



**CITY OF DENISON
CITY COUNCIL MEETING
AGENDA**

Monday, July 15, 2024

After determining that a quorum is present, the City Council of the City of Denison, Texas will convene in a Regular Meeting on **Monday, July 15, 2024, at 6:00 PM** in the Council Chambers at City Hall, 300 W. Main Street, Denison, Texas at which the following items will be considered:

1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

2. PUBLIC COMMENTS

Citizens may speak on items listed on the Agenda. A “Request to Speak Card” should be completed and returned to the City Clerk upon arrival, prior to the Council reaching the Public Comment section of the agenda. Citizen comments are limited to three (3) minutes, unless otherwise required by law. Comments related to the Public Hearings listed below, will be heard when the specific hearing starts.

3. CONSENT AGENDA

- A. Receive a report, hold a discussion, and take action on approving the Minutes from the Regular City Council Meeting held on July 1, 2024.
- B. Receive a report, hold a discussion and take action on an agreement with Garver to provide As-Needed Construction Inspection Services for the City of Denison’s CIP projects in the amount of \$150,000, Contract No. 2024-0089) and authorize the Interim City Manager to execute all related documents.
- C. Receive a report, hold a discussion, and take action on approval of a streets overlay services purchase proposal in the amount of \$371,336.00 from Area Wide Paving, LLC and authorize the Interim City Manager to execute any associated documents.
- D. Receive a report, hold a discussion, and take action on a Written Services Agreement to allow services for a Voluntary Annexation Petition for property containing approximately 2.8 acres, legally described Lots 1, 2, and 3, Block A, ROS Estates, Grayson County, Texas; being further identified as GCAD Property ID Nos. 449977, 449978, and 449979; and being generally known as 4836 Theresa Drive, 4858 Theresa Drive, and 4890 Theresa Drive to allow for residential uses.
- E. Receive a report, hold a discussion and take action on a Revocable License Agreement between the City of Denison and 3Nineteen, LLC, for use of a portion of certain land behind City Hall at 300 W. Main Street, which is adjacent to certain property owned by 3Nineteen, LLC, to allow for restaurant seating and food and alcohol sales, and authorize the Interim City Manager to execute the same.

F. Receive a report, hold a discussion and take action on an Ordinance amending Chapter 25, “Traffic”, Article I, “In General”, to amend Section 25-1, “Definitions”, Section 25-19, “Truck Routes” and Section 25-20 “Trucks, Etc. Restricted to Portion of U.S. Highway 75 Designated for Thru-Traffic” and to add Section 25.22, “Affirmative Defenses” to the City of Denison Code of Ordinances.

4. PUBLIC HEARINGS

A. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance annexing tract of land legally described as Lots 1, 2, and 3, Block A, ROS Estates, Grayson County, Texas; being further identified as Grayson County Appraisal District Property ID Nos. 449977, 449978, and 449979; and being generally known as 4836 Theresa Drive, 4858 Theresa Drive, and 4890 Theresa Drive to allow for residential use. (Case No. 2024-046A)

B. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance initially zoning a tract of land legally described as Lots 1, 2, and 3, Block A, ROS Estates, Grayson County, Texas; being further identified as Grayson County Appraisal District, Property ID Nos. 449977, 449978, and 449979; and being generally known as 4836 Theresa Drive, 4858 Theresa Drive and 44890 Theresa Dive to a Single-Family (SF-7.5) District, to allow for residential use. (Case No. 2024-047Z)

C. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to rezone approximately 1.693 acres legally described as being part of the Ramon Rubio Survey, being Lot 2R, Block A, Replat of a part of Blocks 1 and 4 and a portion of those abandoned alleys and street lying within said blocks of North Side Addition, Abstract No. 996 an addition to the City of Denison, Grayson County, Texas as per plat of record in Doc. No. 2021-189; GCAD Property ID No. 438877, from the Commercial (C) District to the Single-Family (SF-5) Residential District to allow for residential use. (Case No. 2024-048Z)

D. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to rezone a tract being approximately .2066 of an acre legally described as Lot 1, Block 1, of the H Tones First, an addition to the City of Denison, Grayson County, Texas, as shown by plat of record in Volume 67, Page 75, Deed Records, Grayson County, Texas; being commonly known as 129 E. Johnson Street, GCAD Property ID No. 142394, from the Commercial (C) District to the Single-Family, (SF-5) Residential District to allow for residential use. (Case No. 2024-056Z)

E. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to amend Section 28.46.- HO – Highway Oriented and Corridor District. (Case No. 2024-060ZO)

F. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance for a Conditional Use Permit (CUP), for property zoned Local Retail (LR) and within the Austin Avenue Overlay (AO) District, to allow for the use of Bar, for SLUSH Premium Daiquiris located on property consisting of ±.1481 acres, Lot 1, Block 38, out of the OTP Denison Survey, 150 X 43 (C), 6,450 SQ FT., GCAD Property ID No. 143046, commonly known as 221 North Austin Avenue. (Case No. 2024-062CUP)

G. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance for a Conditional Use Permit (CUP), for property zoned Central Area (CA) and within the Commercial Historic Overlay (CH) District to allow for the use of Bar,

for Copacetic Cowboy located on property consisting of Lots 17, 18, and 19 of the Original Town Plat of Denison, Texas, GCAD Property ID No. 143144, being commonly known as 120 S. Burnett Avenue (Case No. 2024-064CUP)

5. EXECUTIVE SESSION

Pursuant to Chapter 551, *Texas Government Code*, the Council reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting to receive legal advice from its attorney on any posted agenda item as permitted by law or to discuss the following:

- A. Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.
- B. Discuss the possible purchase, exchange, lease or sale value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.
- C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.
- D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.
- E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.
- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.

Following the closed Executive Session, the Council will reconvene in open and public session and take any such action as may be desirable or necessary as a result of the closed deliberations.

CERTIFICATION

I do hereby certify that a copy of this Notice of Meeting was posted on the front window of City Hall readily accessible to the general public at all times and posted on the City of Denison website on the 12th day of July 2024, before 6:00 PM.

Christine Wallentine, City Clerk

In compliance with the Americans With Disabilities Act, the City of Denison will provide for reasonable accommodations for persons attending City Council meeting. To better serve you, requests should be received 48 hours prior to the meetings. Please contact the City Clerk's Office at [903-465-2720](tel:903-465-2720), Ext: 2437.



**CITY OF DENISON
CITY COUNCIL MEETING
MINUTES**

Monday, July 1, 2024

Announce the presence of a quorum.

Mayor Robert Crawley called the meeting to order at 6:00 p.m. Council Members present were Mayor Pro Tem Teresa Adams, James Thorne, Joshua Massey, Spence Redwine, and Aaron Thomas. Council Member Michael Courtright was absent. Staff present were Interim City Manager, Bobby Atteberry, City Attorney, Julie Fort, Assistant City Manager, Renee Waggoner, and Deputy City Clerk, Karen Avery. City Clerk, Chris Wallentine, was absent. Department Directors were also present.

1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

Gene Amerson, Pastor of New Beginning Fellowship gave the invocation which was followed by the Pledge of Allegiance and Texas Pledge led by City of Denison Interim Parks and Recreation Director, Chip Egger.

2. PROCLAMATIONS AND PRESENTATION

A. Americans with Disabilities Act Awareness Day Proclamation.

Mayor Crawley presented a Proclamation to April Martin, Student Hire Ability Navigator with Workforce Solutions Texoma, recognizing Americans with Disabilities Act Awareness Day. On July 26, 1990, President George H.W. Bush signed into law the Americans with Disabilities Act (ADA) to ensure the civil rights of people with disabilities. The ADA prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. This legislation established a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities and to make sure that people with disabilities have the same rights and opportunities as everyone else. The ADA has expanded opportunities for Americans with disabilities by reducing barriers and changing perceptions and increasing full participation in community life. However, the full promise of the ADA will only be reached if we remain committed to continue our efforts to fully implement the ADA. July 26, 2024, celebrates the 34th anniversary of the Americans with Disabilities Act and the City of Denison celebrates and recognizes the progress that has been made by reaffirming the principles of equality and inclusion and recommitting our efforts to reach full ADA compliance. Numerous organizations in the City of Denison and throughout Grayson County work with constituents and communities to bring forth the promise of hope and freedom that is envisioned by the passage of the ADA. Mayor Crawley then proclaimed July 26, 2024, as American with Disabilities Act Awareness Day and

extended greetings and best wishes on behalf of the City Council to all observing this day.

3. PUBLIC COMMENTS

Mayor Crawley called for any public comments at this time and reminded those wanting to comment of the guidelines established by the City Council. Karen Avery, Deputy City Clerk, confirmed there were no Request to Speak Cards received by this point in the meeting. Therefore, no public comments were received.

4. CONSENT AGENDA

- A. Receive a report, hold a discussion and take action on approving the Minutes from the Regular City Council Meeting held on June 17, 2024.

Council Action

On motion by Mayor Pro Tem Adams, seconded by Council Member Redwine, the City Council unanimously approved the Consent Agenda as presented.

5. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to rezone a tract of land consisting of approximately 6.559 acres, being commonly known as GCAD Property ID No. 355667, 215 S. US Highway 75 from the Commercial (C) District to a Planned Development Overlay (PD) District to allow for the use of metal building material for the façade of the existing building. (Case No. 2024-040PD).

Council Action

Dianne York, Planner, introduced this agenda item and stated that the applicant is requesting to rezone property located at 215 S. US Highway 75 (Blake Utter Ford) from the Commercial District (C) to a Planned Development Zoning District (PD) for the use of metal building material for the façade of the building. Ms. York provided an aerial view of the property. The subject property falls within the Highway Oriented and Corridor District Overlay (HO) District. Ms. York stated that, per Section 28.46.5.2.b, the use of metal building materials for facades within this Overlay is prohibited. The proposed PD will allow for the use of metal building material for the façade of an existing building. Ms. York stated that the ordinance requires that the building facades be constructed out of 100% masonry. Ms. York stated that approval of the proposed PD will allow Blake Utter Ford to move forward with utilizing Ford Motor's new Signature MV design, which incorporates Aluminum Composite Material (ACM), on the front façade of existing buildings. For this reason, staff recommends approval and so did the Planning and Zoning Commission at their meeting held on June 25, 2024.

Mayor Crawley then asked if there was anyone present who wished to speak on this agenda item, to which there were none. With that, the Mayor closed the public hearing.

There was no discussion or questions from Council.

On motion by Mayor Pro Tem Adams, seconded by Council Member Thomas, the City Council unanimously approved Ordinance No. 5352, “AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF DENISON, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY CHANGING THE ZONING CLASSIFICATION FROM COMMERCIAL (C) DISTRICT WITHIN THE HIGHWAY ORIENTED AND CORRIDOR DISTRICT TO A PLANNED DEVELOPMENT (PD) DISTRICT WITH A BASE ZONING OF COMMERCIAL (C) DISTRICT WITHIN THE HIGHWAY ORIENTED AND CORRIDOR DISTRICT ON A TRACT OF LAND BEING LEGALLY DESCRIBED AS LOTS 1 AND 2, BLOCK 1, BLAKE UTTER ADDITION, COMMONLY KNOWN AS 215 S. HIGHWAY 75, GRAYSON COUNTY, TEXAS; BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT “A-1” AND DEPICTED IN EXHIBIT “A-2”; PROVIDING DEVELOPMENT STANDARDS, ATTACHED HERETO AS EXHIBIT “B”; PROVIDING A FAÇADE PLANS, ATTACHED HERETO AS EXHIBIT “C”; PROVIDING FOR SEVERABILITY, REPEALING, AND SAVINGS CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.”

- B. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance annexing a ± 52.52-acre tract of land identified as Grayson County Appraisal District Property ID Nos. 109713, 109718, and 439828, and being generally located at the northeast corner of Texoma Drive (FM 84) and State Highway 91 (SH 91). (Case No. 2024-017A).

Council Action

Dianne York, Planner, introduced this agenda item and stated that the item was tabled from the June 17, 2024, City Council meeting and staff is continuing that public hearing. Ms. York provided an aerial view of the property. Ms. York stated that staff received a Voluntary Annexation Application for property located at the northeast corner of Texoma Drive (FM84) and State Highway 91 (SH91). Ms. York stated that the applicant is requesting the annexation of approximately 52.52 acres into the Denison City limits. The subject property is a part of a larger tract of land consisting of approximately 207.22 acres. Ms. York stated that the applicant wishes to develop the entire acreage into a mixed-use development allowing for single-family detached and attached, multi-family, commercial and light industrial uses. In addition to submitting a Voluntary Annexation Application, the applicant has submitted a Planned Development Zoning Application

requesting the zoning of Planned Development Overlay District to allow for this mixed-use development. This request is a companion item on this agenda. For this reason, staff recommends approval and so did the Planning and Zoning Commission at their meeting held on June 11, 2024.

Mayor Crawley stated that he would reopen the public hearing that was opened on June 17, 2024, and asked if there was anyone present who wished to speak on this agenda item. Mrs. Lyneille Meza came forward and provided the following information:

Name: Mrs. Lyneille Meza
Address: 2201 N. State Highway 91
Denison, TX

Mrs. Meza stated that she lives directly across the street from this development. She stated that their biggest concern is the intersection and the traffic that is going to be caused by an additional 610 units and a shopping center on the corner. Mrs. Meza stated that every day she sees walkers, bike riders, and young kids driving to the high school. She stated that she observes people getting lost, boats, and RVs, and it is a major traffic area. She stated that to add an additional 1,200 to 1,500 vehicles to that intersection is too much. Mrs. Meza proposed that the intersection be corrected to accommodate additional vehicles before the construction starts. She commented that SH91 is a four-lane highway for approximately two tenths of a mile and the remainder of it merges into two lanes. Mrs. Meza reiterated her request that before any development starts, the traffic congestion be addressed prior to any groundbreaking taking place.

Mayor Crawley asked if there was anyone else present who wished to speak on this agenda item, to which there were none. Mr. Josh McKinney came forward and provided the following information for the record:

Name: Mr. Josh McKinney, Applicant's Representative
Metro Group
Address: 1130 Vagabond Lane
Plymouth, MN 55447

Mr. McKinney stated that he can address the comment regarding the traffic at this point, but he has an idea that there might be other comments. With the Mayor's permission, he stated that he would address this comment and then come up after this if there are other questions that need to be addressed. Mr. McKinney stated that they completely agree with the residents that they need to prepare an additional traffic study on this proposal. He stated that they are very early in the process, having worked with City staff for the better part of a year. Mr. McKinney stated that they are at the rezoning stage that would allow them to undergo additional study on things like traffic, floodplain, etc. He reiterated that the resident's concern is absolutely noted. Mr. McKinney stated that they will have to involve TxDOT and the City on the traffic study, as well, and they have no interest in opening a project with substandard roadways or access points to them, or for

the neighbors, as well. He stated that they would work to incorporate the findings of the traffic study and the requisite professionals once they get involved.

Mayor Crawley asked if there was anyone else present who wished to speak on this agenda item, to which there were none. With that, the Mayor closed the public hearing.

There was no discussion or questions from Council.

On motion by Council Member Massey, seconded by Council Member Thorne, the City Council unanimously approved Ordinance No. 5353, “AN ORDINANCE OF THE CITY OF DENISON, TEXAS, ADOPTING THE ANNEXATION OF CERTAIN TERRITORY LOCATED IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF DENISON, TEXAS, TO WIT: BEING AN APPROXIMATELY ±52.52 ACRE TRACT OF LAND, GRAYSON COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED AND GRAPHICALLY DEPICTED IN EXHIBIT “A”, PROVIDING FOR INCORPORATION OF PREMISES, AMENDING OF THE OFFICIAL CITY MAP, AND ACKNOWLEDGING A SERVICE PLAN; REQUIRING THE FILING OF THIS ORDINANCE WITH THE COUNTY CLERK; PRESCRIBING FOR EFFECT ON TERRITORY, GRANTING AS APPROPRIATE TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF THE CITY OF DENISON, TEXAS; PROVIDING CUMULATIVE REPEALING, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.”

- C. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to rezone a ± 154.70-acre tract of land being identified as GCAD Property ID Nos. 109711, 109720, 109722, 109723, and 109766, and being generally located at the northeast corner of Texoma Drive (FM 84) and State Highway 91 (SH 91), from the Agricultural (A) District and the Multi-Family 2 (MF-2) Residential District to a Planned Development (PD) Overlay District with base zonings of Single-Family (SF-7.5) District, Single-Family (SF-TH) District, Multi-Family Residential (MF-2) District, Light Industrial (LI) District, and Commercial (C) District; and a request to zone a ± 52.52-acre tract of land being identified as GCAD Property ID Nos. 109713, 109718, and 439828, and being generally located at the northeast corner of Texoma Drive (FM 84) and State Highway 91 (SH 91) to a Planned Development (PD) Overlay District with the base zonings of Single Family (SF-7.5) District, Single-Family Townhomes (SF-TH) District, Multi-Family Residential (MF-2), Light Industrial (LI) District, and Commercial (C) District, for a combined total of ± 207.22 acres to allow for a mixed use development. (Case No. 2024-016PD).

Dianne York, Planner, introduced this agenda item and stated that the item was tabled from the June 17, 2024, City Council meeting and staff is continuing that public hearing. Ms. York provided an aerial view of the property. Ms. York stated that this case is not only to rezone 154.70 acres, but to also initially zone the 52 acres that were just annexed

into the City. Ms. York stated that currently a portion of it is outside the City limits and the portion that is inside the City limits is zoned Agricultural (A), as well as Multi-Family 2 (MF-2). She stated that the applicant is pursuing a Planned Development Overlay District to allow for a mixed-use development for property that is located at the corner of the northeast corner of FM 84 and State Highway 91. Ms. York stated that the Planned Development District will allow for multiple uses, including single family detached, single family attached, townhomes, multifamily, light industrial, and commercial uses. The Planned Development establishes base zoning districts as well as allowable acreage for each of these uses. Ms. York stated that a full list of the development standards are listed as backup in the agenda packet. She stated that the applicant utilizes the base zoning district development standards pretty tightly and, in addition to calling out specific standards so that they are secured with this ordinance, they also established specific architectural standards for each use and those architectural standards are different for each use. Ms. York stated that landscaping screening requirements shall conform to the provisions set in Section 28.51 of the zoning ordinance, as well as Section 28.53. She stated that the PD does establish additional landscape requirements between the Commercial and Multi-Family District. The Open Space requirements listed within Section 28.26 and Section 28.31 for the SF-TH – Single Family Townhome and the MF-2 – Multi-Family Districts are required per the PD. The applicant states that approximately 45.56 acres of the entire development will be dedicated to Open Space. Additionally, a trail system will be constructed with similar connectivity shown on the Concept Plan. All Open Spaces shall be owned and maintained by the Property Owner’s Association (POA). Ms. York stated, as has already been discussed, there are traffic concerns for this area. Upon zoning approval, additional applications will be required of the applicant and those must be submitted to staff and reviewed and approved by the appropriate bodies. Ms. York stated that those applications include Preliminary Plats, which a traffic impact analysis or a traffic study will be required at that time. She stated that that will be reviewed and approved through the Civil Engineering plan review process. Ms. York stated that the applicant will also have to provide information related to drainage and ensure that there are no adverse effects from construction. She stated that, along with the floodplain, site plans are also required, but those are further down the road. Ms. York stated that the Comprehensive Plan calls for this area to be developed in a neighborhood manner; however, given the mixed-use development, along with the large portion of residential uses, staff does recommend approval of the request given that those commercial uses or industrial uses are located along major thoroughfares. For this reason, staff recommends approval and so did the Planning and Zoning Commission at their meeting held on June 11, 2024.

In response to Council Member Thomas’ inquiries, Ms. York stated that 1) the future intermediate school site will be somewhere across the street from this development; and 2) with regard to plans for a traffic light, she is not aware of one, but whatever the Traffic Impact Analysis for the school district will come out with is what will be required. She stated that given the new construction of the school, as well as the addition to this development, if approved, their study may require a lot more.

Council Member Massey requested that Ms. York clarify that the Council is approving the Planned Development's ability to use the residentially appropriated property for mixed-use option in the future. Ms. York stated that is correct; however, if the Concept Plan is changed significantly, that would require an amendment to the approved Planned Development. She noted that the ordinance does allow for small details to be changed with administrative approval. Council Member Massey asked Mrs. Meza to show him where on the map her property was located. Mrs. Meza informed Mr. Massey that her property is directly across the street on SH91. She stated that she and her husband and her brother-in-law and sister-in-law are all at the corner of SH91 and FM84. Mr. Massey asked if her concerns had been addressed. Mrs. Meza stated that she always hears that her concerns will be addressed but actually seeing them addressed is going to be a different story. She stated that because of all of the pedestrian traffic and young kids at the high school, she would hate to see so much more traffic impede that area, but she knows that is not going to be possible. Mrs. Meza stated that it will be a major undertaking and she wants to ensure that any traffic concerns are done ahead of the traffic that will be coming in. Mr. Massey stated that he shares her concerns because he lived through Frisco as a 20,000-resident community into the monster it is today and part of the process along the way was to make sure they were walkable and bikeable, and they are not always successful. He stated that the reason he left there, in part, was because they had so many school zones to drive through to get to any major highway. And as the residential county seat, so to speak, relative to our industrial based southern neighbor, it seems like this is kind of the trend we're going towards. He stated that he appreciates the feedback and accountability but stated that what they are attempting to do here today is say is it allowed for us to build something that is not simply residential or simply commercial. Mr. Massey stated that we are going to do something that is more of a live/work/play kind of model and then fine-tune it with staff to make sure it is safe for our residents not only today, but in the future. Mr. Massey assured Mrs. Meza her voice was heard.

Mayor Crawley stated that he would reopen the public hearing that was opened on June 17, 2024, and asked if there was anyone present who wished to speak on this agenda item. Mr. Josh McKinney came forward and provided the following information for the record:

Name: Mr. Josh McKinney, Applicant's Representative
Metro Group

Address: 1130 Vagabond Lane
Plymouth, MN 55447

Mr. McKinney stated Ms. York had already stated many of the facts that he was going to speak to. He stated that they are looking forward to undertaking significant engineering studies both from a grading and drainage standpoint, floodplain traffic, utility sizing and depth standpoint. Mr. McKinney acknowledged that they have a lot of work to do, and they recognize that. He said that they want to make sure that this is a project that the Council will support before they undertake hundreds of thousands of dollars of

engineering expenses to determine that. He stated that the one thing he wants to mention is that they tried to focus like uses where possible. They have some multifamily directly across the street towards south, and industrial or manufacturing to the north. Mr. McKinney stated that they stepped down intensity wherever they felt they could. Mr. McKinney stated that they do not have illusions that they wouldn't have some improvements to Texoma Parkway, at least some on SH91. He stated that the extent of those improvements will be driven by the traffic study. Referencing Council Member Thomas' inquiry, Mr. McKinney stated that, with regard to the traffic signal at the intersection of Armstrong Drive – running north/south - midway through their site, one of the things that road, theoretically would allow them to do is relieve some of the traffic off of SH91. He stated that to the extent that a signal would be necessary, they would basically build off of the school's traffic report and determine at what point they trip a signal warrant. Mr. McKinney stated that within those two studies they would figure out who's paying for what. He stated that they look forward to digging into all of that but believe it might be a little early for those discussions. In response to Council Member Massey's inquiry, Mr. McKinney stated that they are having discussions regarding the proposed trails and whether they will be designed to service specifically the tenants of the property. He stated that the initial thought is that we've got a great piece of property that has a lot of topography on it and has some trees that are absolutely gorgeous, so they want to preserve as much of that as possible. He stated that there are discussions they can have with the City further down the line regarding if this is something that the City has in their Parks Master Plan and maybe they can work together relative to a park dedication. He stated that they are open to those discussions, but they do not have a definitive answer. Mr. McKinney stated that they have a significant amount of green space where they could work in conjunction with the City if that was something that the City was looking for.

Council Member Massey stated that the City recently had a Council Member step down from his role on Council [Brian Hander] and Mr. Hander was really focused on the green spaces and tying the parks in, noting that that is a motive that he shares. He stated that in Frisco, specifically, he saw several floodplains turned into a crushed gravel parking lot where it didn't impede permanent structure. That allowed for parking on a seasonal basis for citizens to be able to use the parks area. Mr. Massey stated that as we move forward with these Planned Developments and as the City starts annexing more and more property, that's an area that he believes the City would really benefit from [walkability and outdoor lifestyle]. Mr. McKinney said that would be great and he looks forward to further conversations on what the City's parks perspective is specific to this area of town.

Mayor Crawley asked if there was anyone else present who wished to speak on this agenda item. Mr. George Mason came forward and provided the following information for the record:

Name: Mr. George Mason

Address: 2117 Park Village
Denison, TX

Mr. Mason stated that he has read a few articles about this type of housing development. He stated that he saw one down in Austin and was really impressed with the concept and the different types of housing all together in one site. Mr. Mason complemented Mr. McKinney for preserving the water areas. He said that he has seen too many times where a contractor goes in and just bulldozes everything. He stated that if they are going to add the trails, he would recommend more parking because it will attract people. Mr. Mason stated that if you want to see a prime example of how housing and water areas can co-exist, drive down Waterloo Lake Drive. He stated that he hopes that the state installs some traffic control at the intersection area of the two state highways (i.e., FM84 and SH91).

Mayor Crawley stated that the City would work closely with the schools to ensure that it is a safe highway, noting that it is important for our children and schools to be safe. He stated that it will take a while to get things straightened out as we work through the Planned Development. Mayor Crawley assured the residents that the City would be in touch with Dr. Kirkbride and the Denison schools to be sure this is a safe intersection where the new school is going there.

Mayor Crawley asked if there was anyone else present who wished to speak on this agenda item, to which there were none. With that, the Mayor closed the public hearing.

On motion by Council Member Massey, seconded by Council Member Thomas, the City Council unanimously approved Ordinance No. 5354, "AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF DENISON, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY CHANGING THE CURRENT ZONING CLASSIFICATION OF A ±154.70-ACRE TRACT OF LAND BEING IDENTIFIED AS GRAYSON COUNTY APPRAISAL DISTRICT PROPERTY ID NOS. 109711, 109720, 109722, 109723, AND 109766, AND BEING GENERALLY LOCATED AT THE NORTHEAST CORNER OF TEXOMA DRIVE/FM 84 AND STATE HIGHWAY 91, FROM THE AGRICULTURAL (A) DISTRICT AND THE MULTI-FAMILY 2 (MF-2) RESIDENTIAL DISTRICT TO THE PLANNED DEVELOPMENT (PD) OVERLAY DISTRICT WITH BASE ZONINGS OF SINGLE-FAMILY (SF-7.5) DISTRICT, SINGLE-FAMILY TOWNHOME (SF-TH) DISTRICT, MULTI-FAMILY RESIDENTIAL (MF-2) DISTRICT, LIGHT INDUSTRIAL (LI) DISTRICT, AND COMMERCIAL (C) DISTRICT; AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY ESTABLISHING A ZONING CLASSIFICATION ON A ±52.52-ACRE TRACT OF LAND BEING IDENTIFIED AS GRAYSON COUNTY APPRAISAL DISTRICT PROPERTY ID NOS. 109713, 109718, AND 439828, AND BEING GENERALLY LOCATED AT THE NORTHEAST CORNER OF TEXOMA DRIVE/FM 84 AND STATE HIGHWAY 91 TO A PLANNED DEVELOPMENT (PD) OVERLAY DISTRICT WITH BASE ZONINGS OF SINGLE-FAMILY (SF-7.5) DISTRICT, SINGLE-FAMILY TOWNHOME (SF-TH) DISTRICT, MULTI-FAMILY RESIDENTIAL (MF-2) DISTRICT, LIGHT INDUSTRIAL (LI) DISTRICT, AND

COMMERCIAL (C) DISTRICT, FOR A COMBINED TOTAL OF ±207.22 ACRES; BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT “A-1” AND DEPICTED IN EXHIBIT “A-2”; PROVIDING DEVELOPMENT STANDARDS, ATTACHED HERETO AS EXHIBIT “B”; PROVIDING A CONCEPT PLAN, ATTACHED HERETO AS EXHIBIT “C”; PROVIDING FOR SEVERABILITY, REPEALING, AND SAVINGS CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.”

6. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Receive a report, hold a discussion and take action on an Ordinance authorizing the issuance and sale of Tax Note, Series 2024, in the principal amount of \$3,860,000.00 for the Visitor’s Center Project.

Council Action

Laurie Alsabbagh, Finance Director, stated that this matter is to request authorization for funding of the Visitor Center at 321 W. Main Street. She stated that processing occurred this morning on Tax Notes, which have a seven-year term, averaging payments of about \$635,000 a year. Ms. Alsabbagh then introduced Marti Shew with Hilltop Securities to speak on today's issuance and sale of Tax Note, Series 2024.

Ms. Shew came forward and greeted the Council. Hilltop Securities is the financial advisor to the City of Denison. Ms. Shew stated that Hilltop Securities put together a packet for the City on this sale. She stated that the tax notes were sold through a private placement, noting that what that means is that various banks were solicited to provide a bid for the right to purchase the tax notes. Ms. Shew stated that it is a very quick and cost-effective sale method, and it is common for shorter debt. She stated that banks typically don't want to commit their capital for any longer term, at least at a fixed rate, so it's a very ideal sale method for a shorter term. Ms. Shew stated that the front page of the packet contained a summary of all of the bids that were received. She said she was pleased to report that seven different proposals were received from six different banks, so one of the banks offered multiple options relative to the prepayment option. Chase Bank came in with the lowest proposed true interest cost rate of 4.11%. She stated that the rate will be fixed for the seven-year term and there is no prepayment option on that. Ms. Shew stated that they like to see a minimum of three bids, so we were well above what they would consider for a successful sale. Ms. Shew noted that as far as the bank market is concerned, it's been a little displaced over the last year and a half, especially with the bank failures they have. She stated that they have been in a prolonged period of an inverted yield curve where short term rates are a little bit higher than long term rates, so it's been unique for the bank market. Ms. Shew stated that it is the best placement rate she has seen in a year, so the City should be pleased. Ms. Shew stated that they included a full set of the final numbers for the Council so they could see what that rate translates to in dollars of the life of the bonds, noting, again, that it was a very quick and cost-

effective sale method because you don't have to apply for and purchase a rating. She stated that you also don't have to prepare a bond offering document and pay underwriting fees, but otherwise, they function as bonds just like all other debt. Ms. Shew stated that they will then go through the attorney general for their approval, and this is the final step of the bond issuance process. Ms. Shew stated that by adopting the ordinance before the Council tonight they are locking this rate into place and accepting this proposal and then the City will receive the funds on August 1, 2024.

There was no discussion or questions from Council.

On motion by Mayor Pro Tem Adams, seconded by Council Member Thorne, the City Council unanimously approved Ordinance No. 5355, "AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF DENISON, TEXAS, TAX NOTE, SERIES 2024; LEVYING AN ANNUAL AD VALOREM TAX FOR PAYMENT OF SAID NOTE; AUTHORIZING EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND PURCHASE AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT."

7. PROJECT UPDATES

A. Receive an update on the Library Courtyard Project.

Greg Mitchell, Director of the Denison Public Library, stated that he came to Denison five years ago. He stated that on the backside of the Public Library building is a small courtyard area. Mr. Mitchell stated that the courtyard was overgrown with weeds and had some debris in there and had to be locked up at night because people would sneak back there from the alley and do bad things. Mr. Mitchell stated that he looked at the courtyard and realized that it was really just an eyesore and he wanted to do something with it. He stated that COVID and all different kinds of obstacles kept coming up and getting in the way of doing anything with the courtyard. Mr. Mitchell stated that last year he was speaking with April Martin of the Texoma Workforce Solutions, and she lit up when he started to talk about wanting to do something with that space. Ms. Martin went to work on it and lined up a collaboration between Denison ISD [the high school students in the special ed vocational program], Texoma Workforce, and Twin Oaks Nursery who donated material, plants, and benches to the Library. Mr. Mitchell stated that both Library and Parks and Recreation crew pitched in to the project and did some really great things for them. Mr. Mitchell stated that the Library had the ribbon cutting today, at long last, and opened up their "Library Courtyard Garden." He stated that he is very proud to say that it looks great and will be even better as the plants mature and grow. Mr. Mitchell stated that it is a great example of how we as the City can work collaboratively with others in the community to make something really nice happen. He stated that he is as proud of the students as you can possibly imagine as they pitched in and worked really hard on the project. Mr. Mitchell stated that the Parks and Recreation crew did marvelous things to make the water work and put some paving in. Mr. Mitchell invited everyone to come to the Library to have a look at the courtyard, get a cup of

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coffee, and just sit out there and read and enjoy. He stated that he is so proud of the partnership that brought this about.

Mayor Crawley thanked Mr. Mitchell and all of the “award-winning” Library staff for all they do and for bringing this idea into fruition.

There was no further discussion or questions from Council.

No action taken. Information item only.

There being no further business to come before the Council, the meeting was adjourned at 6:40 p.m.

ROBERT CRAWLEY, Mayor

ATTEST:

Christine Wallentine, City Clerk

City Council Meeting Staff Report



Agenda Item

“Receive a report, hold a discussion and take action on an agreement with Garver to provide As-Needed Construction Inspection Services for the City of Denison’s CIP projects in the amount of \$150,000, Contract No. 2024-0089) and authorize the Interim City Manager to execute all related documents.”

Staff Contact

Fanchon Stearns, CIP/Engineering Manager

fstearns@denisontx.gov

(903) 465-2720 Ext. 2085

Summary

- Staff desires to engage in Professional Services of Garver for As-Needed Construction Inspection Services to cover Capital Improvement projects.
- The scope of services for inspections would include performing inspections on a variety of projects, provide reports and log of activities; they will also assist on RFI & Submittal reviews
- This is a one-year contract for an hourly rate.

Staff Recommendation

Staff recommends approval of the item.

Recommended Motion

“I move to approve the agreement with Garver to provide As-Needed Construction Inspection Services for the City of Denison’s CIP projects in the amount of \$150,000, (Contract No. 2024-0089) and authorize the Interim City Manager to execute all related documents.”

Background Information and Analysis

The Public Works Capital Improvements Program has several projects with needs for construction inspections. Garver has been assisting with several of our large projects including ones assigned to Valdo Robles, which include Rylant Upgrading and Temp Building. Valdo Robles is knowledgeable in several specialized areas of construction, including electrical instrumentation and SCADA. Garver has identified errors in construction and plans sets that have saved the City of Denison valuable time and money in avoiding later correction. Valdo Robles is an instrumental part of the inspections team and staff looks forward to continuing our partnership.

Financial Considerations

Inspection Services are budgeted for within individual CIP project budgets.

Prior Board or Council Action

None.

Alternatives

Council may choose to modify, deny, or table the item.



Agreement
For
Professional Services

**As-Needed Construction Inspection
Services
City of Denison, Texas**

Project No. 2401299



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THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made as of the Effective Date by and between the **City of Denison, Texas** (hereinafter referred to as "**Owner**"), and **Garver, LLC** (hereinafter referred to as "**Garver**"). Owner and Garver may individually be referred to herein after as a "**Party**" and/or "**Parties**" respectively.

RECITALS

WHEREAS, Owner requested as-needed construction inspection assistance of a variety of construction projects within the limits of the City (the "**Project**").

WHEREAS, Garver will provide professional Services related to the Project as further described herein.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meaning specified in this Section:

"**Effective Date**" means the date last set forth in the signature lines below.

"**Damages**" means any and all damages, liabilities, or costs (including reasonable attorneys' fees recoverable under applicable law).

"**Hazardous Materials**" means any substance that, under applicable law, is considered to be hazardous or toxic or is or may be required to be remediated, including: (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or any words of similar import pursuant to applicable law; or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental instrumentality, or which may be the subject of liability for damages, costs or remediation.

"**Personnel**" means affiliates, directors, officers, partners, members, employees, and agents.

2. SCOPE OF SERVICES

- 2.1. Services. Owner hereby engages Garver to perform the scope of service described in Exhibit A attached hereto ("**Services**"). Execution of this Agreement by Owner constitutes Owner's written authorization to proceed with the Services. In consideration for such Services, Owner agrees to pay Garver in accordance with Section 3 below.



3. PAYMENT

- 3.1. Fee. For the Services described under Section 2.1, Owner will pay Garver in accordance with this Section 3 and Exhibit B. Owner represents that funding sources are in place with the available funds necessary to pay Garver in accordance with the terms of this Agreement.
- 3.2. Invoicing Statements. Garver shall invoice Owner on a monthly basis. Such invoice shall include supporting documentation reasonably necessary for Owner to know with reasonable certainty the proportion of Services accomplished. The Owner's terms and conditions set forth in a purchase order (or any similar document) are expressly rejected.
- 3.3. Payment.
 - 3.3.1. Due Date. Owner shall pay Garver all undisputed amounts within thirty (30) days after receipt of an invoice. Owner shall provide notice in writing of any portion of an invoice that is disputed in good faith within fifteen (15) days of receipt of an invoice. Garver shall promptly work to resolve any and all items identified by Owner relating to the disputed invoice. All disputed portions shall be paid promptly upon resolution of the underlying dispute.
 - 3.3.2. If any undisputed payment due Garver under this Agreement is not received within forty-five (45) days from the date of an invoice, Garver may elect to suspend Services under this Agreement without penalty.
 - 3.3.3. Payments due and owing that are not received within thirty (30) days of an invoice date will be subject to interest at the lesser of a one percent (1%) monthly interest charge (compounded) or the highest interest rate permitted by applicable law.

4. AMENDMENTS

- 4.1. Amendments. Garver shall be entitled to an equitable adjustment in the cost and/or schedule for circumstances outside the reasonable control of Garver, including modifications in the scope of Services, applicable law, codes, or standards after the Effective Date ("Amendment"). As soon as reasonably possible, Garver shall forward a formal Amendment, in the form set forth in Exhibit D, to Owner with backup supporting the Amendment. All Amendments should include, to the extent known and available under the circumstances, documentation sufficient to enable Owner to determine: (i) the factors necessitating the possibility of a change; (ii) the impact which the change is likely to have on the cost to perform the Services; and (iii) the impact which the change is likely to have on the schedule. All Amendments shall be effective only after being signed by the designated representatives of both Parties. Garver shall have no obligation to perform any additional services created by such Amendment until a mutually agreeable Amendment is executed by both Parties.

5. OWNER'S RESPONSIBILITIES

- 5.1. In connection with the Project, Owner's responsibilities shall include the following:
 - 5.1.1. Those responsibilities set forth in Exhibit A.
 - 5.1.2. Owner shall be responsible for all requirements and instructions that it furnishes to Garver pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Garver pursuant to this



Agreement. Garver may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items as further set forth in Exhibit A.

5.1.3. Owner shall give prompt written notice to Garver whenever Owner observes or otherwise becomes aware of the presence at the Project site of any Hazardous Materials or any relevant, material defect, or nonconformance in: (i) the Services; (ii) the performance by any contractor providing or otherwise performing construction services related to the Project; or (iii) Owner's performance of its responsibilities under this Agreement.

5.1.4. Owner shall include "Garver, LLC" as an indemnified party under the contractor's indemnity obligations included in the construction contract documents.

5.1.5. Owner will not directly or indirectly solicit any of Garver's Personnel during performance of this Agreement and for a period of one (1) year beyond completion of this Agreement.

6. GENERAL REQUIREMENTS

6.1. Standards of Performance.

6.1.1. Industry Practice. Garver shall perform any and all Services required herein in accordance with generally accepted practices and standards employed by the applicable United States professional services industries as of the Effective Date practicing under similar conditions and locale. Such generally accepted practices and standards are not intended to be limited to the optimum practices, methods, techniques, or standards to the exclusion of all others, but rather to a spectrum of reasonable and prudent practices employed by the United States professional services industry.

6.1.2. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Garver's services. Garver shall promptly correct deficiencies in technical accuracy without the need for an Amendment unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

6.1.3. On-site Services. Garver and its representatives shall comply with Owner's and its separate contractor's Project-specific safety programs, which have been provided to Garver in writing in advance of any site visits.

6.1.4. Relied Upon Information. Garver may use or rely upon design elements and information ordinarily or customarily furnished by others including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

6.1.5. Aside from Garver's direct subconsultants, Garver shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Garver have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any such contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to that contractor's services. Garver shall not be responsible for the acts or omissions of any contractor for whom it does not have a direct contract. Garver neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform



its work in accordance with the construction contract documents applicable to the contractor's work, even when Garver is performing construction phase services.

