



**REGULAR MEETING OF THE
PLANNING AND ZONING COMMISSION**

**WEDNESDAY, SEPTEMBER 8, 2021 AT 5:30 P.M.
CITY HALL TOWN HALL, 118 EAST TYLER AVENUE, HARLINGEN, TX**

This is not a Meeting of the Harlingen Elective Commission; however, a quorum of the City Commission may be present. Other City Board members may also be present.

AGENDA

PLEDGE OF ALLEGIANCE / WELCOME

CITIZEN COMMUNICATION

1. Approval of Minutes: Regular Meeting on August 25, 2021
2. Consent Agenda
All items listed below in the consent agenda 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.
 - a. Consider and take action to approve the preliminary construction plans and final plat with conditions of the proposed Serenity Estates Subdivision being 9.38 acres of land comprised of two tracts: Tract 1 being 7.77 acres of land out of 3.44 acres of land out of the Carl F. Krieger Tract, Pendleton Subdivision; 1.48 acres out of Block 1, Stuart Place Subdivision Survey 294; a 2.85 acres of land out of Block 1, S.D. and Sally G. Pendleton Subdivision; and Tract 2 being 1.81 acres of land out of 160 ft. canal right-of-way, located on the west side of Dilworth Road south of Garrett Road. Applicant: Moore Land Surveying
3. Request for a Special Use Permit (SUP) to allow an adult business (tattoo studio) in a General Retail ("GR") District located at 1617 E. Harrison Avenue, bearing a legal description of Lot 17, Block 7, Hoskins Subdivision, and Lots 15-16, Block G, East Park Terrace Subdivision. Applicant: Gabriel Vargas
 - a. Public Hearing
 - b. Consider and take action to recommend the special use permit to the City Commission
4. Request to amend the City of Harlingen Code of Ordinances Chapter 111, Article X, Sign Regulations modifying references to political signs and removing all references to on-premise and off-premise signs that are content based and convert to form-based regulation. Applicant: City of Harlingen
 - a. Public Hearing

- b. Consider and take action to recommend the amendment to the City Commission
5. Request to amend the City of Harlingen Code of Ordinances Chapter 111, Article XVIII, Section 111-501, Description and Map of the Downtown District Overlay, by updating the boundaries and map of the district to match the boundary of the Downtown Improvement District and Section 111-509 removing regulations regarding off-premise advertisements. Applicant: City of Harlingen
 - a. Public Hearing
 - b. Consider and take action to recommend the amendment to the City Commission
6. Assistant Planning and Development Director's report by Joel Olivo, Assistant Planning and Development Director.
 - a. Report on status of items considered at the August 28, 2021 P&Z Commission Meeting:
 - i. Request for the voluntary annexation of a 1.47 acres of land consisting of Dilworth Road right-of-way. Applicant: Cameron County
 - ii. Request for the voluntary annexation of the proposed Serenity Estates Subdivision, located on the west side of Dilworth Road south of Garrett Road. Applicant: Graham
 - iii. Request to amend the Thoroughfare Plan by adding the extension of November Lane. Applicant: Moore Land Surveying
 - iv. Request for an SUP to allow a portable building greater than 144 sq. ft. in a R-1 District located at 1701 Dixieland Rd. Applicant: Harlingen CISD
 - v. Request for an SUP to allow a microblading studio at 1209 W. Tyler. Applicant: Ashley Salgado
 - vi. Request for an SUP to allow a tattoo studio at 401 S. 77 Sunshine Strip. Applicant: Tucker Guerrero
 - vii. Request for a variance to exceed the maximum 25 lot requirement of a cul-de-sac for the proposed Palm Valley Heights Subdivision located on the south side of Wilson Rd. west of Stuart Place Rd. Applicant: Tucker Guerrero
7. Planning and Development Director's report by: Xavier Cervantes, AICP Planning and Development Director:
 - i. Variance to the required 120 feet of right-of-way for Dixieland Road on the proposed Bothwell Heights Subdivision. Applicant: Melden and Hunt Engineering
 - ii. Introduce new employees Soledad Nunez and Esteefania Hernandez
8. Closed session pursuant to Section 551.071(2), Tex. Gov't Code, to consult with legal counsel regarding the Planning and Zoning Commission's roles, duties, and responsibilities to the City of Harlingen, in accordance with state and local law.

The City of Harlingen Planning and Zoning Commission reserves the right to convene into Executive Session at any time during the meeting regarding any agenda item in compliance with the Texas Open Meetings Act, Chapter 551 Government Code.

POSTED the 3rd day of September 2021, at 4:00 p.m. and to remain so posted and continuously for at least 72 hours preceding the scheduled time of said meeting.



Xavier Cervantes, AICP
Planning and Development Director

PLANNING AND ZONING COMMISSION

August 25, 2021

The regular meeting of the Planning & Zoning Commission was held Wednesday, August 25, 2021, at the City of Harlingen Town Hall located at 502 East Tyler Ave., Harlingen, Texas with the following present:

BOARD MEMBERS PRESENT:

Nick Consiglio	Chairman
Wayne Lowry	Vice-Chairman
Cesar Perez	Commissioner
Daniel Martinez	Commissioner
Lars Keim	Commissioner
David Wolf	Commissioner
JV Garcia	Commissioner (Via Zoom)

CITY STAFF PRESENT:

Xavier Cervantes	Planning and Development Director
Joel Olivo	Assistant Planning and Development Director
Soledad Núñez	Executive Secretary
Allison Bastian Rodriguez	City Attorney
Albert Molina	City Planner
Johanna Maldonado	City Planner
Kimberley Salinas	Assistant City Engineer

PLEDGE OF ALLEGIANCE/WELCOME

Chrm. Consiglio called the meeting to order on August 25, 2021 at 5:30 p.m. led the Pledge of Allegiance, and welcomed board members and the public to the meeting.

CITIZEN COMMUNICATION

Albert Molina stated that no one signed up for Citizen Communication.

1. Approval of Minutes: Regular Meeting on August 11, 2021

Chrm. Wolf made a motion to approve the minutes. Chrm. Keim seconded the motion. The motion passed unanimously.

Chrm. Wolf made a note that his last name was misspelled on the last line of the previous meeting minutes.

2. Consider and take action to approve the preliminary construction plans and final plat with conditions of the proposed IHOP at Ed Carey Subdivision, located on the east side of Ed Carey Drive and north of Hale Street. Applicant: Mario Reyna of Melden & Hunt, Inc. c/o Haidar Properties, LLC

Chrm. Consiglio stated we will get back to Consent Agendas at some point.

Chrm. Consiglio states item 2 would typically be in the Consent Agenda, but it has turned out to be just a presentation by staff.

Mr. Albert Molina summarized the following:

- The proposed IHOP Subdivision would be one commercial lot located on the East side of Ed Carey Drive, North of Hale Street.
- All the ends of construction and final plats will be addressed prior to recording of the final plat.
- Some of these conditions are for clerical or regular keeping and other conditions are documented things we need to record.
- Item one on the construction plans pertains to Harlingen Waterworks and the Fire Prevention Bureau with the first two bullet points being clerical corrections.
- Bullet point three is asking for the proposed fire hydrant to be located at the end of the proposed water line, instead of within the property.
- Bullet point four simply states that any proposed building needs to be within a certain distance of a fire hydrant. That comment is similar to building setback departments but with the reverse idea of building closer to a hydrant.
- Items 2 and 3 are conditions for record keeping
- Item 4 has conditions for thoroughfare and record keeping
- Moving onto the final flagged condition for item 1 is the condition to record with the Cameron County Clerk. They need the recording fee, they need to have certificates.
- Items 2 – 5 pertain to clerical errors on the title blocks for the mylars eventually when we do get signatures.
- Item 6 is a fee and items 7, 8, & 9 are for record keeping.
- In general when we prepare these executive summaries for the subdivisions, most of the conditions are clerical or mainly for record keeping.
- The whole intent is to put them on the Consent Agenda; these subdivisions have already been approved by staff. In the cases where they're disapproved, we don't present to P & Z Commission.
- Some of the reasons staff will disapprove are for zoning cases or subdivision variances for cul de sacs. but the whole intent of the concept is to be approved as is. These are non-issues for the subdivisions.

All items on the preliminary and final plat checklist will be addressed prior to the recording of the subdivision.

Chrm. Consiglio stated that there is no public hearing; it's just to take action.

Cmr. Wolf motioned to approve, Cmr. Martinez seconded, the motion passed unanimously.

3. Request to amend the City of Harlingen One Vision One Harlingen Thoroughfare Plan by adding the extension of November Lane east of Cook Lane. Applicant: Dustin Moore of Moore Land Surveying, LLC, c/o Steven and Carly Thomas

Mr. Albert Molina summarized the following:

- The proposed amendment to the thoroughfare map would be to extend November Lane as a collector road with 60 ft. of ROW.
- The road itself is outside city limits within the county, it would loop on the east side of Cook Lane in the general area of two 20 acre tracts of land.
- The developer of the south 20 acre tract intends to subdivide, but the development requires a second entrance.
- The proposed road will loop through the north 20 acre tract and the road location doesn't need to be in this exact location.
- The request was reviewed by the Engineering Department, and they are recommending approval of the amendment.
- The surrounding area consists mainly of vacant land and agricultural use to the north and south; and single family residential use to the east and west.

Staff recommends approval to extend November Lane.

Cmr. Perez asked: How will it work with two entrances and two exits?

City Planner Albert Molina explained the idea is to have a loop eventually with two entrances. To allow this development, they need a second entrance; the second entrance isn't going to exist yet. It's in the built format; meaning that anyone that comes in afterwards, has to connect to it and comply with the thoroughfare plan. When that happens the second entrance will be there for both subdivisions.

Cmr. Garcia asked why the developer is asking for an amendment to the thoroughfare map. Mr. Molina reiterated that the proposed subdivision in the south 20 acres could not develop otherwise.

Cmr. Garcia asked with the extension of the thoroughfare, who is responsible for paying for the improvements such as streets and water installations.

City Planner Albert Molina explained in the immediate subdivision, the developer would be responsible for the south 20 acres, and in the future for the property to the north, any future developer, who comes in afterwards would be responsible for putting in the roads and utilities and complying with the thoroughfare plan. Mr. Molina explained that the north development wouldn't be able to have any development either without a second entrance. He added that they would be sister subdivisions and they need each other to have the required two entrances. The issue is the development itself is too long for a cul-de-sac, so another entrance is needed.

Cmr. Garcia asked who's fronting the bill on the development. Is it going to be the developer or tax payer?

City Planner Albert Molina explained it'll be the developer for the first phase and in the future, the future developer of the second phase will be responsible.

Chrm. Consiglio asked for clarification that this item isn't to do any type of construction.

City Planner Albert Molina stated that he was correct. Even if the amendment is approved, the developer doesn't have to go forward with the subdivision. If they eventually do develop, it has to comply with the thoroughfare plan and the road entrances.

Chrm. Consiglio called for questions for staff.

Cmr. Garcia asked when is the last time, the city did something like updating a thoroughfare map.

City Planner Albert Molina explained off of Morris Road, there is an amendment to New Hampshire and that extended it to the north and to the south a couple of years ago, and that it was taken out. Either this year or earlier, it was added back in.

Chrm. Consiglio opened the public hearing.

City Planner Albert Molina stated there was no one for public hearing, unless the Commission had questions for Dustin Moore, from Moore Land Surveying.

Chrm. Consiglio closed the public hearing.

Cmr. Lowry motioned, Cmr. Perez seconded, Cmr. Garcia asked if he could abstain from voting. Mr. Xavier Cervantes, Planning Director, explained to Cmr. Garcia that he was only supposed to abstain from voting if there was a conflict of interest, otherwise he had to vote. Mr. Cervantes asked for clarification from City Attorney Allison Bastian Rodriguez. City Attorney Allison Bastian Rodriguez explained she wasn't familiar with anything that would require an abstention, or for everybody to vote yes or no, she said that if a board member wants to abstain they can. Cmr. Garcia abstained from voting. The motion was passed with 5 votes and 1 abstention.

Assistant Planning and Development Director's Report by Joel Olivo, Assistant Planning and Development Director:

- a. The two annexations on Dilworth Rd. were approved on the first reading by the City Commission. The second reading is scheduled for September 1st.
- b. The SUP for the property where Harlingen South is located for the portable building and the SUP for the microblading studio located on W. Tyler, and the SUP to allow a tattoo studio on 77 Sunshine Strip, have not been considered, they will be considered at the September 1st City Commission Meeting.
- c. The Variance Request for the additional lots within a cul – de – sac will also be considered at the next City Commission meeting on September 1st.

Planning and Development Director's Report by Xavier Cervantes, AICP Planning and Development Director:

- a. Workshop on the sign ordinance and Downtown District overlay, those ordinances are going before P & Z Commission at the September 8th meeting.
- b. Board Training will also occur on September 8th at 5:30pm, behind closed doors in Executive Session.

Cmr. Wolf motioned to adjourn the meeting. Cmr. Keim seconded the motion. The meeting was unanimously adjourned.

Nick Consiglio, Chairman
Planning and Zoning Commission

**AGENDA ITEM
EXECUTIVE SUMMARY**

Meeting Date: **September 8, 2021**

Agenda Item:

Consider and take action to approve the preliminary construction plans and final plat with conditions of the proposed Serenity Estates Subdivision being 9.38 acres of land comprised of two tracts: Tract 1 being 7.77 acres of land out of 3.44 acres of land out of the Carl F. Krieger Tract, Pendleton Subdivision; 1.48 acres out of Block 1, Stuart Place Subdivision Survey 294; a 2.85 acres of land out of Block 1, S.D. and Sally G. Pendleton Subdivision; and Tract 2 being 1.81 acres of land out of 160 ft. canal right-of-way, located on the west side of Dilworth Road south of Garrett Road. Applicant: Moore Land Surveying

Prepared By: Xavier Cervantes, AICP
Title: Planning and Development Director
Signature: *Xavier Cervantes*

Brief Summary:

Project Timeline

- December 23, 2021 – Original preliminary and final plat application and subdivision application submitted to the City. **(ATTACHMENT I)**.
- January 7, 2021 – Subdivision reviewed by the Subdivision Review Committee.
- January 7, 2021 – Letter sent to applicant outlining deficiencies; application deemed incomplete pending annexation of property.
- January 14, 2021 - Preliminary construction plans and final plat resubmitted to address the deficiencies noted on the subdivision review letter; application deemed incomplete pending annexation of property.
- September 1, 2021 – City Commission approved the annexation and the initial zoning to R-1 on Final Ordinance Reading.
- September 8, 2021 – Consideration of the final plat by the Planning and Zoning Commission.

Summary

- The proposed subdivision consists of two single family residential lots **(ATTACHMENT II-IV)**. It is located on the west side of Dilworth Road south of Garrett Road.
- The proposed development is consistent with the Future Land Use Plan of Low Density Residential.
- Water services will be provided by Harlingen Water Works. Wastewater disposal is provided by septic system.
- All items on the preliminary construction plans and final plat checklist will be addressed prior to the recording of the final plat. **(ATTACHMENT V)**.

Staff Recommendation:

Staff recommends approval of the preliminary construction plans and final plat with the following conditions:

Preliminary Construction Plans:

1. As per Sec. 109-124(m), drainage report: per revised drainage report, please provide letter from Cameron County Drainage District No. 5 indicating they will be adding capacity on channel or a location of their choosing equal to or greater than the required volume of 17.167 CF to mitigate this proposed subdivision.
2. As per Sec. 109-128(b), SDG, Subdivision Construction Document Submittal Packet Checklist, please include a list of proposed specifications for paving and drainage work within the ROW.

