

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 1.520 ACRES OF LAND SITUATED IN THE JOSEPH WEST SURVEY, ABSTRACT NO. 855, DESCRIBED IN SPECIAL WARRANTY DEED WITH VENDOR'S LIEN WITH MINERAL RESERVATIONS TO THE MADDOX GROUP LLC AS RECORDED IN INSTRUMENT NO. 2022-137, OFFICIAL PROPERTY RECORDS, JOHNSON COUNTY, TEXAS (O.P.R.J.C.T.), FROM AGRICULTURE (A) TO GENERAL RETAIL (GR); 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 **Bryan Clark** on **January 23, 2023**, under **Case Number 23-007**, 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 **Agriculture (A)** to **General Retail (GR)**; 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 **Agriculture (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 **1.520 acres of land situated in the Joseph West Survey, Abstract No. 855, described in Special Warranty Deed with Vendor's Lien with Mineral Reservations to The Maddox Group LLC as recorded in Instrument No. 2022-137, Official Property Records, Johnson County, Texas (O.P.R.J.C.T.), as described in Exhibit A**, by changing the zoning of said property from **Agriculture (A)** to **General Retail (GR)**.

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"

Exhibit A

DESCRIPTION OF PROPERTY

Being a 1.520 acre (66,191 square foot) tract of land situated in the Joseph West Survey, Abstract No. 855, City of Burleson, Johnson County, Texas, said 1.520 acre tract of land being all of a called 1.521 acre tract of land described in Special Warranty Deed with Vendor's Lien with Mineral Reservations to The Maddox Group LLC as recorded in Instrument No. 2022-137 of the Official Public Records of Johnson County, Texas, said 1.520 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod found for the northwest corner of said called 1.521 acre tract of land and the southwest corner of a called 1.378 acre tract of land described in Warranty Deed with Vendor's Lien to Myles E Mize and wife, Brenda Mize as recorded in Volume 2146, Page 837 of the Deed Records of Johnson County, Texas, said 5/8 inch iron rod being in the east line of a tract of land described in Special Warranty Deed to FM 917 Storage LLC as recorded in Instrument No. 2019-33512 of said Official Public Records of Johnson County, Texas and in the east line of Lot 1, Block 1 Self Storage Solution, an addition to the City of Burleson, Texas as recorded in Volume 9, Page 312 of the Plat Records of Johnson County, Texas;

THENCE South 89 degrees 31 minutes 12 seconds East, with the north line of said called 1.521 acre tract of land and with the south line of said called 1.378 acre tract of land, a distance of 313.49 feet to a calculated point for the northeast corner of said called 1.521 acre tract of land and the southeast corner of said called 1.378 acre tract of land, said calculated point being in the existing westerly right-of-way line of FM 1902 (Old Grandbury Road) (an 80' right-of-way), from which a 3/8 inch iron rod found for reference bears North 89 degrees 31 minutes 12 seconds West, a distance of 0.81 feet;
THENCE South 00 degrees 28 minutes 56 seconds West, with said existing westerly right-of-way line of FM 1902 and with the east line of said called 1.521 acre tract of land, a distance of 194.68 feet to a 5/8 inch iron rod found for the most northerly southeast corner of said called 1.521 acre tract of land and an internal angle point in said existing westerly right-of-way line of FM 1902;

THENCE South 45 degrees 20 minutes 14 seconds West, with said existing westerly right-of-way line of FM 1902 and with the south line of said called 1.521 acre tract of land, a distance of 49.15 feet to a 3 inch aluminum disk stamped "TEXAS DEPARTMENT OF TRANSPORTATION R.O.W." found for the intersection of said existing westerly right-of-way line of FM 1902 with the existing northerly right-of-way line of FM 917 (a variable width right-of-way), said 3 inch aluminum disk stamped "TEXAS DEPARTMENT OF TRANSPORTATION R.O.W." being the southeast corner of said called 1.521 acre tract of land;

