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**AGENDA REPORT**

**Planning and Zoning:** 1/3/2011  
**City Council:** 1/25/2011  
**City Council:** 2/8/2011

**Staff Contact:** Jeremy Frazzell  
**E-mail:** [jeremyf@cityofpflugerville.com](mailto:jeremyf@cityofpflugerville.com)  
**Phone:** 512-990-6300

**SUBJECT:** Conduct a public hearing and consider an application for a Specific Use Permit for a proposed Body Art Studio in the Central Business District for Lots 10-12, Block A of the Pflugerville Subdivision, locally known as 101 E. Pecan St, generally located at the southeast corner of S. 1<sup>st</sup> St. and Pecan St; to be known as the Freedom Machine Tattoo Specific Use Permit (SUP1011-01).

**BACKGROUND:**

The Applicant, Ryan Dodson (owner of Freedom Machine Tattoo Co.) has applied for a Specific Use Permit to allow for a Body Art Studio land use on Lots 10-12, Block A of the Pflugerville Subdivision in downtown Pflugerville. The proposed location of the body art studio is in the eastern portion of the multi-tenant building located along the south side of Pecan Street, generally located at the southeast corner of 1<sup>st</sup> Street and Pecan Street. The proposed location is zoned General Business 1 (GB1) and within the Central Business District (CBD) Overlay District.

In November 2010, the applicant requested a text amendment to allow for a Body Art Studio in the Central Business District. At that time, Body Art Studios were not a permitted use in the Central Business District and were permitted only in the General Business 1 and 2 districts with a condition that they must be setback 1,000 feet from any other Body Art Studio, Residential Zoning District, Place of Worship, Public, Private, or Parochial School and Daycare.

With the text amendment request, Staff conducted a review of other communities' ordinances regarding body art studios in their downtown areas. Negative perceptions and potential secondary impacts associated with seemingly contentious uses have led to a range of location regulatory responses. Body Art Studios may fall into this category. In Central Texas, the majority of cities in the area permit body art studios by right as summarized in the table below.

City	Body Art Studio (CBD)	Overlay/ Zoning District
Pflugerville	Not permitted	CBD
Hutto	Permitted by Right as "Retail / Sales and Service"	CBD
Cedar Park	Not permitted	CBD
Leander	Permitted by Right (GC)	(No Downtown overlay) Permitted in General Commercial in the Downtown area
Georgetown	Permitted by Right	Mixed Use District in CBD
Taylor	Permitted by Right	Downtown Neighborhood District
Round Rock	Permitted by Right	CBD
San Marcos	Not Permitted	CBD

Based on the research of these communities and the current context which severely limits these establishments, Staff recommended Body Art Studios be considered through a Specific Use Permit in lieu of "by right" as requested. In the Central Business District, a bar/tavern and day care facility are also considered through a Specific Use Permit. The City Council approved a text amendment to the existing

condition for a Body Art Studio that states "...except as otherwise approved by a Specific Use Permit" (Ordinance No. 1061-10-11-23).

The text amendment did not revise the definition of a Body Art Studio and it remains defined in the Unified Development Code as *"an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin or any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration. This definition does not include, for the purposes of this Chapter, ear piercing."*

A Specific Use Permit is a land use tool which allows for a case-by-case review of a requested land use that has been specifically identified in the Unified Development Code as a potentially acceptable use. A Specific Use Permit is similar to a zoning request in which the application is considered at Public Hearings and allows for the Public, Planning and Zoning Commission and City Council to review and consider the proposed request based on specific criteria.

**PROJECT DESCRIPTION:**

Freedom Machine Tattoo is proposed to be located in the eastern portion of the existing building at 101 E. Pecan St. The building is approximately 1,845 square feet in size and consists of two internal lease spaces. The larger area is approximately 1,400 square feet and was previously occupied by Granny's Kitchen and occupies Delton's Barber Shop. The remaining area, approximately 450 square feet is the location for the proposed body art studio, which was recently occupied by Delton's Barber Shop.