6.1.6. In no event is Garver acting as a "municipal advisor" as set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission. Garver's Services expressly do not include providing advice pertaining to insurance, legal, finance, surety-bonding, or similar services.

6.2. Instruments of Service.

6.2.1. Deliverables. All reports, specifications, record drawings, models, data, and all other information provided by Garver or its subconsultants, which is required to be delivered to Owner under Exhibit A (the "Deliverables"), shall become the property of Owner subject to the terms and conditions stated herein.

6.2.2. Electronic Media. Owner hereby agrees that all electronic media, including CADD files ("**Electronic Media**"), are tools used solely for the preparation of the Deliverables. Upon Owner's written request, Garver will furnish to Owner copies of Electronic Media to the extent included as part of the Services. In the event of an inconsistency or conflict in the content between the Deliverables and the Electronic Media, however, the Deliverables shall take precedence in all respects. Electronic Media is furnished without guarantee of compatibility with the Owner's software or hardware. Because Electronic Media can be altered, either intentionally or unintentionally, by transcription, machine error, environmental factors, or by operators, it is agreed that, to the extent permitted by applicable law, Owner shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including, but not limited to, costs of defense arising out of changes or modifications to the Electronic Media form in Owner's possession or released to others by Owner. Garver's sole responsibility and liability for Electronic Media is to furnish a replacement for any non-functioning Electronic Media for reasons solely attributable to Garver within thirty (30) days after delivery to Owner.

6.2.3. Property Rights. All intellectual property rights of a Party, including copyright, patent, and reuse ("**Intellectual Property**"), shall remain the Intellectual Property of that Party. Garver shall obtain all necessary Intellectual Property from any necessary third parties in order to execute the Services. Any Intellectual Property of Garver or any third party embedded in the Deliverables shall remain so imbedded and may not be separated therefrom.

6.2.4. License. Upon Owner fulfilling its payment obligations under this Agreement, Garver hereby grants Owner a license to use the Intellectual Property, but only in the operation and maintenance of the Project for which it was provided. Use of such Intellectual Property for modification, extension, or expansion of this Project or on any other project, unless under the direction of Garver, shall be without liability to Garver and Garver's subconsultants. To the extent permitted by applicable law, Owner shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including but not limited to costs of defense arising out of Owner's use of the Intellectual Property contrary to the rights permitted herein.



6.3. Opinions of Cost.

6.3.1. Since Garver has no control over: (i) the cost of labor, materials, equipment, or services furnished by others; (ii) the contractor or its subcontractor(s)' methods of determining prices; (iii) competitive bidding; (iv) market conditions; or (v) similar material factors, Garver's opinions of Project costs or construction costs provided pursuant to Exhibit A, if any, are to be made on the basis of Garver's experience and qualifications and represent Garver's reasonable judgment as an experienced and qualified professional engineering firm, familiar with the construction industry. Garver cannot and does not guarantee that proposals, bids, or actual Project or construction costs will not vary from estimates prepared by Garver.

6.3.2. Owner understands that the construction cost estimates developed by Garver do not establish a limit for the construction contract amount. If the actual amount of the low construction bid or resulting construction contract exceeds the construction budget established by Owner, Garver will not be required to re-design the Services without additional compensation. In the event Owner requires greater assurances as to probable construction cost, then Owner agrees to obtain an independent cost estimate.

6.4. Underground Utilities. Except to the extent expressly included as part of the Services, Garver will not provide research regarding utilities or survey utilities located and marked by their owners. Furthermore, since many utility companies typically will not locate and mark their underground facilities prior to notice of excavation, Garver is not responsible for knowing whether underground utilities are present or knowing the exact location of such utilities for design and cost estimating purposes. In no event is Garver responsible for damage to underground utilities, unmarked or improperly marked, caused by geotechnical conditions, potholing, construction, or other contractors or subcontractors working under a subcontract to this Agreement.

6.5. Design with Construction Phase Services.

6.5.1. If the Owner requests in writing that Garver provide any specific construction phase services or assistance with resolving disputes or other subcontractor related issues, and if Garver agrees to provide such services, then Garver shall be compensated for the services as an Amendment in accordance with Sections 4 and 10.2.

6.5.2. Garver shall be responsible only for those construction phase Services expressly set forth in Exhibit A, if any. With the exception of such expressly required Services, Garver shall have no responsibility or liability for any additional construction phase services, including review and approval of payment applications, design, shop drawing review, or other obligations during construction. Owner assumes all responsibility for interpretation of the construction contract documents and for construction observation and supervision and waives any claims against Garver that may be in any way connected thereto.

6.5.3. Owner agrees, to the fullest extent permitted by law, to indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from any loss, claim, or cost, including reasonable attorneys' fees and costs of defense, arising or resulting from the performance of such construction phase services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments, or changes made to the construction contract documents to reflect changed field or other conditions, except to the extent such claims arise from the negligence of Garver in performance of the Services.



6.6. Hazardous Materials. Nothing in this Agreement shall be construed or interpreted as requiring Garver to assume any role in the identification, evaluation, treatment, storage, disposal, or transportation of any Hazardous Materials. Notwithstanding any other provision to the contrary in this Agreement and to the fullest extent permitted by law, Owner shall indemnify and hold Garver and Garver's subconsultants, and their Personnel harmless from and against any and all losses which arise out of the performance of the Services and relating to the regulation and/or protection of the environment including without limitation, losses incurred in connection with characterization, handling, transportation, storage, removal, remediation, disturbance, or disposal of Hazardous Material, whether above or below ground.

6.7. Confidentiality. Owner and Garver shall consider: (i) all information provided by the other Party that is marked as "Confidential Information" or "Proprietary Information" or identified as confidential pursuant to this Section 6.7 in writing promptly after being disclosed verbally; and (ii) all documents resulting from Garver's performance of Services to be Confidential Information. Except as legally required, Confidential Information shall not be discussed with or transmitted to any third parties, except on a "need to know basis" with equal or greater confidentiality protection or written consent of the disclosing Party. Confidential Information shall not include and nothing herein shall limit either Party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving Party or its Personnel; (ii) was or becomes available to the receiving Party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving Party without the use of any Confidential Information of the disclosing Party; or (iv) is required to be disclosed by applicable law or a court order. All confidentiality obligations hereunder shall expire three (3) years after completion of the Services. Nothing herein shall be interpreted as prohibiting Garver from disclosing general information regarding the Project for future marketing purposes.

7. INSURANCE

7.1. Insurance.

7.1.1. Garver shall procure and maintain insurance as set forth in Exhibit C until completion of the Service. Upon request, Garver shall name Owner as an additional insured on Garver's General Liability policy to the extent of Garver's indemnity obligations provided in Section 9 of this Agreement.

7.1.2. Upon request, Garver shall furnish Owner a certificate of insurance evidencing the insurance coverages required in Exhibit C.

8. DOCUMENTS

8.1. Audit. Garver will retain all pertinent records for a period of three (3) years beyond completion of the Services. Owner may have access to such records during normal business hours with three (3) business days advanced written notice. In no event shall Owner be entitled to audit the makeup of lump sum or other fixed prices (e.g., agreed upon unit or hour rates).

8.2. Delivery. After completion of the Project, and prior to final payment, Garver shall deliver to the Owner all Deliverables required under Exhibit A.



8.3. Notices. Notices under this Agreement will be written and be effective on (i) personal delivery, (ii) confirmed delivery by nationally recognized courier service, or (iii), except for notices of breach or an indemnifiable claim, the day sent by email.

Notices to Owner will be addressed to:

Notices to Garver will be addressed to:

Dakota Zimmerman
3000 Internet Boulevard
Suite 400
Frisco, TX 75034

9. INDEMNIFICATION / WAIVERS

9.1. Indemnification.

9.1.1. Garver Indemnity. Subject to the limitations of liability set forth in Section 9.2, Garver agrees to indemnify and hold Owner, and Owner's Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent such Damages are caused by the negligent acts, errors, or omissions of Garver or any other party for whom Garver is legally liable, in the performance of the Services under this Agreement.

9.1.2. Owner Indemnity. Subject to the limitations of liability set forth in Section 9.2, Owner agrees to indemnify and hold Garver and Garver's subconsultants and their Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent caused by the negligent acts, errors, or omissions of Owner or any other party for whom Owner is legally liable, in the performance of Owner's obligations under this Agreement.

9.1.3. In the event claims or Damages are found to be caused by the joint or concurrent negligence of Garver and the Owner, they shall be borne by each Party in proportion to its own negligence.

9.2. Waivers. Notwithstanding any other provision to the contrary, the Parties agree as follows:

9.2.1. THE PARTIES AGREE THAT ANY CLAIM OR SUIT FOR DAMAGES MADE OR FILED AGAINST THE OTHER PARTY WILL BE MADE OR FILED SOLELY AGAINST GARVER OR OWNER RESPECTIVELY, OR THEIR SUCCESSORS OR ASSIGNS, AND THAT NO PERSONNEL SHALL BE PERSONALLY LIABLE FOR DAMAGES UNDER ANY CIRCUMSTANCES.

9.2.2. MUTUAL WAIVER. TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER OWNER, GARVER, NOR THEIR RESPECTIVE PERSONNEL SHALL BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES, OR DAMAGES ARISING FROM OR IN CONNECTION WITH LOSS OF USE, LOSS OF REVENUE OR PROFIT (ACTUAL OR ANTICIPATED), LOSS BY REASON OF SHUTDOWN OR NON-OPERATION, INCREASED COST OF CONSTRUCTION, COST OF CAPITAL, COST OF REPLACEMENT POWER OR



CUSTOMER CLAIMS, AND OWNER HEREBY RELEASES GARVER, AND GARVER RELEASES OWNER, FROM ANY SUCH LIABILITY.

9.2.3. LIMITATION. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH THE OWNER AND GARVER, OWNER HEREBY AGREES THAT GARVER'S AND ITS PERSONNEL'S TOTAL LIABILITY UNDER THE AGREEMENT SHALL BE LIMITED TO ONE HUNDRED PERCENT (100%) OF GARVER'S FEE SET FORTH IN EXHIBIT B.

9.2.4. NO OTHER WARRANTIES. NO OTHER WARRANTIES OR CAUSES OF ACTION OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE) SHALL APPLY. OWNER'S EXCLUSIVE REMEDIES AND GARVER'S ONLY OBLIGATIONS ARISING OUT OF OR IN CONNECTION WITH DEFECTIVE SERVICES (PATENT, LATENT OR OTHERWISE), WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, SHALL BE THOSE STATED IN THE AGREEMENT.

9.2.5. THE LIMITATIONS SET FORTH IN SECTION 9.2 APPLY REGARDLESS OF WHETHER THE CLAIM IS BASED IN CONTRACT, TORT, OR NEGLIGENCE INCLUDING GROSS NEGLIGENCE, STRICT LIABILITY, WARRANTY, INDEMNITY, ERROR AND OMISSION, OR ANY OTHER CAUSE WHATSOEVER.

10. DISPUTE RESOLUTION

10.1. Any controversy or claim ("Dispute") arising out of or relating to this Agreement or the breach thereof shall be resolved in accordance with the following:

10.1.1. Any Dispute that cannot be resolved by the project managers of Owner and Garver may, at the request of either Party, be referred to the senior management of each Party. If the senior management of the Parties cannot resolve the Dispute within thirty (30) days after such request for referral, then either Party may request mediation. If both Parties agree to mediation, it shall be scheduled at a mutually agreeable time and place with a mediator agreed to by the Parties. Should mediation fail, should either Party refuse to participate in mediation, or should the scheduling of mediation be impractical, either Party may file for arbitration in lieu of litigation.

10.1.2. Arbitration of the Dispute shall be administered by the American Arbitration Association ("AAA") in accordance with its Construction Industry Arbitration Rules. EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY AND ALL RIGHT TO TRIAL BY JURY. The arbitration shall be conducted by a single arbitrator, agreed to by the Parties. In no event may a demand for arbitration be made if the institution of legal or equitable proceedings based on such dispute is barred by the applicable statute of limitations.

10.1.3. The site of the arbitration shall be Frisco, Texas. Each Party hereby consents to the jurisdiction of the federal and state courts within whose district the site of arbitration is located for purposes of enforcement of this arbitration provision, for provisional relief in aid of arbitration, and for enforcement of any award issued by the arbitrator.



- 10.1.4. To avoid multiple proceedings and the possibility of inconsistent results, either Party may seek to join third parties with an interest in the outcome of the arbitration or to consolidate arbitration under this Agreement with another arbitration. Within thirty (30) days of receiving written notice of such a joinder or consolidation, the other Party may object. In the event of such an objection, the arbitrator shall decide whether the third party may be joined and/or whether the arbitrations may be consolidated. The arbitrator shall consider whether any entity will suffer prejudice as a result of or denial of the proposed joinder or consolidation, whether the Parties may achieve complete relief in the absence of the proposed joinder or consolidation, and any other factors which the arbitrators conclude should factor on the decision.
- 10.1.5. The arbitrator shall have no authority to award punitive damages. Any award, order or judgment pursuant to the arbitration is final and may be entered and enforced in any court of competent jurisdiction.
- 10.1.6. The prevailing Party shall be entitled to recover its attorneys' fees, costs, and expenses, including arbitrator fees and costs and AAA fees and costs.
- 10.1.7. The foregoing arbitration provisions shall be final and binding, construed and enforced in accordance with the Federal Arbitration Act, notwithstanding the provisions of this Agreement specifying the application of other law. Pending resolution of any Dispute, unless the Agreement is otherwise terminated, Garver shall continue to perform the Services under this Agreement that are not the subject of the Dispute, and Owner shall continue to make all payments required under this Agreement that are not the subject of the Dispute.
- 10.1.8. Owner and Garver further agree to use commercially reasonable efforts to include a similar dispute resolution provision in all agreements with independent contractors and subconsultants retained for the Project.
- 10.1. Litigation Assistance. This Agreement does not include costs of Garver for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by Owner, unless litigation assistance has been expressly included as part of Services. In the event Owner requests such services of Garver, this Agreement shall be amended in writing by both Owner and Garver to account for the additional services and resulting cost in accordance with Section 4.

11. TERMINATION

- 11.1. Termination for Convenience. Owner shall have the right at its sole discretion to terminate this Agreement for convenience at any time upon giving Garver ten (10) days' written notice. In the event of a termination for convenience, Garver shall bring any ongoing Services to an orderly cessation. Owner shall compensate Garver in accordance with Exhibit B for: (i) all Services performed and reasonable costs incurred by Garver on or before Garver's receipt of the termination notice, including all outstanding and unpaid invoices, (ii) all costs reasonably incurred to bring such Services to an orderly cessation.
- 11.2. Termination for Cause. This Agreement may be terminated by either Party in the event of failure by the other Party to perform any material obligation in accordance with the terms hereof. Prior to termination of this Agreement for cause, the terminating Party shall provide at least seven (7) business days written notice and a reasonable opportunity to cure to the non-performing Party. In all events of termination for cause due to an event of default by the



Owner, Owner shall pay Garver for all Services properly performed prior to such termination in accordance with the terms, conditions and rates set forth in this Agreement.

11.3. Termination in the Event of Bankruptcy. Either Party may terminate this Agreement immediately upon notice to the other Party, and without incurring any liability, if the non-terminating Party has: (i) been adjudicated bankrupt; (ii) filed a voluntary petition in bankruptcy or had an involuntary petition filed against it in bankruptcy; (iii) made an assignment for the benefit of creditors; (iv) had a trustee or receiver appointed for it; (v) becomes insolvent; or (vi) any part of its property is put under receivership.

12. MISCELLANEOUS

12.1. Governing Law. This Agreement is governed by the laws of the State of Texas, without regard to its choice of law provisions.

12.2. Successors and Assigns. Owner and Garver each bind themselves and their successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; neither Owner nor Garver shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other, which shall not be unreasonably withheld or delayed.

12.3. Independent Contractor. Garver is and at all times shall be deemed an independent contractor in the performance of the Services under this Agreement.

12.4. No Third-Party Beneficiaries. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Owner and Garver. This Agreement does not contemplate any third-party beneficiaries.

12.5. Entire Agreement. This Agreement constitutes the entire agreement between Owner and Garver and supersedes all prior written or oral understandings and shall be interpreted as having been drafted by both Parties. This Agreement may be amended, supplemented, or modified only in writing by and executed by both Parties.

12.6. Severance. The illegality, unenforceability, or occurrence of any other event rendering a portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision of this Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.

12.7. Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together constitute one Agreement. Delivery of an executed counterpart of this Agreement by fax or transmitted electronically in legible form, shall be equally effective as delivery of a manually executed counterpart of this Agreement.

13. EXHIBITS

13.1. The following Exhibits are attached to and made a part of this Agreement:

- Exhibit A – Scope of Services
- Exhibit B – Compensation Schedule



Exhibit C – Insurance
Exhibit D – Form of Amendment

If there is an express conflict between the provisions of this Agreement and any Exhibit hereto, the terms of this Agreement shall take precedence over the conflicting provisions of the Exhibit.

Owner and Garver, by signing this Agreement, acknowledges that they have independently assured themselves and confirms that they individually have examined all Exhibits, and agrees that all of the aforesaid Exhibits shall be considered a part of this Agreement and agrees to be bound to the terms, provisions, and other requirements thereof, unless specifically excluded.


Acceptance of this proposed Agreement is indicated by an authorized agent of the Owner signing in the space provided below. Please return one signed original of this Agreement to Garver for our records.

IN WITNESS WHEREOF, Owner and Garver have executed this Agreement effective as of the date last written below.

City of Denison, Texas

Garver, LLC

By: _____
Signature

By:  _____
Signature
Digitally signed by
Dakota Zimmerman
Date: 2024.06.17
12:58:54-05'00'

Name: _____
Printed Name

Name: Dakota G. Zimmerman
Printed Name


Title: _____

Title: Vice President

Date: _____

Date: 2024-06-17

Attest: _____

Attest:  _____



**EXHIBIT A
(SCOPE OF SERVICES)**

- 1.1 Garver shall provide the following Services:
 - 1.1.1 Construction Inspection Services:
 - 1.1.1.1 Perform part-time (minimum of 32 hours per week) up to full-time inspection (40 hours per week) on a variety of projects for the City of Denison.
 - 1.1.1.2 Provide daily reports, weekly reports, construction quality verification, progress payment review, and change order log of activities on each project assigned to us.
 - 1.1.1.3 Garver will aid on RFI & Submittal reviews but will not provide final resolution to these items. The final resolution should come from the design engineer of record of the City of Denison, Texas.
 - 1.1.2 Preclusions:
 - 1.1.2.1 Material testing
 - 1.1.2.2 Specialty Inspections related to the International Building Code
 - 1.1.2.3 Construction Staking and surveying services
 - 1.1.2.4 Design services
 - 1.1.2.5 SW3P permit and plan creation
- 1.2 In addition to those obligations set forth in the Agreement, Owner shall:
 - 1.2.1 Give thorough consideration to all documents and other information presented by Garver and informing Garver of all decisions within a reasonable time so as not to delay the Services.
 - 1.2.2 Make provision for the Personnel of Garver to enter public and private lands as required for Garver to perform necessary preliminary surveys and other investigations required under the applicable Work Order.
 - 1.2.3 Obtain the necessary lands, easements and right-of-way for the construction of the work. All costs associated with securing the necessary land interests, including property acquisition and/or easement document preparation, surveys, appraisals, and abstract work, shall be borne by the Owner outside of this Agreement, except as otherwise described in the Services under Section 2.1.
 - 1.2.4 Furnish Garver such plans and records of construction and operation of existing facilities, available aerial photography, reports, surveys, or copies of the same, related to or bearing on the proposed work as may be in the possession of Owner. Such documents or data will be returned upon completion of the Services or at the request of Owner.
 - 1.2.5 Furnish Garver a current boundary survey with easements of record plotted for the project property.
 - 1.2.6 Pay all plan review and advertising costs in connection with the project.
 - 1.2.7 Provide legal, accounting, and insurance counseling services necessary for the project and such auditing services as Owner may require.
 - 1.2.8 Furnish permits, permit fees, and approvals from all governmental authorities having jurisdiction over the project and others as may be necessary for completion of the project.
 - 1.2.9 Furnishing Garver a current geotechnical report for the proposed site of construction. Garver will coordinate with the geotechnical consultant, Owner has contracted with, on Owner's behalf for the project specific requested information.



**EXHIBIT B
(COMPENSATION SCHEDULE)**

The table below presents a summary of the fee amounts and fee types for this Agreement.

WORK DESCRIPTION	FEE AMOUNT	FEE TYPE
Preliminary Work/Study	\$0	LUMP SUM
Surveys	\$0	LUMP SUM
Preliminary Design	\$0	LUMP SUM
Final Design	\$0	LUMP SUM
Bidding Services	\$0	LUMP SUM
Construction Phase Services	\$150,000.00	RATE SCHEDULE
TOTAL FEE	\$150,000.00	

The Owner will pay Garver for Service rendered at the agreed upon rates for each classification of Garver's personnel (may include contract staff classified at Garver's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. The total amount paid to Garver under this Agreement is estimated to be \$150,000.00. The actual total fee may exceed this estimate. For informational purposes, a breakdown of Garver's estimated cost is included in this Exhibit B with approximate current hourly rates for each employee classification. The agreed upon rates will be increased annually with the first increase effective on or about July 1st, 2025. Notwithstanding the foregoing, Garver shall be entitled, in its sole discretion, to substitute a more qualified person (e.g., C-4) with a less qualified person (e.g., C-1); provided however, in such event Garver shall only be entitled to payment at the lesser rate.

Expenses other than salary costs that are directly attributable to performance of our Services will be billed as follows:

1. Direct cost for travel, long distance and wireless communications, outside reproduction and presentation material preparation, and mail/courier expenses.
2. Charges similar to commercial rates for reports, plan sheets, presentation materials, etc.
3. The amount allowed by the federal government for mileage with an additional \$0.05 for survey trucks/vans.

Garver shall provide Owner notice when Garver is within ten percent (10%) of the not-to-exceed amount. In which event, Owner may direct Garver to proceed with the Services up to the not-to-exceed budgetary threshold before ceasing performance of the Services or increase the not-to-exceed amount with notice to Garver. Underruns in any phase may be used to offset overruns in another phase as long as the overall Agreement amount is not exceeded. In no event shall the not-to-exceed amount be interpreted as a guarantee the Services can be performed for the not-to-exceed budgetary threshold.



Exhibit B
City of Denison, Texas
As-Needed Construction Inspection
Garver Hourly Rate Schedule: July 2024 - June 2025

Classification	Rates	Classification	Rates
Engineers / Architects		Resource Specialists	
E-1	\$ 128.00	RS-1	\$ 102.00
E-2	\$ 148.00	RS-2	\$ 141.00
E-3	\$ 179.00	RS-3	\$ 200.00
E-4	\$ 208.00	RS-4	\$ 261.00
E-5	\$ 254.00	RS-5	\$ 327.00
E-6	\$ 312.00	RS-6	\$ 402.00
E-7	\$ 422.00	RS-7	\$ 457.00
Planners		Environmental Specialists	
P-1	\$ 153.00	ES-1	\$ 102.00
P-2	\$ 192.00	ES-2	\$ 135.00
P-3	\$ 239.00	ES-3	\$ 164.00
P-4	\$ 267.00	ES-4	\$ 203.00
P-5	\$ 308.00	ES-5	\$ 255.00
Designers		ES-6	\$ 311.00
D-1	\$ 119.00	ES-7	\$ 399.00
D-2	\$ 139.00	ES-8	\$ 451.00
D-3	\$ 166.00	Project Controls	
D-4	\$ 192.00	PC-1	\$ 105.00
Technicians		PC-2	\$ 145.00
T-1	\$ 93.00	PC-3	\$ 184.00
T-2	\$ 118.00	PC-4	\$ 236.00
T-3	\$ 144.00	PC-5	\$ 288.00
T-4	\$ 181.00	PC-6	\$ 353.00
Surveyors		PC-7	\$ 454.00
S-1	\$ 58.00	Administration / Management	
S-2	\$ 76.00	AM-1	\$ 74.00
S-3	\$ 101.00	AM-2	\$ 99.00
S-4	\$ 146.00	AM-3	\$ 138.00
S-5	\$ 192.00	AM-4	\$ 175.00
S-6	\$ 219.00	AM-5	\$ 216.00
2-Man Crew (Survey)	\$ 220.00	AM-6	\$ 265.00
3-Man Crew (Survey)	\$ 277.00	AM-7	\$ 320.00
2-Man Crew (GPS Survey)	\$ 241.00	M-1	\$ 510.00
3-Man Crew (GPS Survey)	\$ 298.00	Construction Observation	
Construction Observation		C-1	\$ 113.00
C-1	\$ 113.00	C-2	\$ 145.00
C-2	\$ 145.00	C-3	\$ 176.00
C-3	\$ 176.00	C-4	\$ 217.00
C-4	\$ 217.00	C-5	\$ 259.00
C-5	\$ 259.00		

Agreement for Professional Services
As-Needed Construction Inspection

Garver Project No. 2401299



Exhibit B

**City of Denison, Texas
As-Needed Construction Inspection**

CONSTRUCTION PHASE SERVICES

WORK TASK DESCRIPTION NTE \$150,000.00	C-2	C-5	- Select Category -	- Select Category -	- Select Category -	- Select Category -	- Select Category -
	\$145.00 hr	\$259.00 hr	\$0.00 hr	\$0.00 hr	\$0.00 hr	\$0.00 hr	\$0.00 hr
1. Project Management							
Administration and Coordination							
Quality Control Review							
Submittals to Client							
Subtotal - Project Management	0	0	0	0	0	0	0
2. Civil Engineering							
Preconstruction Meeting							
Utility Coordination Meeting							
Progress Meetings with Contractor/City (30)							
Monthly Pay Requests							
Shop Drawings/Material Submittals							
Record Drawings							
On-Site Meetings							
Resident Construction Observation	900	40					
Prepare Change Orders							
Final Project Inspection and Punchlist							
Subtotal - Civil Engineering	900	40	0	0	0	0	0
3. Structural Engineering							
Response to Inquiries							
Shop Drawings							
Subtotal - Structural Engineering	0	0	0	0	0	0	0

Hours	900	40	0	0	0	0	0
Salary Costs	\$130,500.00	\$10,360.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

SUBTOTAL - SALARIES: \$140,860.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$0.00
Travel Costs - Mileage	\$9,140.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$9,140.00

SUBTOTAL: \$150,000.00

SUBCONSULTANTS FEE: \$0.00

TOTAL FEE: \$150,000.00



**EXHIBIT C
(INSURANCE)**

Pursuant to Section 7.1 of the Agreement, Garver shall maintain the following schedule of insurance until completion of the Services:

	Statutory Limit
Worker's Compensation	
Automobile Liability	
Combined Single Limit (Bodily Injury and Property Damage)	\$500,000
General Liability	
Each Occurrence	\$1,000,000
Aggregate	\$2,000,000
Professional Liability	
Each Claim Made	\$1,000,000
Annual Aggregate	\$2,000,000
Excess of Umbrella Liability	
Per Occurrence	\$1,000,000
General Aggregate	\$1,000,000



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/17/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Stephens Insurance, LLC 111 Center Street, Suite 100 Little Rock, AR 72201 www.stephensinsurance.com	CONTACT NAME: Kathy Jones PHONE (A/C, No., Ext): 501-377-8502 FAX (A/C, No): E-MAIL ADDRESS: kathy.jones@stephens.com													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Phoenix Insurance Company (A++XV)</td> <td>25623</td> </tr> <tr> <td>INSURER B: Charter Oak Fire Insurance Company (A++XV)</td> <td>25615</td> </tr> <tr> <td>INSURER C: Farmington Casualty Company (A++XV)</td> <td>41483</td> </tr> <tr> <td>INSURER D: Travelers Property Casualty Co of Amer (A++ XV)</td> <td>25674</td> </tr> <tr> <td>INSURER E: Starr Surplus Lines Insurance Company (A XV)</td> <td>13604</td> </tr> <tr> <td>INSURER F: Tokio Marine Specialty Insurance Company (A++XV)</td> <td>23850</td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Phoenix Insurance Company (A++XV)	25623	INSURER B: Charter Oak Fire Insurance Company (A++XV)	25615	INSURER C: Farmington Casualty Company (A++XV)	41483	INSURER D: Travelers Property Casualty Co of Amer (A++ XV)	25674	INSURER E: Starr Surplus Lines Insurance Company (A XV)	13604	INSURER F: Tokio Marine Specialty Insurance Company (A++XV)
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INSURER F: Tokio Marine Specialty Insurance Company (A++XV)	23850													
INSURED Garver, LLC 3000 Internet Boulevard, Suite 400 Frisco TX 75034														

COVERAGES **CERTIFICATE NUMBER: 80510443** **REVISION NUMBER:**

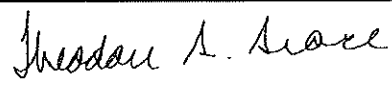
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input checked="" type="checkbox"/> OTHER: -0- Deductible			P-630-1G052988-PHX-23	7/1/2023	7/1/2024	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			810-1N886537-23-43-G	7/1/2023	7/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10000			CUP-6J09853A-22-43	7/1/2023	7/1/2024	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	UB-7K425966-22-43-G	7/1/2023	7/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
E	Professional Liability- Claims Made			1000634123231	7/1/2023	7/1/2024	Each Claim & Aggregate \$2,000,000
F	Contractor's Pollution Liability			PPK2572628	7/1/2023	7/1/2024	Occurrence & Aggregate \$2,000,000
	Maritime Employer's Liability *			PSR083745	7/1/2023	7/1/2024	Combined Single Limit \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

See Attached
RE: Garver Project: 2401299

Full Prior Acts applies under the Starr Professional Liability policy shown above.

CERTIFICATE HOLDER Garver Project: 2401299 City of Denison 300 W. Main St. Denison TX 75020	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE  Ted Grace
--	--

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ADDITIONAL REMARKS SCHEDULE

AGENCY Stephens Insurance, LLC		NAMED INSURED Garver, LLC 3000 Internet Boulevard, Suite 400 Frisco TX 75034	
POLICY NUMBER P-630-1G052988-PHX-23		EFFECTIVE DATE: 7/1/2023	
CARRIER Phoenix Insurance Company (A++XV)	NAIC CODE 25623		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability (03/16)

HOLDER: City of Denison
ADDRESS: 300 W. Main St. Denison TX 75020

The following policy endorsements apply to the Certificate Holder and other named person or organization if you have agreed in written contract:

Certificate Holder is an Additional Insured on the General Liability if required by written contract per Blanket Endorsement CGD414 & CGD246 on a Primary & Non-contributory basis and includes Completed Operations.

Certificate Holder is an Additional Insured on a Primary & Non-contributory basis per Blanket Auto Endorsement CAT474.

Certificate Holder is an Additional Insured under the Umbrella policy on a Primary & Non-contributory basis per the follow form wording.

Waiver of Subrogation applies in favor of the Certificate Holder under the General Liability by Blanket Endorsement CGD379.

Waiver of Subrogation applies in favor of the Certificate Holder under the Automobile by Blanket Endorsement CAT353.

Waiver of Subrogation applies under the Umbrella per follow form wording if required by written contract.

Waiver of Subrogation applies in favor of the Certificate Holder under the Worker's Compensation by Blanket Endorsement WC000313. Form WC420304 Texas. Form WC9903J9 Kansas. WC430305 Utah.

Waiver of Subrogation applies in favor of the Certificate Holder under the Professional Liability. This is provided within the Starr Professional Liability policy form.

30 day notice will be provided to the Certificate Holder in the event of Cancellation, Non-renewal, Material Change per Blanket Endorsement ILT804-General Liability & ILT354 (03/98) on the Automobile.

Notice of Cancel, Non-renewal, Material Change will be sent per WC Blanket Endorsement WC9906R5.

Notice of Cancel, Non-renewal and Reduction of Limits will be provided by the Professional Liability Carrier per Blanket Endorsement.

Notice of Cancel for non-payment of premium is provided if Certificate Holder is specifically endorsed to the Professional Liability policy (Endt to be attached with this certificate if applicable).

*** (Notice of Cancel for non-payment of premium will not be provided to the Certificate Holder by Travelers Ins. Co. (applies to the General Liability, Automobile Liability and Umbrella policies).

Valuable Papers is provided under policy P-630-1G052988-COF-22 shown above with a limit of \$500,000.

General Liability policy form CGT001 includes Severability (Separation) of Interest (Insured's) Clause and includes Work within railroad by endorsement CG D3 79.

Worker's Compensation Policy includes coverage for USL&H exposures without endorsement to the policy per endorsement WC000106.



ADDITIONAL REMARKS SCHEDULE

AGENCY Stephens Insurance, LLC		NAMED INSURED Garver, LLC 3000 Internet Boulevard, Suite 400 Frisco TX 75034	
POLICY NUMBER P-630-1G052988-PHX-23		EFFECTIVE DATE: 7/1/2023	
CARRIER Phoenix Insurance Company (A++XV)	NAIC CODE 25623		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability (03/16)

HOLDER: City of Denison
ADDRESS: 300 W. Main St. Denison TX 75020

Cyber Policy W35352230101 with Syndicate 2623/623 at Lloyds, eff. 7/1/23-7/1/24 Limits \$5,000,000 Data & Network Liability.

List of WC Carriers by State:

- Sub Carrier NAIC# AM Best State(s)
- Farmington Casualty Company 41483 A++ XV AL, AR, KS, MO
- The Travelers Indemnity Company of Connecticut 25682 A++ XV AZ, GA, KY, NE, WI
- Travelers Property Casualty Company of America 25674 A++ XV CA, CO, FL, IN, MN, OH, OR, UT, WA
- Travelers Casualty and Surety Company 19038 A++ XV CT, NY, TN, VA
- The Travelers Indemnity Company of America 25666 A++ XV IL, MI
- The Phoenix Insurance Company 25623 A++ XV LA
- The Charter Oak Fire Insurance Company 25615 A++ XV MD, PA
- The Travelers Indemnity Company 25658 A++ XV MS, NM, NC, SC
- The Standard Fire Insurance Company 19070 A++ XV OK, TX

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.	OFFICE USE ONLY
1 Name of business entity filing form, and the city, state and country of the business entity's place of business. GARVER, LLC FRISCO, TX United States	CERTIFICATION OF FILING Certificate Number: 2024-1176525 Date Filed: 06/17/2024
2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed. CITY OF DENISON, TX	Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2401299
 City of Denison – As-Needed Construction Inspection 2024

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
HOSKINS, BROCK	FRISCO, TX United States	X	
GRAVES, MICHAEL	FRISCO, TX United States	X	
SCHNIERS, BRENT	FRISCO, TX United States	X	
SOBER, JEFFREY	FRISCO, TX United States	X	
MOTT, JR., Wm. EARL	FRISCO, TX United States	X	
HOLDER, JR., JERRY	FRISCO, TX United States	X	
MCILLWAIN, FRANK	FRISCO, TX United States	X	

5 Check only if there is NO Interested Party.

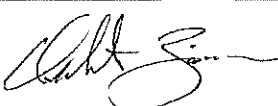
6 UNSWORN DECLARATION

My name is Dakota Zimmerman, and my date of birth is March 12, 1990.

My address is 3000 Internet Blvd. Suite 400, Frisco, Texas, 75034, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Collin County, State of Texas, on the 17th day of June, 2024.
(month) (year)



 Signature of authorized agent of contracting business entity
 (Declarant)



**EXHIBIT D
(FORM OF AMENDMENT)**

**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
City of Denison, Texas
Project No. 2401299**

AMENDMENT NO. [?]

This Amendment No. [?], effective on the date last written below, shall amend the original contract between the City of Denison, Texas ("Owner") and Garver, LLC ("Garver"), dated [Insert date] (the "Agreement").

This Amendment No. [?] adds/modifies the Services for the:

[Describe improvements and location]

The Agreement is hereby modified as follows:

SECTION [?] – [Insert section heading]

Section [?] of the Agreement is hereby amended as follows:

This Amendment may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.



IN WITNESS WHEREOF, Owner and Garver have executed this Amendment effective as of the date last written below.

City of Denison, Texas

Garver, LLC

By: _____
Signature

By: _____
Signature

Name: _____
Printed Name

Name: _____
Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

Attest: _____

Attest: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/27/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Stephens Insurance, LLC 111 Center Street, Suite 100 Little Rock, AR 72201 www.stephensinsurance.com	CONTACT NAME: Kathy Jones PHONE (A/C No. Ext): 501-377-8502 E-MAIL ADDRESS: kathy.jones@stephens.com	FAX (A/C No.):	
	INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED Garver, LLC 3000 Internet Boulevard, Suite 400 Frisco TX 75034	INSURER A: Phoenix Insurance Company (A++XV)		25623
	INSURER B: Charter Oak Fire Insurance Company (A++XV)		25615
	INSURER C: Standard Fire Insurance Company (A++XV)		19070
	INSURER D: Travelers Property Casualty Co of Amer (A++ XV)		25674
	INSURER E: Starr Surplus Lines Insurance Company (A XV)		13604
	INSURER F: Tokio Marine Specialty Insurance Company (A++XV)		23850

COVERAGES **CERTIFICATE NUMBER: 80727368** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

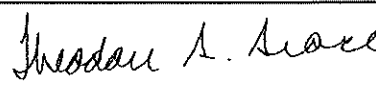
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input checked="" type="checkbox"/> OTHER: -0- Deductible			P-630-1G052988-PHX-24	7/1/2024	7/1/2025	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			810-1N886537-24-43-G	7/1/2024	7/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000			CUP-6J09853A-24-43	7/1/2024	7/1/2025	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	UB-7K425966-24-43-G	7/1/2024	7/1/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
E	Professional Liability- Claims Made			1000634123241	7/1/2024	7/1/2025	Each Claim & Aggregate \$2,000,000
F	Contractor's Pollution Liability			PPK2691456	7/1/2024	7/1/2025	Occurrence & Aggregate \$2,000,000
	Maritime Employer's Liability *			PSR083863	7/1/2024	7/1/2025	Combined Single Limit \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

See Attached
RE: Garver Project: 2401299

Full Prior Acts applies under the Starr Professional Liability policy shown above.

CERTIFICATE HOLDER **CANCELLATION**

Garver Project: 2401299 City of Denison 300 W. Main St. Denison TX 75020	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE  Ted Grace
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ADDITIONAL REMARKS SCHEDULE

AGENCY Stephens Insurance, LLC		NAMED INSURED Garver, LLC 3000 Internet Boulevard, Suite 400 Frisco TX 75034	
POLICY NUMBER P-630-1G052988-PHX-24			
CARRIER Phoenix Insurance Company (A++XV)	NAIC CODE 25623	EFFECTIVE DATE: 7/1/2024	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability (03/16)

HOLDER: City of Denison

ADDRESS: 300 W. Main St. Denison TX 75020

The following policy endorsements apply to the Certificate Holder and other named person or organization if you have agreed in written contract:

Certificate Holder is an Additional Insured on the General Liability if required by written contract per Blanket Endorsement CGD414 & CGD246 on a Primary & Non-contributory basis and includes Completed Operations.

Certificate Holder is an Additional Insured on a Primary & Non-contributory basis per Blanket Auto Endorsement CAT474.

Certificate Holder is an Additional Insured under the Umbrella policy on a Primary & Non-contributory basis per the follow form wording.

Waiver of Subrogation applies in favor of the Certificate Holder under the General Liability by Blanket Endorsement CGD379.

Waiver of Subrogation applies in favor of the Certificate Holder under the Automobile by Blanket Endorsement CAT353.

Waiver of Subrogation applies under the Umbrella per follow form wording if required by written contract.

Waiver of Subrogation applies in favor of the Certificate Holder under the Worker's Compensation by Blanket Endorsement WC000313. Form WC420304 Texas. Form WC9903J9 Kansas. WC430305 Utah.

Waiver of Subrogation applies in favor of the Certificate Holder under the Professional Liability. This is provided within the Starr Professional Liability policy form.

30 day notice will be provided to the Certificate Holder in the event of Cancellation, Non-renewal, Material Change per Blanket Endorsement ILT804-General Liability & ILT354 (03/98) on the Automobile.

Notice of Cancel, Non-renewal, Material Change will be sent per WC Blanket Endorsement WC9906R5.

Notice of Cancel, Non-renewal and Reduction of Limits will be provided by the Professional Liability Carrier per Blanket Endorsement.

