

**City of Kerrville Planning & Zoning Commission Agenda
Thursday, December 4, 2008, 4:30 p.m.**

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

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

Page

1. **4:30 p.m. Call to Order**
Chair calls the meeting to order; roll call.

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

3. **Consent Agenda**
All items listed below in the consent agenda are considered routine or ministerial in nature and will be enacted with one motion. There will be no separate discussion of items unless a Commissioner or citizen so requests; in which case the item(s) will be removed from the consent agenda and considered separately.
- 3A. **Approve the minutes from the meeting of November 20, 2008.** 3

- 3B. **Final Plat: Keystone Section Four A** – A five (5) lot, 2.499 acre tract located west of the Yorktown Blvd and Edinburg Drive intersection. Zoned: RC. Applicant: Grogan Surveying. (File No. 2008-23) 5

4. **Public Hearings**
- 4A. **Residential Replat: Young Subdivision** – A replat of Lots 1 and 2, Block 64, Young Subdivision located at the north corner of Fourth Street and Lytle Street, 1320 Fourth Street. Zoned: RC. Applicant: Wilkie Surveying. (File No. 2008-65) 6

- 4B. **Replat: Fuddrucker Addition** – A replat of lots 2, 3 and 4, Block One, Overstreet Park, 2.64 acres located at 1433, 1421 and 1381 Junction Highway. Zoned: PDD. Applicant: Voedenbaum Engineering, Inc. (File No. 2008-60) 8

- 4C. **Sign Variance Request** – A variance to the Sign Regulations of the City of Kerrville, Section 27.3(1)(A), to allow a subdivision name sign to exceed the maximum allowable sign area of 32 (thirty-two) square feet by 71 (seventy-one) square feet located at the intersection of Las Cimas Drive and Harper Road. Zoned: ETJ. Applicant Bruce Stracke (Integrity Group Texas). (File No. 2008-64) 11

- 5. Action Items**
- 5A. **Preliminary Plat and Waiver Request: Fox Ridge** – A seven (7) lot, 13.66 acre preliminary plat generally located at the intersection of Rim Rock Road and Blue Sky Lane and a waiver to Article 10-IV-4, Section (A) e, Water Supply System, of the City’s Subdivision Regulations. Zoned: ETJ. Applicant: Guadalupe Survey Company. (File No. 2008-58) 20
- 6. Staff Reports** 31
- 6A. Future Agenda Items. Applicant: Senior Planner
- 7. Adjourn** - The next scheduled meeting is Thursday, December 18, 2008.

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

AGENDA ITEM: 3A **FOR AGENDA OF:** December 4, 2008
DESCRIPTION: Approval of minutes of November 6, 2008.
APPLICANT(S): Planning and Zoning Commission Secretary
ATTACHMENT(S): Minutes

MEMBERS PRESENT:

Andy Phillips, Chair
Jim Kessler, Vice Chair
Harold Buell, Commissioner
George Hager, Commissioner
David Watterson, Alternate (Seated)

MEMBERS ABSENT

T. Justin MacDonald, Commissioner
Gene Allen, Alternate

COUNCIL LIAISON PRESENT

Bruce Motheral, Council Liaison

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 20, 2008, 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:

3. CONSENT AGENDA

3A. Approval of the minutes from the meeting of November 6 2008.

Cmr. Kessler moved for approval of the minutes; subject to minor changes; motion was seconded by Cmr. Watterson and passed 5-0.

4. ACTION ITEM

4A. Development Site Plan: The Salvation Army's Kroc Community Center – A 16.1 acre community center located generally at the end of George Street southeast of

Paschal Street and fronting Holdsworth Drive, 505 Holdsworth Drive. Zoned: PDD.
Applicant: Peter Lewis Architect and Associates. (File No. 2008-59)

Mr. Browning presented the finding of facts to the Commission.

Mr. Browning, stated to the Commission that City Staff would like to add a third recommendation that prior to the building permit the City would receive a letter or documentation from LCRA granting access across their property.

Cmr. Phillips stated that he is a member of the Advisory Board of Directors for the Salvation Army and City Staff has determined this is not a conflict of interest..

Cmr. Kessler questioned if meals plan to be served at the new facility.

Peter Lewis, stated that Salvation Army will continue to maintain their shelter on Hays Street that provides meals, transit housing, and rehabilitation. The new facility will be a community center and will provide a full kitchen for community events.

Cmr. Kessler stated that the ordinance 2007-20 does not make provisions for the new facility to have a kitchen for community events.

Gordon Browning, stated that many churches have meals for the community as an accessory use, and by accessory use it would be acceptable.

Cmr. Kessler questioned the signage for the new facility.

Peter Lewis stated that a monument sign would be constructed by the building materials which include native stone, split face masonry and, plaster. They want the sign as close to the right of way and would comply with the sign ordinance that are consistent with the land use.

Cmr. Phillips moved for approval of the Development Site Plan; subject to the three recommendations staffs has recommended; motion was seconded by Cmr. Hager and passed 5-0.