Land Use: The proposed Body Art Studio is a commercial service that offers clients with body art in the form of tattoos and is not planned to offer piercing (although would be permitted per definition). The use is regulated by the Texas Administrative Code within Chapter 229, Subchapter V and will be required to meet and obtain all applicable health requirements and permits. The proposed location will allow for a small start up business in the downtown and will offer a service not currently provided in this area. The applicant has indicated initially the business will operate with one artist with a desire to add additional artists in the future as demand and space allows. Proposed operating hours for the business are between noon and 9:00 PM, 7 days a week, with an extension of time as needed to finalize a project.

Parking and Site Lighting: Adequate parking is available on-site for the proposed use. The parking requirement for commercial uses in the Central Business District is 1 per 300 square feet, which equates to approximately two parking spaces required for the body art studio and four spaces required for the barber shop. Dedicated parking spaces on-site are provided on paved surfaces and are identified through wheel stops. Additional area along the back of the lot consists of gravel and has been used as parking. The unpaved surface is nonconforming and is subject to Subchapter 6 of the Unified Development Code, but generally allowed to remain as such unless the area is expanded, the site becomes vacant, or the structure is damaged by more than 50%. No additional site lighting is proposed through the Specific Use Permit.

Structural Modifications and Landscaping: No external structural modifications are proposed to the existing building, except for the addition of a sign, which is regulated separately and will require a sign permit. No landscaping is proposed with the Specific Use Permit.

Signage: The Central Business District regulates the amount and types of signage permitted on site. The applicant seeks to install a 4-ft. tall by 14-inch wide projecting sign, which is less than the 9 square feet allocated in CBD. The sign is proposed to be wood with the word "Tattoo" painted vertically utilizing

complementary colors to the existing structure. An example of the type of sign proposed is included with this staff report, but is generally characteristic of the Threadgill's sign in Austin. The applicant is aware of the sign requirements in the Central Business District and is amenable to all of them.

**LAND USE COMPATIBILITY:**

As represented in the map below, surrounding land uses predominantly are service commercial and contain commercial zoning (General Business-1, Retail and Office-1). Residential property is located generally southwest of the proposed site. The proposed land use will utilize existing parking dedicated to the site and is not anticipated to create significant traffic or congestion to the area.



**OLD TOWN VISION REPORT:**

The Old Town Vision Report was taken into consideration when evaluating the proposed use. As presented, the use may achieve many of the desired values and characteristics for the development of Old Town. By allowing consideration through the Specific Use Permit process, the community is able to become engaged in the review process of the Body Art Studio to determine if the desired values and characteristics for Old Town are being upheld.

**CRITERIA FOR APPROVAL OF A SPECIAL DISTRICT:**

The Commission and City Council shall consider the following criteria in determining the validity of the Specific Use Permit request:

- (a) Whether the use is harmonious and compatible with its surrounding existing uses or proposed uses;

- (b) Whether the activities requested by the applicant are normally associated with the requested use;
- (c) Whether the nature of the use is reasonable; and
- (d) Whether any impact on the surrounding area has been mitigated.

In granting a Specific Use Permit, the City Council may impose written conditions that the owner or grantee must comply with before a Certificate of Occupancy for the use can be issued.

**STAFF RECOMMENDATION:**

The applicant proposed a text amendment which was approved by City Council to consider a Body Art Studio through a Specific Use Permit. In addition to the standard notification requirements for a Specific Use Permit, the applicant was encouraged and has spoken with surrounding property owners, downtown businesses and the Old Town Neighborhood Association. With the surrounding properties consisting of service commercial uses, the proposed body art studio is generally harmonious with the surrounding businesses. No modifications are proposed to the existing structure or site, no noise will be generated through the use, adequate parking for the proposed use is provided, proposed signage is generally harmonious with the structure, and additional traffic is anticipated to be minimal. As proposed, the body art studio may achieve many of the desired values and characteristics as identified in the Vision Report for Old Town. The proposed use will provide a service to the City that is not currently offered and will establish a new, small business within the downtown. Based on review of these conditions, Staff recommends approval of the request.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

On January 3, 2011, the Planning and Zoning Commission conducted a public hearing for the proposed Body Art Studio Specific Use Permit. Several residents spoke at the public hearing in support and in opposition to the proposed use and its proposed location. Upon closing the public hearing, the Commission on a vote of 4-1 recommended approval of the Specific Use Permit with the conditions that 1.) The Body Art Studio shall have operating hours between noon and 9 pm and 2.) All applicable sign ordinances shall be adhered to.

