

**ORDINANCE NO. 5393**

**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 2.126 ACRES BEING LOCATED IN THE P.C. MARTIN SURVEY, ABSTRACT NO. 767 AND BEING A PART OF BLOCK 6 AND 7, ENGLEWOOD ADDITION DENISON, GRAYSON COUNTY, TEXAS, ACCORDING TO THE DEED RECORDED IN VOLUME 2240, PAGE 920, DEED RECORDS OF GRAYSON COUNTY, TEXAS, COMMONLY REFERRED TO AS 1827 SOUTH ARMSTRONG AVENUE, DENISON, TX, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT "A", FROM THE ZONING CLASSIFICATION OF LIGHT INDUSTRIAL DISTRICT TO COMMERCIAL DISTRICT AND GRANTING A CONDITIONAL USE PERMIT FOR A BAR; 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 AND THE CONDITIONAL USE PERMIT FOR A BAR FOR THE PROPERTY; PROVIDING SAVINGS, REPEALING, AND SEVERABILITY CLAUSES; PROVIDING A PENALTY; 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.**

**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**, Texoma Innovations, Inc. (the "Owner") owns 2.126 acres being located in the P.C. Martin Survey, Abstract No. 767 and being a part of Block 6 and 7, Englewood Addition, Denison, Grayson County, Texas, according to the deed recorded in Volume 2240, Page 920, 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 Light Industrial District to Commercial District and requested a Conditional Use Permit for a Bar; 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**, the Comprehensive Zoning Ordinance of the City allows for a zoning change on the Property from the current zoning district classification of Light Industrial District to Commercial District; and

**WHEREAS**, public hearings on said application having been held before the Planning and Zoning Commission and 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 zoning change of the Property from the current zoning district classification of Light Industrial District to Commercial District and approval of a Conditional Use Permit for a Bar; 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 Amendment, Conditional Use Permit Approval, and Zoning Map Amendment.** 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 following zoning use change including the approval of a Conditional Use Permit for a Bar:

2.01. Zoning Amendment. 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 Light Industrial District to Commercial District.

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

2.03. 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, those regulations governing the Commercial District, and local and state alcohol licensing (“Applicable Regulations”). The CUP granted by this Ordinance shall control in cases of conflict between this Ordinance and/or the Comprehensive Zoning Ordinance.

C. This CUP shall allow for the operation of one (1) Bar on the Property. Prior to the issuance of a Certificate of Occupancy for the Bar, the Owner shall: (i) complete a 911 address application for the specific site of the Bar on the Property and provide the assigned address to the City to be kept on file with the City as the recorded location of the Bar for purposes of this Ordinance; (ii) obtain City approval of an offsite parking plan on the adjacent property; (iii) obtain City approval of a fire lane plan on the Property and adjacent property; (iv) obtain a written parking easement, lease, or similar enforceable instrument for the area reflected for parking and fire lane in the offsite parking plan and fire lane plan evidencing permission to park and have a fire lane on the adjacent property and submit a copy to the City; and (v) obtain City approval of a landscape plan for the Property (together the “Certificate of Occupancy Conditions”). Failure to meet any one or more of the Certificate of Occupancy Conditions after the Certificate of Occupancy is issued shall cause the Certificate of Occupancy to be revoked and shall cause this CUP to terminate. Termination of this CUP shall not affect the Property’s zoning classification of Commercial District granted in Section 2.01 above.

D. Hours of Operation. Hours of operation for the Bar use shall be allowed from 11:00 A.M. – 11:00 P.M., daily, except 6 P.M. – 11 P.M. shall be reserved for patrons twenty-one (21) years of age and over, except for in the cases of designated special events.

- E. Upon request of the Owner, the City Manager shall have the authority to approve, in writing, modified hours of operation of a maximum of seven (7) times per calendar year.

**Section 3. Failure to Comply/Expiration/Transferable.** All terms of this CUP shall be complied with prior to the 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".

Termination of this CUP shall not affect the Property's zoning classification of Commercial District granted in Section 2.01 above.

**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 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 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.

**Section 8. 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.

**PASSED AND APPROVED BY THE CITY COUNCIL ON THE 5<sup>TH</sup> DAY OF MAY, 2025.**



Robert Crawley, 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 P.C. Martin Survey, Abstract No. 767, and being that same tract of land described as 2.27 acres conveyed to Larry McGaffey by deed recorded in Volume 2240, Page 920, Official Public Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a found Railroad Spike at the most southerly south corner of said 2.27 acre tract in the west Right-of-Way of Armstrong Avenue;

Thence North  $46^{\circ}28'16''$  West with the east line of Lot 1 of Aday - Harrelson Addition by plat recorded in Volume 20, Page 189, Plat Records, Grayson County, Texas, a distance of 503.35 feet to a set  $\frac{1}{2}$ " steel rod;