5. STAFF REPORTS

6A. Future Agenda Items. Applicant: Senior Planner

6. Adjourn – The next scheduled meeting is Thursday, December 4, 2008.

The meeting adjourned at 4+:48 p.m.

ATTEST:

Andy Phillips, Chair

Trina Ramirez, Recording Secretary

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

AGENDA ITEM: 3B **FOR AGENDA OF:** December 4, 2008

DESCRIPTION: **Final Plat: Keystone Section Four A** – A five (5) lot, 2.499 acre tract located west of the Yorktown Blvd and Edinburg Drive intersection. Zoned: RC. (File No. 2008-23)

APPLICANT(S): Grogan Surveying

ATTACHMENT(S): Location Map, Plat

SUMMARY STATEMENT – FINDING OF FACT

History/Timeline:

- February 21, 2008 – Preliminary plat approved by Commission with conditions.
- November 11, 2008 – Final plat accepted for review and consideration.
- November 19, 2008 – Development Review Committee (DRC) review process completed.
- November 25, 2008 – Staff comments to applicant.
- **December 4, 2008 – Consideration of final plat by Commission.**

Summary:

The final plat is in general conformance with the preliminary plat and the City's Subdivision Regulations.

RECOMMENDED ACTION

Approve the final plat as submitted.

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

AGENDA ITEM: 4A **FOR AGENDA OF:** December 4, 2008

DESCRIPTION: **Residential Replat: Young Subdivision** – A replat of Lots 1 and 2, Block 64, Young Subdivision located at the north corner of Fourth Street and Lytle Street, 1320 Fourth Street. Zoned: RC. (File No. 2008-65)

APPLICANT(S): Wilkie Surveying

ATTACHMENT(S): Location Map, Plat

SUMMARY STATEMENT – FINDING OF FACT

History/Timeline:

- November 3, 2008 – Replat submitted for review and consideration.
- November 14, 2008 – Notice of required public hearing mailed to all property owners within 200 feet of the replat.
- November 17, 2008 – Notice of the required public hearing published in The Kerrville Daily Times.
- November 19, 2008 – Development Review Committee (DRC) review process completed.
- November 25, 2008 – Staff comments to applicant.
- **December 4, 2008** – **Consideration of replat by Commission.**

Summary:

- Proposed replat will combine Lots 1 and 2 into one (1) lot.
- Utilities to serve the replat exist.

RECOMMENDED ACTION

1. Open the public hearing and receive comments, and
2. Approve the replat as submitted.



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

AGENDA ITEM: 4B **FOR AGENDA OF:** December 4, 2008

DESCRIPTION: **Replat: Fuddrucker Addition** – A replat of Lots 2, 3 and 4, Block One, Overstreet Park, 2.64 acres located at 1433, 1421 and 1381 Junction Highway. Zoned: PDD. (File No. 2008-60)

APPLICANT(S): Voedenbaum Engineering, Inc.

ATTACHMENT(S): Location Map, Plat

SUMMARY STATEMENT – FINDING OF FACT

History/Timeline:

- April 1996 – Final plat for Overstreet Park approved by Commission.
- October 30, 2008 – Replat of Lots 2, 3 and 4, Overstreet Park submitted for review.
- November 7, 2008 – Replat accepted for review and consideration.
- November 11, 2008 – Amended Planned Development District site plan for Ordinance No. 2004-19 approved by City Council.
- November 19, 2008 – Development Review Committee (DRC) review process completed.
- November 25, 2008 – Staff comments to applicant.
- **December 4, 2008 – Consideration of replat by Commission.**

Summary/Informational Comments:

- Proposed replat will re-configure and combine Lots 2, 3 and 4 into two (2) lots for development.
- Building and civil construction plans have been submitted and are currently under review for the development on Lot 3R.
- A Development Site Plan must be approved by the Planning and Zoning Commission, per the PDD Ordinance, prior to the issuance of a building permit.
- TxDOT approval of the access drive from SH 27 to Lot 3R.
- Sidewalks will be required along street frontages.
- Municipal utilities exist to serve this tract.
- Approval of the replat does not constitute construction approval, individual building permits will be required prior to development.
- Prior to final plat acceptance engineering plans must be submitted and approved by the City Engineer.

RECOMMENDED ACTION

1. Open the public hearing and receive comments, and

2. Approve the replat subject to the following conditions;

- A. The replat should be titled "Overstreet Park, Block One, Lots 2R and 3R, a replat of Lots 2, 3 and 4, Block One, Overstreet Park".
- B. Show all existing and proposed easements on the final plat with dimensions and labeled by type to include franchise utilities. Label existing easements as 'Existing' and provide recording information. Identify proposed easements by stating dedication method within parenthesis, ex. (By Plat).
- C. On the final plat show the floodplain and/or floodway line as approved with the FEMA case number.
- D. Remove individuals names from the signature blocks, i.e. City Engineer, Chairman, Planning and Zoning Commission.
- E. Show joint access easements, parking lot access as shown on the site plan, on the final plat.
- F. Any additions and/or alterations to the engineering plans and/or final plat as may be required by the City Engineer, and
- G. Add the following notes to the final plat;
Replace TxDOT sidewalk note with the following: If sidewalks are required the location and design must be approved by TxDOT prior to construction within State right-of-way. The developer shall provide a Texas Department of Licensing and Regulations (TDLR) approved inspection report prior to acceptance of the sidewalk within State right-of-way.