**NOTIFICATION:**

Notification letters were sent to property owners within 200-ft. of the proposed site, the Pflugerville Council of Neighborhood Associations, and the Old Town Neighborhood Association. A sign was placed on the property prior to December 17, 2010 and a public notice appeared in the Pflugerville Pflag newspaper on December 16, 2010.

**ATTACHMENTS:**

- Site Photos
- Notification Map
- Site Survey
- Conceptual Signage Example
- Application



**PHOTOS:**



SUBJECT SITE



SUBJECT SITE



SUBJECT SITE



GENERALLY WEST OF SITE



GENERALLY NORTHWEST OF SITE



GENERALLY NORTH AND EAST OF SITE



GENERALLY NORTHEAST OF SITE



GENERALLY EAST OF SITE



GENERALLY SOUTHWEST OF SITE



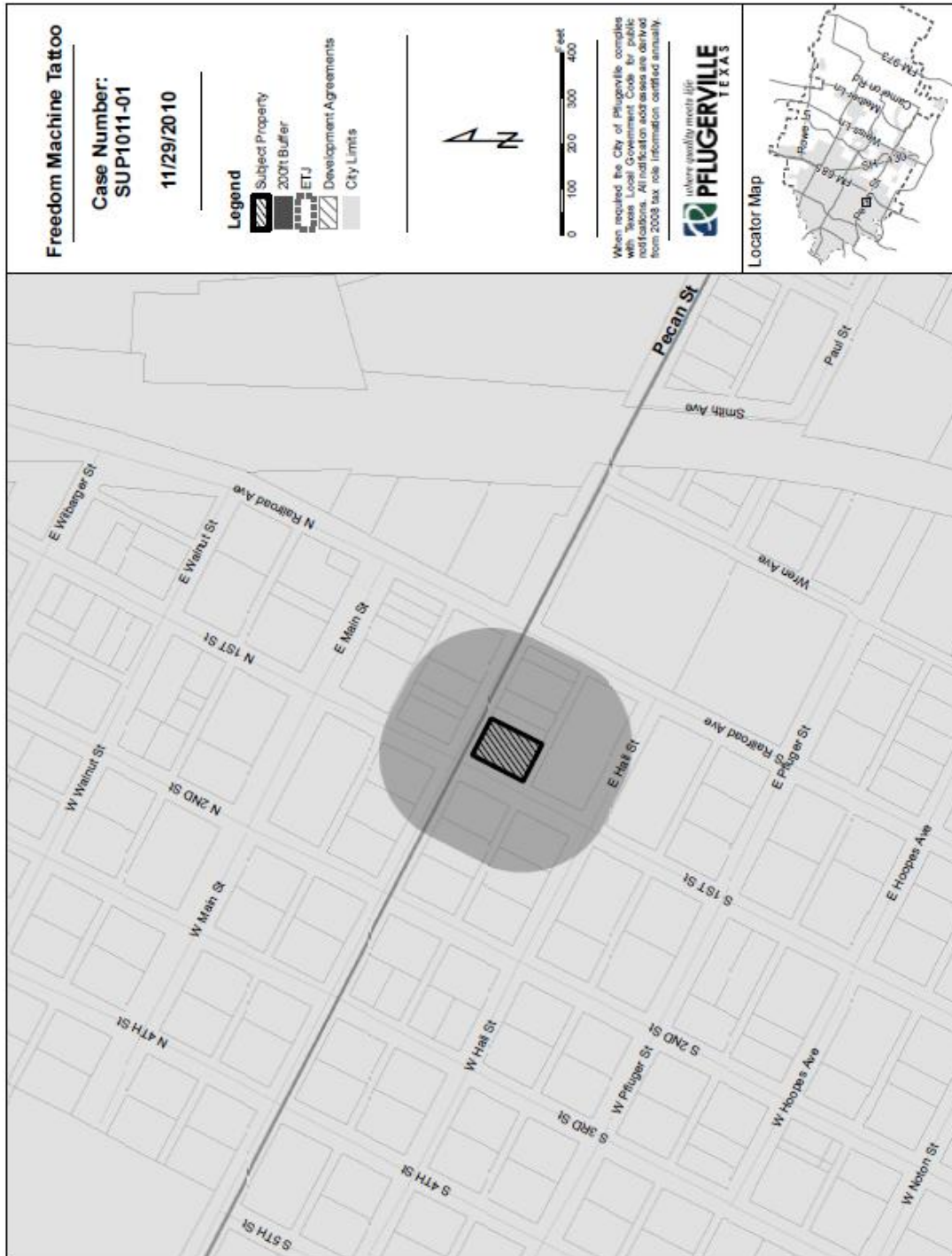
GENERALLY SOUTH OF SITE



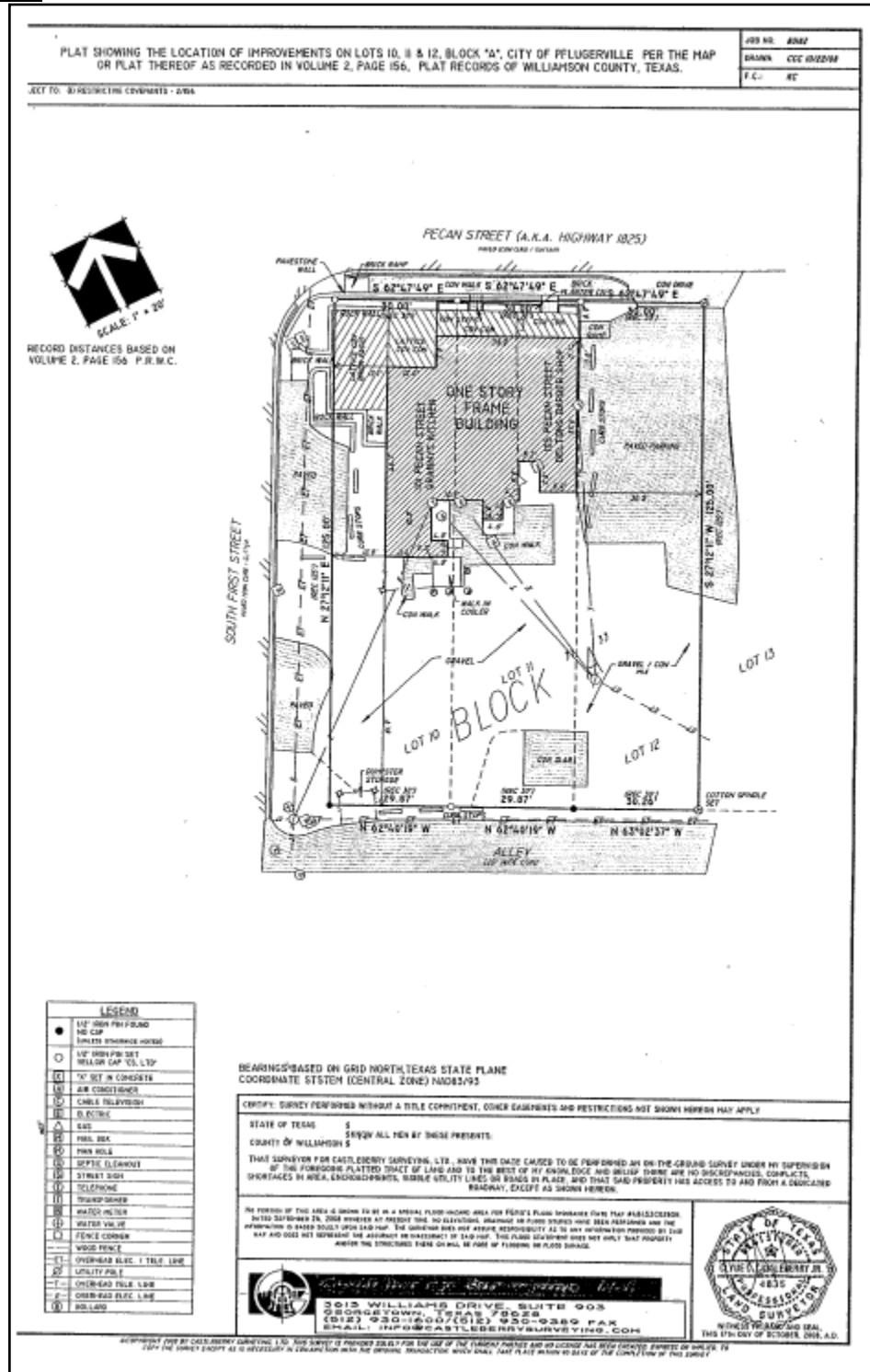
GENERALLY SOUTH OF SITE



**NOTIFICATION MAP:**



**SITE SURVEY:**



CONCEPTUAL SIGNAGE EXAMPLE:



**APPLICATION:**



Case# SUP/SD-101101

Specific Use Permit/ Special District - Application		
Applying for: (check)	<input checked="" type="checkbox"/> Specific Use Permit	<input type="checkbox"/> Special District - Corridor
	<u>Applicant</u>	<u>Engineer</u>
Name	Ryan Dodson	
Organization		
Mailing Address	1607 old Tract RD	
	Pflugerville TX 78660	