Thence South  $88^{\circ}50'58''$  East with the north line of said 2.27 acre tract a distance of 415.98 feet to a set  $\frac{1}{2}$ " steel rod;

Thence with the east line of said 2.27 acre tract the following calls and distances:

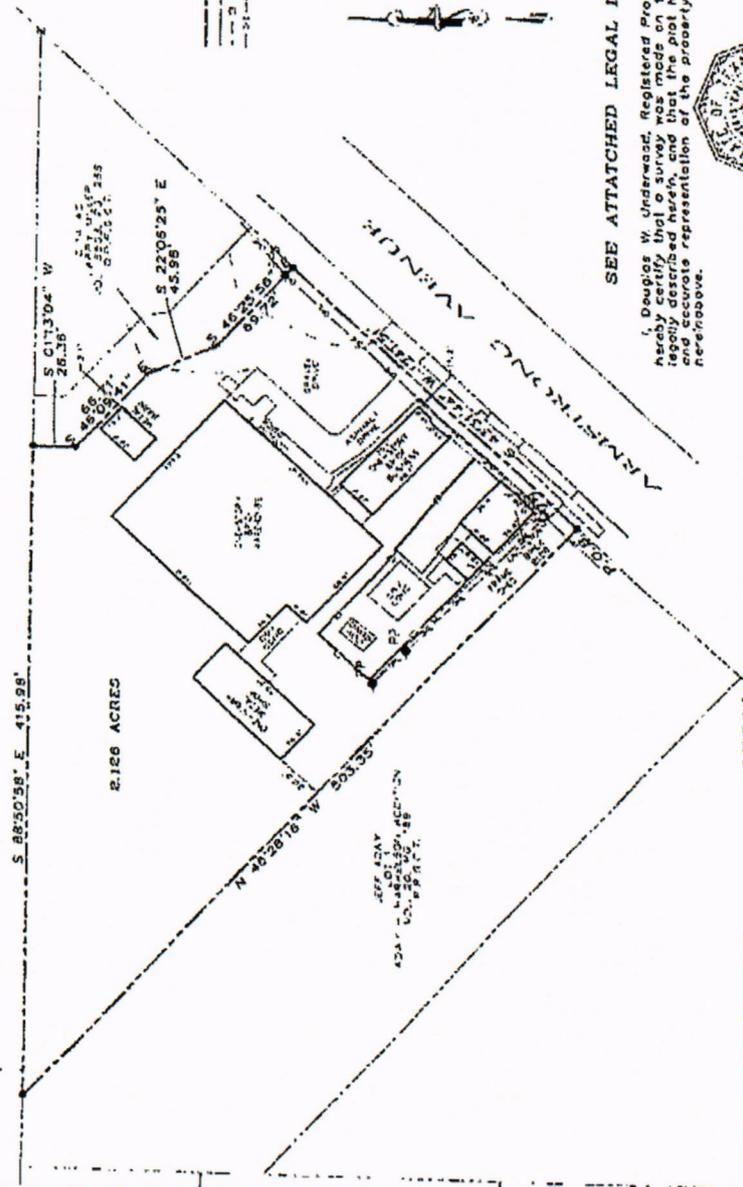
- South  $01^{\circ}13'04''$  West a distance of 26.36 feet to a set  $\frac{1}{2}$ " steel rod;
- South  $46^{\circ}09'41''$  East a distance of 66.71 feet to a found  $\frac{1}{2}$ " steel rod;
- South  $22^{\circ}06'25''$  East a distance of 45.98 feet to a found  $\frac{1}{2}$ " steel rod;
- South  $46^{\circ}25'56''$  East a distance of 69.72 feet to a set  $\frac{1}{2}$ " steel rod;

Thence South  $43^{\circ}31'44''$  West with the west Right-of-Way of Armstrong Avenue a distance of 241.51 feet to the Point of Beginning and containing 2.126 acres of land.

*Pool* 09/29/2022

JOB NO. 20080726  
 P.A. 12 - 5 FT 00

BROOK STREET UNDEVELOPED



LEGEND

- 1/4\"/>

SCALE  
 1" = 60'

SEE ATTACHED LEGAL DESCRIPTION

I, Douglas W. Underwood, Registered Professional Land Surveyor, hereby certify that a survey was made on the ground on the property legally described herein, and that the plat hereon is a true, correct and accurate representation of the property legally described hereinabove.

*Douglas W. Underwood*

Douglas W. Underwood  
 Registered Professional Land Surveyor  
 License No. 10008350  
 State of Tennessee 9/29/2003



**UNDERWOOD**  
 DRAFTING & SURVEYING  
 3402 N. TERREBAY ROAD, DENVER, TEXAS 75021

THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL SURVEY PLAT AS FILED IN THE PUBLIC RECORDS OF THE COUNTY OF TARRANT, TEXAS.

RECORDED IN THE PUBLIC RECORDS OF THE COUNTY OF TARRANT, TEXAS, ON 09/29/2003 AT 10:00 AM.