THENCE North 85 degrees 47 minutes 12 seconds West, with said existing northerly right-of-way line of FM 917 and with the south line of said called 1.521 acre tract of land, a distance of 77.19 feet to a 3 inch aluminum disk stamped "TEXAS DEPARTMENT OF TRANSPORTATION R.O.W." found for corner;

THENCE North 84 degrees 48 minutes 30 seconds West, with said existing northerly right-of-way line of FM 917 and with the south line of said called 1.521 acre tract of land, a distance of 88.62 feet to a 3 inch aluminum disk stamped "TEXAS DEPARTMENT OF TRANSPORTATION R.O.W." found for an external angle point of said called 1.521 acre tract of land, said 3 inch aluminum disk stamped "TEXAS DEPARTMENT OF TRANSPORTATION R.O.W." being in the east line of a called 0.059 acre tract of land described in Warranty Deed to Southwestern Bell Telephone Company as recorded in Volume 921, Page 698 of said Deed Records of Johnson County, Texas;

THENCE North 00 degrees 28 minutes 52 seconds East, with the south line of said called 1.521 acre tract of land and with the east line of said called 0.059 acre tract of land, a distance of 32.63 feet to a 3 inch aluminum disk stamped "S.W.B. TEL CO. PROPERTY CORNER" found for an internal angle point of said called 1.521 acre tract of land and being the northeast corner of said called 0.059 acre tract of land;

THENCE North 89 degrees 47 minutes 00 seconds West, with the south line of said called 1.521 acre tract of land and with the north line of said called 0.059 acre tract of land, a distance of 50.23 feet to a 3 inch aluminum disk stamped "S.W.B. TEL CO. PROPERTY CORNER" found for an internal angle point of said called 1.521 acre tract of land and being the northwest corner of said called 0.059 acre tract of land;

THENCE South 00 degrees 00 minutes 36 seconds West, with the south line of said called 1.521 acre tract of land and with the west line of said called 0.059 acre tract of land, a distance of 28.32 feet to a 1/2 inch capped iron rod (illegible) found for an external angle point of said called 1.521 acre tract of land and being in said existing northerly right-of-way line of said FM 917;

THENCE North 85 degrees 17 minutes 31 seconds West, with said existing northerly right-of-way line of FM 917 and with the south line of said called 1.521 acre tract of land, a distance of 13.01 feet to a 3 inch aluminum disk stamped "TEXAS DEPARTMENT OF TRANSPORTATION R.O.W." found for an internal angle point of said existing northerly right-of-way line of FM 917 and an external angle point of said called 1.521 acre tract of land;

THENCE North 45 degrees 09 minutes 26 seconds West, with said existing northerly right-of-way line of FM 917 and with the south line of said called 1.521 acre tract of land, a distance of 17.01 feet to a 3 inch aluminum disk stamped "TEXAS DEPARTMENT OF TRANSPORTATION R.O.W." found for an external angle point of said existing northerly right-of-way line of FM 917 and an internal angle point of said called 1.521 acre tract of land;

THENCE North 89 degrees 45 minutes 16 seconds West, with said existing northerly right-of-way line of FM 917 and with the south line of said called 1.521 acre tract of land, a distance of 35.00 feet to a 3 inch aluminum disk stamped "TEXAS DEPARTMENT OF TRANSPORTATION R.O.W." found for the southwest corner of said called 1.521 acre tract of land and for the southeast corner of said called 6.523 acre tract of land, said 3 inch aluminum disk stamped "TEXAS DEPARTMENT OF TRANSPORTATION R.O.W." being in the east line of said Lot 1;

THENCE North 00 degrees 28 minutes 26 seconds West, with the west line of said called 1.521 acre tract of land, with the east line of said called 6.523 acre tract of land and with the east line of said Lot 1, a distance of 200.46 feet to the POINT OF BEGINNING and containing 66,191 square feet or 1.520 acres of land, more or less.