

ORDINANCE

AN ORDINANCE AMENDING ORDINANCE B-582, THE ZONING ORDINANCE AND MAP OF THE CITY OF BURLESON, TEXAS, BY AMENDING THE OFFICIAL ZONING MAP AND CHANGING THE ZONING ON APPROXIMATELY 11.999 ACRES OF LAND SITUATED IN THE JAMES M. CARTWRIGHT SURVEY, ABSTRACT NUMBER 132, SITUATED IN THE CITY OF BURLESON, JOHNSON COUNTY, TEXAS, AND BEING A PORTION OF CALLED 13.288 ACRE TRACT OF LAND DESCRIBED BY DEED TO HOLY CROSS CHRISTIAN ACADEMY INC., RECORDED IN COUNTY CLERK FILE NUMBER 2021-8655, DEED RECORDS JOHNSON COUNTY, TEXAS (D.R.J.C.T.), FROM AGRICULTURAL (A) TO COMERCIAL (C) WITH A SPECIFIC USE PERMIT (SUP) FOR AUTO SALES; MAKING THIS ORDINANCE CUMULATIVE OF PRIOR ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas ("City"), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council passed, approved, and adopted Ordinance B-582, being the Zoning Ordinance and Map of the City of Burleson, Texas, showing the locations and boundaries of certain districts, as amended, and codified in Appendix B of the City of Burleson Code of Ordinances (2005) (the "Zoning Ordinance and Map"); and

WHEREAS, an application for a zoning change was filed by **John Hamilton** on **June 12, 2023**, under **Case Number 23-074**, on property described herein below filed application with the City petitioning an amendment of the Zoning Ordinance and Map so as to rezone and reclassify said property from its current zoning classification; and

WHEREAS, the Planning and Zoning Commission of Burleson, Texas, held a public hearing on said application after at least one sign was erected upon the property on which the change of classification is proposed in accordance with the Zoning Ordinance and Map, and after written notice of such public hearing before the Planning and Zoning Commission on the proposed rezoning had been sent to owners of real property lying within 300 feet of the property on which the change of classification is proposed, said notice having been given not less than ten (10) days before the date set for hearing to all such owners who rendered their said property for City taxes as the ownership appears on the last approved City Tax Roll, and such notice being served by depositing the same, properly addressed and postage paid, in the U.S. mail; and

WHEREAS, after consideration of said application, the Planning and Zoning Commission of the City of Burleson, Texas voted **X to X** to recommend to the City Council of Burleson, Texas, that the hereinafter described property be rezoned from its classification of **Agricultural (A)** to **Commercial (C) with a Specific Use Permit (SUP) for Auto sales**; and

WHEREAS, notice was given of a further public hearing to be held by the City Council of the City of Burleson, Texas, to consider the advisability of amending the Zoning Ordinance and Map as recommended by the Planning and Zoning Commission, and all citizens and parties at interest were notified that they would have an opportunity to be heard, such notice of the time and place of such hearing having been given at least fifteen (15) days prior to such hearing by publication in the Fort Worth Star Telegram, Fort Worth, Texas, a newspaper of general circulation in such municipality; and

WHEREAS, all citizens and parties at interest have been given an opportunity to be heard on all the matter of the proposed rezoning and the City Council of the City of Burleson, Texas, being informed as to the location and nature of the use proposed on said property, as well as the nature and usability of surrounding property, have found and determined that the property in question, as well as other property within the city limits of the City of Burleson, Texas, has changed in character since the enactment of its classification of **Agricultural (A)**; and, by reason of changed conditions, does consider and find that this amendatory Ordinance should be enacted since its provisions are in the public interest and will promote the health, safety and welfare of the community; and

WHEREAS, the City Council of the City of Burleson, Texas, may consider and approve certain ordinances or ordinance amendments at only one meeting in accordance with Section 2-4 of the City of Burleson Code of Ordinances (2005); and

WHEREAS, the City Council of the City of Burleson, Texas, finds that this Ordinance may be considered and approved in only one meeting because the provisions of this Ordinance concern an individual zoning case that does not propose a change to the language of the City of Burleson Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS:

Section 1

The Zoning Ordinance and Map is hereby amended insofar as it relates to certain land described as 11.999 acres of land situated in the James M. Cartwright Survey, Abstract Number 132, situated in the City Of Burleson, Johnson County, Texas, and being a portion of called 13.288 acre tract of land described by deed to Holy Cross Christian Academy Inc., recorded in County Clerk File Number 2021-8655, Deed Records Johnson County, Texas (D.R.J.C.T.), as **described in Exhibit A**, by changing the zoning of said property from **Agricultural (A)** to **Commercial (C) with a Specify Use Permit (SUP) for Auto Sales** being attached hereto and incorporated herein by reference for all purposes, herein with an associated commercial site plan attached herein as **Exhibit B** with the following waivers to the commercial site plan;

City Council hereby grants a waiver to Appendix C Urban Design Standards, Article V section 5-52(o) (2): requiring no off street parking between the principal address of the building and the street unless the city manager or his or her designee approves an alternative design.