I have reviewed the replat of Lots 2R and 3R, Block One, Overstreet Park, with respect to its access to SH 27 and hereby approve this plat for recording.

Dated this _____ day of _____, 2008

Michael Coward, P.E.
Area Engineer

The 25-foot trail easement shown is part of the City of Kerrville's River Trail Project, Phase 1.



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

AGENDA ITEM: 4C **FOR AGENDA OF:** December 4, 2008

DESCRIPTION: **Sign Variance Request** – A variance to the Sign Regulations of the City of Kerrville, Section 27.3(1)(A), to allow a subdivision name sign to exceed the maximum allowable sign area of 32 (thirty-two) square feet by 71 (seventy-one) square feet located at the intersection of Las Cimas Drive and Harper Road. Zoned: ETJ. (File No. 2008-64)

APPLICANT(S): Bruce Stracke (Integrity Group Texas)

ATTACHMENT(S): Applicant's Request, Sign Variance Procedures, Review Criteria

Request:

An application submitted by Integrity Group Texas as been received requesting a variance to allow a subdivision name sign, subdivision entry sign, to exceed the allowable size of 32 square feet by 71 square feet for a total sign size of 93 square feet. The applicant proposes to attach the sign on a retaining wall on Las Cimas, near the gated entrance to the subdivision. The sign will be visible from Harper Road, see attached Exhibits A and B.

Background:

The Heights of Kerrville is a 300 acre, 55 lot single family development in the northwest quadrant of the City. The development is currently in the ETJ but by agreement will be annexed and zoned R-1 with the application for the first building permit. The City's Sign Ordinance applies to developments in the ETJ.

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 as submitted.

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.

FINDING OF FACT

As noted above, The Heights of Kerrville is a large lot single family development nearing completion in the northwest quadrant of the City. The development has two (2) points of access, an extension of Coronado Drive and Las Cimas, which intersects Harper Road, both entrances will be gated. A subdivision name sign of less than 32 square feet has been submitted for the

Coronado Drive entrance. The development will be served by City water, sewage disposal will be by on-site septic systems. All streets within the development are to be private.