Notice of Cancel for non-payment of premium is provided if Certificate Holder is specifically endorsed to the Professional Liability policy (Endt to be attached with this certificate if applicable).

*** (Notice of Cancel for non-payment of premium will not be provided to the Certificate Holder by Travelers Ins. Co. (applies to the General Liability, Automobile Liability and Umbrella policies).

Valuable Papers is provided under policy P-630-1G052988-PHX-24 shown above with a limit of \$500,000.

General Liability policy form CGT001 includes Severability (Separation) of Interest (Insured's) Clause.

General Liability Includes Work Within Railroad by endorsement CG D3 79 and Auto includes Work within Railroad endorsement CA 2070 .

AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY Stephens Insurance, LLC		NAMED INSURED Garver, LLC 3000 Internet Boulevard, Suite 400 Frisco TX 75034	
POLICY NUMBER P-630-1G052988-PHX-24		EFFECTIVE DATE: 7/1/2024	
CARRIER Phoenix Insurance Company (A++XV)	NAIC CODE 25623		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability (03/16)

HOLDER: City of Denison

ADDRESS: 300 W. Main St. Denison TX 75020

Worker's Compensation Policy includes coverage for USL&H exposures without endorsement to the policy per endorsement WC000106.

Cyber Policy PRV30063164200 with Endurance Assurance Corporation, eff. 7/1/24-7/1/25 Limits \$10,000,000 Data & Network Liability.

City Council Meeting Staff Report



July 15, 2024
Regular Council Meeting

Agenda Item

Receive a report, hold a discussion, and take action on approval of a streets overlay services purchase proposal in the amount of \$371,336.00 from Area Wide Paving, LLC and authorize the Interim City Manager to execute any associated documents.

Staff Contact

Ervin Pariera, Assistant Director of Public Works
epariera@denisontx.gov
903-647-4190

Summary

- Area Wide paving will provide street overlay services on various streets throughout the City under the TIPS cooperative interlocal purchasing agreement contract # 23010402.
- Street overlay services to include edge milling as needed, cement stabilization as needed, and 2” of hot mix asphalt overlay.
- Total square footage included in the proposal for overlay services is 216,921 including portions of E Sears St., N Maurice Ave., W Crawford St., and W. Parnell St.

Staff Recommendation

Staff recommends approval of this purchase.

Recommended Motion

“I move to approve the purchase of street overlay services in the amount of \$371,336.00 from Area Wide Paving, LLC and authorize the Interim City Manager to execute any associated documents.”

Background Information and Analysis

Public Works staff developed a list of streets needing asphalt overlay and presented those streets to the Streets Committee for their consideration on 06/18/2024. In the recommendation, staff prioritized streets that are in poor condition and heavily traveled so that the limited resources available for overlay provide the largest benefit possible for the community. The Streets Committee supported the recommendation provided by staff. The purchase proposal from Area Wide Paving, LLC includes asphalt overlay services to include all necessary surface preparation and overlay of hot mix asphalt to a depth of 2” to provide a new street surface with a reset lifespan. If approved, this work is anticipated to commence in the next 60 days and conclude by the end of September 2024.

Financial Considerations

Funds are allocated in Street Improvement Fund 15 for this purchase.

Prior Board or Council Action

None.

Alternatives

Council may choose to reject this purchase and direct staff see alternatives.

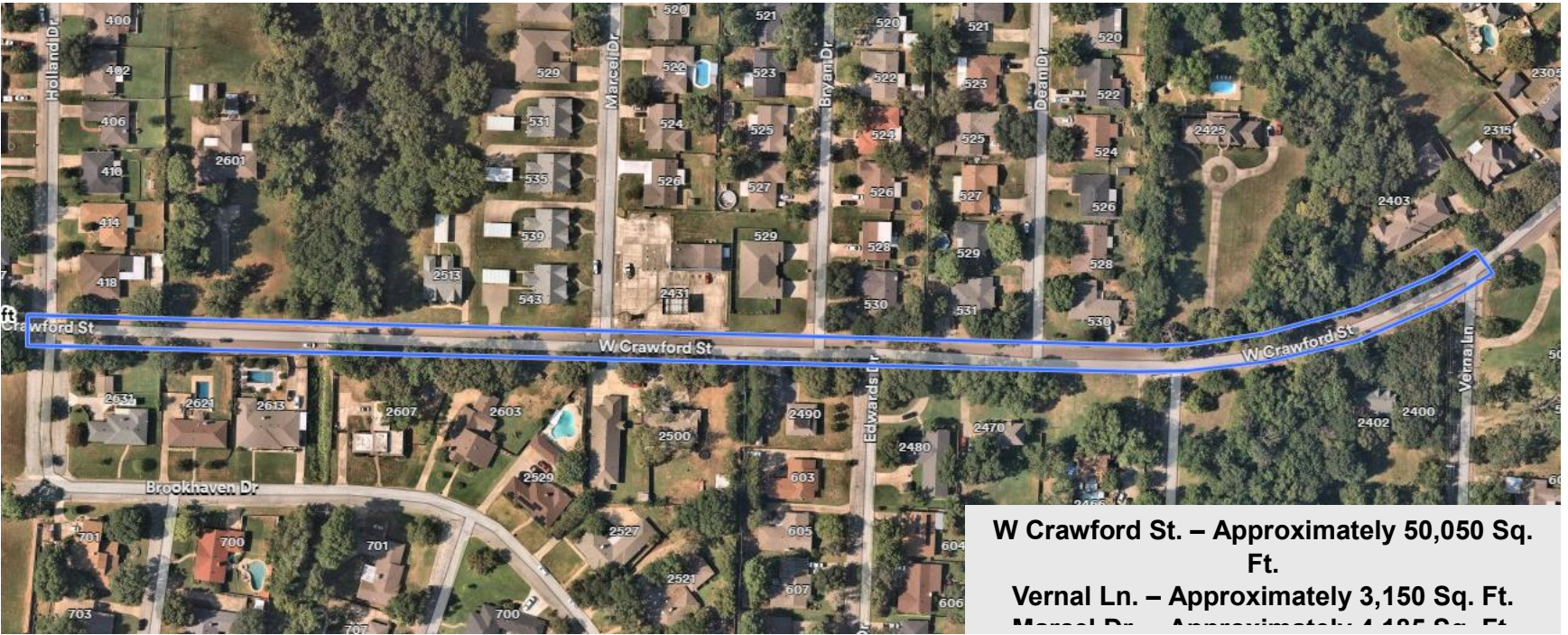
AREA WIDE PAVING, LLC

723 CR 2301 * SULPHUR SPRINGS, TX 75482 * 903-885-6388 * paul@areawidepaving.com

Date: <u>6/21/24</u>	Bid No. <u>220909</u>	1 of 2
Customer: <u>City of Denison</u>	Phone: <u>903-347-4190</u>	
Attn: <u>Ervin Pariera</u>	Email: <u>epariera@denisontx.gov</u>	
Street: <u>300 W. Main St.</u>		
City, State: <u>Denson, Tx 75023</u>	TIPS: 23010402	
Job Site: _____		

TYPE OF WORK	PRICE
Parnell St. 21840 sq. ft.	
1. remove vegetation from work area	
2. 1000 sq. ft. has base failure: will grind up and put in portland cement at a rate of 26 lbs. per sq.yd. water, and compact	
3. apply tack oil	
4. install 2" layer of new hot mix asphalt	\$ 50,501.00
Sears St. from 7th to pole 34080 sq. ft.	
1. edge mill	
2. clean of all loose debris	
3. apply tack oil	
4. install 2" layer of new hot mix asphalt	\$ 58,277.00
7th St. from alley across Sears 5380 sq. ft.	
prep area, apply tack oil, install 2" layer of new hot mix asphalt	\$ 9,200.00
Maurice St. from Johnson 1090' 32700 sq. ft.	
3000 sq. ft. to be cement stabilized, prepare area for asphalt, apply tack oil, install 2" layer of new hot mix asphalt	\$ 55,917.00
Verna 3150 sq. ft.	
clean, prep, apply tack oil, install 2" layer of new hot mix asphalt	\$ 5,387.00
Crawford St. from Verna 1430' 50050 sq. ft.	
clean, prep, tack, and install 2" layer of new hot mix asphalt	\$ 85,085.00
SUBTOTAL	
SALES TAX	
Not Responsible for Cracks	TOTAL \$ -





City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, and take action on a Written Services Agreement to allow services for a Voluntary Annexation Petition for property containing approximately 2.8 acres, legally described Lots 1, 2, and 3, Block A, ROS Estates, Grayson County, Texas; being further identified as GCAD Property ID Nos. 449977, 449978, and 449979; and being generally known as 4836 Theresa Drive, 4858 Theresa Drive, and 4890 Theresa Drive to allow for residential uses.

Staff Contact

Dianne York, Planner
dyork@denisontx.gov
903-465-2720

Summary

- The applicant is requesting the annexation of approximately 2.8 acres for property located at 4836, 4858, and 4890 Theresa Drive.
- The applicant is seeking annexation in order to connect to City utilities for single family structures constructed on the subject property.

Staff Recommendation

City staff recommends approval Written Services Agreement.

Recommended Motion

"I move approve the proposed Written Services Agreement."

Background Information and Analysis

The applicant has submitted a Voluntary Annexation Petition to bring the subject property, consisting of approximately 2.8 acres, into the Denison City limits. The applicant is requesting annexation of the subject property in order to connect three (3) newly constructed single-family structures to City utilities. In addition to the Voluntary Annexation Petition, the applicant has submitted a Zoning Application requesting the initial zoning of SF-7.5, Single Family Residential. The Future Land Use Plan designates this area to be developed in a "Neighborhood" manner. The proposed zoning district and land use comply with this designation.

The Written Services Agreement outlines Solid Waste, Waste Water Facilities, Water Facilities, Road and Street Environmental Health and Code Enforcement, Planning and Zoning, Parks, Libraries, and other services which can be provided by the City of Denison.

Financial Considerations

N/A

Prior Board or Council Action

The Planning and Zoning Commission recommended approval of the initial zoning for the subject property as well as the amendment request to the approved Conditional Use Permit for the subject property at their meeting held on May 14th, 2024.

Alternatives

The City Council may conditionally approve, table or deny the requests.

Written Service Agreement

The undersigned parties have negotiated, and now enter into, this Written Service Agreement for C-3 Annexed Property (“Agreement”) pursuant to the authority provided by Section 43.0672, Texas Local Government Code (“LGC”). Pursuant to Section 43.056(l) of the LGC, this Agreement shall have a term of ten (10) years beginning on the date approved by the City Council of Denison. This Agreement is for the property described in Exhibit A and depicted in Exhibit B, each attached hereto and incorporated as if fully set forth herein.

NOW THEREFORE, for and in consideration received and the mutual benefits contained herein, the undersigned parties agree to the following Service Plan:

A) SERVICE PLAN GENERALLY

- 1) **This service plan has been prepared in accordance with the Texas Local Government Code (“LGC”), Sections 43.003, 43.056(b)-(o) and 43.0672. Municipal facilities and services to the annexed area will be provided or made available on behalf of the City of Denison in accordance with the following plan. The City of Denison shall provide the annexed tract the levels of service, infrastructure, and infrastructure maintenance that are comparable to the levels of service, infrastructure, and infrastructure maintenance available in other parts of the City of Denison with similar topography, land use, and population density.**
- 2) For purposes of this service plan, to “provide” services includes having services provided by any method or means by which the City provides municipal services to any other areas of the City, and may include causing or allowing private utilities, governmental entities and other public service organizations to provide such services by contract or right, in whole or in part, and may include certain duties on the part of the private landowner with regard to such services.

B) EMERGENCY SERVICES

- 1) Police Protection
 - a) Police protection from the City of Denison shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas within the City on the effective date of the annexation ordinance. Some of these services include:
 - i) Normal patrol and responses;
 - ii) Handling of complaints and incident reports;
 - iii) Special units, such as traffic enforcement and investigations; and
 - iv) Coordination with other public safety support agencies.
 - b) As development commences in the annexed area, sufficient police protection, including personnel and equipment will be provided to furnish the area with the level of police services consistent with the characteristics of topography, land utilization and population density of similar areas within the City.

- c) Upon ultimate development, police protection will be provided at a level consistent with other similarly situated areas within the City limits.

2) Fire Protection

- a) The City of Denison will provide emergency and fire prevention services to the annexed area at a level consistent with current methods and procedures presently provided to similar areas within the City on the effective date of the annexation ordinance. These services include:
 - i) Fire suppression and rescue;
 - ii) Pre-hospital medical services including triage, treatment and transport by Advanced Life Support (ALS) fire engines, trucks and ambulances;
 - iii) Hazardous materials response and mitigation;
 - iv) Emergency prevention and public education efforts;
 - v) Technical rescue response; and
 - vi) Construction Plan Review and required inspections.
- b) As development commences in the annexed area, sufficient, fire protection, including personnel and equipment will be provided to furnish the area with the level of services consistent with the characteristics of topography, land utilization and population density of similar areas within the City. It is anticipated that the current fire protection contract will be sufficient to provide coverage for the annexed area.
- c) Upon ultimate development, fire protection will be provided at a level consistent with similarly situated areas within the City limits.

3) Emergency Medical Services

- a) The City of Denison will provide emergency and safety services (EMS) to the annexed area at a level consistent with current methods and procedures presently provided to similar areas of the City of Denison on the effective date of the annexation ordinance. These services include:
 - i) Emergency medical dispatch and pre-arrival First Aid instructions;
 - ii) Pre-hospital emergency Advanced Life Support (ALS) response and transport; and
 - iii) Medical rescue services.
- b) As development commences in the annexed area, sufficient EMS, including personnel and equipment, will be provided to furnish the area with the level of services consistent with the characteristics of topography, land utilization and population density of the similar areas within the City.
- c) Upon ultimate development, EMS will be provided at a level consistent with similarly situated areas within the City limits.

C) SOLID WASTE

- 1) Solid Waste and Recycling Collection Services will be provided to the annexed area immediately upon the effective date of the annexation at a level consistent with current

methods and procedures presently provided to similar areas within the City. Private solid waste collection service providers operating in the affected area immediately prior to annexation and currently providing customers with service may continue to provide their existing service for up to two (2) years.

D) WASTEWATER FACILITIES

- 1) As development commences in these areas, sanitary sewer mains as defined by the Certificate of Convenience and Necessity (CCN) Number 20077, as issued by the Texas Commission on Environmental Quality (TCEQ) will be extended in accordance with the provisions of the City's codes, ordinances, regulations and policies. City participation in the costs of these extensions shall be in accordance with applicable City codes, ordinances, regulations and policies. Capacity and extensions shall be provided consistent with the characteristics of topography, land utilization and population density of the areas. If the annexed area is in the CCN of another provider, wastewater service shall be provided in accordance with the policies of the CCN holder. In some instances, the City might acquire the CCN rights and become the new wastewater provider, in time.
- 2) Sanitary sewer mains and lift stations installed or improved to City standards, and accepted by the City, within the annexed area which are located within dedicated easement, rights-of-way, or any other acceptable location approved by the City Manager or his designee, shall be maintained by the City on the effective date of this ordinance.
- 3) Operation and maintenance of wastewater facilities in the annexed area that are within the certificated service area of another wastewater utility will be the responsibility of that utility. Operation and maintenance of private wastewater facilities in the annexed area will be the responsibility of the owner.

E) WATER FACILITIES

- 1) Connections to existing City of Denison water distribution mains for water service as defined by Certificate of Convenience and Necessity (CCN) Number 10204, as issued by the Texas Commission on Environmental Quality (TCEQ) will be provided in accordance with existing City codes, ordinances, regulations and policies. Upon connection to existing distribution mains, water service will be provided at rates established by city ordinance. If the annexed area is in the CCN of another provider, water service shall be provided in accordance with the policies of the CCN holder. In some instances, the City might acquire the CCN rights and become the new water provider, in time.
- 2) As development commences in these areas, water distribution mains will be extended in accordance with City of Denison codes, ordinances, regulations and policies. City participation in the costs of these extensions shall be in accordance with the City of Denison's codes, ordinances, regulations and policies. Water service extensions and capacity shall be provided consistent with the characteristics of topography, land utilization and population density of the area.
- 3) Operation and maintenance of existing water facilities in the annexed area that are within the service area of another water utility will be the responsibility of that utility. Operation and maintenance of private water facilities in the annexed area will be the responsibility of

the owner.

F) ROAD AND STREETS

- 1) Emergency street maintenance shall be provided within the annexed area on the effective date of the applicable ordinance of acceptance. Routine maintenance will be provided within the annexed area and will be scheduled as part of the City's annual program and in accordance with the City's current codes, ordinances, regulations, policies and procedures defined therein and/or as established by the City Council.
- 2) Any construction or reconstruction will be considered within the annexed area on a City-wide basis and within the context of the City's Capital Improvement Plan and/or yearly fiscal budgetary allotments by the City Council. As development, improvement or construction of streets to City standards commences within this property, the policies of the City of Denison with regard to participation in the costs thereof, acceptance upon completion and maintenance after completion shall apply.
- 3) Roadway signage and associated posts will be replaced in priority of importance starting with regulatory signs, then warning signs, then informational signs and in conformance with fiscal allotments by the City Council. If a sign remains, it will be reviewed and placed on the City's inventory listed for routine re-placement. All existing signs will be reviewed for applicability and based upon an engineering study. New signs will be installed when necessary and based upon an engineering study.
- 4) Routine maintenance of road/street markings will be placed on a priority listing and scheduled within the yearly budgetary allotments by the City Council.
- 5) The City will coordinate any request for improved road and street lighting with the local electric provider. Any and all road and street lighting will be pursuant to the rules, regulations and fees of such electric utility and shall be maintained by the applicable utility company.

G) ENVIRONMENTAL HEALTH, INSPECTIONS AND CODE ENFORCEMENT SERVICES

- 1) Enforcement of the City's environmental health ordinances and regulations, including but not limited to, weed and brush ordinances, junked and abandoned vehicle ordinances and animal control ordinances, shall be provided within the annexed area within sixty (60) days of the effective date of the annexation ordinance. These ordinances and regulations will be enforced through the use of existing personnel.
- 2) Inspection services including the review of building plans, the issuance of permits and the inspection of all buildings, plumbing, mechanical and electrical work to ensure compliance with City codes and ordinances will be provided within sixty (60) days of the effective date of the annexation ordinance. Existing personnel will be used to provide these services.
- 3) The City's zoning, subdivision, sign and other ordinances shall be enforced in this area beginning upon the effective date of the annexation.

- 4) All inspection services furnished by the City of Denison, but not mentioned above, will be provided to the annexed area beginning within sixty (60) days of the effective date of the annexed ordinance.
- 5) As development and construction commence in the annexed area, sufficient resources will be provided to furnish this area with the same level of environmental health, inspection and code enforcement services as are furnished throughout similar areas within the City.

H) PLANNING AND ZONING SERVICES

- 1) The planning and zoning jurisdiction of the City will extend to the annexed area upon the effective date of the annexation ordinance. City planning will thereafter encompass this property, and it shall be entitled to consideration for zoning in accordance with the City's Zoning Ordinance and Comprehensive Plan.

I) PARKS, PLAYGROUNDS, LIBRARIES, SWIMMING POOLS

- 1) Residents within the annexed area may utilize all existing park and recreation facilities owned by the City beginning on the effective date of this ordinance. Fees for such usage shall be in accordance with current fees established by ordinance.
- 2) As development commences in the annexed area, additional park and recreation facilities shall be constructed based on park policies defined in the Parks and Trails Master Plan and as specified in the City's Subdivision Regulations. The general planned locations and classifications of parks will ultimately serve residents within the current City limits.

J) PUBLICLY OWNED FACILITIES

- 1) Any publicly owned facility, building, or service located within the annexed area, and not otherwise owned or maintained by another governmental entity, shall be maintained by the City of Denison on the effective date of the annexation ordinance.

K) OTHER SERVICES

- 1) Other services that may be provided by the City of Denison, such as municipal and general administration will be made available on the effective date of the annexation. The City of Denison shall provide levels of service, infrastructure, and infrastructure maintenance to the annexed area that are comparable to the levels of services, infrastructure, and infrastructure maintenance available in other parts of the City of Denison with similar topography, land use, and population density.

L) UNIFORM LEVEL OF SERVICES IS NOT REQUIRED

- 1) Nothing in this Service Plan shall require the City of Denison to provide a uniform level of full municipal services to each area of the City, including the annexed areas, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service. The City Council finds and determines that this Service Plan will not provide any fewer services, and it will not provide a lower level

of services, than were in existence in the annexed area at the time immediately preceding the annexation process.

- 2) The City of Denison's codes, ordinances, regulations and policies that apply throughout the City may be reviewed at City Hall and at <http://www.cityofdenison.com>.

Entered into this ____ day of _____, 2024.

CITY OF DENISON

By: _____

Printed Name: Bobby Atteberry

Title: Interim City Manager

OWNER: HOME INVESTORS, LLC

By: _____

Name: _____

Representative

Exhibit "A"
LEGAL DESCRIPTION OF AREA

Situated in the County of Grayson, State of Texas, being a part of Daniel C. Shelo Survey, Abstract No. 1097, and being a part of a called 3 acre tract of land described in the deed to Wido J. Tabor, recorded in Volume 2014, Page 42, Real Public Records, Grayson County, Texas and being described by metes and bounds as follows:

Beginning at a 1/2" steel rod found for the northwest corner of said 3 acre tract, common to the northern-most northeast corner of Lot 1 in Block 3 of Gateway Addition, Phase 6, according to the plat thereof recorded in Volume 23, Page 78, Plat Records, Grayson County, Texas, and on the southerly line of a called 6.339 acre tract of land described in the deed to Jose T. Menjivar, recorded in Volume 3783, Page 332, Official Public Records, Grayson County, Texas;

Thence South 89°14'19" East, with the northerly line of said 3 acre tract, and with a southerly line of said 6.339 acre tract, along or near a fence, a distance of 242.39 feet to a 1/2" steel rod found for the southern-most southeast corner of said 6.339 acre tract, common to the southwest corner of a called 0.9823 acre tract of land described in the deed to David S. Minor and Laura J. Minor, recorded in Instrument No. 2017-16246, said Official Public Records;

Thence South 88°47'01" East, crossing said 3 acre tract, with the southerly line of said 0.9823 acre tract, along or near a fence, a distance of 106.29 feet to a metal fence corner post found for corner;

Thence South 85°26'55" East, continuing across said 3 acre tract, with the southerly line of said 0.9823 acre tract, along or near a fence, passing en route at a distance of 90.29 feet a metal fence corner post found for witness, and continuing on said course a total distance of 114.63 feet to a P/K nail set for the northeast corner of the herein described tract of land, common to the southeast corner of said 0.9823 acre tract, and on the easterly line of said 3 acre tract, and in Theresa Drive;

Thence South 16°03'36" West, with the easterly line of said 3 acre tract, and in said Theresa Drive, a distance of 318.35 feet to a P/K nail set for the southeast corner of said 3 acre tract, common to the northeast corner of a called 0.74 acre tract of land described in the deed to Jennifer Bailey, recorded in Instrument No. 2018-26790, said Official Public Records;

Thence North 89°13'19" West, with the southerly line of said 3 acre tract, and with the northerly line of said 0.74 acre tract, passing en route at a distance of 21.36 feet a metal fence corner post found for witness, and continuing on said course, a total distance of 380.62 feet to a metal fence corner post found for the southwest corner of said 3 acre tract, common to the northwest corner of a called 2.35 acre tract of land described in the deed to James John Lang, recorded in instrument No. 2019-8958, said Official Public Records, and on an easterly line of aforesaid Lot 1;

Thence North 01°02'43" East, with the westerly line of said 3 acre tract, and with an easterly line of said Lot 1, a distance of 315.38 feet to the Point of Beginning and containing 3.05 acres of land, more or less.....

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on a Revocable License Agreement between the City of Denison and 3Nineteen, LLC, for use of a portion of certain land behind City Hall at 300 W. Main Street, which is adjacent to certain property owned by 3Nineteen, LLC, to allow for restaurant seating and food and alcohol sales, and authorize the Interim City Manager to execute the same.

Staff Contact

Bobby Atteberry, Interim City Manager
batteberry@denisontx.gov
(903) 464-4440

Summary

- The City owns certain land behind City Hall located at 300 W. Main Street, which is used as a parking lot for City Hall, including pedestrian usage, and is adjacent to certain property owned by 3Nineteen, LLC (“Licensee”).
- Licensee owns property that is adjacent to the premises on the west side, generally located at 319 W. Chestnut Street.
- Licensee desires to develop a portion of the lot behind City Hall as patio space for its lessees and to install certain temporary improvements onto a portion of this area to allow for restaurant seating and food and alcohol sales.
- In exchange for the City’s grant of a license through this agreement, Licensee agrees to maintain, furnish and care for the licensed premises and pay an annual license fee of \$100.
- This Agreement allows Licensee the right to use the licensed premises for its lessee’s business, including erecting the improvements as necessary.

Staff Recommendation

Staff recommends entering into the Revocable License Agreement with 3Nineteen, LLC.

Recommended Motion

“I move to approve entering into a Revocable License Agreement between the City of Denison and 3Nineteen, LLC, for use of a portion of certain land behind City Hall at 300 W. Main Street, which is adjacent to certain property owned by 3Nineteen, LLC, to allow for restaurant seating and food and alcohol sales and authorize the Interim City Manager to execute the same.”

Background Information and Analysis

The City owns certain land behind City Hall located at 300 W. Main Street, which is used as a parking lot for City Hall, including pedestrian usage, and is adjacent to certain property owned by 3Nineteen, LLC (“Licensee”). Licensee owns property that is adjacent to the premises on the west side, generally located at 319 W. Chestnut Street. Licensee desires to develop a portion of the lot behind City Hall as patio space for its lessees and to install certain temporary improvements onto a portion of this area to allow for restaurant seating and food and alcohol sales. The parties understand and agree that the City Hall parking lot will be undergoing renovations before Licensee may take possession and use of this area. Once these parking lot renovations are completed, the parties intend to replace the current exhibits

to the agreement with a more accurate depiction, with measurements. In exchange for the City's grant of a license through this agreement, Licensee agrees to maintain, furnish and care for the licensed premises and pay an annual license fee of \$100. The improvements installed by Licensee will be at no cost to the City, and after improvements are installed, Licensee will maintain the improvements to ensure they remain in good shape and are safe, in good repair and aesthetically pleasing.

This Agreement allows Licensee the right to use the licensed premises for its lessee's business, including erecting the improvements as necessary. Licensee will hold the City harmless with respect to any damage to, or necessary modification of the licensed area and indemnifies the City from and against all claims or causes of action arising out of or related to Licensee's use of the licensed area.

Financial Considerations

None.

Prior Board or Council Action

None.

Alternatives

City Council may deny, modify or table this agenda item.

described in this Agreement, holds the City harmless with respect to any damage to, or necessary modification of the Premises and indemnifies the City from and against any and all claims or causes of action arising out of or related to Licensee's use of the Premises, and maintains and keeps the Premises in good repair.

NOW, THEREFORE, for and in consideration of One hundred and No/100 Dollars (\$100.00) to be paid annually, the mutual covenants and obligations set forth herein, and other good and valuable consideration, the sufficiency and receipt of which are hereby expressly acknowledged and confirmed, the Parties do hereby agree as follows:

AGREEMENT:

1. Incorporation of premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

2. Grant of license. The City does hereby grant to Licensee a revocable, non-exclusive license to occupy the Premises, as generally shown in **Exhibit A**. The Parties agree that once the Parking Lot Renovations are complete, the Parties will agree to Updated Exhibits depicting and describing the Premises and the Improvements, which shall be incorporated into this Agreement. The City Manager of the City shall have the authority on behalf of the City to approve the Updated Exhibits, which must be to scale and show all Improvements to be located within the Premises area. Additionally, Licensee shall occupy the Premises in full compliance at all times with all of the following conditions:

- (a) The sole permitted use for the Premises by the Licensee is for patio seating for commercial tenants;
- (b) Licensee acknowledges that it has examined and knows the condition of the Premises and has received, and will keep, the Premises in good order and repair during the term of this Agreement at its sole cost and expense;
- (c) Licensee is responsible for furnishing and maintaining the Improvements and the costs of same;
- (d) Licensee shall maintain any and all required ADA accessible pathways within the Improvements;
- (e) No use of the Premises or the Improvements is permitted except as provided in this Agreement, and in no event shall any Improvements extend outside the area of the Premises shown in **Exhibit A**;
- (f) Licensee may use the Improvements only as permitted by City ordinances, including the Fire Code and those related to the sale of alcohol if applicable, any other applicable law, and this Agreement;
- (g) Licensee shall maintain a valid permit with the City or the Texas Alcoholic Beverage Commission ("TABC"), if selling alcohol, and each of such permits shall be provided with the materials for obtaining this Premises license;
- (h) Licensee is responsible for the costs of any utilities provided to the Improvements;
- (i) The Improvements shall be maintained in safe, neat and good physical condition. Licensee further covenants and agrees that it will not do or permit to be done any injury or damage to any of said Premises or suffer any waste to the Premises, normal wear and tear from usage excepted; but in the event any damage is done, Licensee hereby covenants and agrees to reimburse City therefore promptly. Licensee shall be

responsible for all damages caused by Licensee, its agents, servants, employees, contractors, subcontractors, licensees, or invitees, normal wear and tear from usage excepted; Licensee agrees to fully repair or otherwise cure all such damages at Licensee's sole cost and expense. The City shall determine whether any damage has been done, the amount of the damage, and the reasonable costs of repairing the damage. Any damage for which Licensee is responsible hereunder shall be repaired or replaced by the Licensee within thirty (30) days of receipt of written notification from the City; all such repairs or replacements must be made to the reasonable satisfaction of the City;

- (j) Licensee shall comply with the City's adopted Sidewalk Usage Design Guidelines, which govern the use of patio dining on City property;
- (k) No banners, advertisements, or signs may be hung from trees, fences, or buildings or be displayed on the Premises without the express permission of the City. In addition, Licensee covenants and agrees that no decorative or other material shall be nailed, tacked, screwed, or otherwise physically attached to any part of the City's property without the consent of the City;
- (l) Licensee shall, at its sole cost and expense, take all required or necessary safety measures to keep the Premises safe from nearby traffic in the City Hall parking lot, including but not limited to posting signage, providing safety information to patrons, monitoring patron use of the Premises, and installing safety features on the Premises;
- (m) Licensee shall provide written notice, in accordance with Section 11(d), within 24 hours of Licensee's observation of a defect in the pavement or any other condition in the Premises that might pose a danger or harm to the public or persons occupying or passing through the Premises. If such defect is the result of Licensee's use of the Improvements, Licensee shall reimburse the City for the cost of repair; and
- (n) At all times during the term of this Agreement, City shall have the right, through its agents and representatives, to enter into and upon the Premises at any time to fulfill its obligations herein, and during reasonable business hours for the purpose of examining and inspecting the same for the purpose of determining whether Licensee shall have complied with all of its obligations hereunder in respect to the use of the Premises. During any inspection, City may perform any obligations that City is authorized or required to perform under the terms of this Agreement or pursuant to its governmental duties under federal state or local laws, rules, or regulations.

3. Installation, Ownership and Maintenance of Improvements. The City agrees that Licensee may install Improvements within the Premises area at Licensee's sole cost and expense. The Licensee shall maintain the Improvements to ensure that the Improvements remain in good shape and are aesthetically pleasing. Licensee shall be responsible for any purchase and maintenance of furniture in the private patio spaces within the Premises area, which shall also be in compliance with the City's Sidewalk Usage Design Guidelines. The Licensee specifically acknowledges that this Agreement does not provide exclusive rights to the Premises.

4. Term/Consideration. Licensee's rights under this Agreement, including but not limited to the right to take possession of the Premises or construct the Improvements thereon, shall not begin until (i) the Parking Lot Renovations are complete, as determined solely by the City, (ii) the Updated Exhibits are incorporated into this Agreement, and (iii) the first annual License Fee is paid (the "Effective Date"). The annual consideration to be paid by the Licensee to the City for the License and privilege granted by this Agreement shall be One Hundred Dollars (\$100.00) ("License Fee").

After the first term year, the License Fee shall be due no later than thirty (30) days prior to the start of the next renewal year, for which the License Fee applies. If the Effective Date does not occur within three (3) years of the execution of this Agreement by both Parties, then this Agreement shall be void ab initio. This Agreement and the revocable license granted herein shall have a term of one (1) year from the Effective Date, and automatically renew annually, subject to termination as set forth in Section 10 hereof.

5. Non-exclusive license. This revocable license is non-exclusive, non-transferable, and is subject and subordinate to: (a) the right of the City terminate this Agreement in accordance with Section 11, to use the Premises for any purpose, and to prioritize another public use; (b) any existing utility, drainage or communication facility located in, on, under or upon the Premises; (c) all vested rights presently owned by any utility or communication company; (d) any existing license, lease, easement, or other interest heretofore granted by the City; and (e) the terms and conditions of this Agreement. This license does not provide the Licensee any rights to exclude the public from any portion of the Premises. This Agreement does not constitute a sale, lease, assignment, or disposal of the Premises by the City in any means whatsoever, but is merely intended to grant the Licensee the right to use the Premises in accordance with the terms stated herein, and the City agrees not to use the Premises in a way that would interfere with the Licensee's use.

6. Environmental Protection. Licensee warrants that the permitted use of the Premises will not result in the disposal or other release of any hazardous substance or solid waste on or to the Premises, and that it will take all steps necessary to ensure that no such hazardous substance or solid waste will ever be discharged onto the Premises. Licensee shall indemnify and hold City harmless against all costs, environmental clean up to the Premises and surrounding area resulting from Licensee's use of the Premises under this Agreement.

7. Hold Harmless; Relocation. Licensee agrees to hold the City harmless from and against (a) any financial responsibility for removing or relocating the Improvements, if the City determines, in its sole discretion, that the then-current location of the Improvements will unreasonably prevent the City's use and enjoyment of the Premises, and (b) any damage to the Improvements. In the event the City determines that the Improvements must be removed or relocated from the Premises, the City agrees that, if requested by Licensee, the City will allow the Improvements to be relocated (at Licensee's sole cost and expense) within the Premises if reasonably practicable and to the extent only that such relocation strictly conforms with all provisions of the City's Code of Ordinances.

In the absence of an emergency, the City will provide Licensee written notice of any need to remove the Improvements from the Premises. Licensee shall have thirty (30) days from the date of the written notice to remove the Improvements. However, in case of an emergency which necessitates the immediate removal of the Improvements for access to such public alley, the City shall have the right to remove the Improvements.

8. Insurance. Licensee shall purchase and maintain during the term of this Agreement commercial general liability insurance including personal injury liability, premises operations liability, liquor liability (if applicable), and contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement, with limits of liability for bodily injury, death and property damage of not less than \$1,000,000. Coverage must be on an "occurrence" basis.

Such insurance shall: (i) be issued by a carrier which is rated "A-1" or better by A.M. Best's Key Rating Guide and licensed to do business in the State of Texas, and (ii) name the City as an additional insured and contain a waiver of subrogation endorsement in favor of the City. Certified copies of all of such policies shall be delivered to the City upon the execution of this Agreement; provided, however, that the City, in its sole discretion and in lieu of certified copies of such policies, may permit the delivery of certificates of insurance together with the declaration page of such policies, along with the endorsement naming the City as an additional insured. Each such policy shall provide that, at least 30 days prior to the cancellation, non-renewal or modification of the same, the City shall receive written notice of such cancellation, non-renewal or modification.

The City reserves the right to review the insurance requirements contained herein and to adjust coverages and limits when deemed necessary and prudent by the City.

9. Improvements by Licensee

Licensee intends to install an ornamental fence around the Premises as well as a patio overlay which will comport with any City ordinances and shall remain the property of Licensee upon the expiration or termination of this license.

10. INDEMNITY.

- (A) LICENSEE SHALL AND DOES AGREE TO RELEASE, INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS CITY AND CITY'S EMPLOYEES, REPRESENTATIVES, OFFICERS, AGENTS, AND SERVANTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL THIRD-PARTY CLAIMS, LIABILITIES, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS AND EXPENSES (INCLUDING, BUT NOT LIMITED TO, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION), OF ANY NATURE, KIND OR DESCRIPTION ARISING OR ALLEGED TO ARISE BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY (1) RELATING TO THE USE OR OCCUPANCY OF THE PREMISES BY LICENSEE, ITS EMPLOYEES, PATRONS, AGENTS, INVITEE, LICENSEES, VOLUNTEERS, SUBCONTRACTORS, AND ANY PARTY USING THE PREMISES OR (2) BY REASON OF ANY OTHER CLAIM WHATSOEVER OF ANY PERSON OR PARTY OCCASIONED OR ALLEGED TO BE OCCASIONED IN WHOLE OR IN PART BY ANY ACT OR OMISSION ON THE PART OF LICENSEE OR ANY INVITEE, LICENSEE, EMPLOYEE, DIRECTOR, OFFICER, SERVANT, VOLUNTEER, OR CONTRACTOR OF LICENSEE, OR ANYONE LICENSEE CONTROLS OR EXERCISES CONTROL OVER OR (3) BY ANY BREACH, VIOLATION OR NONPERFORMANCE OF ANY COVENANT OF LICENSEE UNDER THIS AGREEMENT.**
- (B) THE PROVISIONS OF THIS SECTION 9 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**
- (C) LICENSEE AGREES TO RELEASE AND HOLD HARMLESS THE CITY AND ITS OFFICERS AND EMPLOYEES FROM ANY AND ALL LOSS INCURRED TO LICENSEE'S PERSONAL PROPERTY, AND AGAINST ANY AND ALL DEMANDS, LOSSES, DAMAGES OR CLAIMS FOR INJURY (INCLUDING DEATH) OR DAMAGE TO PERSONS OR PROPERTY RESULTING FROM ANY CAUSE WHATSOEVER**

ASSOCIATED WITH LICENSEE'S USE OF THE STORAGE SPACE AND OF THE PARK

- (D) Licensee agrees to assume full responsibility for complying with the Federal Copyright Law of 1978 (17 U.S.C. 101, et seq.) and any regulations issued hereunder including, but not limited to, the assumption of any and all responsibilities for paying royalties which are due for the use of copyrighted works in Licensee's performances or exhibitions to the copyright owner, or representative or said copyright owner. City expressly assumes no obligations, implied or otherwise, regarding payment or collection of any such fees or financial obligations. City specifically does not authorize, permit, or condone the performance, reproduction, or other use of copyrighted materials by Licensee or its agents or licensees without the appropriate licenses or permission being secured by Licensee in advance. It is further agreed that **LICENSEE SHALL DEFEND, INDEMNIFY AND HOLD CITY HARMLESS FOR ANY CLAIMS ARISING FROM NONPAYMENT TO LICENSING AGENCIES, INCLUDING, BUT NOT LIMITED TO, ASCAP, BMI, AND SESAC OR DAMAGES ARISING OUT OF LICENSEE'S INFRINGEMENT OR VIOLATION OF THE COPYRIGHT LAW AND/OR REGULATIONS.** City expressly assumes no obligation to review or obtain appropriate licensing, and all such licensing shall be the exclusive obligation of the Licensee. Licensee understands that it is responsible for securing any and all licenses by all artists/performers giving permission for the recordings. Licensee is responsible for both reporting and payment of any music or other licensing fees that may be required by law. Licensee understands that without the proper license obtained by Licensee, there is a risk of an injunction or money damages arising from a copyright lawsuit brought by ASCAP, BMI, SESAC or any other licensing agency or copyright holder.

11. Termination. This License may be terminated:

- (a) By the City:
- (i) in the event Licensee fails to comply with any of the terms of this Agreement, including but not limited to, maintaining a TABC permit and City permit for applicable sale of alcohol, the City's Code of Ordinances, or the Design Guidelines, within thirty (30) days after receipt of notice by Licensee from the City of such failure to comply;
 - (ii) in the event City discontinues or abandons possession of the Premises and gives Licensee thirty (30) days' notice of its intention to do so;
 - (iii) at any time upon ninety (90) days' written notice by the City to Licensee; or
 - (iv) at such time as Licensee no longer maintains the Improvements within ninety (90) days after receipt of notice by Licensee from the City of such failure to maintain the Improvements.
- (b) At any time by Licensee upon thirty (30) days' written notice by Licensee to the City.
- (c) At such time as this Agreement may be terminated for any reason whatsoever, Licensee shall immediately remove all removable Improvements and vacate the Premises. City may

cause the Improvements to be removed or relocated in the Premises and shall restore such Premises to substantially the condition prior to installation of the Improvements at Licensee's sole expense. All funds owed to the City shall be due and payable by Licensee no later than the tenth (10th) calendar day after the date of termination

12. Miscellaneous.

(a) Compliance with laws. Licensee, its agents, representatives, successor, assigns, vendors, grantees, and/or trustees, agree to abide by and be governed by all laws, ordinances and regulations of any and all governmental entities having jurisdiction over Licensee and the Improvements. Licensee expressly acknowledges that no language in this Agreement shall be construed to waive any requirements of the City's Code of Ordinances, as amended, and as applicable, unless expressly provided herein. Licensee has the responsibility for and shall ensure that all applicable permits, from City, or other regulatory government entity or agency, including TABC, are obtained and held for the duration of this Agreement.

