

ORDINANCE NO. 5329

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 3.213 ACRE TRACT LEGALLY DESCRIBED AS BEING A PART OF THE M. C. DAVIS SURVEY, ABSTRACT NO. 336 AND BEING ALL OF THE 2.33 ACRE TRACT OF LAND CONVEYED BY DEED WITHOUT WARRANTY FROM UNION PACIFIC RAILROAD COMPANY TO THE CITY OF DENISON, TEXAS ON FEBRUARY 18, 1999 AND RECORDED IN VOLUME 2771, PAGE 355, AND BEING ALL OF THE 0.88 ACRE TRACT OF LAND CONVEYED TO THE CITY OF DENISON, TEXAS BY AFFIDAVIT OF LOST DEED ON FEBRUARY 17, 2023 AS RECORDED IN INST. NO. 2023-4052, DEED RECORDS OF GRAYSON COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT "A", FROM ITS ZONING CLASSIFICATION OF SINGLE FAMILY-5 DISTRICT WITHIN THE HIGHWAY OVERLAY DISTRICT TO COMMERCIAL DISTRICT WITHIN THE HIGHWAY OVERLAY 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 COMMERCIAL DISTRICT WITHIN THE HIGHWAY OVERLAY 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, the City owns a certain 3.213 acre tract legally described as being a part of the M. C. Davis Survey, Abstract No. 336 and being all of the 2.33 acre tract of land conveyed by deed without warranty from Union Pacific Railroad Company to the City of Denison, Texas on February 18, 1999 and recorded in Volume 2771, Page 355, and being all of the 0.88 acre tract of land conveyed to the City of Denison, Texas by Affidavit of Lost Deed on February 17, 2023 as recorded in Inst. No. 2023-4052, Deed Records of 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 for a zoning change on the Property from the current zoning district classification of Single Family-5 District within the Highway Overlay District to Commercial District within the Highway Overlay 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 Single Family-5 District within the Highway Overlay District to Commercial District within the Highway Overlay District. The Property shall be subject to all applicable City ordinances and regulations governing a Commercial District within the Highway Overlay 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.

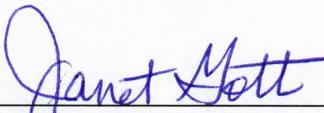
On motion by Mayor Pro Tem Crawley, seconded by Council Member Courtright, the above and foregoing Ordinance was passed and approved by the following vote:

Ayes: Hander, Courtright, Thorne, Gott, Massey, Crawley and Thomas.

Abstentions:

Nays:

At regular meeting December 18, 2023.



JANET GOTT, MAYOR

ATTEST:

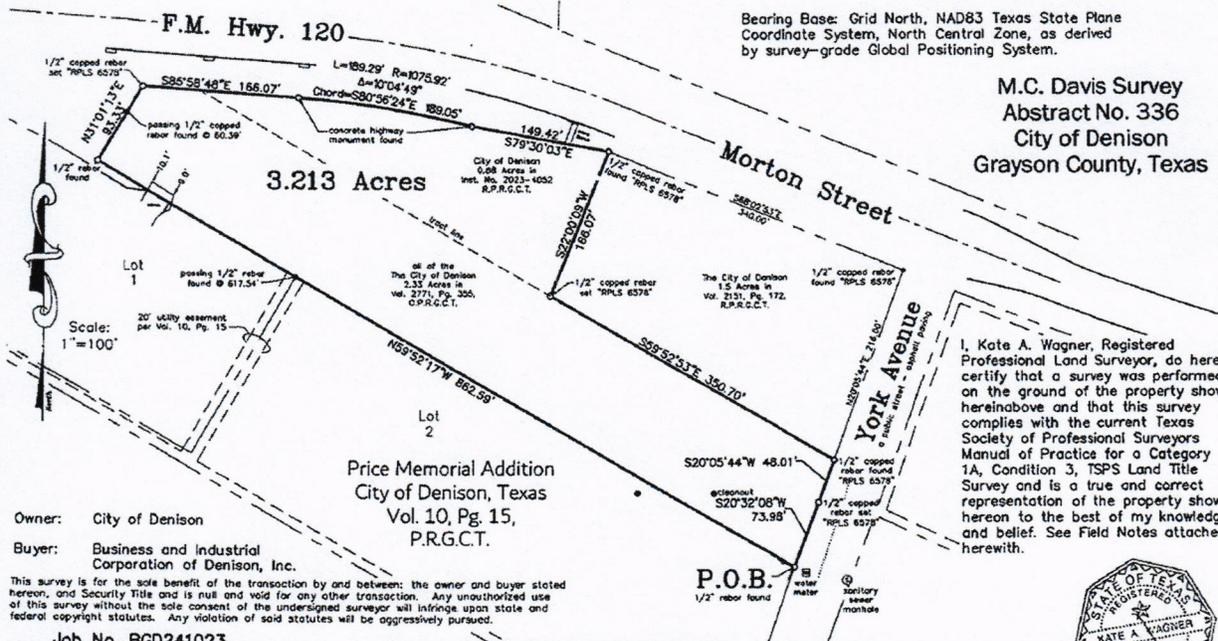


Christine Wallentine, City Clerk



EXHIBIT "A"
LEGAL DESCRIPTION AND DEPICTION

BEING A 3.213 ACRE TRACT LEGALLY DESCRIBED AS BEING A PART OF THE M. C. DAVIS SURVEY, ABSTRACT NO. 336 AND BEING ALL OF THE 2.33 ACRE TRACT OF LAND CONVEYED BY DEED WITHOUT WARRANTY FROM UNION PACIFIC RAILROAD COMPANY TO THE CITY OF DENISON, TEXAS ON FEBRUARY 18, 1999 AND RECORDED IN VOLUME 2771, PAGE 355, AND BEING ALL OF THE 0.88 ACRE TRACT OF LAND CONVEYED TO THE CITY OF DENISON, TEXAS BY AFFIDAVIT OF LOST DEED ON FEBRUARY 17, 2023 AS RECORDED IN INST. NO. 2023-4052; DENISON, GRAYSON COUNTY, TEXAS.



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

**M.C. Davis Survey
Abstract No. 336
City of Denison
Grayson County, Texas**

Owner: City of Denison
Buyer: Business and Industrial Corporation of Denison, Inc.

This survey is for the sole benefit of the transaction by and between the owner and buyer stated hereon, and Security Title and is null and void for any other transaction. Any unauthorized use of this survey without the sole consent of the undersigned surveyor will infringe upon state and federal copyright statutes. Any violation of said statutes will be aggressively pursued.

Job No. BGD241023
Helvey-Wagner Surveying, Inc.
222 W. Main St., Denison, Texas 75020
Phone (903) 463-6191
Email: kate@helveywagnersurveying.net
TBPELS Firm Registration No. 10038100

The subject property shown hereon does not lie within the limits of any designated 100-year Flood Hazard Areas, as shown on the "FEMA" Flood Insurance Rate Map for Grayson County, Texas, Map No. 48181C0165 F, Revised Date: September 29, 2010.

I, Kate A. Wagner, Registered Professional Land Surveyor, do hereby certify that a survey was performed on the ground of the property shown hereinabove and that this survey complies with the current Texas Society of Professional Surveyors Manual of Practice for a Category 1A, Condition 3, TSPS Land Title Survey and is a true and correct representation of the property shown hereon to the best of my knowledge and belief. See Field Notes attached herewith.



Kate A. Wagner, R. P. L. S. No. 6578
Copyright Date: October 16, 2023

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