

City of Kerrville Planning & Zoning Commission Agenda
Thursday, November 15, 2007, 4:30 p.m.*

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

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

1. ***4:15 p.m. Pre-Meeting Session, City Council Chambers**
Review of today's agenda items between Staff and the Commission. No action will be taken and there is to be no discussion between the Commission and the applicant(s) or other audience.

2. **4:30 p.m. Call to Order** Page
Chairperson calls the meeting to order; roll call.

3. **Visitor/Citizens' Forum**
Any person with business not scheduled on the agenda is encouraged to briefly speak their ideas to the Commission. Please fill out the SPEAKER REQUEST FORM and give it to the Commission's Secretary prior to the meeting. (No formal action can be taken on these items as the Open Meetings Act requires formal action items be posted on an agenda no later than 72 hours before the meeting. If formal action is required, the items will be placed on an agenda for a future meeting.)

4. **Consent Agenda**
All items listed below in the consent agenda are considered routine or ministerial in nature and will be enacted with one motion. There will be no separate discussion of items unless a Commissioner or citizen so requests; in which case the item(s) will be removed from the consent agenda and considered separately.
- 4A. **Approve the minutes from the meeting of November 1, 2007.** 2

5. **Action Item**
- 5A. **Variance Request: Sign Regulations** – A variance to the Sign Regulations of the City of Kerrville to allow an off-premise sign to exceed the maximum allowable sign area of one-hundred (100) square feet by fifteen-hundred and sixty-six (1566) square feet located on Thompson Drive west of Sheppard Rees Road. Zoned: ETJ. Applicant: Greg Richards. (File No. 2007-50) 6

- 5B. **Sign Regulations** – review and discuss Section 27, Code of Ordinances, Sign Regulations for the City of Kerrville with a possible recommendation to the City Council regarding amending the Sign regulations. Applicant: Planning and Zoning Commission. 20

6. **Staff Reports** 21
- 6A. Future Agenda Items. Applicant: Senior Planner
- 6B. Director's Report. Applicant: Director of Development Services

7. **Adjourn** - The next scheduled meeting is Thursday, December 6, 2007.

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

AGENDA ITEM: 4A **FOR AGENDA OF:** November 15, 2007
DESCRIPTION: Approval of the minutes from the meeting of November 1, 2007
APPLICANT(S): Planning and Zoning Commission Secretary
ATTACHMENT(S): Minutes

The Commission Secretary recommends approval of the proposed minutes.

PRE- MEETING:

On November 1, 2007 the Kerrville Planning and Zoning Commission pre-meeting was called to order at 4:21 p.m. in the City Hall Council Chambers, 800 Junction Highway.

MEMBERS PRESENT:

Bruce Motheral, Chairperson
Jim Kessler, Vice Chairperson
Harold Buell, Commissioner
Mack Hamilton, Ex-Officio City Councilperson
Andy Phillips, Commissioner (Arrived at 4:40 p.m.)
Paul Hofmann, Ex-Officio City Manager

MEMBERS ABSENT

George Hager, Commissioner

STAFF PRESENT:

Kevin Coleman, Director of Development Services
Gordon Browning, Senior Planner
Trina Ramirez, Planning and Zoning Commission Secretary

1. CALL TO ORDER:

On November 1, 2007, the Kerrville Planning and Zoning Commission regular meeting was called to order at 4:30 p.m. in the City Hall Council Chambers, 800 Junction Highway.

2. VISITOR/CITIZENS FORUM:

Mike Grogan, Grogan Surveying Co, informed the Committee that when the subdivision rules change the surveyors want some input.

3. CONSENT AGENDA:

3A. Approval of the minutes from the meeting of October 18, 2007

Cmr. Buell moved for approval of the consent agenda; motion was seconded by Cmr. Kessler and passed 3-0.