(b) Assignment. The rights, duties and responsibilities hereunder shall not be assigned, conveyed or otherwise transferred by Licensee without the prior written consent of the City.

(c) Force Majeure. In the event either Party shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of fire, casualty, strikes, lockouts, labor trouble, inability to procure materials or supplies, failure of power, governmental authority, riots, insurrections, war or other reason of like nature, where such delay, hindrance or prevention of performance shall not be within the reasonable control of the Party obligated to perform and not be avoidable by diligence (“**Force Majeure Event**”), the Party so delayed shall promptly give notice to the other Party, and thereupon performance of such act shall be excused for such period of delay. Within three (3) business days after the occurrence of a Force Majeure Event, the Party claiming the right to temporarily suspend its performance, shall give notice to the other Party, including a detailed explanation of the Force Majeure Event and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. A Party that fails to provide timely notice of a Force Majeure Event will be deemed to be able to resume full performance within thirty (30) days of such Force Majeure Event.

(d) Notices. Any notice provided for herein shall be given by written instrument, personally delivered or sent by certified mail, return receipt requested, and addressed to:

To the City: City of Denison
300 W. Main Street
Denison, Texas 75020
Telephone: (903) 464-4452

With a copy to: Julie Fort
Messer & Fort, PLLC
6371 Preston Road, Suite 200
Frisco, Texas 75034
Telephone: (972) 668-6400
Facsimile: (972) 668-6414

To the Licensee: Cruz Acosta
3nineteen, LLC
500 West Woodard Street
Denison, Texas 75020
Telephone: (903) 815-1246

(e) Governing Law; Venue. This Agreement shall be construed under, and in accordance with, the laws of the State of Texas, and all obligations of the Parties created by this Agreement are performable in the county where the Premises is located. Venue for any action under this Agreement shall be in the county where the Premises is located.

(f) Legal Construction. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

(g) Entire Agreement. This Agreement represents the entire and integrated agreement between the City and Licensee relative to the Premises and Improvements and the Agreement as described herein and supersedes all prior negotiations, representations and/or agreements, either written or oral.

(h) Exhibits. The exhibits attached to this Agreement are incorporated herein by reference.

(i) Amendment. This Agreement may not be altered, waived, amended or extended except by an instrument in writing signed by the Parties.

(j) Authority to execute. The undersigned officers and/or agents of the Parties hereto are properly authorized officials and have the necessary authority to execute this Agreement on behalf of the Parties hereto, and each Party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

(k) Recitals. The recitals to this Agreement are incorporated herein by reference.

(l) Covenant Running with the Land. The provisions of this Agreement are hereby declared covenants running with the Property and are fully binding on the Licensee and each and every subsequent owner of all or any portion of the Property but only during the term of such Party's ownership thereof (except with respect to defaults that occur during the term of such person's ownership) and shall be binding on all successors, heirs, and assigns of the Licensee which acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part hereof, thereby agrees and covenants to abide by and fully perform the provisions of this Agreement with respect to the right, title or interest in such Property.

(m) Immunity. The Parties agree that the City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

EXECUTED by the Parties at Grayson County, Texas on the Effective Date provided in the introductory paragraph.

After recording, return to:
Christine Wallentine, City Clerk
City of Denison
300 W. Main Street
Denison, TX 75020

CITY OF DENISON, TEXAS

By: _____
Bobby Atteberry, Interim City Manager

ATTEST:

By: _____
Christine Wallentine, City Clerk

STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

This instrument was acknowledged before me on this _____ day of _____, 20____,
by Bobby Atteberry, Interim City Manager of the City of Denison, Texas, on behalf of said City.

(SEAL)

Notary Public in and for
the State of Texas

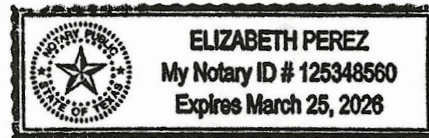
3Nineteen, LLC

By: [Signature]
Name: Cruz Acosta
Title: Managing Member

STATE OF TEXAS §
§
COUNTY OF GRAYSON §

This instrument was acknowledged before me on this 27th day of June, 2024
by Cruz Acosta, Managing Member of the Licensee, on behalf of Licensee.

(SEAL) [Signature]
Notary Public in and for
the State of Texas



By: [Signature]
Name: Wendy Acosta
Title: Managing Member

STATE OF TEXAS §
§
COUNTY OF GRAYSON §

This instrument was acknowledged before me on this 27th day of June, 2024
by Wendy Acosta, Managing Member of the Licensee, on behalf of Licensee.

(SEAL) [Signature]
Notary Public in and for
the State of Texas

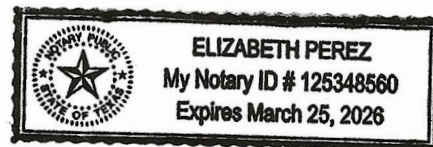
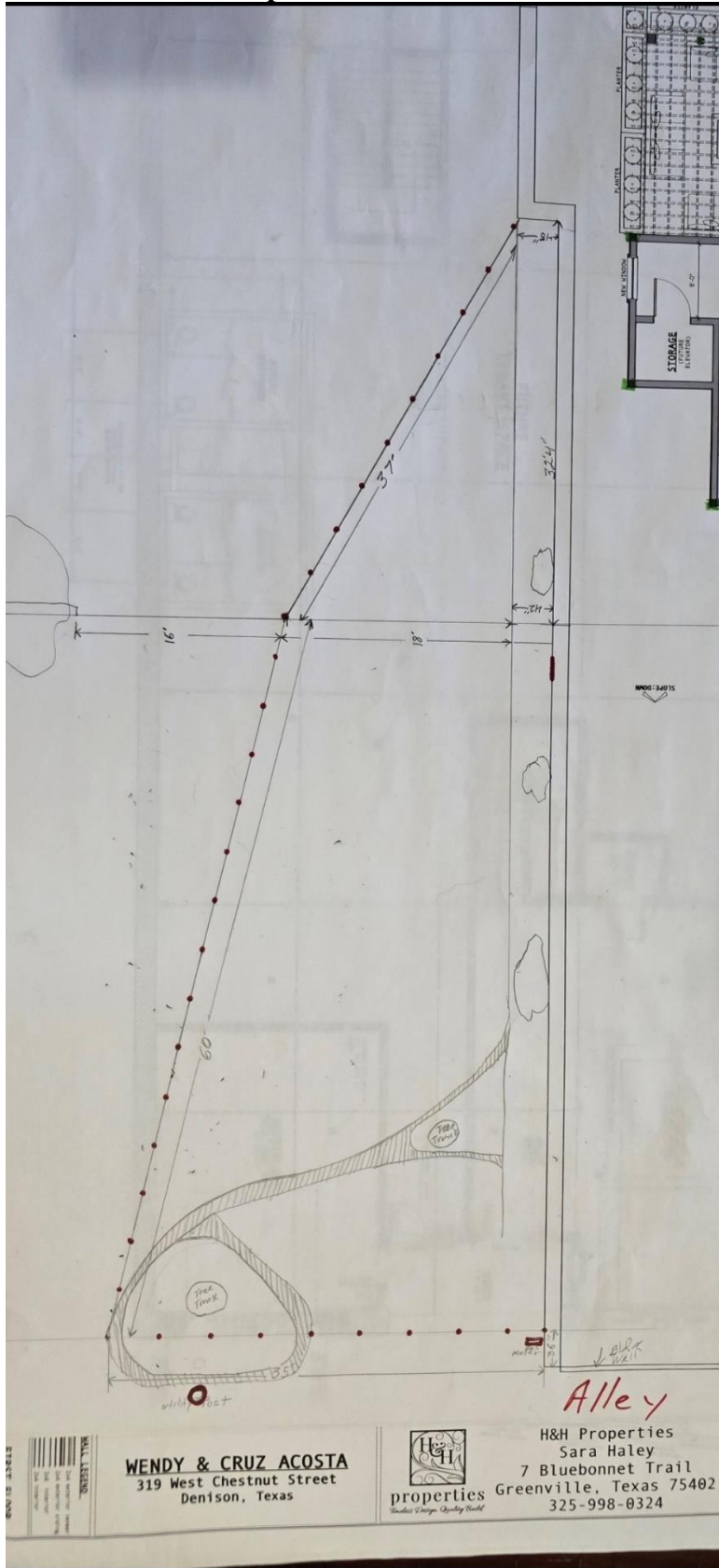


EXHIBIT A
Depiction of Premises



STREET SIGN
 MAIL LISTING
 319 WEST CHESTNUT STREET
 DENISON, TEXAS 75025

WENDY & CRUZ ACOSTA
 319 West Chestnut Street
 Denison, Texas



properties
 Traditional Design. Quality Build.

H&H Properties
 Sara Haley
 7 Bluebonnet Trail
 Greenville, Texas 75402
 325-998-0324

EXHIBIT B
Site Plan

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on an Ordinance amending Chapter 25, "Traffic", Article I, "In General", to amend Section 25-1, "Definitions", Section 25-19, "Truck Routes" and Section 25-20 "Trucks, Etc. Restricted to Portion of U.S. Highway 75 Designated for Thru-Traffic" and to add Section 25.22, "Affirmative Defenses" to the City of Denison Code of Ordinances.

Staff Contact

Julie Fort, City Attorney
(972) 668-6400

Summary

- The City, as a home rule municipal corporation and the authority contained in the Texas Transportation Code and other applicable law, has the authority to adopt and enforce traffic rules and regulations on city streets.
- In 2023, there were twenty (20) accidents, one resulting in a fatality, involving commercial trucks within City limits.
- It is in the best interest of the citizens to reduce commercial truck routes within City limits in an effort to reduce/prevent traffic accidents involving commercial trucks.
- In the current budget year approximately \$1,020,787, or 2.2%, of the General Operating Fund, was budgeted for street maintenance and \$8,310,056 in the bond fund were budgeted for streets, representing a significant expense for taxpayers.
- It is in the best interest of the citizens to require commercial trucks to use streets designed for their weight capacity and size, and to reduce damage to streets not engineered for commercial trucks.

Staff Recommendation

Staff recommends adoption of the ordinance as presented.

Recommended Motion

"I move to adopt the Ordinance amending Chapter 25, "Traffic", Article I, "In General", to amend Section 25-1 "Definitions", Section 25-19, "Truck Routes" and Section 25-20 "Trucks, Etc. Restricted to Portion of U.S. Highway 75 Designated for Thru-Traffic" and to add Section 25.22, "Affirmative Defenses" to the City of Denison Code of Ordinances."

Background Information and Analysis

The City, as a home rule municipal corporation and the authority contained in the Texas Transportation Code and other applicable law, has the authority to adopt and enforce traffic rules and regulations on city streets. Last year, there were twenty accidents, one resulting in a fatality, in the City involving commercial trucks. In the current budget year approximately \$1,020,787, or 2.2%, of the General Operating Fund, was budgeted for street maintenance and \$8,310,056 in the bond fund were budgeted for streets, representing a significant expense for taxpayers. It is in the best interest of the citizens to

require commercial trucks to use street designed for their weight capacity and size, and to reduce damage to streets not engineered for commercial trucks.

This ordinance amendment adds definitions to Section 25-1 to include commercial truck, proof of route and thru traffic. Additionally, Section 25-19 is amended to specifically designate commercial truck routes within the corporate limits of the City. Finally, this amendment adds Section 25-22 “Affirmative Defenses” by providing exceptions to prosecution under Section 25-19.

Financial Considerations

None.

Prior Board or Council Action

Amendments to this specific section were last made in 1965.

Alternatives

The City Council may deny, table or modify this agenda item.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 25, “TRAFFIC”, ARTICLE I “IN GENERAL”, TO AMEND SECTION 25-1 “DEFINITIONS”, SECTION 25-19, “TRUCK ROUTES” AND SECTION 25-20 “TRUCKS, ETC., RESTRICTED TO PORTION OF U.S. HIGHWAY 75 DESIGNATED FOR THRU-TRAFFIC” AND TO ADD SECTION 25.22 “AFFIRMATIVE DEFENSES” TO THE CITY OF DENISON CODE OF ORDINANCES; PROVIDING FOR A MAXIMUM PENALTY OF \$500 FOR EACH OFFENSE; PROVIDING SEVERABILITY, REPEALER AND SAVINGS CLAUSES; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of the Denison, Texas (the “City”) is a home rule municipal corporation pursuant to article 11, section 5 of the Texas Constitution and its Home Rule Charter; and

WHEREAS, the City has the authority to adopt and enforce traffic rules and regulations on city streets by virtue of its home-rule status, and the authority contained in the Texas Transportation Code, and other applicable law; and

WHEREAS, last year there were approximately 20 accidents in the City involving commercial trucks, which resulted in 1 fatality; and

WHEREAS, in the current budget year approximately \$1,020,787, or 2.2% of the General Operating Fund, was budgeted for street maintenance and \$8,310,056 in bond fund were budgeted for streets, representing a significant expense for the taxpayers; and

WHEREAS, the City Council has determined that it is in the best interest of the citizens and will improve the health, safety and welfare of the citizens and visitors to the City to require commercial trucks to use street designed for their weight capacity and size, and to reduce damage to streets not engineered for commercial trucks.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, THAT:

SECTION 1. Incorporation of Premises. That the above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. Amending Chapter 25, “Traffic”, Article I “In General”, to amend Section 25-1 “Definitions”, Section 25-19, “Truck Routes” and Section 25-20 “Trucks, Etc., Restricted To Portion Of U.S. Highway 75 Designated For Thru-Traffic” and to add Section 25.22 “Affirmative Defenses” to the City of Denison Code of Ordinances. Chapter 25, “Traffic”, Article I “In General”, Section 25-1 “Definitions”, Section 25-19, “Truck Routes” and Section 25-20 “Trucks, Etc., Restricted To Portion Of U.S. Highway 75 Designated For Thru-Traffic” are amended to read as follows and Section 25.22 “Affirmative Defenses” is added to the City of Denison Code of Ordinances as follows:

Sec. 25-1. Definitions. The following definitions shall be added to Section 25-1 in alphabetical order.

Commercial truck means any motor vehicle having a weight of more than 13 tons/26,000 pounds gross vehicle weight rating (GVWR), including the load carried, also including, but not limited to, any vehicle carrying hazardous materials or solid waste. Commercial trucks shall not include vehicles carrying or designated to carry passengers, all governmentally owned or leased vehicles, public utility vehicles, motor homes, recreational vehicles or vehicles used exclusively to transport personal possessions or family members for non-business purposes.

Proof of route means a written verification of pick-ups, deliveries, or destinations, which may include a logbook, delivery slip, shipping order, bill or any other document, that identifies and specifies the date, address, and name of the person requesting or directing the pick-up or delivery and the address of the pick-up or delivery within the corporate limits of the city.

Thru-traffic means commercial truck traffic without a point of origin or point of destination in the corporate limits of the city.

Sec. 25-19. Truck routes.

- (a) The following streets are hereby designated as commercial truck routes within the corporate limits of the city:
 - (1) U.S. Highway 69 from city limits to city limits;
 - (2) U.S. Highway 75 from city limits to city limits;
 - (3) All of Farm-to-Market Road 120 within the city limits;
 - (4) Morton Street between Tone Avenue and Austin Avenue;
 - (5) Crockett Avenue from its intersection with Farm to Market Road 120 to its intersection with Bells Drive and continuing along Bells Drive to its intersection with U.S. Highway 69; and
 - (6) Crawford Street from Austin Avenue to Armstrong Avenue.
- (b) The operator of a commercial truck entering the corporate limits of the city as thru-traffic shall enter the corporate limits of the city on a truck route designated in paragraph (a) above and shall remain on a truck route at all times while within the corporate limits of the city. It shall be unlawful for any person to operate any commercial truck on any city street other than one identified as a truck route in paragraph (a) above unless the commercial truck is:
 - (1) An emergency vehicle operating in response to any emergency call;
 - (2) Traveling to or from a point of origin within the city limits or point of destination within the city limits for commercial purposes only, that is off a truck route, that is proceeding by the shortest route to/from the nearest truck route, and the operator of such commercial truck has in his immediate possession evidence of the proof of route;
 - (3) Driven by an owner and/or operator to and from the residential address reflected on his/her driver's license;
 - (4) Driven by an owner and/or operator, or an employee of the owner and/or operator, to the address where the commercial truck is registered, as reflected on the registration receipt,

- and is parked overnight at least twenty-one (21) nights per month;
- (4) Owned and/or operated by and/or on behalf of a governmental entity or a public utility while engaged in the repair, maintenance or construction, within the corporate limits of the city, of public streets and/or utilities;
 - (5) Owned and/or operated by and/or on behalf of a governmental entity while engaging in and/or performing official, authorized government-related business; or
 - (6) Operating upon a city or state officially designated detour.
- (c) All commercial trucks shall be required to carry a copy of the State of Texas registration receipt when operating on public roadways with the corporate limits of the city. The copy of the registration receipt shall be admissible in evidence in any cause in which the gross registered weight of a vehicle is an issue and shall be prima facie evidence of the gross registered weight for such vehicle. A copy of the registration receipt shall be displayed to any officer authorized to enforce this article, upon request of such officer. Failure to display such copy of the registration receipt shall constitute an offense.
- (d) It is unlawful for any person to operate a commercial truck in any manner so as to violate the terms and provisions of this section. Each separate act in violation shall be a separate offense.

Sec. 25-20. Traffic control devices for Truck Routes and Thru-traffic.

The director of public works is hereby authorized to mark and sign or cause the same to be done: (1) truck routes for commercial trucks and/or for the thru-traffic of commercial trucks, and (2) streets where commercial trucks are prohibited.

Sec. 25-22. Affirmative defenses.

It is an affirmative defense to prosecution under section 25-19 if the commercial truck is:

- (1) An emergency vehicle operating in response to any emergency call;
- (2) Traveling to or from a point of origin within the city limits or point of destination within the city limits for commercial purposes only, that is off a truck route, that is proceeding by the shortest route to the nearest truck route, and the operator of such commercial truck has in his immediate possession evidence of the proof of route;
- (3) Driven by an owner and/or operator to and from the residential address reflected on his/her driver's license;
- (4) Driven by an owner and/or operator, or an employee of the owner and/or operator, to the address where the commercial truck is registered, as reflected on the registration receipt, and is parked overnight at least twenty-one (21) nights per month;
- (4) Owned and/or operated by and/or on behalf of a governmental entity, a public utility and/or any contractor or material man, while engaged in the repair, maintenance or construction of streets and/or public utilities within the corporate limits of the city;
- (5) Owned and/or operated by and/or on behalf of a governmental entity while engaging in and/or performing official, authorized government-related business; or
- (6) Operating upon a city or state officially designated detour.

SECTION 3: Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Denison, Texas, in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 4: Repealer and Savings. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of such ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance; whether such ordinances are codified or uncodified, and all other provisions of the Ordinances of the City of Denison, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect. Such repeal and the amendment expressly made herein shall not abate any pending prosecution for violation of the repealed or amended ordinance, nor shall the repeal or amendment prevent a prosecution from being commenced for any violation if occurring prior to the effective date of this Ordinance.

SECTION 5: Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Five Hundred and No/100 Dollars (\$500.00). Each continuing day's violation and/or each separate act shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 6: Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 7: Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Council member _____, seconded by Councilmember _____, the above and foregoing ordinance was passed and approved by the following vote:

Ayes:
Nays:
Abstentions:

At regular meeting held on July 15, 2024.

ROBERT CRAWLEY, Mayor

ATTEST:

Christine Wallentine, City Clerk

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance annexing tract of land legally described as Lots 1, 2, and 3, Block A, ROS Estates, Grayson County, Texas; being further identified as Grayson County Appraisal District Property ID Nos. 449977, 449978, and 449979; and being generally known as 4836 Theresa Drive, 4858 Theresa Drive, and 4890 Theresa Drive to allow for residential use. (Case No. 2024-046A).

Staff Contact

Dianne York, Planner
dyork@denisontx.gov
903-465-2720

Summary

- The applicant has submitted a Voluntary Annexation Application requesting the annexation of approximately 2.8 acres.
- In addition to a Voluntary Annexation Application, the applicant has submitted a Zoning Application requesting the zoning of SF-7.5, Single Family Residential to allow for single family structures. This request is a companion item on this agenda (Case No. 2024-047Z)

Staff Recommendation

Staff recommends approval of this request.

Recommended Motion

"I move to adopt the Ordinance annexing the subject property."

Background Information and Analysis

City staff have received a Voluntary Annexation Application requesting the annexation of approximately 2.8 acres, located along Theresa Drive, into the Denison City limits. The applicant wishes to connect to City utilities. The applicant has constructed three (3) single family residential structures on property addressed as 4836, 4858, and 4890 Theresa Drive. In addition to submitting a Voluntary Annexation Application, the applicant has submitted a Zoning Application requesting the zoning of SF-7.5, Single Family Residential to allow for single family residential uses. This request is a companion item on this agenda.

Financial Considerations

- N/A

Prior Board or Council Action

- The Planning and Zoning Commission recommended approval of the zoning request at their meeting held on July 9th, 2024.

Alternatives

- The Council may conditionally approve, table or deny the request.

Project Narrative

Ros Estates

Three houses have been built on three contiguous lots totaling 2.8 acres outside the city limit of Denison. We are requesting annexation of these three lots and thus a zoning change to comply with city requirements. Two lots are 1.0 acre and one lot is .8 acres. Other vacant land located in Denison is not relevant to this discussion as we are seeking annexation as part of the zoning process. Since these houses are already built, we are not a competing project. This project should not have any effect on other projects designated for similar development because this project is so small as to be almost irrelevant in the larger scheme of city development. The immediate area surrounding these houses is almost all residential.

Submitted by
Jim Livingston



DANIEL C. SHELP SURVEY ABSTRACT NO. 1097

All bearings shown are based on grid north of the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

CALLED 6.339 ACRES JOSE T. MENJIVAR VOL. 3783, PG. 332 O.R.G.C.T.

CALLED 0.9823 OF AN ACRE DAVID S. MINOR AND LAURA J. MINOR INST. NO. 2017-16246 O.R.G.C.T.

CALLED 2.00 ACRE TEXOMA MOBILEPHONE INC. TRACT TWO VOL. 1317, PG. 553 O.R.G.C.T.

CALLED 10.889 ACRES DALLAS G. HUTTON AND JOE C. RICHARDSON VOL. 1315, PG. 181 O.R.G.C.T.

CALLED 2.000 ACRES JOSE MANUEL MANDUJANO AND WIFE, VENITA RAQUEL MANDUJANO VOL. 5460, PG. 824 O.R.G.C.T.

CALLED 2.35 ACRES JAMES JOHN LANG INST. NO. 2019-8968 O.R.G.C.T.

BLOCK 1, LOT 1 MITCHELL ACRES INST. NO. 2021-85 P.R.G.C.T. (OWNER: ELIZABETH MITCHELL)

BLOCK 1, LOT 2 MITCHELL ACRES INST. NO. 2021-85 P.R.G.C.T. (OWNER: ELIZABETH MITCHELL)

BLOCK 1, LOT 3 MITCHELL ACRES INST. NO. 2021-85 P.R.G.C.T.

LEGAL DESCRIPTION

WHEREAS HOME INVESTORS, LLC is the owner of all of that certain tract or parcel of land situated in Daniel C. Shelp Survey, Abstract No. 1097, the Extra-Territorial Jurisdiction of the City of Denison, Grayson County, Texas, and being all of a called 3.05 acre tract of land described in the deed to Home Investors, LLC, recorded in Instrument No. 2023-3268, Official Records, Grayson County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found for the northwest corner of said 3.05 acre tract, common to the northern-most northeast corner of Lot 1, in Block 3, of Gateway Addition, Phase 6, an addition to the City of Denison, Grayson County, Texas, according to the plat thereof recorded in Volume 23, Page 28, Plat Records, Grayson County, Texas, and on the southerly line of a called 6.339 acre tract of land described in the deed to Jose T. Menjivar, recorded in Volume 3783, Page 332, said Official Records, from which a 1/2-inch iron rod found for the southwest corner of said 6.339 acre tract bears North 87°02'07" West, a distance of 310.40 feet;

THENCE South 89°20'43" East, with the northerly line of said 3.05 acre tract, and with the southerly line of said 6.339 acre tract, a distance of 241.90 feet to a 1/2-inch iron rod found for the southeast corner of said 6.339 acre tract, common to the southwest corner of a called 0.9823 of an acre tract of land described in the deed to David S. Minor and Laura J. Minor, recorded in Instrument No. 2017-16246, said Official Records;

THENCE South 88°43'29" East, continuing the northerly line of said 3.05 acre tract, and the southerly line of said 0.9823 acre tract, a distance of 106.32 feet to a metal fence corner post found for corner;

THENCE South 85°23'33" East, continuing the northerly line of said 3.05 acre tract, and the southerly line of said 0.9823 acre tract, a distance of 114.70 feet to a PK Nail found for the northeast corner of said 3.05 acre tract, common to the southeast corner of said 0.9823 acre tract, on the westerly line of a called 10.889 acre tract of land described in the deed to Dallas G. Hutton and Joe C. Richardson, recorded in Volume 1315, Page 181, Deed Records, Grayson County, Texas, and in said Theresa Drive;

THENCE South 16°04'28" West, with the easterly line of said 3.05 acre tract, and with the westerly line of said 10.889 acre tract part of the way, and with the westerly line of a called 2.000 acre tract of land described in the deed to Jose Manuel Mandujano and wife, Venita Raquel Mandujano, recorded in Volume 5460, Page 824, said Official Records, and in said Theresa Drive, a distance of 318.42 feet to a PK Nail found for the southeast corner of said 3.05 acre tract, common to the northeast corner of a called 0.74 of an acre tract of land described in the deed to Jennifer Bailey, recorded in Instrument No. 2018-26790, said Official Records;

THENCE North 89°18'02" West, with the southerly line of said 3.05 acre tract, and with the northerly line of said 0.74 acre tract part of the way, and with the northerly line of a called 2.35 acre tract of land described in the deed to James John Lang, recorded in Instrument No. 2019-8968, said Official Records, a distance of 380.55 feet to a wood fence corner post found for the occupied southwest corner of said 3.05 acre tract, common to the northwest corner of said 2.35 acre tract, on an easterly line of aforesaid Lot 1;

THENCE North 01°07'21" East, with the westerly line of said Theresa Drive, and with an easterly line of said Lot 1, a distance of 315.73 feet to the POINT OF BEGINNING and enclosing 3.051 acres (132,913 square feet) of land, more or less.

OWNER'S CERTIFICATE

STATE OF TEXAS COUNTY OF GRAYSON

I, the undersigned owner of the land shown hereon, and legally described hereinabove, and designated herein as ROS ESTATES, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, water courses, drains, easements and public places thereon shown for the purpose and consideration therein expressed.

I further acknowledge that the dedications and/or exactions made herein are proportional to the impact of the subdivision upon the public services required in order that the development will comport with the present and future growth needs of the City. I, my successors and assigns hereby waive any claim, damage, or cause of action that I may have as a result of the dedication of exactions made herein.

BY: Home Investors, LLC James D. Livingston, Vice President

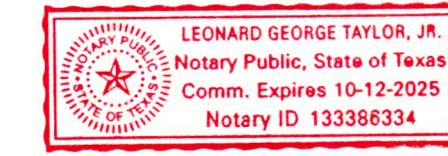
STATE OF TEXAS COUNTY OF GRAYSON

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State on this day personally appeared James D. Livingston, 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 considerations therein expressed and in the capacity therein stated and as the act and deed therein stated.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE 31st DAY OF Jan 2023

Notary Public in and for the State of Texas

To the best of my knowledge, there are no liens against this property.



CITY SIGNATURE BLOCK

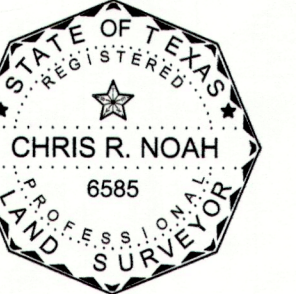
I hereby certify that the above and foregoing ROS ESTATES, to the City of Denison, Texas, was approved by the Planning Director of the City of Denison this 12 day of July 2023

Signature of Planning Director, City of Denison

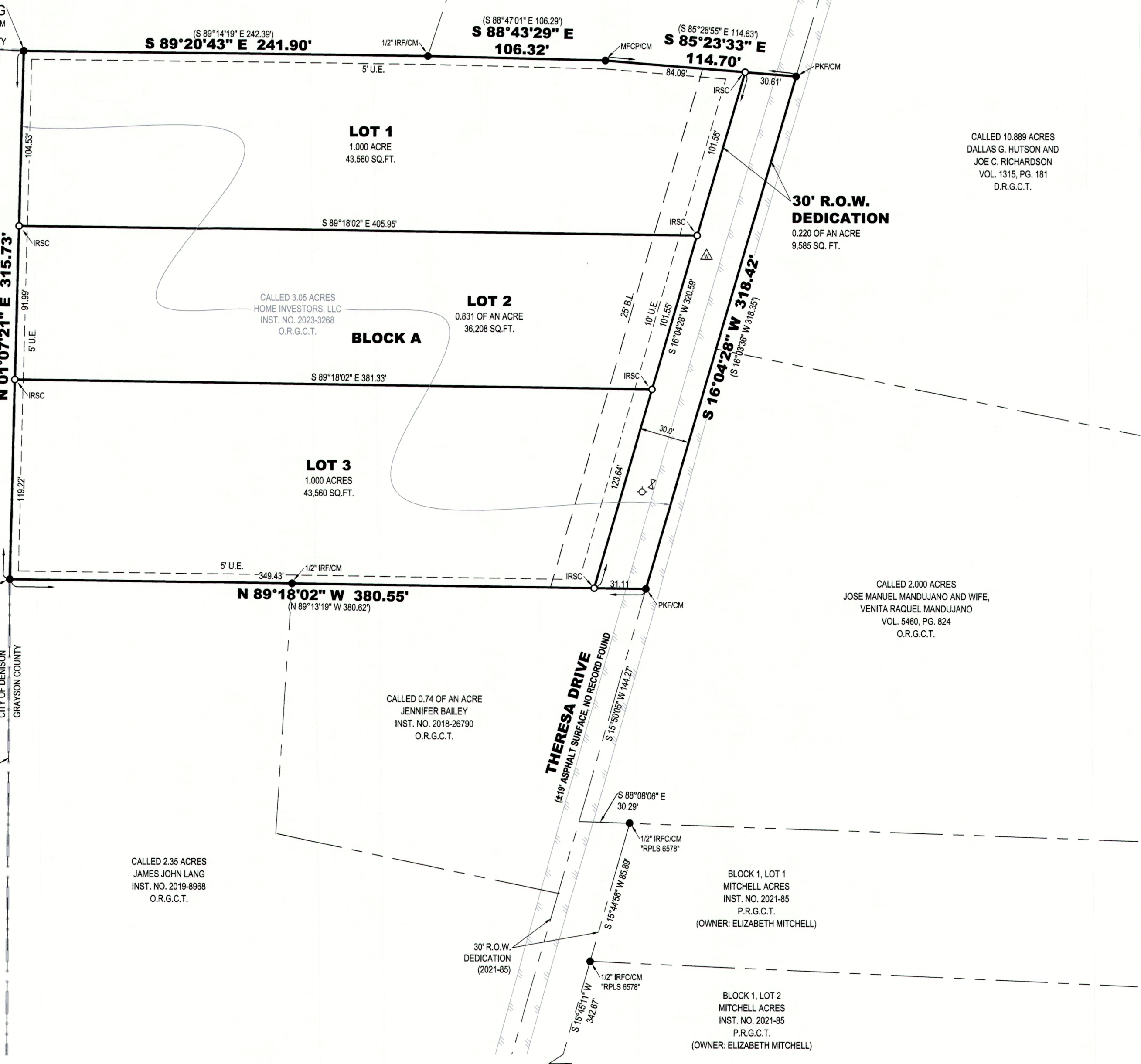
SURVEYORS CERTIFICATE

I, Chris Noah, Registered Professional Land Surveyor, do hereby certify that a survey was made on the ground of the property shown hereon under my personal and direct supervision, and that the corner monument meets the standards set according to the Subdivision Regulation of the City of Denison, Texas.

Chris R. Noah Registered Professional Land Surveyor No. 6585

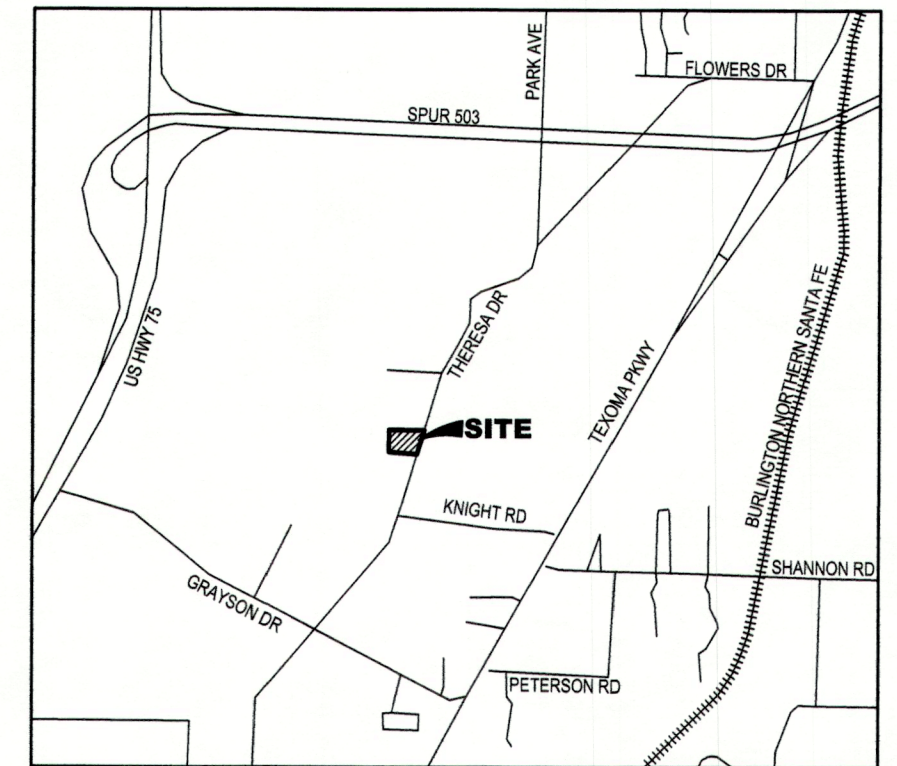


POINT OF BEGINNING 1/2" IRFCM CITY OF DENISON



- GENERAL NOTES: 1. Water supply to be provided by City of Denison, Texas. 2. Sewer Disposal Service to be provided by approved on-site septic system. 3. Electrical service is provided by Oncor. 4. Neither City of Denison nor the undersigned surveyor will be responsible for any damage, personal injury, or loss of life or property occasioned by flooding or flooding conditions. 5. Selling off a portion of this addition by metes and bounds description, without a replat being approved by the City of Denison, is a violation of City Ordinance and state law and is subject to fines and withholding of utilities and building permits. 6. City of Denison Case No. 2023-043MP 7. This property is located within the Extra Territorial Jurisdiction of the City of Denison. 8. The property shown on the plat hereon lies within "Non-shaded Zone X" defined as "Areas determined to be outside the 0.2% annual chance flood" as shown on the Flood Insurance Rate Map for Grayson County, Texas, Map No. 48181C0280F, Revised Date 09/29/2010. This flood statement does not imply that the property and/or structures thereon will be free from flooding or flood damage, on rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This flood statement shall not create liability on the part of the surveyor.

LEGEND table with symbols for monuments, boundaries, easements, and other features.



OWNER/DEVELOPER: Home Investors, LLC 3213 Bullock Drive Plano, TX 75023 ATTN: Manuel Ros Ph: 214-862-3589

SURVEYOR: Chris Noah, RPLS 6585 Preston Trail Land Surveying, LLC 787 W FM 996 Pottsboro, TX 75076 Ph: 903-786-6029

Filed for Record in the Official Records Of: Grayson County Clerk On: 7/6/2023 10:17:00 AM in the PLAT Records ROS ESTATES MINOR PLAT Doc Number: 2023-136 Number of Pages: 1 Amount: 43.00 Order#: 2023070600032 By: LD

MINOR PLAT ROS ESTATES BLOCK A, LOTS 1-3 3.051 ACRES DANIEL C. SHELP SURVEY, ABSTRACT NO. 1097 City of Denison Extra-Territorial Jurisdiction Grayson County, Texas Plat Prepared 02/28/2023

Preston Trail LAND SURVEYING logo and contact information.

**CITY OF DENISON, TEXAS
ORDINANCE NO. 2024-_____**

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, ADOPTING THE ANNEXATION OF CERTAIN TERRITORY LOCATED IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF DENISON, TEXAS, TO WIT: BEING A TRACT OF LAND LEGALLY DESCRIBED AS LOTS 1, 2 AND 3, BLOCK A, ROS ESTATES, GRAYSON COUNTY, TEXAS; BEING FURTHER IDENTIFIED AS GRAYSON COUNTY APPRAISAL DISTRICT PROPERTY ID NOS. 449977, 449978, AND 449979; BEING MORE PARTICULARLY DESCRIBED AND GRAPHICALLY DEPICTED IN EXHIBIT “A”, PROVIDING FOR INCORPORATION OF PREMISES, AMENDING OF THE OFFICIAL CITY MAP, AND ACKNOWLEDGING A SERVICE PLAN; REQUIRING THE FILING OF THIS ORDINANCE WITH THE COUNTY CLERK; PRESCRIBING FOR EFFECT ON TERRITORY, GRANTING AS APPROPRIATE TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF THE CITY OF DENISON, TEXAS; PROVIDING CUMULATIVE REPEALING, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denison is a Home Rule Municipality located in Grayson County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas and the Denison City Charter (the (“City”)); and

WHEREAS, following receipt of a request from Home Investors, LLC (the “Owner”) of the Property (defined below) requesting annexation, a public hearing was conducted in accordance with Section 43.0673 of the Texas Local Government Code, on the 15th day of July, 2024, Denison City Hall Council Chambers located at 300 W. Main in the City of Denison, to consider the annexation of the property being more particularly described and depicted in Exhibit “A”, attached hereto and incorporated as if fully set forth herein (the “Property”); and

WHEREAS, any and all required written notices and offers were timely sent to all property owners and others entitled to same; and

WHEREAS, the notice of the public hearing was published in *The Herald Democrat*, a newspaper of general circulation within the City, on the ____ day of _____, 2024, such date being not more than twenty (20) days nor less than ten (10) days prior to the public hearing; and

WHEREAS, all required statutory notices pursuant to Chapter 43 of the Texas Local Government Code have been accomplished, including posting on the City’s internet website; and

WHEREAS, the City Council of the City (“City Council”) has determined that such territory is located in the extraterritorial jurisdiction of the City; and

WHEREAS, the City Council has investigated into, has determined and officially finds that no part of such territory is within the extraterritorial jurisdiction of any other incorporated city or town; and

WHEREAS, to the extent that this Ordinance would cause an unincorporated area to be entirely surrounded by the City's limits, the City Council has found that surrounding the area is in the public interest; and

WHEREAS, the Owners and the City have entered into a written agreement, with a ten (10) year term, regarding services to be provided for the Property prior to the effective date of annexation of the Property, the substantive body of which is attached hereto as Exhibit "B", attached hereto and incorporated as if fully set forth herein.

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

SECTION 1. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. Official City Map Amended.

1. The official map and boundaries of the City are hereby amended so as to include the Property and any and all adjacent rights-of-way, and such territory shall be and is hereby annexed into the corporate limits of the City.