City Council hereby grants a waiver to Appendix C Urban Design Standards, Article V Section 5-51(h)(2): requiring that for specific plan area 3, developments shall provide at least five percent net site area to one or a combination of the following. The land area provided as public open space may be credited against the overall landscaping requirement on a square foot for square foot basis, for up to 50 percent of the total landscaping requirement

City Council hereby grants a waiver to Article III Section 86-105(a): requiring no less than 40 percent of the total landscaping shall be located in the designated front yard.

Section 2.

The findings and recitals set forth above in the preamble of this ordinance are incorporated into the body of this ordinance as if fully set forth herein.

Section 3.

It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

Section 4.

This ordinance shall be cumulative of all provisions of ordinances of the City of Burleson, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. To the extent that the provisions of the City of Burleson's various development ordinances conflict with this ordinance, the terms of this ordinance shall control.

Section 5.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 6.

An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for that purpose.

Section 7.

Any person, firm, association of persons, company, corporation, or their agents, its servants, or employees violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by State Law, and the power of injunction as provided in Texas Local Government Code 54.012 and as may be amended, may be exercised in enforcing this article whether or not there has been a complaint filed.

Section 8.

This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED AND APPROVED:

First and Final Reading: the _____ day of _____, 20_____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

EXHIBIT "A"

DESCRIPTION OF PROPERTY

LEGAL DESCRIPTION 5.786 ACRE TRACT 1

BEING a 5.786 acre tract of land situated in the James M. Cartwright Survey, Abstract Number 132, City of Burleson, Johnson County, Texas, and being a portion of a called 13.288 acre tract of land described by deed to Holy Cross Christian Academy, INC., recorded in County Clerk's File Number 2021-8655, Deed Records, Johnson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at an orange capped 1/2" iron rod found stamped "YARGER 5854" at the northeast corner of said called 13.288 acre tract, said found iron rod also being the southeasternmost corner of a called 8.09 acre tract of land described by deed to Jerry Branson, recorded in County Clerk's File Number 2015-10410, Deed Records, Johnson County, Texas, and being in the west right-of-way line of Interstate Highway 35W (a 350' right-of-way);

THENCE South 26 degrees 51 minutes 12 seconds East, along said west line of Interstate Highway 35W and the east line of said called 13.288 acre tract, 283.42 feet, to a point in line;

THENCE departing said common line, and over and across said called 13.288 acre tract the following calls:

South 63 degrees 12 minutes 38 seconds West, 389.29 feet;

North 89 degrees 26 minutes 56 seconds West, 456.73 feet, to a point in the west line of said called 13.288 acre tract; said point also being in the east line of Tarver Road, a prescriptive right-of-way;

THENCE North 02 degrees 03 minutes 53 seconds East, 353.30 feet, along said west line of the called 13.288 acre tract and said east line of Tarver Road to the southwest corner of said called 8.09 acre tract, said point being in the northwest corner of said called 13.288 acre tract;

THENCE North 89 degrees 48 minutes 31 seconds East, along the south line of the said called 8.09 acre tract and the north line of the called 13.288 acre tract, 526.72 feet, to an orange capped 1/2" iron rod found stamped "YARGER 5854";

THENCE North 63 degrees 11 minutes 41 seconds East, continuing along said common line, 153.21 feet, to the POINT OF BEGINNING, and containing 252,056 square feet or 5.786 acres of land, more or less.

