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To: Applicant for a Hearing before the Zoning Board of Adjustment

From: The City of Hilshire Village Zoning Board of Adjustment

Dear Applicant:

The City of Hilshire Village (HV) is a zoned city. Many people feel this is a major consideration in their decision to live in the city. You probably considered, or were influenced by, this fact favorably in deciding to become a resident of HV or to purchase property within the city.

The city's zoning ordinance is an exercise of legislative power granted to Texas cities by the State. In 1927, the Texas Legislature adopted laws authorizing zoning for Texas municipalities. The purpose of zoning is protection of the public health, safety and welfare. Zoning permits the City to regulate the use of land and buildings in the city. As a creation of State law, zoning is governed by strict procedures. *See generally* Tex. Loc. Gov't Code Ch. 211, City of Hilshire Village Code of Ordinances Ch. 12, and Hilshire BOARD Rules of Procedure.

Prior to filing an appeal to the Board of Adjustment (the "Board"), you should read the City's Zoning Ordinance. There is no substitute for understanding the ordinance and having a full appreciation for the regulations before you appear before the Board to request relief from the city's Zoning Ordinances. This letter is only intended to be a summary and a guide in helping you understand your responsibility and the role of the Board.

The Board is a quasi-judicial body authorized to act by State law and can only hear zoning matters or other matters assigned to it by City Council. Board has responsibility: 1) to hear an appeal that alleges error in a decision by a city official in the enforcement of the Zoning Ordinance filed with 20 days of the alleged error; 2) to decide special exceptions when authorized by the Zoning Ordinance; 3) to authorize a variance from the City's Zoning ordinance needed to avoid undue hardship due to special conditions; and 4) to decide other matters delegated to it by the Zoning Ordinance.

For example, an applicant has a right to appeal to the Board if the applicant believes that the City Building Official has interpreted the Zoning Ordinances erroneously. If an applicant is seeking a special exception the applicant must state which specific special exception(s) that they request. The permitted special exceptions are listed in the City of Hilshire Village code of ordinances section 94:04 Exhibit A Chapter 12.

An applicant may alternatively seek a variance if the applicant feels that a literal interpretation of the Zoning Ordinance to their particular circumstances would result in unnecessary hardship. The board may only authorize a variance from the terms of the Zoning Ordinance if all three of the following are true:

- If the variance is not contrary to the public interest;
- Due to special conditions, a literal enforcement of the Ordinance would result in unnecessary hardship; and
- The spirit of the ordinance is observed and substantial justice is done.

Each of these prerequisites must be present for a variance to be granted. The burden of proof of “unnecessary hardship” rests solely with the applicant and a purely “economic hardship” alone is insufficient. If these factors are not shown to exist, as a matter of law the Board cannot vary the terms of the zoning regulations.

Taking any action related to or affecting this City’s zoning regulations is not a matter undertaken lightly by the Board. The City’s Zoning Ordinance represents a comprehensive plan for the orderly and proper use of all land and building in the City.

Members of the Board, and alternate Board members, are appointed by the City Council and serve for two years. They may be reappointed for additional terms of service. As a matter of law, the Board has no legislative authority to enact, amend or alter the Zoning Ordinance – that power rests solely with the City Council. The Board is a “quasi-judicial” body. In practice the Board conducts hearings and functions somewhat like a judicial body or court. Board members strive to act impartially and fairly in the exercise of their duties.

To request a public hearing the applicant must contact the City Administrator and it is required that the applicant fill out the proper forms that state specifically what is being requesting, including what part(s) of the HV Zoning Ordinance relief is being requested.

At the time of your scheduled public hearing before the Board there will be a panel of five board members with no less than four required to be present to consider your request. Hearings are tape recorded by the City and all applicants and witnesses are sworn to tell the truth. You are not required to have anyone represent you but you may have an attorney represent you. The chairman of the Board controls the orderly progression of the hearing. **The hearings are conducted informally and the rules of evidence and procedure are not followed unless the applicant provides the Board prior written notice as provided by the Board’s rules.**

At the public hearing you will be allowed to make whatever reasonable presentation you wish, and submit whatever information that you want to be considered and included in the record of the proceedings. Members of the public who attend will be given a reasonable opportunity to speak. Affidavit testimony, letters and other documentation from persons in support of your request may be helpful, but they are a poor substitute for live testimony given at the public hearing. The concurring vote of **four (4) members of the Board is necessary to reverse a decision of a city official, to decide a matter in favor of an applicant, or to authorize a variance.**

Any letters, petitions or other documents pertaining to a hearing should be filed with the City Administrator who will deliver all written materials to the Board prior to the hearing so the members of the Board may familiarize themselves with the case and in some cases may visit the property as part of their preparation. After your application is filed, you and those helping or representing you should wait until the scheduled public hearing to present your case to the Board. It would be improper to contact any Board member to lobby, persuade or present information, evidence, or even to discuss your request, prior to the scheduled public hearing.

The Board meets as needed, generally only when a hearing is requested. In order to schedule a hearing before the Board the applicant must contact the City Administrator to file an application, request a hearing and pay the required fee. This fee offset the cost of publication, notice of the hearing and other administrative costs. Please be sure that all materials necessary to support your request, such as surveys or plans, are promptly filed with the City as part of your application. The process of publishing and giving notice may take several weeks. As an applicant, you will be given individual notice of the hearing date and time.

Your cooperation with the Board in effectively fulfilling its role is greatly appreciated. Thank you.

Sincerely,

For the Hilshire Village Zoning Board of Adjustment