2. The Mayor is hereby directed and authorized to perform or cause to be performed all acts necessary to correct the official map of the City to add the territory hereby annexed as required by law.

SECTION 3. Annexation of the Area. The Property, and any and all adjacent rights-of-way, is hereby annexed into the City, and the boundary limits of the City are hereby extended to include the Property and any and all adjacent rights-of-way within the city limits of the City, and the same shall hereafter be included within the territorial limits of the City, and the inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City and they shall be bound by the acts, ordinances, resolutions, and regulations of the City.

SECTION 4. Filing of Ordinance Required. The City Secretary shall file or cause to be filed a certified copy of this Ordinance in the office of the County Clerk of each county in which all or a portion of the Property and any and all adjacent rights-of-way is located, and any other necessary agencies.

SECTION 5. Effect on Territory. From and after the passage of this Ordinance, the Property and any and all adjacent rights-of-way shall be a part of the City, and subject to the service agreement referenced in the above findings incorporated by Section 1 of this Ordinance. The inhabitants thereof shall be entitled to all of the rights, privileges and immunities as all other citizens of the City, and shall be bound by all of the Ordinances and regulations enacted pursuant to and in conformity with the general laws of the State of Texas.

SECTION 6. Severability Clause. Should any section, subsection, sentence, clause or

phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid. The City Council hereby declares that if there is an error in any call or description in Exhibit "A" preventing any portion of the Property and any and all adjacent rights-of-way from being annexed, the City Council would have annexed all remaining area having correct calls or descriptions and or would have corrected the call or description to include the entire intended area in this annexation.

SECTION 7. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8. Effective Date. This Ordinance shall become effective from and after its date of passage and approval.

SECTION 9. Open Meeting. That it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing ordinance was passed and approved by the following vote:

Ayes:
Nays:
Abstentions:

At regular meeting held on July 15, 2024.

ROBERT CRAWLEY, MAYOR

ATTEST:

Christine Wallentine, City Clerk

Exhibit "A"
Property Legal Description and Depiction

**BEING A TRACT OF LAND LEGALLY DESCRIBED AS LOTS 1, 2 AND 3, BLOCK A,
ROS ESTATES, GRAYSON COUNTY, TEXAS.**

Exhibit “B”
Substance from body of executed Service Agreement for C-3 Annexed Property

A) SERVICE PLAN GENERALLY

- 1) **This service plan has been prepared in accordance with the Texas Local Government Code (“LGC”), Sections 43.003, 43.056(b)-(o) and 43.0672. Municipal facilities and services to the annexed area will be provided or made available on behalf of the City of Denison in accordance with the following plan. The City of Denison shall provide the annexed tract the levels of service, infrastructure, and infrastructure maintenance that are comparable to the levels of service, infrastructure, and infrastructure maintenance available in other parts of the City of Denison with similar topography, land use, and population density.**
- 2) For purposes of this service plan, to “provide” services includes having services provided by any method or means by which the City provides municipal services to any other areas of the City, and may include causing or allowing private utilities, governmental entities and other public service organizations to provide such services by contract or right, in whole or in part, and may include certain duties on the part of the private landowner with regard to such services.

B) EMERGENCY SERVICES

1) Police Protection

- a) Police protection from the City of Denison shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas within the City on the effective date of the annexation ordinance. Some of these services include:
 - i) Normal patrol and responses;
 - ii) Handling of complaints and incident reports;
 - iii) Special units, such as traffic enforcement and investigations; and
 - iv) Coordination with other public safety support agencies.
- b) As development commences in the annexed area, sufficient police protection, including personnel and equipment will be provided to furnish the area with the level of police services consistent with the characteristics of topography, land utilization and population density of similar areas within the City.
- c) Upon ultimate development, police protection will be provided at a level consistent with other similarly situated areas within the City limits.

2) Fire Protection

- a) The City of Denison will provide emergency and fire prevention services to the annexed area at a level consistent with current methods and procedures presently provided to similar areas within the City on the effective date of the annexation ordinance. These services include:
 - i) Fire suppression and rescue;
 - ii) Pre-hospital medical services including triage, treatment and transport by Advanced Life Support (ALS) fire engines, trucks and ambulances;

- iii) Hazardous materials response and mitigation;
 - iv) Emergency prevention and public education efforts;
 - v) Technical rescue response; and
 - vi) Construction Plan Review and required inspections.
- b) As development commences in the annexed area, sufficient, fire protection, including personnel and equipment will be provided to furnish the area with the level of services consistent with the characteristics of topography, land utilization and population density of similar areas within the City. It is anticipated that the current fire protection contract will be sufficient to provide coverage for the annexed area.
 - c) Upon ultimate development, fire protection will be provided at a level consistent with similarly situated areas within the City limits.
- 3) Emergency Medical Services
- a) The City of Denison will provide emergency and safety services (EMS) to the annexed area at a level consistent with current methods and procedures presently provided to similar areas of the City of Denison on the effective date of the annexation ordinance. These services include:
 - i) Emergency medical dispatch and pre-arrival First Aid instructions;
 - ii) Pre-hospital emergency Advanced Life Support (ALS) response and transport; and
 - iii) Medical rescue services.
 - b) As development commences in the annexed area, sufficient EMS, including personnel and equipment, will be provided to furnish the area with the level of services consistent with the characteristics of topography, land utilization and population density of the similar areas within the City.
 - c) Upon ultimate development, EMS will be provided at a level consistent with similarly situated areas within the City limits.

C) SOLID WASTE

- 1) Solid Waste and Recycling Collection Services will be provided to the annexed area immediately upon the effective date of the annexation at a level consistent with current methods and procedures presently provided to similar areas within the City. Private solid waste collection service providers operating in the affected area immediately prior to annexation and currently providing customers with service may continue to provide their existing service for up to two (2) years.

D) WASTEWATER FACILITIES

- 1) As development commences in these areas, sanitary sewer mains as defined by the Certificate of Convenience and Necessity (CCN) Number 20077, as issued by the Texas Commission on Environmental Quality (TCEQ) will be extended in accordance with the provisions of the City's codes, ordinances, regulations and policies. City participation in the costs of these extensions shall be in accordance with applicable City codes, ordinances, regulations and policies. Capacity and extensions shall be provided consistent with the characteristics of topography, land utilization and population density of the areas. If the annexed area is in the CCN of another provider, wastewater service shall be provided in accordance with the policies of the CCN holder. In some instances, the City might acquire the CCN rights and become the new wastewater provider, in time.

- 2) Sanitary sewer mains and lift stations installed or improved to City standards, and accepted by the City, within the annexed area which are located within dedicated easement, rights-of-way, or any other acceptable location approved by the City Manager or his designee, shall be maintained by the City on the effective date of this ordinance.
- 3) Operation and maintenance of wastewater facilities in the annexed area that are within the certificated service area of another wastewater utility will be the responsibility of that utility. Operation and maintenance of private wastewater facilities in the annexed area will be the responsibility of the owner.

E) WATER FACILITIES

- 1) Connections to existing City of Denison water distribution mains for water service as defined by Certificate of Convenience and Necessity (CCN) Number 10204, as issued by the Texas Commission on Environmental Quality (TCEQ) will be provided in accordance with existing City codes, ordinances, regulations and policies. Upon connection to existing distribution mains, water service will be provided at rates established by city ordinance. If the annexed area is in the CCN of another provider, water service shall be provided in accordance with the policies of the CCN holder. In some instances, the City might acquire the CCN rights and become the new water provider, in time.
- 2) As development commences in these areas, water distribution mains will be extended in accordance with City of Denison codes, ordinances, regulations and policies. City participation in the costs of these extensions shall be in accordance with the City of Denison's codes, ordinances, regulations and policies. Water service extensions and capacity shall be provided consistent with the characteristics of topography, land utilization and population density of the area.
- 3) Operation and maintenance of existing water facilities in the annexed area that are within the service area of another water utility will be the responsibility of that utility. Operation and maintenance of private water facilities in the annexed area will be the responsibility of the owner.

F) ROAD AND STREETS

- 1) Emergency street maintenance shall be provided within the annexed area on the effective date of the applicable ordinance of acceptance. Routine maintenance will be provided within the annexed area and will be scheduled as part of the City's annual program and in accordance with the City's current codes, ordinances, regulations, policies and procedures defined therein and/or as established by the City Council.
- 2) Any construction or reconstruction will be considered within the annexed area on a City-wide basis and within the context of the City's Capital Improvement Plan and/or yearly fiscal budgetary allotments by the City Council. As development, improvement or construction of streets to City standards commences within this property, the policies of the City of Denison with regard to participation in the costs thereof, acceptance upon completion and maintenance after completion shall apply.
- 3) Roadway signage and associated posts will be replaced in priority of importance starting with regulatory signs, then warning signs, then informational signs and in conformance

with fiscal allotments by the City Council. If a sign remains, it will be reviewed and placed on the City's inventory listed for routine re-placement. All existing signs will be reviewed for applicability and based upon an engineering study. New signs will be installed when necessary and based upon an engineering study.

- 4) Routine maintenance of road/street markings will be placed on a priority listing and scheduled within the yearly budgetary allotments by the City Council.
- 5) The City will coordinate any request for improved road and street lighting with the local electric provider. Any and all road and street lighting will be pursuant to the rules, regulations and fees of such electric utility and shall be maintained by the applicable utility company.

G) ENVIRONMENTAL HEALTH, INSPECTIONS AND CODE ENFORCEMENT SERVICES

- 1) Enforcement of the City's environmental health ordinances and regulations, including but not limited to, weed and brush ordinances, junked and abandoned vehicle ordinances and animal control ordinances, shall be provided within the annexed area within sixty (60) days of the effective date of the annexation ordinance. These ordinances and regulations will be enforced through the use of existing personnel.
- 2) Inspection services including the review of building plans, the issuance of permits and the inspection of all buildings, plumbing, mechanical and electrical work to ensure compliance with City codes and ordinances will be provided within sixty (60) days of the effective date of the annexation ordinance. Existing personnel will be used to provide these services.
- 3) The City's zoning, subdivision, sign and other ordinances shall be enforced in this area beginning upon the effective date of the annexation.
- 4) All inspection services furnished by the City of Denison, but not mentioned above, will be provided to the annexed area beginning within sixty (60) days of the effective date of the annexed ordinance.
- 5) As development and construction commence in the annexed area, sufficient resources will be provided to furnish this area with the same level of environmental health, inspection and code enforcement services as are furnished throughout similar areas within the City.

H) PLANNING AND ZONING SERVICES

- 1) The planning and zoning jurisdiction of the City will extend to the annexed area upon the effective date of the annexation ordinance. City planning will thereafter encompass this property, and it shall be entitled to consideration for zoning in accordance with the City's Zoning Ordinance and Comprehensive Plan.

I) PARKS, PLAYGROUNDS, LIBRARIES, SWIMMING POOLS

- 1) Residents within the annexed area may utilize all existing park and recreation facilities owned by the City beginning on the effective date of this ordinance. Fees for such usage shall be in accordance with current fees established by ordinance.

- 2) As development commences in the annexed area, additional park and recreation facilities shall be constructed based on park policies defined in the Parks and Trails Master Plan and as specified in the City's Subdivision Regulations. The general planned locations and classifications of parks will ultimately serve residents within the current City limits.

J) PUBLICLY OWNED FACILITIES

- 1) Any publicly owned facility, building, or service located within the annexed area, and not otherwise owned or maintained by another governmental entity, shall be maintained by the City of Denison on the effective date of the annexation ordinance.

K) OTHER SERVICES

- 1) Other services that may be provided by the City of Denison, such as municipal and general administration will be made available on the effective date of the annexation. The City of Denison shall provide levels of service, infrastructure, and infrastructure maintenance to the annexed area that are comparable to the levels of services, infrastructure, and infrastructure maintenance available in other parts of the City of Denison with similar topography, land use, and population density.

L) UNIFORM LEVEL OF SERVICES IS NOT REQUIRED

- 1) Nothing in this Service Plan shall require the City of Denison to provide a uniform level of full municipal services to each area of the City, including the annexed areas, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service. The City Council finds and determines that this Service Plan will not provide any fewer services, and it will not provide a lower level of services, than were in existence in the annexed area at the time immediately preceding the annexation process.
- 2) The City of Denison's codes, ordinances, regulations and policies that apply throughout the City may be reviewed at City Hall and at <http://www.cityofdenison.com>.

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance initially zoning a tract of land legally described as Lots 1, 2, and 3, Block A, ROS Estates, Grayson County, Texas; being further identified as Grayson County Appraisal District, Property ID Nos. 449977, 449978, and 449979; and being generally known as 4836 Thereesa Drive, 4858 Theresa Drive and 44890 Theresa Dive to a Single-Family (SF-7.5) District, to allow for residential use. (Case No. 2024-047Z).

Staff Contact

Dianne York, Planner
dyork@denisontx.gov
903-465-2720

Summary

- The applicant is pursuing annexation of the subject property in order to connect to City utilities.
- The applicant is requesting an initial zoning of SF-7.5, Single Family Residential.
- The property has been developed in a residential manner with three (3) new construction single-family dwellings located on the subject property.

Staff Recommendation

Staff recommends approval of this request.

Recommended Motion

"I move to approve initially zoning the subject property to the SF-7.5, Single Family Residential Zoning District."

Background Information and Analysis

The applicant has submitted a Voluntary Annexation Petition to bring the subject property into the Denison City limits. The applicant is pursuing annexation in order to connect to City utilities. In addition to the Voluntary Annexation Petition the applicant has submitted a Zoning Application requesting the initial zoning of the property be SF-7.5, Single Family Residential. The applicant has constructed three (3) single family dwellings on the subject property. This initial zoning district complies with not only the development of the property, but it also complies with the Future Land Use Plan. The single-family structures comply with the parking and dwelling square foot requirement detailed in the SF-7.5, Single Family Residential Zoning Ordinance.

The Future Land Use Plan designates this area to be developed in a "Neighborhood" manner. Initially zoning the subject property to SF-7.5, Single Family Residential complies with the Future Land Use Plan.

According to Ordinance Section 28.10, City staff and the City Council shall consider the following factors when reviewing rezone requests:

1. *Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;*

The proposed land use is compatible with the area located around the property as well as the Comprehensive Plan and Future Land Use Plan.

2. *Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;*

N/A

3. *The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;*

Approval of initially zoning the subject property to SF-7.5, Single Family Residential will not impact the availability of similar land for development.

4. *The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;*

Property located along Theresa Drive have been developed in a residential manner.

5. *How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved;*

N/A

6. *Whether the zoning petition is consistent with the current land use plan; and*

The property is depicted on the Future Land Use Plan to be developed in a Neighborhood manner. This request complies with the Future Land Use Plan.

7. *Any other factors that will substantially affect the public health, safety, morals, or general welfare.*

Other factors which may substantially affect general welfare have been addressed above.

Financial Considerations

N/A

Prior Board or Council Action

- The Planning and Zoning Commission recommended approval of the request at their meeting held on July 9th, 2024.

Alternatives

The City Council may table, deny or approve with conditions.

Aerial of Subject Area



Project Narrative

Ros Estates

Three houses have been built on three contiguous lots totaling 2.8 acres outside the city limit of Denison. We are requesting annexation of these three lots and thus a zoning change to comply with city requirements. Two lots are 1.0 acre and one lot is .8 acres. Other vacant land located in Denison is not relevant to this discussion as we are seeking annexation as part of the zoning process. Since these houses are already built, we are not a competing project. This project should not have any effect on other projects designated for similar development because this project is so small as to be almost irrelevant in the larger scheme of city development. The immediate area surrounding these houses is almost all residential.

Submitted by
Jim Livingston



DANIEL C. SHELPS SURVEY ABSTRACT NO. 1097

All bearings shown are based on grid north of the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

CALLED 6.339 ACRES JOSE T. MENJIVAR VOL. 3783, PG. 332 O.R.G.C.T.

CALLED 0.9823 OF AN ACRE DAVID S. MINOR AND LAURA J. MINOR INST. NO. 2017-16246 O.R.G.C.T.

CALLED 2.00 ACRE TEXOMA MOBILEPHONE INC. TRACT TWO VOL. 1317, PG. 553 O.R.G.C.T.

CALLED 10.889 ACRES DALLAS G. HUTTON AND JOE C. RICHARDSON VOL. 1315, PG. 181 O.R.G.C.T.

CALLED 2.000 ACRES JOSE MANUEL MANDUJANO AND WIFE, VENITA RAQUEL MANDUJANO VOL. 5460, PG. 824 O.R.G.C.T.

CALLED 2.35 ACRES JAMES JOHN LANG INST. NO. 2019-8968 O.R.G.C.T.

BLOCK 1, LOT 1 MITCHELL ACRES INST. NO. 2021-85 P.R.G.C.T. (OWNER: ELIZABETH MITCHELL)

BLOCK 1, LOT 2 MITCHELL ACRES INST. NO. 2021-85 P.R.G.C.T. (OWNER: ELIZABETH MITCHELL)

BLOCK 1, LOT 3 MITCHELL ACRES INST. NO. 2021-85 P.R.G.C.T.

LEGAL DESCRIPTION

WHEREAS HOME INVESTORS, LLC is the owner of all of that certain tract or parcel of land situated in Daniel C. Shelp Survey, Abstract No. 1097, the Extra-Territorial Jurisdiction of the City of Denison, Grayson County, Texas, and being all of a called 3.05 acre tract of land described in the deed to Home Investors, LLC, recorded in Instrument No. 2023-3268, Official Records, Grayson County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found for the northwest corner of said 3.05 acre tract, common to the northern-most northeast corner of Lot 1, in Block 3, of Gateway Addition, Phase 6, an addition to the City of Denison, Grayson County, Texas, according to the plat thereof recorded in Volume 23, Page 28, Plat Records, Grayson County, Texas, and on the southerly line of a called 6.339 acre tract of land described in the deed to Jose T. Menjivar, recorded in Volume 3783, Page 332, said Official Records, from which a 1/2-inch iron rod found for the southwest corner of said 6.339 acre tract bears North 87°02'07" West, a distance of 310.40 feet;

THENCE South 89°20'43" East, with the northerly line of said 3.05 acre tract, and with the southerly line of said 6.339 acre tract, a distance of 241.90 feet to a 1/2-inch iron rod found for the southeast corner of said 6.339 acre tract, common to the southwest corner of a called 0.9823 of an acre tract of land described in the deed to David S. Minor and Laura J. Minor, recorded in Instrument No. 2017-16246, said Official Records;

THENCE South 88°43'29" East, continuing the northerly line of said 3.05 acre tract, and the southerly line of said 0.9823 acre tract, a distance of 106.32 feet to a metal fence corner post found for corner;

THENCE South 85°23'33" East, continuing the northerly line of said 3.05 acre tract, and the southerly line of said 0.9823 acre tract, a distance of 114.70 feet to a PK Nail found for the northeast corner of said 3.05 acre tract, common to the southeast corner of said 0.9823 acre tract, on the westerly line of a called 10.889 acre tract of land described in the deed to Dallas G. Hutton and Joe C. Richardson, recorded in Volume 1315, Page 181, Deed Records, Grayson County, Texas, and in said Theresa Drive;

THENCE South 16°04'28" West, with the easterly line of said 3.05 acre tract, and with the westerly line of said 10.889 acre tract part of the way, and with the westerly line of a called 2.000 acre tract of land described in the deed to Jose Manuel Mandujano and wife, Venita Raquel Mandujano, recorded in Volume 5460, Page 824, said Official Records, and in said Theresa Drive, a distance of 318.42 feet to a PK Nail found for the southeast corner of said 3.05 acre tract, common to the northeast corner of a called 0.74 of an acre tract of land described in the deed to Jennifer Bailey, recorded in Instrument No. 2018-26790, said Official Records;

THENCE North 89°18'02" West, with the southerly line of said 3.05 acre tract, and with the northerly line of said 0.74 acre tract part of the way, and with the northerly line of a called 2.35 acre tract of land described in the deed to James John Lang, recorded in Instrument No. 2019-8968, said Official Records, a distance of 380.55 feet to a wood fence corner post found for the occupied southwest corner of said 3.05 acre tract, common to the northwest corner of said 2.35 acre tract, on an easterly line of aforesaid Lot 1;

THENCE North 01°07'21" East, with the westerly line of said Theresa Drive, and with an easterly line of said Lot 1, a distance of 315.73 feet to the POINT OF BEGINNING and enclosing 3.051 acres (132,913 square feet) of land, more or less.

OWNER'S CERTIFICATE

STATE OF TEXAS COUNTY OF GRAYSON

I, the undersigned owner of the land shown hereon, and legally described hereinabove, and designated herein as ROS ESTATES, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, water courses, drains, easements and public places thereon shown for the purpose and consideration therein expressed.

I further acknowledge that the dedications and/or exactions made herein are proportional to the impact of the subdivision upon the public services required in order that the development will comport with the present and future growth needs of the City. I, my successors and assigns hereby waive any claim, damage, or cause of action that I may have as a result of the dedication of exactions made herein.

BY: Home Investors, LLC James D. Livingston, Vice President

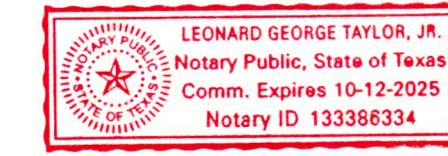
STATE OF TEXAS COUNTY OF GRAYSON

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State on this day personally appeared James D. Livingston, 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 considerations therein expressed and in the capacity therein stated and as the act and deed therein stated.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE 31st DAY OF Jan 2023

Notary Public in and for the State of Texas

To the best of my knowledge, there are no liens against this property.



CITY SIGNATURE BLOCK

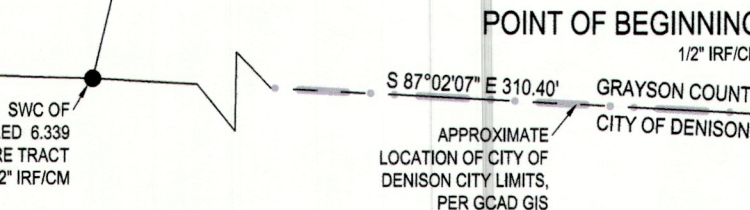
I hereby certify that the above and foregoing ROS ESTATES, to the City of Denison, Texas, was approved by the Planning Director of the City of Denison this 12 day of July 2023

Signature of Planning Director, City of Denison

SURVEYORS CERTIFICATE

I, Chris Noah, Registered Professional Land Surveyor, do hereby certify that a survey was made on the ground of the property shown hereon under my personal and direct supervision, and that the corner monument meets the standards set according to the Subdivision Regulation of the City of Denison, Texas.

Chris R. Noah Registered Professional Land Surveyor No. 6585



BLOCK 3, LOT 1 GATEWAY ADDITION, PHASE 6 VOL. 23, PG. 28 P.R.G.C.T. (OWNER: TRJ PROPERTIES LTD)

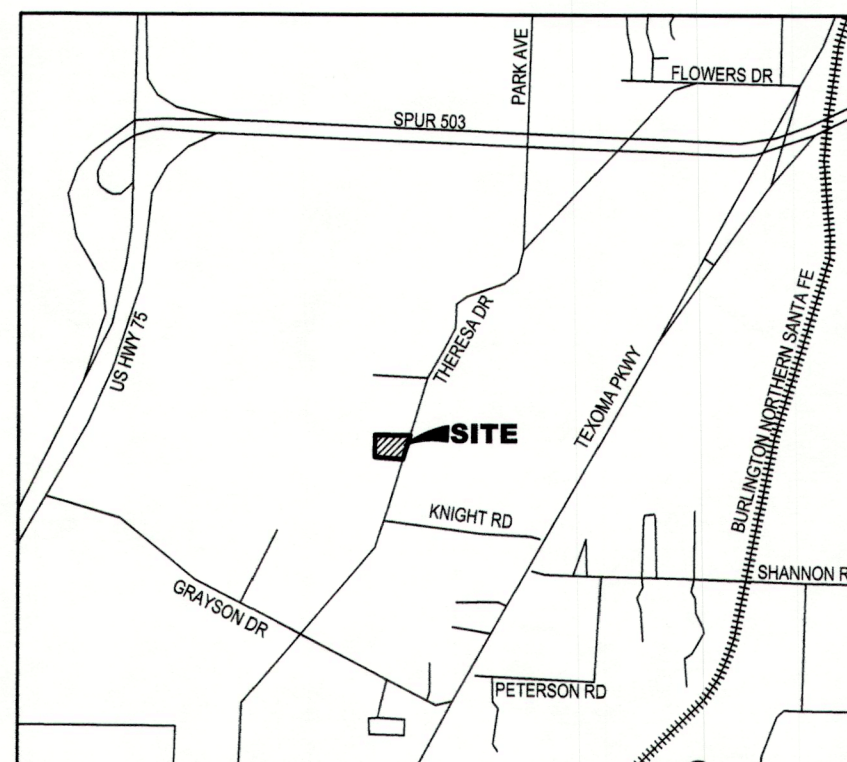
APPROXIMATE LOCATION OF CITY OF DENISON CITY LIMITS, PER GCAD GIS

GENERAL NOTES

- 1. Water supply to be provided by City of Denison, Texas.
2. Sewer Disposal Service to be provided by approved on-site septic system.
3. Electrical service is provided by Onco.
4. Neither City of Denison nor the undersigned surveyor will be responsible for any damage, personal injury, or loss of life or property occasioned by flooding or flooding conditions.
5. Selling off a portion of this addition by metes and bounds description, without a replat being approved by the City of Denison, is a violation of City Ordinance and state law and is subject to fines and withholding of utilities and building permits.
6. City of Denison Case No. 2023-043MP
7. This property is located within the Extra Territorial Jurisdiction of the City of Denison.
8. The property shown on the plat hereon lies within "Non-shaded Zone X" defined as "Areas determined to be outside the 0.2% annual chance flood" as shown on the Flood Insurance Rate Map for Grayson County, Texas, Map No. 48181C0280F, Revised Date 09/29/2010. This flood statement does not imply that the property and/or structures thereon will be free from flooding or flood damage, on rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This flood statement shall not create liability on the part of the surveyor.

LEGEND

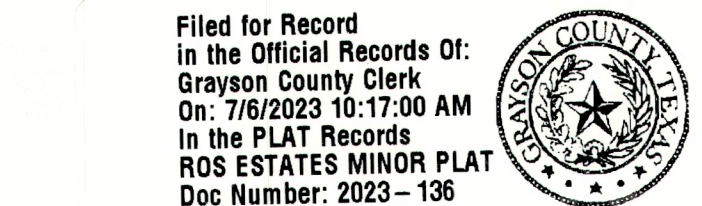
Table with 3 columns: Symbol, Description, and Notes. Includes symbols for found monuments, set monuments, iron rods, fences, and various lines like boundary, easement, and building lines.



VICINITY MAP (NOT TO SCALE)

OWNER/DEVELOPER: Home Investors, LLC 3213 Bullock Drive Plano, TX 75023 ATTN: Manuel Ros Ph: 214-862-3589

SURVEYOR: Chris Noah, RPLS 6585 Preston Trail Land Surveying, LLC 787 W FM 996 Pottsboro, TX 75076 Ph: 903-786-6029



Filed for Record in the Official Records Of: Grayson County Clerk On: 7/6/2023 10:17:00 AM in the PLAT Records ROS ESTATES MINOR PLAT Doc Number: 2023-136 Number of Pages: 1 Amount: 43.00 Order#: 2023070600032 By: LD

MINOR PLAT ROS ESTATES BLOCK A, LOTS 1-3 3.051 ACRES DANIEL C. SHELPS SURVEY, ABSTRACT NO. 1097 City of Denison Extra-Territorial Jurisdiction Grayson County, Texas Plat Prepared 02/28/2023

Preston Trail Land Surveying logo and contact information: 787 W FM 996 Pottsboro, TX 75076 www.prestontrailandsurveying.com 903-786-6029

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF DENISON, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF DENISON, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF SINGLE-FAMILY (SF-7.5) DISTRICT, BEING LEGALLY DESCRIBED AS LOTS 1, 2 AND 3, BLOCK A, ROS ESTATES, GRAYSON COUNTY, TEXAS; BEING FURTHER IDENTIFIED AS GRAYSON COUNTY APPRAISAL DISTRICT PROPERTY ID NOS. 449977, 449978, AND 449979; AND MORE COMMONLY KNOWN AS 4836 THERESA DRIVE, 4858 THERESA DRIVE AND 4890 THERESA DRIVE, CITY OF DENISON, GRAYSON COUNTY, TEXAS; PROVIDING THAT THE OFFICIAL ZONING MAP OF THE CITY SHALL REFLECT THE SINGLE-FAMILY (SF-7.5) DISTRICT; PROVIDING THAT THE PROPERTY SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED SHALL BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Denison, Texas (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City of Denison, Texas (the “City Council”), is authorized and empowered by law, in accordance with Chapter 211 of the Texas Local Government Code, to adopt zoning regulations governing the use of land within the City; and

WHEREAS, the City Council adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the “Zoning Ordinance”); and

WHEREAS, Home Investors, LLC, (“Owner”) owns a tract of land legally described as Lots 1, 2 and 3, Block A, ROS Estates, Grayson County, Texas; as described and depicted in **Exhibit “A”**, which is attached and incorporated as if fully set forth herein (the “Property”), and has made an application under the provisions of the Zoning Ordinance to establish an initial zoning classification of Single-Family (SF-7.5) District; and

WHEREAS, after public notices were given in compliance with Texas law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City (the

“Planning and Zoning Commission”) has recommended to the City Council to approve the change in zoning district classification on the Property and to amend the official zoning map of the City (the “Zoning Map”) to reflect the PD zoning classification; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which it considered the recommendation of the Planning and Zoning Commission and, among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the requested zoning accomplishes such objectives; and

WHEREAS, the Zoning Ordinance incorporates design standards and building materials standards that are differentially applicable to residential structures and non-residential buildings; and

WHEREAS, such standards substantially further the preservation of property values and the promotion of economic development within the City; and

WHEREAS, such standards also establish the character of community development and embody architecturally and, in some contexts, culturally significant features of continuing duration; and

WHEREAS, the Zoning Ordinance also provides for planned development districts, which enable departures from traditional zoning district standards in recognition of the unique character of a development project; and

WHEREAS, the City’s policy in creating or amending a planned development district is to incorporate and enhance to the fullest extent feasible the design and building materials standards that are integral to the City’s zoning regulations in all planned development districts; and

WHEREAS, the City Council finds and determines that the incorporation of such standards lends long-term viability to the planned development project; and

WHEREAS, the owner and/or developer of the Property has consented in writing to the enforcement of the City’s design and building materials standards within the planned development district and waived the statutory provisions in Chapter 3000, Texas Government Code.

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

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Findings. After due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety and welfare.

Section 3. Zoning Amendment. The Zoning Ordinance is hereby amended to establish the zoning classification of Lots 1, 2 and 3, Block A, ROS Estates, Grayson County, Texas, to Single-Family (SF-7.5) District, and all applicable City ordinances and regulations governing except as may be modified by this Ordinance.

Section 4. Zoning Map. The Zoning Map is hereby amended to reflect the established zoning classification designation herein made.

Section 5. Compliance Required. The Property shall be used only in the manner and for the purposes provided for in this Ordinance and the Comprehensive Zoning Ordinance of the City, as amended.

Section 6. Severability Clause. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

Section 7. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 8. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

Section 9. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

Section 10. Open Meeting. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041 of the Texas Government Code.

AND IT IS SO ORDERED.

On motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing ordinance was passed and approved by the following vote:

Ayes:

Nays:
Abstentions:

At regular meeting July 15, 2024.

ROBERT CRAWLEY, MAYOR

ATTEST:

Christine Wallentine, City Clerk

EXHIBIT A-1
PROPERTY LEGAL DESCRIPTION

**BEING A TRACT OF LAND LEGALLY DESCRIBED AS LOTS 1, 2 AND 3, BLOCK A, ROS
ESTATES, GRAYSON COUNTY, TEXAS.**

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to rezone approximately 1.693 acres legally described as being part of the Ramon Rubio Survey, being Lot 2R, Block A, Replat of a part of Blocks 1 and 4 and a portion of those abandoned alleys and street lying within said blocks of North Side Addition, Abstract No. 996 an addition to the City of Denison, Grayson County, Texas as per plat of record in Doc. No. 2021-189; GCAD Property ID No. 438877, from the Commercial (C) District to the Single-Family (SF-5) Residential District to allow for residential use. (Case No. 2024-048Z).

Staff Contact

Dianne York, Planner
dyork@denisontx.gov
903-465-2720

Summary

- The applicant is requesting a rezone of the subject property from the Commercial (C) Zoning District to the SF-5, Single Family Residential District to allow for residential uses.
- Applicant wishes to develop the property in a single-family manner.
- The request complies with the Comprehensive Plan.

Staff Recommendation

Staff recommends approval of this request.

Recommended Motion

"I move to approve changing the zoning of the subject property from the Commercial (C) District to the Single Family (SF-5) Residential District to allow for residential use."

Background Information and Analysis

The applicant is requesting a rezone of the subject property located along North Lamar Avenue and East Washington Street east of Austin Avenue from the Commercial (C) District to the Single Family (SF-5) Residential District. The applicant wishes to develop the property in a residential manner. Approval of this request will allow the applicant to move forward with a Replat of the property and extension of infrastructure to serve future residential structures.

On June 6th, 2022, the City Council approved a rezone of property now known as Lots 1-6, Block A, Century Ridge Addition, Phase 1. These lots are interior, adjacent lots to the subject property for this request. Approval of this rezone request will provide consistent zoning for all lots located at the corner of East Washington Street and North Lamar Avenue. A proposed Replat of the subject property was conditionally approved by the Planning and Zoning Commission at their meeting held on July 9th, 2024.

The Future Land Use Plan designates this area as “Neighborhood”. Per the Comprehensive Plan, areas depicted as “Neighborhood” should be developed in residential manner. Approval of this rezoning request complies with the Future Land Use Plan.

According to Ordinance Section 28.10, City staff and the City Council shall consider the following factors when reviewing rezone requests:

1. *Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;*

The proposed use is compatible with the area located around the property.

2. *Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;*

N/A

3. *The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;*

Rezoning of this property will not impact the availability of similar land for development.

4. *The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;*

The overall area has been developed in a residential manner.

5. *How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved;*

N/A

6. *Whether the zoning petition is consistent with the current land use plan; and*

The property is depicted on the Future Land Use Plan to be developed in a Neighborhood manner. This request complies with the Future Land Use Plan.

7. *Any other factors that will substantially affect the public health, safety, morals, or general welfare.*

Other factors which may substantially affect general welfare have been addressed above.

Financial Considerations

N/A

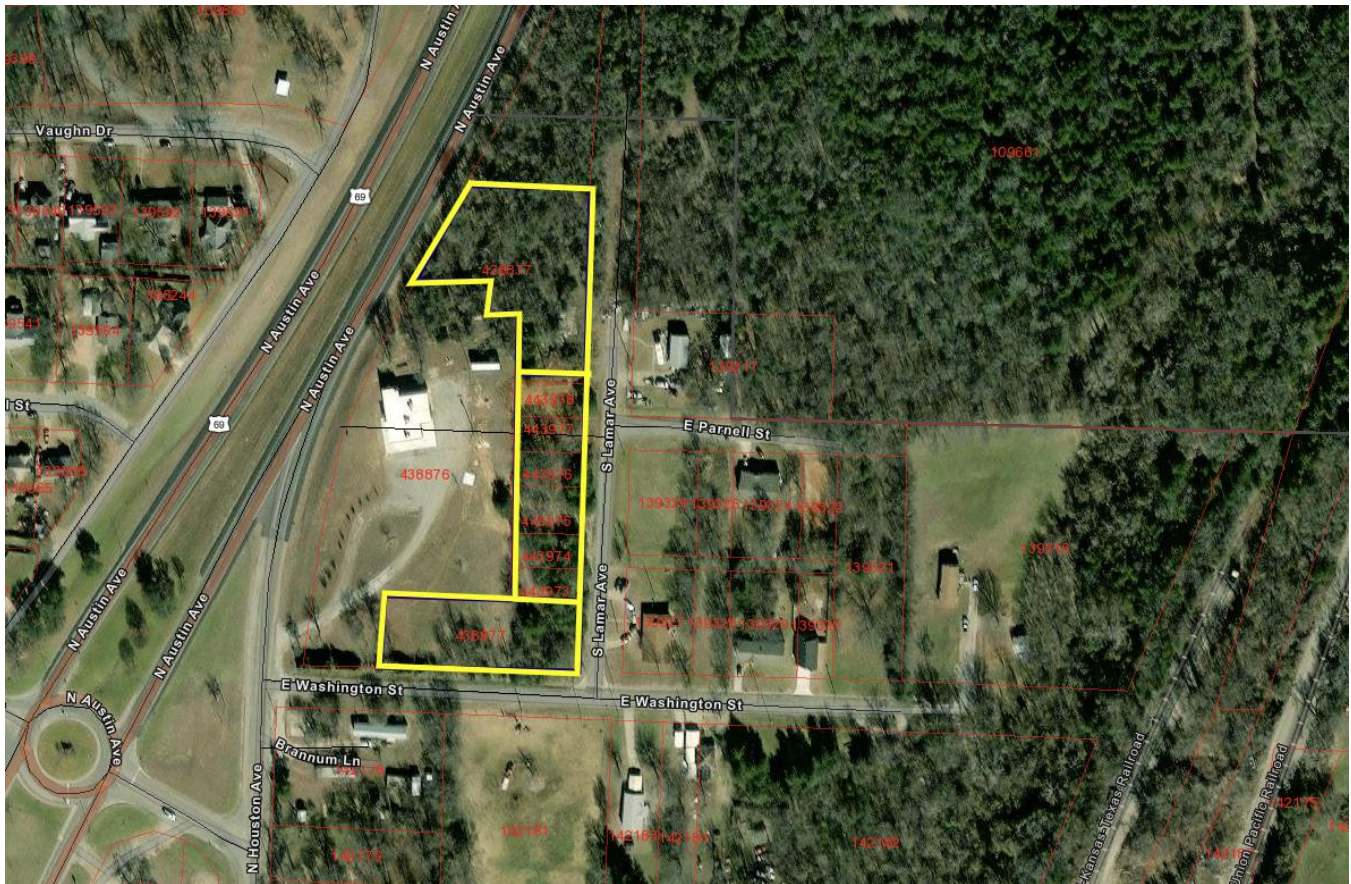
Prior Board or Council Action

- The Planning and Zoning Commission recommended approval of the request at their meeting held on July 9th, 2024.

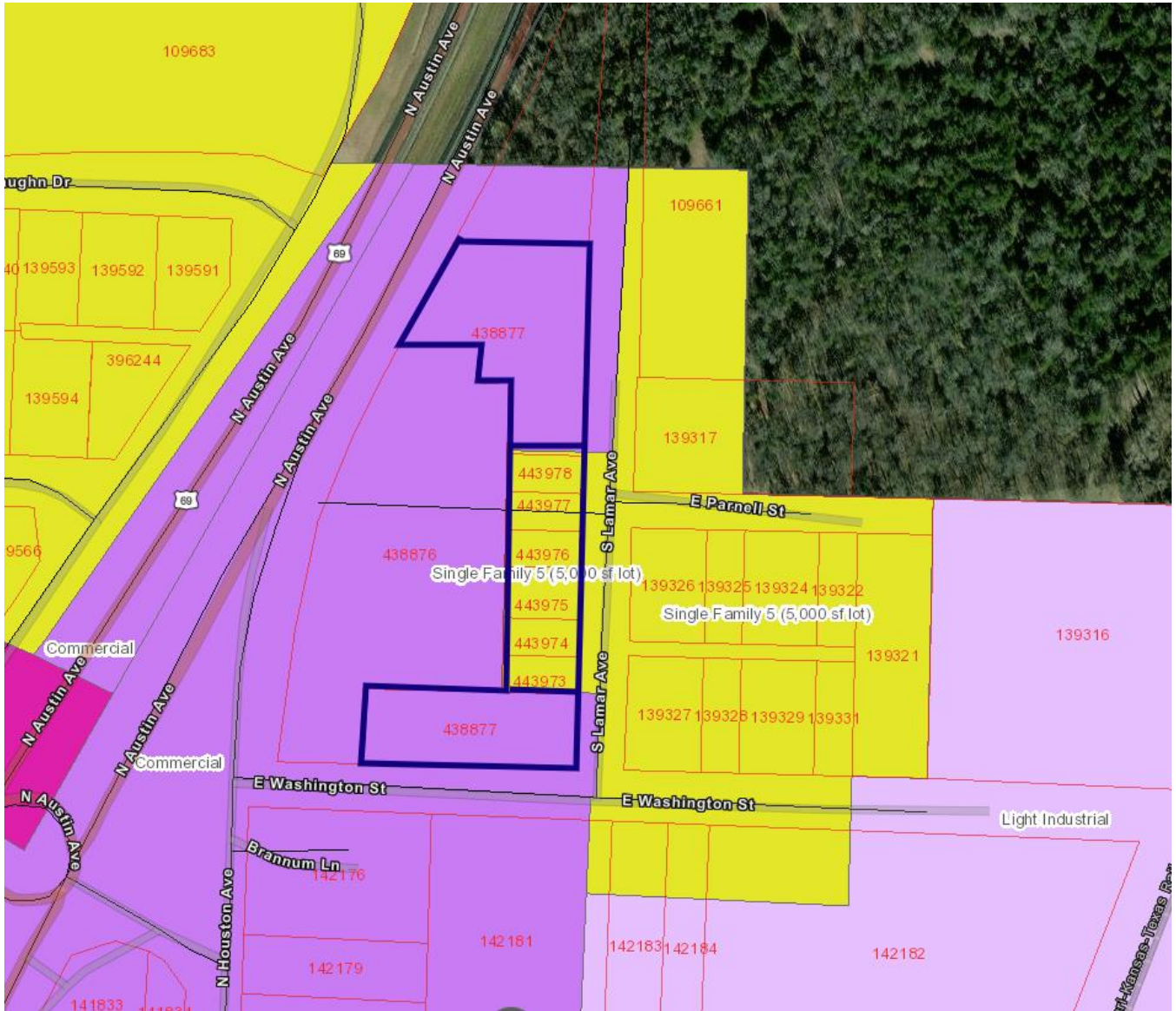
Alternatives

- The City Council may table, deny or approve with conditions.