LEGAL DESCRIPTION 6.213 ACRE TRACT 2

BEING a 6.213 acre tract of land situated in the James M. Cartwright Survey, Abstract Number 132, City of Burleson, Johnson County, Texas, and being a portion of a called 13.288 acre tract of land described by deed to Holy Cross Christian Academy, INC., recorded in County Clerk's File Number 2021-8655, Deed Records, Johnson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 3/8" iron rod found at the southeast corner of said called 13.288 acre tract and being the northeast corner of called Tract Two, described by deed to Johnnie Tackett and Linda Tackett, recorded in Volume 4590, Page 256, Deed Records, Johnson County, Texas and said corner being in the west right-of-way line of Interstate Highway 35W (a 350' right-of-way);

THENCE North 89 degrees 37 minutes 43 seconds West, departing said west right-of-way line and along the north line of said Tract Two and the south line of said called 13.288 acre tract, 418.13 feet, to a found 3/8" iron rod;

THENCE North 26 degrees 47 minutes 13 seconds West, departing said common line and over and across said 13.288 acre tract, 101.50 feet, to a point;

THENCE North 89 degrees 26 minutes 56 seconds West, continuing over and across said called 13.288 acre tract, 587.71 feet, to a point in the west right-of-way line of Tarver Road, a prescriptive right-of-way and being in the west line of said called 13.288 acre tract;

THENCE North 02 degrees 03 minutes 53 seconds East, along said common line, 204.07 feet, to a point in line;

THENCE departing said common line, and over and across said called 13.288 acre tract the following calls:

South 89 degrees 26 minutes 56 seconds East, 456.73 feet;

North 63 degrees 12 minutes 38 seconds East, 389.29 feet, to a point in the east line of said called 13.288 acre tract, said point being in the west right-of-way line of Interstate Highway 35W;

THENCE South 26 degrees 51 minutes 12 seconds East, 531.26 feet, along said east line and said west right-of-way line, to the POINT OF BEGINNING, and containing 270,644 square feet or 6.213 acres of land, more or less.

EXHIBIT “B”