3B Final Plat: Villas at the Park, Phases 2-5 – A replat of part of Lot 1, Block 2, Mesa Park, 3.09 acres for residential development located at Singing Wind Drive and Bridle Path. Zoned: R3. Applicant: Voelkel Engineering & Surveying. (File No. 2007-46)

Cmr. Motheral announced that item 3B was withdrawn per owner's request.

4. PUBLIC HEARING

4A. Residential Replat: The Homestead at Turtle Creek – A replat of Lots 29 and 67, a 3.0 acre tract located at 29 Saddle Club Drive. Zoned: ETJ. Applicant: Grogan Surveying (File No. 2007-45)

Mr. Browning presented the findings of fact to the Commission.

Cmr. Motheral opened the public hearing at 4:34 p.m. No person spoke. Cmr. Motheral closed the public hearing at 4:35 p.m.

Cmr. Kessler moved for approval of the replat as submitted; motion was seconded by Cmr. Buell and passed 3-0.

4B. Replat: B.F. Cage Addition – A replat of Lots 6, 7 and part of 8, Block H, a 0.852 acre tract located at 600 Sidney Baker. Zoned: C 11. Applicant: CEC Civil Engineering Consultants. (File No. 2007-44)

Mr. Browning presented the findings of fact to the Commission.

Cmr. Motheral opened the public hearing at 4:36 p.m. No person spoke. Cmr. Motheral closed the public hearing at 4:37 p.m.

Cmr. Kessler moved for approval of the replat as submitted; motion was seconded by Cmr. Buell and passed 3-0.

4C. Zoning Change Request – Consideration of a recommendation to the City Council of a request to change the zoning from R1A (Single Family Residential) and R3 (Multifamily Residential) to a PDD (Planned Development District) to allow a community center on 16.2 acres located generally at the end of George Street southeast of Paschal Street and fronting the south side of Holdsworth Drive. Zoned: R1A and R3. Applicant: Peter W. Lewis Architect and Associates c/o The Salvation Army. (File No. 2007-48)

Mr. Browning presented the findings of fact to the Commission.

Cmr. Motheral opened the public hearing at 4:38 p.m.

Darla J Baker, 475 Vicksburg Ave, gave her concern on the traffic, noise and her view of the two story building that the Salvation Army will be building.

Rudy Roethal , 463 Vicksburg Ave, discussed his concern on the noisy factory behind him that already exist.

Peter Lewis, Applicant, described the building that the Salvation Army will be building and explained the traffic that will be in the area. Peter Lewis also briefly described the proposed detention pond.

Cmr. Motheral closed the public hearing at 4:48 p.m.

Cmr Phillips, excused himself from this item he is on the Salvation Army Advisory Board Of Directors.

Capt. Brett Meredith discussed with the Committee that the ball fields will be baseball fields because of the request of the Parks and recreation department and will be open to the public.

Paul Hoffmann, City Manager, stated that the City is talking about converting Carver Park into a soccer facility and have it complement the ball fields that will be built at the Salvation Army. Paul Hoffman stated that a site plan is still to come from the Salvation Army. The plan for the construction of the ball fields is subject to funding that has not been approved. We hope to be on the Nov 19, 2007 EIC Agenda to talk about the baseball fields.

Cmr. Kessler moved to recommend to the City Council approval of the zoning change request; subject to conditions outline in the ordinance; motion was seconded by Cmr. Buell and passed 3-0, Cmr. Phillips abstaining.

4D. Conditional Use Permit (CUP) Request – Consideration of a recommendation to the City Council of a request for a CUP to allow a Retail Trade I use on a 0.531 acre tract located at 1802 Sidney Baker. Zoned: GTW. Applicant: Peter W. Lewis Architect and Associates c/o Clarlyle Flooring and Paint Center. (File No. 2007-47)

Mr. Browning presented the findings of fact to the Commission.

Cmr. Motheral opened the public hearing at 4:54 p.m. No person spoke. Cmr. Motheral closed the public hearing at 4:55 p.m.