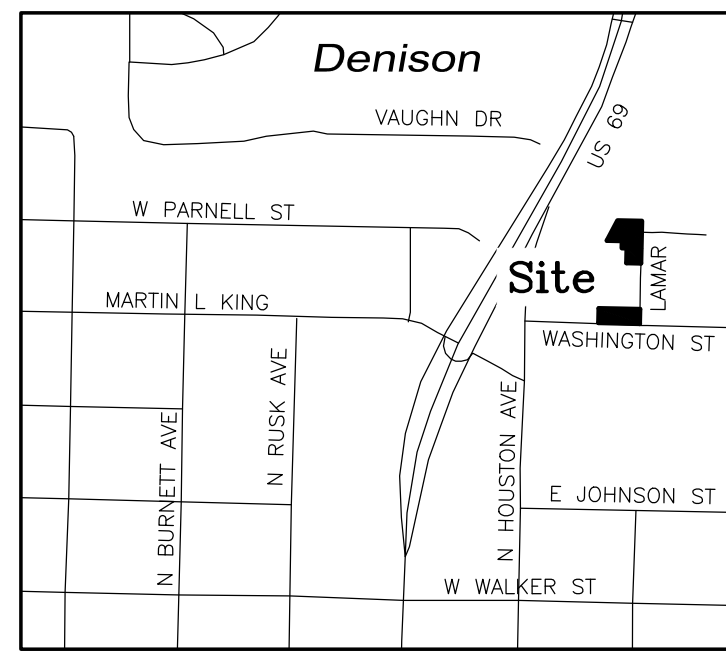
Aerial of Subject Area



Zoning Aerial of Subject Area



Vicinity map
(not to scale)



Curve Table				
Curve #	Length	Radius	Delta	Chord
C1	219.90'	69.96'	180°05'12"	S01°11'10"W, 139.92'

Area Table		
Lot No.	Block No.	Square Feet
1	B	6129
2	B	6160
3	B	6160
4	B	5000
5	B	5000
1	C	5000
2	C	5250
3	C	6676
4	C	11568
5	C	9108

General Notes:

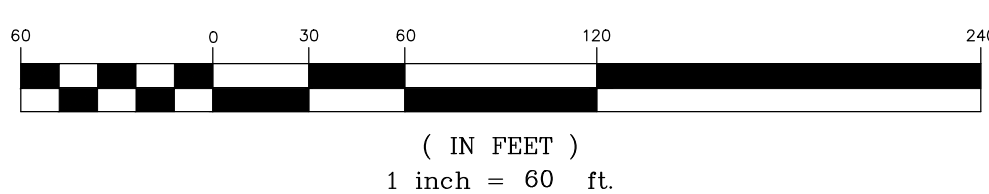
- Water Supply to be provided by City of Denison.
- Sewer service to be provided by City of Denison.
- Electrical service is provided by Oncor Electric and Delivery Co.
- Blocking the flow of water or construction of improvements in drainage easements, and filling or obstruction of the roadway is prohibited.
- Any existing creeks or drainage channels traversing along or across the addition will remain as open channels and will be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the drainage courses along or across said lots.
- The City of Denison will not be responsible for the maintenance and operation of said drainage ways or for the control of erosion.
- The property shown on the plot hereon lies within a Zone "X" (500-year floodplain) Designation, as shown on the Flood Insurance Rate Map for Grayson County, Texas and Incorporated Areas, Map No. 48181C0170, Revised Date: September 29, 2010.
- Neither the City of Denison nor the undersigned surveyor will be responsible for any damage, personal injury, or loss of life or property occasioned by flooding or flooding conditions.
- The owners and builders must comply with all other state and federal regulations regarding developments of this type.
- City of Denison Planning Department Case No. 2023-XXX.
- The current property is currently zoned Commercial.
- Selling off a portion of this addition by a metes and bounds description, without a replat being approved by the City of Denison, is a violation of city ordinance and state law and is subject to fines and withholdings of utilities and building permits.
- Visibility Note. Intersection visibility triangles shall be shown and maintained in accordance with the Subdivision Regulations.
- The 25 ft. building line along the lots within this Replat are to be removed and abandoned by this plat and replace by those building lines shown hereon.

Bearing Base: Grid North, NAD83
Texas State Plane Coordinate System, North Central Zone, as derived by survey-grade Global Positioning System.

Legend:
crl(6578) = 1/2" capped rebar found (RPLS 6578)



GRAPHIC SCALE



**STATE OF TEXAS
COUNTY OF GRAYSON**

We, TX GAK, LLC, the undersigned Owners of the land shown hereon, and legally described herein above, and designated herein as the Century Ridge Addition, Phase 2 to the City of Denison, Texas and whose names are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, water courses, drains, easements and public places thereon shown on the purpose and consideration therein expressed. We further certify that all other parties who have a mortgage or lien interest in the Century Ridge Addition, Phase 2 to the City of Denison, Texas have been notified and signed this plat

We further acknowledge that the dedications and/or exactions made herein are proportional to the impact of the subdivision upon the public services required in order that the development will comport with the present and future growth needs of the City. We, our successors and assigns hereby waive any claim, damage, or cause of action that I may have as a result of the dedication of exactions made herein.

Gabe Howell
Managing Member

Amber Howell
Managing Member

Kent Hughlett
Managing Member

Before me the undersigned, a notary public in and for said County and State, on this day personally appeared Gabe Howell, 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 and in the capacity therein stated.

Given under my hand and seal of office this _____ day of _____, 2023.

Notary Public, Grayson County, Texas

Before me the undersigned, a notary public in and for said County and State, on this day personally appeared Amber Howell, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this _____ day of _____, 2023.

Notary Public, Grayson County, Texas

Before me the undersigned, a notary public in and for said County and State, on this day personally appeared Kent Hughlett, 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 and in the capacity therein stated.

Given under my hand and seal of office this _____ day of _____, 2023.

Notary Public, Grayson County, Texas

Owner:
TX GAK, LLC
723 Cypress Point Drive
Gunter, TX 75058

Job No. CGD330723

Helvey-Wagner Surveying, Inc.
222 W. Main St., Denison, Texas 75020
Phone (903) 463-6191
Email: kate@helveywagnersurveying.net
TBPELS Firm Registration No. 10088100

LEGAL DESCRIPTION

BLOCK B FIELD NOTES:

SITUATED in the City of Denison, County of Grayson, State of Texas, and being a part of the Ramon Rubio Survey, Abstract No. 996 and being a part of Lot 2R, Block A of the Replat of a part of Blocks 1 and 4 and a portion of those abandoned alleys and street lying within said Blocks of North Side Addition to the City of Denison, Texas as per plat of record in Doc. No. 2021-189, Plat Records, Grayson County, Texas and being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at a 1/2 inch rebar found, lying at the intersection of the West right-of-way line of Lamar Avenue, a public street, with the North right-of-way line of Washington Street, a public street, being the Southeast corner of said Lot 2R and the herein described tract;

THENCE North 88 deg. 49 min. 29 sec. West, with the most Southerly line of said Lot 2R and the North line of said Washington Street, a distance of 284.50 ft. to a 1/2 inch capped rebar found (RPLS 6578) at the most Southerly Southeast corner of Lot 1R, Block A, said Replat of a part of Blocks 1 and 4 in Doc. No. 2021-189 and the most Southerly Southwest corner of said Lot 2R and the Southwest corner of the herein described tract;

THENCE North 01 deg. 11 min. 10 sec. East, with an Easterly line of said Lot 1R and a Westerly line of said Lot 2R, a distance of 100.00 ft. to a 1/2 inch capped rebar found (RPLS 6578) at an Ell corner of said Lots 1R and the a Northwest corner of said Lot 2R, being the Northwest corner of the herein described tract;

THENCE South 88 deg. 49 min. 29 sec. West, with a Northerly line of said Lot 2R and a Southerly line of said Lot 1R, **PASSING** a 1/2 inch capped rebar found (RPLS 6578) at 184.49 ft. at the most Westerly Southwest corner of said Lot 1R and the Southwest corner of Lot 1, Block A, Century Ridge Addition, Phase 1 to the City of Denison, Texas as per plat of record in Doc. No. 2021-130, said Plat Records, continuing on now with the South line of said Lot 1, Block A, Century Ridge Addition, Phase 1 for a **TOTAL** distance of 284.50 ft. to a 1/2 inch capped rebar found (RPLS 6578) in the West right-of-way line of said Lamar Avenue, at the Southeast corner of said Lot 1, Block A, Century Ridge Addition, Phase 1 and the Northeast corner of the herein described tract;

THENCE South 01 deg. 11 min. 10 sec. West, with the West right-of-way line of said Lamar Avenue and the East line of said Lot 2R, a distance of 100.00 ft. to the **PLACE OF BEGINNING** and containing **0.653 ACRES** of land.

BLOCK C FIELD NOTES:

SITUATED in the City of Denison, County of Grayson, State of Texas, and being a part of the Ramon Rubio Survey, Abstract No. 996 and being a part of Lot 2R, Block A of the Replat of a part of Blocks 1 and 4 and a portion of those abandoned alleys and street lying within said Blocks of North Side Addition to the City of Denison, Texas as per plat of record in Doc. No. 2021-189, Plat Records, Grayson County, Texas and being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at a 1/2 inch rebar found, lying at the intersection of the West right-of-way line of Lamar Avenue, a public street, with the South line of Anne Street, a public street per Vol. 108, Pg. 161 (not open-improved), being the Northeast corner of both said Lot 2R and the herein described tract;

THENCE South 01 deg. 11 min. 10 sec. West, with the West right-of-way line of said Lamar Avenue and the East line of said Lot 2R, a distance of 292.42 ft. to a 1/2 inch capped rebar found (RPLS 6578) at the Northeast corner of Lot 6, Block A of Country Ridge Addition, Phase 1 to the City of Denison, Texas as per plat of record in Doc. No. 2022-130, said Plat Records, and being the Southeast corner of the herein described tract;

THENCE North 88 deg. 49 min. 29 sec. West, with the North line of said Lot 6, Block A, a distance of 100.01 ft. to a 1/2 inch capped rebar found (RPLS 6578) at the Northwest corner of said Lot 6, Block A, lying in the East line of Lot 1R, Block A, said Replat of part of Blocks 1 and 4 in Doc. No. 2021-189, being the most Southerly Southwest corner of the herein described tract;

THENCE North 01 deg. 11 min. 10 sec. East, with an Easterly line of said Lot 1R and a Westerly line of said Lot 2R, a distance of 102.50 ft. to a 1/2 inch capped rebar found (RPLS 6578) at the most Easterly Northeast corner of said Lot 1R and an Ell corner of both said Lot 2R and the herein described tract;

THENCE North 88 deg. 49 min. 29 sec. West, with a Southerly line of said Lot 2R and a Northerly line of said Lot 1R, a distance of 33.51 ft. to a 1/2 inch capped rebar found (RPLS 6578) at an Ell corner of said Lot 1R and a middle Southwest corner of both said Lot 2R and the herein described tract;

THENCE North 01 deg. 11 min. 10 sec. East, with an Easterly line of said Lot 1R and a Westerly line of said Lot 2R, a distance of 50.00 ft. to a 1/2 inch capped rebar found (RPLS 6578) at the most Northerly Northeast corner of said Lot 1R and an Ell corner of both said Lot 2R and the herein described tract;

THENCE North 88 deg. 49 min. 29 sec. West, with a Northerly line of said Lot 1R and a Southerly line of said Lot 2R, a distance of 104.30 ft. to a 1/2 inch capped rebar found (RPLS 6578), lying in the East right-of-way line of U.S. Highway No. 69, being the Northwest corner of said Lot 1R and the most Westerly Southwest corner of both said Lot 2R and the herein described tract;

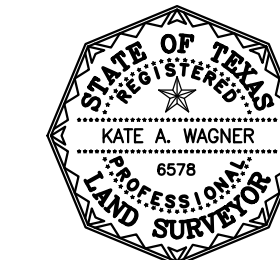
THENCE North 27 deg. 51 min. 56 sec. East, with the East right-of-way line of said U.S. Highway No. 69 and the Westerly line of said Lot 2R, a distance of 156.80 ft. to a 1/2 inch rebar found at the Northwest corner of both said Lot 2R and the herein described tract;

THENCE South 88 deg. 46 min. 00 sec. East, with the South line of said Anne Street and the Northerly line of said Lot 2R, a distance of 167.42 ft. to the **PLACE OF BEGINNING** and containing **1.040 ACRES** of land.

SURVEYOR'S CERTIFICATE

I, Kate A. Wagner, Registered Professional Land Surveyor, do hereby certify that a survey was made on the ground of the property shown hereon under my personal and direct supervision, and that the corner monumentation meets the standards set according to the Subdivision Regulations of the City of Denison, Texas.

Kate A. Wagner, R. P. L. S. No. 6578 Date: _____



CITY ACCEPTANCE

I hereby certify that the above and foregoing plat of Century Ridge Addition, Phase 2 was approved by the Planning and Zoning Commission of the City of Denison this _____ day of _____, 2023.

Planning and Zoning Commission Chair
City of Denison, Texas

**Replat
Lots 1 thru 5, Block B
Lots 1 thru 5, Block C
Century Ridge Addition, Phase 2
(being a Replat of Lot 2R, Block A, of the Replat
of a part of Blocks 1 and 4 and a portion of those
abandoned alleys and street lying within said
Blocks of North Side Addition)
to the
City of Denison
Grayson County, Texas**

1.693 Acres

in the
**Ramon Rubio Survey
Abstract No. 996**

Date of Preparation: August 10, 2023

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY, BY CHANGING THE ZONING CLASSIFICATION ON A CERTAIN TRACT OF LAND LEGALLY DESCRIBED AS THE REMAINDER OF LOT 2R, BLOCK A, OF NORTH SIDE ADDITION TO THE CITY OF DENISON, GRAYSON COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT “A”, FROM ITS ZONING CLASSIFICATION OF COMMERCIAL (C) DISTRICT TO SINGLE FAMILY-5 (SF-5) DISTRICT; PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING THAT THE ZONING MAP SHALL REFLECT THE SINGLE FAMILY-5 (SF-5) DISTRICT FOR THE PROPERTY; PROVIDING A PENALTY; PROVIDING REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Denison, Texas (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City (the “City Council”) adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the “Zoning Ordinance”); and

WHEREAS, Kent Hughlett of TX GAK, LLC (the “Owner”) owns property in the City legally described as the remainder of Lot 2R, Block A, of North Side Addition to the City of Denison, Grayson County, Texas, as more particularly described and depicted in **Exhibit “A,”** which is attached and incorporated as if fully set forth herein (the “Property”), and has made an application under the provisions of the Zoning Ordinance for a zoning change on the Property from the current zoning district classification of Commercial (C) District to Single Family-5 (SF-5) District; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendments to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which the City Council considered the requested

zoning change, the recommendation of the Planning and Zoning Commission, and among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the rezoning approved hereby accomplishes such objectives.

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

SECTION 1. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein, and found to be true.

SECTION 2. Findings. After due deliberation and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety, and welfare.

SECTION 3. Zoning Amendments. Chapter 28 of the Code of Ordinances of the City, the same being the City's Comprehensive Zoning Ordinance, is hereby amended in the following particulars, and all other articles, chapters, sections, paragraphs, sentences, phrases, and words not expressly amended hereby are hereby ratified and affirmed.

The zoning district classification on the Property is hereby changed from Commercial (C) District to Single Family-5 (SF-5) District. The Property shall be subject to all applicable City ordinances and regulations governing a Single Family-5 (SF-5) District.

SECTION 4. Zoning Map. The Zoning Map of the City, adopted by Section 28.3 of the Code of Ordinances, and on file in the office of the Planning Director is hereby amended to reflect the foregoing zoning use changes herein made.

SECTION 5. Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 6. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 7. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a

separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 8. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 9. Open Meeting. That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing Ordinance was passed and approved by the following vote:

Ayes:

Abstentions:

Nays:

At regular meeting July 15, 2024.

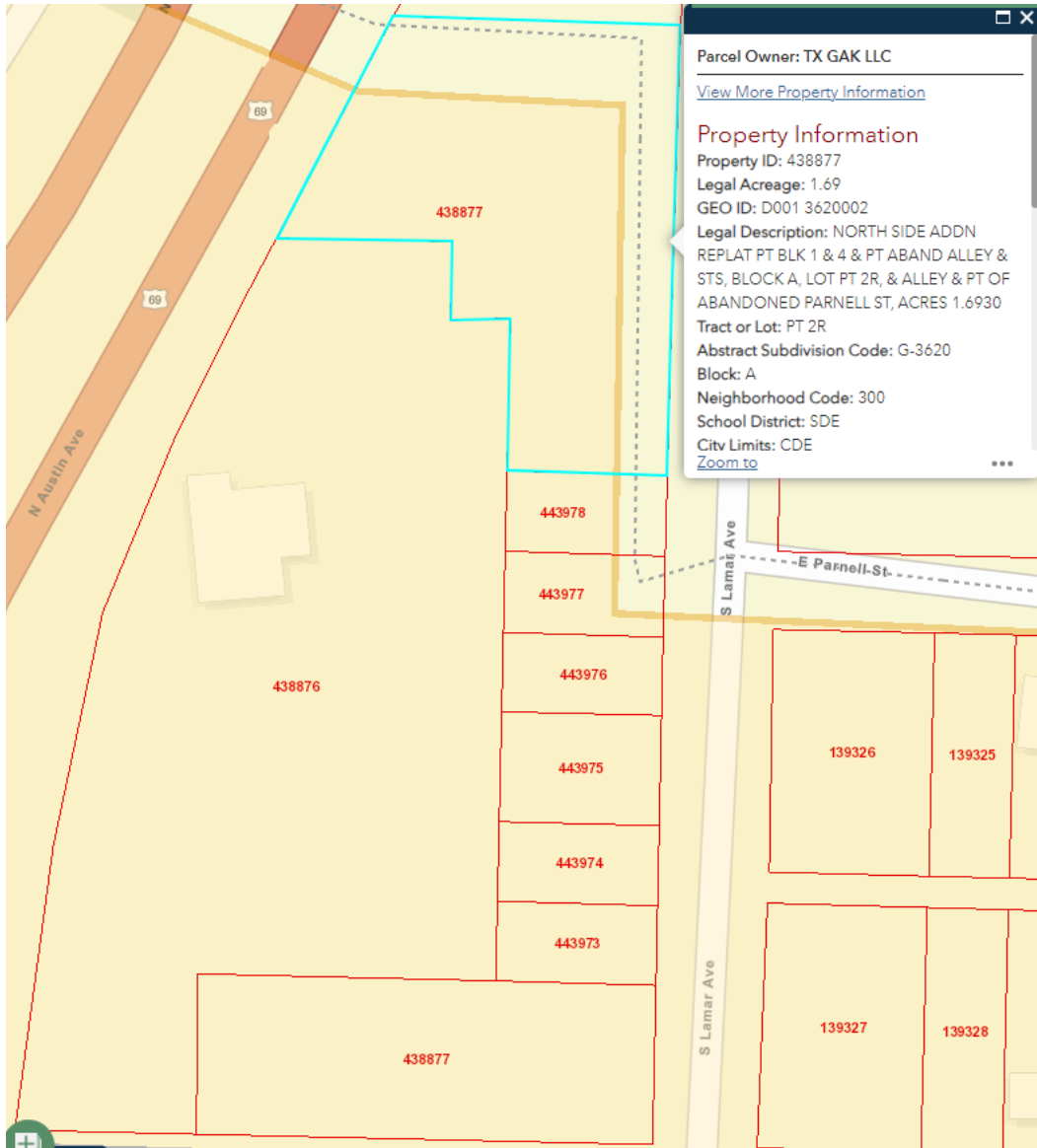
JANET GOTT, MAYOR

ATTEST:

Christine Wallentine, City Clerk

EXHIBIT "A"
LEGAL DESCRIPTION AND DEPICTION

BEING THE REMAINDER OF LOT 2R, BLOCK A, OF THE NORTH SIDE ADDITION TO THE CITY OF DENISON, GRAYSON COUNTY TEXAS, AS PER PLAT OF RECORD IN DOC NO. 2021-189 OF THE GRAYSON COUNTY PROPERTY RECORDS, EXCLUDING LOTS 1-6, BLOCK A OF THE CENTURY RIDGE ADDITION, PHASE 1, PER PLAT OF RECORD IN DOC NO. 2022-130 OF THE GRAYSON COUNTY PROPERTY RECORDS.



Parcel Owner: TX GAK LLC

[View More Property Information](#)

Property Information
Property ID: 438877
Legal Acreage: 1.69
GEO ID: D001 3620002
Legal Description: NORTH SIDE ADDN
REPLAT PT BLK 1 & 4 & PT ABAND ALLEY &
STS, BLOCK A, LOT PT 2R, & ALLEY & PT OF
ABANDONED PARNELL ST, ACRES 1.6930
Tract or Lot: PT 2R
Abstract Subdivision Code: G-3620
Block: A
Neighborhood Code: 300
School District: SDE
City Limits: CDF

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to rezone a tract being approximately .2066 of an acre legally described as Lot 1, Block 1, of the H Tones First, an addition to the City of Denison, Grayson County, Texas, as shown by plat of record in Volume 67, Page 75, Deed Records, Grayson County, Texas; being commonly known as 129 E. Johnson Street, GCAD Property ID No. 142394, from the Commercial (C) District to the Single-Family, (SF-5) Residential District to allow for residential use. (Case No. 2024-056Z).

Staff Contact

Dianne York, Planner
dyork@denisontx.gov
903-465-2720

Summary

- The applicant is requesting a rezone of the subject property from the Commercial (C) District to the SF-5, Single Family Residential District to allow for residential uses.
- Applicant wishes to develop the property in a single-family manner.
- The request complies with the Comprehensive Plan.

Staff Recommendation

Staff recommends approval of this request.

Recommended Motion

"I move to approve changing the zoning of the subject property from the Commercial (C) District to the Single Family (SF-5) Residential District to allow for residential use."

Background Information and Analysis

The applicant is requesting a rezone of the property located at 129 E. Johnson Street from the Commercial (C) District to the SF-5, Single Family Residential District. The applicant wishes to develop the property in a residential manner. The Future Land Use Plan depicts this area as "Neighborhood". Per the Comprehensive Plan, areas depicted as "Neighborhood" should be developed in residential manner. This request complies with the Comprehensive Plan. Additionally, the subject property meets development standard requirements for lot size, width, and depth listed within the SF-5, Single Family Residential zoning ordinance. Approval of this request will allow the applicant to move forward with construction of a single-family dwelling.

According to Ordinance Section 28.10, City staff and the City Council shall consider the following factors when reviewing rezone requests:

1. *Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;*

The proposed use is compatible with the area located to the west and south of the property.

2. *Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;*

N/A

3. *The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;*

Rezoning of this property will not impact the availability of similar land for development.

4. *The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;*

The overall area has been developed in a residential manner.

5. *How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved;*

N/A

6. *Whether the zoning petition is consistent with the current land use plan; and*

The property is depicted on the Future Land Use Plan to be developed in a Neighborhood manner. This request complies with the Future Land Use Plan.

7. *Any other factors that will substantially affect the public health, safety, morals, or general welfare.*

Other factors which may substantially affect general welfare have been addressed above.

Financial Considerations

N/A

Prior Board or Council Action

- The Planning and Zoning Commission recommended approval of the request at their meeting on July 9th, 2024.

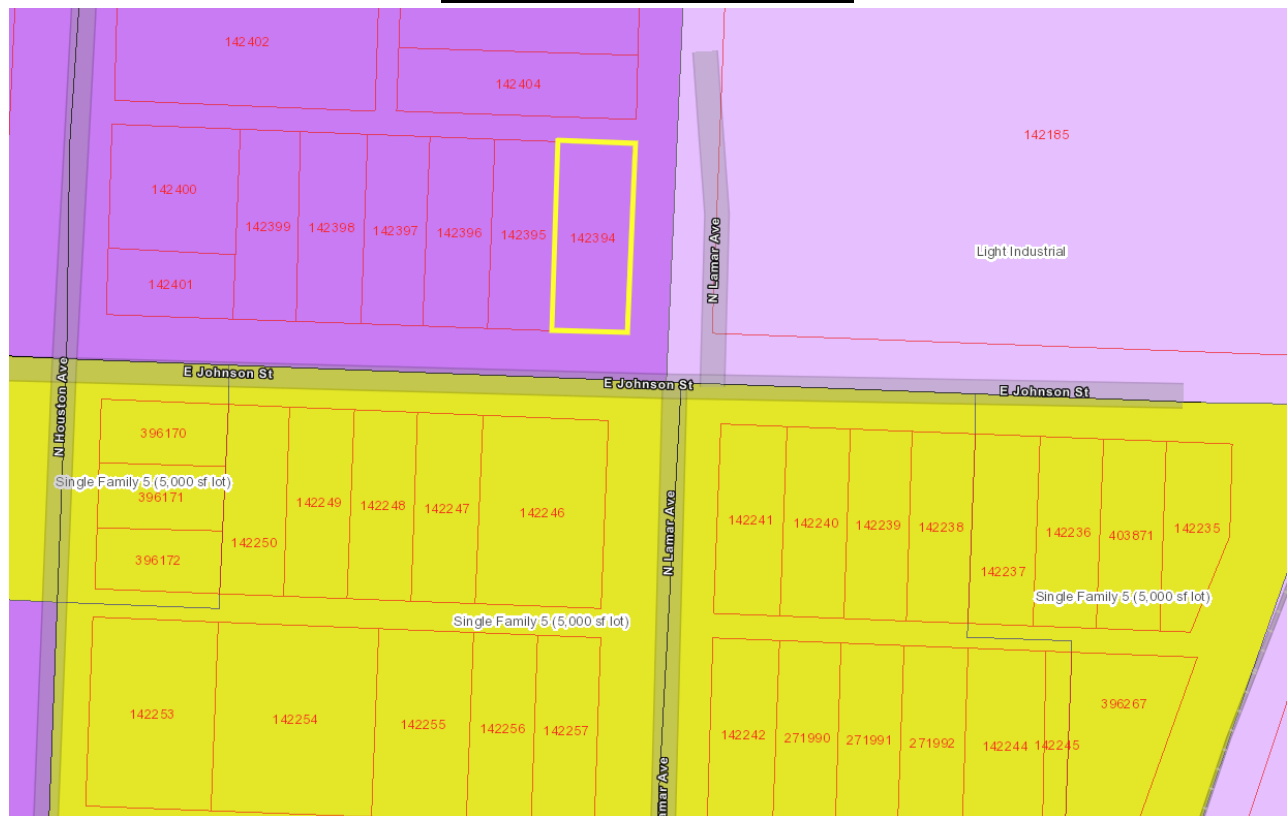
Alternatives

- The City Council may table, deny or approve with conditions.

Aerial of Subject Area



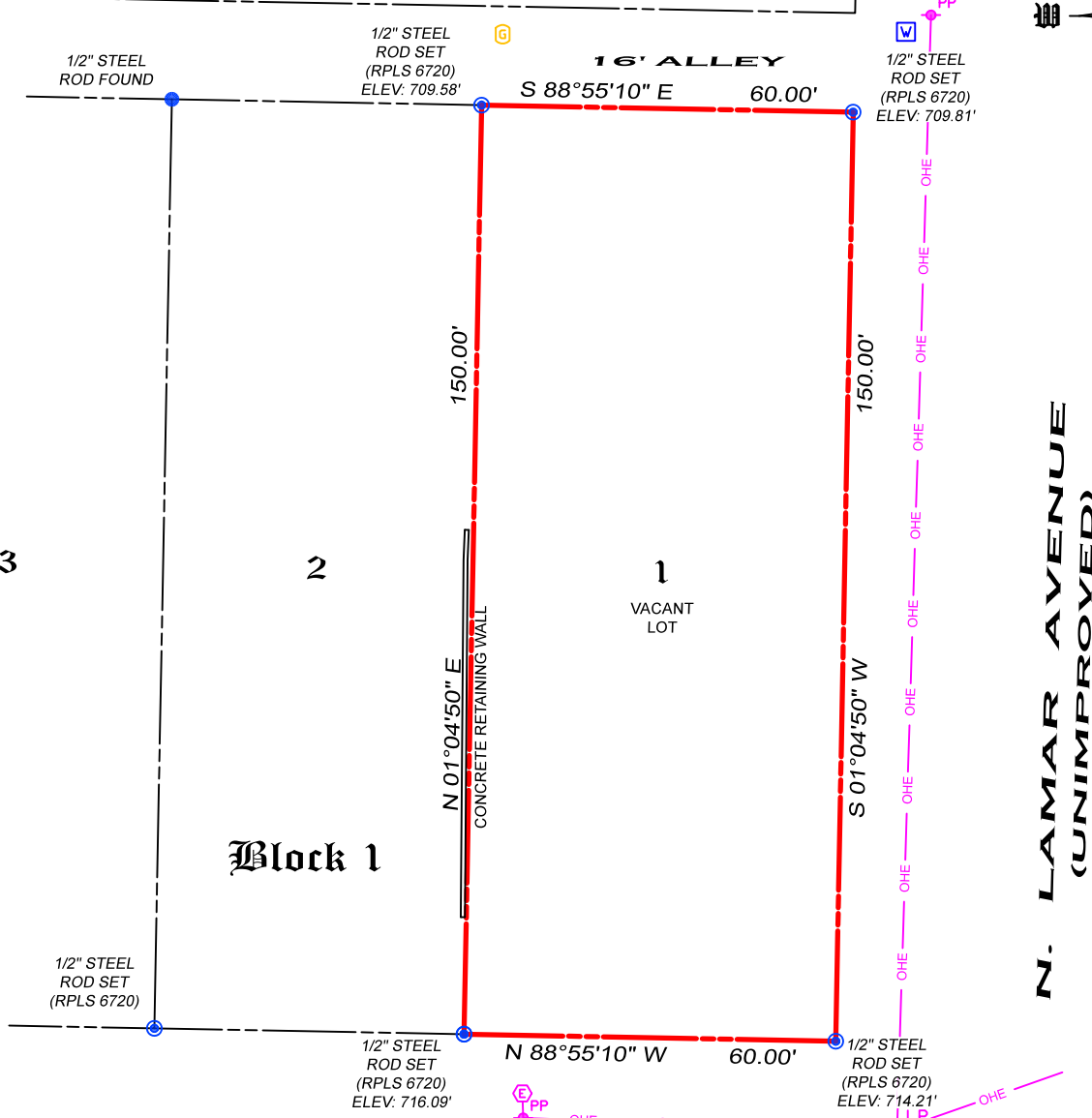
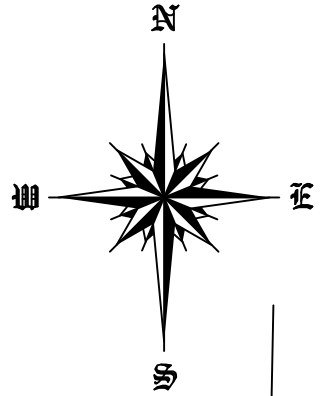
Zoning Aerial of Subject Area



~ PROPERTY ADDRESS ~
129 E. JOHNSON STREET
DENISON, TEXAS

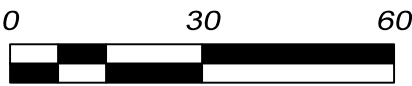


14



Legend

- LIGHT POLE
- ELECTRICAL PEDESTAL
- NATURAL GAS MARKER
- POWER POLE
- WATER METER
- BOUNDARY LINE
- PROPERTY LINE
- OVERHEAD ELECTRIC
- ASPHALT



SCALE ~ 1" = 30'

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All rights reserved.

~ BASIS OF BEARINGS ~
GRID NORTH, NAD 83
TEXAS STATE PLANE COORDINATE SYSTEM
NORTH CENTRAL ZONE (4202)

I, John C. Copley, Registered Professional Land Surveyor do hereby certify that on the 4th day of April, 2024, a survey was made on the ground of the property shown hereon, described as **Lot 1, Block 1, H TONES FIRST ADDITION**, an addition to the City of Denison, Texas, as shown by plat of record in Volume 67, Page 75, Deed Records, Grayson County, Texas and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown on the plat herewith, and that the plat herewith is a true, correct and accurate representation of the property legally described hereinabove.

John C. Copley
 Registered Professional
 Land Surveyor No. 6720
 Firm No. 10194429



Copley Land Surveying
 5904 Texoma Parkway, Sherman, Texas 75090
 TX 903-415-0643
 john@copleylandsurveying.com

CLS Job# 24040147

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY, BY CHANGING THE ZONING CLASSIFICATION ON A CERTAIN 0.2066 ACRE TRACT OF LAND LEGALLY DESCRIBED AS LOT 1, BLOCK 1, H TONES FIRST ADDITION OF DENISON, GRAYSON COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN VOLUME 67, PAGE 75, DEED RECORDS OF GRAYSON COUNTY, TEXAS, COMMONLY REFERRED TO AS 129 E JOHNSON ST, DENISON, TX, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT “A”, FROM ITS ZONING CLASSIFICATION OF COMMERCIAL (C) DISTRICT TO SINGLE FAMILY-5 (SF-5) DISTRICT; PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING THAT THE ZONING MAP SHALL REFLECT THE SINGLE FAMILY-5 (SF-5) DISTRICT FOR THE PROPERTY; PROVIDING A PENALTY; PROVIDING REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Denison, Texas (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City (the “City Council”) adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the “Zoning Ordinance”); and

WHEREAS, K and G Property Group, LLC (the “Owner”) owns property in the City legally described as Lot 1, Block 1, H Tones First Addition of Denison, Grayson County, Texas, according to plat recorded in Volume 67, Page 75, Texas, as described and depicted in **Exhibit “A,”** which is attached and incorporated as if fully set forth herein (the “Property”), and has made an application under the provisions of the Zoning Ordinance for a zoning change on the Property from the current zoning district classification of Commercial (C) District to Single Family-5 (SF-5) District; and

WHEREAS, Owner has designated Luis Moran of Moran Developments, LLC to act in the capacity of Owner as agent for submittal, processing, representation, and/or presentation of the application, and as the principal contact person for responding to all requests for information; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings

and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendments to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which the City Council considered the requested zoning change, the recommendation of the Planning and Zoning Commission, and among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the rezoning approved hereby accomplishes such objectives.

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

SECTION 1. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein, and found to be true.

SECTION 2. Findings. After due deliberation and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety, and welfare.

SECTION 3. Zoning Amendments. Chapter 28 of the Code of Ordinances of the City, the same being the City's Comprehensive Zoning Ordinance, is hereby amended in the following particulars, and all other articles, chapters, sections, paragraphs, sentences, phrases, and words not expressly amended hereby are hereby ratified and affirmed.

The zoning district classification on the Property is hereby changed from Commercial (C) District to Single Family-5 (SF-5) District. The Property shall be subject to all applicable City ordinances and regulations governing a Single Family-5 (SF-5) District.

SECTION 4. Zoning Map. The Zoning Map of the City, adopted by Section 28.3 of the Code of Ordinances, and on file in the office of the Planning Director, is hereby amended to reflect the foregoing zoning use changes herein made.

SECTION 5. Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 6. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a

prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 7. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 8. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 9. Open Meeting. That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing Ordinance was passed and approved by the following vote:

Ayes:

Abstentions:

Nays:

At regular meeting July 15, 2024.

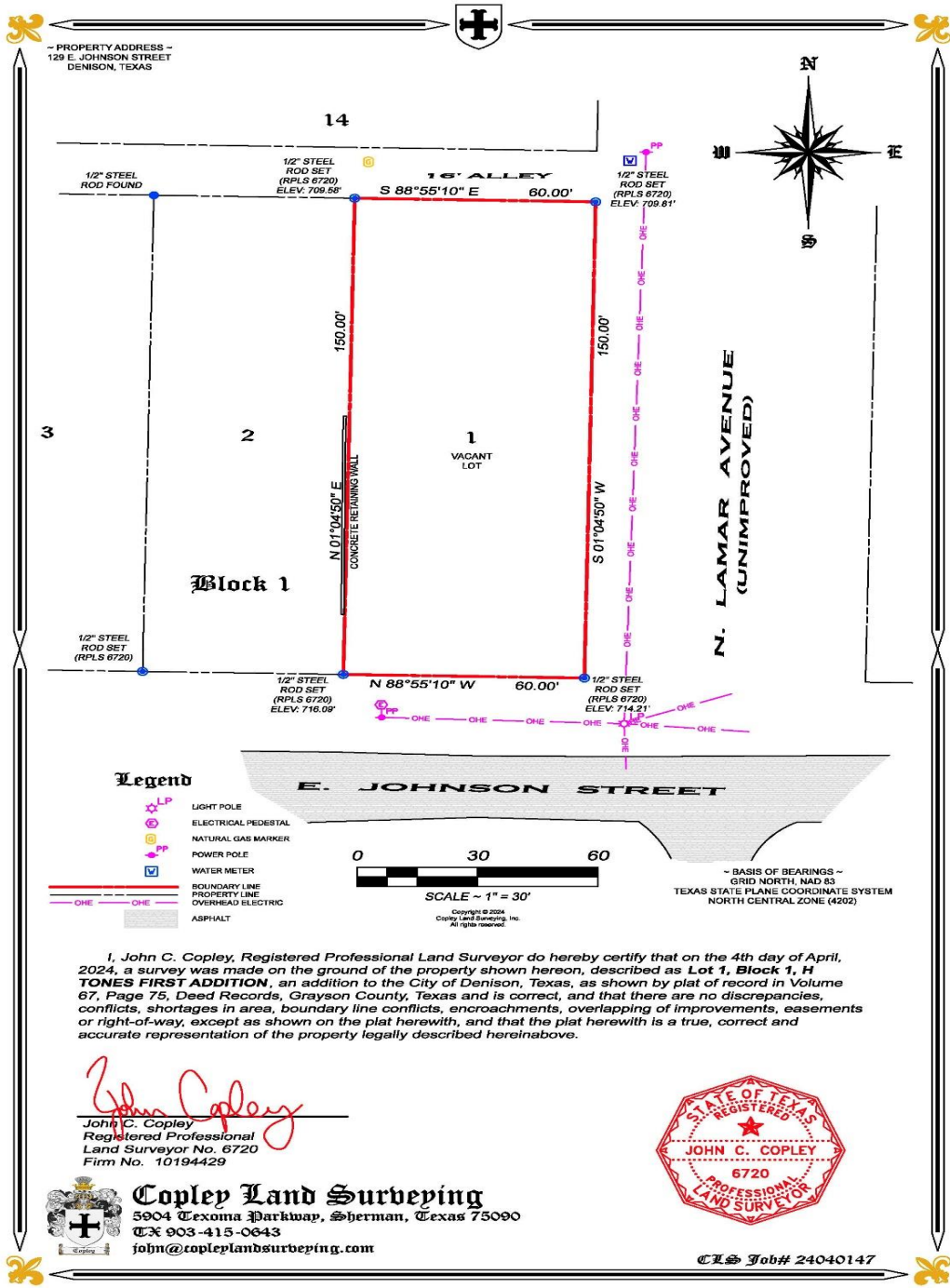
JANET GOTT, MAYOR

ATTEST:

Christine Wallentine, City Clerk

EXHIBIT "A"
LEGAL DESCRIPTION AND DEPICTION

LOT 1, BLOCK 1, H TONES FIRST ADDITION, AN ADDITION TO THE CITY OF DENISON, GRAYSON COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN VOLUME 67, PAGE 75, DEED RECORDS OF GRAYSON COUNTY, TEXAS, AND COMMONLY REFERRED TO AS 129 E JOHNSON ST, DENISON, TX.



