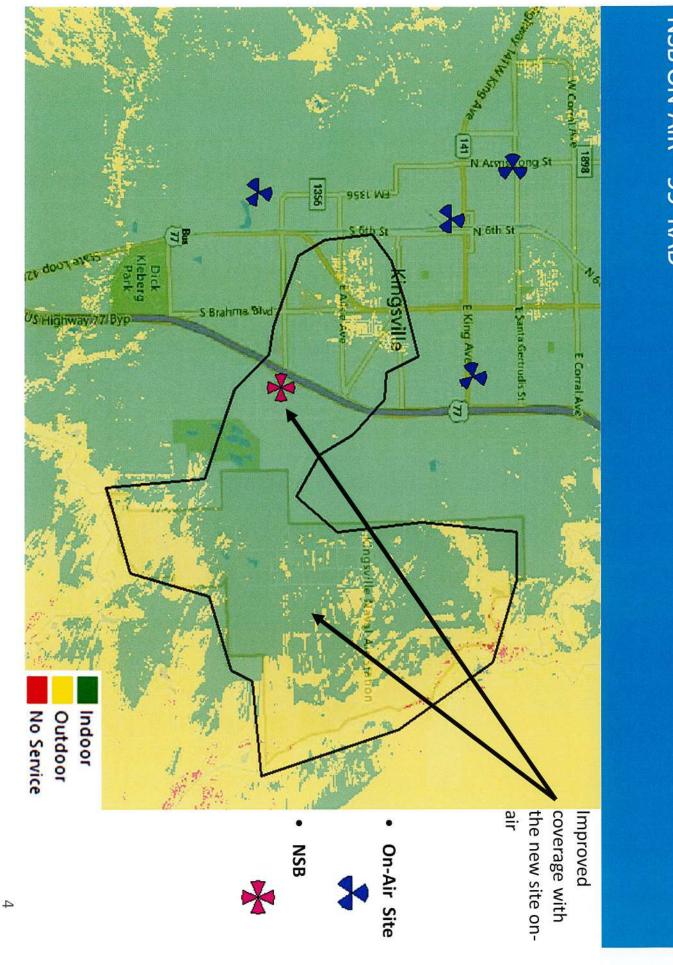
Damon Bindock – Assoc Director STX

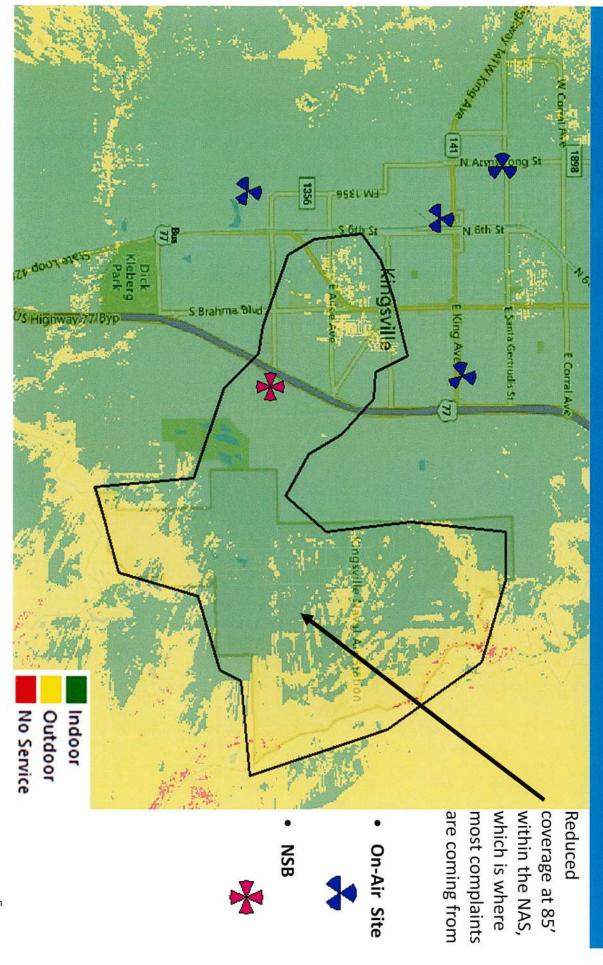


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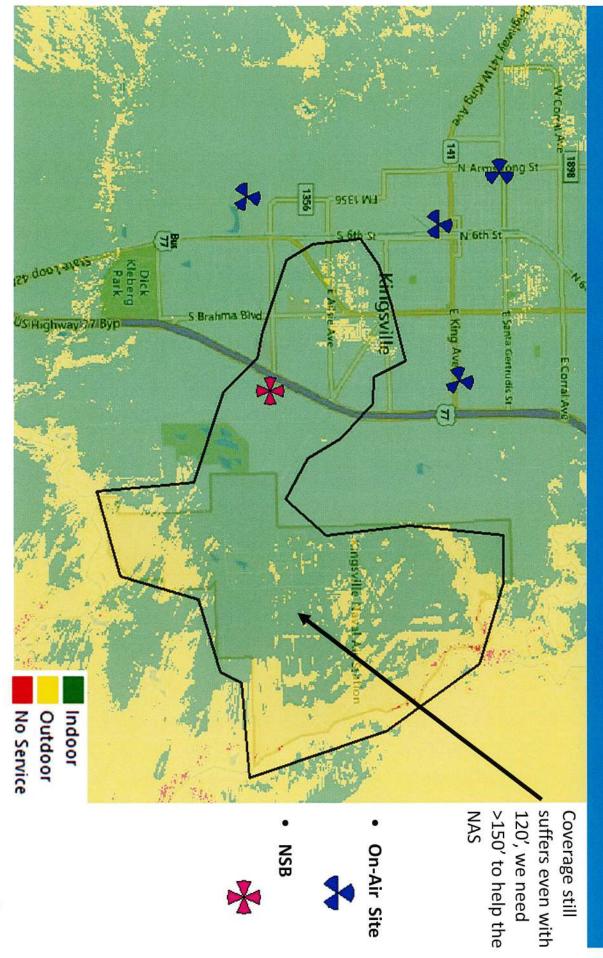








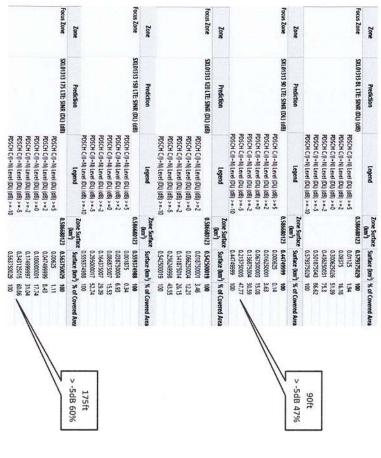
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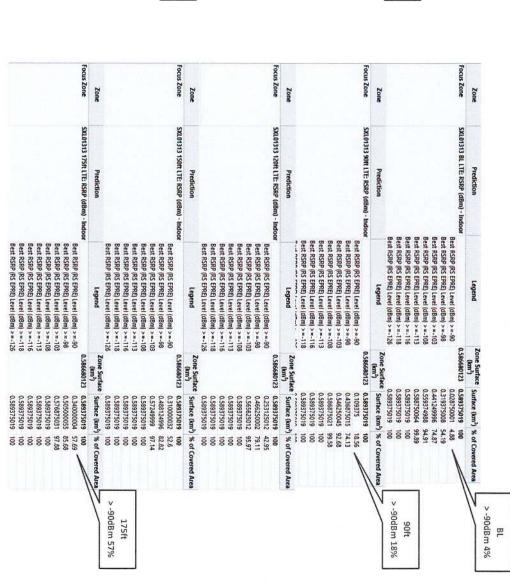


6

Ivan's old analysis shows the need for >150' for the NAS

1900 SINR and RSRP area % in HotSpot (Navy Base)





HXL06097 NSB 4 Sectors / Oct 8th, 2024 / © 2024 AT&T Intellectual Property - AT&T Proprietary (Internal Use Only)





Site located strategically behind tree cover



Vincent Gerard & Associates, Inc.

Mr. Erik Spitzer Director – Kingsville Development & Planning Kingsville Texas March 17th, 2025

Summary Letter for TVT III General Cavasos Wireless Facility Site, 2029 E General Cavasos Blvd. Kingsville Texas

Mr. Erik Spitzer,

After a request from AT&T Mobility and a search of all properties within a 1/6-mile search ring study, we believe we have found an excellent location and solution for a wireless site in the Southeast corridor of Kingsville along General Cavasos Boulevard for better coverage in this area. This site will accommodate all the major carriers. AT&T radio frequency engineers have received numerous complaints from Kingsville NAS customers. This proposed site upgrades existing interior sites in Kingsville and the Naval Air Station coverages. There is an existing monopole approximately 2,300' Northwest owned by Cellco. It has zero additional ground space for equipment and does not have the adequate height to allow AT&T Mobility to optimize their customers' coverage and their "FirstNet" equipment. AT&T made an economic business decision to request Tower Ventures III to construct a new 120' monopole at this location. By code Article 6 Chapter 15-6-45 through 51, this site complies with the requirements listed for wireless and we are respectfully requesting an Special Use Exception for this land use from the Planning and Zoning commission and City Council. It is at 1.5x height from a Major Arterial and over 120' away from the residential lots to the east. The unmanned site will be accessed 1x per month by maintenance worker by pickup truck. We are proposing to use the existing tree cover as landscape screening. If a waiver is necessary for the landscaping plans, consider this summary for that specific purpose.

The current tract of land is vacant, zoned C4 Commercial and has adequate space for leasing to other carriers' equipment. Tower Ventures will actively pursue other carriers on this site. It is located along busy US Highway 77. Please review the SUE package, the site plan and the additional supplemental information required and let us know if you have any questions.

Sincerely

Vincent G. Huebinger

Xc: Kobby Agyekum, City of Kingsville

TVT III, LLC

495 Tennessee Street Suite 152 Memphis, Tennessee 38103

Phone:

(901) 794-9494

Toll Free:

(800) 875-5109

March 5, 2025

Re: Agent Authorization Letter, Vincent Gerard & Associates Inc.

To Whom it may Concern:

TVT III, LLC, authorizes Vincent Gerard & Associates to represent their interest in zoning, site plan submittals variances and building permits within the State of Texas. If there are any questions regarding this agreement, please contact us.

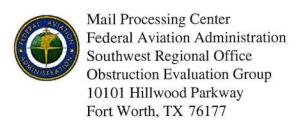
Should you have any questions about this, please call Benjamin Orgel at 901-428-3381.

Sincerely,

Benjamin Orgel

Principal/Real Estate Director

Office: 901-244-4001 Cell: 901-428-3381



Issued Date: 03/12/2025

Craig Royal TVT III, LLC 495 Tennessee Street, Suite #152 Memphis, TN 38103

** DETERMINATION OF NO HAZARD TO AIR NAVIGATION **

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:

Monopole TX1036 Kingsville E. General Cavazos

Location:

Kingsville, TX

Latitude:

27-29-26.94N NAD 83

Longitude:

97-50-39.77W

Heights:

54 feet site elevation (SE)

128 feet above ground level (AGL) 182 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Emissions from this site must be in compliance with the parameters set by collaboration between the FAA and telecommunications companies and reflected in the FAA 5G C band compatibility evaluation process (such as power, frequencies, and tilt angle). Operational use of this frequency band is not objectionable provided the Wireless Providers (WP) obtain and adhere to the parameters established by the FAA 5G C band compatibility evaluation process. Failure to comply with this condition will void this determination of no hazard.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

____ At least 10 days prior to start of construction (7460-2, Part 1)
__X_ Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

See attachment for additional condition(s) or information.

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/ lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M Change 1.

This determination expires on 09/12/2026 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (817) 222-5922, or debbie.cardenas@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2025-ASW-1820-OE.

Signature Control No: 647599671-650169363

(DNE)

Debbie Cardenas Technician

Attachment(s)
Additional Information
Frequency Data

Map(s)

cc: FCC

Additional information for ASN 2025-ASW-1820-OE

Part 77 authorizes the FAA to evaluate a structure or object's potential electromagnetic effects on air navigation, communication facilities, and other surveillance systems. It also authorizes study of impact on arrival, departure, and en route procedures for aircraft operating under visual or instrument flight rules, as well as the impact on airport traffic capacity at existing public use airports. Broadcast in the 3.7 to 3.98 GHz frequency (5G C band) currently causes errors in certain aircraft radio altimeters and the FAA has determined they cannot be relied upon to perform their intended function when experiencing interference from wireless broadband operations in the 5G C band. The FAA has adopted Airworthiness Directives for all transport and commuter category aircraft equipped with radio altimeters that prohibit certain operations when in the presence of 5G C band.

This determination of no hazard is based upon those mitigations implemented by the FAA and operators of transport and commuter category aircraft, and helicopters operating in the vicinity of your proposed location. It is also based on telecommunication industry and FAA collaboration on acceptable power levels and other parameters as reflected in the FAA 5G C band evaluation process.

The FAA 5G C band compatibility evaluation is a data analytics system used by FAA to evaluate operational hazards related to aircraft design. The FAA 5G C band compatibility evaluation process refers to the process in which the telecommunication companies and the FAA have set parameters, such as power output, locations, frequencies, and tilt angles for antenna that mitigate the hazard to aviation. As the telecommunication companies and FAA refine the tools and methodology, the allowable frequencies and power levels may change in the FAA 5G C band compatibility evaluation process. Therefore, your proposal will not have a substantial adverse effect on the safe and efficient use of the navigable airspace by aircraft provided the equipment and emissions are in compliance with the parameters established through the FAA 5G C band compatibility evaluation process.

Any future changes that are not consistent with the parameters listed in the FAA 5G C band compatibility evaluation process will void this determination of no hazard.

Frequency Data for ASN 2025-ASW-1820-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
<u> </u>				
6	7	GHz	55	dBW
6	7	GHz	42	dBW
10	11.7	GHz	55	dBW
10	11.7	GHz	42	dBW
17.7	19.7	GHz	55	dBW
17.7	19.7	GHz	42	dBW
21.2	23.6	GHz	55	dBW
21.2	23.6	GHz	4 2	dBW
614	698	MHz	2000	W
614	698	MHz	1000	W
698	806	MHz	1000	W
806	824	MHz	500	W
806	901	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
929	932	MHz	3500	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1670	1675	MHz	500	W
1710	1755	MHz	500	W
1850	1910	MHz	1640	W
1850	1990	MHz	1640	W
1930	1990	MHz	1640	W
1990	2025	MHz	500	W
2110	2200	MHz	500	W
2305	2360	MHz	2000	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W
2496	2690	MHz	500	W
3700	3980	MHz	3280	W
3700	3980	MHz	1640	W

200-FT Buffer at 2500 SF Leased Area



Page: 1/1

Drawn By: R. PICK

Last Update: 3/18/2025

Note: Ownership is labeled with its Prop ID.

DISCLAIMER:
THIS MAP IS FOR VISUAL PURPOSES ONLY.
THE INFORMATION ON THIS SHEET MAY
CONTAIN INACCURACIES OR ERRORS.
THE CITY OF KINGSVILLE IS NOT
RESPONSIBLE IF THE INFORMATION
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DESIGN, CONSTRUCTION, PLANNING, BUILDING,
OR ANY OTHER PURPOSE.



CITY OF KINGSVILLE ENGINEERING DEPARTMENT

400 W King Ave; Kingsville, TX 78363 Office: (361) 595-8007 Fax: (361) 595-8064 Circle K Stores INC PO Box 52085 DC-17 Phoenix, AZ 85027-2085 #4001444

Circle K Stores INC PO Box 52085 DC-17 Phoenix, AZ 85027-2085 #28657

Robert De Pol 1702 E 5th St Palmetto, FL 34221 #25758

Elda Nora Lopez 1725 Mildred Kingsville, TX 78363 #43178

Axel Messenger LLC 1210 Cypher St Kingsville, TX 78363 #43201

News



(Above) Marisa Hamilton received the honor of being selected Secondary District Teacher of the Year, She was also named as the HMK High School Teacher of the Year, She was selected by her peers. Superintendent Dr. Cissy Reynolds- Perez and HMKHS Principal Dana Moore are pictured with her. (Below) Yesenia Rubalcaba received the honor of being selected Elementary District Teacher of the Year. She was also selected Harrel Elementary School Teacher of the Year and was selected by her peers. She is pictured with Dr. Reynolds-Perez and Harrel Principal Nicole Lovelady at the March 25 KISD School Board meeting. (Photos by Gloria Bigger-Cantu).



KISD

CONTINUED FROM PAGE 1

from proclamations to policy updates at the lengthy school oard meeting.

The first action approved was the National Library Week Proclamation. The proclamation designated the week of April 6-12 as National Library Week. The appointment of the School Health Advisory Council members and officers was

SHAC is a health advisory council which consists of five members with the majority being KISD student parents and not employed with the

Trustees unanimously approved the agreement for clinical services between the University of Texas Rio Grande Valley and Kingsville Independent School District. The services pertain to mental health issues ranging from depression to be-havioral problems. Students receive clinical services via

Also approved was the In-terlocal Student Transfer and Tuition Agreement between KISD and Ricardo ISD for the 2025-26 school year. Ricardo ISD does not have a

The trustees approved the 10 non-business days proposed by the 2025 calendar year.

The first and second reading of Localized Policy Up-dates 124 was unanimously approved. The policy deals with financial ethics, invest-ments, intellectual property, employee standards of conduct, special programs, gifted and talented students, child abuse and neglect, conduct on school premises.

At the beginning of the meeting numerous students and teachers received recognitions. Kindergarten to eighth grade students were recognized for the District and Coastal Bend Science Fair honors.

Also announced were the District IIII. Academic Meet Recognitions for elementary and middle school partic-ipants. Several students in the Fine Arts Band and choir were recognized.

Elementary and Secondary Campus Teachers of the Year and District Elementary and Secondary Teachers of the Year announcements were

Recognized were Ysenia Rubalcaba, Harrel Elementary School; Elizabeth Garza, Harvey Elementary School; Melissa Gonzalez, Perez Elementary School; Tina Leyba,

Gillett Middle School; Marissa Hamilton, HMK High School; Cindy Davila; Alexis Villanueva-Pierre Rubalcawas named Elementary District Teacher of the Year. Hamilton was named Sec-ondary District of the Year

The teachers were selected by their peers. Reports were also present-

Teacher.

ed pertaining to the Gillett Middle School CTE Pro-grams of Study 2025-26. The report stated that GMS will expand the Career & Technical Education Course offerings to seventh and eighth grade students.

The Brahma Blueprint, a career exploration course, will offer students hands-on exposure to 14 different pro-

grams of study throughout the school year.

Also reported was the fact that the Education Service Center Region 2, ESC-2 has received a grant to upgrade school libraries in the area.

Harrel Elementary School is one of the schools that will receive funding to upgrade

the library.