Peter Lewis stated there reasoning of the CUP for the retail shop and described the structure of the retail store.

Cmr. Phillips moved to recommend to the City Council approval of the C.U.P. as submitted; motion was seconded by Cmr. Kessler and passed 4-0.

4E. Conditional Use Permit (CUP) Request – Consideration of a recommendation to the City Council of a request for a CUP to allow a Wireless Telecommunication Facility (WTF) transmitting and receiving antennas on a 0.17 acre tract located at 631 Water Street. Zoned: C 18. Applicant: Revolution Broadcast Company of the West. (File No. 2007-49)

Mr. Browning presented the findings of fact to the Commission.

Comr. Motheral opened the public hearing at 4:59 p.m. No person spoke. Comr. Motheral closed the public hearing at 5:00 p.m.

Marti Ashcraft, presented the C.U.P. request.

Comr. Phillips questioned staff's recommendation for denial.

Gordon Browning explained the reasoning of the denial for the C.U.P. The recommendation was based on the way the ordinance is written if the antenna falls it will fall on their property if it doesn't fall into the building. The placement of the antenna will first fall into the building because it is only 5ft away and it is an 11ft tower with a 10ft dish. Also it can fall to the east and will cross the property line, that is staffs concern.

Staff further stated that if the Commission agrees that the request can be granted, that the conditions listed in staff's comments be considered in any resolution prepared.

Comr Phillips added that while staff recommends that the dish and other support structure be painted to match the color of the building. Visibility being what it is it might be preferable to be painted to a light blue or another blending color as opposed to the color of the building it depends on the angle.

Comr. Phillips moved to recommend to the City Council approval of the C.U.P; subject to the recommendation of staff as noted with the exclusion of painting anything above roof line a galvanized color to prevent reflection; motion was seconded by Comr. Buell and passed 4-0.

5. STAFF REPORTS

6A. Future Agenda Items/Project Update. Applicant: Senior Planner.

6B. Director's Report. Applicant: Director of Development Services.

6. Adjourn – The next scheduled meeting is Thursday, November 15, 2007.

The meeting adjourned at 5:15 p.m.

ATTEST:

Bruce Motheral, Chairperson

Trina Ramirez, Recording Secretary

City of Kerrville Planning & GIS Division – www.kerrville.org/planning

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

AGENDA ITEM: 5A **FOR AGENDA OF:** November 15, 2007

DESCRIPTION: **Variance Request: Sign Regulations** – A variance to the Sign Regulations of the City of Kerrville to allow an off-premise sign to exceed the maximum allowable sign area of one-hundred (100) square feet by fifteen-hundred and sixty-six (1566) square feet for a total sign area of sixteen-hundred and sixty-six square feet located on Thompson Drive west of Sheppard Rees Road. Zoned: ETJ. (File No. 2007-50)

APPLICANT(S): Greg Richards

ATTACHMENT(S): Applicant's Request

Request:

The applicant has submitted a request for a variance to the sign regulations to allow an off-premise sign to exceed the maximum allowable sign area of one-hundred (100) square feet. The applicant's request and justification for the variance is attached in Exhibit A.

Procedure:

The City's Sign Regulations assigns the hearing and disposition of variances under those regulations to the Planning and Zoning Commission (see attached 27.11 Variances from the Sign Regulations, Exhibit C). Following submittal of an application the Commission shall hold a public hearing for the request using the same notice requirements as required for a Zoning Ordinance Amendment. Following the public hearing and review of the application and pertinent information, the Commission may grant the variance as presented, modify the request or approve with conditions or deny the request on the grounds of being incompatible with a neighboring use, traffic safety, the purpose statements as listed herein, or that will give one business an unfair competitive advantage over other businesses.