City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to amend Section 28.46.- HO – Highway Oriented and Corridor District. (Case No. 2024-060ZO)

Staff Contact

Dianne York, Planner
dyork@denisontx.gov
903-465-2720

Summary

- The City is requesting to amend the “Authorized Uses” listed under Section 28.46.2. of the Highway Oriented and Corridor District in order to remove language pertaining to the Use Regulation Chart that is no longer applicable and to allow for the use of Warehouse (mini)/self-storage with an approved Conditional Use Permit (CUP) within the Overlay District.

Staff Recommendation

Staff recommends approval of this request.

Recommended Motion

"I move to approve the proposed amendment."

Background Information and Analysis

This item is a City initiated request to amend Section 28.46. of the Zoning Ordinance. The proposed amendment would amend the “Authorized Uses” section listed under Section 28.46.2. of the Highway Oriented and Corridor District by removing language pertaining to the Use Regulation Chart that is no longer applicable and to allow for the use of Warehouse (mini)/self-storage with an approved Conditional Use Permit (CUP) within the Overlay District.

These amendments will provide congruency with the Use Regulation Chart as well as prevent nonconformities for existing uses located within the Highway Oriented and Corridor Overlay District

Financial Considerations

N/A

Prior Board or Council Action

- The Planning and Zoning Commission recommended approval of the request at their meeting held on July 9th, 2024.

Alternatives

- The City Council may table, deny or approve with conditions.

ORDINANCE NO. 2024-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF DENISON, BEING THE COMPREHENSIVE ZONING ORDINANCE, AMENDING ARTICLE III ZONING DISTRICTS, SECTION 28.46. HO – HIGHWAY ORIENTED AND CORRIDOR DISTRICT, 28.46.2. AUTHORIZED USES, SUBSECTION (B) PROHIBITED USES AND CREATING SUBSECTION (C) ALLOWED USES WITH AN APPROVED CONDITIONAL USE PERMIT (CUP) PROVIDING A PENALTY; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Denison (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City of Denison, Texas (the “City Council”) adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which sets forth various regulations for promoting the public health, safety, morals and general welfare, and protecting and preserving places and areas of historical, cultural and/or architectural importance and significance within the city and are made with reasonable consideration, among other things, for the character of each zoning district and its peculiar suitability for the particular uses specified; and

WHEREAS, having considered the proposed amendments to the Comprehensive Zoning Ordinance and the appropriateness of the amendments; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendments to the Comprehensive Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before City Council at which the City Council considered the recommendation of the Planning and Zoning Commission, and among other things, the necessity for orderly and appropriate regulations of the use of land and the erection of structures thereon, and the City Council does hereby find that the amendments to the Comprehensive Zoning Ordinance approved hereby accomplishes such objectives.

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

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. FINDINGS. After due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City of Denison, Texas, and of the public health, safety and welfare.

SECTION 3. Amendment to Section 28.46. Subsection 28.46.2. "Authorized uses" of the Code of Ordinances of the City of Denison, Texas, the same being the City's Comprehensive Zoning Ordinance, is hereby amended to read,

- "B. The following uses shall be prohibited in the HO Overlay District:*
- 1. Any use listed under manufacturing and industrial in section 28.46., use charts-19. Warehouse (mini)/self storage*
- C. The following uses shall be allowed with an approved Conditional Use Permit (CUP):*
- 1. Warehouse (mini)/self-storage."*

SECTION 5. SAVINGS/REPEALING CLAUSE. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 6. SEVERABILITY. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 7. PENALTY. Any person, firm, corporation or entity violating this Ordinance or any provision of Denison's Comprehensive Zoning Ordinance, Chapter 28 of the Denison Code of Ordinances, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing days' violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Denison from filing suit to enjoin the violation. Denison retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 8. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall

become effective immediately upon its adoption and its publication as required by law.

SECTION 9. OPEN MEETING. That it is hereby found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Council Member _____, seconded by Council Member _____, the above and foregoing ordinance was passed and approved on this the 15th day of July 2024, by the following vote:

Ayes:
Abstentions:
Nays:

At regular meeting July 15, 2024.

ROBERT CRAWLEY, MAYOR

ATTEST:

Christine Wallentine, City Clerk

Sec. 28.46. HO—Highway Oriented and Corridor District.

28.46.1. General purpose and description:

The intent of the HO District is to exercise greater control over the aesthetic, functional, and safety characteristics of development along U.S. Highway 75, Spur 503, F.M. 120 and F.M. 691 where higher standards can effectively enhance the city's image as a desirable place to live, work, and shop. This emphasis on how uses are designed and developed is the focus of the standards in this district.

28.46.2. Authorized uses:

- A. Those uses listed for the underlying zoning district in section 28.49 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses (i.e., CUP), respectively. Conditional uses must be approved utilizing procedures set forth in section 28.11 except for the uses as follows, which shall be expressly prohibited within the HO District:
- B. The following uses shall be prohibited in the HO Overlay District:
- ~~1. Any use listed under manufacturing and industrial in section 28.49, use charts.~~
 1. Auto dealer-used primary use.
 2. Auto wrecker service.
 3. Kennels.
 4. Landscaping business except if not part of a home improvement center.
 5. Livestock sales.
 6. Machine shop.
 7. Maintenance and repair service for buildings.
 8. Manufactured home display, storage or sales.
 9. Motor freight company.
 10. Motorcycle dealer (used).
 11. Personal watercraft sales (used).
 12. Portable building sales (outdoor display).
 13. Sand, gravel, caliche, stone sales or storage.
 14. Sign manufacturing.
 15. Stables of any kind.
 16. Tire re-treading and capping.
 17. Trailer rental or RV sales.
 - ~~19. Warehouse (mini)/self-storage.~~
 18. Warehouse, storage.
 19. Welding shop.
 20. Window and door frame manufacturing.

-
21. Wrecking or salvage yard.
 22. Used merchandise sales.
 23. Used vehicle sales (including motorcycles) as a primary use.

C. The following uses shall be allowed with an approved Conditional Use Permit (CUP):

1. Warehouse (mini)/self-storage.

28.46.3. District boundaries:

The HO District applies to the future development, improvement or redevelopment of all land within the depth of a lot to a maximum of one thousand (1,000) feet or to the entirety of any lot that has frontage on either side of the highway right-of-way along U.S. Highway 75, Spur 503, F.M. 120 and F.M. 691, whichever is greater. Boundaries for the HO District are as follows: U.S. Hwy. 75 from the city limits at F.M. 691 on the south, north to the city limits at the Red River; Spur 503 with its intersection of U.S. Hwy. 75 on the west, east to the railroad overpass at its intersection with Texoma Parkway (S.H. 91) and Eisenhower Parkway; F.M. 120 at its intersection with F.M. 1417 on the west, east to the intersection of F.M. 120 (Morton St) and York Ave.; F.M. 691 at its intersection with F.M. 1417 on the west, east to its intersection with Texoma Parkway (S.H. 91).

28.46.4. Application:

- A. The HO District standards apply to the following:
 1. Development of any land;
 2. An increase in any existing structure that is equal to or greater than thirty (30) percent of the existing square footage; or
 3. Any new construction on a lot that provides for an increase that is equal to or greater than thirty (30) percent of the lot or tract that is covered by a permanent structure(s).
- B. Unless otherwise specified by this section, the standards of the base district shall apply. Where there is a conflict between the standards of this subsection and those of the base District, the standards of this subsection shall apply.
- C. A site plan shall be required for all development in the HO District. In addition to the site plan requirements set forth in section 28.13, a complete set of architectural elevations shall be submitted for review.

28.46.5. Special area and design standards:

- A. *Size of yards:*
 1. *Minimum front yard*—Thirty (30) feet from ultimate right-of-way line of U.S. Highway 75, Spur 503, F.M. 120 or F.M. 691 all yards adjacent to a street shall be considered a front yard (see article V for additional setback requirements).
 2. *Side yards*—Forty (40) feet from any residential single-family dwelling.
- B. *Minimum design criteria:*
 1. *Orientation and scale of primary structure(s).*
 - a. The design, color, materials and basic proportions of structures shall be harmonious with and complement the character and design of existing buildings, if appropriate.
 - b. Primary entrances:

-
1. Primary entrances should be emphasized by a dominant, recognizable feature through projecting or recessed forms, details, color, or material.
 2. Buildings shall incorporate lighting and changes in mass, surface or finish to give emphasis to primary entrances.
 3. Loading docks or loading areas are not permitted to be visible from the street and may not be accessed directly from the street.
 4. These requirements may be waived if the building is not accessed by pedestrians, such as warehouses, industrial buildings without attached offices.
2. *Building materials for primary structures.*
 - a. These standards do not apply to those uses where the building or structure is fully screened from Highway 75, Spur 503, F.M. 120, F.M. 691 or any other roadway(s) designated on the Denison Thoroughfare Plan, as amended, by another building or structure.
 - b. Shall consist of one hundred (100) percent exterior cladding to include brick, split face concrete block or panels, glass, stone, cast stone, glass block, tile, cementitious composite fiberboard, EFIS, or stucco, or a combination of those materials for each side of a primary structure that is visible from a public street or an adjacent residentially zoned property. Said exterior cladding shall be exclusive of doors, windows, glass, and entryway treatments and atriums of glass and metal construction.
 - c. Metal siding shall be prohibited.
 3. *Color*—Establish a palette of options for exterior building colors for use throughout the project (or component in large scale mixed-use developments). The range should be wide enough to allow for variety, yet narrow enough to unify all buildings. The use of light tints and bright accents should be encouraged in lieu of earthtones.
 4. *Architectural design.*
 - a. All facades of an individual building, multiple buildings in a shopping center, or integrated business development, and all roofing in a shopping center or integrated business development shall have similar architectural design.
 - b. Review of the architectural design of a proposed development shall include, but not be limited to:
 1. Consistency of scale and proportion with any immediately adjacent buildings or structures;
 2. Design in relation to surrounding buildings;
 3. Design in relation to topography of the site;
 4. Design in relation to proposed landscaping; and
 5. Aesthetics of the proposed building, including color.
 5. *The design of a development shall meet the following standards:*
 - a. *Roofs:*
 1. Flat roofs shall be screened on all sides by parapet or mansard walls.
 2. Pitched or gabled roofs shall contain a minimum 7:12 pitch (seven (7) feet of rise for every twelve (12) feet of run).

-
3. Installed roofing shingles must consist of dimensional shingles with a minimum manufacturers rating of twenty (20) years. Roofing systems or materials exceeding the standards established herein may be used pursuant to approval by the building official or designee.
- b. *Glare and illumination.* Site lighting is to provide safety and security and enhance the architectural and natural features of this site. Glare and illumination standards shall ensure that the mechanisms providing light do not negatively impact on the appearance of the site and ensure that light is contained to the extent that adjacent uses are not detrimentally affected (See section 28.57).
 - c. *Landscaping.* Landscaping standards are used to promote a flexible framework of planting and green areas that enhance and safeguard property values while aiding in erosion control, noise abatement, glare and reflection control, buffering between land uses of different character and atmospheric purification (see section 28.51).
 - d. *Screening.* Required screening shall accomplish visual screening of the site, noise attenuation, and barrier to vehicular traffic between nonresidential and residential uses, and serve as a psychological separation between uses which encourages the peace and repose of residents. Toward this goal, landscaping shall be used to break up the view and to aesthetically enhance screening devices (see section 28.53).
- C. *Landscaping.*
1. Along the US 75 frontage road, a minimum thirty-foot wide landscape strip is required, which is measured from the property line and exclusive of rights-of-way. This landscape strip may be reduced to fifteen (15) feet in width if the combined width of the unpaved right-of-way and the landscaped edge is at least forty (40) feet.
 - a. Within the landscape strip, one (1) tree with a minimum caliper of three (3) inches and one (1) ornamental tree with a minimum caliper of two (2) inches shall be planted at thirty (30) feet on-center in an alternating pattern. Trees may be planted in clusters not to exceed eight (80) feet between clusters.
 - b. Where parking spaces are located adjacent to the landscape strip, evergreen shrubs, a minimum size of five (5) gallons and selected from the list of approved shrub materials in appendix C, shall be planted to provide a solid three-foot tall opaque screen within two (2) years of planting.
 2. Along intersecting streets that are designated as minor arterials or larger on the thoroughfare plan, a minimum fifteen-foot wide landscape strip is required within the boundaries of the HO district as described in section 28.46.3.
 - a. Within the landscape strip, one (1) shade tree a minimum caliper of three (3) inches shall be planted at thirty (30) feet on-center. Trees may be planted in clusters not to exceed eighty (80) feet between clusters.
 - b. Where parking spaces are located adjacent to the landscape strip, evergreen shrubs, a minimum size of five (5) gallons and chosen from the list of approved shrub materials in appendix C must be planted to provide a solid two (2) foot tall opaque screen within two (2) years of planting.

28.46.6. Special requirements:

- A. *Screening walls and fences:* All screening walls and fences, including residential subdivision fences, shall be set back a minimum of fifty (50) feet from a property line immediately adjacent to the right-of-way for any highway, arterial or collector as designated on the City of Denison Thoroughfare Plan, as amended.
- B. *Open storage areas:* All open storage areas, where permitted by the underlying zoning district, shall be set back a minimum of seventy-five (75) feet from the right-of-way for any highway, arterial or collector as designated on the City of Denison Thoroughfare Plan, as amended.
- C. *Floodways/Creeks/Drainageways:* No buildings, parking areas, or other impervious structures (except as noted herein) are permitted within the recognized floodway, as identified by the city engineer, or within fifty (50) feet of the high bank, whichever is greater, of a creek or other drainage way. Permitted exceptions include drainage-related structures and pavement, paved pedestrian or bike trails, picnic tables, and paved surfaces beneath picnic tables.
- D. *Cross access required:* Each lot must provide a "cross access and fire lane" easement that provides for access to immediately adjacent tracts. Said easement shall meet the following minimum criteria:
 - 1. Newly-dedicated easements shall align appropriately with previously dedicated or existing "cross access and fire lane" easements. Where no existing easement controls, the newly-dedicated easement may be located appropriately to the plans for development of the site.
 - 2. "Cross access and fire lane" easements shall contain a minimum width of twenty-four (24) feet or other such minimum width as required by the city.
 - 3. "Cross access and fire lane" easements shall contain minimum inside turning radii of twenty-five (25) feet.
- E. *Utilities: Definitions.*
 - 1. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them:
 - a. *Feeder line*—Any line, wire or cable which distributes, transmits or delivers a utility service to a general area and not to a specific end user.
 - b. *Lateral line*—Any line, wire or cable used to distribute, transmit or deliver a utility service from a feeder line to two (2) or more sites or end users of the utility service.
 - c. *Service line*—Any line, wire or cable used to distribute, transmit or deliver a utility service from a feeder or lateral line to an end user.
 - d. *Transmission line*—Any line, wire or cable which distributes, transmits or delivers a utility service from a substation or generating plant to a feeder system.
 - 2. Placement requirements.
 - a. Except as herein provided, all utilities within the HO District, which are within three hundred (300) feet of U. S. Highway, Spur 503, F.M. 120 or F. M. 691 the highway right-of-way, shall be placed underground.
 - b. Transmission lines may be placed overhead no matter where they are located within the corridor.
 - c. Location of feeder lines may be overhead, subject to the approval of such location by the planning and zoning commission. Feeder lines which cross the highway may be placed overhead, provided that they cross at plus or minus ten (10) degrees perpendicular to the centerline of the highway and that crossings are made at locations shown on an approved site plan.

-
- d. The planning and zoning commission may, through the standard review process, approve overhead placement of lateral lines, if it can be demonstrated that placement underground would be an undue financial hardship and that measures will be taken to minimize the visual impact of overhead utilities. Such measures shall include:
 - 1. Construction alternatives.
 - 2. Coordination and sharing of facilities and easements among all utilities with overhead lines.
 - 3. Placement of overhead lines behind structures in alleys and easements rather than in the highway right-of-way.
 - 4. Auxiliary equipment for underground utility service, such as transformers, connection enclosures, switching devices and amplifiers, may be pads-mounted on grade or placed underground.
 - 3. Additional requirements.
 - a. All electrical distribution service lines shall be placed underground.
 - b. All utility companies and city departments which provide utility service within the planned parkway development area shall share facilities and easements where possible to minimize the visual impact of overhead utilities.
 - c. Any utility lines in place prior to the effective date of the ordinance from which this section was derived that are contrary to same are nonresidential conforming. However, relocation or substantial improvement of existing utility lines shall occur in accordance with the standards set forth herein. Substantial improvement shall mean any improvement which results in an increase in the capacity of existing lines, such as the addition of lines or upgrading the size of lines.
 - d. The owner/developer is responsible for all costs involved in the location of utilities underground.
 - e. The utility companies shall coordinate with the planning director on all site plans submitted.
 - F. *[Site plan:]* A site plan prepared in accordance with section 28.15 must be submitted for approval by the planning and zoning commission.
 - 1. The planning and zoning commission shall review the specific elements of site and building plans for development within the HO development area for compliance with these standards and shall make a determination of approval or disapproval of the site plan as submitted.
 - 2. The planning and zoning commission shall review all exceptions and requests for variations to the development standards to determine compliance with the intent of the standards or to determine the necessity and appropriateness of the requested exception or variation.
 - 3. If the planning and zoning commission denies any site plan, the same application may not be filed for a period of six (6) months from the date of such denial.
 - 4. Any applicant aggrieved by a decision of the planning and zoning commission may appeal the commission's action to the city council by filing a request for appeal with the city secretary within ten (10) days of the commission's decision. Such appeal shall be heard within thirty (30) calendar days.

(Ord. No. 5167, § 5, 10-4-21; Ord. No. 5314, § 3, 9-18-23)

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance for a Conditional Use Permit (CUP), for property zoned Local Retail (LR) and within the Austin Avenue Overlay (AO) District, to allow for the use of Bar, for SLUSH Premium Daiquiris located on property consisting of ±.1481 acres, Lot 1, Block 38, out of the OTP Denison Survey, 150 X 43 (C), 6,450 SQ FT., GCAD Property ID No. 143046, commonly known as 221 North Austin Avenue. (Case No. 2024-062CUP)

Staff Contact

Dianne York, Planner
dyork@denisontx.gov
903-465-2720

Summary

- Staff is bringing a previously approved Conditional Use Permit (CUP), allowing for the use of a Bar for SLUSH Premium Daiquiris, before the City Council for approval. The previously approved CUP required the applicant to obtain a Certificate of Occupancy (CO) within one hundred and eighty (180) days of Conditional Use Permit approval.
- The Planning and Zoning Commission recommend approval of the proposed CUP at their meeting held on June 28th, 2022, and the City Council approved the proposed CUP at their meeting held on July 11th, 2022.
- The Texas Alcoholic Beverage Code (TABC) allows certain alcoholic beverages, including frozen daiquiris made with wine instead of liquor, to be sold for both on- and off-premises consumption if all permit requirements are met.
- Under the city's zoning regulations, this use is classified as a bar and requires a Conditional Use Permit in the Local Retail zoning district.

Staff Recommendation:

Staff recommends approval of this Conditional Use Permit request.

Recommended Motion

"I move to approve the Conditional Use Permit for a Bar for SLUSH Premium Daiquiris located at 221 North Austin Avenue."

Background Information and Analysis

Staff is bringing this request for a Conditional Use Permit (CUP) to operate a frozen drink shop serving alcoholic and non-alcoholic beverages on property located at 221 N. Austin Avenue before the City Council again for approval. The original CUP received a recommendation for approval by the Planning and Zoning Commission at their meeting held on June 28th, 2022, and subsequently received final approval from City Council at their meeting held on July 11th, 2022. The previous CUP detailed a requirement for the applicant to obtain a Certificate of Occupancy (CO) within one hundred and eighty (180) days of the CUP being approved. Staff is asking that the City Council review the case once more

and approve the request in order for the CUP to move toward being active again. The applicant has proposed different hours of operations from the originally approved Conditional Use Permit (CUP). Those hours of operation include Wednesday-Thursday, 12:00 p.m.-9:00 p.m., Friday-Saturday, 12:00 p.m.-10:00 p.m., and Sunday, 12:00 p.m.-5:00 p.m. SLUSH Premium Daiquiris will be closed Monday-Tuesday. No other changes have been made to the original application. All information from the previous case can be reviewed below.

Applicant is requesting a Conditional Use Permit for a Bar on property located at 221 N. Austin Avenue. The property is zoned Local Retail and is within the Austin Avenue Overlay District.

The applicant intends to sell alcoholic and non-alcoholic frozen drinks for both on-and off-premises consumption. Seating for customers will be provided at the business, which will also have a drive-thru lane. The business will be located in a former gasoline service station.

The Texas Alcoholic Beverage Code offers a permit that allows certain alcoholic beverages to be sold for both on- and off-premises consumption. Daquiris may be sold if they are made with wine or beer instead of liquor. Containers must be sealed before sale for off-premises consumption.

Under Denison's zoning ordinance definitions, this business is defined as a bar, necessitating the approval of a Conditional Use Permit.

According to Ordinance Section 28.10, City staff and the City Council shall consider the following factors when reviewing rezone requests:

1. *Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;*

Yes, the proposed use is compatible with other commercial, restaurant and entertainment uses in the downtown Denison area.

2. *Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;*

There are no proposed plans to improve existing street, water supply, sanitary sewer systems, or other utilities.

3. *The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;*

The area around has mostly been developed.

4. *The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;*

N/A

5. *How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved;*

N/A

6. *Whether the zoning petition is consistent with the current land use plan; and*

Yes, this zoning petition is consistent with the Comprehensive Plan.

7. *Any other factors that will substantially affect the public health, safety, morals, or general welfare.*

Other factors which may substantially affect general welfare have been addressed above.

Financial Considerations

N/A

Prior Board or Council Action

- The Planning and Zoning Commission recommended approval of the inactive Conditional Use Permit (CUP) at their meeting held on June 28th, 2022.
- The City Council approved the inactive Conditional Use Permit (CUP) at their meeting held on July 11th, 2022.
- The Planning and Zoning Commission recommend approval of this request at their meeting held on July 9th, 2024.

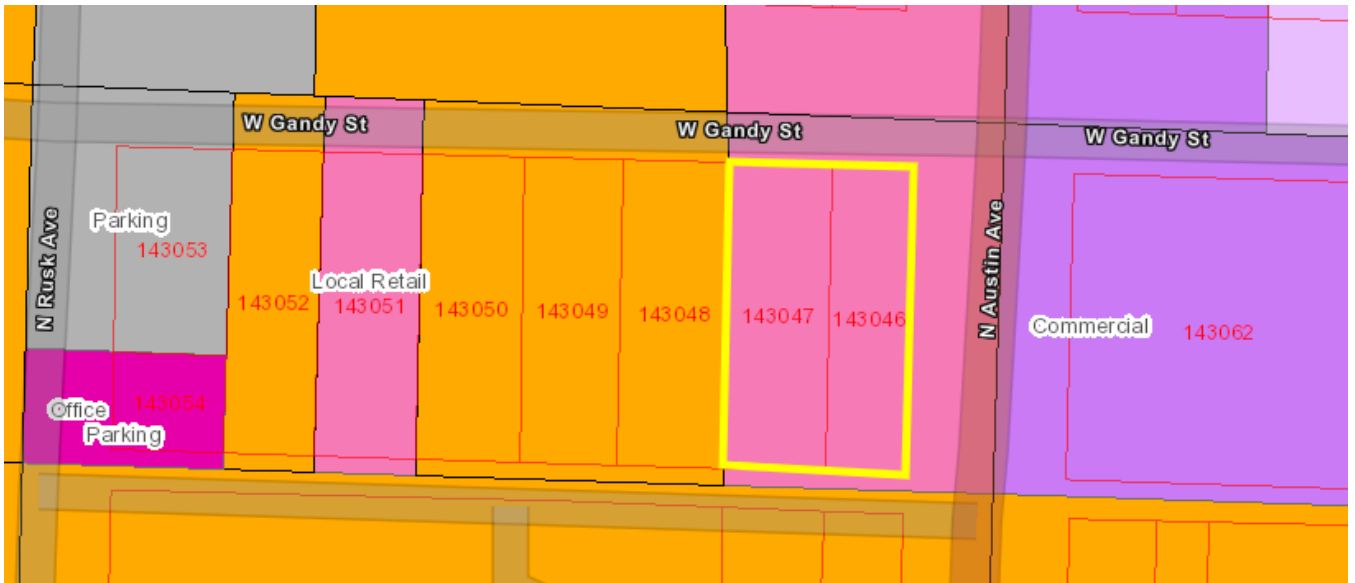
Alternatives

- The City Council may table, deny, or approve with conditions.

Aerial of Subject Property



Zoning of Subject Property





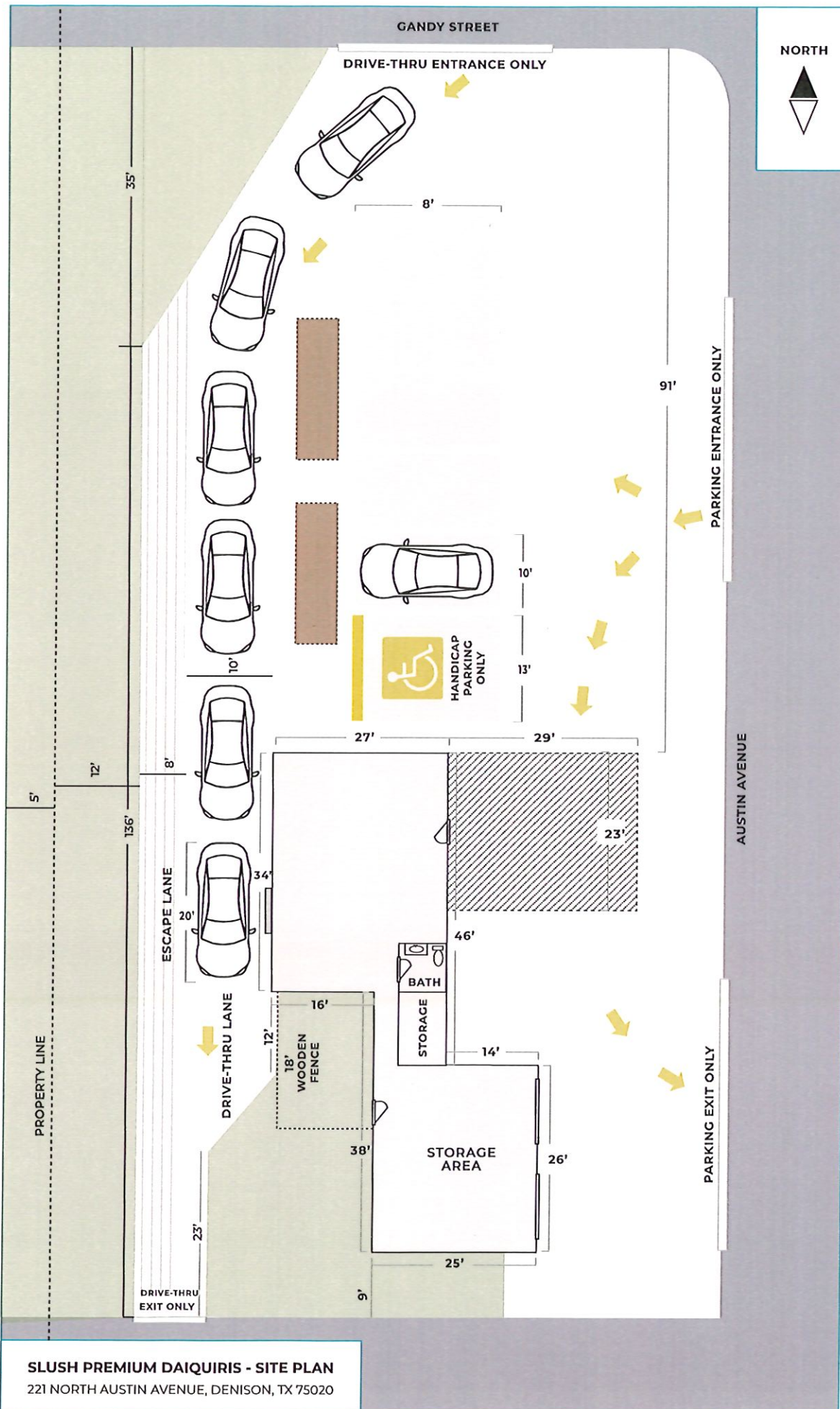
Project Narrative

221 N. Austin Ave

- SLUSH Premium Daiquiris will be a frozen drink shop, serving alcoholic, non-alcoholic and THC beverages. We will sell for on-premise and off-premise consumption, with limited seating inside (16 seats). There will be an area in the parking lot with some tables and chairs, however, this space will not be part of our TABC permitted area and will not be “serviced” by us.
- Our TABC license allows for on-premise consumption and “to go” sales.
- In reviewing the comprehensive plan, our concept will fit in as a family-friendly, fun concept that will encourage additional traffic to our area. Also, we will sell a line of brand specific merchandise, in store and on-line, including t-shirts, coozies, hats, tumblers, etc
- Our proposed hours of operation are as follows....

Sunday	12-5
Monday – Tuesday	closed
Wednesday - Thursday	12-9
Friday – Saturday	12-10

We will make adjustments if needed
- We propose to make use of a drive-thru lane which will funnel traffic to the back side of the building. This lane will be entered off of Gandy, to avoid any backup onto Austin Ave.
- Visually, the exterior of the building will adhere to the criteria set up by the historical board while showcasing a fun, unique concept.



SLUSH PREMIUM DAIQUIRIS - SITE PLAN
 221 NORTH AUSTIN AVENUE, DENISON, TX 75020

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF DENISON, TEXAS; PROVIDING FOR A CONDITIONAL USE PERMIT FOR A BAR IN THE LOCAL RETAIL DISTRICT WITHIN THE COMMERCIAL HISTORIC OVERLAY AND AUSTIN AVENUE OVERLAY ON THE PROPERTY DESCRIBED IN EXHIBIT A, BEING APPROXIMATELY 0.4683 ACRES, AND BEING LEGALLY DESCRIBED AS LOT 1 AND LOT 2, BLOCK 38, ORIGINAL TOWN PLAT, DENISON, GRAYSON COUNTY, TEXAS, AND COMMONLY KNOWN AS 221 N AUSTIN AVENUE, CITY OF DENISON, GRAYSON COUNTY, TEXAS; PROVIDING A PENALTY CLAUSE; PROVIDING REPEALER, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Denison, Texas (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City (the “City Council”) adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the “Zoning Ordinance”); and

WHEREAS, Chapman, Inc. (“Owner”) owns Lot 1 and Lot 2, Block 38, Original Town Plat, Denison, Grayson County, Texas, and commonly known as 221 N. Austin Avenue, City of Denison, Grayson County, Texas, as described and depicted in **Exhibit “A”**, which is attached and incorporated as if fully set forth herein (the “Property”), and has made an application under the provisions of the Zoning Ordinance requesting a Conditional Use Permit for a Bar as depicted by Site Plan in **Exhibit “B”**, which is attached and incorporated as if fully set forth herein (the “Site Plan”), on the Property which is located in the Local Retail District within the Commercial Historic Overlay and Austin Avenue Overlay; and

WHEREAS, Owner has designated Kristen Dunkerton and Heather LaRosa of SLUSH Premium Daquiris to act in the capacity of Owner as agent for submittal, processing, representation, and/or presentation of the application, and as the principal contact person for responding to all requests for information; and

WHEREAS, the Comprehensive Zoning Ordinance of the City allows for a Bar in the Local Retail District within the Commercial Historic Overlay and Austin Avenue Overlay with the grant of a Conditional Use Permit; and

WHEREAS, public hearings on said application having been held before the Planning and Zoning Commission and the City Council of the City of Denison (the “City Council”), after due notice of the public hearings having been mailed and published in all respects as required by law on the property fully described in the body of this Ordinance; and

WHEREAS, the Planning and Zoning Commission has recommended approval of a Conditional Use Permit for a Bar for the Property; and

WHEREAS, the City Council has considered the evidence and testimony provided by all parties appearing before the City Council, in person and in writing, and the recommendation of the Planning and Zoning Commission relative to the proposed zoning change and has further considered all written approvals and protests, all as required by law; and

WHEREAS, the City Council has determined that the uses requested for the Property as requested in the Conditional Use Permit application and subject to the provisions of this Ordinance are compatible with surrounding properties and are appropriate for the location of the Property.

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

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Zoning Map and Conditional Use Permit Approved. The zoning map of the City of Denison adopted by Section 28.3 of the Denison Code of Ordinances and on file in the office of the Planning Director is hereby amended to reflect the Conditional Use Permit is approved in the Local Retail District within the Commercial Historic Overlay and Austin Avenue Overlay on the Property as follows:

2.01. Permit Granted. A Conditional Use Permit (“CUP” or “Permit”) for the Property authorizing use of the Bar, is hereby approved.

2.02. Permit Conditions. The CUP and the use for which it is granted is subject to all Applicable Regulations (defined below) and to the following conditions:

A. Uses. The following use shall be permitted in accordance with the conditions of the CUP:

Bar: An establishment primarily devoted (seventy-five (75) percent) to the serving of alcoholic beverages for on-premises consumption and in which the service of food is only incidental to the consumption of such beverages.

B. Applicable Regulations. In addition to the specific requirements set forth in this Ordinance, this CUP shall be subject to all ordinances and regulations of the City applicable to the Property, including without limitation the Comprehensive Zoning Ordinance and those regulations governing the Local Retail District, Commercial Historic Overlay and Austin Avenue Overlay (“Applicable Regulations”). The CUP granted by this Ordinance shall control in cases of conflict between this Ordinance and/or the Comprehensive Zoning Ordinance.

Section 3. Failure to Comply/Expiration/Transferable. All terms of this CUP shall be complied with prior to issuance of a certificate of occupancy. This CUP shall be declared null and void and of no force and effect and shall discontinue if or for any one or more of the following:

- A. Any failure to comply with any term or condition of this Ordinance or the applicable regulations, as they exist or may be amended; or
- B. Any improvements, the Property, uses or structures regulated by this CUP are enlarged, modified, structurally altered or otherwise significantly changed unless a separate conditional use permit or other required authorization is granted therefor; or
- C. A building permit for the construction of any new structure for which a use is authorized hereunder has not been approved within one (1) year of the date of approval of this Ordinance; or
- D. A certificate of occupancy for any existing structure for which a use authorized by this Ordinance is not applied for and issued within one hundred and eighty (180) days from the effective date of this Ordinance; or
- E. A use for which this CUP is granted ceases to operate for a continuous period of one hundred eighty (180) calendar days; or
- F. A structure for which this CUP is granted remains vacant for a continuous period of one hundred eighty (180) calendar days; or
- G. This CUP was obtained by fraud or deception; or
- H. As otherwise permitted by law, this Ordinance and/or the City's Zoning Ordinance, as they exist or may be amended, including without limitation the requirements of Section 28.9 "Nonconforming Uses and Structures".

Section 4. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 5. Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Denison hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

Section 6. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or Denison's Zoning Ordinance Chapter 28, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not

exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Denison from filing suit to enjoin the violation. Denison retains all legal rights and remedies available to it pursuant to local, state, and federal law.

Section 7. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

AND IT IS SO ORDERED.

On motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing Ordinance was passed and approved by the following vote:

Ayes:

Abstentions:

Nays:

At regular meeting July 15, 2024.

ROBERT CRAWLEY, MAYOR

ATTEST:

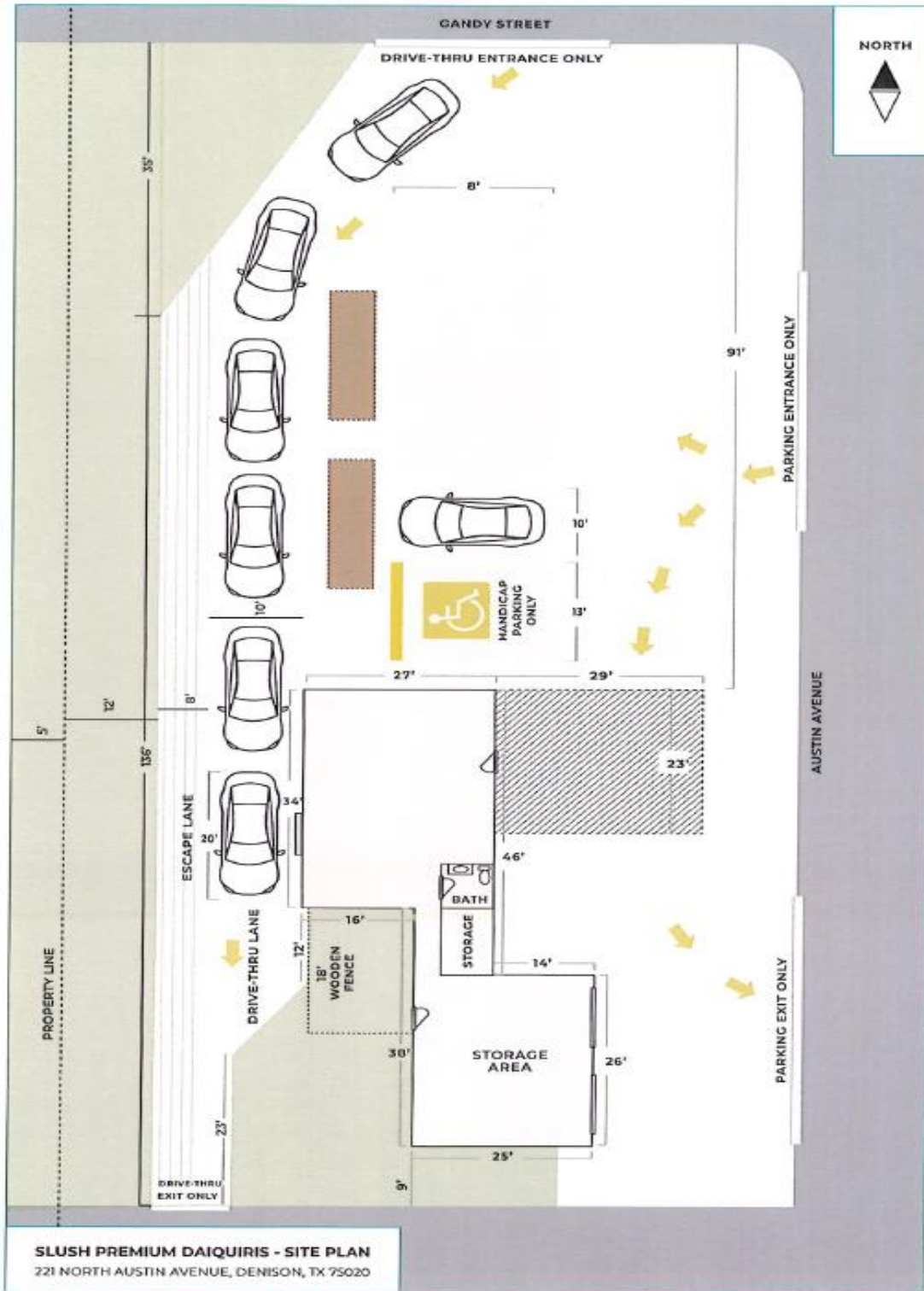
Christine Wallentine, City Clerk

EXHIBIT "A"
Property Description and Depiction

Being Lot 1 and Lot 2, Block 38, Original Town Plat, Denison, Grayson County, Texas, and commonly known as 221 N. Austin Avenue.