RECOMMENDED ACTION

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

SIGN DETAIL

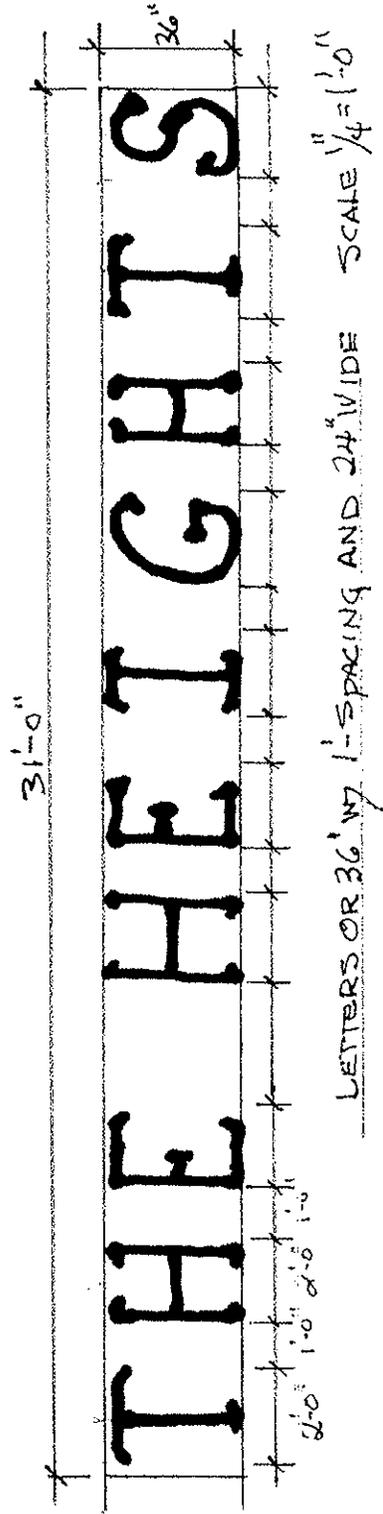
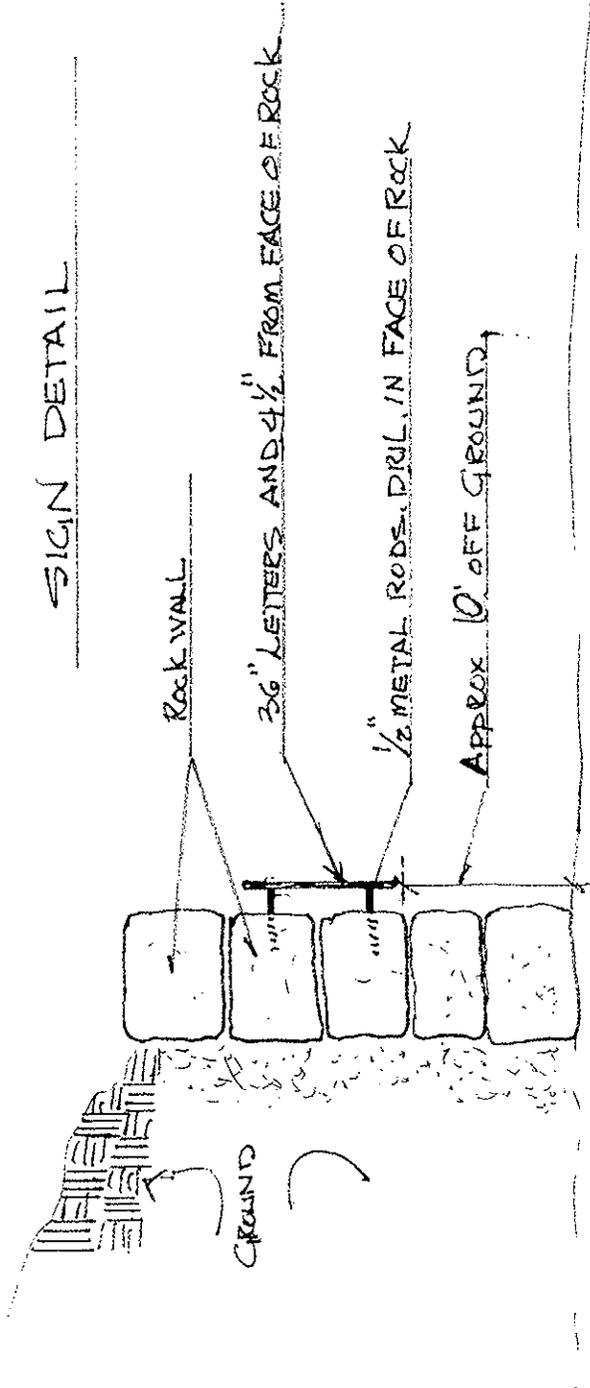




EXHIBIT B

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) **Variances:** 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.

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

AGENDA ITEM: 5A **FOR AGENDA OF:** December 4, 2008

DESCRIPTION: **Preliminary Plat and Waiver Request: Fox Ridge** – A seven (7) lot, 11.03 acre preliminary plat generally located at the intersection of Rim Rock Road and Blue Sky Lane and a waiver to Article 10-IV-4, Section (A) e, Water Supply System, of the City’s Subdivision Regulations. Zoned: ETJ. (File No. 2008-58)

APPLICANT(S): Guadalupe Survey Company

ATTACHMENT(S): Location Map, Waiver Request, Plat

These two (2) items have been styled to be heard together. The staff report below first reviews the waiver request followed by the review of the preliminary plat. The Recommended Action included by staff is provided at the end and should be made in two (2) motions, first to be considered is the waiver followed by the preliminary plat with conditions.

History/Timeline:

- September 4, 2008 – A Concept Plan for “Eagle Ridge” is reviewed by the Commission.
- October 24, 2008 – Preliminary plat for “Fox Ridge” submitted for review and consideration.
- November 5, 2008 – Development Review Committee (DRC) review process for the preliminary plat is completed.
- November 10, 2008 – Preliminary plat consideration postponed to the December 4, 2008 Commission meeting, by agreement of staff and applicant.
- November 17, 2008 – A waiver to Article 10-IV-4 (A) e, Water Supply System, of the City’s Subdivision Regulations is received by Staff.
- November 19, 2008 – Development Review Committee (DRC) review and discussion of the waiver request.
- November 25, 2008 – Staff comments to applicant.
- **December 4, 2008 – Consideration of preliminary plat and waiver request by Commission.**

General Overview:

The applicant is proposing a seven (7) lot single family development along Rim Rock Road, east of SH 16 (Medina Highway) in an area referred to as ‘Kerrville South’. The proposed lots, all of which front Rim Rock Road range in size from 1.20 acres to 3.25 acres. Water service will be provided by Aqua Texas, Inc., a private water company and each lot will have a private on-site sewage disposal system as approved by the Kerr County Environmental Health Department. Because the proposed development is within the City’s ETJ, the City’s Subdivision Regulations will apply.

Waiver Request:

As stated, the applicant is requesting a waiver to Article 10-IV-4 (A) e, Water Supply System, of the City's Subdivision Regulations, more specifically the requirement to provide fire (flow) protection to the development.