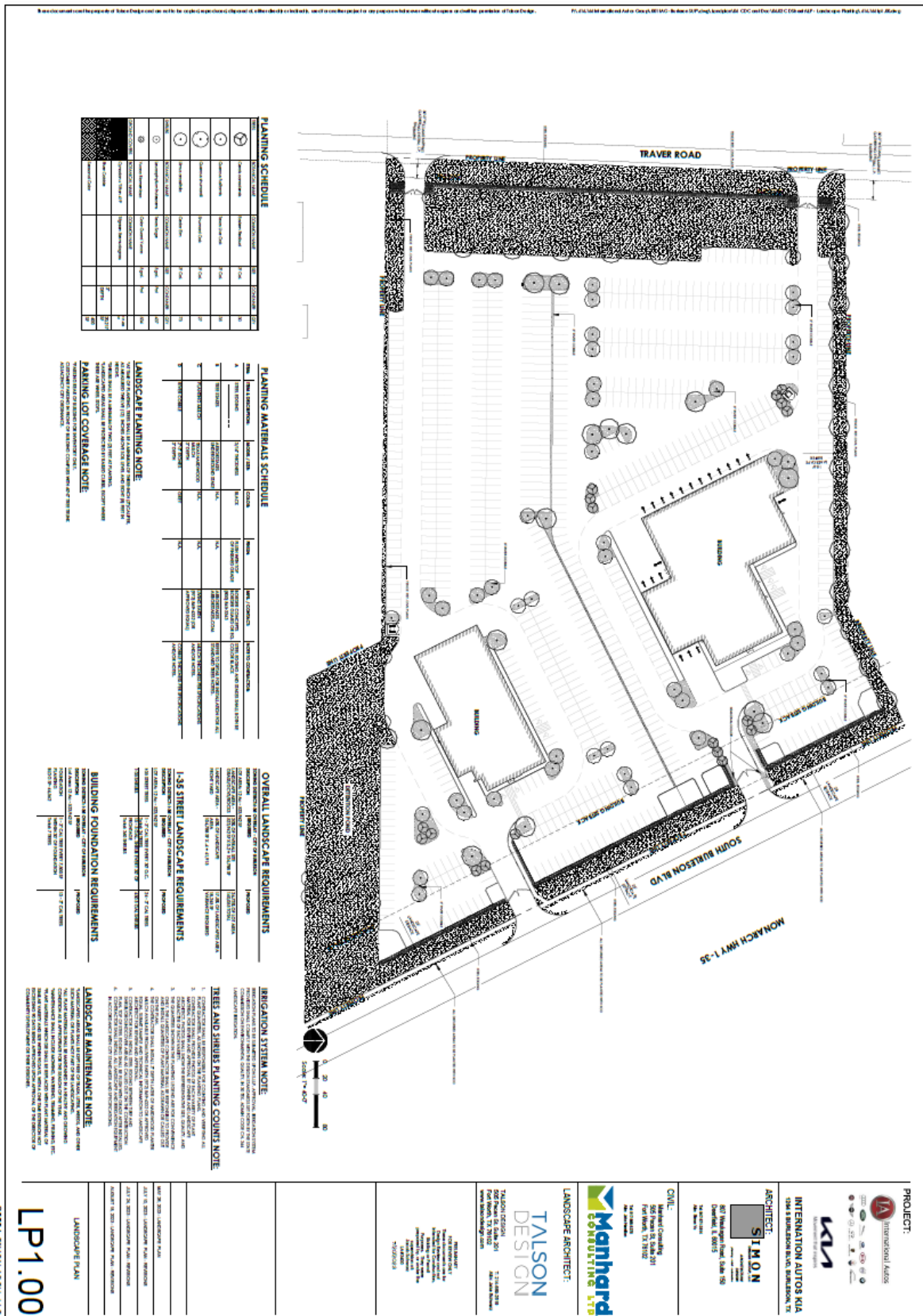


EXHIBIT "B" (continued)