Exhibit "B" Site Plan



City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance for a Conditional Use Permit (CUP), for property zoned Central Area (CA) and within the Commercial Historic Overlay (CH) District to allow for the use of Bar, for Copacetic Cowboy located on property consisting of Lots 17, 18, and 19 of the Original Town Plat of Denison, Texas, GCAD Property ID No. 143144, being commonly known as 120 S. Burnett Avenue (Case No. 2024-064CUP)

Staff Contact

Dianne York, Planner
dyork@denisontx.gov
903-465-2720

Summary

- Staff is bringing a previously approved Conditional Use Permit (CUP), allowing for the use of a Bar for Copacetic Cowboy, before the City Council for approval. The previously approved CUP required the applicant obtain a Certificate of Occupancy (CO) within one hundred and eighty (180) days of Conditional Use Permit (CUP) approval.
- The Planning and Zoning Commission recommended approval of this Conditional Use Permit (CUP) on March 22nd, 2022, and City Council approved the CUP at their meeting held on April 4th, 2022.
- The applicant is requesting a CUP in order to operate a Bar. They wish to create a “unique and approachable” beverage and food menu with specialty crafted cocktails, beers and wines and limited food menu.
- The applicant has not amended the hours of operations requested in the previously approved CUP. Those hours of operation include Thursday-Friday 4:00 p.m. – 12:00 a.m., Saturday 11:00 a.m. - 1:00 a.m. and Sunday 12:00 p.m. – 12:00 a.m.
- The property is zoned Central Area

Staff Recommendation:

Staff recommends approval of the Conditional Use Permit (CUP).

Recommended Motion

"I move to approve a Conditional Use Permit (CUP) as presented for the use of a Bar for Copacetic Cowboy."

Background Information and Analysis

Staff is bringing this request for a Conditional Use Permit (CUP) to operate a bar at property located at 120 S. Burnett Avenue before the City Council again for approval. The original CUP received a recommendation for approval by the Planning and Zoning Commission at their meeting held on March 22nd, 2022, and subsequently received final approval from City Council at their meeting held on April 4th, 2022. The previous CUP detailed a requirement for the applicant to obtain a Certificate of Occupancy (CO) within one hundred and eighty (180) days of the CUP being approved. Staff is asking that the City Council review the case once more and approve the request in order for the CUP to move toward being

active again. No requests or conditions have been changed; however, the potential business provided a name change from Champagne Charlies to Copacetic Cowboy, from the original application. All information from the previous case can be reviewed below.

Applicant is requesting a Conditional Use Permit (CUP) for a Bar for Copacetic Cowboy, previously approved as Champagne Charlies, located at 120 S. Burnett Avenue. Copacetic Cowboy is a new cocktail house that will occupy suites 100 and 102, consisting of 3,000 square feet, for property located at 120 S. Burnett Avenue. The applicant wishes to establish a stylish and comfortable atmosphere with an “unique and approachable” beverage and food menu by providing a variety of specialty crafted cocktails, beers and wines as well as a limited bar menu. Applicant has provided their business model as well as a floor plan and both are consistent with the Bar use.

After receiving a Certificate of Appropriateness (COA) from the Historical Preservation Board in 2020, the property owner made significant improvements to the interior and exterior of the building. A CUP for the use of a Bar will allow the tenant and property owner to move forward with additional improvements or renovations needed for the business.

The Comprehensive Plan identifies the area the subject property is located within as the City’s Downtown Center. Per the Comprehensive Plan, Denison’s Downtown Center should be engaged in mixed-use activities with retail, restaurants, entertainment, offices, and some medium-density residential uses. Permitting the use of a bar conforms with the Comprehensive Plan.

Staff has reviewed the Conditional Use Permit criteria outlined within the Ordinance before reaching its recommendation for approval. No negative traffic impacts are anticipated from this project. On-street parking is available as well as three nearby parking lots available during hours of operation.

Conditional Use Permit Criteria for Approval:

- 1. The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan;*

This location and use are compatible with the Comprehensive Plan. Per the Comprehensive Plan, Entertainment services are encouraged within the downtown area.

- 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;*

The proposed Conditional Use Permit for a Bar is consistent with the Central Area Zoning District.

- 3. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhood and includes improvements either on site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;*

The proposed use is compatible with the integrity of nearby existing developments.

4. *The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.*

The applicant is encouraged to utilize the on-street parking and nearby public parking lots available throughout downtown Denison.

5. *The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;*

No additional traffic mitigation or traffic control for the surrounding area is required.

6. *The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and*

N/A

7. *The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.*

No variance is applied or needed.

Financial Considerations

N/A

Prior Board or Council Action

- The Planning and Zoning Commission recommended approval of the inactive Conditional Use Permit (CUP) at their meeting held on March 22nd, 2022.
- The City Council approved the inactive Conditional Use Permit (CUP) at their meeting held on April 4th, 2022.
- The Planning and Zoning Commission recommend approval of this request at their meeting held on July 9th, 2024.

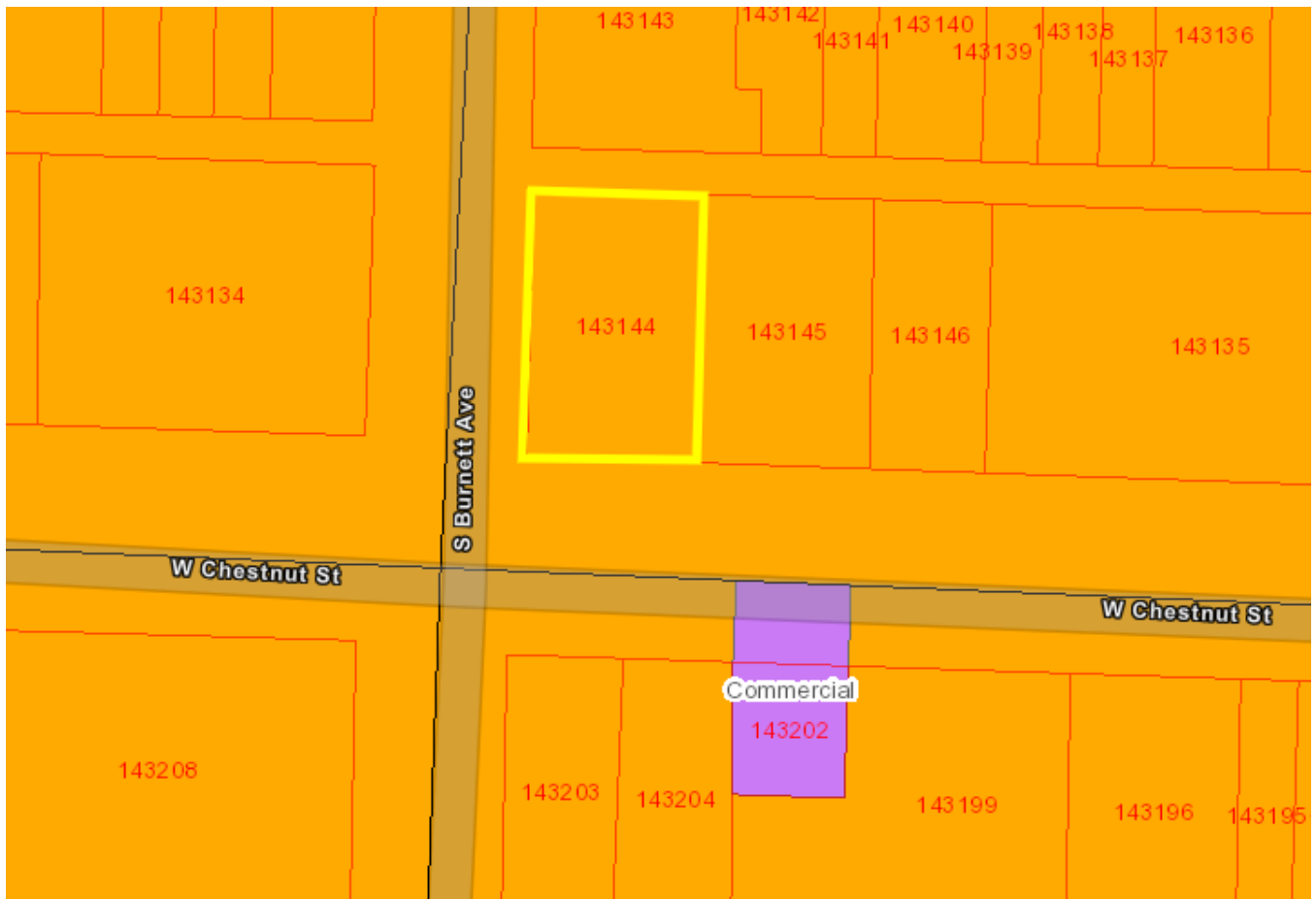
Alternatives

- The City Council may approve with conditions, deny, or table the request.

Aerial of Subject Property



Zoning of Subject Property – Central Area






Copacetic Cowboy


BUSINESS PLAN

2024



 Cody Riggs

 120 S Burnett Ave 100/102 Denison, Texas 75020

 214.755.6680, 214.924.2639

 Criggs@champagnecharliesdenison.com, www.champagnecharliesdenison.com



Information provided in this business plan is unique to this business and confidential; therefore, anyone reading this plan agrees not to disclose any of the information in this business plan without prior written permission of the company.

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1.

Executive Summary

Business Overview

Mission Statement

Vision Statement

Market Opportunity Summary

Product/Service Summary

Next Steps

Capital Request

Business Overview

Coprcetic Cowboy is a new cocktail house that will proudly serve the downtown area of Denison, Texas and its surrounding communities, a welcoming place for patrons to celebrate life and foster easy conversation. **Copacetic Cowboy** will present a stylish, comfortable atmosphere with a unique yet approachable beverage and food menu, intentions that give a nod to the past while staying relevant to modern Denisonians. **Copacetic Cowboy** aims to provide an environment differing from current bar offerings in the area, which will be an ideal location for memorable date nights or marking life occasions, as well as strengthening the informal connections between frequenters after work hours or during community events. The desire and request for such a bar experience has been heard from many of the local area's residents and business owners; **Copacetic Cowboy** will meet the demand in Denison with offerings of affordable crafted cocktails and elevated dishes within the pleasing surroundings of diligent staff and a shared spirit of celebration.

Mission Statement

Copacetic Cowboy strives to become a premier night spot for the locals of Denison, Texas and all visitors who seek the enjoyment of crafted cocktails in an inclusive, memorable environment. **Copacetic Cowboy** will accomplish this distinguishable repute by offering expertly crafted drinks, a select list of beer and wine, and well paired food at reasonable prices with consistent execution. By providing the community with a cocktail house to visit for both special celebrations and open evenings, **Copacetic Cowboy** will become a Denison favorite. **The** business will be operated with the understanding that satisfied customers are imperative for a sustainable and prosperous business.

Vision Statement

Copacetic Cowboy will strive to become one of the premier venues in Denison that offers finely crafted cocktails, approachable food prepared from in-house recipes, and select champagne, beer and wine. We aim to work as a supporting function of the Denison community and continue to help enliven and revive the Downtown Denison area, while evolving with the needs of Denison residents and the greater population of North Texas and South Oklahoma.

Market Opportunity Summary

Copacetic Cowboy specifically caters to its target market and is truly a unique local bar experience. The bar differs in decor, atmosphere, extensive cocktail offerings, culinary options and music. At the time of opening, this will be the only dedicated cocktail house in the area, and will not focus on karaoke, sports, etc. This will be a much-needed location to converse, meet, celebrate and drink in fellowship.

Product/Service Summary

Copacetic Cowboy will offer a broad and deep variety of specialty crafted cocktails and champagne which will appeal to the public's ever-changing and increasingly more sophisticated demands for variety in alcoholic beverages. The bar will also offer a small food menu. **The Chef** will prepare unique bar foods pairings such as charcuterie boards, pickled egg, house made focaccia with rosemary and compound butter, Mortadella "BLT" sandwiches, gourmet **hotdogs, flatbreads** and other small items.

Next Steps

As we continue on to opening, we have milestones that we must accomplish. They are:

- Acquire CUP approval for the premises
 - of the interior space
- Obtain Certificate of Occupancy
- Complete installation of **final decor choices**
- Purchase **food and liquor** inventory
- Hire and train staff on site
- Soft Open
- Grand Opening

Capital Request

Ownership has a current investment of **\$300,000** for build-out and to purchase kitchen equipment, supplies, etc.

Total starts up costs are ever-changing, but sit at a current total of **\$350,000**. To date, the owners have contributed **\$300,000** or **98%** equity in the business and are utilizing grants and building allowances to retain working capital.

The owners are seeking a \$25,000 working capital loan to meet start-up inventory requirements, and licensing requirements. The loan will be secured by UCC filings on all inventories, and accounts receivables. Repayment of this loan will be through **Copacetic Cowboy's** operating income.

2.

Market Overview

Industry Analysis

Market Trends

Customers

Industry Analysis

The bar industry has grown over the years and through multiple recessions and international crises to become a very adaptable and sustainable business. They act as a healthy support for restaurants, retail and events in the area by providing a destination before, during and after patronage. The ability to adapt, find a favorable location and use ethical and wise business practices have been proven to increase the likelihood of success in this industry.

Market Trends

Copacetic Cowboy specifically caters to its target market and is truly a unique local bar experience. The bar differs in style, atmosphere, extensive cocktail offerings, culinary options and music. At the time of opening, this will be the only dedicated cocktail house in the area that will not focus on karaoke, sports, etc. This will be a much-needed location to converse, meet, celebrate and drink in fellowship.

Customers

Copacetic Cowboy's has identified a vast field of target customers, both locals from Denison itself and those traveling from nearby towns and the State of Oklahoma. They are comprised of customers with the expectation of a finely crafted cocktail, with interest in exploring the world of mixology in hope of encountering something beyond an average menu offering. The additional majority of patrons to appeal to are those looking for an elevated bar experience, customers who enjoy being at a bar but desire a more urban atmosphere.

3.

Product & Services

Products/Services

Unique selling position

Pricing strategy

Value to customer

Products/Services

Copacetic Cowboy will offer a broad and deep variety of specialty crafted cocktails and champagne which will appeal to the public's ever-changing and increasingly more sophisticated demands for variety in alcoholic beverages. The bar will also offer a small food menu. **Cheif** will prepare unique bar foods pairings such as charcuterie boards, pickled egg, house made focaccia with rosemary and compound butter, Mortadella "BLT" sandwiches, gourmet **hotdogs**, **gourmet** flatbreads and other small items.

Unique selling position

We will be offering an inviting and comfortable environment for our patrons to enjoy our cocktails and offerings over a conversation, celebration or book. Without televisions and bar games, **Copacetic Cowboys's** purpose will be the fellowship and meeting of individuals from Denison and the surrounding cities while focusing on crafted cocktails and champagne.

Pricing strategy

Pricing is being set to allow all to enjoy what is offered at **Copacetic Cowboy** and also garner the business of those that would like a more elevated experience. We will offer a wide array of spirits and champagnes to be approachable to all patrons. Our pricing standards are set with experience in the overall liquor sales market and the knowledge of the area.

Value to customer

In addition to providing a unique, approachable and needed experience and meeting place on its own, **Copacetic Cowboy** will be a proud and avid supporter of all City of Denison and Denison Live events taking place on Main Street and the surrounding areas, as well supporting and partnering with all other local businesses and their owners. **Copacetic Cowboy's** looks to become a staple of it's patrons and a place of pride for Denison and its residents.

Examples of Offered Products



Expertly Crafted Cocktails

Old Fashioned, Champagne Charlie, Morning Routine, Bitter Marriage



Champagne

Charles Heidsieck, Piper Heidsieck, Perrier, Veuve Cliqcut



Fresh Made Food

Flatbreads, Sandwiches and other small bites



Charcuterie

Meats, Cheeses, House made relishes and jams

4.

Competitive Analysis

Competitors

Traction

Similarities & Differences

Competitors

Competitor 1



The Green Growler is a beer purveyor on main street that focuses mainly on craft beers served on tap.

Features

A multitude of beer options

Strengths

Variety and Seating Capacity

Weaknesses

Busy environment

Competitor 2



Red Rock Saloon

Features

Large Space, Stage, Games

Strengths

Offers a variety of events and a large space

Weaknesses

Does not cater to those looking for a more private experience

Traction

Similarities & Differences

Though both of these venues offer liquor, they do not focus primarily on cocktails and champagne. Both of these establishments are large, open and have many focuses that appeal to large crowds (pool tables, stages, food purveyors). Our establishment will offer comfortable seating, lighting and more quiet spaces for people to have conversations, celebrations, etc.

5.

Marketing Plan

Customer Definition

Customer Acquisition

SWOT – Internal and external forces

Customer Definition

Copacetic Cowboy's base of customers will be residents of Denison and its neighboring towns, cities and states. As a historic destination that is continuing to grow, Denison, Texas and its Main Street offer the unique patronage of local residents and travelers from other cities and states. **Copacetic's** aims to be a main stop for all travelers and shoppers of legal drinking age that come to Denison as well as an establishment that promotes knowledge of Denison's history and pride of its residents.

Customer Acquisition

Copacetic Cowboy's plans to market online via websites and social media, including our own website, facebook, instagram and twitter. We plan to work with the City of Denison and Denison Live to promote events and programs, as our location on Heritage Park frontage lends us the ability to serve patrons of these events. In order to gain customers outside of Denison, we plan to market on billboards and at events outside of Denison proper.

SWOT – Internal and external forces

Strengths

- Committed Owner with combined 30 years industry experience.
- Owner residence in Denison.
- Partnerships with experts in place for potential problems unique to a bar (Systems, Insurance, Legal, Accounting, Financial)
- Relatively easy entry and low capital outlay.
- Copacetic Cowboy** will be a unique one-of-a-kind destination experience in Denison's Downtown.
- Targeted, specific focus on its customers will create a memorable experience for patrons resulting in repeated business.

S

Weaknesses

- Employee theft can make or break a bar business. Exclusive use of the bar-centric POS system mitigates this risk
- Disorderly patrons can harm business and reputation. Extensive training and management oversight mitigates this risk.
- Limited or unique food offerings can lessen patronage. The adaptability of ownership and the business as a whole can mitigate this risk.
- High turnover in the bar industry, closing of bars. Preparation, oversight and strict business practices can mitigate this risk.

W

Opportunities

- To become a part of Denison's drive to build community and build Main Street to the City's desired form.
- To obtain a share of the multi-million dollar liquor sales market in Texas.
- To offer Denison residents and those from neighboring cities and states a unique destination experience on historic Main Street.

O

Threats

- Another viral event or exacerbation of COVID that could potentially hurt the entertainment/service industry.

T

6.

Management & Organization

Management Team

Organization Chart

Hiring Plan

Professional Services

Management Team



CODY RIGGS

Owner, Director of Food & Beverage

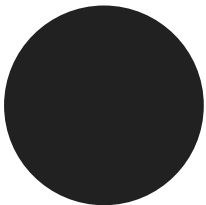
CRiggs@ChampagneCharliesDenison.com



Teri Riggs

Owner, Director of Operations

Triggs.champagnecharlies@gmail.com



Organization Chart

Our executive staff will consist of Cody Riggs **and Teri Riggs**, overseeing financial and business practices, decisions and implementation.

Our in house staff will consist of multiple bartenders, a kitchen manager, cooks, a dish machine operator and porter.

Hiring Plan

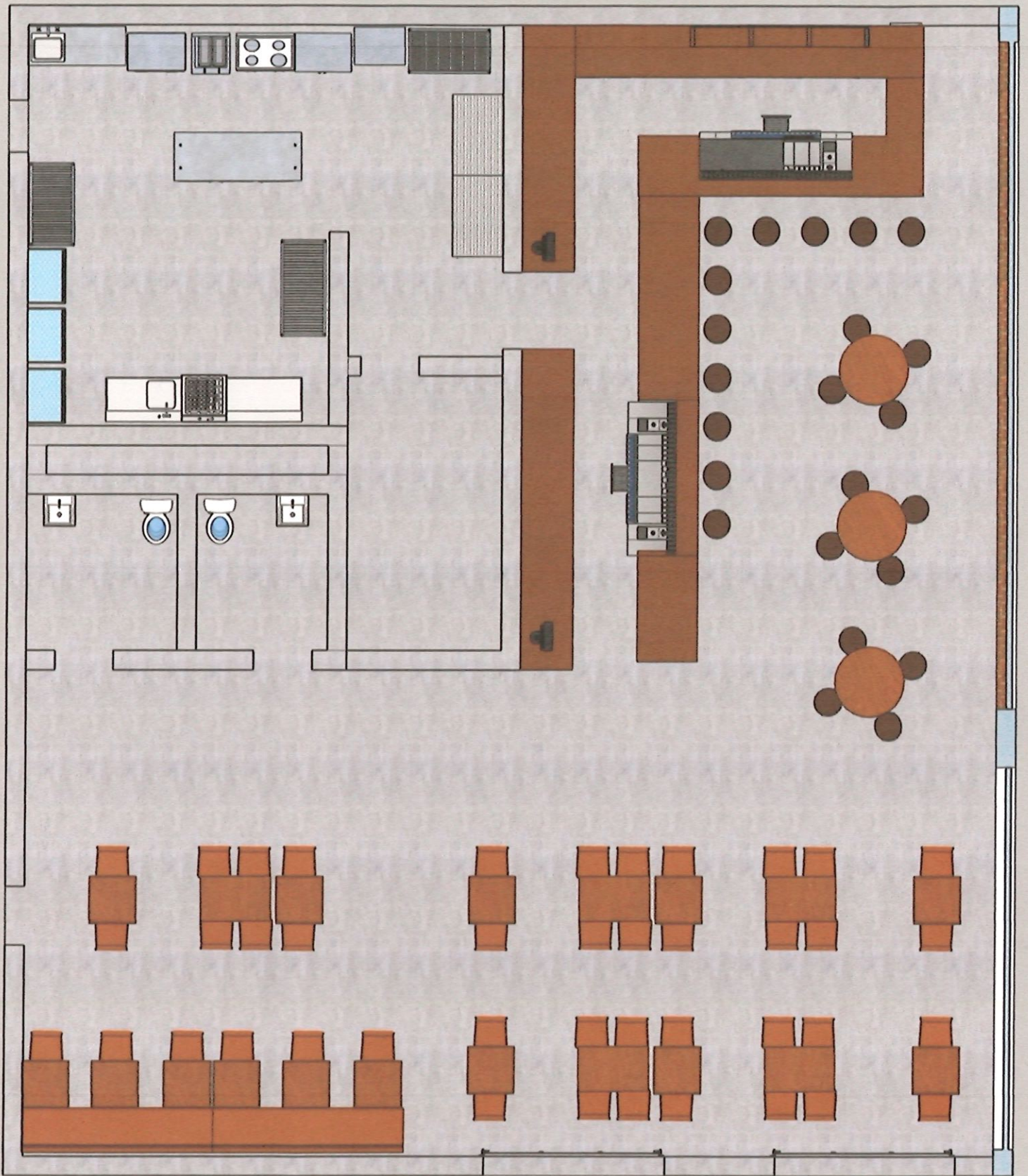
We will be implementing extensive and ongoing employee training. Employees will be rewarded financially for providing impeccable service with opportunities to benefit in profit sharing. All staff will be hand-selected and share the same core beliefs of the owners; everyone will be trained to be keenly aware of patrons and anticipate their needs before the customer does. Provide/enhance customer's knowledge and education of spirits in a fun and non-intimidating environment.

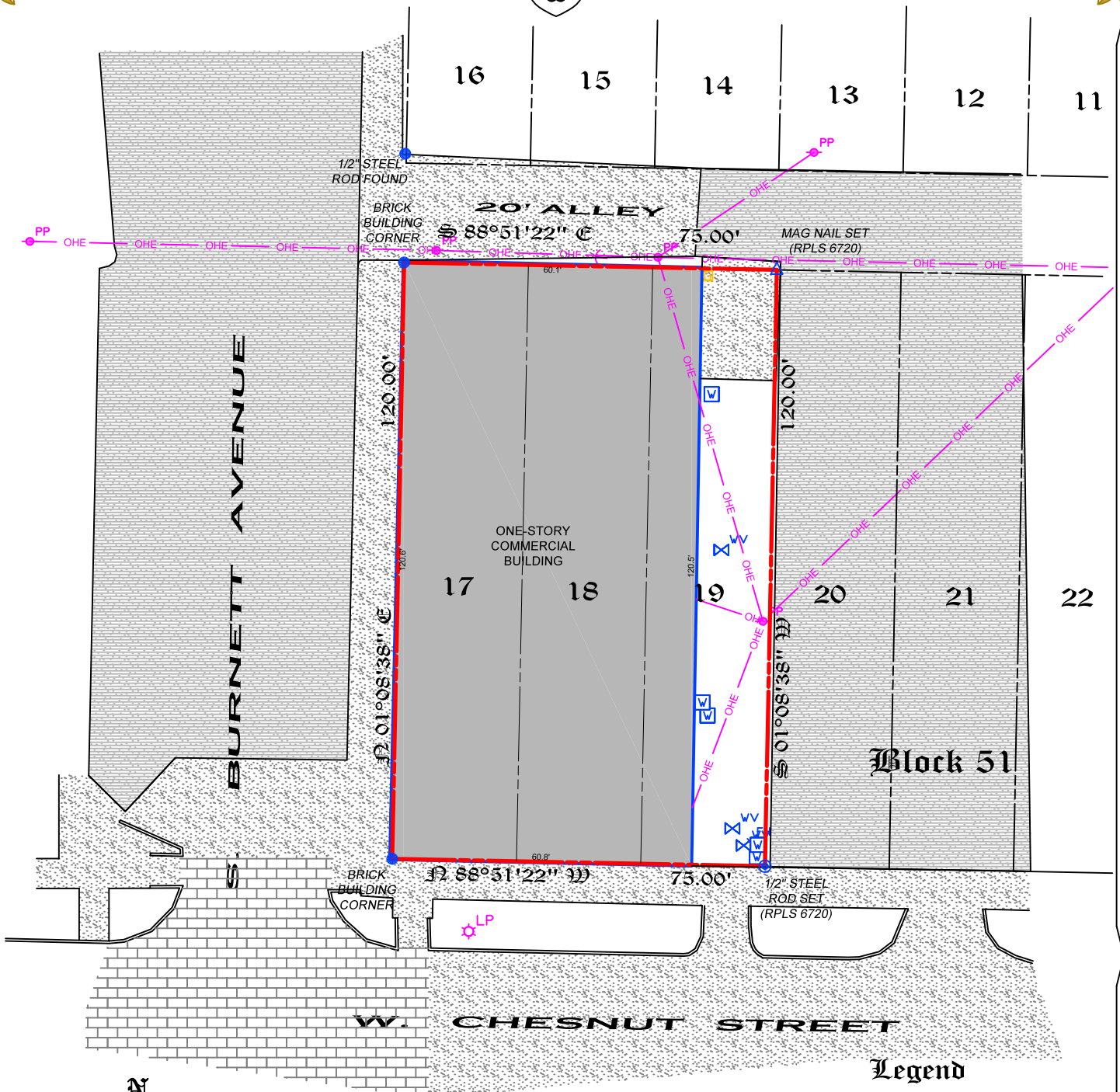
Professional Services

R&R Concepts and Consultation, LLC and in turn **CopaceticCowboy's** have contracted professional

services including accounting, bookkeeping, financial planning, tax assessing and legal oversight from bookkeeping services, licensed CPA's and licensed attorneys.

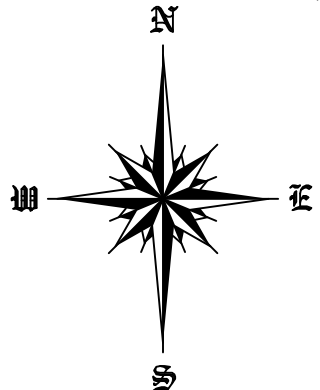
In the daily business of **Copacetic Cowboy's** we will be in use of a national and bar-centric POS system and each of our staff will be required to complete an online course about the history and use of spirits, cocktails and service on top of the required TABC certification from the state and in-person training we will offer.





Legend

- LIGHT POLE
- GAS
- POWER POLE
- FIRE HYDRANT
- WATER VALVE
- WATER METER
- BOUNDARY LINE
- PROPERTY LINE
- OVERHEAD ELECTRIC BUILDING
- ASPHALT
- CONCRETE
- BRICK



~ BASIS OF BEARINGS ~
 GRID NORTH, NAD 83
 TEXAS STATE PLANE COORDINATE SYSTEM
 NORTH CENTRAL ZONE (4202)



SCALE ~ 1" = 30'

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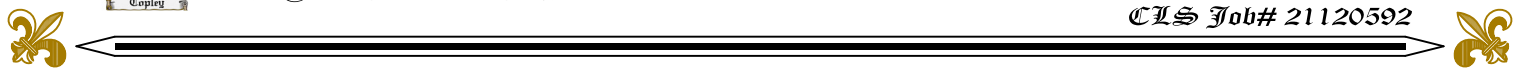
I, John C. Copley, Registered Professional Land Surveyor do hereby certify that on the 16th day of December, 2021, a survey was made on the ground of the property shown hereon, described as **Lots 17, 18 & 19, Block 51, of the ORIGINAL TOWN PLAT OF DENISON, TEXAS**, as shown by plat of record in Volume 28, Page 362 & 363, Deed Records, Grayson County, Texas, and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown on the plat herewith, and that the plat herewith is a true, correct and accurate representation of the property legally described hereinabove.

The building on said lot is known as **120 S. Burnett Avenue, Denison, Texas**, and is wholly located on said lot; there are no encroachments or protrusions from buildings on adjoining lots or tracts of land except as shown.

John Copley
 John C. Copley
 Registered Professional
 Land Surveyor No. 6720
 Firm No. 10194429



Copley Land Surveying
 1702 Verdi Ln., Sherman, Texas 75090
 TX 903-415-0643, OK 580-980-0181
 john@copleylandsurveying.com



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF DENISON, TEXAS; PROVIDING FOR A CONDITIONAL USE PERMIT FOR A BAR IN THE CENTRAL DISTRICT (CA) WITHIN THE HISTORICAL OVERLAY DISTRICT BEING LEGALLY DESCRIBED AS LOT 17, LOT 18 AND LOT 19, BLOCK 51 OF THE ORIGINAL TOWN PLAT, DENISON, GRAYSON COUNTY, TEXAS, AND MORE COMMONLY KNOWN AS 120 S. BURNETT STREET, CITY OF DENISON, GRAYSON COUNTY, TEXAS; PROVIDING A PENALTY CLAUSE; PROVIDING REPEALER, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Denison, Texas (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City (the “City Council”) adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the “Zoning Ordinance”); and

WHEREAS, South Burnett Denison Investments, LLC, (“Owner”) owns Lot 17, Lot 18 and Lot 19, Block 51 of the Original Town Plat, Denison, Grayson County, Texas, as described and depicted in **Exhibit “A”**, which is attached and incorporated as if fully set forth herein (the “Property”), and has made an application under the provisions of the Zoning Ordinance requesting a Conditional Use Permit for a Bar as depicted in **Exhibit “B”**, which is attached and incorporated as if fully set forth herein (the “Site Plan”), on the Property which is located in the Central District (CA) within the Historical Overlay District; and

WHEREAS, Owner has designated Cody Riggs of R&R Concepts and Consulting, LLC to act in the capacity of Owner as agent for submittal, processing, representation, and/or presentation of the application, and as the principal contact person for responding to all requests for information; and

WHEREAS, the Comprehensive Zoning Ordinance of the City allows for a Bar in the Central District (CA) within the Historical Overlay District with the grant of a Conditional Use Permit; and

WHEREAS, public hearings on said application having been held before the Planning and Zoning Commission and the City Council of the City of Denison (the “City Council”), after due notice of the public hearings having been mailed and published in all respects as required by law on the property fully described in the body of this Ordinance; and

WHEREAS, the Planning and Zoning Commission has recommended approval of a Conditional Use Permit for an Accessory Dwelling for the Property; and

WHEREAS, the City Council has considered the evidence and testimony provided by all parties appearing before the City Council, in person and in writing, and the recommendation of the Planning and Zoning Commission relative to the proposed zoning change and has further considered all written approvals and protests, all as required by law; and

WHEREAS, the City Council has determined that the uses requested for the Property as requested in the Conditional Use Permit application and subject to the provisions of this Ordinance are compatible with surrounding properties and are appropriate for the location of the Property.

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

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Zoning Map and Conditional Use Permit Approved. The zoning map of the City of Denison adopted by Section 28.3 of the Denison Code of Ordinances and on file in the office of the Planning Director is hereby amended to reflect the Conditional Use Permit is approved in the Central District (CA) within the Historical Overlay District on the Property as follows:

2.01. Permit Granted. A Conditional Use Permit (“CUP” or “Permit”) for the Property authorizing use of a Bar, is hereby approved.

2.02. Permit Conditions. The CUP and the use for which it is granted is subject to all Applicable Regulations (defined below) and to the following conditions:

A. Uses. The following use shall be permitted in accordance with the conditions of the CUP:

Bar: An establishment primarily devoted (seventy-five (75) percent) to the serving of alcoholic beverages for on-premises consumption and in which the service of food is only incidental to the consumption of such beverages.

B. Applicable Regulations. In addition to the specific requirements set forth in this Ordinance, this CUP shall be subject to all ordinances and regulations of the City applicable to the Property, including without limitation the Comprehensive Zoning Ordinance and those regulations governing the Central District (CA) within the Historical Overlay District (“Applicable Regulations”). The CUP granted by this Ordinance shall control in cases of conflict between this Ordinance and/or the Comprehensive Zoning Ordinance.

Section 3. Failure to Comply/Expiration/Transferable. All terms of this CUP shall be complied with prior to issuance of a certificate of occupancy. This CUP shall be declared null and void and of no force and effect and shall discontinue if or for any one or more of the following:

- A. Any failure to comply with any term or condition of this Ordinance or the applicable regulations, as they exist or may be amended; or
- B. Any improvements, the Property, uses or structures regulated by this CUP are enlarged, modified, structurally altered or otherwise significantly changed unless a separate conditional use permit or other required authorization is granted therefor; or
- C. A building permit for the construction of any new structure for which a use is authorized hereunder has not been approved within one (1) year of the date of approval of this Ordinance; or
- D. A certificate of occupancy for any existing structure for which a use authorized by this Ordinance is not applied for and issued within one hundred and eighty (180) days from the effective date of this Ordinance; or
- E. A use for which this CUP is granted ceases to operate for a continuous period of one hundred eighty (180) calendar days; or
- F. A structure for which this CUP is granted remains vacant for a continuous period of one hundred eighty (180) calendar days; or
- G. This CUP was obtained by fraud or deception; or
- H. As otherwise permitted by law, this Ordinance and/or the City's Zoning Ordinance, as they exist or may be amended, including without limitation the requirements of Section 28.9 "Nonconforming Uses and Structures".

Section 4. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 5. Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Denison hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

Section 6. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or Denison's Zoning Ordinance Chapter 28, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Denison from filing suit to enjoin the violation. Denison retains all legal rights and

remedies available to it pursuant to local, state, and federal law.

Section 7. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

AND IT IS SO ORDERED.

On motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing Ordinance was passed and approved by the following vote:

Ayes:

Abstentions:

Nays:

At regular meeting July 15, 2024.

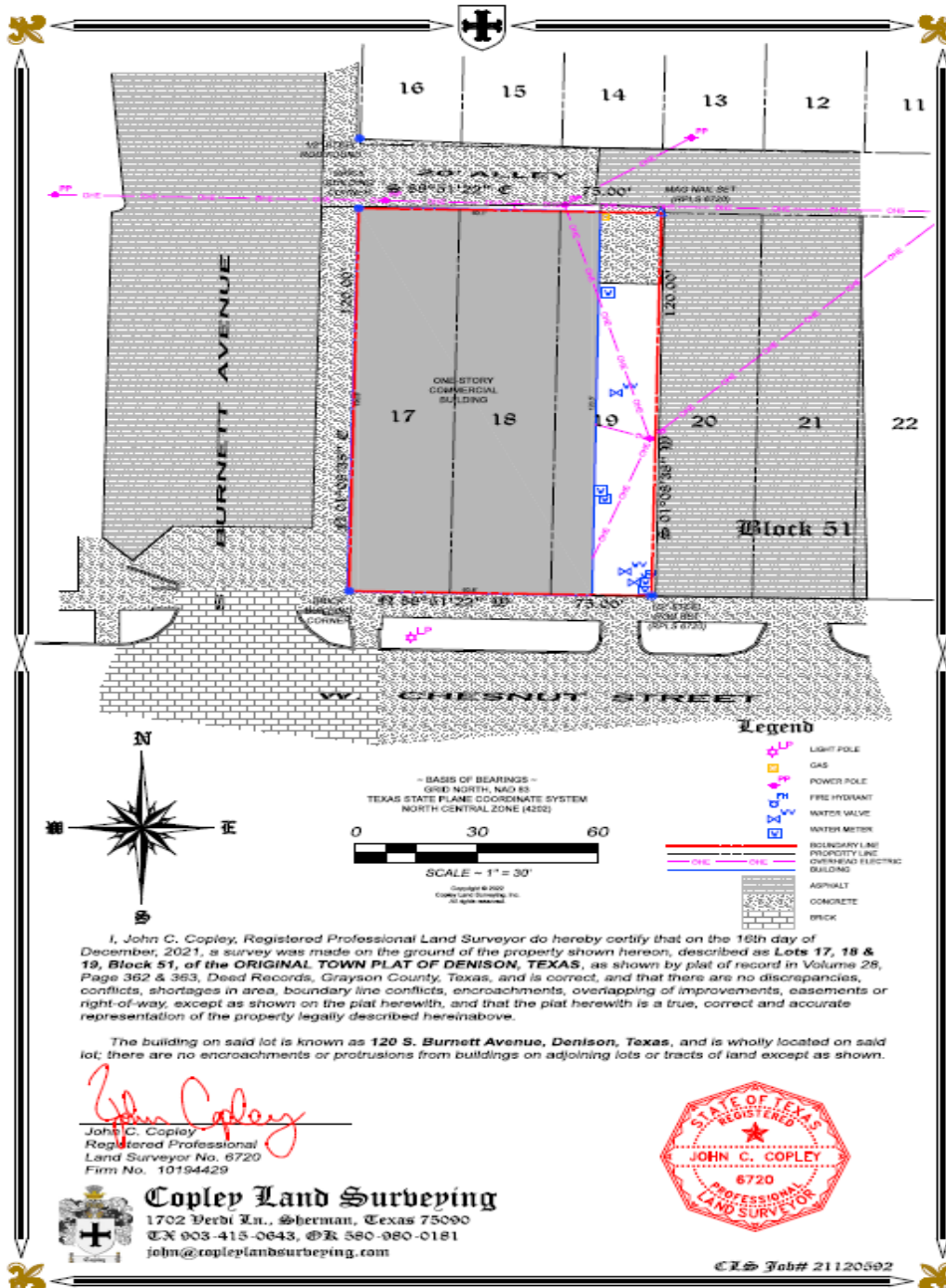
ROBERT CRAWLEY, MAYOR

ATTEST:

Christine Wallentine, City Clerk

EXHIBIT "A"
Property Description and Depiction

BEING LOT 17, LOT 18 AND LOT 19, BLOCK 51 OF THE ORIGINAL TOWN PLAT, DENISON, GRAYSON COUNTY, TEXAS, AND MORE COMMONLY KNOWN AS 120 S. BURNETT STREET, CITY OF DENISON, GRAYSON COUNTY, TEXAS.



I, John C. Copley, Registered Professional Land Surveyor do hereby certify that on the 16th day of December, 2021, a survey was made on the ground of the property shown hereon, described as Lots 17, 18 & 19, Block 51, of the ORIGINAL TOWN PLAT OF DENISON, TEXAS, as shown by plat of record in Volume 28, Page 352 & 353, Deed Records, Grayson County, Texas, and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown on the plat herewith, and that the plat herewith is a true, correct and accurate representation of the property legally described hereinabove.

The building on said lot is known as 120 S. Burnett Avenue, Denison, Texas, and is wholly located on said lot; there are no encroachments or protrusions from buildings on adjoining lots or tracts of land except as shown.

John C. Copley
 John C. Copley
 Registered Professional
 Land Surveyor No. 6720
 Firm No. 10194429



Copley Land Surveying
 1702 Verdi Ln., Sherman, Texas 75090
 TX 903-415-0643, FAX 580-980-0181
 john@copleylandsurveying.com

CLS Job# 21120592

Exhibit "B"
Site Plan