Article 10-IV-4 (A) e states;

Water Supply System: Water mains properly connected with the City water distribution system or with an alternate supply approved by the City Engineer shall be constructed as to serve adequately all lots shown on the subdivision plat for both domestic use and fire protection.

The size of water mains, the location and types of valves and hydrants, the amount of soil cover over the pipes and other features of the installation shall be approved by the City Engineer and City Fire Department and conform with the standard specifications of the City of Kerrville.

The applicant's request for waiver, see attached Exhibit A, outlines their rationale for the requested waiver. In summary the request can be stated by four (4) main points:

1. Water in this area is provided by a private water company, Aqua Texas, Inc., that is not required to provide fire protection water pressures and has no plans to do so.
2. Existing developments in the area do not currently have fire protection.
3. The solution proposed by the City's Fire Marshal will add a financial burden to future homeowners in the development.
4. There is no mechanism in place for the inspection and/or enforcement of the Fire Marshal's solution, i.e., installing fire protection sprinklers in each home and limiting the size of the living areas of each home constructed.

Waiver Procedure:

The process for requesting, hearing and the disposition of waiver requests are detailed in Article 10-IV-4, Section B of the Subdivision regulations, see attached, Exhibit B.

The Commission may recommend to the City Council a waiver of the full application of the required improvements, where because of the nature of the development, lot size, topography, distance from the City, remoteness, the improvements required would be impractical at the time of platting to install and/or maintain. Final approval for waivers must be authorized by an affirmative vote of a majority of the City Council. Staff has tentatively scheduled the hearing of this request for the January 13, 2009 City Council meeting.

Staff Summary:

Article 10-IV-4, Development Procedures, provides a mechanism for developers to request waivers to the Minimum Development Improvements required by the City's Subdivision Regulations. The applicant has made such a request per the procedures outlined in the Subdivision Regulations.

The waiver process provides a mechanism for tempering, reducing, the full application of the required minimum improvements for development. Every subdivision developer shall be required to install the improvements outlined in Section A and bear the total cost of construction of all on-site improvements.

While the applicant has the right and the regulations provide the mechanism to request this waiver, staff is concerned and obligated to remind the Commission and Council that the waiver being requested is a life safety issue and not a request to waive sidewalks or street lights. The developer has not offered a solution to address this requirement.

Preliminary Plat:

The preliminary plat for this tract was reviewed per the Minimum Development Improvements as required by the Subdivision Regulations. If the Commission recommends a waiver to the improvements outlined in the Subdivision Regulations and Council authorizes such a waiver, a modification to the conditions of approval recommended by staff will need to be made.

Summary:

- The preliminary plat under consideration is for a seven (7) lot single family development in the City's ETJ.
- The water provider in this area is Aqua Texas, Inc.
- Waste water disposal will be by private OSSF, as approved by the Kerr County Environmental Health Department.
- The City's Subdivision Regulations is the review document for this development.
- The concept plan for this development was reviewed under the name 'Eagle Ridge', because there is an existing subdivision within the County by that name this development has been renamed "Fox Ridge".