The total amount of the grant is \$138,500. The next school board

meeting will be held on April

Battle

CONTINUED FROM PAGE 1

ed to the all-around most favored participant

· Give Me More Award: Amberosa Which vendor's table did you enjoy the most and find yourself wanting to go back for seconds?

• Sweet Tooth Award: Maddie from La Pes-

ca/Witt's Bakery Recognizing the table with the most irresistible dessert.

• Wow Factor Award: Flowers with Atti-

tude Honoring the table that leaves a lasting impression and is truly unforgettable.

Mayor Sam Fugate and interim Chamber

President Kasey Zumwalt spoke at the event, followed by remarks from Lyte Fiber President and CEO Carter Old, who emphasized the company's commitment to delivering world-class connectivity and meaningful community investment.

In addition to technological advancement. Lyte Fiber pledged to donate 1% of its annual revenue to local charities and causes, reinforcing their role as a long-term community

Bishop

CONTINUED FROM PAGE 1

forcement career as a jailer in Jim Hogg County in 2014. She graduated from the Lar-Police Academy in 2016 and served two years as a deputy sheriff in Jim Hogg

She also served as a Kingsville Police officer for one year before being hired with the Bishop Police Department where she has risen through the ranks and also served as a detective and school resource officer

Torres has spent the last couple of weeks meeting with community members and preparing to take over her

"I'm all about our commu nity and kids and I want to be an example for our youth and anyone who wants to pursue a career in law enforcement We will set the standard and make sure we pave a way for cers," Torres said.



Chunks of street surface remain broken and missing, following structural failure of the resurfacing provided by Andale. The \$600,000 project was completed last year. (Photo by JT Strasn

City

CONTINUED FROM PACE 1

ome back in late April, but it may be mid-May before they return.

"Yes, they are gonna re-do the whole thing for us," Sosa said. "Wow, good," Mayor Sam Fugate replied, expressing that he was pleased the entire proj-

ect would be re-done. In other business, the commission approved a resolution naming the city girls' youth soft-

ball field as David Chavez Field. Parks Dept. Director Susan Ivy said Chavez

was an umpire for local baseball and softball games for more than three decades. "He had a great sense of humor and served our community for many years," Ivy said. The family of Chavez secured more than

2,500 signatures in support of re-naming the park, she added. Members of Chavez' family were in atten-

dance at the meeting.
A ceremony will be held once the plaque is

"He was a good man and a good friend," Fugate said. "If you ever went to the park, he was

Commissioners also approved a resolution for a ride along program agreement between the Kingsville Fire Department and DelMar

College students for training EMS students. DelMar students previously had to do their

ride-alongs in Corpus Christi.
"Sometimes it's difficult to get a schedule there," Fire Chief JJ Adame said.

Sosa said the Street Department finished seal/coating the surface of Santa Gertrudis from Sixth Street to Armstrong last week. Sosa added that any residual loose gravel would be removed. He said the distributor machine "was working much better" on this particular project.
The city will hold its annual spring Trash

Off event on April 12 from 8:30 a.m. to noon.

The next city commission meeting will be held April 14 at 5 p.m.

PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Vincent Gerard & Associates Applicant, Robert De Pol, Owner; requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

The meeting will be held at City Hall, 400 West King Ave, Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Vincent Gerard & Associates Applicant, Robert De Pol, Owner; requesting approval of a Special Use Permit for a Wireless Telecommunications Facility with 120' Monopole in C4 (Commercial) of Paulson's SUB, Lot B, Acres .0, also known as 1025 E General Cavazos, Kingsville, TX 78363 (Property ID 25758).

The meeting will be held at City Hall, 400 West King Ave, Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.





The SGA Lady Lions, ranked No. 23 of the latest TGHSCA Class 3A rankings, defeated the Lon-don Lady Pirates 9-4 during a district showdown Monday night. Lady Lion Izzy De Los Santos hit a grand slam and Kiauna Cruz blasted a 2-run homer in the victorv. The Lady Lions held an overall record of 20-7 overall and 5-1 in district action after the victory. (Contributed photo)

ITEMS 3 & 4

Planning and Development Services 410 W King Kingsville, TX 78363 PH: 361-595-8055



MEMO

Date:

April 9th, 2025

To:

Planning & Zoning Commission

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is also seeking approval from the Planning & Zoning Commission to re-zone the parcel of land located at 3RD, Block 22,

Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363

(Property ID 17385).

Summary: Items 3 & 4: Jose Flores and Jaime Flores, Applicants/Owners, approached the Planning Department on February 20th, 2025, requesting approval of re-zoning the parcel of land located at 620 E Alice from R1 (Single Family District) to C2 (Retail District) to support reopening a tortilla factory that was open for ~ 50 years. The property has been vacant for 3 years and is located in the city's Historic District.

Background: Items 3 & 4: 620 E Alice was recently purchased after remaining vacant for approximately 3 years. It is currently zoned R1 (Single Family District); adjacent parcels of land are currently zoned R1 (Single Family District). Parcels of land located 2-3 blocks away are zoned C1 (Neighborhood Service District), C2 (Retail District), C3 (Central Business District) and C4 (Commercial District). See attached zoning slides in the agenda packet.

Discussion: Items 3 & 4: In reading the attached "Land Use Regulation for Texas Cites," article dated February 11, 2016, located within the agenda packet, on page 2 the author of the article states, "Two pitfalls that cities must be careful to avoid in zoning are "spot zoning" and "contract zoning." "Spot zoning" is the illegal practice of zoning a single tract of land in a manner that is incompatible with the surrounding area and in a manner that is incompatible with the city's zoning ordinance and comprehensive plan." Of note, the city does not have a comprehensive plan; we have an outdated 2008 Master Plan; (we have recently contracted with Halff Associates to apply for a grant to produce a new comprehensive plan for the City of Kingsville as soon as possible). Within the 2008 Master Plan, the area in the vicinity of 620 E Alice was designated as an R1 – Single Family District, as well as the current city ordinances.

Also within this article, the term, "nonconforming use" is discussed. "If property is previously rezoned for a specific use, and a zoning change occurs that negates the previous zoning, then the use of that property becomes a legal nonconforming use." "A city may include a provision in its zoning ordinance that terminates non-conforming uses after a set period of time following the zoning change (e.g., , 25 years) so that the property owner has an opportunity to recoup his investment in the nonconforming use over the normal life-span of the non-conforming structure."

Within the City of Kingsville Ordinances found in your agenda packet, the City of Kingsville defines "Nonconforming status" as "A nonconforming status shall exist under one of the following conditions:

- (A)
 (1) When a use does not conform to the regulations prescribed in the district in which it is located, and was lawfully existing and operating prior to the adoption of this article, or any amendment thereto which creates nonconformity, and where there has been no discontinuance of the use for a period of time exceeding six months or;
 - (2) When a structure does not conform to the regulation prescribed in the district in which it is located, and was lawfully existing and constructed prior to the adoption of this article, or any amendment thereto which creates nonconformity.
- (B) Maintenance permitted. A nonconforming building or structure may be maintained.
- (C) Repairs and alterations. Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.
- (D) Additions, enlargements and moving.
 - (1) A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard regulations shall not be added to or enlarged in any manner or removed to another location except as provided by subdivision (2) of this division hereof.
 - (2) A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area, or yard regulations may be added to or enlarged or moved to a new location on the lot upon a permit authorized by the Board of Adjustment, which may issue, provided that the Board of Adjustment, after hearing, shall find:
 - (a) The addition to, enlargement of, or moving of the building will be in harmony with one or more of the purposes of this article as stated in § 15-6-2 hereof, and shall be in keeping with the intent of this article.
 - (b) The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.
 - (c) LOT shall mean that parcel of land owned at the time the use became nonconforming and upon which the use existed, whether defined in one or more legal descriptions provided that all legal descriptions are contiguous.
- (E) Alteration where parking insufficient. A building or structure lacking sufficient automobile parking space in connection therewith as required by this article may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this article for such alteration or enlargement.
- (F) Restoration of damaged buildings. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building, structure, or part thereof, which existing at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of six months and is diligently prosecuted to completion and is not located in an overlay zone.
- (G) Six month vacancy. A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of six months, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.
- (H) Continuation of use. The occupancy of a building or structure by a nonconforming use, existing at the time this Title became effective, may be continued.

- (I) Occupation within six months. A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of six months after the use became nonconforming.
- (J) Change of use. The nonconforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a nonconforming use.
- (K) Nonconforming use of land. The nonconforming use of land, existing at the time this article became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of six months or more, any future use of such land shall be in conformity with the provisions of this article.

In reading the attached American Planning Association Texas Chapter, A Guide to Urban Planning in Texas Communities, 2013 article, "Chapter 4 Zoning Regulations in Texas," "In 1987, the sections of Article 1011 were codified in Chapter 211 of the Texas Local Government Code. Chapter 211 currently provides that the zoning regulatory power is "for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance."

In addition, "a violation of a zoning ordinance is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the city."

Moreover, "A party challenging the zoning ordinance must show that the ordinance is arbitrary or unreasonable because it bears no substantial relationship to the public health, safety, morals or general welfare."

With respect to equal protection, "An equal protection challenge may be brought if an individual can demonstrate that the city treated the individual differently from other similarly situated individuals without any reasonable basis." This statement concerns me if the rezone is approved and future residents question actions made in the past that have disapproved similar zoning requests.

Also, the article addresses spot zoning: "Some zoning changes may be challenged if the rezoning is deemed to be "Spot Zoning". ""Spot Zoning" is the process of singling out a small tract of land and treating it differently from similar surrounding land "without any showing of justifiable changes in conditions." In *City of Pharr v. Tippitt*, the Texas Supreme Court identified the following factors to be reviewed in determining whether a rezoning is Spot Zoning:

- 1. Whether the City has disregarded the zoning ordinance or long-range master plans and maps that have been adopted by ordinance;
- 2. The nature and degree of an adverse impact on surrounding properties; i.e. is the change substantially inconsistent with surrounding properties; and,
- 3. Whether the use of the property as presently zoned is suitable or unsuitable;
- 4. Whether the rezoning ordinance bears a substantial relationship to the public health, safety, morals or general welfare or protect and preserve historical and cultural places and areas."

Lastly, the City Attorney provided a memo on March 24th, 2025 that addresses this rezone request. In the memo, the attorney states that "...the commercial use requested (Wholesale Bakery Use) is the same as the one that existed for at least fifty years at this location." The attorney also states "...so, if the same proposed use were to have a detrimental impact on the valuation of surrounding properties, then that impact would have already been done when the prior use existed. It is highly unlikely that there would be an adverse impact on neighboring land since the same use existed at the site for five decades." The attorney states "While times have changed during the last fifty years the factory operated at this site, the business' historical significance to the community should not be overlooked."

Ultimately, the City of Kingsville Commission has discretion as a legislative body to make the decision of whether to rezone, regardless of the recommendation by the City of Kingsville Planning & Zoning Commission. Of note, "Three-fourths (¾) vote of the members of the City Commission shall be necessary to overrule a recommendation of the Planning and Zoning Commission that a proposed amendment, supplement, or change be denied." With that said, ¾ would be 4 out of 5 City Commission members, regardless of those present to vote.

Erik Spitzer

Director of Planning and Development Services



CITY OF KINGSVILLE PLANNING AND ZONING DIVISION MASTER LAND USE APPLICATION

email: hsolis@cityofkingsville.com / Phone (361) 595-8055

PROPERTY INFORMATION: (Please PRINT or TYPE)		
Project Address 620 E Alice Nearest In	tersection 10th Sf	
(Proposed) Subdivision NameL	ot <u>24-27</u> Block <u>22</u>	
Legal Description 3ed, Block 22, Lot 24-27 (famosa Tortilla factory	8
Existing Zoning Designation 2 Future La	nd Use Plan Designation C-2	
	nd ose Fian Designation	
OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE) Applicant/Authorized Agent Jose and Jime Plant	res Phone 361 - 215 - 9449	
Email Address (for project correspondence only):		
Mailing Address 42 W Ave A City Kings	Suille State TA zip 7836	3
Property Owner Jaine Flores Phone 36	01-215-9449 FAX	
11 24 08 26 25 25 25 25 25 25 25 25 25 25 25 25 25		_
Email Address (for project correspondence only):	N9	-
Mailing Address 427 W Ave A City kin	950.1/2 State TY Zip 78363	2
	•	
	200 000 00 MINE 00 20 20 10 MINE 00	
Select appropriate process for which approval is sought. Attach co	mpleted checklists with this application.	
Annexation Request No Fee	Preliminary Plat Fee Varie	s
Administrative Appeal (ZBA) \$250.00	Final Plat Fee Varie	
Administrative Appeal (ZBA)\$250.00 Comp. Plan Amendment Request\$\$250.00	Final Plat Fee Varie Minor Plat \$100.00	
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This form available on our website: https://www.cityofkingsville.com/departments/planning-and-development-services/

Kleberg CAD Property Search

■ Property Details

Account		
Property ID:	17385	Geographic ID: 100502224000192
Type:	R	Zoning: R1
Property Use:		
Location		
Situs Address:	620 E ALICE	
Map ID:	C1	Mapsco:
Legal Description:	3RD, BLOCK 22, LOT 24	-27, (FAMOSA TORTILLA FACTORY)
Abstract/Subdivision:	S005	
Neighborhood:		
Owner		
Owner ID:	15566	
Name:	LA FAMOSA DRC INC	
Agent:		
Mailing Address:	620 E ALICE AVE KINGSVILLE, TX 78363-4	4637
% Ownership:	100.0%	
Exemptions:	For privacy reasons not a	Il exemptions are shown online.

■ Property Values

Improvement Homesite Value:	\$0 (+)
Improvement Non-Homesite Value:	\$127,130 (+)
Land Homesite Value:	\$0 (+)
Land Non-Homesite Value:	\$15,000 (+)
Agricultural Market Valuation:	\$0 (+)
Market Value:	\$142,130 (=)
Agricultural Value Loss:	\$0 (-)
Appraised Value:	\$142,130 (=)
HS Cap Loss: ❷	\$0 (-)
Circuit Breaker: 2	\$0 (-)

Assessed Value:	\$142,130
Ag Use Value:	\$0

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal District to verify all information for accuracy.

■ Property Taxing Jurisdiction

Owner: LA FAMOSA DRC INC %Ownership: 100.0%

Entity	Description	Tax Rate	Market Value	Taxable Value	Estimated Tax
GKL	KLEBERG COUNTY	0.771870	\$142,130	\$142,130	\$1,097.06
CKI	CITY OF KINGSVILLE	0.770000	\$142,130	\$142,130	\$1,094.40
SKI	KINGSVILLE I.S.D.	1.410400	\$142,130	\$142,130	\$2,004.60
WST	SOUTH TEXAS WATER AUTHORITY	0.065695	\$142,130	\$142,130	\$93.37
CAD	KLEBERG COUNTY APPRAISAL DISTRICT	0.000000	\$142,130	\$142,130	\$0.00

Total Tax Rate: 3.017965

Estimated Taxes With Exemptions: \$4,289.43

Estimated Taxes Without Exemptions: \$4,289.43

■ Property Improvement - Building

Type: COMMERCIAL Living Area: 520.0 sqft Value: \$22,380

Туре	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	RS2A	1970	520
OP1	OPEN PORCH BASIC (20%)	*	1970	120
CON	CONCRETE SLAB COMMERCIAL	*	1970	3554

Type: COMMERCIAL Living Area: 3480.0 sqft Value: \$104,750

Туре	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	IN2A	1970	3480

■ Property Land

Туре	Description	Acreage	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
F1	F1	0.32	14,000.00	100.00	140.00	\$15,000	\$0

2/20/25, 4:01 PM

■ Property Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	H\$ Cap Loss	Assessed
2024	\$127,130	\$15,000	\$0	\$142,130	\$0	\$142,130
2023	\$129,330	\$15,000	\$0	\$144,330	\$0	\$144,330
2022	\$113,590	\$7,000	\$0	\$120,590	\$0	\$120,590
2021	\$121,540	\$7,000	\$0	\$128,540	\$0	\$128,540
2020	\$52,010	\$7,000	\$0	\$59,010	\$0	\$59,010
2019	\$59,460	\$7,000	\$0	\$66,460	\$0	\$66,460
2018	\$61,500	\$7,000	\$0	\$68,500	\$0	\$68,500
2017	\$56,110	\$7,000	\$0	\$63,110	\$0	\$63,110
2016	\$54,510	\$7,000	\$0	\$61,510	\$0	\$61,510

WRITTEN CONSENT TO USE OF SIMILAR ENTITY NAME

of LA FAMOSA DRC, INC. a Texas corporation

This written consent is made and tendered in accordance with 1 Texas Administrative Code 79.42 to provide unequivocal consent to Jose L. Flores and/or Jaime Antonio Flores, or either of them, their agents, and assigns, the right to use the name "LA FAMOSA DRC" in the creation of any other entity authorized by the laws of any political subdivision of the United States, including but not limited to the creation of their planned limited liability company to be created under the laws of the State of Texas or

IN WITNESS WHEREOF, the undersigned officer authorized by the Company in accordance with a unanimous resolution of all shareholders of the Company, executes this written consent in the presence to be effective immediately.

Rosa Maria Torres, its Vice President

STATE OF TEXAS

COUNTY OF Klebens

S

This instrument was acknowledged before me on <u>Joques</u>, 17, 2025, by Rosa Maria Flores, Vice President of La Famosa DRC, LLC, a Texas corporation, on behalf of said corporation.

ANTONIO ARREDONDO
Notary Public, State of Texas
Comm. Expires 05-10-2026
Notary ID 131562673

Notary Public, State of Texas
My commission expires: 5/10/74



CERTIFICATE OF FILING OF

La Famosa DRC, LLC File Number: 805863291

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 01/17/2025

Effective: 01/17/2025



gove Melson

Jane Nelson Secretary of State

Sec. 1. - Land use chart.

The following chart shall set out the land uses within the city:

- P = Permitted
- S = Special use permit required
- X = Special review required
 - = Not permitted (absence of any symbol)

[Land Use Chart on the following pages]

Land Use Chart													
Land Use Description	R1	R2	R2A	R3	R4	МН	C1	C2	С3	C4	11	12	Ag
Dwelling, one-family det.	Р	Р		Р	Р	Р	Р	Р	Р				Р
Dwelling, one-family att.		Р	Р	Р	Р		S	Р					Р
Dwelling, two-family		Р		Р	Р		S	Р					
Dwelling, multi- family				Р	Р		Р	Р	Р				
Tiny Homes		Р	Р			Р							

Bakery or confectionery shop, retail sales (less than 2,500 square feet)		æ	-		P	Р	P	Р			
Bakery, wholesale						S	Р	Р			01
Brewpub			Б			Р	S	Р	Р	Р	
Building materials sales	ā					S	Р	Р	S		
Cafeteria or			1		S	Р	Р	Р	Р	Р	
restaurant				interes	W Se	342			50 CAL		
Camera shop					S	Р	Р	Р			
Laundry or self- service laundry shop (limited area)					S	Р	Р	Р			
Clinic, medical, dental, chiropractor, optometrist or other office of licensed Health related profession	~				S	Р	Р	Р	Р		
Drug store or pharmacy					Р	Р	Р	P .			

