

**ORDINANCE NO. 5337**

**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 AN APPROXIMATELY 0.475 ACRE TRACT OF LAND LEGALLY DESCRIBED AS BEING SITUATED IN THE M. C. DAVIS SURVEY, ABSTRACT NO. 336, ACCORDING TO THE DEED RECORDED IN VOLUME 1138, PAGE 298, DEED RECORDS OF GRAYSON COUNTY, TEXAS; IDENTIFIED AS GRAYSON CAD PROPERTY ID NO. 140644, AND COMMONLY REFERRED TO AS 2713 W MORTON STREET, DENISON, TEXAS, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT "A", FROM ITS ZONING CLASSIFICATION OF SINGLE-FAMILY 7.5 (SF-7.5) RESIDENTIAL DISTRICT WITHIN THE HIGHWAY OVERLAY (HO) DISTRICT TO THE COMMERCIAL (C) DISTRICT WITHIN THE HIGHWAY OVERLAY (HO) 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 (C) DISTRICT WITHIN THE HIGHWAY OVERLAY (HO) 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**, Mascor LP (the "Owner") owns an approximately 0.475 acre tract legally described as being situated in the M. C. Davis Survey, Abstract No. 336, according to the deed recorded in Volume 1138, Page 298, Deed Records of Grayson County, Texas; identified as Grayson CAD Property ID No. 140644, and commonly referred to as 2713 W. Morton Street, Denison, 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 7.5 (SF-7.5) Residential District within the Highway Overlay (HO) District to the Commercial (C) District within the Highway Overlay (HO) District; and

**WHEREAS**, Owner has designated David Keese of First United Bank 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 Single-Family 7.5 (SF-7.5) Residential District within the Highway Overlay (HO) District to the Commercial (C) District within the Highway Overlay (HO) District. The Property shall be subject to all applicable City ordinances and regulations governing a Commercial (C) District within the Highway Overlay (HO) 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.

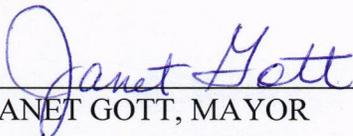
**SECTION 9. Open Meeting.** That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government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

**AND IT IS SO ORDERED.**

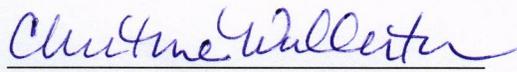
On motion by Council Member Hander, seconded by Mayor Pro Tem Crawley, the above and foregoing Ordinance was passed and approved by the following vote:

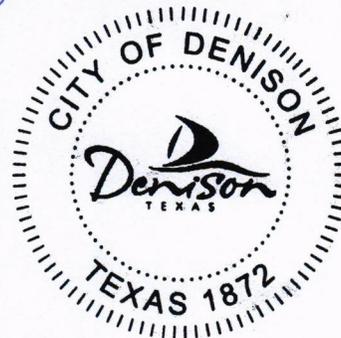
Ayes: Hander, Courtright, Thorne, Gott, Crawley and Thomas  
Abstentions:  
Nays:  
Absent: Massey

At regular meeting February 5, 2024.

  
\_\_\_\_\_  
JANET GOTT, MAYOR

ATTEST:

  
\_\_\_\_\_  
Christine Wallentine, City Clerk



**EXHIBIT "A"**  
**LEGAL DESCRIPTION AND DEPICTION**

**SITUATED** in the County of Grayson, State of Texas, being a part of the M. C. DAVIS SURVEY, ABSTRACT NO. 336, being the same 0.4746 acre tract of land conveyed by Russell Gouge to Philip D. James by Deed dated June 16, 1969, recorded in Volume 1138, Page 298, Deed Records, Grayson County, Texas, and being more particularly described as follows, to-wit:

**BEGINNING** at a 1/2 inch steel rod on the North line of Morton Street, said rod maintaining the Southeast corner of said 0.4746 acre tract, the Southwest corner of Lot No. One (1) of Gouge Subdivision to the City of Denison, Texas, as shown by plat of record in Volume 2, Page 76, Plat Records, Grayson County, Texas;

**THENCE** North 69 deg. 30 min. 00 sec. West, with the North line of said Morton Street, a distance of 187.94 feet to a 1/2 inch steel rod in a chain link fence;

**THENCE** North, with said chain link fence, at a distance of 162.94 ft., passing a 1/2 inch steel rod at the base of a chain link fence corner post on the South line of Walker Street, and continuing for a total distance of 187.94 feet to a point in the center of said Walker Street;

**THENCE** East, with the center of said Walker Street, a distance of 100.20 feet, to a point;

**THENCE** South, at a distance of 25.0 ft., passing a 1/2 inch steel rod at the base of a chain link fence corner post on the South line of said Walker Street maintaining the Northwest corner of Lot No. Seven (7) of said Gouge Subdivision, and continuing with a chain link fence, the West line of said Lot No. Seven (7), at a distance of 125.4 ft. passing its Southwest corner, the Northwest corner of said Lot No. One (1), and continuing for a total distance of 225.40 feet to the Place of Beginning and Containing 0.475 acres of land, more or less.