Phone Number	626-482-0952	
Fax Number		
Email Address	RyanDodsonTattoos@yahoo.com	
Signatures		

Property Description:			
Name of Project/ Business:	Freedom Machine Tattoo Co.		
Street Address:	105 e Pecan st Pflugerville TX 78660		
Legal Description:	1018CA (Separate attachment accepted)		
Dimensions of Lot:	Frontage	Depth	Square Feet
Watershed:			
Parcel ID:	274611	Zoning District:	
Present Land Use:	Vacant - CBD	Proposed Land Use:	Specific Use Permit
Existing Building On Property?	<input checked="" type="radio"/> Yes	No	S.F of Building 450 sq
Is a portion of property located in?:	Floodplain	<input checked="" type="radio"/> CBD	Corridor

To Be Completed By Staff:		Filing Fee:	
Case Name:	Freedom Machine Tattoo	500.00	
Date Received:	11-29-10	Case Manager:	Erin
PH Notice sent to Pflag:	12/16/2010	Submittal Completion Date:	
P&Z Meeting Date:	1/3/2011	PH Notice appears in Pflag:	12/23/10
		City Council Meeting Date:	



Case# SUP/SD- \_\_\_\_\_ - \_\_\_\_\_

**Specific Use Permit Application**

**Submittal Requirements:**

- \_\_\_\_\_ 1. Filing Fee \$ 500.00
- \_\_\_\_\_ 2. Complete Specific Use Permit Application with all required contact information.
- \_\_\_\_\_ 3. Initial submittal - 5 full size copies & One 11x17 copy of the Site Plan showing:
  - a) Off-street parking facilities
  - b) Size, height, construction materials, and locations of buildings
  - c) Uses to be permitted
  - d) Location and instruction of signs
  - e) Means of ingress and egress to public streets
  - f) Type of visual screening such as walls, plantings and fences
  - g) Relationship of the intended use to all existing properties and land uses 200 feet from subject site.
  - h) Building floor plans/ Building Elevations
  - i) Tree survey mapping and identifying all trees.
- \_\_\_\_\_ 4. In a typed response, please answer the following questions, as evidence that the request complies with the conditions required for approval of a Specific Use Permit.
  - a. Specific Use Permit pertains to Section \_\_\_\_\_ of the Site Development Code/ Zoning Code which requires...
  - b. Explain how the proposed use is harmonious and compatible with its surrounding existing uses or proposed use.
  - c. Please explain how the proposed activities are normally associated with the requested land use.
  - d. Explain how the nature of the proposed land use is reasonable.
  - e. Please state what measures will be taken in order to mitigate the impact on the surrounding area.
- \_\_\_\_\_ 5. Tree Survey mapping and identifying all trees.