Land Use Regulation for Texas Cities

By Brad Young¹ Bickerstaff Heath Delgado Acosta LLP February 11, 2016

I. Zoning

A city's zoning authority is governed by chapter 211 of the Texas Local Government Code. Under the Code, a municipality may adopt zoning regulations for "the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural significance." The municipality may also amend, repeal or otherwise change existing zoning regulations or boundaries.

A. What goes into a zoning ordinance?

A city's zoning ordinance will contain the city's preferences for use of land in all areas within the city limits. Chapter 211 of the Local Government Code requires all cities to adopt their zoning regulations in accordance with a Comprehensive Plan.⁴ The comprehensive plan is a document that sets forth the city's vision for land use in the future. Most cities adopt their comprehensive plan after receiving input from various citizens' groups and other stakeholders. If a city wants to amend its zoning ordinance in a way that conflicts with the comprehensive plan, the city must first amend the comprehensive plan before it can amend its zoning ordinance. It is prudent for a city to review and update its comprehensive plan periodically.

Most zoning ordinances contain the same basic elements: (1) general definitions; (2) land use definitions; (3) land use districts; (4) administrative provisions; (5) development standards; and penalty and enforcement provisions. Cities have a fair amount of discretion in determining what land uses they wish to allow in various districts. For example, most cities do not allow industrial uses to locate in a single-family residential district, or a truck stop to locate in a district that is reserved for hospital and medical uses. Some cities allow for special districts (often called "Planned Development Districts") that provide even greater flexibility for land use than is available in a normal zoning district. For example, a planned development district may provide

¹ Brad Young is a partner with Bickerstaff Heath Delgado Acosta LLP. He provides litigation and general counsel services to cities in land use, open government, employment, constitutional rights, and general civil matters. He represents clients before state, federal and municipal courts. Brad received his J.D. from the University of Texas School of Law in 2000 and his B.A. from Lyon College (Batesville, Arkansas) in 1997. His contact information is Brad Young, Bickerstaff Heath Delgado Acosta LLP, 3711 S. MoPac Expressway, Building One, Suite 300, Austin, Texas 78746, (512) 472-8021, (512) 320-5638 FAX, byoung@bickerstaff.com.

² TEX. LOC. GOV'T CODE § 211.001.

³ Id. at § 211.002.

⁴ Id. at §211.004.

for a mix of residential, retail, and professional office uses on terms and conditions that the city includes in the planned development district ordinance.

Two pitfalls that cities must be careful to avoid in zoning are "spot zoning" and "contract zoning." "Spot zoning" is the illegal practice of zoning a single tract of land in a manner that is incompatible with the surrounding area and in a manner that is incompatible with the city's zoning ordinance and comprehensive plan. "Contract zoning" is an illegal agreement between the city and a property owner to adopt a certain zoning classification in exchange for certain promises by the property owner. Because contract zoning usurps the city council's legislative function, the council cannot enter into such a contract.

B. Planning and Zoning Commission

Most cities that have a zoning ordinance also have a Planning and Zoning Commission. ⁵ The commission is an advisory body appointed by the city council that advises the council on requests for changes to the zoning ordinance. A request for rezoning may come from a property owner, or the city council or commission may initiate rezoning on its own initiative. Generally, a request for rezoning will involve the classification of a certain tract of property (e.g., a request to rezone property from multi-family residential to retail). But the commission also reviews and advises the council on requests for changes to zoning regulations (e.g., the creation of a new type of zoning district or an amendment to the land use definitions in the zoning ordinance).

If a city has a Planning and Zoning Commission, the city council generally cannot make changes to the zoning ordinance without first seeking the review and recommendation of the commission.

C. Procedural Requirements

Prior to making a rezoning decision, the city council considers the recommendations of city staff and the planning and zoning commission (if there is one). In addition, section 211.006 of the Texas Local Government Code requires the city to publish advance notice in the newspaper, mail notice to surrounding property owners, and hold a public hearing at which "parties in interest and citizens" have an opportunity to be heard.

In some cases, the receipt of written protests by interested landowners will require the council to approve the change by more than a simple majority in order for the zoning change to become effective. If the owners of land of at least twenty percent of either: (1) the area of the lots or land covered by the proposed zoning change; or (2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area file a protest, then the council must approve the rezoning by an affirmative vote of at least three-fourths of all members of the governing body. The protest must be in writing and signed by the property owners. Note that the area of streets and alleys is included in determining whether the protestors have met the twenty percent threshold.⁶

⁵ Id. at § 211.007.

⁶ Id. at § 211.006.

Ultimately, however, the council has discretion as a legislative body to make the decision of whether to rezone. Once the council has denied a rezoning application, it is common for the zoning ordinance to impose a waiting period of one year or more before an applicant can file a new zoning application with the city for the same parcel of land. Depending on the ordinance, however, the council may have specific authority to waive the waiting period.

D. Zoning Board of Adjustment

A city's ordinances also may provide for the creation of a Zoning Board of Adjustment. ⁷ Like the Planning and Zoning Commission, the Board of Adjustment consists of members appointed by the city council. Unlike the commission, the Board of Adjustment does not make recommendations to the city council. Instead, the Board acts as a quasi-judicial body. Generally, the Board has authority over two main types of decisions: (1) whether to grant a variance from the city's zoning regulations; and (2) consideration of appeals from decisions of city administrative officials. Appeals from decisions of the Board of Adjustment do not go to the city council; they go directly to the district court.⁸

When considering whether to grant a variance, the Board must make specific findings regarding the request, including: (1) that the variance is not contrary to the public interest; (2) whether due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship to the property owner; and (3) whether by granting the variance spirit of the ordinance will be observed and substantial justice will be done. Note that "unnecessary hardship" does not include a hardship created by the property owner. Further, the hardship must be unique to the property. Finally, the Board cannot grant a variance that would allow a land use otherwise prohibited by the zoning ordinance. Typical variances include items like additions or reductions to height, square footage, or setback requirements. But the Board could not, for example, approve a "variance" that would allow a commercial use in a zoning district zoned exclusively for residential uses.

Section 211.010 of the Texas Local Government Code also provides the exclusive procedure for a plaintiff to appeal a decision of a city administrative official:

- (a) [A]ny of the following may appeal to the board of adjustment a decision made by an administrative official:
 - (1) a person aggrieved by the decision; or
 - (2) any officer, department, board, or bureau of the municipality affected by the decision.

⁷ Id. at §§ 211.008 – 211.011.

⁸ Id. at §§ 211.011.

(b) The appellant *must* file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal *must* be filed within a reasonable time as determined by the rules of the board...⁹

This administrative process is the sole procedure through which the district court may obtain jurisdiction to review the decision of an administrative official. "With regard to a complaint of a Void permit issued under a valid ordinance . . . a party aggrieved by his decision must exhaust his administrative remedy by appealing to the Board of Adjustment before he may sue in a court for redress." A suit not brought pursuant to the statutory provisions of sections 211.010 and 211.011 of the Texas Local Government Code is an impermissible collateral attack on the administrative official's decision. When a party has failed to exhaust his or her administrative remedies, the trial court lacks subject matter jurisdiction over the appeal. 12

E. Moratorium on Continued Development

A moratorium is a tool that permits a city to give itself some "breathing room" to review and update its land use regulations. The Texas Supreme Court has held that a moratorium does not constitute a taking *per se* under the Texas Constitution.¹³ Out of an apparent concern that cities were overreaching in their use of moratoria, however, the Texas Legislature has heavily regulated the use of moratoria under Chapter 212 of the Texas Local Government Code.

For example, the Legislature has imposed fairly stringent notice and hearing requirements on cities that seek to impose moratoria on development. Before the city can impose a moratorium on property development, it must conduct a public hearing that provides municipal residents and affected parties the opportunity to be heard. The city must publish notice of the hearing in a newspaper of general circulation on the fourth day before the date of the hearing. Beginning on the fifth day after the city publishes notice, a temporary moratorium will automatically take effect. During the period of the temporary moratorium, the city may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property to which the moratorium applies.¹⁴

⁹ Id. at § 211.010 (a), (b) (emphasis added).

¹⁰ City of Dallas v. Gaechter, 524 S.W.2d 400, 405 (Tex.Civ.App. - Dallas 1975, writ dism'd).

¹¹ City of San Antonio v. El Dorado Amusement Co., 195 S.W.3d 238, 250 (Tex. App. – San Antonio 2006, pet. denied); see also Horton v. City of Smithville, No. 03-07-00174-CV, 2008 WL 204160, at *4 (Tex.App.–Austin Jan. 25, 2008, pet. denied) (mem. op.) ("Texas Local Government Code sections 211.009 and 211.110 provide administrative remedies that must be exhausted before such matters may be brought to the courts for determination.").

¹² El Dorado Amusement Co., 195 S.W.3d at 250.

¹³ Sheffield Dev. Co. v. City of Glenn Heights, 140 S.W.3d 660, 679-80 (Tex. 2004).

¹⁴ TEX, LOC, GOV'T CODE § 212.134(a)-(c).

If the city has a planning and zoning commission, the city must hold a second public hearing before the commission. If the city does not have a planning and zoning commission, then the city must hold two hearings before the city council. The city must make a final determination of whether to impose the moratorium within twelve days after the date of the public hearing. In addition, the council must give at least two readings of the ordinance adopting the moratorium, separated by at least four days, before the ordinance can take effect.¹⁵

Other requirements for imposing a moratorium can be found in sections 212.131 – 212.139 of the Texas Local Government Code.

II. Subdivision

An additional source of a city's land use regulations is through the city's subdivision ordinance. The subdivision of land is the first step in the process of development. The distribution and relationship of residential, nonresidential and agricultural uses throughout the community, along with the system of improvements for thoroughfares, utilities, public facilities and community amenities, determine, in large measure, the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors that influence and determine a community's quality of life and overall character. A community's quality of life is of the public interest. Consequently, the subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. Subdivision regulations are intended to encourage the development of a quality municipal environment by establishing standards for the provision of adequate light, air, open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources.

Unlike zoning, which only applies within the city's corporate limits, cities have the authority to extend their subdivision regulations by ordinance to include their extraterritorial jurisdictions (ETJs).¹⁷ In fact, with certain exceptions, state law requires an owner of a tract of land located in the city limits or extraterritorial jurisdiction (ETJ) of a city to file and record a plat any time the property owner subdivides the tract into two or more parcels.¹⁸

A property owner must file the plat with the city for review and approval. If the city has a planning and zoning commission, then the commission generally is the body that has the authority to review and approve plats. However, the city may provide by ordinance that the city

¹⁵ Id. at § 212.134(d)-(f).

¹⁶ Id. at § 212.001, et seq.

¹⁷ Id. at § 212,003.

¹⁸ Id. at § 212,004.

council must approve plats in addition to the commission.¹⁹ Note that the authority of the commission and/or the city council to review and approve plats is virtually ministerial – section 212.005 provides that the reviewing body "must approve a plat or replat . . . that satisfies all applicable regulations." Further, a plat is considered approved of the city does not act on the plat within thirty days after the plat is filed (or up to an additional thirty days if the ordinance requires additional review and approval by the city council).²⁰

A city's real land use authority relating to subdivisions arises not in the procedures, but in the text of the city's subdivision ordinance. A typical subdivision ordinance will include: (1) definitions; (2) design standards; (3) requirements for public sites and open spaces; (4) improvements required prior to acceptance by the city; (5) procedures for filing; and (6) enforcement and penalties. The subdivision ordinance may require proper zoning prior to approval of a plat. The ordinance also may divide the platting process into multiple steps. For example, the ordinance may first require approval of a less detailed, preliminary plat before the applicant can submit a final plat that the applicant ultimately will file with the county following city approval. Generally, the ordinance will require that all subdivision plats be prepared and sealed by a professional and licensed engineer.

If a subdivision plat includes multiple properties, the developer may include (and the city may require) streets, parks, sidewalks, utility rights-of-way, and other public facilities that the developer intends to dedicate to the city. Once the city accepts the dedication, the city then accepts responsibility for maintaining such public facilities. But just because a city has approved a plat that includes public facilities does not mean that the city automatically becomes responsible for all of the parks, roads and other facilities included on the plat. A dedication of public facilities does not become official until the city council formally accepts the dedication.

III. Annexation

A third method that cities use to control future growth and land use is targeted annexation. The procedures and requirements for annexation are found in Chapter 43 of the Texas Government Code. Because annexation will be addressed separately in this seminar, this paper does not include a detailed discussion of the annexation process.

IV. Development Agreements (ETJ)

Section 212.172 of the Texas Local Government Code gives cities the ability to contract with landowners in the city's ETJ. The statute gives the parties broad discretion to determine the terms of the agreement, including the right to provide for terms regarding annexation:

The governing body of a municipality may make a written contract with an owner of land that is located in the extraterritorial jurisdiction of the municipality to:

¹⁹ Id. at §212,006.

²⁰ Id. at §212.009.

- (1) guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the municipality for a period not to exceed 15 years;
- (2) extend the municipality's planning authority over the land by providing for a development plan to be prepared by the landowner and approved by the municipality under which certain general uses and development of the land are authorized:
- (3) authorize enforcement by the municipality of certain municipal land use and development regulations in the same manner the regulations are enforced within the municipality's boundaries;
- (4) authorize enforcement by the municipality of land use and development regulations other than those that apply within the municipality's boundaries, as may be agreed to by the landowner and the municipality;
- (5) provide for infrastructure for the land, including:
 - (A) streets and roads;
 - (B) street and road drainage;
 - (C) land drainage;
 - (D) water, wastewater, and other utility systems;
- (6) authorize enforcement of environmental regulations;
- (7) provide for the annexation of the land as a whole or in parts and to provide for the terms of annexation, if annexation is agreed to by the parties;
- (8) specify the uses and development of the land before and after annexation, if annexation is agreed to by the parties; or
- (9) include other lawful terms and considerations the parties consider appropriate.²¹

²¹ Id. at § 212.172.

A municipality may not require an agreement under this statute as a condition for providing water, sewer, electricity, gas, or other utility service from a municipally operated utility that provides any of those services.²²

An ETJ Development Agreement must be in writing, contain an adequate legal description of the subject territory, be approved by both the city and the landowner, and be recorded in the real property records of all the counties in which the territory is located.

To some extent, the powers that the Legislature granted municipalities under section 212.171 mirror those in effect prior to 2003 under section 42.044 of the Local Government Code (Creation of Industrial District in Extraterritorial Jurisdiction). Pursuant to section 42.044, a municipality may enter into an annexation agreement through which the municipality agrees not to annex business property in a designated industrial district for a period up to fifteen (15) years. The term "industrial district" is defined to include its ordinary meaning in addition to any area where tourist-related businesses and facilities are located.²³ Although similar, section 42.044 is more restrictive than section 212.174. In addition to providing a wider menu of contract term options, section 212.171 does not require cities to designate an industrial district prior to entering into an agreement.

V. Other Land Use Authority

Cities have other sources of land use authority sprinkled throughout the Texas statutes. This section briefly addresses three: (1) alcohol regulation; (2) regulation of sexually oriented businesses; and (3) tax increment financing.

A. Alcohol Regulation

Section 1.06 of the Texas Alcoholic Beverage Code (TABC) generally preempts local legislation of alcoholic beverages: "Unless otherwise specifically provided by the terms of this code the manufacture, sale, distribution, transportation, and possession of alcoholic beverages shall be governed exclusively by the provisions of this code." Similarly, section 109.57(b) of the Code provides: "It is the intent of the legislature that this code shall exclusively govern the regulation of alcoholic beverages in this state, and that except as permitted by this code, a governmental entity of this state may not discriminate against a business holding a license or permit under this code." ²⁵

In Dallas Merchant's & Concessionaire's Ass'n v. City of Dallas, 852 S.W.2d 489, 491-92 (Tex. 1993), the Texas Supreme Court held, "The Legislature's intent is clearly expressed in

²² Id. at § 212.174.

²³ *Id.* at § 42.044.

²⁴ TEX. ALCO. BEV. CODE § 1.06.

²⁵ Id. at § 109.57(b).

section 109.57(b) of the TABC - the regulation of alcoholic beverages is exclusively governed by the provisions of the TABC unless otherwise provided." The Attorney General has interpreted this language broadly, concluding that "to the extent that [an] ordinance purports generally to regulate the sale of all alcoholic beverages of whatever kind, it is preempted by section 109.57(b) of the Alcoholic Beverages Code."

The Code does provide a "grandfathering" exception, however, for certain municipal ordinances that were in effect before June 11, 1987:

Neither this section nor Section 1.06 of this code affects the validity or invalidity of a zoning regulation that was formally enacted before June 11, 1987, and that is otherwise valid, or any amendment to such a regulation enacted after June 11, 1987, if the amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee. For purposes of this subsection, "zoning regulations" means any charter provision, rule, regulation, or other enactment governing the location and use of buildings, other structures, and land.²⁷

There is an additional exception from state preemption of local regulation of alcoholic beverages for local regulations that affect business that serve or sell alcohol in the same way that such regulations affect businesses that do not serve and sell alcohol. For example, the Supreme Court has indicated that an ordinance requiring all businesses with the same kind of premises to have a fire extinguisher would not violate section 109.57 of the TABC, but an ordinance that required alcohol-related businesses to have two fire extinguishers but only required all other businesses with the same kind of premises to have one would violate the statute.²⁸ Similarly, an ordinance banning the sale of all beverages in glass containers would be permissible, but an ordinance that only banned the sale of alcoholic beverages in glass containers would not.²⁹

In addition, the Code provides two separate statutes through which a municipality may extend the hours of operation for the holders of a mixed beverage permit and a retail dealer's license (*i.e.*, beer license) respectively. A city that has a population of less than 800,000, according to the last preceding federal census, or less than 500,000, according to the 22nd Decennial Census, may adopt an ordinance extending the hours for the sale of mixed beverages to 2:00 a.m. on any day.³⁰ Similarly, a city that has a population of less than 800,000, according to the last preceding federal census, or less than 500,000, according to the 22nd Decennial

²⁶ Op. Tex. Att'y Gen. No. GA-0110, at 2 (2003).

²⁷ TEX. ALCO. BEV. CODE § 109.57(c).

²⁸ Dallas Merchant's, 852 S.W.2d at 492 n.5.

²⁹ Op. Tex. Att'y Gen. No. GA-0110 at 4 (2003).

³⁰ Id. at § 105.03.