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

Summary:

The City of Kerrville regulates signage both within the city limits and within the ETJ per Section 27, Code of Ordinances, Sign Regulations. Per those regulations, off-premise signage (see Exhibit B) {The proposed sign is off-premise in that the purpose of the sign is to advertise a service and site at a location other than the property/location for which the sign is located} is limited to one-hundred (100) square feet of sign area and a height of thirty (30) feet. The seeks a variance from the Commission which would allow an off-premise sign with a sign area of sixteen-hundred and sixty-six (1666) square feet.

In the applicant's request for variance several statements are made regarding meetings and conversations with staff relating to signage in the ETJ. To clarify, as stated above the City's sign regulations do regulate signs placed on properties in the ETJ. While the issuance of a 'permit', collection of fees and an inspection of the sign is not part of the regulations in the ETJ, an application for signage is required.

The meeting and conversations stated did take place and regrettably some misinformation was provided by staff. While not making excuses, this is a situation where in answering a general question a general response was taken to apply to a specific request. While I regret the out come of that meeting and the misunderstanding that resulted, that should in no way, by inference or other wise be considered as permitting or some how authorizing the sign now before the Commission.

Staff has reviewed the request submitted by the applicant and following the 'Required Findings of Fact' in Article 11-I-23(b), recommends that the variance be denied.

RECOMMENDED ACTION

1. Open the public hearing and receive comments, and
2. Deny the request as submitted.



October 18, 2007

Kerrville Planning and Zoning Commission
C/o Kevin Coleman, Director of Development Services
Via: Hand Delivery

Re: Request for Variance

Dear Gentlemen:

Approximately six weeks ago, Kevin Wegner, of Wegner Media Productions, and Chastan McRae, of McRae Energy Corporation (my client), met with Ed Perry, a code enforcement officer with the City of Kerrville, and Gordon Browning, Senior Planner, to inquire about a sign my client planned to construct on Thompson Drive, outside of the City limits of Kerrville, but within the City's ETJ. Mr. McRae and Mr. Wegner spent over 30 minutes with Mr. Perry and Mr. Browning showing them the location of the project on a city map and describing how the sign was to be constructed. Mr. Browning and Mr. Perry informed my client that the City did not have any jurisdiction over signs that were outside of the City limit, but asked for an opportunity to double check that statement. A few days later, Mr. Perry confirmed to Kevin Weger that the City indeed did not have any jurisdiction over the matter and that the sign could be constructed without compliance with the City sign ordinance.

In reliance on Mr. Perry's and Mr. Browning's position as the code enforcement officer and Senior Planner, respectively, and their statements as described above, my client began the process of clearing land and constructing a billboard sign. On October 17, 2007, Mr. Perry came to the location of the sign construction and delivered a "Stop Work" order signed by Brian Whitton. By this date, the sign was 85% complete and scheduled to be totally complete by week's end, in time to advertise my client's two business, "Las Colinas of Kerrville" subdivision and "Las Colinas Builders", to the tour of homes traffic that is expected to begin this weekend.

As soon as Mr. Perry delivered the notice to stop work, my client immediately stopped construction on the project and brought this matter to my attention. I have been subsequently informed by both Kevin Coleman, Director of Development Services, and the City Attorney, Mike Hayes, that the sign ordinance does apply to signs in the City's ETJ, and that the sign in question would have to comply with the requirements of the ordinance. According to their reading of the ordinance, the sign as originally presented to Mr. Perry and Mr. Browning is NOT allowed at all within the City or the ETJ without a variance. You can imagine my client's shock and surprise at City staff's complete about-face in their position.

Exhibit A

The City's change of position has cost my client significantly in terms of lost advertising opportunity during a key time – the tour of homes. In addition, the City's inconsistency in interpreting the laws that it has adopted further contributes to the City's reputation with my client and others as being arbitrary and capricious in how it deals with its citizen developers and builders.