Final Plat

1. As per Section 109-91 (c)(3); (d)(8);(d)(11), submit mylar sheets; provide required tax certificates; submit check payable to the county clerk in the amount of the recording fee.
2. As per Sec. 109-91(a)(2); (d)(10), street assessments, sidewalk escrows, or other fees must be submitted prior to recording plat.
3. As per Sec. 109-91(e), plats shall be simultaneously submitted by the applicant to the appropriate entities of the Subdivision Review Committee for review, including Halringen Waterworks System.
4. As per Sec 109-124(j), all proposed subdivisions shall have approved plans for wastewater disposal before recording.

Funding (if applicable):

Are funds specifically designated in the current budget for the full amount for this purpose? Yes No*

*If no, specify source of funding and amount requested:

Finance Director's approval: Yes No N/A

City Manager's approval: Yes No N/A

Comments:

City Attorney's approval: Yes No N/A

ATTACHMENT I—APPLICATION

CITY OF HARLINGEN PLANNING AND DEVELOPMENT DEPARTMENT MASTER APPLICATION

PROPERTY INFORMATION: (Please PRINT or TYPE)

Project Address DILWORTH ROAD Nearest Intersection DILWORTH ROAD & COUNTRY LANE

(Proposed) Subdivision Name SERENITY ESTATES Lot 1-2 Block 1

Existing Zoning Designation N/A Future Land Use Plan Designation SINGLE FAMILY

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)

Applicant/Authorized Agent DUSTIN MOORE Phone 956-245-4651 FAX _____

Email Address (for project correspondence only): D.MOORELANDSURVEYING@GMAIL.COM

Mailing Address 14216 PALIS DRIVE City LA FERIA State TX Zip 78559

Property Owner JENNIFER BARTNESKY Phone 956-245-2299 FAX _____

Email Address (for project correspondence only): _____

Mailing Address 4605 WAGON WHEEL City HARLINGEN State TX Zip 78552

Select appropriate process for which approval is sought. Attach completed checklists with this application.

<input checked="" type="checkbox"/> Annexation Request..... <u>No Fee</u> <input type="checkbox"/> Administrative Appeal (ZBA)..... <u>\$125.00</u> <input type="checkbox"/> Comp. Plan Amendment Request... <u>\$250.00</u> <input type="checkbox"/> Re-zoning Request..... <u>\$250.00</u> <input type="checkbox"/> SUP Request/Renewal..... <u>\$250.00</u> <input type="checkbox"/> Zoning Variance Request (ZBA)..... <u>\$250.00</u> <input type="checkbox"/> PDD Request..... <u>\$250.00</u> <input type="checkbox"/> License to Encroach..... <u>\$250.00</u>	<input checked="" type="checkbox"/> Preliminary Construction Plans and Final Plat..... <u>\$150.00</u> <input type="checkbox"/> Minor Plat..... <u>\$100.00</u> <input type="checkbox"/> Re-Plat..... <u>\$250.00</u> <input type="checkbox"/> Vacating Plat..... <u>\$250.00</u> <input type="checkbox"/> Development Plat..... <u>\$50.00</u> <input type="checkbox"/> Subdivision Variance Request..... <u>\$25.00 (each)</u> <input type="checkbox"/> Right-of-Way / Utility Easement Abandonment..... <u>No Fee</u>
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Please provide a basic description of the proposed project: _____

SPLITTING LOT INTO TWO SINGLE FAMILY LOTS

I hereby 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.

Applicant's Signature: DUSTIN MOORE Digitally signed by DUSTIN MOORE
Date: 2021.01.13 14:41:50 -0600 Date: 1/13/21

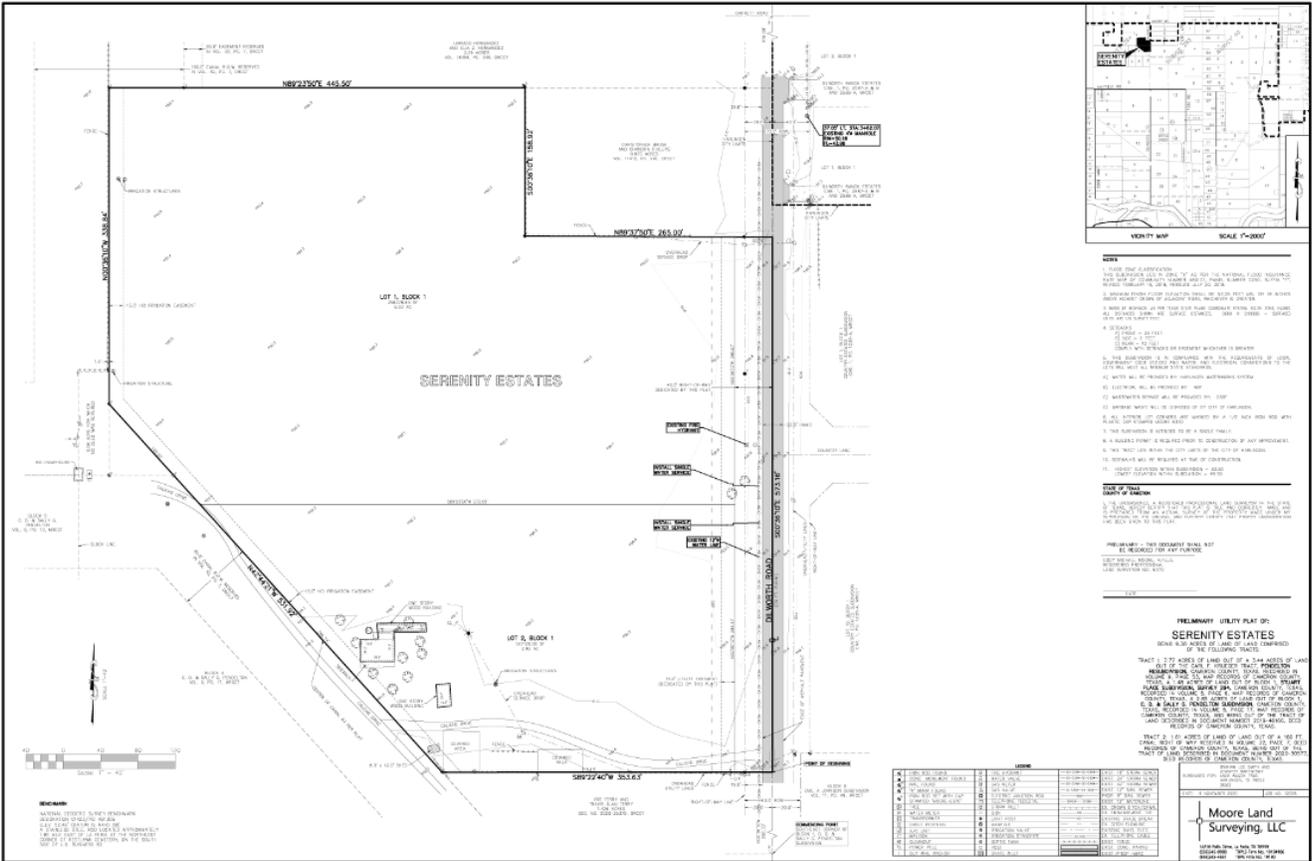
Property Owner(s) Signature: _____ Date: _____

Accepted by: _____ Date: _____

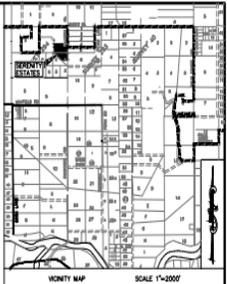
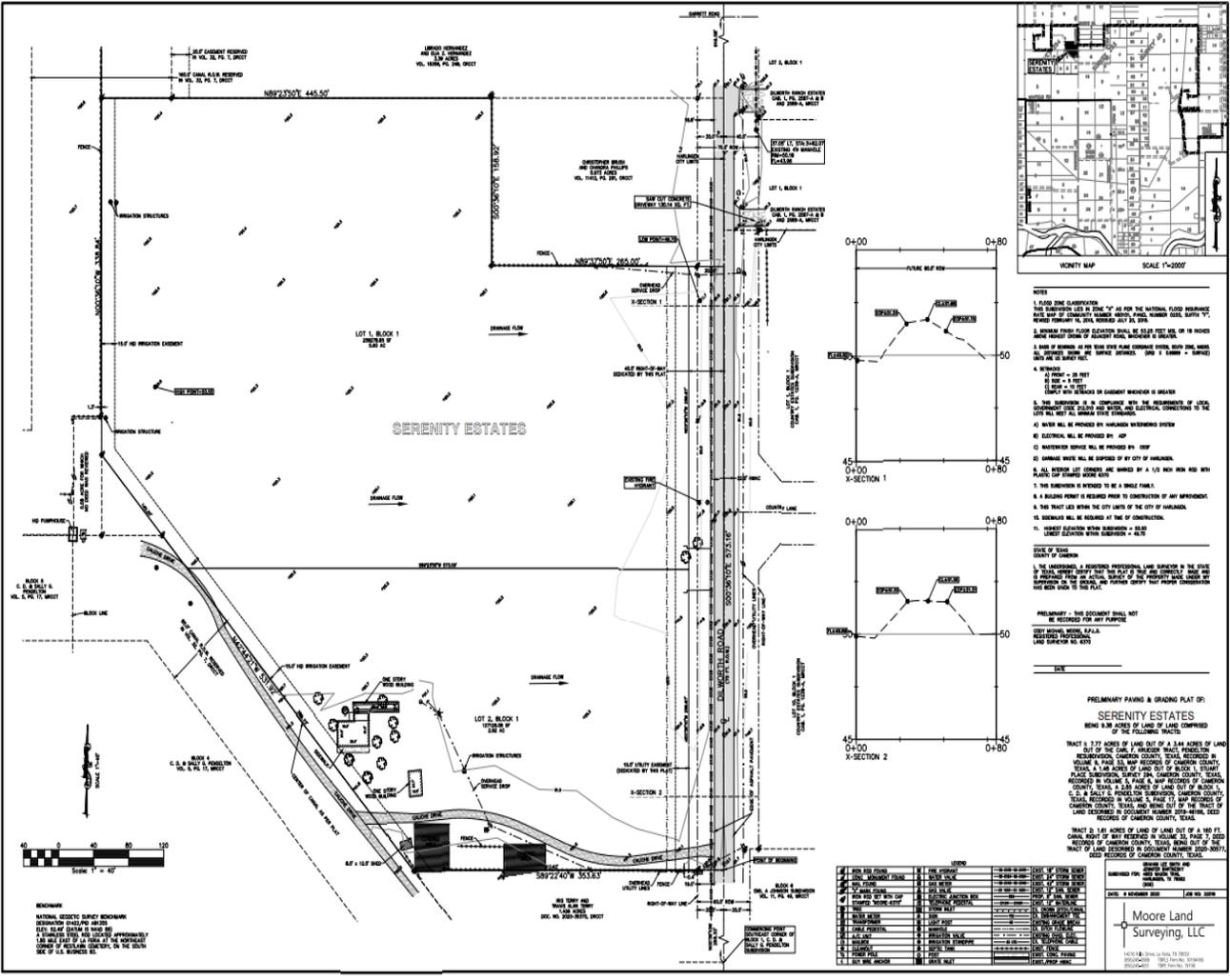
ATTACHMENT II



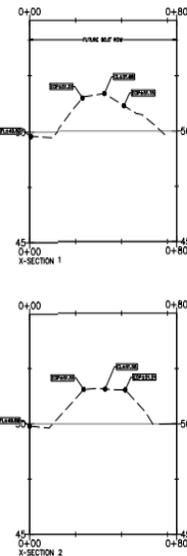
ATTACHMENT III—UTILITIES PLAT



ATTACHMENT III— PRELIMINARY PAVING AND DRAINAGE PLAT



- NOTES**
1. THE PAVING CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL FLOOD INSURANCE FILING PROGRAM (NFIP) REQUIREMENTS FOR FLOOD DAMAGE PREVENTION AND REDUCTION STANDARDS FOR NEW AND EXISTING DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS, REVISIONS JULY 24, 2015.
 2. ALL DRAINAGE STRUCTURES SHALL BE DESIGNED TO BE 15% ABOVE THE DESIGN FLOOD ELEVATION OF THE ADJACENT FLOOD HAZARD AREA.
 3. ALL DRAINAGE STRUCTURES SHALL BE DESIGNED TO BE 15% ABOVE THE DESIGN FLOOD ELEVATION OF THE ADJACENT FLOOD HAZARD AREA.
 4. THE SUBMITTER IS TO COMPLY WITH THE REQUIREMENTS OF LOCAL ORDINANCES AND TO PROVIDE ALL NECESSARY CONNECTIONS TO THE CITY OF HARLAND.
 5. ALL DRAINAGE STRUCTURES SHALL BE DESIGNED TO BE 15% ABOVE THE DESIGN FLOOD ELEVATION OF THE ADJACENT FLOOD HAZARD AREA.
 6. THE SUBMITTER IS TO PROVIDE ALL NECESSARY CONNECTIONS TO THE CITY OF HARLAND.
 7. THE SUBMITTER IS TO PROVIDE ALL NECESSARY CONNECTIONS TO THE CITY OF HARLAND.
 8. ALL DRAINAGE STRUCTURES SHALL BE DESIGNED TO BE 15% ABOVE THE DESIGN FLOOD ELEVATION OF THE ADJACENT FLOOD HAZARD AREA.
 9. THE SUBMITTER IS TO PROVIDE ALL NECESSARY CONNECTIONS TO THE CITY OF HARLAND.
 10. THE SUBMITTER IS TO PROVIDE ALL NECESSARY CONNECTIONS TO THE CITY OF HARLAND.
 11. THE SUBMITTER IS TO PROVIDE ALL NECESSARY CONNECTIONS TO THE CITY OF HARLAND.
- PRELIMINARY - THIS DOCUMENT SHALL NOT BE CONSIDERED FOR ANY PURPOSES.**
- MOORE LAND SURVEYING, L.L.C.**
LAND SURVEYORS OF OKLAHOMA



NO.	DESCRIPTION	DATE	BY	CHECKED
1	PRELIMINARY PAVING AND DRAINAGE PLAT	08/15/2024	J. MOORE	J. MOORE
2	REVISED PAVING AND DRAINAGE PLAT	08/15/2024	J. MOORE	J. MOORE
3	REVISED PAVING AND DRAINAGE PLAT	08/15/2024	J. MOORE	J. MOORE
4	REVISED PAVING AND DRAINAGE PLAT	08/15/2024	J. MOORE	J. MOORE
5	REVISED PAVING AND DRAINAGE PLAT	08/15/2024	J. MOORE	J. MOORE
6	REVISED PAVING AND DRAINAGE PLAT	08/15/2024	J. MOORE	J. MOORE
7	REVISED PAVING AND DRAINAGE PLAT	08/15/2024	J. MOORE	J. MOORE
8	REVISED PAVING AND DRAINAGE PLAT	08/15/2024	J. MOORE	J. MOORE
9	REVISED PAVING AND DRAINAGE PLAT	08/15/2024	J. MOORE	J. MOORE
10	REVISED PAVING AND DRAINAGE PLAT	08/15/2024	J. MOORE	J. MOORE

ATTACHMENT V—ENGINEERING APPROVAL LETTER



Engineering Department | 502 E. Tyler Ave. 78550 | (956) 216-5223

January 28, 2021

Andy Vigstol, PE, SIT
City Engineer
502 E. Tyler Ave.
Harlingen, Texas 78550

Mr. Joel Olivo
Assistant Director for Planning and Development
502 E. Tyler Ave.
Harlingen, Texas 78550

RE: REVIEW OF JANUARY 15, 2021 SUBMITTAL OF SERENITY ESTATES SUBDIVISION PRELIMINARY CONSTRUCTION DOCUMENTS.