Census, may adopt an ordinance extending the hours for the sale of beer to 2:00 a.m. on any day "or any part of [such] extended hours." ³¹

Section 109.33 of the Code permits cities to prohibit the sale any alcoholic beverage within 300 feet of a church, public or private school, or public hospital. A city by charter or ordinance may prohibit the sale of beer in a residential area,³² and a home rule city by charter may prohibit the sale of liquor in a residential area.³³ Finally, a city can regulate the location of: (1) a massage parlor, nude modeling studio, or other sexually oriented business; or (2) an establishment that derives 75 percent or more of the establishment's gross revenue from the onpremise sale of alcoholic beverages.³⁴

B. Sexually Oriented Businesses

Because the courts have determined that sexually oriented businesses engage in protected speech under the First Amendment of the United States Constitution, a city cannot outlaw sexually oriented businesses entirely. Nevertheless, cities have authority to regulate the location and operation of sexually oriented businesses, including, but not limited to, strip clubs, video arcades, and retailers that earn a large portion of their profits from the sale of pornography and related items. One source of such authority is Chapter 243 of the Texas Local Government Code. Among other powers, that chapter authorizes a city to: (1) restrict the location of sexually oriented businesses;³⁵ (2) prohibit sexually oriented businesses within a certain distance of a school, regular place of religious worship, residential neighborhood, or other specified land use the governing body of the municipality or county finds to be inconsistent with the operation of a sexually oriented businesses;³⁶ (3) regulate the density of sexually oriented businesses;³⁷ and (4) require that an owner or operator of a sexually oriented business obtain a license or other permit or renew a license or other permit on a periodic basis for the operation of a sexually oriented business.³⁸

Many cities have included regulations in their ordinances designed to address the "secondary effects" of such businesses on the areas in which they are located -e.g., higher crime and loss of property value. A good sexually oriented business ordinance should include detailed legislative findings that cite published studies to support the premise that the regulation of such businesses is reasonable and necessary to control the secondary effects that such businesses

³¹ Id. at § 105.05,

³² Id. at §109,32.

³³ Id. at §109.31.

³⁴ Id. at §109.57(c).

³⁵ TEX. LOC. GOV'T CODE § 243.006(a)(1).

³⁶ Id. at § 243.006(a)(2).

³⁷ Id. at § 243.006(b).

³⁸ Id. at § 243.007.

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bring. In Encore Videos, Inc. v. City of San Antonio, 330 F.3d 288 (5th Cir. 2003), the Fifth Circuit held that the studies that Texas cities traditionally had cited to support their secondary effects regulations did not apply to retail-only sexually oriented businesses. In response to Encore, the Texas City Attorneys Association and a number of Texas Cities commissioned an off-site secondary effects study, Survey of Texas Appraisers: Secondary Effects of Sexually-Oriented Businesses on Market Values and Crime-Related Secondary Effects: Secondary Effects of "Off-Site" Sexually-Oriented Businesses, which is available for download at http://www.texascityattorneys.org/bulletin-SOB.html.

C. Tax Increment Financing (TIF) Zone

A Tax Increment Financing (TIF) Agreement permits a municipality to designate a "TIF" zone (a.k.a reinvestment zone) to fund projects within the zone through additional tax dollars generated by growth of real property value in the zone.³⁹ To be designated as a reinvestment zone under the TIF statute, an area must meet the following criteria:

- (1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:
 - (A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;
 - (B) the predominance of defective or inadequate sidewalks or streets:
 - (C) faulty size, adequacy, accessibility, or usefulness of lots;
 - (D) unsanitary or unsafe conditions;
 - (E) the deterioration of site or other improvements;
 - (F) tax or special assessment delinquency exceeding the fair market value of the land;
 - (G) defective or unusual conditions of title;
 - (H) conditions that endanger life or property by fire or other cause; or
 - (I) any combination of these factors;

³⁹ TEX. TAX CODE §§ 311.001 et seq.

- (2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality; or
- (3) be in a federally assisted new community located in a homerule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality; or . .
- (4) be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.⁴⁰

The Attorney General has determined that an area designated for TIF treatment must be "unproductive, underdeveloped or blighted" w/in the meaning of article VIII, section 1-g(b) of the Texas Constitution.⁴¹

VI. Vested Rights

"Vested rights" refer to a property owner's right to use the owner's property in a certain manner based on the regulations in place at a particular time, which is usually the date on which the property owner first received approval from the city for such use. A property owner has no vested right in a particular zoning category or restriction.⁴² Similarly, a neighboring property owner cannot enforce previous zoning requirements against future construction.⁴³ Therefore, if the city were to eliminate a building setback requirement, for example, neighboring property owners who were subject to the setback requirement when they built their homes would not have legal standing to enforce the setback against future builders.⁴⁴

⁴⁰ *Id.* at § 311.005(a).

⁴¹ Op. Tex. Atty Gen. No. JC-0152 (1999).

⁴² Williamson Pointe Venture v. City of Austin, 912 S.W.2d 340, 343 (Tex. App. - Austin 1995, no writ).

⁴³ 1 KENNETH H. YOUNG, ANDERSON'S AMERICAN LAW OF ZONING § 4:28 (4th ed. 2003).

⁴⁴ See Nusbaum v. City of Norfolk, 145 S.E. 257, 259 (Va. 1928).

A. Nonconforming use

Where a property owner is already using a particular tract of land in accordance with current zoning regulations, a change in zoning will not immediately affect that property. A municipality may not make the restrictions in its zoning ordinance retroactive. ⁴⁵ If property is previously zoned for a specific use, and a zoning change occurs that negates the previous zoning, then the use of that property becomes a legal nonconforming use. A nonconforming use is a use that exists legally when a new zoning restriction becomes effective and that continues to exist. ⁴⁶ A city may include a provision in its zoning ordinance that terminates non-conforming uses after a set period of time following the zoning change (e.g., 25 years) so that the property owner has an opportunity to recoup his investment in the nonconforming use over the normal life-span of the non-conforming structure. ⁴⁷

As a general rule, mere preparation for use of property before adoption of a zoning change is not enough to establish a nonconforming use. Note, however, that a change in zoning that unreasonably restricts development may result in a taking under the Texas Constitution. In *Sheffield Dev. Co., Inc. v. City of Glenn Heights*, for example, the Texas Supreme Court held that a city's decision to "down zone" the area of a proposed subdivision from 6,500 square foot lots to 12,000 square-foot lots did not *unreasonably* interfere with the property owner's investment-backed expectations for development of the property. However, the Court left open the possibility that under different facts, a city's decision to down zone could rise to the level of an unconstitutional taking of private property.

B. Chapter 245 of the Texas Local Government Code ("Vested Rights Statute")

The legislature originally enacted Chapter 245 of the Texas Local Government Code, "Issuance of Local Permits," to protect property owners from changes in local regulations that occurred after the property owner had already begun development on his or her property. Now known as the "vested rights" or "entitlement" statute, the statute has become a sword for developers and a burden on cities that seek to control growth and development within their jurisdictions.

The Texas Legislature enacted the vesting provisions under Chapter 245 of the Texas Local Government Code to require that "each permit in a series required for a development project be subject to only the regulations in effect at the time of the application for the project's

⁴⁵ City of Corpus Christi v. Allen, 254 S.W.2d 759, 761 (Tex. 1953).

⁴⁶ City of Univ. Park v. Benners, 485 S.W.2d 773, 777 (Tex. 1972).

⁴⁷ Murmur Corp. v. Bd. of Adjustment of City of Dallas, 718 S.W.2d 790, 798 (Tex. App. – Dallas 1986, writ ref'd n.r.e.).

⁴⁸ City of Pharr v. Pena, 853 S.W.2d 56, 64 (Tex. App. - Corpus Christi 1993, writ denied).

^{49 140} S.W.3d 660 (Tex. 2004).

first permit, and not any intervening regulations." Chapter 245 defines "project" as "an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor." The statute defines "permit" as "a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility agency owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought." The statute applies to "political subdivisions," which includes municipalities.

Under Chapter 245, the city must consider the permit application solely on the basis of the regulations that were in effect: (1) at the time the original application for the permit was filed for any purpose, including review for administrative purposes; or (2) a plan for development of real property or plat application was filed with the city.⁵³ Further, the applicant's rights "vest" on the filing of an application "that gives the regulatory agency fair notice of the project and the nature of the permit sought."⁵⁴ And if a series of permits is required for a project, the regulations in place at the time of the original application for the permit in the series must be the sole basis for consideration of all subsequent permits required for completion of the project.⁵⁵ After the application for a project is filed, the city may not shorten the duration of any permit required for the project.⁵⁶ At least one court has held that the filing of a plat is the first permit application in a series of permits constituting a "project" under section 245.002(b) of the Local Government Code.⁵⁷

The Legislature did leave some authority for cities. First, the city may provide that a permit application expires after 45 days if the applicant fails to provide the necessary information and the city provides the applicant with notice within 10 days after the filing of the application.⁵⁸ In addition, the city may, by ordinance, impose an expiration date on "dormant projects" for which no progress has been made towards completion of the project. The expiration date can be no earlier than September 1, 2010. After that time, the expiration date can be two years for an individual permit but for a "project", no earlier than five years after the date the first permit

⁵⁰ Quick v. City of Austin, 7 S.W.3d 109, 128 (Tex. 1998) (construing predecessor statute); see also TEX. LOC. GOV'T CODE § 245.002.

⁵¹ TEX. LOC. GOV'T CODE § 245.001(3).

⁵² Id, at § 245.001(1).

⁵³ Id. at § 245,002(a).

⁵⁴ Id. at § 245,002(a-1).

⁵⁵ Id. at § 245.002(b).

⁵⁶ Id. at § 245.002(c).

⁵⁷ Hartsell v. Town of Talty, 130 S.W.3d 325, 327-38 (Tex. App. - Dallas 2004, pet. denied).

⁵⁸ TEX. LOC. GOV'T CODE § 245.002(e).

application was filed. The statute provides multiple avenues for the developer to establish that it has made progress toward completion of the project, including: (1) the submission of an application for a final plat or plan; (2) a good-faith attempt to file a permit application necessary to begin or continue towards completion of the project; (3) the incursion of costs in developing the project (exclusive of land acquisition) that equal five percent of the most recent appraised market value of the real property in which the project is located; (4) the posting of a bond with the city to ensure performance of an obligation that the city requires; or (5) payment of utility connection fees or impact fees.⁵⁹

Finally, the legislature has exempted certain regulations from Chapter 245's vesting provisions. These include: (1) building permits that are at least two years old, provided that the building or structure is intended for human occupancy and habitation, and the permit was issued under laws or regulations adopting only uniform building, fire, electrical, plumbing, or mechanical codes and local amendments to those codes; (2) zoning regulations that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by restrictive covenant required by the municipality; (3) regulations that specifically control only the use of the land and that do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage or building size; (4) regulations for sexually oriented businesses; (5) municipal or county regulations affecting colonias; (6) fees imposed in conjunction with development permits; (7) regulations for annexation that do not affect landscaping or tree preservation or open space or park dedication; (8) regulations for utility connections; (9) flood control regulations; (10) construction standards for public works located on public lands or easements; (11) regulations to prevent the imminent destruction of property or injury to persons that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size. residential or commercial density, or the timing of a project, or that do not change development permitted by restrictive covenant required by the municipality. ⁶⁰

An aggrieved applicant cannot recover money damages under Chapter 245. Rather, the statute provides that the only method of enforcement is through mandamus or declaratory or injunctive relief.⁶¹

C. Legal Use Prior to Annexation

Section 43.002 of the Texas Local Government Code permits a property owner to continue certain land uses following annexation:

§ 43.002. Continuation of Land Use

(a) A municipality may not, after annexing an area, prohibit a

⁵⁹ *Id.* at § 245.005.

⁶⁰ Id. at § 245.004.

⁶¹ Id. at § 245.006.

person from:

- (1) continuing to use land in the area in the manner in which the land was being used on the date the annexation proceedings were instituted if the land use was legal at that time; or
- (2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:
 - (A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
 - (B) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.
- (b) For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.
- (c) This section does not prohibit a municipality from imposing:
 - (1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;
 - (2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;
 - (3) a regulation relating to preventing imminent destruction of property or injury to persons;
 - (4) a regulation relating to public nuisances;
 - (5) a regulation relating to flood control;
 - (6) a regulation relating to the storage and use of hazardous substances; or
 - (7) a regulation relating to the sale and use of fireworks.

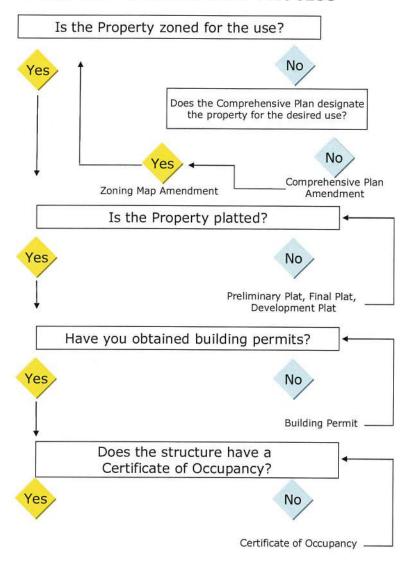
(d) A regulation relating to the discharge of firearms or other weapons is subject to the restrictions in Section 229.002.⁶²

Under the above statute, the basic test is: (1) was the land use legal in the county prior to annexation; and (2) if it was, does the regulation that the city is seeking to impose fall within one of the exceptions under subsection (c) (e.g., public nuisances, flood control, fireworks etc.)? A good rule of thumb is that the city rarely will be able to force the property owner to change his land use to comply with the city's zoning ordinance following annexation, but the city almost always can force the property owner to comply with the city's nuisance ordinances.

⁶² TEX. LOC. GOV'T CODE § 43.002.

APPENDIX "A"

PROPERTY DEVELOPMENT PROCESS



^{*} Describes current ordinance requirements

^{*}From Subdivision Ordinance of the City of Granite Shoals, Texas.

Sec. 15-6-4. - Changes and amendments; application fee.

(A)

This zoning article, including boundaries of districts and regulations, may be amended, supplemented or changed by ordinance of the City Commission. The City Commission shall receive the report of the Planning and Zoning Commission prior to adopting any change or amendment to the zoning ordinance.

a.

The Planning and Zoning Commission shall conduct a public hearing, announcement of which shall be published once in a newspaper of local circulation fifteen (15) days prior to such hearing before acting upon any zoning matter.

i.

All property owners within 200 feet of the property on which the change is proposed shall be sent written notice not less than ten (10) days before the hearing date. The list of property owners shall be prepared from the last city tax roll listing all property owners who have rendered their property for city taxes. Notice is adequately served by depositing properly addressed and postage paid notice with the city post office. Property owners whose names do not appear on the city tax roll are adequately notified by the publication in a newspaper of local circulation.

b.

Following the Planning and Zoning Commission public hearing and report, the City Commission shall conduct a public hearing, announcement of which shall be published once in a newspaper of local circulation fifteen (15) days prior to such hearing before acting upon any zoning matter.

i.

Three-fourths $(\frac{3}{4})$ vote of the members of the City Commission shall be necessary to make any change should a petition opposed to such change be presented by the owners of 20% of either the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet therefrom.

ii.

Three-fourths (¾) vote of the members of the City Commission shall be necessary to overrule a recommendation of the Planning and Zoning Commission that a proposed amendment, supplement, or change be denied.

Vote of the City Commission means members eligible to vote. With a five (5) member commission, 3/4ths vote is 4 of 5 members eligible to vote. The absence of a commission member from a meeting does not change the number of votes required (ie, still 4 of 5). If a commission member were to die, resign, or be disqualified (ie, due to a conflict of interest), then that is considered a vacancy which reduces the number of eligible votes so that the vote would then be 3/4ths of the four (4) members eligible to vote.

C.

Applications for Special Use permits, changes of districts (rezones), or other applications which require notification or publication shall be accompanied by a fee of \$250.00.

Sec. 15-6-24. - Nonconforming uses and structures.

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(A)

Nonconforming status. A nonconforming status shall exist under one of the following conditions:

(1)

When a use does not conform to the regulations prescribed in the district in which it is located, and was lawfully existing and operating prior to the adoption of this article, or any amendment thereto which creates nonconformity, and where there has been no discontinuance of the use for a period of time exceeding six months or;

(2)

When a structure does not conform to the regulation prescribed in the district in which it is located, and was lawfully existing and constructed prior to the adoption of this article, or any amendment thereto which creates nonconformity.

(B)

Maintenance permitted. A nonconforming building or structure may be maintained.

(C)

Repairs and alterations. Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.

(D)

Additions, enlargements and moving.

(1)

A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard regulations shall not be added to or enlarged in any manner or removed to another location except as provided by subdivision (2) of this division hereof.

(2)

A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area, or yard regulations may be added to or enlarged or moved to

a new location on the lot upon a permit authorized by the Board of Adjustment, which may issue, provided that the Board of Adjustment, after hearing, shall find:

(a)

The addition to, enlargement of, or moving of the building will be in harmony with one or more of the purposes of this article as stated in § 15-6-2 hereof, and shall be in keeping with the intent of this article.

(b)

The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

(c)

LOT shall mean that parcel of land owned at the time the use became nonconforming and upon which the use existed, whether defined in one or more legal descriptions provided that all legal descriptions are contiguous.

(E)

Alteration where parking insufficient. A building or structure lacking sufficient automobile parking space in connection therewith as required by this article may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this article for such alteration or enlargement.

(F)

Restoration of damaged buildings. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building, structure, or part thereof, which existing at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of six months and is diligently prosecuted to completion and is not located in an overlay zone.

(G)

Six month vacancy. A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of six months, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

(H)

Continuation of use. The occupancy of a building or structure by a nonconforming use, existing at the time this Title became effective, may be continued.

(1)

Occupation within six months. A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of six months after the use became nonconforming.

(J)

Change of use. The nonconforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

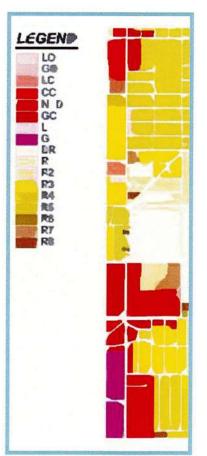
(K)

Nonconforming use of land. The nonconforming use of land, existing at the time this article became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of six months or more, any future use of such land shall be in conformity with the provisions of this article.



Chapter 4 Zoning Regulations in Texas

William Dahlstrom, JD, AICP



This chapter explains the basics of zoning law in Texas. It provides a definition and breif history, along a legal basis for zoning and the statutory authority. The chapter discusses the connection between zoning and the comprehensive plan and districts, the basic zoning units to divide cities. These boundaries and ordinainces are approved by zoning commissions. Procedures includes hearings and notice or zoning commission meetings, city council meetings, and general law city council meetings. The supermajority vote is described and the board of adjustement is discussed in detail. The chapter also describes ways in which municipalities enforce zoning ordinances and the variety of exceptions to zoning authority. Additional zoning concepts are breifly discussed as well as the ways in which zoning laws are challenged. Understanding such regulations are valuable because zoning is an essential tool, if not the essential tool, used to implement the comprehensive plan along with subdivision regulations, infrastructure planning, and economic strategies.