We ask you to approve the variance to be fair – plain and simple. A variance approving the sign as planned and presented is the most obvious and straightforward means of achieving equity in this case. The City must be accountable to its citizens. One arm of the City has drawn my client out on the branch and then cut it off behind them. We are asking for P & Z, as the other arm, to correct that inequity and put my client back in the position it was originally promised, and that being to construct the sign as planned and presented. Only you gentlemen can hold the City staff accountable to stand by their word.

Please contact me if you have any questions.

Pattillo, Richards & Harpold, P.C.

By: 

Gregory A. Richards

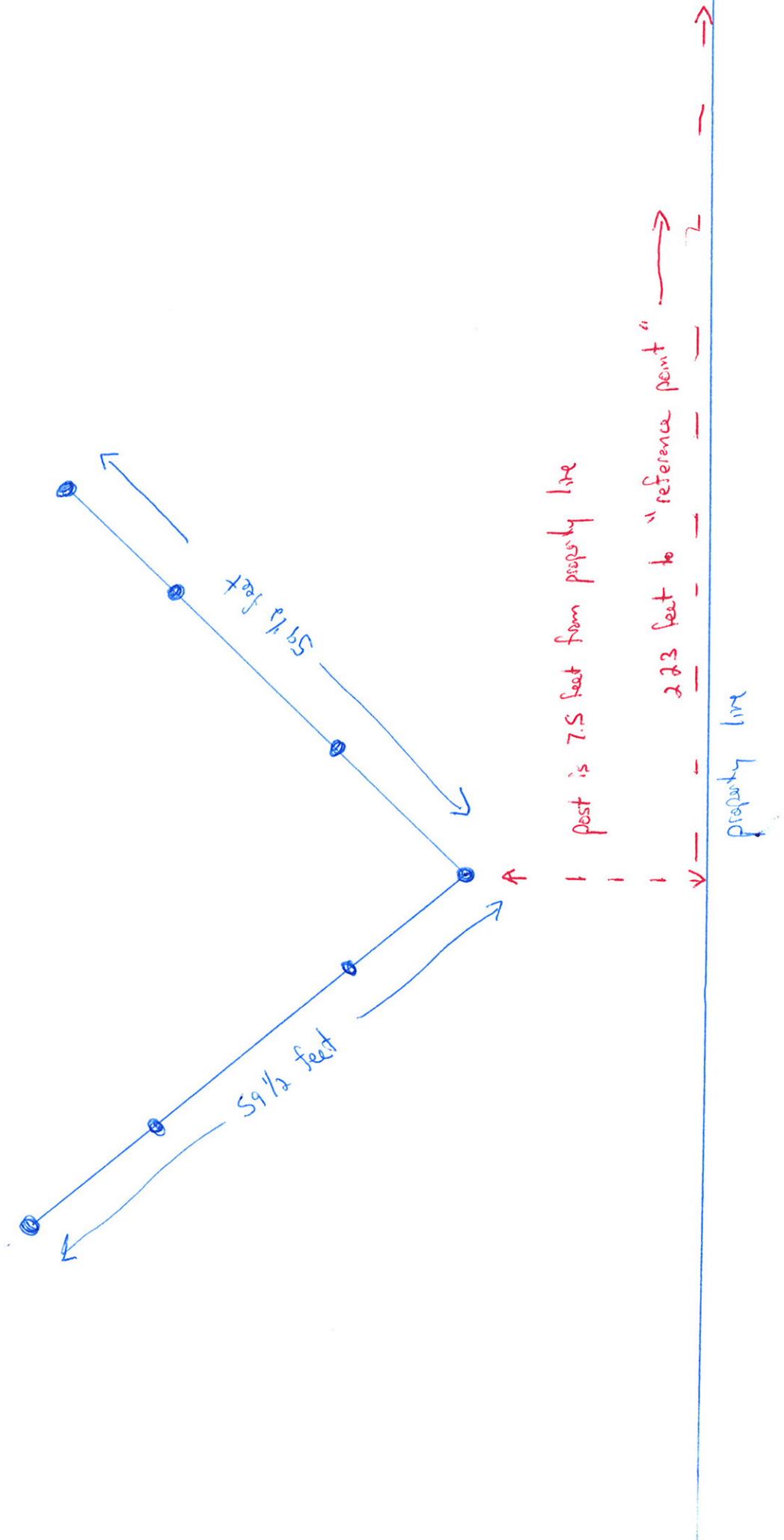
CC: Rick McRae
McRae Energy Corporation
705 Leland Street
Kerrville, Texas 78028