Dear Mr. Olivo,

Please find comments below regarding the plat and preliminary construction documents for the above-mentioned subdivision per Section 109-128.(a) of the City of Harlingen City Ordinances.

Plat

- Approved
- Approved with Conditions
- Disapproved

Preliminary Construction Documents

- Approved
- Approved with Conditions
- Disapproved

Engineering Letter Report

Report Requirements

Required	Included	Report Name
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Drainage Study

January, 2021

1 / 2

ATTACHMENT V

Serenity Estates Subdivision

Preliminary Construction Documents Review

- | | | |
|-------------------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Geotechnical Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Subsurface Utility Engineering Report (SUE) |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Developer's Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Traffic Impact Analysis |
| <input type="checkbox"/> | <input type="checkbox"/> | Environmental Studies |

Conditions

Drainage Study

1. Per revised drainage report, please provide letter from Cameron County Drainage District No. 5 indicating they will be adding capacity on channel or a location of their choosing equal to or greater than the required volume of 17,167 CF to mitigate this proposed subdivision.

Developer's Report

1. Street assessment approved based on proposed development of 2 single family lots.
2. Sidewalk assessment approved based on proposed development of 2 single family lots.

Preliminary Paving and Drainage Plan

Conditions

1. Approved based on development of 2-single family residential lots.
2. Excavation permit will be required prior to construction within the public ROW.

List of Project Specifications

Conditions

1. Please include a list of project specifications for paving and drainage work within the ROW.

Please note that this review shall be for conformance to subdivision regulations and the responsibility and liability for the adequacy of the design shall remain with the engineer sealing the documents.

If you have any questions, please feel free to contact me at (956) 216-5280 or via email at avigstol@myharlingen.us.

Sincerely,



Digitally signed by Andy Vigstol
DN: C=US, E=avigstol@myharlingen.us,
O=City of Harlingen, OU=Engineering
Department, CN=Andy Vigstol
Reason: I am the author of this document
Date: 2021.01.28 17:21:59-06'00'

Andy Vigstol, PE, SIT

**AGENDA ITEM
EXECUTIVE SUMMARY**

Meeting Date: **September 8, 2021**

Agenda Item:

Public hearing and take action to consider a request for a Special Use Permit (“SUP”) to allow an adult business (tattoo studio) in a General Retail (“GR”) District located at 1617 E. Harrison Avenue, Suite E, bearing a legal description of Lot 17, Block 7, Hoskins Subdivision and Lots 15-16, Block G, East Park Terrace Subdivision. Applicant: Gabriel Vargas

Prepared By: Xavier Cervantes, AICP
Title: Planning and Development Director

Signature: *X. Cervantes*

Brief Summary:

Project Timeline

- July 29, 2021 – Application for a Special Use Permit (“SUP”) submitted to the City. **(ATTACHMENT I)**
- August 28, 2021 – In accordance with State and local law, notice of required public hearings published in the Valley Morning Star and mailed to all property owners within 200 feet of subject tract.
- September 8, 2021 - Public hearing and consideration of requested Special Use Permit by the Planning and Zoning Commission (P&Z).
- September 15, 2021– Public hearing and consideration of requested SUP via 1st ordinance reading scheduled before the City Commission.
- October 6, 2021 – Pending approval of 1st ordinance reading, consideration of approval of 2nd ordinance reading scheduled before the City Commission.

Summary

- Per the Code of Ordinances, the “adult business” use in the “GR” District requires the approval of an SUP by the City Commission.
- The applicant is requesting a special use permit to allow a tattoo studio in Suite E of the Harrison Plaza. Suite E is currently vacant. The applicant is proposing to occupy the entire suite with 1250 total square-foot space and open a tattoo studio under the name of “Ballistic Ink,” **(ATTACHMENT II and III)**
- The proposed hours of operation for the establishment is Tuesday through Saturday from 10:00 a.m. to 6:00 p.m. Based on the size of the suite, nine (3) parking spaces are required and 29 parking spaces are provided in the common parking area of the Harrison Plaza, which includes “Healthy Life,” “Manning Survival Supply,” “Posh Hair Studio,” “Crown Financial Insurance,” “Elidas Hair Creations,” and “Bonilla and Chapa Law Office,” **(ATTACHMENT V)**
-

- The surrounding properties are zoned General Retail (“GR”) District to the south, east and west, and Residential, Single Family (“R-1”) to the north. The surrounding land uses include residential homes to the north, a commercial plaza to east and south and commercial building to the west.
- The City of Harlingen Building Inspections, Health, Fire Prevention and Police Departments reviewed the SUP application. The Building Inspection, Health, Fire Prevention and Police Departments reported no objection to the proposed request. **(ATTACHMENT VI-VIII)**
- The applicant must obtain and maintain the proper State permits.
- To the present, the Planning and Development Department has not received any objections to the request from surrounding property owners.
- In accordance with the zoning ordinance, the P&Z and City Commission may impose requirements and conditions of approval as are needed to ensure that a use requested by a SUP is compatible and complementary to adjacent properties.

Funding (if applicable):

Are funds specifically designated in the current budget for the full amount for this purpose? Yes No*

*If no, specify source of funding and amount requested:

Finance Director’s approval: Yes No N/A

Staff Recommendation:

Staff recommends approval of the request subject to compliance with the following conditions:

1. Maintain the required off street parking spaces in accordance with City regulations;
2. Maintain the existing landscaping;
3. Must obtain and maintain the proper State permits; and
4. Comply with requirements administered by the Planning and Development, Building Inspections, Health, Fire Prevention and Police Departments.

City Manager’s approval: Yes No N/A

Comments:

City Attorney’s approval: Yes No N/A

Attachment I

CITY OF HARLINGEN PLANNING AND DEVELOPMENT DEPARTMENT
MASTER APPLICATION

PROPERTY INFORMATION: (Please PRINT or TYPE)

Project Address 1617 East Harrison Nearest Intersection Harrison + 17th St
(Proposed) Subdivision Name N/A Lot N/A Block N/A
Existing Zoning Designation N/A Future Land Use Plan Designation N/A

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)

Applicant/Authorized Agent Gabrial Vargas Phone 956 556 1890 FAX _____
Email Address (for project correspondence only): gizmogabe40@gmail.com
Mailing Address 601 West 6th Ave City Los Indios State TX Zip 78567
Property Owner PAUL RODRIGUEZ Phone 956 293 0461 FAX 956 428 7529
Email Address (for project correspondence only): angelopluma@gmail.com
Mailing Address 1701 S Palau Blvd City Hgan State TX Zip 78552

Select appropriate process for which approval is sought. Attach completed checklists with this application.

- | | |
|---|--|
| <input type="checkbox"/> Annexation Request..... No Fee | <input type="checkbox"/> Preliminary Construction Plans and Final Plat..... \$150.00 |
| <input type="checkbox"/> Administrative Appeal (ZBA)..... \$125.00 | <input type="checkbox"/> Minor Plat..... \$100.00 |
| <input type="checkbox"/> Comp. Plan Amendment Request... \$250.00 | <input type="checkbox"/> Re-Plat..... \$250.00 |
| <input type="checkbox"/> Re-zoning Request..... \$250.00 | <input type="checkbox"/> Vacating Plat..... \$250.00 |
| <input checked="" type="checkbox"/> SUP Request/Renewal..... \$250.00 | <input type="checkbox"/> Development Plat..... \$50.00 |
| <input type="checkbox"/> Zoning Variance Request (ZBA)..... \$250.00 | <input type="checkbox"/> Subdivision Variance Request..... \$25.00 (each) |
| <input type="checkbox"/> PDD Request..... \$250.00 | <input type="checkbox"/> Right-of-Way / Utility Easement Abandonment..... No Fee |
| <input type="checkbox"/> License to Encroach..... \$250.00 | |

Please provide a basic description of the proposed project: Ballistic Ink is a tattoo and piercing studio offering services to the general public

I hereby 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.

Applicant's Signature: [Signature] Date: July 29 2021
Property Owner(s) Signature: [Signature] Date: July 29 2021
Accepted by: _____ Date: _____

**PLANNED DEVELOPMENT DISTRICT (PDD) REQUEST
SPECIFIC USE PERMIT (SUP) REQUEST
SUBMITTAL CHECKLIST**

Please submit the following items along with the completed master application and appropriate fees. The project cannot be scheduled for consideration unless all items are marked complete. Citations come from the Zoning Ordinance.

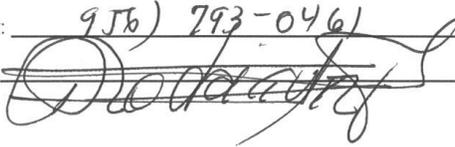
Complete

- One (1) copy of a comprehensive site plan showing the proposed development of the property. The site plan shall consist of the following items, as applicable:
 - Existing/proposed building footprints and building heights (or buildable areas for single and two-family residential); and
 - Locations of proposed uses; and
 - Ingress and egress to/from property;
 - Existing/proposed streets in compliance with the City of Harlingen Long Range Thoroughfare Plan; and
 - Existing/proposed sidewalks; and
 - Existing/proposed utilities; and
 - Existing/proposed drainage; and
 - Existing/proposed parking spaces.
 - A written statement describing the proposed use(s) of the subject property.
 - Any other information (elevation drawings, pictures, etc.) in support of the subject request.
-
- I understand that I am requesting an amendment to the City's Zoning Ordinance and it will not be scheduled for Planning and Zoning Commission review unless all items on this list are completed.
 - I understand that in accordance State law and the Zoning Ordinance, no later than ten (10) days prior to consideration by the Planning and Zoning Commission:
 - A notice will be published in the Valley Morning Star describing the request and the date, time, and location of the public hearing; and
 - Notices will be mailed to all property owners within 200 feet of the tract describing the request and the date, time, and location of the public hearing.
 - I understand that while all requirements for the submittal of a PDD or SUP request may be complete, the City Commission is the sole authority for the consideration and approval or denial of the request.
 - I understand that the purpose of a PDD or SUP is to allow for development not otherwise authorized in the Zoning Ordinance. Hence, the Planning and Zoning Commission and/or City Commission may impose development standards important to the health, safety, welfare, and protection of the proposed development and the adjacent property and its occupants.

Owner: Raul Rodriguez Date: 7/29/2021

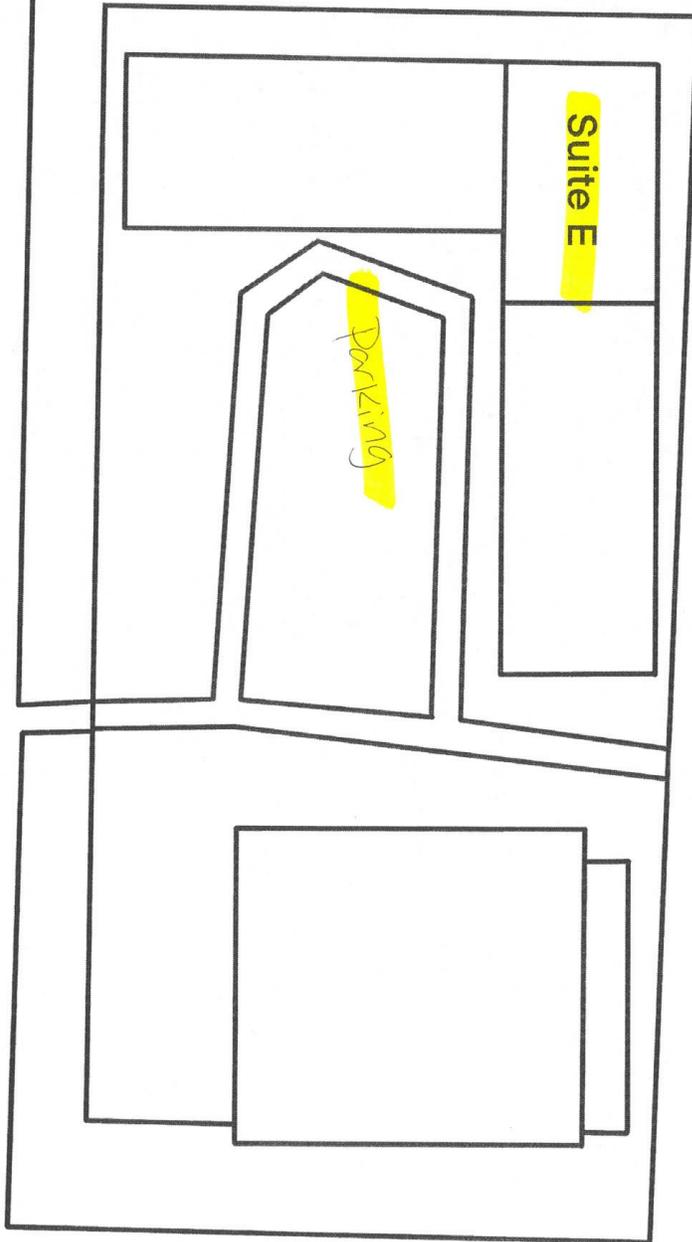
Owner Address: 1701 S. Palm Blvd

Phone/Fax: 956) 793-0461

Signature: 

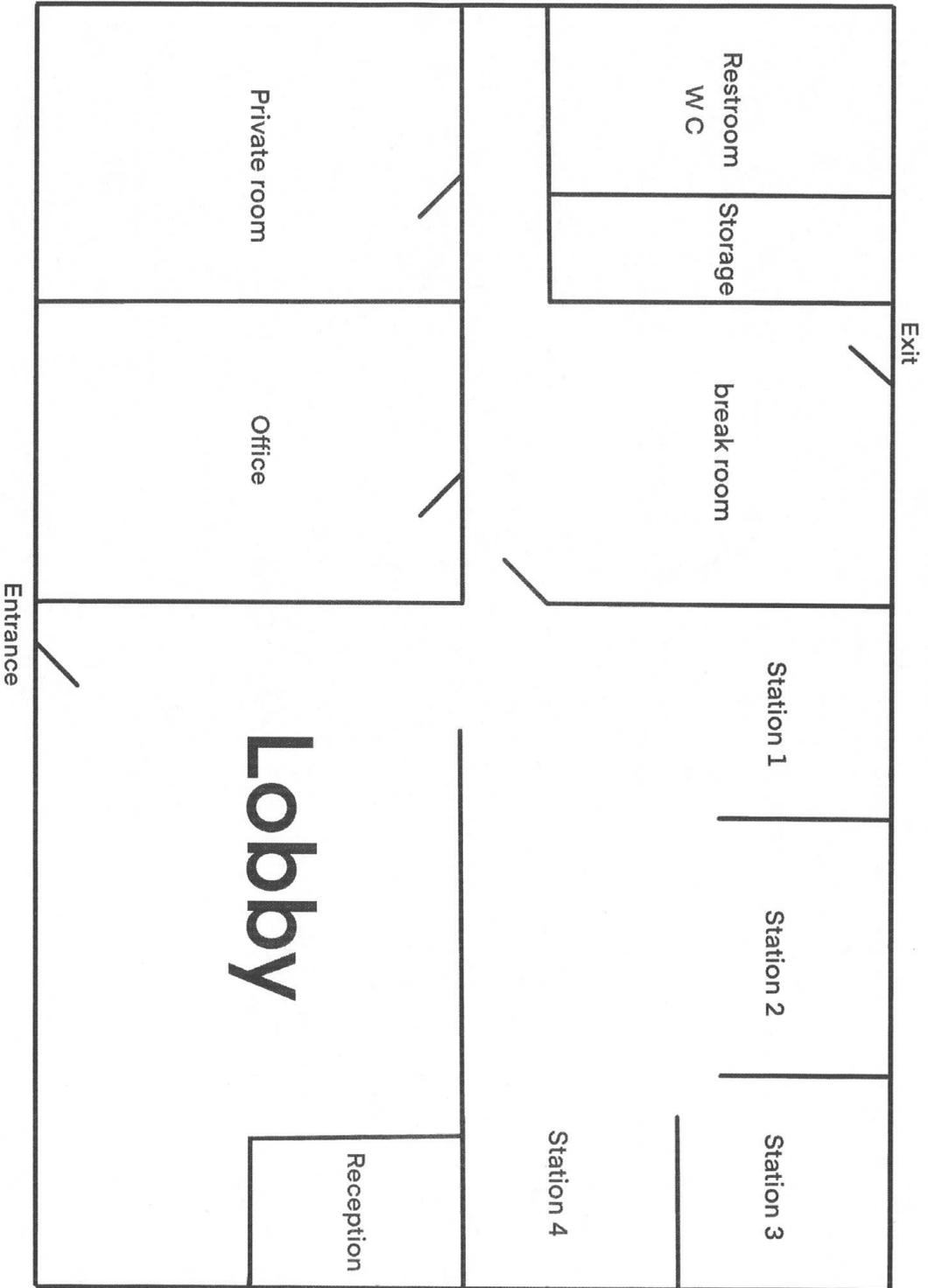
Attachment II

1617 E Harrison Ave,
Harlingen, TX 78550



E Harrison Ave →

Attachment III



Attachment IX

Ballistic Ink LLC
1617 East Harrison Ave
Suite E
Harlingen Texas 78550

To whom it may concern:

