

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 10.652 ACRES OF LAND SITUATED IN H.G. CATLETT SURVEY, ABSTRACT 178, SITUATED IN THE CITY OF BURLESON, JOHNSON COUNTY, TEXAS, AND BEING 4.482 ACRES OF LAND IN THE DEED TO STEVEN R. ATKINS, RECORDED IN VOLUME 2375, PAGE 867, DEED RECORDS JOHNSON COUNTY, TEXAS (D.R.J.C.T.), AND 6.17 ACRES OF LAND CONVEYED TO GRAND INTERNATIONAL CORPORATION, BY DEED RECORDED IN VOLUME 1818 PAGE 133, DEED RECORDS JOHNSON COUNTY, TEXAS (D.R.J.C.T.), FROM AGRICULTURAL (A) TO COMERCIAL (C); 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 **Stephen Martin and Jason Tharp** on **November 13, 2023**, under **Case Number 23-350**, 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 **7 to 0** to recommend denial to the City Council of Burleson, Texas,

that the hereinafter described property be rezoned from its classification of **Agricultural (A)** to **Commercial (C)**; 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 10.652 acres of land situated in the H.G. Catlett Survey, Abstract Number 1178, situated in the City Of Burleson, Johnson County, Texas and being 4.482 acres of land in the deed to Steven R. Atkins, recorded in Volume 2375, Page 867, deed records Johnson County, Texas (D.R.J.C.T.), and 6.17 acres of land conveyed to Grand International Corporation, by deed recorded in Volume 1818 Page 133, 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)** being further described and attached as **Exhibit A**.

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

637 Mockingbird Lane

TRACT 1:

Being a lot, tract or parcel on land situated in the H.G. Catlett Survey, Abstract No. 178, City of Burleson, Johnson County, Texas, same being a tract of land conveyed to New Grand International Corporation, by deed recorded in Volume 1818, Page 133, Deed Records, Johnson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for corner, said corner being the West corner of that tract of land conveyed to Steven R. Atkins, by deed recorded in Volume 2375, Page 867, Deed Records, Johnson County, Texas, said corner being the Southeast right of way line of G.C. and S.F. Railroad (100 foot right of way);

THENCE South 60 degrees 48 minutes 41 seconds East, along the Southwest line of said Atkins tract, a distance of 480.00 feet to a 1/2 inch iron rod set with yellow plastic cap stamped "CBG SURVEYING" for corner, said corner being an "ELL" corner of said Atkins tract;

THENCE South 29 degrees 04 minutes 11 seconds West, along a Northwest line of said Atkins tract, a distance of 52.87 feet to a 1/2 inch iron rod set with yellow plastic cap stamped "CBG SURVEYING" for corner, said corner being an "ELL" corner of said Atkins tract;

THENCE South 45 degrees 14 minutes 53 seconds East, along a Southwest line of said Atkins tract, a distance of 478.27 feet to a 1/2 inch iron rod set with yellow plastic cap stamped "CBG SURVEYING" for corner, said corner being along the Northwest line of Lot 6, Block 1 of Willow Creek Ranch, an addition to the City of Burleson, Johnson County, Texas, according to the map thereof recorded in Volume 8, Page 678, Map Records, Johnson County, Texas;

THENCE South 44 degrees 49 minutes 34 seconds West, along the Northwest line of Lot 6, Block 1 of said Willow Creek Ranch, a distance of 172.41 feet to a 1 inch iron rod found for corner, said corner being the Northeast corner of Lot 7, Block 1 of said Willow Creek Ranch;

THENCE North 60 degrees 47 minutes 20 seconds West, along the Northeast line of Lot 7, Block 1 of said Willow Creek Ranch, a distance of 893.89 feet to a 1/2 inch iron rod set with yellow plastic cap stamped "CBG SURVEYING" for corner, said corner being the North corner of Lot 8, Block 1 of said Willow Creek Ranch, said corner being along the Southeast right of way line of G.C. and S.F. Railroad;

THENCE North 29 degrees 06 minutes 33 seconds East, along the Southeast line of said G.C. and S.F. Railroad, a distance of 346.87 feet to the POINT OF BEGINNING and containing 268,659 square feet or 6.17 acres of land.