Sign dimensions

- 59 1/2 feet wide (each side)
- 14 feet high sign face height (each side)
- 24 feet total height (each side)
- 833 sq. feet per side of sign face

[not to scale]

Site Plan



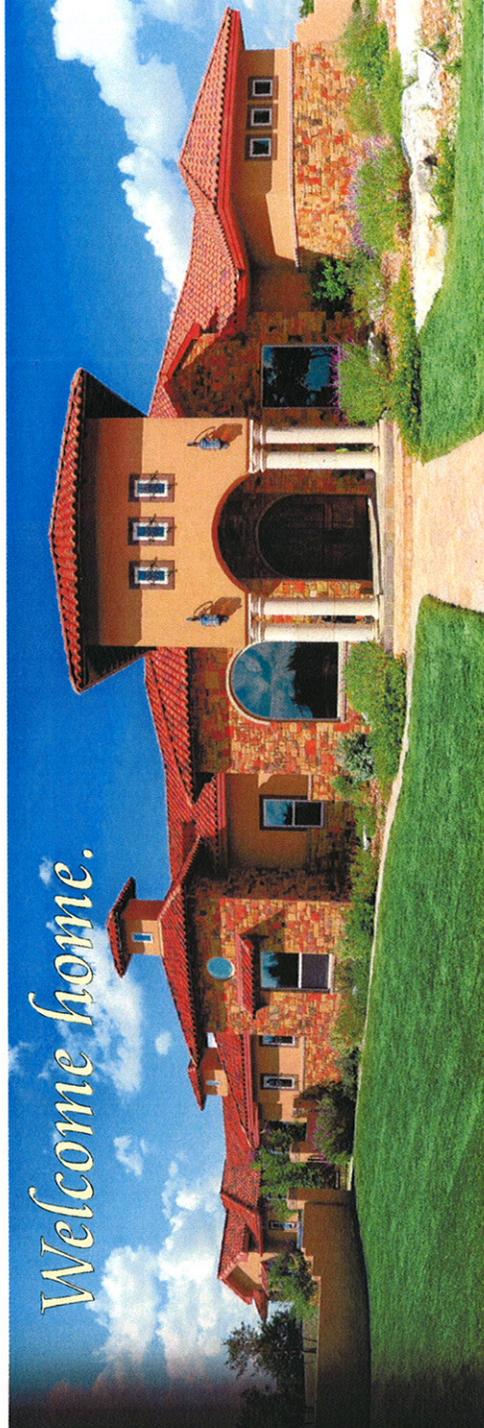


www.lascalinasbuilders.com

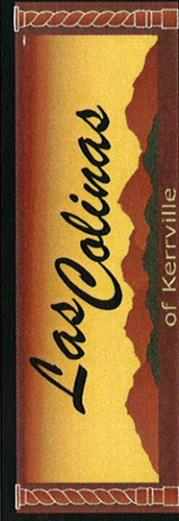
830.377.3710

Award Winning Builder!

Welcome home.