Ballistic Ink LLC has shown interest opening our new location in Harlingen Texas. The proposed location is 1617 East Harrison. The goal of our business is to provide the finest tattoo and piercing services to the residents of the city of Harlingen and its surrounding communities. Ballistic Ink LLC has a combined 50 years of tattooing, retail sales and customer service experience. We feel that the city of Harlingen is a city that can benefit and will embrace the goal of what Ballistic Ink is wanting to bring to its residents. A safe, clean environment and the best customer service is a top priority for our company and we look forward to servicing the citizens of the city of Harlingen and Cameron County. If you have any questions or concerns, please feel free to contact me at 956-556-1890. Thank you and we look forward to hearing from you soon.

Sincerely

Gabriel Vargas
Owner Ballistic Ink LLC
956-556-1890

Attachment V



Attachment VI



SUP Request Routing Slip

Applicant: Gabrial Vargas

Phone No.: (956) 556-1890

Location: 1617 East Harrison

Project Description: SUP request to allow an adult business (tattoo shop) in a GR zone.

Department: HARLINGEN POLICE DEPARTMENT

Approval: YES NO

Comments:

A handwritten signature in black ink, appearing to read 'Gabrial Vargas', written over a horizontal line.

Signature

9-2-21

Date

Attachment VII



SUP Request Routing Slip

Applicant: Gabrial Vargas

Phone No.: (956) 556-1890

Location: 1617 East Harrison

Project Description: SUP request to allow an adult business (tattoo shop) in a GR zone.

Department: Building Inspections

Approval: YES NO

Comments: A re-occupancy inspection will be required upon SUP approval.


Signature

09-03-21
Date



Specific Use Permit ("SUP") Routing Slip

Applicant: Gabriel Vargas

Phone No.: (956) 556-1890

Location: 1617 East Harrison Ave

Project Description: SUP request to allow an adult business (tattoo shop) in a GR zone.

Department: Fire Prevention Bureau

Approval: X YES NO

Comments: **Applicant will have to meet any codes, regulations, ordinances, and standards required for permit.**

Fire Marshal Juan Saucedo Jr.

Juan Saucedo Jr

Date: August 31, 2021

ORDINANCE NO. 21-_____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: TO ISSUE A SPECIAL USE PERMIT TO GABRIEL VARGAS TO ALLOW AN ADULT BUSINESS (TATTOO STUDIO) IN A GENERAL RETAIL (“GR”) DISTRICT LOCATED AT 1617 E. HARRISON, STE E, BEARING A LEGAL DESCRIPTION OF LOT 17, BLOCK 7 HOSKINS SUBDIVISION AND LOTS 15-16, BLOCK G, EAST PARK TERRACE SUBDIVISION, AND DEALING WITH RELATED MATTERS

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen’s Zoning Ordinance procedure, has recommended a special use permit for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed special use permit having been fully made and complied with as required by said Code of Ordinances and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

BE IT ORDAINED BY THE CITY OF HARLINGEN

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being issued a special use permit as indicated:

To issue a Special Use Permit to Gabriel Vargas to allow an adult business (tattoo studio) in a General Retail (GR) District located at 1617 E. Harrison, bearing a legal description of the Lot 17, Block 7, Hoskins Subdivision and Lots 15-16, Block G, East Park Terrace Subdivision, subject to: (1) must maintain the required off-street parking spaces in accordance with City regulations; (2) must maintain the existing landscaping in accordance with city regulations; (3) must obtain and maintain the proper State permits; (4) must comply with the requirements administered by the Planning and Development, Building Inspections, Health, Fire Prevention, and Police Departments.

The provisions prohibiting the violation of the Zoning Ordinance shall continue in full force and effect and apply to this amendment.

The special use permit is made contingent upon a site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as **EXHIBITS “A”**.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

FINALLY ENACTED this _____ day of _____, 2021, at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with **TEXAS GOVERNMENT CODE, CHAPTER 551**.

CITY OF HARLINGEN

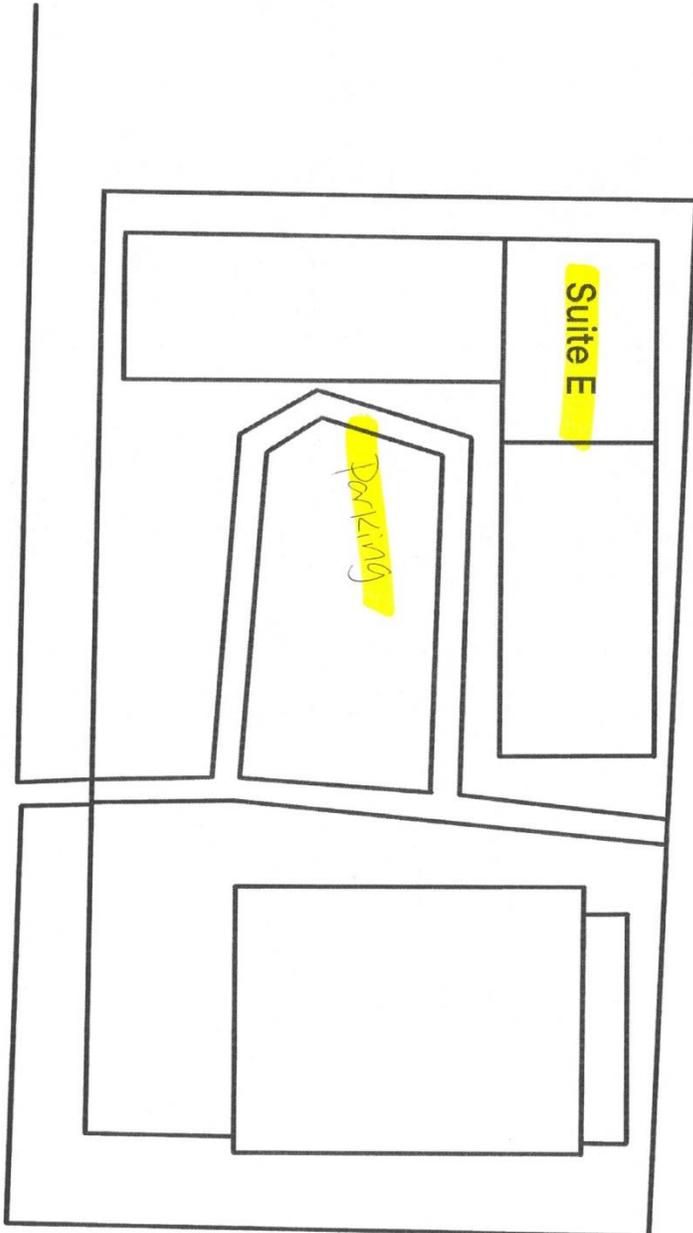
Chris Boswell, Mayor

ATTEST:

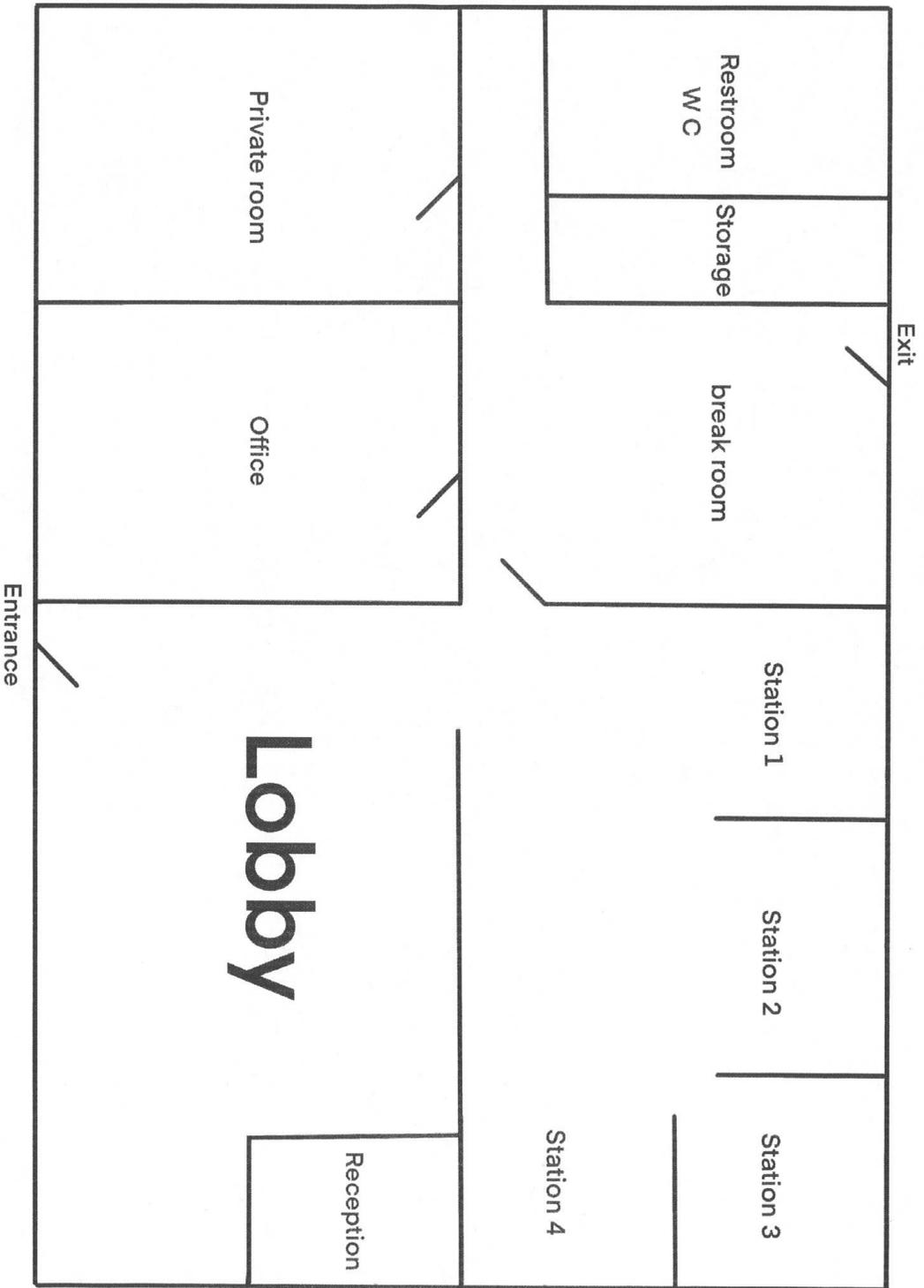
Amanda C. Elizondo, City Secretary

EXHIBIT "A"

1617 E Harrison Ave,
Harlingen, TX 78550



E Harrison Ave →



**AGENDA ITEM
EXECUTIVE SUMMARY**

Meeting Date: **September 8, 2021**

Agenda Item:

Public hearing and take action to consider a request to amend the City of Harlingen Code of Ordinances Chapter 111, Article X, Sign Regulations modifying references to political signs and removing all references to on-premise and off-premise signs that are content based and convert to form-based regulation. Applicant: City of Harlingen

Prepared By: Xavier Cervantes, AICP
Title: Planning and Development Director

Signature: *X. Cervantes*

Brief Summary:

Project Timeline

- August 16, 2021 – Workshop is held with the Planning and Zoning Commission
- August 28, 2021 – In accordance with State and local law, notice of required public hearings published in the Valley Morning Star.
- September 8, 2021 - Public hearing and consideration of requested zoning ordinance amendment by the Planning and Zoning Commission.
- September 15, 2021 - Public hearing and consideration of requested zoning ordinance amendment via 1st ordinance reading scheduled before the City Commission.
- October 6, 2021 - Pending approval of 1st ordinance reading consideration of approval of 2nd ordinance reading scheduled before the City Commission.

Summary

- In anticipation of an upcoming case going before the United States Supreme Court staff expects all municipal regulations regarding on-premise and off-premise advertising to be declared unconstitutional since they are content-based in violation of the Freedom of Speech. Attached to the summary are sections of the City of Harlingen Code of Ordinances, Chapter 111, Article X, proposed for amendments. These amendments have been drafted to keep abreast of current developments in sign regulation that depend on objective regulatory criteria.
- The proposed amendments to the Code of Ordinances generally consist of four changes being the following:
 1. Any references to on-premise and off-premise signs are removed from the sign regulations.
 2. Distance guidelines are clarified for new billboard signs. These amendments are addressed on Section 111-277(d).
 3. References to political signs are modified to only regulate them if located within the city right-of-way or if they are a traffic hazard.
 4. The allowance of portable signs is removed from the ordinance.
 5. The total signage allowed for properties in a GR District that are within 600 feet of the expressway is being increased to 6 square feet for every linear foot of building facing the street.

- The proposed changes to the Code of Ordinances have been reviewed and approved by the City Attorney.
- The proposed changes to the Code of Ordinances are noted on the attached ordinance with the additions **underlined** and the deletions **~~stricken~~**.

Funding (if applicable):

Are funds specifically designated in the current budget for the full amount Yes No*

*If no, specify source of funding and amount requested:

Finance Director's approval: Yes No N/A

Staff Recommendation:

Staff recommends approval subject to the ordinance.