This chapter was developed from the 17th Annual Land Use Planning Law Conference with the University of Texas School of Law on March 20, 2013

Left: Zoning map of a neighborhood

Altered image of image by HistoricOmaha.net on Flickr and reproduced under Creative Commons 2.0



DEFINITION AND HISTORY

"Zoning" is the fundamental regulation of a governmental entity used to control land uses pursuant to a comprehensive plan. "Zoning regulation is a recognized tool of community planning, allowing a municipality, in the exercise of its legislative discretion, to restrict the use of private property."

As the result of the mounting problems from industrialization and urbanization of cities in the late nineteenth and early twentieth cities, municipal governments recognized the need to adopt regulations to make cities more livable, safe and sanitary. Widely recognized as the first comprehensive zoning ordinance, the New York City Zoning Ordinance of 1916 was enacted to regulate height and setbacks of larger buildings to allow sunlight and air to reach adjacent properties and to restrict incompatible uses from residential districts. ²

In 1921, U.S. Secretary of Commerce Herbert Hoover, commissioned an advisory committee to draft a model zoning statute, The Standard Zoning Enabling Act of 1926, which became the model for zoning legislation throughout the country. The Act included a section on a "Grant of Power" which authorized zoning for "the purpose of promoting health, safety, morals, or the general welfare of the community."³

Section 3 of the Act, "Purposes in View" provided,

Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality. ⁴

Typically, zoning will consist of:

(i) an ordinance that sets forth items such as definitions, permitted land uses and development standards, and

(ii) a map designating the districts within the jurisdiction.

Municipal governments recognized the need to adopt regulations to make cities more livable, safe and sanitary.

4 Id. at Section 3

¹ City of Brookside Village. v. Comeau, 633 S.W.2d 790, 792 (Tex. 1982), cert. denied, 459 U.S. 1087 (1982).

New York City Department of City Planning Website, 2013
A Standard State Zoning Enabling Act Under Which Municipalities May Adopt Zoning Regulations; Section 1, U.S. Department of Commerce (1926)



	DEPARTMENT OF COMMERCE
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The Standard Zoning Enabling Act of 1926 became the model for zoning legislation throughout the country.

In Village of Euclid, Ohio v. Ambler Realty Co., the Court ruled that there may be valid reasons to separate intensive uses from less intensive uses for the general welfare

The Act also included sections describing the means of adopting and amending the regulations, the establishment of a zoning commission and board of adjustment, the enforcement of regulations, and the resolution of conflicts with other laws.5

LEGAL BASIS

The United States Supreme Court ruled in 1926 that zoning is a valid exercise of the municipality's police power. In Village of Euclid, Ohio v. Ambler Realty Co., 272 U.S. 365 (1926), the Village of Euclid enacted an ordinance that established six classes of use districts, three classes of height districts, and four classes of area districts in an effort to control industrial expansion from the City of Cleveland into the Village. Ambler Realty argued that the classification of its property deprived it "of liberty and property without due process of law" and denied "it the equal protection of the law." 6 Ambler Realty also specifically argued that the zoning ordinance attempted "to restrict and control the lawful uses of appellee's land so as to confiscate and destroy a great part of its value."7 The Court ruled that there may be valid reasons to separate intensive uses from less intensive uses for the general welfare holding, "it is enough for us to determine, as we do, that the ordinance, in its general scope and dominant features, so far as its provisions are here involved, is a valid exercise of authority."8

The validity of zoning in Texas was approved by the Texas Supreme Court in Lombardo v. City of Dallas. In that case, the Court acknowledged that "it appears that full authority was delegated cities and incorporated villages to restrict the use of buildings, structures and land for trade, industry, residence, or other purposes. Zoning, in general, is the division of a city or area into districts, and the prescription and application of different regulations in each district; generally, such division is into two classes of districts, such as was attempted by the ordinance under consideration. Effective zoning regulations, as that term is now well understood, comprehends, necessarily, prohibitions and restrictions; prohibitions against certain uses in named districts. and restrictions as to the area of lots to be built upon, the size and height of

A Standard State Zoning Enabling Act Under Which Municipalities May Adopt Zoning Regulations, U.S. Department of Commerce (1926)
6 Village of Euclid, Ohio v. Ambler Realty Co., 272 U.S. 365, 384 (1926)

⁷⁸ Id. at 397



structures, yard spaces to be left unoccupied, etc." The Court held, "that the legislative act and the ordinance of the city of Dallas, called in question, and the provisions of same as applied to plaintiff and his property, are not subject to the objections urged by plaintiff, but that they are valid and enforceable."

STATUTORY AUTHORITY

In *Lombardo*, the City of Dallas relied on Texas' adopted version of the Standard Zoning Enabling Act adopted in 1927 as Article 1011 of the Texas General Statutes. In 1987, the sections of Article 1011 were codified in Chapter 211 of the Texas Local Government Code. Chapter 211 currently provides that the zoning regulatory power is "for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance." 11

Under Section 211.003, the municipality may regulate:

- 1. The height, number of stories, and size of buildings and other structures;
- 2. The percentage of a lot that may be occupied;
- 3. The size of yards, courts, and other open spaces;
- 4. Population density;
- 5. The location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
- 6. The pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.¹²

Further, the Statute provides that a city may regulate "the construction,

"...promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance"

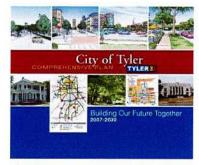
⁹ Lombardo v. City of Dallas, 47 S.W.2d 495, 499 (Tex. Civ. App.—Dallas 1932), aff'd, 124 Tex. 1, 73 S.W.2d 475 (1934)

¹⁰ Id.

¹¹ Texas Local Government Code Section 211.001 (2013)

¹² Id. at Section 211.003 (a)





The Purpose in View of the Standard Zoning Enabling Act states that "such regulations shall be made in accordance with a comprehensive plan..." The above image is of the City of Tyler, Texas Comprehensive Plan 2007-2030.

reconstruction, alteration, or razing of buildings and other structures" with regard to designated places and areas of historical, cultural, or architectural importance and significance.¹³ The governing body of a home-rule municipality may also regulate the bulk of buildings.¹⁴

THE COMPREHENSIVE PLAN

Zoning is one of the primary implementation tools of a municipality's comprehensive plan. Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- 1. Lessen congestion in the streets;
- 2. Secure safety from fire, panic, and other dangers;
- Promote health and the general welfare;
- 4. Provide adequate light and air;
- 5. Prevent the overcrowding of land;
- 6. Avoid undue concentration of population; or
- 7. Facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.¹⁵

DISTRICTS

According to the Chapter 211, a city may divide the municipality into districts of a number, shape, and size and within each district, the city may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land. The regulations must be uniform for each class or kind of building in a district; however, the regulations may vary from

¹³ Id. at Section 211.003 (b)

¹⁴ Id. at 211.003 (c)

¹⁵ Id. at 211.004

¹⁶ Id. at 211.005 (a)





Left: Dallas, Texas Council Chambers.

Image by jypsygen on Flickr and reproduced under Creative Commons 2.0

district to district¹⁷ and shall be adopted "with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality."18

CREATION OF A ZONING COMMISSION

A city may appoint a zoning commission to make recommendations regarding the boundaries of the original zoning districts and zoning regulations.¹⁹ Often, a city will appoint a commission that performs the recommending authority under Chapter 211 and the planning commission authority regarding subdivisions and plats granted under Chapter 212 of the Texas Local Government Code.

With regard to zoning, this body is a "recommending" body. However, some zoning ordinances also provide that the zoning commission is charged with approval of site plans pursuant to the provisions of that city's zoning ordinance. In that regard, they may be the final municipal authority for the

¹⁷ 18 Id. at 211.005 (b)

Id. at 211.005 (c) Id. at 211.007 (a)

¹⁹



review and approval of a site plan.

PROCEDURES

Hearings

Approval of a zoning ordinance, districts and amendments of the same require public hearings before the zoning commission and city council. The commission is required to make a preliminary report, hold the public hearing and submit a final report to the city council.²⁰ The city council must receive the report before it can conduct its hearing.²¹ A home rule city may allow joint hearings of the city council and zoning commission provided the city council, by two-thirds vote, has prescribed the type of notice and location for the hearing.²²

Notice

Zoning Commission

Written notice of the zoning commission hearing must be sent to the owners of the property within 200 feet of the property on which a change in classification is proposed "before the 10th day before the hearing date." Notice is sufficient if it is deposited in the municipality, with properly addressed with postage paid, in the United States mail.²³

City Council

Notice of the time and place of the city council hearing must be published in official newspaper or a newspaper of general circulation in the city, "before the 15th day before the date of the hearing."²⁴

General law city without a zoning commission

A general law city without a commission must provide notice of the city council hearing to the property owners within 200 feet of the property subject to change in the same manner as notice prior to a commission hearing.²⁵

20	Id. at 211.007 (b)
21	Id.
22	Id. at (d)
23	Id. at 211.007 (c)
24	Id. at 211.006 (a)
25	Id. at 211.006 (b)



SUPERMAJORITY VOTE

The Statute provides that three-fourths majority affirmative vote is required to approve a change in a regulation or boundary if written protest is filed by the owners of at least 20 percent of either:

- 1. The area of the lots or land covered by the proposed change; or
- 2. The area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area. 26

Further, the city may by ordinance require that the affirmative vote of at least three-fourths majority of city council is required to overrule a recommendation of the zoning commission that a proposed change to a regulation or boundary be denied.27

However, in Appolo Development, Inc. v. City of Garland, the Court ruled that the supermajority requirement did not apply to property that was subject to interim zoning at the time of annexation.

"We do not believe it was intended that Section 5 of Ordinance 1011 [predecessor of Section 211.006 (d)] should have the effect of so zoning all property thereafter annexed that no owner of newly annexed property could apply for permanent zoning without placing himself under the burden of obtaining a favorable vote of three-fourths of the members of the City Council if a protest were made by adjacent property owners described in Article 1011e." 28



Above: Zoning and land use maps

Image by tracktwentynine on Flickr and reproduced under Creative Commons 2.0

BOARD OF ADJUSTMENT

The city may appoint a board of adjustment to consider variances, special exceptions and appeals of administrative officials in the enforcement of the zoning regulations.²⁹ The board consists of five members who are appointed by the city council. Each case before the board must be heard by at least 75 percent of the members of the board.30 Boards of adjustment in cities in excess of 500,000 may consist of several panels with at least five members

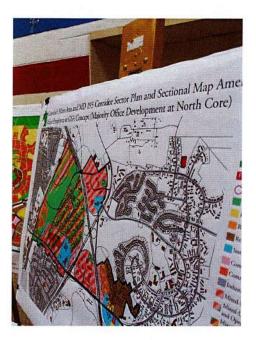
Id. at Section 211.006 (d) 26 Id. at Section 211.006 (f)

²⁷ 28

Appolo Development, Inc. v. City of Garland, 476 S.W.2d 365 (Tex. App.-Dallas, rehr'g denied 1972) TEXAS LOCAL GOV'T CODE, Section 211.008 1972;

³⁰ Id. at 211.008 (d)





per panel.31

The board of adjustment may hear and decide:

- 1. Appeals of an order, requirement, decision, or determination made by an administrative official in the enforcement of zoning regulations;
- Special exceptions;
- 3. Variances from the terms of a zoning ordinance; and
- 4. Other matters authorized by an ordinance adopted under Chapter 211.32

Variances by definition are modifications to zoning regulations authorized by the board when the following standards are met:

- 1. The variance is not contrary to the public interest;
- 2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. (A financial hardship will not be sufficient to qualify as an unnecessary hardship adequate for a variance reguest.³³);
- The spirit of the ordinance must be observed; and
- 4. Substantial justice must be done. 34

Special Exceptions are modifications to the zoning regulations specifically set forth in the zoning ordinance that allow such if certain criteria set forth in the ordinance are satisfied.35

Additionally, some cities authorize the board to amortize nonconforming uses after conducting hearings and enabling the owner of the nonconforming use to recoup its investment in the nonconforming use. In City of University Park v. Benners, the Texas Supreme Court ruled "[m]unicipal zoning ordinances requiring the termination of nonconforming uses under reasonable

Id. at 211.012 31

Id. at 211.009 (a) 32

Board of Adjustment of the City of Piney Point Village v. Solar, 171 S.W. 3d 251, 255 (Tex. App-Houston [14th Dist.] 2005) 34 TEXAS LOCAL GOV'T CODE, Section 211.009 (a) (3)

³⁵ Id. at 211.009 (a) (2)



conditions are within the scope of municipal police power."36

Any person aggrieved by the decision of an administrative official or any officer, department, board, or bureau of the municipality affected by the decision may appeal the decision of the administrative official by filing with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal.³⁷ The appeal will stay all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property.³⁸

In City of University
Park v. Benners, the
Texas Supreme Court
ruled that cities could
terminate nonconforming uses under
'reasonable conditions'.

A concurring vote of 75 percent of the board members is required to:

- 1. Reverse an order, requirement, decision, or determination of an administrative official;
- 2. Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or
- 3. Authorize a variation from the terms of a zoning ordinance. 39

The decision of the board may be appealed to district court or county court, but not to the zoning commission or city council.⁴⁰ The appeal must be a verified petition, presented within 10 days after the date the decision is filed in the board's office, stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality.

The party attacking the decision of the board must demonstrate that the decision is a "very clear showing of abuse of discretion" and that the board could have reasonably reached only one decision. The Courts in Texas hold that the Board "is a quasi-judicial body and the district court sits only as a court of review by writ of certiorari." The order of the Board is presumed valid and the party attacking the order must establish a "very clear showing of abuse of discretion." [cite omitted] A zoning board abuses its discretion

The appeal or verified petition must be filed by:

- 1. A person aggrieved by a decision of the board;
- 2. A taxpayer; or
- 3. An officer, department, board, or bureau of the municipality.¹

ı Id.



if it acts without reference to any guiding rules and principles or clearly fails to analyze or apply the law correctly. [cites omitted] With respect to a zoning board's factual findings, a reviewing court may not substitute its own judgment for that of the board. [cite omitted]. Instead, a party challenging those findings must establish that the board could only have reasonably reached one decision. [cite omitted].⁴⁴

ENFORCEMENT

A violation of a zoning ordinance is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the city. The governing body may also provide civil penalties for a violation.⁴⁵ Per chapter 54 of the Texas Local Government Code, a fine or penalty for violation of a zoning regulation may not exceed \$2,000.00.⁴⁶

Further, the city may institute the following measure if a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of zoning regulations:

- 1. Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- Restrain, correct, or abate the violation;
- 3. Prevent the occupancy of the building, structure, or land; or
- 4. Prevent any illegal act, conduct, business, or use on or about the premises.

EXCEPTIONS TO A CITY'S ZONING AUTHORITY

State or Federal Preemption

Matters regulated by state or federal law are preempted from local zoning authority. For example, the Texas Alcoholic Beverage Code specifically provides

⁴⁴ Vanesko at 771.

⁴⁵ Id. at 211.012

⁴⁶ Id. at 54.001 (b)



that such Code "shall exclusively govern the regulation of alcoholic beverages in this state, and that except as permitted by this code."47 However, that Code permits city regulation of alcoholic beverage sales and service in specific areas. City regulation of alcoholic beverages where not otherwise permitted by the Texas Alcoholic Beverage Code would be preempted.

In the case of Southern Crushed Concrete. LLC v. City of Houston, a concrete crushing company secured an air quality permit from the Texas Commission on Environmental Quality, but was denied a similar permit by the City whose regulations were more restrictive to the point of rendering the use unlawful. The Texas Supreme Court ruled, "But, the express language of section 382.112(b) compels us to give effect to the Legislature's clear intent that a city may not pass an ordinance that effectively moots a Commission decision. We hold that the Ordinance makes unlawful an 'act approved or authorized under . . . the [C]ommission's . . . orders' and is thus preempted by the TCAA and unenforceable. TEX. HEALTH & SAFETY CODE § 382.113(b)."48

State and Federal Buildings

The Local Government Code provides that zoning regulations enacted pursuant to Chapter 211 do not apply to "a building, other structure, or land under the control, administration, or jurisdiction of a state or federal agency."49 However, zoning will apply to a privately-owned building which is leased to a state agency.50

Pawnshops

Pawnshops are afforded some protection under the Texas Local Government Code. Section 211.0035 provides a city must designate pawnshops, which have been licensed to transact business by the Consumer Credit Commissioner under Chapter 371, Finance Code, as "a permitted use in one or more zoning classifications and cannot "impose a specific use permit requirement or any requirement similar in effect to a specific use permit requirement on a pawnshop."51



Above: Austin, TX food truck Many cities do not indicate 'mobile food truck vending' among approved land uses listed in the city zoning codes.

Image by Katherine Lynch on Flickr and reproduced under Creative Commons 2.0

Texas Alcoholic Beverage Code, Section 109.57 (b)

⁴⁷ 48 Southern Crushed Concrete. LLC v. City of Houston; TEXAS LOCAL GOV'T CODE, Section 211.013 (c) (Tex. 2013) 49

⁵⁰ Id. at Section 211.013 (d)

Id. at Section 211.0035





SOME ADDITIONAL ZONING CONCEPTS

Accessory Use A use that is customarily incidental to a main use. Typically, these uses must be on the same lot as the main use and are permitted in the same zoning district as the main use.

Conservation Zoning Zoning regulations that provide development standards aimed at protecting environmental, historic or cultural amenities of a community. Often these types of regulations provide modifications to standard zoning development standards, including but not limited to setbacks and lot sizes, and may provide density bonuses, in order to provide flexibility and incentives for protecting the targeted amenities.

Cumulative Zoning Zoning regulations in which uses in more restrictive districts are permitted in more intensive districts.

Euclidean Zoning Zoning regulations that provide individual districts for permitted uses and development standards.

Design Guidelines Standards aimed at maintaining the architectural integrity of a unique area of a city or at providing an architectural or design theme for an area of the city.

Exclusionary Zoning A discriminatory zoning system in which regulations are enacted to unlawfully exclude certain groups of people.

Form-Based Code A zoning code in which the regulations "address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks."⁵²

Incentive Zoning Zoning regulations that provide bonuses or other incentives pursuant to standards that further specific community development objectives.

Inclusionary Zoning Zoning that provides for wide array of residential uses including low income and affordable units.

⁵² Definition of a Form-Based Code, Form-Based Code Institute; 2011 [Form-Based Code Institute website]



Nonconforming Uses Uses that were previously permitted on a property, but subsequently prohibited by zoning regulations imposed with annexation or an amendment to the zoning regulations.