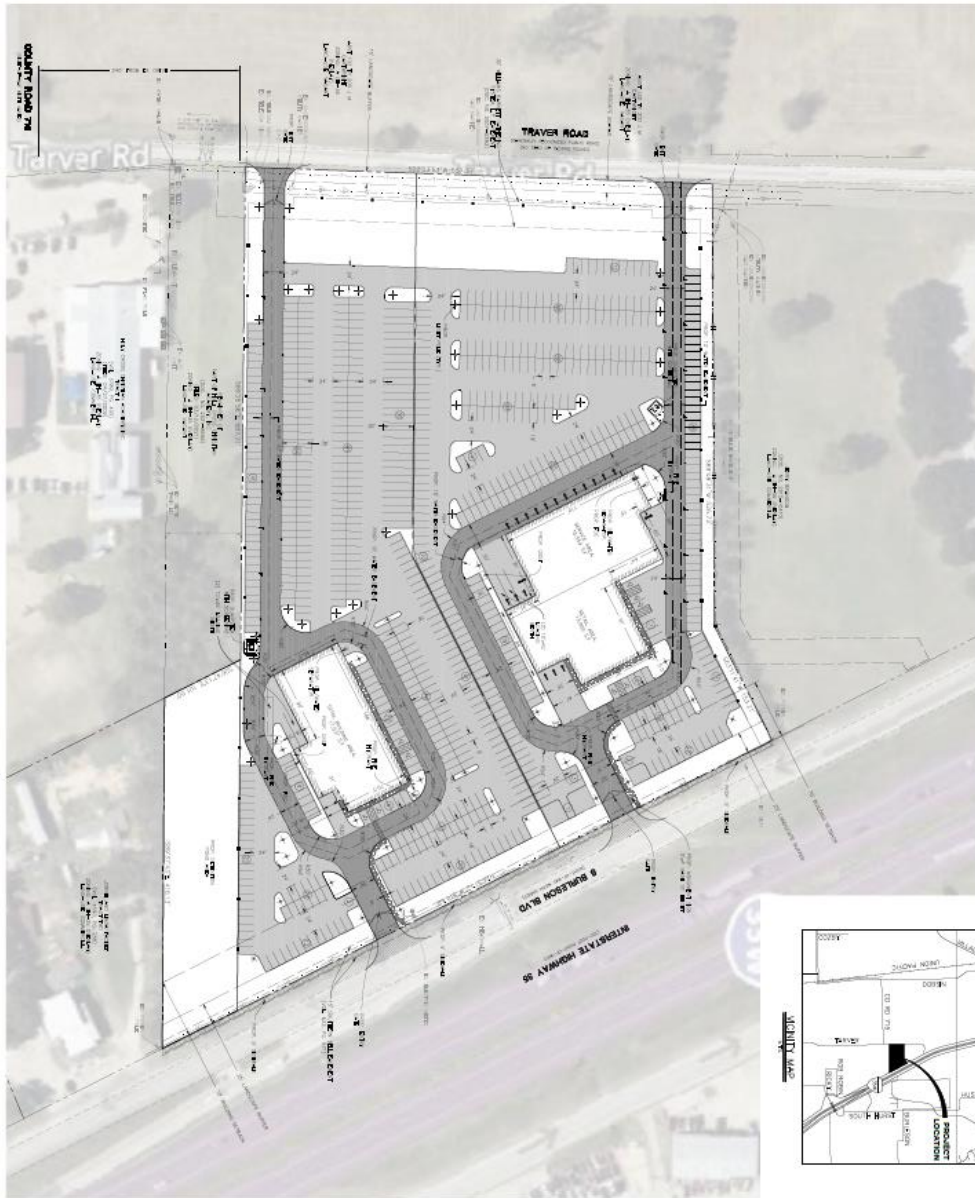


TABLE 1: FINISH NOTES

NO.	DESCRIPTION	FINISH
1	Asph/Flt	Asph/Flt
2	Gravel	Gravel
3	Concrete	Concrete
4	Paint	Paint
5	Landscaping	Landscaping
6	Lighting	Lighting
7	Signage	Signage
8	Fencing	Fencing
9	Drainage	Drainage
10	Utilities	Utilities
11	Structural	Structural
12	Interior	Interior
13	Exterior	Exterior
14	Roofing	Roofing
15	Foundation	Foundation
16	Foundation	Foundation
17	Foundation	Foundation
18	Foundation	Foundation
19	Foundation	Foundation
20	Foundation	Foundation

TABLE 2: FINISH NOTES

NO.	DESCRIPTION	FINISH
1	Asph/Flt	Asph/Flt
2	Gravel	Gravel
3	Concrete	Concrete
4	Paint	Paint
5	Landscaping	Landscaping
6	Lighting	Lighting
7	Signage	Signage
8	Fencing	Fencing
9	Drainage	Drainage
10	Utilities	Utilities
11	Structural	Structural
12	Interior	Interior
13	Exterior	Exterior
14	Roofing	Roofing
15	Foundation	Foundation
16	Foundation	Foundation
17	Foundation	Foundation
18	Foundation	Foundation
19	Foundation	Foundation
20	Foundation	Foundation

TABLE 3: FINISH NOTES

NO.	DESCRIPTION	FINISH
1	Asph/Flt	Asph/Flt
2	Gravel	Gravel
3	Concrete	Concrete
4	Paint	Paint
5	Landscaping	Landscaping
6	Lighting	Lighting
7	Signage	Signage
8	Fencing	Fencing
9	Drainage	Drainage
10	Utilities	Utilities
11	Structural	Structural
12	Interior	Interior
13	Exterior	Exterior
14	Roofing	Roofing
15	Foundation	Foundation
16	Foundation	Foundation
17	Foundation	Foundation
18	Foundation	Foundation
19	Foundation	Foundation
20	Foundation	Foundation

TABLE 4: FINISH NOTES

NO.	DESCRIPTION	FINISH
1	Asph/Flt	Asph/Flt
2	Gravel	Gravel
3	Concrete	Concrete
4	Paint	Paint
5	Landscaping	Landscaping
6	Lighting	Lighting
7	Signage	Signage
8	Fencing	Fencing
9	Drainage	Drainage
10	Utilities	Utilities
11	Structural	Structural
12	Interior	Interior
13	Exterior	Exterior
14	Roofing	Roofing
15	Foundation	Foundation
16	Foundation	Foundation
17	Foundation	Foundation
18	Foundation	Foundation
19	Foundation	Foundation
20	Foundation	Foundation

PROJECT:

INTERNATIONAL AUTOS KIA

4877 Manager Road, Suite 100

Dallas, TX 75247

ARCHITECT:

SIMON

4877 Manager Road, Suite 100

Dallas, TX 75247

MANHARD CONSULTING LTD.

4877 Manager Road, Suite 100

Dallas, TX 75247

TALSON DESIGN

4877 Manager Road, Suite 100

Dallas, TX 75247

LAUSCHKE ARCHITECT

4877 Manager Road, Suite 100

Dallas, TX 75247

DATE:

01/10/2018

BY:

LAUSCHKE ARCHITECT

SCALE:

1" = 100'

PROJECT:

INTERNATIONAL AUTOS KIA

4877 Manager Road, Suite 100

Dallas, TX 75247

ARCHITECT:

SIMON

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Dallas, TX 75247

MANHARD CONSULTING LTD.

4877 Manager Road, Suite 100

Dallas, TX 75247

TALSON DESIGN

4877 Manager Road, Suite 100

Dallas, TX 75247

LAUSCHKE ARCHITECT

4877 Manager Road, Suite 100

Dallas, TX 75247

DATE:

01/10/2018

BY:

LAUSCHKE ARCHITECT

SCALE:

1" = 100'