RECOMMENDED ACTION

A. Waiver Request:

1. Open the discussion, and
2. Render a decision on the requested waiver.

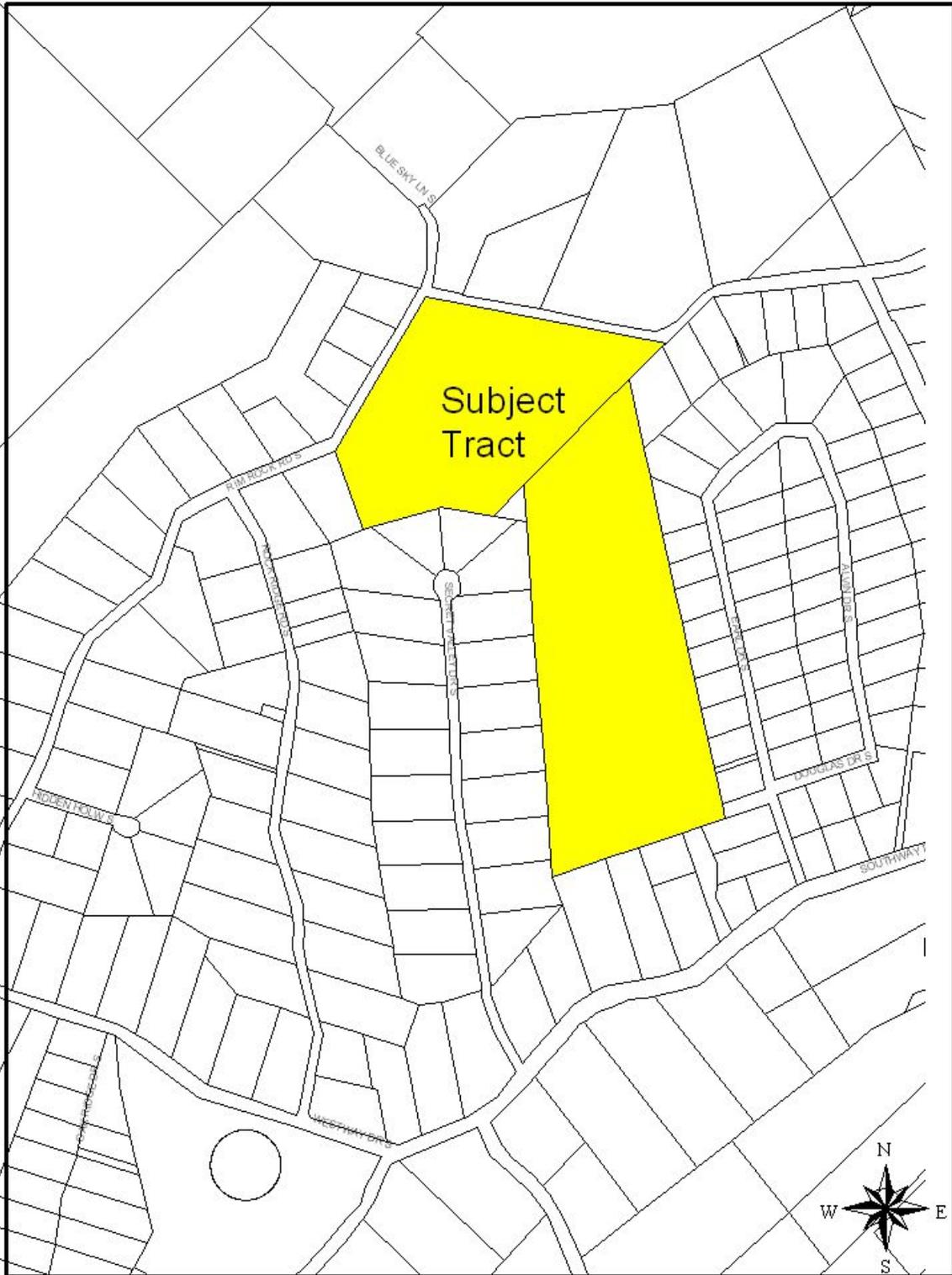
B. Preliminary Plat:

Staff recommends approval of the preliminary plat, subject to the following conditions;

1. Right-of-way dedication shown will be to Kerr, County. Provide the necessary approvals and signature block(s).
2. Remove topographic information from the final plat.
3. Remove the City Engineer's statement and signature block from the final plat.
4. Consolidate all plat notes in one (1) location and replace notes shown with the following;
 - a. This development is within the ETJ of the City of Kerrville.
 - b. The water provider for this development is Aqua Texas, Inc.
 - c. Waste water disposal is by private OSSF, as approved by the Kerr County Environmental Health Department. See below;

Prior to any type of construction on any lot, the owner of said lot shall obtain an O.S.S.F. Authorization to Construct from the Kerr County O.S.S.F. representative. All lots in the subdivision are required to comply with all current and future O.S.S.F. regulations adopted by Kerr County.

- d. All homes in this development must have an automatic fire sprinkler system installed.
- e. The maximum unit size in this development is 3600 square feet, excluding porches, decks and garages, unless a habitable space is located above the garage.
- f. Parkland dedication fees will be required at the time of final plat submittal.
- g. Electric and telephone service exists along Rim Rock Road s.
- h. There are no improvements or structures within two (2) feet of the boundary of this subdivision.



GUADALUPE SURVEY COMPANY
GUADALUPE WASTEWATER COMPANY
LAND SURVEYING & ON-SITE WASTEWATER TREATMENT SYSTEMS



217A WEST WATER STREET ◆ KERRVILLE, TEXAS 78028
Phone (830) 895-1809 ◆ Fax (830) 896-3534 ◆ Email Charlie@guadalupeonline.com

November 17, 2008

Mr. Gordon Browning
Senior Planner
City of Kerrville
800 Junction Highway
Kerrville, Texas 78028

RE: Waiver request for Fox Ridge

Dear Gordon,

In accordance with Section (B) "Waivers" of Article 10-IV-4 Development Procedures within the City of Kerrville subdivision regulations, we are asking for a waiver to Section (A) e. "Water Supply Systems" as it relates to fire protection in the ETJ. This requirement appears to be in opposition to the goals and legal responsibilities of the private companies providing water service within the ETJ. Within this waiver request, we will discuss the nature of the proposed development, particulars about the existing water system and its inability to provide fire protection, roadblocks to providing fire protection and of course, why the waiver should be granted.

Fox Ridge is a seven lot residential subdivision within the City's ETJ totaling 13.66 acres. All lots front on Rim Rock Road. The managing owner of the development is Jack Frisina who resides on near the property. Wastewater treatment and disposal will be provided by individual on-site wastewater systems and water will be provided by Aqua Texas. Aqua Texas has a 4" water main that runs along Rim Rock Road and abuts each of the lots. The City of Kerrville fire marshal knows what the lots need in order to have adequate fire protection and that is, additional water storage, a larger water main and some fire hydrants. The fire marshal states that an alternate means of providing fire protection could be achieved by installing indoor sprinkler systems in the homes within the development.