City Manager's approval: Yes No N/A

Comments:

City Attorney's approval: Yes No N/A

ORDINANCE NO. 21-_____

AN ORDINANCE AMENDING THE CITY OF HARLINGEN CODE OF ORDINANCES CHAPTER 111, ARTICLE X, SIGN REGULATIONS REMOVING ALL REFERENCES TO POLITICAL SIGNS AND REMOVING REFERENCES TO ON-PREMISE AND OFF-PREMISE SIGNS THAT ARE CONTENT BASED AND CONVERT TO FORM BASED REGULATION; AND PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING

WHEREAS, The amendments are also consistent with the purpose of the One Vision One Harlingen Comprehensive Plan which is to provide a growth-friendly environment that also preserves and enhances the architectural character of the area; and

WHEREAS, major amendments to the sign regulations removing content-based are necessary to protect freedom of speech under the United States Constitution; and

WHEREAS, elimination of the on-premise, off-premise sign distinction will allow the City to avoid any issues or concerns about content-based regulation that could implicate First Amendment regulatory issues; and

WHEREAS, The City Commission of the City of Harlingen desires to amend the City's sign regulations to keep abreast of current developments in sign regulation that depend on objective regulatory criteria.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, THAT:

SECTION I: That the City of Harlingen Code of Ordinances, Chapter 111, Zoning, Article X, Sections 111-275 thru 284, are hereby amended by adding the language underlined (added) and deleting the language that is stricken through (~~stricken~~) to read in full as follows:

ARTICLE X. - SIGN REGULATIONS

Sec. 111-275. - Sign definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words and phrases not defined in this section but defined elsewhere in this chapter shall be given the meanings set forth in the chapter. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

Animated sign means any sign that uses movement or change of lighting to depict action or create a special effect or scene, or which is designed and constructed to give a message through a sequence of progressive changes in parts by either action or motion, flashing or color changes, requiring electrical or manual energy. This definition includes, but is not limited to, digital signs.

Balloons means any sign that floats above the ground, motorized or nonmotorized.

Banner means any sign of lightweight fabric or similar material that is permanently mounted in accordance with section 111-280(e). Flags without a commercial message or intent shall not be considered banners.

Beacon means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move (contact airport management before placement).

Bench sign means any sign painted on street furniture, especially bus stop benches.

Billboard sign means an outdoor board for displaying advertisements.

Building marker means any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Canopy sign means any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. (A marquee is not a canopy.)

Changeable copy sign means a sign, or portion thereof, with characters, letters, numbers, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this article. A sign on which the only copy that changes is an electronic or mechanical indication of time and/or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this article.

Commercial message means any sign, wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Digital Signs – see animated sign

Flag means any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used as a symbol of a government, political subdivision, or other noncommercial entity.

Freestanding sign means any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from (i.e., not attached to) any building or other structure.

Incidental sign means a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

Landmark sign means any sign of artistic or historic merit, uniqueness, or of extraordinary significance as may be identified by the national, state, or local historic commission, or other official agency or board identified in this article to make such a determination.

Lot means land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as required under this article, and having its principal frontage upon a public street (same as *Premises*).

Marquee means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Nonconforming sign means any sign previously permitted and/or allowed existing at the time of the adoption of the ordinance from which this article is derived that does not conform to the requirements of this article.

~~*Off-premises sign* means a sign advertising a product, service, or other type of communication which is on a lot which is not the location at which the product or service is offered.~~

~~*On-premises sign* means a sign advertising a product or service on a lot at which the product or service is offered.~~

Pennant means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Permanent sign means a sign that is securely attached to a building or premises according to building codes.

Political sign means any sign which promotes a candidate for any public office or which advocates a position on any social issue as its primary purpose. Political signs are considered ~~noncommercial signs and are~~ a special category of temporary sign ~~that require permitting for all signs 36 square feet or larger.~~

Portable sign means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to, leaning against, placed inside of, or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Premises means land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as required under this article, and having its principal frontage upon a public street (same as *Lot*).

Projecting sign means any sign built in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Real estate sign means any sign used for the primary purpose of advertising the availability of real property for sale.

Residential sign means any sign located in a district zoned for residential uses that contains no commercial message.

Roof sign means any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Roof sign, integral, means any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Sandwich board sign means self-supporting A-shaped portable signs with only two visible sides that are situated adjacent to a business, typically on a sidewalk, that contains commercial speech. ~~The maximum area of such sign shall be no more than six square feet per side with the maximum height being 42 inches. Sandwich board signs shall not be illuminated, nor shall they contain moving parts or have balloons, streamers, pennants, or similar adornment attached to them.~~ (Note: restriction moved to 111-277(b)(7))

Sign means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity or product, or to communicate information of any kind to the public and visible from the public right-of-way or another property.

Street frontage means the distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

Suspended sign means a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary construction sign means a sign used to promote the contractor, bank or other business involved in or responsible for construction taking place on the premises.

Temporary sign means any sign that is used only temporarily in accordance with this section and is not permanently mounted according to building codes.

Wall sign means any sign attached parallel to, but within 12 inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Window sign means any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside or outside of a window or on the window panes or glass and is visible from the exterior of the window.

(Code 1997, § 159.096; Ord. No. 02-09, 1-19-2002; Ord. No. 03-58, 9-3-2003; Ord. No. 08-32, 4-16-2008; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-276. - Purpose and applicability.

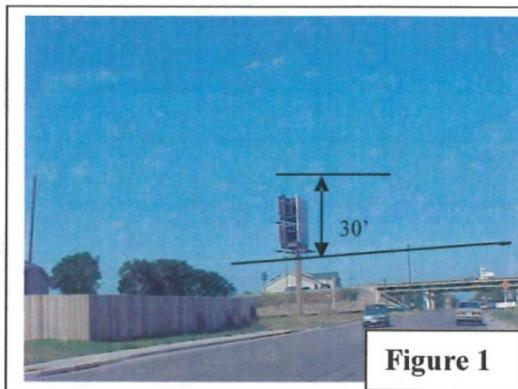
- (a) This section is to establish a permit system for ~~on-premises as well as off-premises~~ signs to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this article.
- (b) The purpose of these sign regulations are to protect, promote, improve and provide for the public health, safety and general welfare of the citizens of the City and:
 - (1) To encourage the effective use of signs as a means of communication ~~in the city;~~
 - (2) To maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth;

- (3) To improve pedestrian and traffic safety;
- (4) To minimize the possible adverse effect of signs on nearby public and private property;
- (5) To enable the fair and consistent enforcement of these sign restrictions;
- (6) To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this article, but without a requirement for permits;
- ~~(7) To provide for temporary signs without commercial messages in limited circumstances in the public right-of-way;~~
- ~~(8)~~ (7) To prohibit all signs not expressly permitted by this article; and
- ~~(9)~~ (8) To provide for the enforcement of this article.

(Code 1997, § 159.085; Ord. No. 02-09, 1-19-2002; Ord. No. 08-32, 4-16-2008; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-277. - Height, area and distance requirements and restrictions.

(a) *Height.* The height of a freestanding sign shall be computed as the vertical distance from the base of the sign at the roadbed grade (or the surface grade beneath the sign if not flush with the ground) to the top of the highest attached component of the sign. Along elevated expressway sections, the height shall be measured from the centerline of the main traveled way (see Figure 1).



Maximum Sign Heights

Zoning Designation *	N	R1	R2	RPH	M1	M2	MH	PD	O	NS	GR	LI	HI
On-premises Sign	na	10 feet	10 feet	10 feet	15 feet	15 feet	15'	**	25 feet	30 feet	50 feet ^	50 feet ^	50 feet ^
Off-premises sign	na	na	na	na	na	na	na	**	na	na	30 feetΔ	30 feetΔ	30 feetΔ

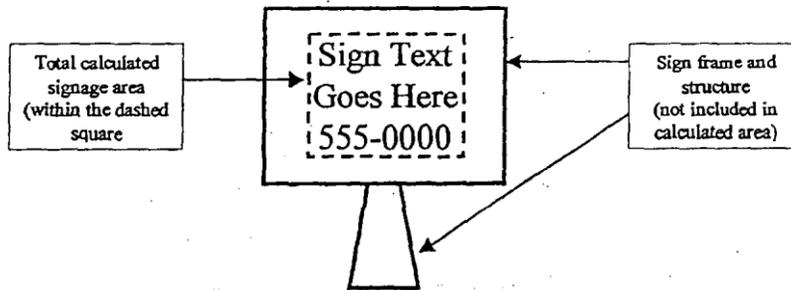
* For zoning designation explanations, see section 111-59.

** For planned development requirements, see section 111-332.

^Within 600 feet of Expressway 77/83, Expressway 83 or Future Interstate 1-69, maximum ~~on-premises~~ sign height is 80 feet ~~and maximum off-premises sign height is 42.5 feet~~ (Distances are measured along public rights-of-way at 90 degree angles).

(b) Area.

- (1) *Individual signs.* The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof, that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. This does not include any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets chapter regulations and is clearly incidental to the display itself (see example below).



- (2) *Multi-faced signs.* ~~The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any given point.~~ When two or more sign faces are placed back to back, so that only one face can be seen by approaching traffic at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- (3) *Total permitted sign area.* The permitted sum of the area of all individual signs on a premises shall be computed by adding the area of each individual sign. Total sign area permitted is based on linear foot building frontage on either a street, ~~or~~ access easement or side of a building visible from a public street as defined in the table in subsection (b)(6) of this section. Lots fronting on either two or more streets, or access easements are allowed the permitted sign area for each street frontage. ~~However, the total sign area that is oriented toward a particular street or access easement may not exceed the portion of the lot's total sign area allocation that is derived from the lot frontage on that street.~~ In addition, multiple lots may pool together their frontages to allow for a larger shared sign at an appropriate location.
- (4) *Painted signs.* Lettering painted on buildings will require a permit and will be counted toward maximum sign area allowed.
- (5) *Placement.* No sign shall obstruct traffic or violate the sight triangle visibility as defined in section 111-581. No sign with a commercial message shall be placed in the right-of-way without first obtaining a license to encroach.
- (6) *Existing multi-tenant and/or retail/shopping centers in "GR" zones.* Such centers in existence on June 2, 2010, shall follow the total permitted sign area requirements of this section, except as follows:
- New tenants in a tenant space with no existing signage (from a previous tenant) shall be allowed a minimum of 32 square feet of signage on said tenant space, regardless of the total permitted sign area calculation for the center;

- b. New tenants in a tenant space with existing defunct signage shall be allowed to replace said defunct sign with no more sign area than that of the defunct sign, unless an increase would be allowed under the total permitted sign area for the center; and/or
- c. New tenants in the anchor tenant space shall be allowed signage under the total permitted sign area calculation for the center, or a no more than a 30 percent increase in sign area on the anchor tenant space from that of the previous anchor tenant, whichever is greater. The latter option (30 percent) shall be allowed on one occasion only (i.e., if the 30 percent option is used by a new anchor tenant, future anchor tenants in the same space may not repeat the option).

Maximum Total Sign Area													
Zoning Designation	N	R1	R2	M1	M2	MH	PD	O	NS	GR	LI	HI	
On-premises Signs													
Square feet of sign allowed per linear foot of building facing street, or access easement <u>or side of building visible from a public street</u> (regardless of height)	N/A	0.3	0.4	0.4	0.4	0.4	**	1.0	0.5	3.0 ^{***}	1.2 ^{****}	1.2	
Off-premises signs													
Maximum number of total square feet (see multi-faced signs above)	N/A	N/A	N/A	N/A	N/A	N/A	**	N/A	N/A	672 #	672 #	672 #	

* For zoning designation explanations, see section 111-59.

** For planned development requirements, see section 111-332.

~~*** Maximum total sign area shall be no less than 100 square feet, and no less than 175 square feet when located along Expressway 77/83, Expressway 83 or Future Interstate 4-69. All properties in the GR District are allowed to have a minimum of 100 square feet of total sign area. Properties adjacent to the Expressway 77/83 or within 600 feet of the Expressway shall be allowed 6 square feet of total sign area per linear foot of building facing a public street, access easement or a side of building visible from a public street.~~

**** Commercial use in a LI District is allowed 3.0 square feet per linear foot of building facing either a street or access easement.

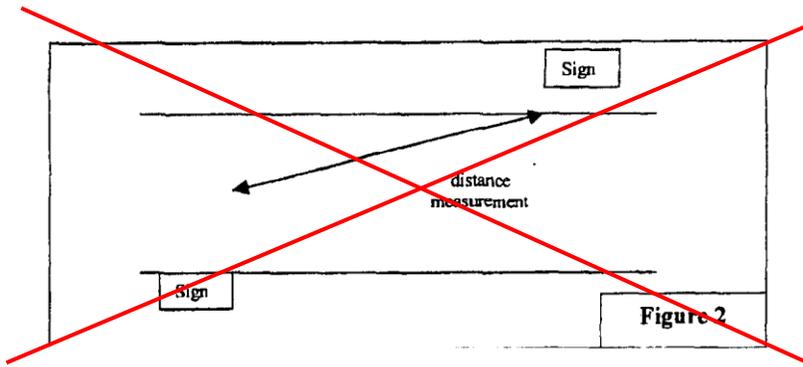
~~#May be less, subject to the requirements of subsection (d) of this section.~~

(7) Sandwich board signs. The maximum area of such sign shall be no more than six square feet per side with the maximum height being 42 inches. Sandwich board signs shall not be illuminated, nor shall they contain moving parts or have balloons, streamers, pennants, or similar adornment attached to them. Sandwich signs are only allowed within the Downtown District Overlay.

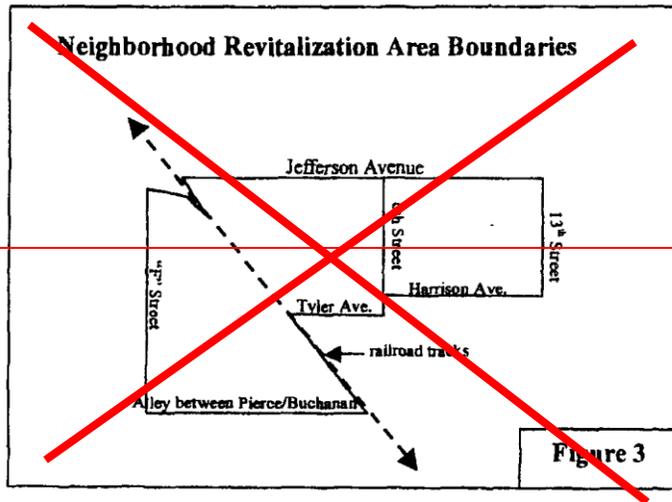
(c) *Lighting.* Signs may be illuminated subject to the following restrictions:

- (1) No revolving or rotating beam or beacon of light that simulates any emergency light or traffic device shall be permitted as part of any sign. Flashing devices shall not be permitted upon a sign; however, illuminated signs that indicate customary public information, such as time, date, temperature or other similar information, shall be permitted.

