



NOTICE OF MEETING OF THE GOVERNING BODY OF THE CITY OF BURNET

Notice is hereby given that a **Regular Meeting** will be held by the governing body of the City of Burnet on the **27th day of October, 2020** at **6:00 p.m.** in the Council Chambers, Burnet Municipal Airport, 2402 S. Water, Burnet, Tx. In order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19), a Declaration of a Public Health Emergency was executed by Mayor Bromley on March 19, 2020. The Council Chambers will be closed to public attendance. A Zoom Webinar with toll free conference call capability has been established for access as follows:

Computer: Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86913022272?pwd=SDh2UDYwdWthNk9JTkhBSW1XNVNTQT09>

OR: Go to: www.zoom.us

Enter Webinar ID when prompted: 869 1302 2272 #

Enter Password when prompted: 856274 #

If you would like to address the Council with a Public Comment while logged-in online, please use the “raise your hand” feature.

By Telephone Call: 888-475-4499 or 877-853-5257 (Toll Free Numbers)

Enter Webinar ID when prompted: 869 1302 2272 #

Enter Password when prompted: 856274 #

If you would like to address the Council with a Public Comment while dialed in via telephone, please use the “raise your hand” feature, by pressing ***9** while on the phone.

This notice is posted pursuant to the Texas Government Code, Chapter §551-Open Meetings.

The following subjects will be discussed, to-wit:

CALL TO ORDER:

1. ROLL CALL:

2. SPECIAL REPORTS/RECOGNITION:

2.1) Addendum to the City Council Agenda: Department and Committee Reports/Briefings: The City Council may or may not receive a briefing dependent upon activity or change in status regarding the matter. The listing is provided to give notice to the public that a briefing to the Council on any or all subjects may occur.

2.2) Proclamation: Salvation Army COVID-19 Support: Mayor Bromley

2.3) Burnet Economic Development Board Update Report: D. Vaughn

3. PUBLIC HEARING:

3.1) Public Hearing: The City Council of the City of Burnet, TX, shall conduct a public hearing to receive public testimony and comments on the merits of a request to rezone property located at 608 Buchanan Drive (Legal Description: S5100 HAMILTON CREEK ADTN. LOT 9B BLK 4). The requested rezoning is from its present designation of Light Commercial—District "C-1" to a designation of Heavy Commercial—District "C-3": J. Lutz

3.2) Public Hearing: The City Council of the City of Burnet, TX, shall conduct a public hearing to receive public testimony and comments on the merits of a request for a Conditional Use Permit to allow the land use of "Machine shop without outdoor storage" as permitted in Sec. 118-47. - Heavy commercial—District "C-3" of the City's Code of Ordinances, for property located at 608 Buchanan Drive (Legal Description: S5100 HAMILTON CREEK ADTN. LOT 9B BLK 4): J. Lutz

3.3) Public Hearing: The City Council of the City of Burnet, TX, shall conduct a public hearing to receive public testimony and comments on the merits of a request to rezone property located at 1006 E. Marble St. (Legal Description: S5550 JOHNSON ADDITION LOT 7 & 8 BLK 17). The requested rezoning is from its present designation of Single-family residential 1—District "R-1" to a designation of Townhomes—District "R-2 A": J. Lutz

4. CONSENT AGENDA ITEMS:

(All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member, staff member or citizen requests removal of the item from the consent agenda for the purpose of discussion. For removal of an item, a request must be made to the Council when the Consent Agenda is opened for Council Action.)

4.1) Approval of the October 13th, 2020 City Council Special Meeting Minutes

5. ACTION ITEMS:

5.1) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING A FUTURE LAND USE DESIGNATION OF "RESIDENTIAL" AND "COMMERCIAL" FOR APPROXIMATELY 163 ACRES OF LAND OUT OF THE SARAH ANN GUEST SURVEY, ABSTRACT 1525 AS SHOWN IN EXHIBITS A; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

5.2) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING HEAVY COMMERCIAL—DISTRICT "C-3", SINGLE-FAMILY RESIDENTIAL 1—DISTRICT "R-1", AND MULTI-FAMILY RESIDENTIAL—DISTRICT "R-3" DESIGNATIONS TO APPROXIMATELY 163 ACRES OF LAND OUT OF THE SARAH ANN GUEST SURVEY, ABSTRACT 1525, AS SHOWN AND FURTHER DESCRIBED IN EXHIBIT A; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