The developer has talked with Aqua Texas and they have informed him that they have no intention of upgrading their system to fire protection capabilities and further state they do not want to be responsible for fire protection water pressures and flows at the hydrants. They also say, they are **not legally bound** to provide this type service and frankly do not want to assume that liability. Moreover, even if the developer wrote a check to Aqua Texas to perform the necessary upgrades, they would refuse to accept it. Aqua Texas has told the developer that their master plan for this system calls for other changes to be made and their focus and attention will be on achieving those changes, not on providing his development with fire protection. Further, because these lots are within the Certificate of Convenience and Necessity (CCN) of Aqua Texas, the developer is prohibited from drilling his own well and supplying the water and fire protection needs for his development. With this information, we now know that upgrading the existing system or installing our own system are not viable options.

The fire marshal has been resourceful to think of another solution to provide fire protection to the homes. He has stated that protection can be provided by installing fire protection sprinklers in each home and by limiting the size of the living areas of the individual homes to less than 3,600 square feet. This requires the installation of several things and consideration of certain factors. First, an oversized water meter must be installed to handle the increased water flow in case of a fire **or** the installation of a fire line run from the water main to the house with a separate meter for the fire line installed. Either way, there are sizable additional ongoing monthly expenses associated with having an oversized meter **or** having two separate meters that will financially burden future homeowners. Secondly, piping and sprinklers have to be run and installed in all parts of the house. A fire alarm control panel needs to be installed and electricity extended to the panel. This method also adds an expense of several thousand dollars to each home and the stigma of having water lines in the attic and sprinklers above precious household and personal possessions.

The main problem with this option is that there is no mechanism for inspection and enforcement. These homes are in the ETJ and therefore the builder will not be obtaining a building permit from the City. This raises the question: "How does the City insure compliance?" Once the lots are sold, and say in three years from now, someone begins to build, who inspects the system and verifies compliance? Even though the subdivision restrictions and plat call for sprinklers, lenders, appraisers, surveyors and home inspectors, the typical players providing services to facilitate a home loan, are not in habit of nor required to: 1.) make

sure the home has a fire protection system and 2.) that is it designed and installed properly to serve its function. We know of no player in the mortgage market or within a typical homeowner's association that is required or trained to oversee such work.

There are many homes in this area but none to our knowledge have fire protection. Some areas of Kerrville South have fire hydrants but their presence provides a false sense of security. These hydrants are fed by water mains that are only 3 to 4 inches in diameter and are grossly inadequate to provide water flow rates for fire protection.

In summary, this area has a fully developed centralized water system owned by a private entity that maintains it does not need to comply with fire protection requirements. If the developer were to write a check to upgrade the Aqua Texas system, the check would be refused. In addition, by law, the developer is blocked from drilling his own well within the CCN of Aqua Texas. Further, if the City were to require that wording be placed on the subdivision plat and restrictions that sprinkler systems within the homes were necessary, there is no method to insure and enforce compliance. Since the water provider is not required and unwilling to provide fire protection at the street and there is no method to inspect and insure the installation of sprinklers in the home, we ask for a waiver to Section (A) e. Water Supply Systems.

Yours truly,



Charles Digges, RPLS
Guadalupe Survey Co.

Doc/waiver fox ridge/memstick "A"

Art. 10-IV-4 DEVELOPMENT PROCEDURES

SECTION (A) MINIMUM DEVELOPMENT IMPROVEMENTS

1. **General** A perfectly prepared and recorded subdivision or plat means little to a prospective lot buyer until he can see actual physical improvements and transformation of raw acreage into lots suitable for building purposes. Improvements by the developer spare the community of a potential tax liability.

Every subdivision developer shall be required to install monuments, streets and alleys, curbs and gutters, water mains, drainage systems, utility systems, (where applicable) sidewalks, and streetlights in accordance with specifications established by the City. The developer shall bear the total cost of construction of all on-site improvements.

The following improvements are required prior to final plat approval:

- a. **Monuments** Concrete monuments shall be established at all boundary corners of a subdivision in accordance with the standard specifications of the City of Kerrville. Variances from these standards may be allowed in cases where rock strata, unusual soil conditions, major trees, fences or other obstacles are encountered by written authorization of the City Engineer of the City of Kerrville.
- b. **Minimum Pavement Widths** Due to the diversity of development in the planning region ranging from sparsely populated agricultural areas to the densely populated urban areas, required pavement widths will necessarily vary with the character of building development and the amount of traffic encountered. Minimum pavement widths from back of curb to back of curb shall be as follows:
- | | |
|---------------------------|-------------|
| Arterial Streets | as required |
| Collector Streets | 40 ft. |
| Minor Residential Streets | 30 ft. |
| Marginal Access Streets | 24 ft. |
| Access Streets | 24 ft. |
| Alleys | 16 ft. |
- c. **Pavement** Excavation, embankment, and compaction, preparation of sub-grade, flexible base, and surfacing shall be in compliance with the standard specifications of the City of Kerrville.
- d. **Curb and Gutters** The developer shall provide permanent reinforced concrete curbs and gutters which shall be in compliance with the standard specifications of the City of Kerrville.
- e. **Water Supply System** Water mains properly connected with the City water distribution system or with an alternate supply approved by the City Engineer shall be constructed as to serve adequately all lots shown on the subdivision plat for both domestic use and fire protection.