TRACT 2: Proposed 50' Access Easement

Being a 28,764 square feet or 0.66 acres of land situated in the H.G. Catlett Survey, Abstract No. 178, City of Burleson, Johnson County, Texas, and being a portion of a tract of land conveyed to Steven R. Atkins, by deed recorded in Volume 2375, Page 867, Deed Records, Johnson County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod found for corner, said corner being the West corner of said Atkins tract, said corner being the North corner of that tract of land conveyed to New Grand International Corporation, by deed recorded in Volume 1818, Page 133, Deed Records, Johnson County, Texas, said corner being the Southeast right of way line of G.C. and S.F. Railroad (100 foot right of way);

THENCE South 60 degrees 48 minutes 41 seconds East, along the Southwest line of said Atkins tract, a distance of 430.34 feet to a point for corner, said corner being the POINT OF BEGINNING of herein described tract;

THENCE North 29 degrees 11 minutes 19 seconds East, a distance of 22.23 feet to a point for corner;

THENCE North 76 degrees 31 minutes 25 seconds East, a distance of 118.86 feet to a point for corner, said corner being along the Southwest line of Block 2 of The Parks at Panchasarp Farms Phase 2, an addition to the City of Burleson, Johnson County, Texas, according to the map thereof recorded in Instrument No. 267-2021, Map Records, Johnson County, Texas;

THENCE South 45 degrees 14 minutes 32 seconds East, along the Southwest line of Block 2 of said The Parks at Panchasarp Farms Phase 2, a distance of 483.98 feet to a point for corner, said corner being the Southeast corner of said Atkins tract, said corner being the North corner of Mockingbird Lane (50 foot Private Access, Utility and Drainage Easement, by map thereof recorded in Volume 8, Page 678, Map Records, Johnson County, Texas, and by deed recorded in Volume 2120, Page 603, Deed Records, Johnson County, Texas, from which a 1 Inch Iron rod found bears, South 40 degrees 20 minutes 35 seconds West, a distance of 2.58 feet for witness;

THENCE South 44 degrees 49 minutes 34 seconds West, along the Southeast line of said Atkins tract, a distance of 50.00 feet to a point for corner;

THENCE North 45 degrees 14 minutes 32 seconds West, a distance of 456.07 feet to a point for corner;

THENCE South 76 degrees 31 minutes 25 seconds West, a distance of 69.57 feet to a point for corner, said corner being along the Northeast line of said New Grand International Corporation tract;

THENCE North 60 degrees 48 minutes 41 seconds West, along the Northeast line of said New Grand International Corporation tract, a distance of 49.66 feet to the POINT OF BEGINNING and containing 28,764 square feet or 0.66 acres of land.

LEGAL DESCRIPTION

10 Foot Permanent Pipeline Easement

H.G. Catlett Survey, Abstract 178

Johnson County, Texas

All that certain lot, tract or parcel of land lying and situated in the H.G. Catlett Survey, Abstract 178, Johnson County, Texas, being a part of that certain tract of land described as 3.822 acres in the deed from The Quanset Trust dated March 22, 1994, Don C. Armour, Trustee to Steven R. Atkins, dated August 16, 1999, recorded in Volume 2375, Page 867 of the Official Public Records of Johnson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point at a corner lying in the westerly line of that certain tract of land described as 83.00 acres in the deed to R.J. Panchasarp, recorded in Volume 1098, Page 172 of the Official Public Records of Johnson County, Texas, the southeast corner of said 3.822 acre tract, the northern most northeast corner of a 50 foot private access easement (more commonly known as Mockingbird Lane) according to the plat of Willow Creek Ranch, an addition to the City of Burleson, recorded in Volume 8, Page 678 of the Plat Records of Johnson County, Texas;

THENCE South 45 degrees 27 minutes West along the southerly line of said 3.822 acre tract, the northerly line of said addition 10 feet to a point at a corner;

THENCE North 44 degrees 33 seconds West parallel to and 10 feet from the easterly line of said 3.822 acre tract, the westerly line of said 83.00 acre tract, 1017.75 feet to a point at a corner lying in the northerly line of said 3.822 acre tract, the southerly right-of-way line of the G.C.&S.F. Railroad;

THENCE North 29 degrees 53 minutes East along the northerly line of said 3.822 acre tract, the southerly right-of-way line of said Railroad, 10.38 feet to a point at a corner, the northeast corner of said 3.822 acre tract, the northwest corner of said 83.00 acre tract;

THENCE South 44 degrees 33 minutes East along the easterly line of said 3.822 acre tract, the westerly line of said 83.00 acre tract, 1020.97 feet to the point of beginning and containing 0.23 acre of land, more or less. The bearings and distances herein are based on the description of that certain tract of land described as 3.822 acres in the deed to Steven R. Atkins, recorded in Volume 2375, Page 867 of the Official Public Records of Johnson County, Texas.