**Additional Information:**

A building, premise, or land used under a Specific Use Permit may be enlarged, modified, structurally altered, or otherwise changed provided the changes do not:

- a) Increase the height of Structures, including antenna support structures.
- b) Increase building square footage from its size at the time the original Specific Use Permit was granted by more than 10 percent.
- c) Reduce the distance between a building or noise-generating activity on the property and an adjacent, off-site residential use. This provision shall not apply if the property and the residential use are separated by a major thoroughfare depicted on the City's Thoroughfare Plan
- d) Reduce the amount of open space as indicated in the approved Specific Use Permit.
- e) All other enlargements, modifications, structural alterations, or changes shall require the approval of a new Specific Use Permit. Antennas may be placed on a tower with an existing Specific Use Permit without approval of a separate Specific Use Permit subject to approval of a Final Plat and Site Plan for the property.

Case# SUP/SD- \_\_\_\_\_ - \_\_\_\_\_

**Specific Use Permit Criteria**

Answer the questions on the following pages, as evidence that the Specific Use Permit request complies with the conditions required for approval (extra pages and supplemental illustrations or photographs may be requested by staff)

**Requested Specific Use Permit:**

1. Specific Use Permit pertains to Section \_\_\_\_\_ of the Site Development Code/  
 Zoning Code which requires...

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2. The proposed use is harmonious and compatible with its surrounding existing uses or proposed uses, because...

The Central Business District is a service based economy, Boxy art studios thrive in these kind of areas. I believe adding some artistic diversity to the C.B.D. will have a positive impact on the surrounding businesses.

3. Please demonstrate how the proposed activities are normally associated with the requested use.

The Central Business District is a service based economy. Bringing new people into our C.B.D. for a few hours at a time will help the growth of the surrounding businesses by expanding their clientele.



where quality meets life

**PFLUGERVILLE**  
TEXAS

Pflugerville  
City Council

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4. The nature of the proposed use is reasonable, because...

With the growing popularity, Borey art is quickly turning into Big Business. A Borey art studio in our C.B.D. is a ideal location for a city that curantly has NO Studios.

5. Please state what measures will be taken in order to mitigate the impact on the surrounding area

The studio I wish to open at 105 E Pecan is a small 450 sq store front. My studio will be an appointment based operation with the hours being from noon to nine p.m. There will be no changes to the structure.

**Additional Requirements if site is located in a Corridor (CL3, CL4, CL5) Zoning District:**

In a typed response, please demonstrate how this project meets the criteria for approval.

1. Conformance with the 4 \*Guiding Principles of the "SH 45 & SH 130 Corridor Study" and zoning regulations.
  - a. \*Create a series of unique places to shop, work, and live.
  - b. \*Establish a diversified and leak-free tax base.
  - c. \*Establish an enhanced, long-term market capture.
  - d. \*Utilize smart, healthy and sensible design concepts.
  - e. Lessen congestion in the streets.
  - f. Secure safety from fire, panic and other dangers.
  - g. Insure adequate light and air.
  - h. Prevent the overcrowding of land to avoid undue concentration of population.
  - i. Facilitate the adequate provision of transportation, water, sewerage, parks, open spaces, and other public requirements.
  - j. Maintain property values and encouraging the most appropriate use of land throughout the Corridor consistent with the Comprehensive Plan and the Corridor Plan.
2. Retail activity located at the following major intersections:
  - a. SH 130 and SH 45; SH 130 and Pecan Street; SH 45 and Heatherwilde Blvd; SH 130 and Pflugerville PKWY; and FM 685 and Pflugerville PKWY
3. Structures should orient to public streets and designated trails as noted on the Future Trails Map referenced in the Comprehensive Plan.
4. The extent of connectivity among proposed and existing ROW is demonstrated.
5. Clustering of free standing pad sites at focal points or key features within the development. (i.e. retention ponds, greenways, dedicated hike/bike facilities, or plazas, parks or other features)
6. Exhibits compatibility of the design with surrounding properties and development patterns.
7. Exhibits compatibility and coordination between the character of the streetscape and the planned surrounding built environment.
8. Exhibits no substantial negative impacts on the historic, cultural or architectural nature of the site or surrounding area, or successfully mitigates such impacts.