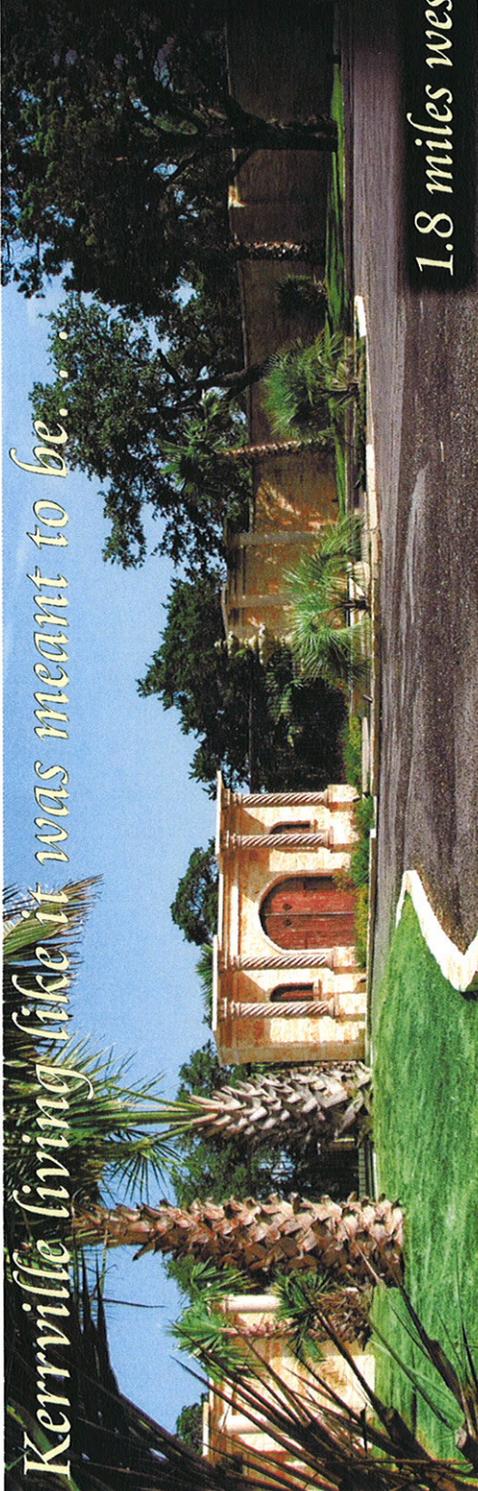
Kerrville living like it was meant to be...



www.kerrvillescolinas.com

830.377.9578

1.8 miles west on Sheppard Rees Rd.



- D. Free-standing signs on building lots four hundred (400) feet or greater in width.

Two free-standing signs are allowed for each building lot or commercial center. The freestanding signs shall meet the following criteria:

(1) Sign Area: The maximum allowable sign area shall equal two hundred (200) square feet for one sign, and one hundred (100) square feet for the other.

(2) Sign Height: The maximum allowable sign height shall equal forty (40) feet for the larger sign, and thirty (30) feet for the smaller sign.

(3) Location of Signs: (a) No sign shall be closer than seventy (70) feet from any other free-standing sign.

- E. Off-Premise Advertising Signs. All off-premise advertising signs, to include billboards, are defined as free-standing signs and shall be required to meet the same standard as any other free-standing sign as follows:

(1) Sign Area: The maximum allowable sign area shall equal one hundred (100) square feet.

(2) Sign Height: The maximum allowable height of any sign shall equal thirty (30) feet.

(3) Number of Signs: No off-premise advertising sign shall be located on any unplatted lot, nor shall it be located on a platted lot less than fifty (50) feet in width. The off-premise advertising sign located on any building lot shall be considered as the one free-standing sign allowed for said building lot. Any existing or future building located on the same building lot shall not be allowed to erect or place another freestanding sign on the same building lot with the off-premise advertising sign.

(4) All off-premise advertising signs, in addition to the above listed requirements, shall not be placed upon the wall or roof of a building.

- F. Banner Signs, if and only if:

1. The entire banner sign covers portions of (1) the outside wall of any building, or (2) a wall or fence which is built along the perimeter of the property, or along the perimeter of a substantial part of such property.