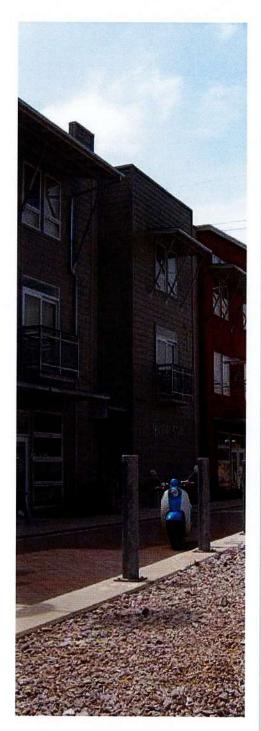
Performance Zoning Zoning regulations that focus on performance criteria rather than solely on the separation of uses.

Planned Development District (PD) or Planned Unit Development (PUD) A zoning classification that provides flexible development regulations to allow the construction of a unified development concept which may not conform entirely to the standard zoning regulations. Often these types of development include mixed uses, protection of environmentally significant features, preservation of and provision for open space, interconnection of uses, modified development standards, and special design guidelines and landscaping requirements. Because the authority and limitations for planned development districts are set forth in a city's zoning code, it is necessary to review those portions of the city's code to determine to what extent a planned development district may be used.

Smart Growth According to the American Planning Association,

Smart Growth is not a single tool, but a set of cohesive urban and regional planning principles that can be blended together and melded with unique local and regional conditions to achieve a better development pattern. Smart Growth is an approach to achieving communities that are socially, economically, and environmentally sustainable. Smart Growth provides choices — in housing, in transportation, in jobs, and in amenities (including cultural, social services, recreational, educational, among others) — using comprehensive planning to guide, design, develop, manage, revitalize, and build inclusive communities and regions to:

- Have a unique sense of community and place;
- Preserve and enhance valuable natural and cultural resources;
- Equitably distribute the costs and benefits of land development, considering both participants and the short- and long-term time scale;
- Create and/or enhance economic value;



150

Chapter 4: Zoning Regulations in Texas





- Expand the range of transportation, employment, and housing choices in a fiscally responsible manner;
- Balance long-range, regional considerations of sustainability with short-term incremental geographically isolated actions;
- Promote public health and healthy communities;
- Apply up-to-date local and regional performance measures of successful urban and regional growth;
- Encourage compact, transit-accessible (where available), pedestrian-oriented, mixed-use development patterns and land reuse; and,
- Increase collaboration and partnerships to advance place-based and regional goals and objectives, while respecting local land-use preferences and priorities.

Core principles of Smart Growth include:

- 1. Efficient use of land and infrastructure
- 2. Creation and/or enhancement of economic value
- A greater mix of uses and housing choices
- 4. Neighborhoods and communities focused around human-scale, mixed-use centers
- 5. A balanced, multi-modal transportation system providing increased transportation choice
- 6. Conservation and enhancement of environmental and cultural resources
- 7. Preservation or creation of a sense of place
- 8. Increased citizen participation in all aspects of the planning process and at every level of government

Chapter 4: Zoning Regulations in Texas

- 9. Vibrant center city life
- 10. Vital small towns and rural areas
- 11. A multi-disciplinary and inclusionary process to accomplish smart growth
- 12. Planning processes and regulations at multiple levels that promote diversity and equity
- 13. Regional view of community, economy and ecological sustainability
- 14. Recognition that institutions, governments, businesses and individuals require a concept of cooperation to support smart growth
- 15. Local, state, and federal policies and programs that support urban investment, compact development and land conservation
- 16. Well defined community edges, such as agricultural greenbelts, wildlife corridors or greenways permanently preserved as farmland or open space.⁵³

The U.S. Environmental Protection Agency identifies the following ten basic principles of Smart Growth developments:

- 1. Mix land uses
- 2. Take advantage of compact building design
- 3. Create a range of housing opportunities and choices
- Create walkable neighborhoods
- 5. Foster distinctive, attractive communities with a strong sense of place

Policy Guide on Smart Growth, American Planning Association; Originally Ratified by Board of Directors, April 15, 2002; Updated Guide Adopted by Chapter Delegate Assembly, April 14, 2012; Updated Guide Ratified by Board of Directors, April 14, 2012

- 6. Preserve open space, farmland, natural beauty, and critical environmental areas
- 7. Strengthen and direct development towards existing communities
- 8. Provide a variety of transportation choices
- 9. Make development decisions predictable, fair, and cost-effective
- 10. Encourage community and stakeholder collaboration in development decisions.⁵⁴

Street Design Standards Standards focusing on various elements of street design and construction including, but not limited to street width, curbs and gutters, medians, lane widths, street parking, sidewalks, pedestrian amenities, bicycle lanes, crosswalks, landscaping, lighting, and street.

Transit-Oriented Development Typically higher density, mixed use development surrounding a transit station (usually 1/4-1/2 mile radius) which is designed to exploit the transportation opportunities afforded by the transit station.

Unified Development Code A single code that incorporates all development-related regulations including zoning and subdivision regulations, but may also include signage, landscaping, screening and fencing, environmental performance, and other development-related regulations.

Zoning Overlay "A set of zoning ordinances, optional or required, specifying land use and/or design standards for a designated portion of the underlying zoning within a defined district; typically used to keep architectural character and urban form consistent, make adjacent uses compatible, and/or accelerate the conversion of non-conforming land uses." 55

⁵⁴ About Smart Growth, U.S. Environmental Protection Agency, (2013) [U.S. EPA website]

⁵⁵ Makin Smart Growth Happen, U.S. Environmental Protection Agency, [U.S.EPA website] (2013)



CHALLENGES

Zoning is an exercise of a municipality's legislative powers⁵⁶ and courts will give deference to the municipality's ordinances and "[i]f reasonable minds may differ as to whether or not a particular zoning ordinance has a substantial relationship to the public health, safety, morals or general welfare, no clear abuse of discretion is shown and the ordinance must stand as a valid exercise of the city's police power."57 Therefore, a zoning ordinance receives deference and is presumed valid. A party challenging the zoning ordinance must show that the ordinance is arbitrary or unreasonable because it bears no substantial relationship to the public health, safety, morals or general welfare. 58"Determining the reasonableness of a zoning ordinance is a question of law for the court."59

The following are some of the common challenges to zoning ordinances:

Inverse condemnation, taking, damaging

The U.S. Supreme Court has held that, "while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking" in violation of the Fifth Amendment of the U.S. Constitution. 60 In this sense the action of the governmental authority is characterized as a "regulatory taking" as opposed to a physical taking such as the acquisition of property for a public purpose. "In a regulatory taking, it is the passage of the ordinance that injures a property's value or usefulness."61

A regulatory taking may occur if a regulation deprives a property owner of all economically beneficial use of his land.⁶² A regulatory taking may also be found if the regulation unreasonably interferes with a landowner's right to use and enjoy his property or does not substantially advance a legitimate

56 City of Pharr v. Tippitt, 616 S.W. 2d 173, 173 (Tex. 1981) citing Thompson v. City of Palestine, 510 S.W. 2d 579 (Tex. 1974)
57 Id. at 176

57 58

City of San Antonio v. Arden Encino Partners, Ltd., 103 S.W.3d 627, 630 (Tex. App.-

Discrete of Standard Control of the Policy of Standard Control of the Policy of Standard Control of Town of Sunnyvale, 964 S.W.2d 922, 935 (Tex.1998) cert. denied, 526 U.S. 1144, 119 S.Ct.

2018, 143 L.Ed.2d 1030 (1999).

CHALLENGES:

- 1. Inverse condemnation, taking, damaging
- 2. Substantive due process
- 3. Procedural due process
- 4. Failure to comply with statutory or local procedures
- 5. Equal protection
- 6. Free exercise
- 7. Spot Zoning
- Contract Zoning

In order to challenge a zoning ordinance, one must show that the ordinance is

- 1. arbitrary or
- 2. unreasonable

because it bears no substantial relationship to the:

- public health,
- safety,
- morals or
- general welfare.



A regulatory taking may occur if a regulation deprives a property owner of all economically beneficial use of his land.

governmental interest. 63 Further, regulations may be deemed as takings if they unreasonably interfere with an owner's investment-backed expectations while also considering the economic impact of the regulation on the property owner, and the character of the governmental action.64

Substantive due process

Regulations may be subject to a substantive due process challenge if they fail to further a legitimate State interest or fail to have any relation to the public health, safety or welfare. 65 The regulations must first be "rationally related to legitimate government interests."66 Further, the regulations must not be arbitrary, unreasonable or capricious and must have a substantial relationship to the public health, safety or welfare.67

"When a zoning determination is challenged on substantive due process grounds, if reasonable minds could differ as to whether the city's zoning action had a substantial relationship to the public health, safety, morals or general welfare, the action must stand as a valid exercise of the city's police power."68

Procedural due process

Procedural due process mandates that a property owner who is deprived of a property right must have been given an "appropriate and meaningful opportunity to be heard."69 A city satisfies this standard if it provides notice and an opportunity to be heard.70

Failure to comply with Statutory or local procedures

Zoning ordinances are invalid, and not merely voidable, if the statutory procedure is not followed. "(F)ull compliance with the statute is necessary to the validity of amendatory, temporary or emergency zoning ordinances."71 Further, the "right to have notice and appear before a zoning commission is a

⁶⁴ She (Tex. 2004) Sheffield Development Company, Inc. v City of Glenn Heights, 140 S.W. 3d 660, 672 65 66 Mayhew at 938

⁶⁷ 68 City of Waxahachie v. Watkins, 154 Tex. 206, 275 S.W.2d 477, 481 (1955)

Mayhew at 939

Id. at 940 70

Bolton v. Sparks, 362 S.W. 946, 950 (Tex. 1962)



statutory right, not a due-process requirement."⁷² Therefore, one complaining of defective notice, based solely on noncompliance with the statute, does not have a constitutional claim.

Equal protection

An equal protection challenge may be brought if an individual can demonstrate that the city treated the individual differently from other similarly situated individuals without any reasonable basis. Such an ordinance generally must only be rationally related to a legitimate state interest unless the ordinance discriminates against a suspect class or infringes.⁷³ "Economic regulations, including zoning decisions, have traditionally been afforded only rational relation scrutiny under the equal protection clause."⁷⁴

Cities cannot treat individuals differently from other similarly situated individuals without any reasonable basis.

Free Exercise

Regulations that attempt to regulate religious activities may be challenged if they interfere with the exercise of religious freedoms in violation of the First Amendment of the U.S. Constitution. The Religious Land Use and Institutionalized Persons Act (RLUIPA), provides further protection by prohibiting:

"zoning and landmarking laws that substantially burden the religious exercise of churches or other religious assemblies or institutions absent the least restrictive means of furthering a compelling governmental interest. This prohibition applies in any situation where: (i) the state or local government entity imposing the substantial burden receives federal funding; (ii) the substantial burden affects, or removal of the substantial burden would affect, interstate commerce; or (iii) the substantial burden arises from the state or local government's formal or informal procedures for making individualized assessments of a property's uses. In addition, RLUIPA prohibits zoning and landmarking laws that:

- 1. Treat churches or other religious assemblies or institutions on less than equal terms with nonreligious institutions;
- 2. Discriminate against any assemblies or institutions on the basis of religion or religious denomination;

74 Id

⁷² Murmur Corporation v. Board of Adjustment of the City of Dallas, 718 S.W. 2d 790, 792 (Tex. App- Dallas, 1986, writ refd n.r.e.)

⁷³ Mayhew at 939



- 3. Totally exclude religious assemblies from a jurisdiction; or
- 4. Unreasonably limit religious assemblies, institutions, or structures within a jurisdiction. laws." 75

Spot Zoning

Some zoning changes may be challenged if the rezoning is deemed to be "Spot Zoning". "Spot Zoning" is the process of singling out a small tract of land and treating it differently from similar surrounding land "without any showing of justifiable changes in conditions." In *City of Pharr v. Tippitt*, the Texas Supreme Court identified the following factors to be reviewed in determining whether a rezoning is Spot Zoning:

- 1. Whether the City has disregarded the zoning ordinance or long-range master plans and maps that have been adopted by ordinance;
- 2. The nature and degree of an adverse impact on surrounding properties; i.e. is the change substantially inconsistent with surrounding properties; and,
- Whether the use of the property as presently zoned is suitable or unsuitable;
- 4. Whether the rezoning ordinance bears a substantial relationship to the public health, safety, morals or general welfare or protect and preserve historical and cultural places and areas.

Contract Zoning

Zoning ordinances whereby the City commits itself to rezone land in consideration of the landowner to use or not use his land in a particular manner, or provide some other consideration in exchange for the zoning may be challenged as "Contract Zoning." Contract zoning is invalid because the city dele-

76 City of Pharr v. Tippitt, 616 S.W.2d 173, 177 (Tex.1981)

⁷⁵ Religious Land Use and Institutionalized Persons Act of 2000; The United States Department of Justice



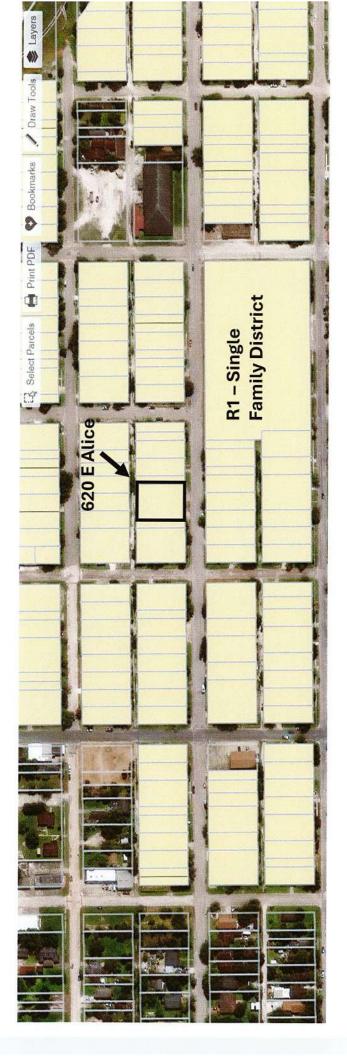
gates its legislative authority and bypasses the legislative process.⁷⁷ Zoning is legislative function of municipalities that they cannot contract away.⁷⁸

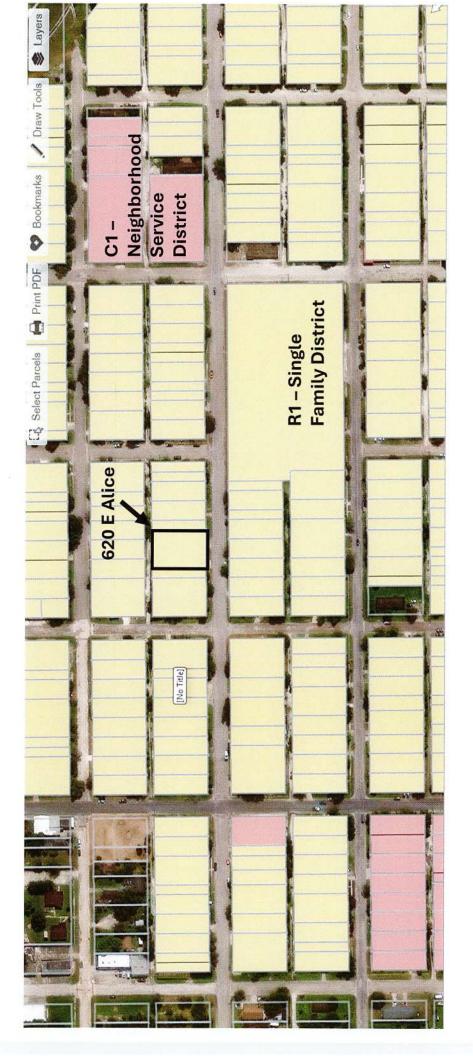
CONCLUSION

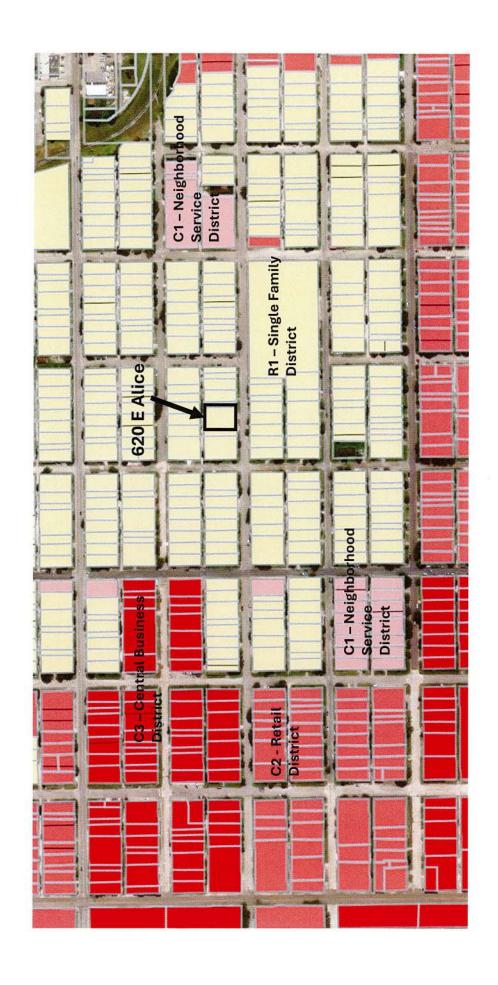
Comprehensive plans are intended to set forth a city's goals and objectives for future growth and identify a strategy by which the city will strive to achieve them. Zoning is an essential tool, if not the essential tool, used to implement the comprehensive plan along with subdivision regulations, infrastructure planning, and economic strategies. As evidenced above, there are numerous technical, legal and political issues that must be evaluated in the enactment and modification of zoning regulations. This article was intended to introduce these concepts at a broad level and not penetrate the deeper judicial analyses and more developed standards of review. A fundamental awareness of zoning should include the basics of the grant of authority, purposes, police power, process, and enforcement just as those same basic concepts were imperative in the Standard Zoning Enabling Act of 1926.

⁷⁷ Super Wash, Inc. v City of White Settlement, 131 S.W.3d 249,257 (Tex. App.-Fort Worth, 2004) 78 Id.











City of Kingsville Legal Department

TO:

Erik Spitzer, Director of Planning and Development Services

CC:

Charlie Sosa, Interim City Manager

FROM:

Courtney Alvarez, City Attorney

DATE:

March 24, 2025

SUBJECT: Zoning at 620 E. Alice

Summary: An ordinance to request the rezone of 620 E. Alice, Kingsville, Texas from R1 (Residential Use) to C2 (Commercial Use) and for an ordinance to request a Special Use Permit for a Wholesale Bakery Use in C2 can move forward to the Planning & Zoning Commission and the City Commission for consideration.