- (2) External lighting, such as floodlights, thin line and goose neck reflectors, are permitted, provided the light source is directed on the face of the sign and is effectively shielded so as to prevent beams or rays of light or glare or other unsafe conditions from being directed into any portion of the traveled roadway.
 - (3) The illumination of any sign within 200 feet of a residential lot line shall be diffused or indirect in design to prevent direct rays of light from shining into adjoining residential districts or lots.
 - (4) Any extension or power cords used shall not be visible or accessible but secured in rigid conduit or otherwise safely secured as required by the currently adopted city electrical code.
 - (5) No sign shall be illuminated to such intensity to exceed a maximum of one (1) footcandle measured at the property line.
 - (6) Sign permits for such signs shall only be issued for the conversion of existing signs to animated signs subject to the other provisions of this section.
 - (7) The dwell time, defined as the interval of change between each individual static message, shall be at least eight seconds, and a change of message must be accomplished within one second or less. The dwell time shall not include the one second or less required to change a message.
 - (8) The sign shall contain a default mechanism that will freeze in one position if a malfunction occurs.
 - (9) The sign must contain a dimmer control and a photocell which automatically adjusts the display's intensity according to natural ambient light conditions. In addition, the sign may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the driver.
 - (10) The sign shall not be configured to resemble a warning or danger signal or cause the driver to mistake the sign for such.
 - (11) No animated signs shall be permitted within 75 feet of a residentially-zoned property or property used for residential purposes.
 - (12) Any change of pictures or information on the animated sign shall not produce the illusion of moving objects, expanding or contracting shapes, rotation or any similar effect of animation.
 - (13) Any sign picture or information shall not have a solid white background between the time period of thirty (30) minutes after sunset and thirty (30) minutes before sunrise.
- (d) ~~Off-premises signs~~ Additional Sign Regulations for Billboards.
- ~~(1) For the purpose of this regulation, each side of the expressway (Future I-69) shall be considered separately.~~
 - ~~(2) All distances shall be measured directly along the public rights-of-way at the shortest distance possible where necessary to cross the street (see Figure 2).~~



- (3) (1) ~~Off-premises S~~signs having a face area of greater than 242 square feet shall not be erected within a radius of 1,500 feet of another ~~off-premises similar-sized~~ sign. Signs within this range of size are allowable only on the expressway corridor (Future 1-69).
- (4) (2) ~~Off-premises S~~signs having a face area ranging from 100 to 242 square feet shall not be erected within a radius of 1,000 1,500 feet of another ~~off-premises similar-sized~~ sign ~~on the same street~~. Signs within this range of size are allowable only on streets designated by the comprehensive plan thoroughfare map as a major arterial, minor arterial or collector.
- (5) (3) ~~Off-premises S~~signs having a face area of less than 100 square feet shall not be erected within a radius of 500 1,500 feet of another ~~off-premises similar-sized~~ sign ~~on the same street~~.
- (6) (4) Signs are not in violation of this section because of their proximity to one another if they are located so that their messages are directed toward traffic flowing in different directions, but in no case may be within a radius of 650 1,500 radial feet of another similar-sized sign.
- (7) (5) Bench signs with advertising shall not be used in the calculation of distances between ~~off-premises~~ signs due to specific placement requirements usually affixed to bench signs.
- (8) (6) No sign shall be located in such a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal or device, or interfere with a driver's view of approaching or intersecting traffic.
- (9) (7) No ~~off-premises new billboard~~ signs shall be allowed within 500 feet from any church, synagogue, cemetery, preschool, school, college, public park, public playground or designated scenic area. ~~except political signs 36 square feet or less.~~
- (10) ~~New off-premises signs will not be allowed~~
- a. ~~Within or oriented towards and readable from the neighborhood revitalization strategy area. (See Figure 3.)~~



b. ~~Within the area bounded by U.S. Highway 77/83 to the west and southwest, and S.H. Loop 499 to the southeast, east, and north, unless the sign is a directional sign no larger than 20 square feet and not located within one-half mile of another off-premises directional sign. Existing signs within this area may be relocated within this area, however the maximum area of the relocated sign is that of the sign at its previous location or 50 square feet, whichever is less.~~

c. ~~Oriented towards and readable from S.H. Loop 499, unless as allowed in subsection (d)(10)b of this section. Existing signs within this area may be relocated within this area, however, the maximum area of the relocated sign is that of the sign at its previous location or 50 square feet, whichever is less.~~

(11) (8) ~~Off-premises~~ Ssigns are not allowed on tracts of land not platted in accordance with chapter 109.

(12) (9) ~~Off-premises~~ Ssigns shall only be freestanding and shall not be placed on or through buildings or roofs.

(13) (10) The total sign area of all ~~off-premises~~ signs on a developed lot or tract cannot exceed the maximum ~~on-premises~~ sign area otherwise allowed on that particular developed lot or tract.

(14) (10) ~~Off-premises~~ Animated signs shall comply with the following additional regulations:

a. Sign permits for such signs shall only be issued for the conversion of existing ~~off-premises~~ signs to animated signs, subject to the other provisions of this section. ~~Off-premises signs in areas described in subsection (d)(10) of this section, shall not be converted to animated signs.~~

b. The dwell time, defined as the interval of change between each individual static message, shall be at least eight seconds, and a change of message must be accomplished within one second or less. The dwell time shall not include the one second or less required to change a message.

- c. The sign shall contain a default mechanism that will freeze the sign in one position if a malfunction occurs.
- d. The sign must contain a dimmer control and a photocell which automatically adjusts the display's intensity according to natural ambient light conditions. In addition, the sign may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the driver.
- e. The sign shall not be configured to resemble a warning or danger signal or cause the driver to mistake the sign for such.
- f. Animated signage shall not exceed a maximum of one (1) footcandle illumination at the property line.
- g. No animated signs shall be permitted within 150 feet of a residentially-zoned property or property used for residential purposes.
- h. Any change of pictures or information on the animated sign shall not produce the illusion of moving objects, expanding or contracting shapes, rotation or any similar effect of animation.
- i. Any sign picture or information shall not have a solid white background between the time period of thirty (30) minutes after sunset and thirty (30) minutes before sunrise.

(Code 1997, § 159.097; Ord. No. 02-09, 1-19-2002; Ord. No. 02-40, 5-1-2002; Ord. No. 03-31, 5-21-2003; Ord. No. 03-58, 9-3-2003; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011; Ord. No. 12-52, § 1, 8-15-2012)

Sec. 111-278. - Permits required.

- (a) The owner, leaseholder or his agent shall secure a sign permit prior to the construction, placement, erection, or modification of a sign in accordance with the requirements of this section.
- (b) All signs require a city sign permit prior to being erected, placed, installed or modified except:
 - ~~(1)~~ ~~Political signs placed on private property (in accordance with state law);~~
 - ~~(2)~~ (1) Garage sales signs in accordance with section 111-334; and
 - ~~(3)~~ (2) Banners no greater than 80 square feet and mounted in accordance with section 111-280(e);
 - ~~(4)~~ (3) Sandwich board signs within the downtown ~~improvement~~ district overlay so long as said signs do not cause the width of the pedestrian sidewalk to be reduced to less than four feet in width, and the sign is removed at the end of each business day; and
 - ~~(5)~~ (4) Signs that are inside a building, or signs that do not have a primary purpose of being legible from a public street or another property.

(c) General.

- (1) ~~If the work to be performed is a~~ Repairs or modifications of a legal nonconforming sign ~~already existing on the lot, it~~ cannot increase the amount of nonconformance. ~~of the sign.~~
- (2) A sign shall not be erected without first having obtained a permit from the department of planning and development of the city. A permit application must be submitted to be reviewed and appropriate fees paid prior to review, approval and construction.
- (3) An engineering seal shall be required on any freestanding sign ~~25 feet or taller to withstand 125 mph winds~~ when the wind load design requires it by the adopted building codes. All signs requiring permits, except for banners, shall be erected only by a sign contractor registered annually with the City of Harlingen as specified in article III, division III, of this chapter. All electrical and structural specifications shall meet the currently adopted codes of the City of Harlingen.
- (4) Permits issued for all signs shall expire within 90 days of issuance.

(Code 1997, § 159.098; Ord. No. 02-09, 1-19-2002; Ord. No. 03-39, 6-18-2003; Ord. No. 03-58, 9-3-2003; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-279. - Design, construction, and maintenance.

- (a) All signs shall comply with applicable provisions of the International Building Code and the National Electrical Code, as currently adopted by the city, at all times.
- (b) All signs requiring a permit must be marked in some permanent manner with the name of the contractor upon completion of the project. This marking must be visible and able to be read from the ground except in cases where design restrictions forbid visible placement. In that case, the contractor must include on the sketch where the permanent marker will be placed (e.g., mall sign markers may be placed on the top of the channel letters).
- (c) Except for banners, flags, temporary signs and window signs conforming in all respects with the requirements of this article, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- (d) All signs shall be maintained in good structural condition, in compliance with all building and electrical codes at all times.
- (e) All signs must be maintained current, that is, ~~not advertising defunct businesses and~~ must be legible and in good repair without broken faces. ~~missing or chipped letters or faded beyond recognition.~~

(Code 1997, § 159.099; Ord. No. 02-09, 1-19-2002; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-280. - Special sign categories, permitted, and prohibited signs.

- (a) *Political signs.* Political signs are a special type of temporary sign. ~~A permit must be obtained for each sign erected that is 36 square feet or larger. All political signs should be spaced to avoid dangerous visual clutter caused by a proliferation of signs. Political signs shall not be placed adjacent to a roadway such that placement would create an obstruction of view for vehicular traffic.~~

- (b) *Painted signs.* Signs painted on buildings require a sign permit and will be counted toward overall square footage of signs allowed.
- (c) *Real estate signs.* Real estate signs will be exempt from permitting if less than 36 square feet. These signs may be in place until such time the real property is no longer offered for sale or lease.
- (d) *Construction signs.* Construction signs are used to promote the contractor, bank or other business/service involved or responsible for construction taking place on the premises and are allowable without permits until such time as construction is complete and the building is occupied by tenant or user. Such businesses/services include, but are not limited to, landscaping, financing, and subcontractors of all types.
- (e) *Banners.* Banner signs, as defined in section 111-275, are allowed subject to the following:
 - (1) Such signs no greater than 80 square feet do not require city sign permits.
 - (2) Such signs no greater than 80 square feet are exempt from the total permitted sign area calculation described in section 111-277(b).
 - (3) The total area of all such signs on a building or tenant space mounted to or attached to any portion of the building or building support columns shall not exceed 20 percent of the area of the wall on which said signs are attached.
 - (4) All such signs shall be removed and/or replaced no longer than one year from the date of placement or when such signs become tattered, torn, or otherwise contrary to the requirements of section 111-279, whichever occurs first.
 - (5) Such signs shall be mounted in one of the following manners:
 - a. Flat against the wall of a building or fence and securely attached to said building or fence at all corners and every three feet along the length and width of said banner; or
 - b. Securely attached at all corners between two permanent mounting structures such as masonry support columns, steel support columns, or an approved permanent frame.
 - (6) Banner signs commonly referred to as "wind flags," "feather flags," or similar, are prohibited.
- ~~(f)~~ ~~*Secured portable signs.* Secured portable signs are allowed on a permanent basis only if they are secured into the ground. If electrical connections are allowed on these signs, the customer must have the proper electrical receptacles in place to allow safe lighting of the sign and avoid loose or accessible connections, extension cords, etc. If proper electrical receptacles are not available upon sign delivery, the electrical connectors within the sign must be disabled by the sign company to ensure safe use by customer.~~
- ~~(g)~~ (e) *Exempt signs.* The following signs shall be exempt from regulations items shall not be considered signs and are exempt from regulations under this article:
 - (1) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;
 - (2) Any advertising sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the lot or parcel on which such sign is located;
 - (3) Works of art that do not include a commercial message as its primary intent;

- (4) Lights and decorations with no commercial message (such as holiday);
- (5) Traffic control signs on private property, such as stop, yield and similar signs, the face of which contain no commercial message of any sort;
- (6) Informational signs of a public utility regarding its poles, lines, pipes or facilities;
- (7) Signs placed by a governmental agency, public utility company or a contractor doing authorized or permitted work within the right-of-way; and
- (8) Event banners placed across city rights-of-way for special events as determined by the city manager's office or its agent who shall also establish the length of time banners may be erected.

(H) (f) *Prohibited signs.* It shall be unlawful for any person, corporation or entity to place or maintain a sign:

- (1) Which is on the city right-of-way unless a "license to encroach" has been issued by the city commission or if it is part of the downtown ~~development~~ district overlay and is part of an awning or suspended sign projecting over a public right-of-way provided they maintain a clearance of at least nine feet to the bottom of such projection and do not project more than two-thirds the distance of the existing sidewalk right-of-way;
- (2) ~~That is obsolete or does not meet building code standards, out of date political billboards, signs advertising defunct businesses (except landmark signs in the downtown improvement district deemed as such by Harlingen's Downtown Board), and~~ Ssigns which require a sign permit but were erected without such a permit having been issued;
- (3) Which is not legible or in good repair, such as with broken faces, faded or missing letters, etc.;
- (4) That is not securely fixed as per building codes;
- (5) That attempts or appears to attempt to regulate, warn or direct the movement of traffic or which interferes with, imitates, or resembles any official traffic sign, signal or device (except actual traffic control devices installed by the appropriate authority);
- (6) That is erected or maintained upon trees, utility poles, or painted or drawn upon rocks or other natural features;
- (7) That is nonconforming and damaged or destroyed to an extent of more than 75 percent of the current fair market value as determined by the chief building official and approved by the building construction board of adjustments and appeals using the procedures outlined in the International Building Code as adopted and amended by the city;
- (8) That prevents or obstructs or inhibits free ingress or egress from any doors, windows, or fire escapes or that are attached to a standpipe or fire escape; and
- (9) Any signs not expressly permitted under this article or exempt from regulation hereunder in accordance with the previous section are prohibited in the city. Such signs include, but are not limited to:
 - a. Beacons (except as temporary signs not interfering with traffic or aircraft safety);
 - b. Any vehicle which carries, conveys, pulls, or transports any sign for the primary purpose of advertising;

- c. Strings of lights not permanently mounted to a rigid background, except those exempt under previous sections. Signs attached to utility poles (except as informational to the operation or identification of the utility function); and
- d. Inflatable signs (except on a temporary basis for no more than 30 consecutive days each occurrence, no more than four occurrences per calendar year).
- e. Banner signs commonly referred to as "feather flags," "wind flags," or similar.

~~(f)~~ **(g)** *Removal of signs in violation of the ordinance.*

- (1) All reasonable efforts will be made to notify a property owner of a sign in violation of this article for their voluntary removal in a timely fashion.
- (2) If a property owner cannot be located or refuses to remove a sign in violation of this article, with approval from the construction board of adjustments and appeals the city may remove such sign and bill the property owner for reasonable recovery of time and costs associated with sign removal and disposal.

(Code 1997, § 159.0991; Ord. No. 02-09, 1-19-2002; Ord. No. 02-40, 5-1-2002; Ord. No. 03-31, 5-21-2003; Ord. No. 03-39, 6-18-2003; Ord. No. 03-58, 9-3-2003; Ord. No. 08-32, 4-16-2008; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-281. - Nonconforming signs.

- (a) Signs legally in existence on May 6, 2009, but not in compliance with the provisions of this section shall be considered legal nonconforming signs and will not be required to be modified or otherwise come into compliance with regulations adopted here unless such legal nonconforming sign is damaged or destroyed to an extent more than 75 percent of the current fair market value as determined by the chief building official.
- ~~(b) Portable signs in place but not properly secured according to Figure 4 on May 5, 2009, will have until June 15, 2009, to be secured as required or removed from the premises.~~
- ~~(c)~~ **(b)** A change in the information on the face of an existing legal nonconforming sign is allowed. Any nonconforming sign shall either be eliminated or made to conform with the requirements of this section when any proposed change, repair, or maintenance would constitute an expense of more than 75 percent of the current replacement value of the sign. However, maintenance work on an existing legal nonconforming pole shall be permitted with the submission of a an engineering report from a licensed structural engineer verifying that such sign is structurally unsafe.

(Code 1997, § 159.0992; Ord. No. 02-09, 1-19-2002; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-282. - Removal or reduction of nonconforming signs.

- (a) A property owner with legal nonconforming signage on the premises may not obtain any new signage permit unless a 15 percent reduction is achieved for the existing legal nonconforming sign.
- (b) If the legal nonconforming signage is removed (other than a portable sign), the owner of the premises will be entitled to a ten percent increase in allowable ~~on-premises~~ signage.
- (c) No new construction permits greater than 33 percent of the cost of the existing improvements may be issued unless and until all signage on the lot is in conformance with this article.

(Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-283. - Violations.