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

27.11 Variances

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

1. Procedures.

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

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

- B. Preliminary Conference.

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

- C. Public hearing.

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

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

D. Report of the Planning Department.

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

E. Action by the Planning and Zoning Commission.

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

2. Evaluation Criteria

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

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

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

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

27.13 Definitions.

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

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

- (2) **Required Vote:** The concurring vote of seventy-five percent (75%) of the members of the Board of Adjustment is required to modify or reverse an order, requirement, decision, or determination of a City administrative official.
- (b) **Variations:** The Board of Adjustment may grant a variance to the Zoning Code as permitted by Article 11-I-22(o.)(2) in accordance with the following procedures:
- (1) **Application:** An application for a variance shall be made in writing on forms provided by the Planning Division and filed with the secretary of the Board of Adjustment. An application for a variance shall be deemed complete when all information on the application form is provided and the application is accompanied by the following:
- (i) all fees established by the City Council for such matters; and
 - (ii) a description of the property to which the variance would apply sufficient to identify the location and the boundaries of the property; and
 - (iii) the reason the person is requesting the variance;
 - (iv) the signature, acknowledged by a notary public of:
 - a the owner of the property; and
 - b if different than the owner, the signature of the person requesting the variance; and
 - (v) when the variance relates to the development of a specific tract of land, eight (8) copies of a site plan drawn to scale showing existing and proposed development of the property in question.
- (2) **Public Hearing; Notice:** Upon filing of an application for a variance, the director of the Planning Division shall set a date for a public hearing thereon as soon as may be practicable; provided, however, the Board of Adjustment shall hold a public hearing on a request for a variance under this Section (b.) only after the filing of a completed application with the secretary of the Board of Adjustment and in no case earlier than ten (10) days after notice of the time and place of the public hearing has been:
- (i) published in the City's official newspaper; and
 - (ii) sent to the applicant and the owners of all property located within 200 feet of the property which is the subject of the variance by depositing a copy of the notice in the United States Mail, postage prepaid, and pre-addressed according to the address indicated on the last approved City tax rolls.
- (3) **Required Findings of Fact:** No variance shall be granted by the Board of Adjustment until it makes the following findings:
- (i) that there are exceptional circumstances or conditions applicable to the property on which the application is made related to size, shape, area,

topography, surrounding condition or location that do not apply generally to other property in the same area and the same zoning district;

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

- (2) **Record of Findings:** In addition to the record of the vote of the members regarding the application, the minutes of the Board of Adjustment shall contain the findings of facts on which its decision was based including, but not limited to, its findings as to the matters set forth in Subsection (3), above, and a description of the extraordinary circumstances found to be affecting the property in question.
- (3) **Decision of the Board:** After receiving all evidence, hearing all argument, and making its findings of fact regarding an application for a variance, the Board of Adjustment may:
- (i) grant the variance as requested;
 - (ii) grant a variance modified in accordance with the findings of the Board of Adjustment; or
 - (iii) deny the variance.
- (4) **Required Vote:** The concurring vote of seventy-five percent (75%) of the members of the Board of Adjustment is required to grant a variance.
- (5) **Effective Date of Variance:** A variance granted by the Board of Adjustment shall become effective after the expiration of ten (10) days from the date of filing its decision with the Planning Division unless the Board specifically establishes a different effective date. The effective date of a variance can be based on the satisfaction of a condition.
- (c) **Filing of Decisions:** Not later than three days, excluding Saturdays, Sundays, and City holidays, after the adjournment of the meeting at which the Board of Adjustment votes pursuant to this Article on an appeal of the act of a City administrative official or on an application for a variance, the secretary of the Board of Adjustment shall file the decision with the Planning Division.
- (d) **Appeals of Board of Adjustment Decisions:** An appeal of a decision of the Board of Adjustment must be prosecuted in accordance with Texas Local Government Code §211.010, as amended.