Background:

The property located at 620 E. Alice, Kingsville, Texas was the site of a tortilla factory (Wholesale Bakery Use) from approximately 1970-2020. Recently, the property was sold and the new owner wishes to reopen the tortilla factory at that site. When the new owner came to the Planning Department for permits, it was discovered that City records show 620 E. Alice to be zoned R1 (Residential Use) despite the fifty-year long commercial use at that location. Texas state law sets out the process for rezoning a property. That process is codified in the City of Kingsville's Code of Ordinances.

The rezoning of property involves a specific process and the analysis of a variety of factors. The rezoning of a property from R1 to C2 in a largely residential area would typically raise concerns of spot zoning. However, an analysis of all the facts surrounding a rezone should be considered before making a final decision.

In this instance, the commercial use requested (Wholesale Bakery Use) is the same as the one that existed for at least fifty years at this location. There is another nonresidential use on the same block at the property proposed for rezone. Several commercially zoned properties exist within two blocks of the property proposed for rezone.



City of Kingsville Legal Department

The property proposed for rezone existed as a tortilla factory for at least fifty years at this same site, so if the same proposed use were to have a detrimental impact on the valuation of surrounding properties, then that impact would have already been done when the prior use existed. It is highly unlikely that there would be an adverse impact on neighboring land since the same use existed at the site for five decades. The property in question is within the City's Historical District. When the tortilla factory first opened at this site in 1970, the area was geared toward uses that largely served Hispanic persons and commerce as pockets of commerce existed to serve different neighborhoods at that time. While times have changed during the last fifty years the factory operated at this site, the business' historical significance to the community should not be overlooked. The proposed rezone could be viewed as serving a substantial public purpose as reopening the factory could increase employment and increase sale tax revenues. Had the same use not recently existed at this site for fifty years, then the analysis might be different.

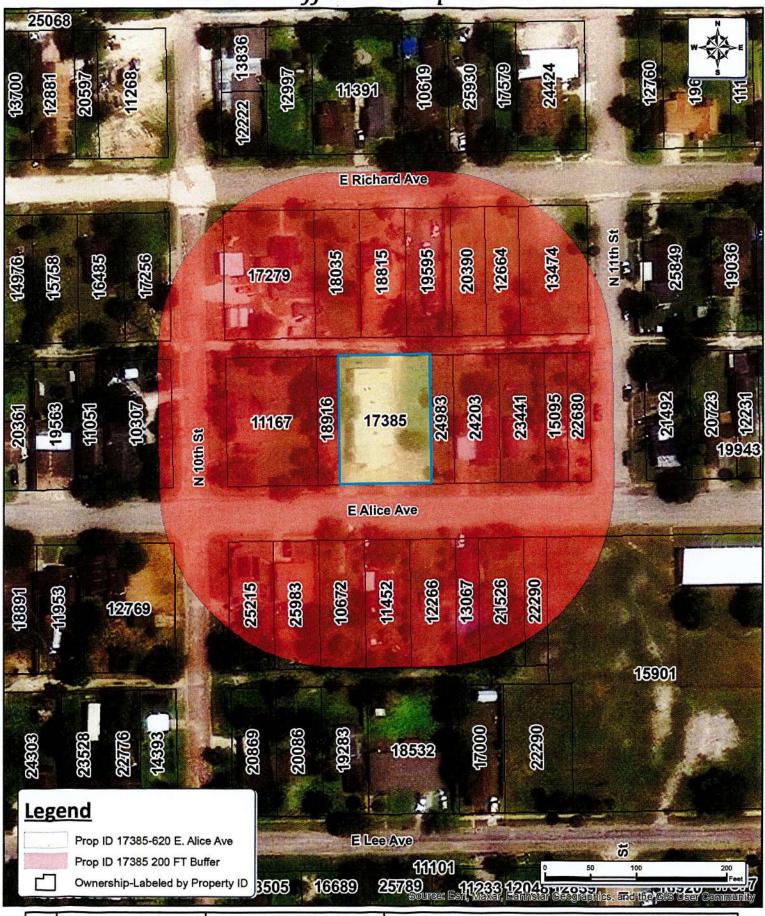
The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Commercial Use) with a Special Use Permit for Wholesale Bakery Use. A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area.

Financial Impact: There is no expense to the City by considering and approving the requested actions.

Recommendation: Allow the process to move forward following state law and city ordinances so that the Planning and Zoning Commission and City Commission can determine whether to allow the proposed zoning changes (rezone from R1 to C2 & a Special Use Permit for Wholesale Bakery Use) to the site.



200-FT Buffer at Prop ID: 17385





with its Prop ID.

DISCLAIMER:
THIS MAP IS FOR VISUAL PURPOSES ONLY.
THE INFORMATION ON THIS SHEET MAY
CONTAIN INACCURACIES OR ERRORS.
THE CITY OF KINGSVILLE IS NOT
RESPONSIBLE IF THE INFORMATION
CONTAINED HEREIN IS USED FOR ANY
DESIGN, CONSTRUCTION, PLANNING, BUILDING,
OR ANY OTHER PURPOSE.



CITY OF KINGSVILLE ENGINEERING DEPARTMENT

400 W King Ave; Kingsville, TX 78363 Office: (361) 595-8007 Fax: (361) 595-8064 Raul G Longoria ETAL 828 N Reynalds Alice, TX 78332 #12769

strikdeg/solytove size!!!\

Guillermo Gonzalez ETUX Brenda Gonzalez 528 E Alice Ave Kingsville, TX 78363 #10307

Ruben R Est Melinda Kerwin 916 E Santa Gertrudis Kingsville, TX 78363 #17256

Maria I Garcia 603 E Richard Kingsville, TX 78363 #17279

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18035

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18815

Frances T Olivarez 611 E Richard Ave Kingsville, TX 78363 #19595

Manuel Trevino EST
ETUX Esabel EST % Nelda Aguilar
1301 Clearfield Dr
Austin, TX 78758-7314
#20390

Eduardo Gonzalez Oralia Gonzalez 701 E Richard Kingsville, TX 78363 #13474

Laura L Elizondo Garrick A Phillips 603 E Alice Ave Kingsville, TX 78363 #25215 Ruben G Soliz 1624 N Armstrong Ave Kingsville, TX 78363 #22680

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Francisco P Chapa Est Mrs. Yolanda R Torres PO Box 290 Kingsville, TX 78364 #15095

Belinda J Lopez 9699 Southmeadow Beaumont, TX 77706 #23441

David Michael Isassi 1631 Connell Villa Kingsville, TX 78363 #24203

Eliseo M Torres 620 E Alice Ave Kingsville, TX 78363 #24983

John Edward Cadriel 1949 Zenaida Ave McAllen, TX 78504-5626 #18916

Daniel Avendano ETUX Idalia 8001 Morelos St Pharr, TX 78577-8705 #11167

K I S D PO Box 871 Kingsville, TX 78364 #22290

Yolanda Saeuz 74 Lake Shore DR Corpus Christi, TX 78413-2634 #18175

> Kleberg County PO Box 72 Kingsville, TX 78364 #15901

Gregorio Islas ETUX Teodula (Life EST) Francisco E Romero 621 E Alice Ave Kingsville, TX 78363 #13067

Francisco E Romero 621 E Alice Ave Kingsville, TX 78363 #12266

Michael W Bars 823 S 23rd St Kingsville, TX 78363 #11452

Michael W Bars 823 S 23rd St Kingsville, TX 78363 #10672

Jose Arturo Rodriguez ETUX Rosa Laura 607 E Alice Ave Kingsville, TX 78363 #25983

NEWS

Bishop CISD school board elections scheduled for May 3, early voting begins April 22

By Ted Figueroa

The Bishop CISD School Board is prepared for the next school board elections that will take place on Satur-

In Place 2, incumbent Judy Murdoch with 18 years experience will face off against Billy Kinsel.

In Place 6, incumbent Dawn Cavanaugh who is completing her 28th year on the board will face challenger Julie Chancler

Early voting will begin on April 22-25 from 8 a.m. to 5 p.m. and will resume on April 28 and 29 from 7 a.m.

tipurpose Building, Petronila School, Nueces County Court House, The David Berlanga Community Center in Agua Dulce, the Island Presbyterian Church in Corpus Christi and the Jan-

et F. Harte Library in Corpus Christi. In other business, the school board passed all of the consent items and au-thorized the superintendent to begin negotiations with the top ranked prooser for HVAC improvements.

They also authorized the super-

intendent to enter into negotiations with the top ranked proposer for the new gymnasium at Petronila Elemen-

The board also discussed the MOU

with the City of Bishop Police Department who has provided an SRO during this school year.

The board decided to move on from that agreement and will pursue other options for security.

Superintendent Christina Gutierrez said that for the 2025-26 school year, the district may hire a safety and secu-rity director and will be looking into hiring armed guards as well. The board also accepted the resigna-

tion of Head Coach Rigo Morales who has taken on a position of head coach and athletic coordinator in the Valley

Bishop CISD is already advertising for the head coach/offensive coordi

Eighth Annual Easter Eggstravaganza set

It's almost time for the 8th annual Easter Eggstravaganza hosted by the Kleberg County Attorney's Office. The event will kick off on Sat. April 12 from 11 a.m. to 1 p.m. at the Kleberg County Courthouse (West side lawn). Kleberg County Attorney Kira Talip-Sanchez invites the community to come out and enjoy the festivities. "This is our 8th annu Eggstravaganza for our wonderful community. There will Lagarian and the second in the



Boy Scouts take time to help The Purple Door

Boy Scout Troop 186 has partnered with The Purple Door and have decorated T-shirts with positive messages for local survivors of abuse. The clothes will be displayed at La Palmera Mall in Corpus Christi during the month of April for Sexual Assault Awareness month. At the end of the month the T-shirts will be donated to The Purple Door. (Contributed photo)

PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of a Special Use Permit for a Wholesale Bakery Use (Tortilla Factory) in C-2 (Retail) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory). also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID

The meeting will be held at City Hall, 400 West King Ave., Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of a Special Use Permit for a Wholesale Bakery Use (Tortilla Factory) in C-2 (Retail) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID

The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.

bituaries



Jane Anne Sellers Keese

October 8, 1936 - March 28, 2025

Jane Anne Sellers Jane Anne Seilers Keese, a lifelong resident of Kingsville, Texas and longtime resident of Three Rivers, Texas, passed away peacefully on Friday, March 28, 2025, in Corpus Christi, Texas, where she had made her home for the past four

years.
Born on October 8, 1936, in Kingsville to William Samuel Sellers and Elsie Catherine Glasscock Compton, Jane Anne came from pioneering families who helped shape the Kingsville community. Her father was a respected local businessman who owned and operwho owned and operated a grocery store in Kingsville for many

Jane Anne dedicated 30 years of her life to education, touch-ing countless young ing countless young lives with her passion for teaching. Her impact on her students remained evident throughout her life, as former pupils would often enthusiastically greet her whenever she returned to Kingsville for special occasions.

Following her re-tirement from educa-tion, Jane Anne devot-ed much of her time to service at First Bap-tist Church of Three

Rivers, where she and her late husband, and her late husband, James Milton Keese, were devoted mem-bers. She could regu-larly be found in the church kitchen, joy-fully preparing meals for various communi-ty events and church gatherings. Jane Anne was pre-ceded in death by her parents; her brother, William Edward Sell-ers; and her beloved

ers; and her beloved husband, James Mil-ton Keese.

The family will re-

ceive condolences at 10 a.m. on Friday, April 4, 2025, at Tur-cotte-Piper Mortuary; with a chapel service beginning at 10:30 a.m., officiated by Darin Griffiths. Rite of committal and interment will follow at Chamberlain Cem-etery in Kingsville, Texas.

Her family would like to thank her loving caregivers from Warm Hearts, that provided wonderful care to her in the past few years. Your kind-ness will never be for-cotten.

gotten. In lieu of flowers, In lieu of flowers, donations may be made to South Texas Children's Home in Beeville, Texas, re-flecting Jane Anne's lifelong commitmen to children and edu cation.

PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

PUBLIC HEARING NOTICE

The City Commission of the City of Kingsville will hold a Public Hearing Monday, April 28, 2025, at 5:00 p.m. wherein the City Commission will discuss the consideration of the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of Re-Zoning from R-1 (Single Family) to C-2 (Retail) for a Wholesale Bakery Use (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, Texas in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the City Secretary at (361) 595-8002.

ITEMS 5 & 6

PH: 361-595-8055



MEMO

Date:

April 9th, 2025

To:

Planning & Zoning Commission

From:

Erik Spitzer (Director of Planning and Development Services)

Subject:

The City of Kingsville Planning and Development Services Department is seeking approval from the Planning & Zoning Commission to approve a Special Use Permit (SUP) for a Wholesale Bakery (Tortilla Factory) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E.

Alice Ave., Kingsville, TX 78363 (Property ID 17385).

Summary: <u>Items 5 & 6</u>: Jose Flores and Jaime Flores, Applicants/Owners, approached the Planning Department on February 20th, 2025, requesting approval of a Special Use Permit (SUP) to support reopening a tortilla factory that was open for ~ 50 years at the parcel of land located at 620 E Alice. The property has been vacant for 3 years and is located in the city's Historic District.

Background: <u>Items 5 & 6</u>: 620 E Alice was recently purchased after remaining vacant for approximately 3 years. It is currently zoned R1 (Single Family District). The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Retail District) with a Special Use Permit for Wholesale Bakery use.

Discussion: <u>Items 5 & 6</u>: Referencing the City Attorney's memo from March 24th, 2025, "A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area."

Erik Spitzer

Director of Planning and Development Services



CITY OF KINGSVILLE PLANNING AND ZONING DIVISION MASTER LAND USE APPLICATION

email: hsolis@cityofkingsville.com / Phone (361) 595-8055

PROPERTY INFORMATION: (Please PRINT or TYPE)
Project Address 620 E Alice Nearest Intersection 10th St
(Proposed) Subdivision NameLotBlockBlock
Legal Description 3ed, Block 22, Lot 24-27 (famusa Tortilla factory)
Existing Zoning Designation Pl Future Land Use Plan Designation C-2
OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)
Applicant/Authorized Agent Jose and Jaine Flores Phone 361 - 215 - 9449
Email Address (for project correspondence only):
Mailing Address 427 W Ave A City Kingsville State To Zip 78363
Property Owner Jaime Flores Phone 361-215-9449 FAX
Email Address (for project correspondence only):
1900
Mailing Address 427 W Ave A City kingsville State Tx zip 78363
Select appropriate process for which approval is sought. Attach completed checklists with this application.
Scient appropriate process for which approval is sought. Attach completed thethists with this application.
Annexation Request No Fee Preliminary Plat Fee Varies
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies
Administrative Appeal (ZBA)\$250.00 Final PlatFee Varies Comp. Plan Amendment Request\$250.00 Minor Plat\$100.00
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00 Re-zoning Request \$250.00 Re-plat \$250.00
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00 Re-zoning Request \$250 Re-plat \$250.00 SUP Request/Renewal \$250 Vacating Plat \$50.00 Zoning Variance Request (ZBA) \$250 Development Plat \$100.00
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00 Re-zoning Request \$250.00 Re-plat \$250.00
Administrative Appeal (ZBA)\$250.00 Final Plat Fee Varies Comp. Plan Amendment Request\$250.00 Minor Plat\$100.00 Re-zoning Request\$250
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00 Re-zoning Request \$250 Re-plat \$250.00 SUP Request/Renewal \$250 Vacating Plat \$50.00 Zoning Variance Request (ZBA) \$250 Development Plat \$100.00 PUD Request \$250 Subdivision Variance Request \$25.00 ea Please provide a basic description of the proposed project: Would like to open Famosa Tortilla Factory but its
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00 Re-zoning Request \$250 Re-plat \$250.00 SUP Request/Renewal \$250 Vacating Plat \$50.00 Zoning Variance Request (ZBA) \$250 Development Plat \$100.00 PUD Request \$250 Subdivision Variance Request \$25.00 ea Please provide a basic description of the proposed project: Would liter to open Famosa Tortila factory but its Zoned R 1. The Building wes used as Tortila factory
Administrative Appeal (ZBA)\$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00 Re-zoning Request \$250
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00 Re-zoning Request \$250 Re-plat \$250.00 SUP Request/Renewal \$250 Vacating Plat \$50.00 Zoning Variance Request (ZBA) \$250 Development Plat \$100.00 PUD Request \$250 Subdivision Variance Request \$25.00 ea Please provide a basic description of the proposed project: Would like to open Famosa Tortilla factory but its Tortilla factory
Administrative Appeal (ZBA) \$250.00 Final Plat Fee Varies Comp. Plan Amendment Request \$250.00 Minor Plat \$100.00 Re-zoning Request \$250 Re-plat \$250.00 Vacating Plat \$50.00 Zoning Variance Request (ZBA) \$250 Development Plat \$100.00 PUD Request \$250 Subdivision Variance Request \$25.00 ea Please provide a basic description of the proposed project: Would like to open Famosa Tortilla factory but its Tortilla factory but its Power Famosa Tortilla factory but its Power Famosa Tortilla factory but its Power Famosa Tortilla factory for many years. Please provide a basic description of the proposed project: Would like to open Famosa Tortilla factory but its Power Famosa Tortilla factory for many years. Please provide a basic description of the proposed project: Value of the owner for the purposes of this application. I further certify that I am the owner and /or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

This form available on our website: https://www.cityofkingsville.com/departments/planning-and-development-services/

Kleberg CAD Property Search

■ Property Details

Account

Property ID:

17385

Geographic ID: 100502224000192

Type:

R

Zoning: R1

Property Use:

Location

Situs Address:

620 E ALICE

Map ID:

C1

Mapsco:

Legal Description:

3RD, BLOCK 22, LOT 24-27, (FAMOSA TORTILLA FACTORY)

Abstract/Subdivision:

S005

Neighborhood:

Owner

Owner ID:

15566

Name:

LA FAMOSA DRC INC

Agent:

Mailing Address:

620 E ALICE AVE

KINGSVILLE, TX 78363-4637

% Ownership:

100.0%

Exemptions:

For privacy reasons not all exemptions are shown online.

■ Property Values

Improvement Homesite Value:

\$0 (+)

Improvement Non-Homesite Value:

\$127,130 (+)

Land Homesite Value:

\$0 (+)

Land Non-Homesite Value:

\$15,000 (+)

Agricultural Market Valuation:

\$0 (+)

Agricultural Value Loss: @

\$142,130 (=)

Appraised Value:

\$142,130 (=)

HS Cap Loss: @

Market Value:

\$0 (-)

Circuit Breaker: @

\$0 (-)

\$0 (-)

\$142,130

Ag Use Value:

Assessed Value:

\$0

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal District to verify all information for accuracy.