Any of the following shall be a violation of this Code:

- (1) To install, create, erect, or maintain any sign:
 - a. In a way that is inconsistent with any plan or permit governing such sign or the lot on which the sign is located;
 - ~~b. Requiring a permit without first obtaining such permit; or~~
 - ~~c. In such a way that is inconsistent with any plan or permit governing such sign or the lot on which sign is located;~~
- (2) To fail to remove any sign that is installed, created, erected, or maintained in violation of this article, or for which the sign permit has lapsed; or
- (3) To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this article.

(Code 1997, § 159.0993; Ord. No. 02-09, 1-19-2002; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-284. - Appeals.

- (a) Appeals to the conditions of this article may be taken to the zoning board of adjustments. A variance will be considered only if there is a hardship (other than monetary) that would result if the article was fully enforced due to some condition or physical characteristic of the lot that makes it impossible to follow the article through no fault of the property owner.
- (b) If an appeal is due to a sign permit denial, appeals shall be taken to the construction board of adjustments and appeals.
- (c) All appeals of the decision of the construction board of adjustments and appeals must be submitted in writing to the court within ten days hereafter the filing of the decision. ~~in the office of the board and not thereafter.~~

(Code 1997, § 159.0994; Ord. No. 02-09, 1-19-2002; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Secs. 111-285—111-301. - Reserved.

SECTION II: That the City Secretary of the City of Harlingen, Texas is hereby authorized and directed to cause a true copy of the caption of this ordinance to be published in a newspaper having general circulations in the City of Harlingen, Cameron County, Texas.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

FINALLY ENACTED this _____ day of _____, 2021, at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

CITY OF HARLINGEN

Chris Boswell, Mayor

ATTEST:

Amanda C. Elizondo, City Secretary

**AGENDA ITEM
EXECUTIVE SUMMARY**

Meeting Date: **September 8, 2021**

Agenda Item:

Public hearing and take action to consider a request to amend the City of Harlingen Code of Ordinances Chapter 111, Article XVIII, Section 111-501, Description and Map of the Downtown District Overlay, by updating the boundaries and map of the district to match the boundary of the Downtown Improvement District and Section 111-509 removing regulations regarding off-premise advertisements. Applicant: City of Harlingen

Prepared By: Xavier Cervantes, AICP
Title: Planning and Development Director

Signature: *X. Cervantes*

Brief Summary:

Project Timeline

- August 16, 2021 – Workshop is held with the Planning and Zoning Commission
- August 17, 2021 - Workshop is held with the Downtown Improvement District Board
- August 28, 2021 – In accordance with State and local law, notice of required public hearings published in the Valley Morning Star and mailed to all property owners within 200 feet of subject tract.
- September 8, 2021 - Public hearing and consideration of requested zoning ordinance amendment by the Planning and Zoning Commission.
- September 15, 2021 - Public hearing and consideration of requested zoning ordinance amendment via 1st ordinance reading scheduled before the City Commission.
- October 6, 2021 - Pending approval of 1st ordinance reading consideration of approval of 2nd ordinance reading scheduled before the City Commission.

Summary

- Attached to the summary are sections of the City of Harlingen Code of Ordinances, Chapter 111, Article XVIII, Section 111-501 proposed for amendment. These amendments have been drafted to establish consistency between the Downtown District Overlay (DDO) and Downtown Improvement District (DID). If the ordinance is adopted no building permits will go before the downtown board for approval if the property is outside the DID boundary.
- The proposed amendments to the Code of Ordinances generally consists of two changes being the following:
 1. The boundary description and map of the DDO has been amended. The proposed amendment consists of changing the boundary of the DDO to mirror the boundary of the DID. This amendment is addressed on Section 111-501. A map showing the area to be removed from the DDO is shown in Attachment I.
 2. New billboard signs are prohibited within the DID as opposed to off-premise signs. This amendment is addressed on Section 111-509(3)(a)(1)
- The proposed changes to the Code of Ordinances have been reviewed and approved by the City Attorney.

- The proposed changes to the Code of Ordinances are noted on the attached ordinance with the additions **underlined** and the deletions **~~stricken~~**.

Funding (if applicable):

Are funds specifically designated in the current budget for the full amount Yes No*
for this purpose?

*If no, specify source of funding and amount requested:

Finance Director's approval: Yes No N/A

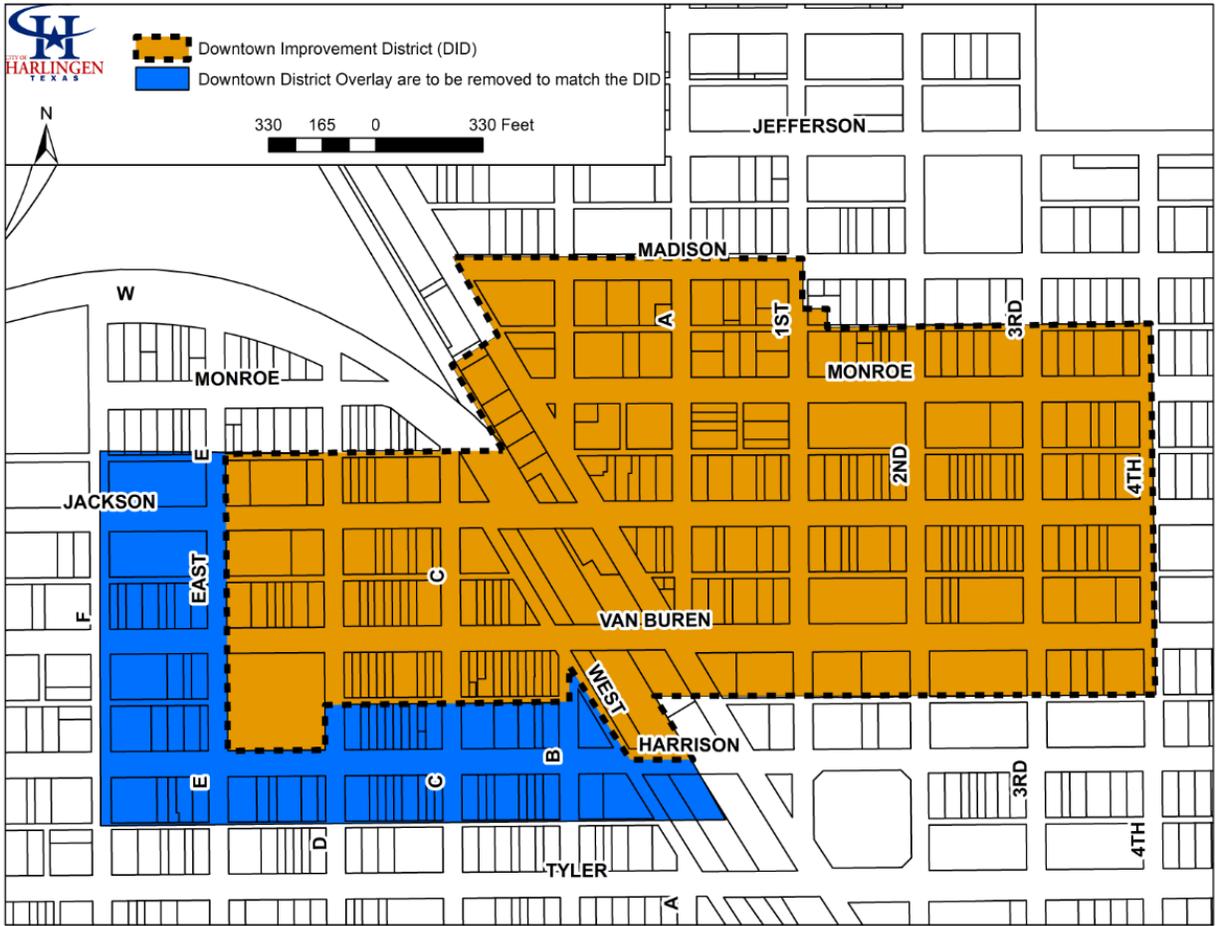
Staff Recommendation:

Staff recommends approval subject to the ordinance.

City Manager's approval: Yes No N/A

Comments:

City Attorney's approval: Yes No N/A



ORDINANCE NO. 21-_____

AN ORDINANCE AMENDING THE CITY OF HARLINGEN CODE OF ORDINANCES CHAPTER 111, ARTICLE XVIII, SECTIONS 111-501, DESCRIPTION AND MAP OF THE DOWNTOWN DISTRICT OVERLAY, BY UPDATING THE BOUNDARIES AND MAP OF THE DISTRICT TO MATCH WITH THE BOUNDARY OF THE DOWNTOWN IMPROVEMENT DISTRICT AND SECTION 111-509 REMOVING REGULATIONS REGARDING OFF-PREMISE ADVERTISEMENTS; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING

WHEREAS The Planning and Zoning Commission has reviewed the amendments to the Downtown District Overlay and has recommended approval;

WHEREAS The Planning and Zoning Commission finds that the amendments to the Downtown District Overlay boundary area are in the best interest of promoting the development of the downtown by providing clarity and consistency with the current boundary of the Downtown Improvement District;

WHEREAS The proposed amendment is also consistent with the purpose of the One Vision One Harlingen Comprehensive Plan for the Downtown District which is to provide a growth-friendly environment that also preserves and enhances the architectural character of the area; and

WHEREAS amendments to the regulations regarding off-premises signs (billboards) are necessary to remove all reference to content-based regulations to conform to evolving standards to accommodate First Amendment protections under the United States Constitution;

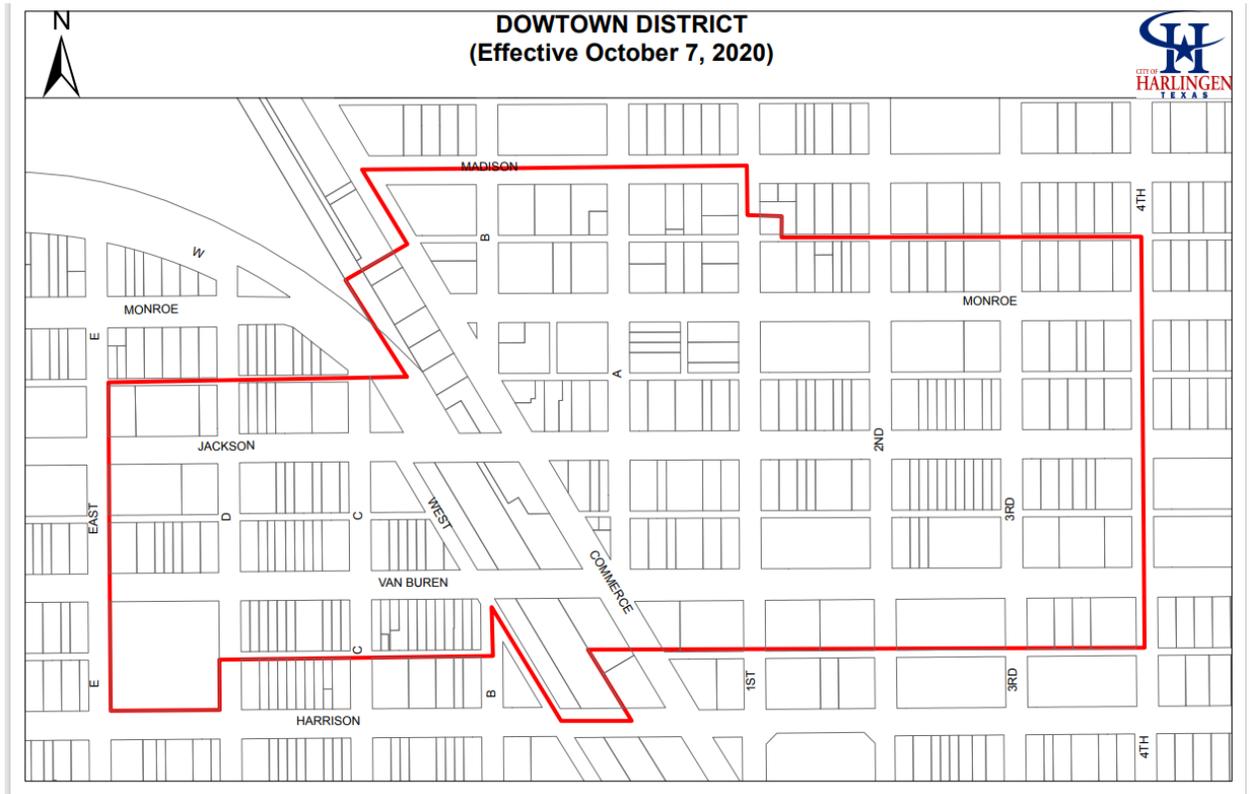
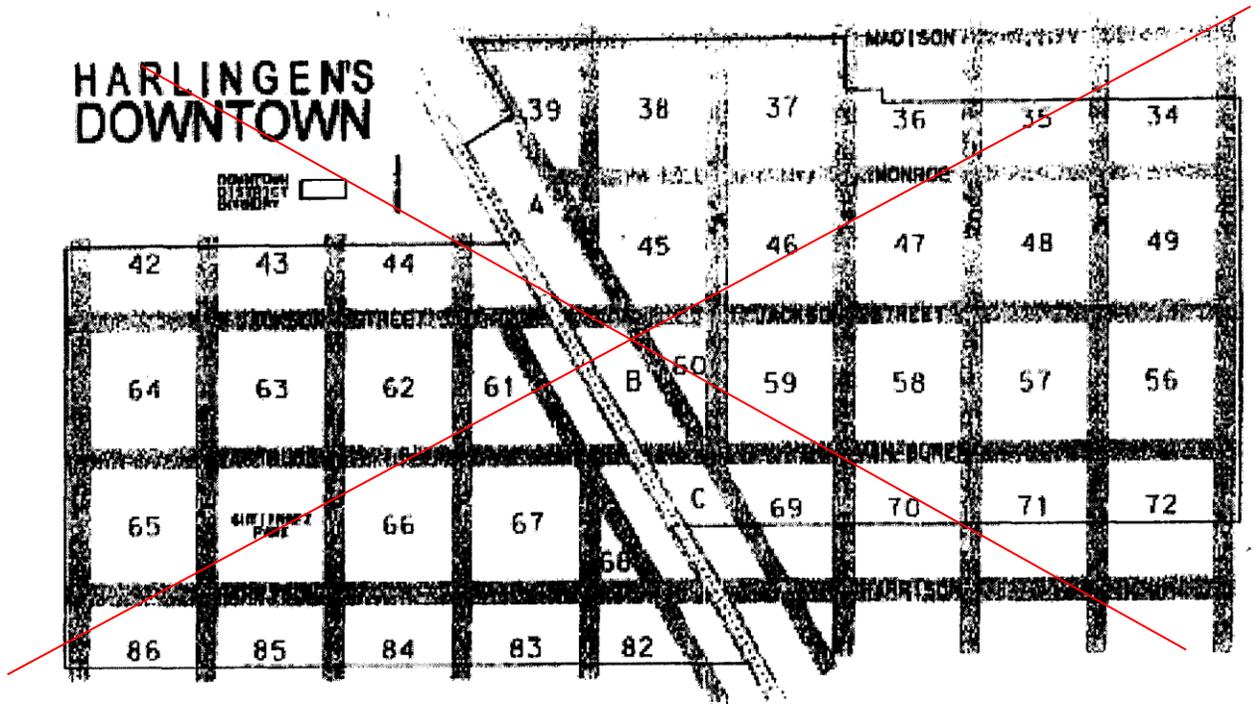
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, THAT:

SECTION I: That the City of Harlingen Code of Ordinances, Chapter 111, Zoning, Article XVIII, Section 111-501 Description and Map of District and 111-509 sign regulations, are hereby amended by adding the language underlined (added) and deleting the language that is stricken through (~~stricken~~) to read in full as follows:

ARTICLE XVIII. - DOWNTOWN DISTRICT OVERLAY

Sec. 111-501. - Description and map of district.