The sizes of water mains, the location and types of valves and hydrants, the amount of soil cover over the pipes and other features of the installation shall be approved by the City Engineer and City Fire Department and conform with the standard specifications of the City of Kerrville

- f. **Sanitary Sewers** When located within the service area of the city sewage collection system or state approved sewage collection systems, sanitary sewers shall be installed in such a manner as to serve adequately all lots with connection to the public system.
- g. **[repealed by Ordinance No. 1996-04]**
- h. **Drainage Facilities** Drainage facilities shall be designed and provided to meet the approval of the City Engineer and shall be designed and constructed in accordance with the City's Design Manual for Storm Drainage Facilities and City construction standards and specifications
- i. **Sidewalks** See Ordinance No. 2004-02 for Sidewalk requirements and Ordinance No. 2006-11 for amendments. (See attached)
- j. **Streetlights**
 - 1. Streetlights shall be installed and erected in accordance with standards prescribed by the City of Kerrville.
 - 2. Streetlights easements of five (5) feet in width (2 ½ feet on each side of lot line) shall be provided for the purpose of service wire installment, when necessary for service.
- k. **Utility Placement** All utilities shall be placed underground or if the Developer so elects, they may be placed overhead if located within service drives, alleys, or rear lot easements.

SECTION (B) WAIVERS

The City Planning Commission may recommend to City Council a waiver or the tempering of the full application of the required improvements, where because of the nature of the development, lot size, topography, distance from the City, remoteness, the improvements required would be impractical at the time of platting to install and/or maintain. Provisions for required improvements to occur following recording in the form of deed restrictions should accompany all waiver requests. All requests for improvement waivers shall be submitted in writing to the City Planning Commission and shall be accompanied with the following information;

- 1. Statement of intended development;
- 2. Statement justifying the request waiver;
- 3. The nature of the waiver (ex., request for reduction of sidewalks from both sides of street to one side); and

4. Plan identification of the waiver

Final approval for waiver must be authorized by an affirmative vote of majority of the City Council.

SECTION (C) DEVELOPMENT COSTS

1. **Developer** The developer shall, at developer's expense, construct all improvements-both on site and off site-required by this ordinance and, water pumping stations, sewage lift stations, bridges, major drainage structures, and other improvements required to service the development proposed. All streets, utilities, and improvements within the City Limits shall become the property of the City of Kerrville upon completion and acceptance. The developer, at developer's expense, shall extend all water mains, sewer lines, other utilities and streets to the outer boundaries of the subdivision for future use beyond the subdivision.
2. **City** Except as otherwise provided herein, where the City requires improvements of a cost greater than that required for the subdivision itself, then the City shall pay any additional cost thereof.
3. **Right-of-Way** No portion of any right-of-way cost shall be an "additional cost" paid by the City. Except, the City Council may authorize exceptions where extra ordinary and unanticipated financial loss to the developer would otherwise result.
4. **Agreement** It is desirable that during the platting process, and prior to the City Council's determination provided below, that the Developer and the City Engineer agree, in writing, on any City "additional costs". Such agreement, however, shall not be blinding on the City Council.
5. **Payment by City** Any developer who claims that the City has required improvements of a cost greater than that required for the subdivision itself, shall make such claim in writing to the City Council prior to the final approval of the plat by the Planning and Zoning Commission. Such claim shall state the nature of the items claimed and the amount therefore. No such claim shall be paid unless approved by the City Council prior to final approval of the plat by the Planning and Zoning Commission.
6. **Illustrative Example** 300 Feet of six inch water line is required to get water to a subdivision. An additional 100 feet is needed to get across the subdivision. The City required a ten inch water line. The Developer pays for 400 feet of six inch water line. The City pays for the difference between the cost of 400 feet of ten inch line and 400 feet of six inch line.

SECTION (D) GUARANTEES IN LIEU OF COMPLETED IMPROVEMENTS

No final plat of subdivision shall be approved by the City Planning Commission or accepted for recording by the County Clerk until the improvements listed shall be constructed in satisfactory manner and approved by the City Engineer or in lieu of such prior construction, sufficient assurances which may include and irrevocable letter of credit acceptable to the City.

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

AGENDA ITEM: 6A **FOR AGENDA OF:** December 4, 2008
DESCRIPTION: Future Agenda Items
APPLICANT(S): Gordon Browning, Senior Planner
ATTACHMENT(S):

We have no items scheduled for the December 18, 2008 Commission meeting.