■ Property Taxing Jurisdiction

Owner: LA FAMOSA DRC INC %Ownership: 100.0%

Entity	Description	Tax Rate	Market Value	Taxable Value	Estimated Tax
GKL	KLEBERG COUNTY	0.771870	\$142,130	\$142,130	\$1,097.06
CKI	CITY OF KINGSVILLE	0.770000	\$142,130	\$142,130	\$1,094.40
SKI	KINGSVILLE I.S.D.	1.410400	\$142,130	\$142,130	\$2,004.60
WST	SOUTH TEXAS WATER AUTHORITY	0.065695	\$142,130	\$142,130	\$93.37
CAD	KLEBERG COUNTY APPRAISAL DISTRICT	0.000000	\$142,130	\$142,130	\$0.00

Total Tax Rate: 3.017965

Estimated Taxes With Exemptions: \$4,289.43

Estimated Taxes Without Exemptions: \$4,289.43

■ Property Improvement - Building

Type: COMMERCIAL Living Area: 520.0 sqft Value: \$22,380

Type	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	RS2A	1970	520
OP1	OPEN PORCH BASIC (20%)	*	1970	120
CON	CONCRETE SLAB COMMERCIAL	*	1970	3554

Type: COMMERCIAL Living Area: 3480.0 sqft Value: \$104,750

Туре	Description	Class CD	Year Built	SQFT
MA	MAIN AREA	IN2A	1970	3480

■ Property Land

Туре	Description	Acreage	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
F1	F1	0.32	14,000.00	100.00	140.00	\$15,000	\$0

■ Property Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap Loss	Assessed
2024	\$127,130	\$15,000	\$0	\$142,130	\$0	\$142,130
2023	\$129,330	\$15,000	\$0	\$144,330	\$0	\$144,330
2022	\$113,590	\$7,000	\$0	\$120,590	\$0	\$120,590
2021	\$121,540	\$7,000	\$0	\$128,540	\$ 0	\$128,540
2020	\$52,010	\$7,000	\$0	\$59,010	\$0	\$59,010
2019	\$59,460	\$7,000	\$0	\$66,460	\$0	\$66,460
2018	\$61,500	\$7,000	\$0	\$68,500	\$0	\$68,500
2017	\$56,110	\$7,000	\$0	\$63,110	\$0	\$63,110
2016	\$54,510	\$7,000	\$0	\$61,510	\$0	\$61,510

WRITTEN CONSENT TO USE OF SIMILAR ENTITY NAME

LA FAMOSA DRC, INC. a Texas corporation

This written consent is made and tendered in accordance with 1 Texas Administrative Code 79.42 to provide unequivocal consent to Jose L. Flores and/or Jaime Antonio Flores, or either of them, their agents, and assigns, the right to use the name "La FAMOSA DRC" in the creation of any other entity authorized by the laws of any political subdivision of the United States, including but not limited to the creation of their planned limited liability company to be created under the laws of the State of Texas or

IN WITNESS WHEREOF, the undersigned officer authorized by the Company in accordance with a unanimous resolution of all shareholders of the Company, executes this written consent in the presence to be effective immediately.

STATE OF TEXAS COUNTY OF KILL

This instrument was acknowledged before me on Vonuc 2025, by Rosa Maria Flores, Vice President of La Famosa DRC, LLC, a Texas corporation, on behalf of said corporation.

ANTONIO ARREDONDO Notary Public, Stete of Texas Comm. Expires 05-10-2026 Notary (O 131562673

Notary Public, State of Texas

Sec. 1. - Land use chart.

The following chart shall set out the land uses within the city:

P = Permitted

S = Special use permit required

X = Special review required

= Not permitted (absence of any symbol)

[Land Use Chart on the following pages]

Land Use Chart													
Land Use Description	R1	R2	R2A	R3	R4	МН	C1	C2	С3	C4	11	12	Ag
Dwelling, one-family det.	Р	Р		Р	Р	Р	Р	Р	Р				Р
Dwelling, one-family att.		Р	Р	Р	Р		S	Р					Р
Dwelling, two-family		Р		Р	Р		S	Р					
Dwelling, multi- family				Р	Р		Р	Р	Р				
Tiny Homes		Р	Р			Р							

Bakery or confectionery shop, retail sales (less than 2,500 square feet)		b				P	Р	P	P			
Bakery, wholesale						ď	S	Р	Р			
Brewpub							Р	S	Р	Р	Р	
Building materials sales	388		а				S	Р	Р	S		
Cafeteria or				1		S	Р	Р	Р	Р	Р	
restaurant			Medical Control of the Control of th		Transit (sp							
Camera shop						S	Р	Р	Р			
Laundry or self- service laundry shop (limited area)						S	Р	Р	Р			
Clinic, medical, dental, chiropractor, optometrist or other office of licensed Health related profession						S	Р	Р	Р	P		
Drug store or pharmacy						Р	Р	Р	P .			



CERTIFICATE OF FILING OF

La Famosa DRC, LLC File Number: 805863291

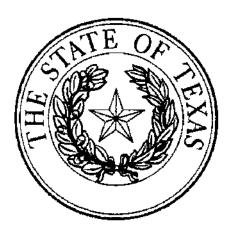
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 01/17/2025

Effective: 01/17/2025



Jane-Helson

Jane Nelson Secretary of State

City of Kingsville Legal Department

TO:

Erik Spitzer, Director of Planning and Development Services

CC:

Charlie Sosa, Interim City Manager

FROM:

Courtney Alvarez, City Attorney

DATE:

March 24, 2025

SUBJECT:

Zoning at 620 E. Alice

Summary: An ordinance to request the rezone of 620 E. Alice, Kingsville, Texas from R1 (Residential Use) to C2 (Commercial Use) and for an ordinance to request a Special Use Permit for a Wholesale Bakery Use in C2 can move forward to the Planning & Zoning Commission and the City Commission for consideration.

Background:

The property located at 620 E. Alice, Kingsville, Texas was the site of a tortilla factory (Wholesale Bakery Use) from approximately 1970-2020. Recently, the property was sold and the new owner wishes to reopen the tortilla factory at that site. When the new owner came to the Planning Department for permits, it was discovered that City records show 620 E. Alice to be zoned R1 (Residential Use) despite the fifty-year long commercial use at that location. Texas state law sets out the process for rezoning a property. That process is codified in the City of Kingsville's Code of Ordinances.

The rezoning of property involves a specific process and the analysis of a variety of factors. The rezoning of a property from R1 to C2 in a largely residential area would typically raise concerns of spot zoning. However, an analysis of all the facts surrounding a rezone should be considered before making a final decision.

In this instance, the commercial use requested (Wholesale Bakery Use) is the same as the one that existed for at least fifty years at this location. There is another non-residential use on the same block at the property proposed for rezone. Several commercially zoned properties exist within two blocks of the property proposed for rezone.



City of Kingsville Legal Department

The property proposed for rezone existed as a tortilla factory for at least fifty years at this same site, so if the same proposed use were to have a detrimental impact on the valuation of surrounding properties, then that impact would have already been done when the prior use existed. It is highly unlikely that there would be an adverse impact on neighboring land since the same use existed at the site for five decades. The property in question is within the City's Historical District. When the tortilla factory first opened at this site in 1970, the area was geared toward uses that largely served Hispanic persons and commerce as pockets of commerce existed to serve different neighborhoods at that time. While times have changed during the last fifty years the factory operated at this site, the business' historical significance to the community should not be overlooked. The proposed rezone could be viewed as serving a substantial public purpose as reopening the factory could increase employment and increase sale tax revenues. Had the same use not recently existed at this site for fifty years, then the analysis might be different.

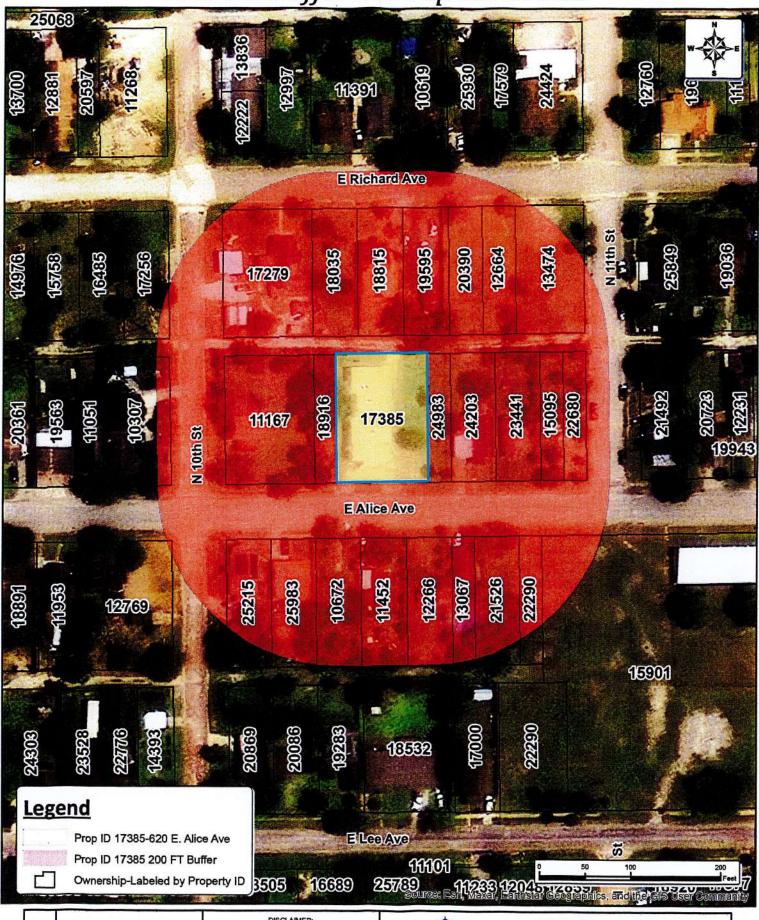
The most restrictive rezone that could be considered for the site for the intended purpose is C2 (Commercial Use) with a Special Use Permit for Wholesale Bakery Use. A wholesale bakery use is only allowed under the City's Code of Ordinances Zoning Land Use Chart in a C2 zoned area with a Special Use Permit. The Special Use Permit permits a particular zoning use while allowing the governing body to limit the exact type of use for the protection of the community and surrounding area.

Financial Impact: There is no expense to the City by considering and approving the requested actions.

Recommendation: Allow the process to move forward following state law and city ordinances so that the Planning and Zoning Commission and City Commission can determine whether to allow the proposed zoning changes (rezone from R1 to C2 & a Special Use Permit for Wholesale Bakery Use) to the site.



200-FT Buffer at Prop ID: 17385



Drawn By: R. PICK

Last Update: 2/20/2025

Note: Ownership is labeled with its Prop ID.

DISCLAIMER:
THIS MAP IS FOR VISUAL PURPOSES ONLY.
THE INFORMATION ON THIS SHEET MAY
CONTAIN INACCURACIES OR ERRORS.
THE CITY OF KINGSVILLE IS NOT
RESPONSIBLE IF THE INFORMATION
CONTAINED HEREIN IS USED FOR ANY
DESIGN, CONSTRUCTION, PLANNING, BUILDING,
OR ANY OTHER PURPOSE.



CITY OF KINGSVILLE ENGINEERING DEPARTMENT

400 W King Ave; Kingsville, TX 78363 Office: (361) 595-8007 Fax: (361) 595-8064 Raul G Longoria ETAL 828 N Reynalds Alice, TX 78332 #12769

střikdšpýka vřevelé zal A

Guillermo Gonzalez ETUX Brenda Gonzalez 528 E Alice Ave Kingsville, TX 78363 #10307

Ruben R Est Melinda Kerwin 916 E Santa Gertrudis Kingsville, TX 78363 #17256

Maria I Garcia 603 E Richard Kingsville, TX 78363 #17279

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18035

Frances Olivarez 224 E Richard Ave Kingsville, TX 78363 #18815

Frances T Olivarez 611 E Richard Ave Kingsville, TX 78363 #19595

Manuel Trevino EST
ETUX Esabel EST % Nelda Aguilar
1301 Clearfield Dr
Austin, TX 78758-7314
#20390

Eduardo Gonzalez Oralia Gonzalez 701 E Richard Kingsville, TX 78363 #13474

Laura L Elizondo Garrick A Phillips 603 E Alice Ave Kingsville, TX 78363 #25215 ี้"ไอ้จปัγงนรี อะลงก่อย b zotfeupid∃ี

Ruben G Soliz 1624 N Armstrong Ave Kingsville, TX 78363 #22680

Francisco P Chapa Est Mrs. Yolanda R Torres PO Box 290 Kingsville, TX 78364 #15095

Belinda J Lopez 9699 Southmeadow Beaumont, TX 77706 #23441

David Michael Isassi 1631 Connell Villa Kingsville, TX 78363 #24203

Eliseo M Torres 620 E Alice Ave Kingsville, TX 78363 #24983

John Edward Cadriel 1949 Zenaida Ave McAllen, TX 78504-5626 #18916

Daniel Avendano ETUX Idalia 8001 Morelos St Pharr, TX 78577-8705 #11167

K I S D PO Box 871 Kingsville, TX 78364 #22290

Yolanda Saenz 74 Lake Shore DR Corpus Christi, TX 78413-2634 #18175

> Kleberg County PO Box 72 Kingsville, TX 78364 #15901

Gregorio Islas ETUX Teodula (Life EST) Francisco E Romero 621 E Alice Ave Kingsville, TX 78363 #13067

Francisco E Romero 621 E Alice Ave Kingsville, TX 78363 #12266

Michael W Bars 823 S 23rd St Kingsville, TX 78363 #11452

Michael W Bars 823 S 23rd St Kingsville, TX 78363 #10672

Jose Arturo Rodríguez ETUX Rosa Laura 607 E Alice Ave Kingsville, TX 78363 #25983

0915

News

Bishop CISD school board elections scheduled for May 3, early voting begins April 22

By Ted Figueroa

The Bishop CISD School Board is prepared for the next school board elections that will take place on Saturday, May 3.

In Place 2, incumbent Judy Murdoch with 18 years experience will face off against Billy Kinsel.

In Place 6, incumbent Dawn Cavanaugh who is completing her 28th year on the board will face challenger Julie Chancler.

Early voting will begin on April 22-25 from 8 a.m. to 5 p.m. and will resume on April 28 and 29 from 7 a.m. Voters can vote at the Bishop Multipurpose Building, Petronila School, Nucces County Court House, The David Berlanga Community Center in Agua Dulce, the Island Presbyterian Church in Corpus Christi and the Janet F. Harte Library in Corpus Christi.

In other business, the school board passed all of the consent items and authorized the superintendent to begin negotiations with the top ranked proposer for HVAC improvements.

They also authorized the superintendent to enter into negotiations with the top ranked proposer for the new gymnasium at Petronila Elemen-

The board also discussed the MOU

with the City of Bishop Police Department who has provided an SRO during this school year.

The board decided to move on from that agreement and will pursue other options for security.

options for security.
Superintendent Christina Gutierrez
said that for the 2025-26 school year,
the district may hire a safety and security director and will be looking into
hiring armed guards as well.
The board also accepted the resigna-

The board also accepted the resignation of Head Coach Rigo Morales who has taken on a position of head coach and athletic coordinator in the Valley.

Bishop CISD is already advertising for the head coach/offensive coordinator position.

Eighth Annual Easter Eggstravaganza set

It's almost time for the 8th annual Easter Eggstravaganza hosted by the Kleberg County Attorney's Office. The event will kick off on Sat. April 12 from 11 a.m. to 1 p.m. at the Kleberg County Courthouse (West side laton). Kleberg County Attorney Kira Talip-Sanchez invites the community to come out and enjoy the festivities. "This is our 8th annual Eggstravaganza for our wonderful community. There will be egg hunts according to age, bounce houses, vendors and prizes given out. As always everything is free to the community. Come on out and enjoy hot dogs and snow cones," Talip-Sanchez said. (Contributed Photo)



Boy Scouts take time to help The Purple Door

Boy Scout Troop 186 has partnered with The Purple Door and have decorated T-shirts with positive messages for local survivors of abuse. The clothes will be displayed at La Palmera Mall in Corpus Christi during the month of April for Sexual Assault Awareness month. At the end of the month the T-shirts will be donated to The Purple Door. (Contributed photo)

PUBLIC HEARING NOTICE

The Planning & Zoning Commission of the City of Kingsville will hold a Public Hearing Wednesday, April 16, 2025, at 6:00 p.m. wherein the Commission will discuss and/or take action on the following item and at which time all interested persons will be heard:

Jose Flores and Jaime Flores, Applicant/Owners; requesting approval of a Special Use Permit for a Wholesale Bakery Use (Tortilla Factory) in C-2 (Retail) at 3RD, Block 22, Lot 24-27, (Famosa Tortilla Factory), also known as 620 E. Alice Ave., Kingsville, TX 78363 (Property ID 17385).

The meeting will be held at City Hall, 400 West King Ave., Kingsville, TX in the Helen Kleberg Groves Community Room. If you have any questions about the items on the agenda, please contact the Planning Department at (361) 595-8055.

PUBLIC HEARING NOTICE

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Obituaries



Jane Anne Sellers Keese

October 8, 1936 - March 28, 2025

October 8, 1936 Jane Anne Sellers
Keese, a lifelong resident of Kingsville,
Texas and longtime
resident of Three
Rivers, Texas, passed
away peacefully
on Friday, March
28, 2025, in Corpus
Christi, Texas, where
she had made her
home for the past four
years.

years.

Born on October
8, 1936, in Kingsville
to William Samuel Sellers and Elsie
Catherine Glasscock
Compton, Jane Anne
came from pioneering
families who helped
shape the Kingsville
community. Her father was a respected
local businessman
who owned and operated a grocery store in
Kingsville for many
years.

years.

Jane Anne dedicated 30 years of her life to education, touching countless young lives with her passion for teaching. Her impact on her students remained evident throughout her life, as former pupils would often enthusiastically greet her whenever she returned to Kingsville for special occasions.

Following her re-

Following her retirement from education, Jane Anne devoted much of her time to service at First Baptist Church of Three Rivers, where she and her late husband, James Milton Keese, were devoted members. She could regularly be found in the church kitchen, joyfully preparing meals for various community events and church eatherings.

ty events and church gatherings.

Jane Anne was preceded in death by her parents; her brother, William Edward Sellers; and her beloved husband, James Milton Keese.

The family will receive condolences at 10 a.m. on Friday, April 4, 2025, at Turcotte-Piper Mortuary; with a chapel service beginning at 10:30 a.m., officiated by Darin Griffiths. Rite of committal and interment will follow at Chamberlain Cemetery in Kingsville, Texas.

Texas.
Her family would like to thank her loving caregivers from Warm Hearts, that provided wonderful care to her in the past few years. Your kindness will never be forgotten.

In lieu of flowers, donations may be made to South Texas Children's Home in Beeville, Texas, reflecting Jane Anne's lifelong commitment to children and education.

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