The downtown district overlay boundaries are as follows: ~~From the alley immediately south of Harrison Street at the railroad tracks west to the centerline of "F" Street, then north to the alley immediately north of Jackson Street, then east to the east side of the railroad tracks, north to the north lot line of Lot 18 east to the centerline of Commerce Street, then north to the centerline of Madison Street, then east to the centerline of First Street, then south to a point in Lot 1, 100 feet south of north lot line, then east to the middle of Lot 2, then south to the alley immediately north of Monroe Street, then east along the alley to the centerline of Fourth Street, then south to the alley immediately north of Harrison Street, then along the alley west to the railroad tracks, then south along the railroad tracks to the alley immediately south of Harrison Street at the railroad tracks, as displayed below:~~ From the centerline of Commerce and centerline of Madison Streets intersecting East along the centerline of Madison to the centerline of First Street, thence South along the centerline of First Street to a point 50 feet North of a line parallel to the south boundary of Block 36, Lot 2, thence east along that line to the east boundary of Block 36, Lot 2 thence south along the east boundary of Block 36, Lot 2 to the centerline of the alley North of Monroe Street, thence east along the centerline of the alley North of Monroe Street, thence east along the centerline of the alley north of Monroe to the centerline of Fourth Street thence south along the centerline of Fourth Street to the centerline of the alley south of Van Buren Street, thence west along the centerline of the alley south of Van Buren to the centerline of the Railroad tracks, thence south along the centerline of the Railroad tracks to the centerline of Harrison Street, thence west along the centerline of Harrison Street to the centerline of West Street, thence Northwest along the centerline of west street to a point where it intersects the centerline of "B" Street thence south along the centerline of "B" Street to a point where it intersects the centerline of the alley south of Van Buren Street, thence west along the centerline of the alley south of Van Buren Street to the centerline of "D" Street thence south along the centerline of "D" Street to a point where it intersects the centerline of Harrison Street, thence west along the centerline of Harrison Street to a point where it intersects the centerline of "E" Street, thence north along the centerline of "E" Street to a point where it intersects the centerline of the alley north of Jackson Street, thence east along the centerline of the alley North of Jackson Street to the centerline of the Railroad tracks, thence northwest along the Railroad tracks to a point where an extension of the north west boundary line of Lot 18 Harlingen Townsite Reserve intersects the centerline of the Railroad tracks, thence east to the centerline of Commerce Street, thence northwest along the centerline of Commerce Street until it intersects the centerline of Madison Street.



Sec. 111-509. - Design guidelines.

The appearance of the district is the result of an evolutionary process in which buildings stay the same, are altered or are completely replaced. This process is continuous and inevitable. Its success or failure depends on how sensitive these changes are to the existing framework of buildings. Certain elements of a building's appearance are addressed in more detail here as elements that contribute to the overall quality of the district.

(1) *Storefronts.*

a. *Improvements.* Improvements to buildings are encouraged through incentive programs for storefronts, signs, and fire safety enhancements.

b. *Owners working together.* Owners of one-story buildings, which are not part of a larger structure and therefore are more easily overwhelmed by larger neighboring buildings, should relate to the buildings on either side of them. The most effective approach for building owners in this situation is to use similar storefront and sign designs to create a unified, attractive row of buildings.

c. *Materials.*

1. Any original materials on the building's facade, such as brick, stone, or glass are also part of the building's architecture and must not be painted or covered over.

2. The following list of traditional and adaptable contemporary storefront materials must be utilized:

(i) Storefront window frames must be wood, hollow metal, or anodized aluminum;

(ii) Display windows must be clear glass or tinted glass which is still transparent;

(iii) Entrance door frames must be made of wood, steel, or aluminum;

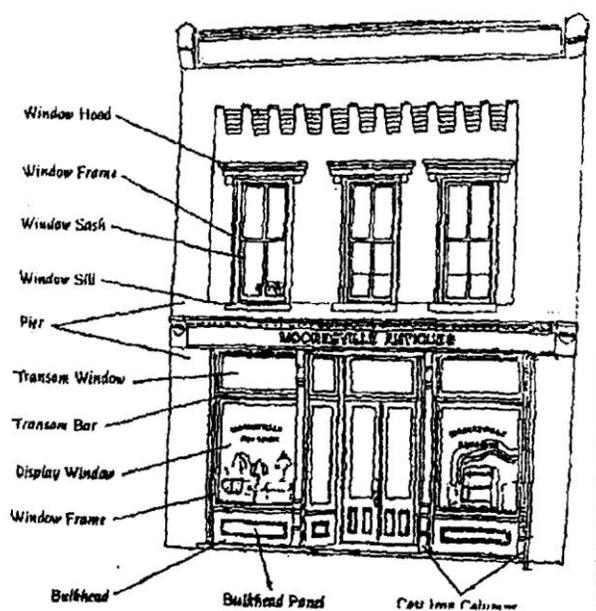
(iv) Bulkheads must be finished with wood panels, brick, polished stone, glass, tile, masonry, or aluminum-clad plywood panels.

3. Not allowed:

(i) Fake bricks;

(ii) Stone and gravel aggregate materials;

(iii) Reflective windows;



- (iv) All glass fronts;
- (v) Sheet metal;
- (vi) Aluminum, composite, or plastic siding;
- (vii) Mirrored glass; or
- (viii) Metal or prefabricated buildings.

d. *Color.* Painting is one of the most dramatic improvements that can be made to a building. Choosing the right combination of colors can unify the building elements within the facade as well as relate the building to others on the block. The following criteria must be adhered to when considering color selection:

1. Coordinate with other colors on the block;
2. The orientation of the building affects the appearance of colors;
3. Historically, certain color types were associated with architectural styles;
4. Colors must be used to highlight architectural details;
5. No more than one vivid color per building;
6. No more than three colors shall be used on one building;
7. Base color for wall surfaces and storefront pier;
8. Major trim color for cornices, window caps, window frames, columns, bulkheads;
9. Minor trim color for window sashes, doors, storefront frame, and other small details;

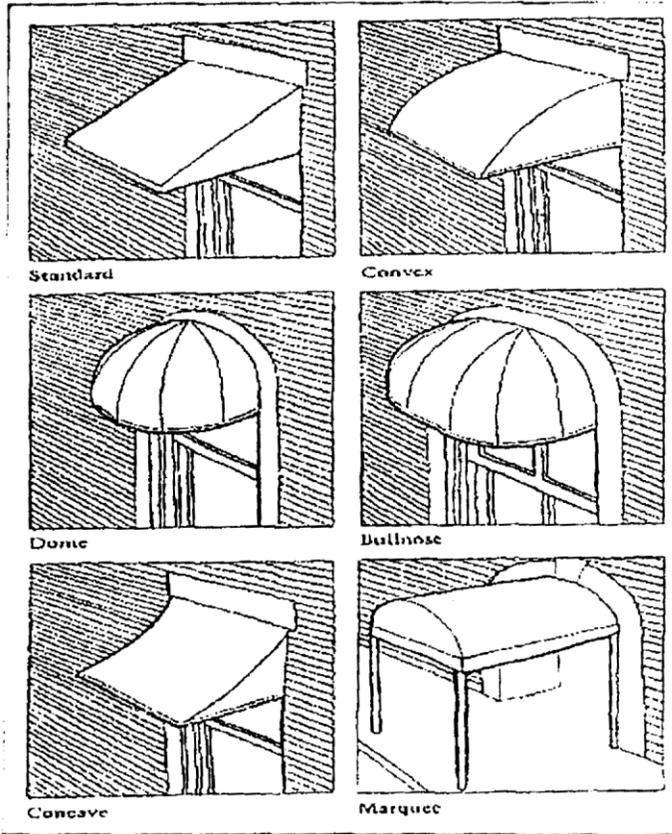
10. Bright and/or fluorescent colors are prohibited.

e. *Windows.* The style and type of windows help establish the historical character of buildings. Hence, the following shall be adhered to:

1. The original shape of the window as well as the original number and arrangement of panes shall be maintained;
2. Shutters, unless appropriate to the style of the building, are not allowed;
3. New window openings are not allowed unless they match the existing window configuration, and their placement is consistent with the existing openings;
4. Original windows facing the street on which the business is addressed shall not be filled, boarded up, or painted without prior approval of the HDB;
5. Burglar bars may not be installed on the exterior of windows or doors facing a street;
6. Windows that have been blocked in, boarded up, or painted must be restored to their original appearance, size, and type. When original wooden frames cannot be duplicated or afforded, aluminum frames of similar profiles must be used. Factory painted finishes for aluminum are available;
7. Mechanical devices such as air conditioners or exhaust vents shall not be placed in storefront windows.

(2) *Awnings and canopies.* The use of awnings or canopies is strongly recommended for all commercial buildings. They encourage pedestrian traffic by protecting them from excessive heat or rain. They protect display window merchandise from damage, regulate the amount of heat and direct sunlight entering a store, and serve as a sign or help identify the business.

a. The following standards apply to awnings and/or canopies:



1. Open air canopies or awnings of any type adjacent to or facing a street are prohibited.

2. Street level awnings or canopies shall be no less than eight feet above the sidewalk.

3. No portion shall extend closer than two feet to the face of the curbline and should project out four through six feet from the building, but not farther than two-thirds the distance from the building to the curb.

4. Only weather resistant canvas, vinyl, or standing seam metal are allowed (no wood or sheet metal).

5. All framing materials shall be steel or aluminum and must be attached directly to the building.

6. The shape must relate to other awnings and/or canopies on the same block. Recommended styles include standard, convex, dome, bullnose, concave, and marquee (see illustration).

b. Not allowed:

1. Sloped and/or slatted aluminum.

2. Mansard; awnings.

3. Wood, sheet metal, plastic, or fiberglass.

(3) *Signs.* All signs shall be subject to building permits and review as provided in the sign ordinance (~~section 46-116 et seq.~~). The function of the storefront sign is to inform the customer of the goods or services provided within. Limiting the amount of information to essentials most effectively conveys the sign message. Signs must be individual metal, plastic, or wood letters. A sign containing neon lights, is backlit, or has a plastic face is allowed. No plywood signs are allowed. Signs that are painted on the building shall be approved by the HDB prior to commencement of such painting.

a. *General sign guidelines.*

1. ~~No new off premises signs, including billboards, are allowed.~~ No new billboard signs as defined in Article X are allowed.
2. Signs are permitted on awnings provided they are painted, printed, or sewn onto the fabric;
3. Permanent banners or flags (excluding government flags) will not be allowed. Temporary banners or flags are allowed for a period not to exceed 30 days per calendar year;
4. Signs cannot obscure or destroy architectural detail on the building;
5. Rooftop signs are not allowed;
6. Window signs shall encompass no more than 30 percent of the total glass area, not including any neon outlining of the glass;
7. Total sign area of all signs on any building face, which also includes any windows, awnings, and canopies associated with such building face, shall not exceed the amount of linear building frontage facing the street (measured in feet) on which the building is addressed, multiplied by 1.5. Illustrative example: A building at 123 Anywhere Street has 50 feet of building frontage along Anywhere Street (i.e., it is 50 feet wide along Anywhere Street). The maximum available area for all signs on any particular building face shall not exceed 75 square feet (50 multiplied by 1.5).

A building that has frontage on a state highway shall be allowed 3.0 square feet per linear foot of building facing the street for all the signs ~~on the premises~~. The maximum height of a free-standing sign ~~on the premises~~ shall be no greater than 35 feet.

b. *Color.* A dark background with light letters is most easily perceived by the human eye, depending on the base color of the building. A sign can be the best place to add lively color, but care should be taken to ensure that the sign colors compliment and relate to the building and its surroundings.

(4) *Other exterior elements.*

a. *Fencing.* Fencing must be in character with the surroundings. Barbed wire fences shall not be permitted. Fences of brick, wrought iron, stucco, wood or concrete shall be encouraged. Fence requirements as included in this chapter.

b. *Walkways/sidewalks.* Walkways or sidewalks must be maintained by the property owner in good condition and free of obstruction or debris.

c.Landscaping. Native and low water usage landscaping shall be encouraged. Public areas use of alleys as public space shall be encouraged. Projects containing courtyards, public art or landscaping visible to the public shall be encouraged.

(Code 1997, § 159.79; Ord. No. 99-42, 6-16-1999; Ord. No. 07-27, 4-18-2007; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010; Ord. No. [2020-09](#), § I, 3-18-2020)

SECTION II: That the City Secretary of the City of Harlingen, Texas is hereby authorized and directed to cause a true copy of the caption of this ordinance to be published in a newspaper having general circulations in the City of Harlingen, Cameron County, Texas.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

APPROVED ON FIRST READING on this _____ day of _____, 2021, at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

FINALLY ENACTED this _____ day of _____, 2021, at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

CITY OF HARLINGEN, TEXAS

Chris Boswell, Mayor

ATTEST:

Amanda C. Elizondo, City Secretary

DATE: September 8, 2021

**PLANNING AND ZONING COMMISSION
EXECUTIVE SUMMARY**

I. AGENDA ITEM:

Staff Report B: Future projects scheduled before the P&Z and City Commission.

II. BRIEF OVERVIEW:

ITEM	P&Z DATE	STATUS
Request for the voluntary annexation of a 1.47 acres of land consisting of Dilworth Road right-of-way. Applicant: Cameron County	8/11/2021	<ul style="list-style-type: none">• 8/18/2021 – City Commission approved annexation on First Ordinance Reading.• 9/1/2021 – City Commission approved annexation on Second and Final Ordinance Reading.
Request for the voluntary annexation of the proposed Serenity Estates Subdivision, located on the west side of Dilworth Road south of Garrett Road. Applicant: Graham	8/11/2021	<ul style="list-style-type: none">• 8/18/2021 – City Commission approved annexation on First Ordinance Reading.• 9/1/2021 – City Commission approved annexation on Second and Final Ordinance Reading.
Request for an SUP to allow a portable building greater than 144 sq. ft. in a R-1 District located at 1701 Dixieland Rd. Applicant: Harlingen CISD	8/11/2021	<ul style="list-style-type: none">• 9/1/2021 – City Commission approved SUP on First Ordinance Reading.• 9/15/2021 – Pending approval of First Ordinance Reading, consideration of Second Ordinance Reading scheduled before the City Commission
Request for an SUP to allow a microblading studio at 1209 W. Tyler. Applicant: Ashley Salgado	8/11/2021	<ul style="list-style-type: none">• 9/1/2021 – City Commission approved SUP Ordinance on First Reading.• 9/15/2021 – Pending approval of First Ordinance Reading, consideration of Second Ordinance Reading scheduled before the City Commission
Request for an SUP to allow a tattoo studio at 401 S. 77 Sunshine Strip. Applicant: Tucker Guerrero	8/11/2021	<ul style="list-style-type: none">• 9/1/2021 – City Commission approved SUP Ordinance on First Reading by the City Commission.• 9/15/2021 – Pending approval of First Ordinance Reading, consideration of Second Ordinance Reading scheduled before the City Commission
Request for a variance to exceed the maximum 25 lot requirement of a Cul-de-sac for the proposed Palm Valley Heights Subdivision, located on the south side of Wilson Rd, west of Stuart Place Rd. Applicant: Dustin Moore of Moore Land Surveying, LLC, c/o David	7/28/2021	<ul style="list-style-type: none">• 9/1/2021 – City Commission approved the variance.

Floodman of U R Home Texas, LLC.		
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TITLE: Assistant Planning and Development Director
DEPARTMENT: Planning & Development