5.3) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING MULTI-FAMILY RESIDENTIAL—DISTRICT "R-3" TO THAT PROPERTY DESCRIBED AS LOT 2B, BLOCK 38, AND LOTS 2 & 3, BLOCK 37 OF THE ALEXANDER ADDITION SUBDIVISION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

5.4) Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING THE CODE OF ORDINANCES SECTION 110-1 (ENTITLED "DEFINITIONS") AND SECTION 110-36 (ENTITLED "BULK WATER SALES") BY ADJUSTING THE BULK WATER RATE; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: A. Burdell

5.5) Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING A LICENSE AGREEMENT WITH DUSTIN ORMAN FOR THE CULTIVATING AND HARVESTING OF HAY ON BURNET WASTEWATER TREATMENT PLANT LAND AND AUTHORIZING THE MAYOR TO EXECUTE A LICENSE AGREEMENT ON BEHALF OF THE CITY: A. Burdell

5.6) Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE ACCEPTANCE OF SUPPLEMENTAL PAYMENTS FROM THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION FOR COSTS INCURRED BY THE CITY IN PROVIDING AMBULANCE SERVICES TO MEDICAID INSURED AND UNINSURED PATIENTS; DIRECTING THE NET PROCEEDS TO BE DEPOSITED IN ACCORDANCE WITH

THE CITY'S INVESTMENT POLICY; AND RESTRICTING THE USE OF PROCEEDS: P. Langford

5.7) Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW THE LAND USE OF "MACHINE SHOP WITHOUT OUTDOOR STORAGE" AS PERMITTED IN SEC. 118-47. - HEAVY COMMERCIAL—DISTRICT "C-3" OF THE CITY'S CODE OF ORDINANCES, FOR PROPERTY LOCATED AT 608 BUCHANAN DRIVE (LEGAL DESCRIPTION: S5100 HAMILTON CREEK ADDITION, LOT 9B BLOCK 4); PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

5.8) Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING HEAVY COMMERCIAL—DISTRICT "C-3", DESIGNATIONS TO S5100 HAMILTON CREEK ADDITION, LOT 9B, BLOCK 4, LOCATED AT 608 BUCHANAN DR., AS SHOWN IN EXHIBIT A; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

5.9) Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING TOWNHOMES—DISTRICT "R-2 A", DESIGNATIONS TO S5550 JOHNSON ADDITION, LOTS 7 & 8, BLOCK 17, AS SHOWN IN EXHIBIT A; LOCATED AT 1006 E. MARBLE ST.; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

5.10) Discuss and consider action. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING AN APPLICATION FOR A GRANT FROM THE CAPITAL AREA COUNCIL OF GOVERNMENTS FOR MONETARY ASSISTANCE TO THE POLICE DEPARTMENT; AND, IF AWARDED, AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN INTERLOCAL AGREEMENT WITH THE CAPITAL AREA COUNCIL OF GOVERNMENTS FOR ACCEPTANCE AND USE OF GRANT FUNDS S. Fuller

5.11) Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING A \$10,000.00 REWARD FOR INFORMATION LEADING TO THE ARREST OF THE PERSON OR PERSONS COMMITTING ARSONS IN THE COMMUNITY; AND AUTHORIZING HILL COUNTRY AREA CRIME STOPPERS TO ADMINISTER THE REWARD PROCESS: S. Fuller

5.12) Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS APPROVING AMENDMENTS TO THE BURNET

ECONOMIC DEVELOPMENT CORPORATION'S BYLAWS: D. Vaughn

5.13) Discuss and consider action: Appointment of Burnet Economic Development Corporation board members to director positions one (1) through seven (7): D. Vaughn

7. REQUESTS FROM COUNCIL FOR FUTURE REPORTS: In accordance with Resolution R2020-28 councilmembers may request the City Manager to prepare and present future report on matters of public interest.

8. ADJOURN:

Dated this the 23rd day of October, 2020

**CITY OF BURNET
CRISTA GOBLE BROMLEY, MAYOR**

I, the undersigned authority, do hereby certify that the above NOTICE OF MEETING of the governing body of the above named City, BURNET, is a true and correct copy of said NOTICE and that I posted a true and correct copy of said NOTICE on the bulletin board, in the City Hall of said City, BURNET, TEXAS, a place convenient and readily accessible to the general public at all times, and said NOTICE was posted on October 23rd, 2020 at or before 6 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

Kelly Dix, City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

The City Council Chamber is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's office (512.756.6093) at least two working days prior to the meeting. Requests for information may be faxed to the City Secretary at 512.756.8560.