12-09-2010 11:49PM FROM D L PETERSON CONST 619 225 8733

P. 1

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THE UPS STORE 2344

PAGE 02



Case# REZ

Consent of Owner

Project Name: 105 EAST PEGAN ST  
 Property Owner Name: Daniel & Jill Peterson  
 Address: 1106 SANJOY ST  
 City: SAN DIEGO State: CALIF Zip Code: 92107  
 Phone: 619-834-0057 Fax: 619-225-8733  
 Email: dan.peterson@cox.net  
 Signature: [Handwritten Signature]

By signing this form, the owner of the property authorizes the City of Pflugerville to begin proceedings in accordance with the process for the type of application indicated above. Owner further acknowledges that submission of an application does not in any way obligate the City to approve the application and that although City staff may make certain recommendations regarding this application; the City Council may not follow that recommendation and may make a final decision that does not conform to the staff's recommendation.

THE STATE OF \_\_\_\_\_ :  
 COUNTY OF \_\_\_\_\_ :  
 KNOW ALL MEN BY THESE PRESENTS

Before me, \_\_\_\_\_, on this day personally appeared \_\_\_\_\_  
 known to me to be the person whose name is subscribed to the foregoing instrument and  
 acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
 Notary Public's Signature  
 My Commission Expires: \_\_\_\_\_

**SEE ATTACHED LEGAL  
 NOTARIZATION**



12-09-2010 11:46PM FROM D L PETERSON CONST 619 225 8733 P. 2

**CALIFORNIA ALL-PURPOSE  
 CERTIFICATE OF ACKNOWLEDGMENT**

State of California

County of San Diego

On 10 Dec 2010 before me, Bill S. Walls, Notary Public  
(Here insert name and title of the officer)

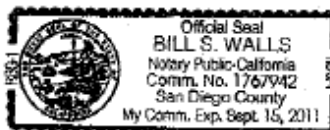
personally appeared Daniel A. Peterson & Jill E. Peterson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Bill S. Walls  
 Signature of Notary Public



**ADDITIONAL OPTIONAL INFORMATION**

**INSTRUCTIONS FOR COMPLETING THIS FORM**

*Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.*

- State and County information must be the State and County where the document signor(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signor(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signor(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they - is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ◆ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ◆ Indicate title or type of attached document, number of pages and date.
  - ◆ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

**DESCRIPTION OF THE ATTACHED DOCUMENT**

Consent of Owner  
(Title or description of attached document)

\_\_\_\_\_  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

\_\_\_\_\_  
(Additional information)

**CAPACITY CLAIMED BY THE SIGNER**

Individual (s)  
 Corporate Officer

\_\_\_\_\_  
(Title)

Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other \_\_\_\_\_

Case# SUP/SD- \_\_\_\_\_ - \_\_\_\_\_

**Applicant's Affidavit**

Project Name: Freedom machine Tattoo Co.

I, Ryan Dodson, certify that I have read this form thoroughly and the information included in this supplemental application form is a true representation of the permit applications submitted to date that are associated with the current application or this application is not one in a series of permits as defined by Chapter 245 of the Texas Local Government Code.

Address: ~~10112~~ 10112 16582 Pecan St

City: Pflugerville State: TX Zip Code: 79660

Phone: 626-482-0952 Fax: \_\_\_\_\_

Signature: \_\_\_\_\_

THE STATE OF Texas :  
 COUNTY OF Texas : KNOW ALL MEN BY THESE PRESENTS

Before me, Morgan Ellis, on this day personally appeared Ryan Dodson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 28 day of November, 2010.



Morgan Ellis  
 Notary Public's Signature  
 My Commission Expires: 05-7-13