RIGHT TO ENTER INTO EXECUTIVE SESSION:

The City Council for the City of Burnet reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).



Proclamation

OF THE MAYOR AND CITY COUNCIL FOR THE
CITY OF BURNET

Whereas, The Salvation Army was founded in 1865 in Great Britain as a group of volunteers that provided humanitarian relief and spiritual guidance to people around the world; and

Whereas, countless volunteers serve as members of the Salvation Army in communities throughout the United States providing food to the hungry, shelter to the homeless, self-sufficiency for the disabled, disaster relief, summer camps, services for the aging, veteran services, alcohol and drug rehabilitation and help for domestic abuse, all with spiritual guidance, support and kindness to all; and

Whereas, due to the COVID-19 Pandemic and the strain to our communities economic wellbeing, many citizens in the Burnet area were in need of assistance in many of the areas that the Salvation Army offers services for; and

Whereas, the Burnet area Salvation Army group stood to the challenge by supporting the Citizens of Burnet and donating approximately twenty four thousand dollars to the City of Burnet Utility Assistance Program; and

Whereas, the City of Burnet wishes to acknowledge the many ways the Salvation Army and particularly Preston Ingram, Rita Ingram, Vickie Seiley and Lisa Whitehead and the regional members that have helped our community.



Now, Therefore, be it proclaimed, that I, Crista Goble Bromley, Mayor of the City of Burnet, on behalf of the City Council of the City of Burnet, declare Tuesday, October 27, 2020 as

Salvation Army Appreciation Day

in the City of Burnet.

In witness thereof, I have hereunto set my hand and caused the seal of the City of Burnet to be affixed this 27th day of October 2020.

Crista Goble Bromley
Mayor



Development Services

ITEM 3.1

Jason Lutz
Development Services
(512) 715-3215
jlutz@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Public Hearing: The City Council of the City of Burnet, Texas, shall conduct a public hearing to receive public testimony and comments on the merits of a request for a Conditional Use Permit to allow the land use of "Machine shop without outdoor storage" as permitted in Sec. 118-47. - Heavy commercial—District "C-3" of the City's Code of Ordinances, for property located at 608 Buchanan Drive (Legal Description: S5100 HAMILTON CREEK ADTN. LOT 9B BLK 4): J. Lutz

Background: The subject property is currently zoned Light Commercial (C-1) and is located on the north side of Hwy. 29 at 608 Buchanan Dr. The applicant requested a zoning change to Heavy Commercial (C-3) (previous item on the agenda) in order to apply for a Conditional Use Permit for the land use of "Machine shop without outdoor storage" (previous item on the agenda).

The subject property is a flag shaped lot with access directly from Hwy. 29 and an additional access point on the rear street (Josephine) which would give a secondary point of access through a residential street, which is currently available under the current C-1 zoning.

Staff Analysis: Staff has reviewed the proposed CUP request and looked at several factors such as adjacent zoning/land uses, available utilities, and access.

Zoning/Land Uses: The applicant is seeking to utilize the property as a "Machine shop without outdoor storage" in order to fabricate metal parts. The proposed use does require a CUP, if it is located in a C-3 district, thus the need for the previous requested zoning change.

The existing structure is located 50' from the front property line, 20' from the side property lines, and 12' from the rear property lines, which meet the City regulations for the proposed zoning district.

The subject tract is surrounded by C-1 to the north, west, and south. There are some existing R-1 zoning districts to the east and south across Hwy 29. These R-1 zoning districts are residential islands surrounded by C-1 zoning districts (see Exhibit A below). Additionally, there are some Industrial and C-2 zoning districts in the area.

The requested CUP and nature of the product being produced would not be likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences other than the minimum amounts normally resulting from listed uses permitted currently allowed on the property, such permitted uses being generally retail trade, service industries that sale, store, distribute and/or repair goods, vehicles, equipment and materials, and are in general dependent on products and materials produced elsewhere.

Available Utilities: There are existing water and sewer lines that may be connected to in order to serve the property.

Access: The property will be accessed via Hwy. 29 but does have a secondary point that could allow traffic to enter or exit from the residential street (Josephine) as is currently permitted.

Public Hearing: Open the public hearing and receive comments.

Exhibit A – Zoning Map

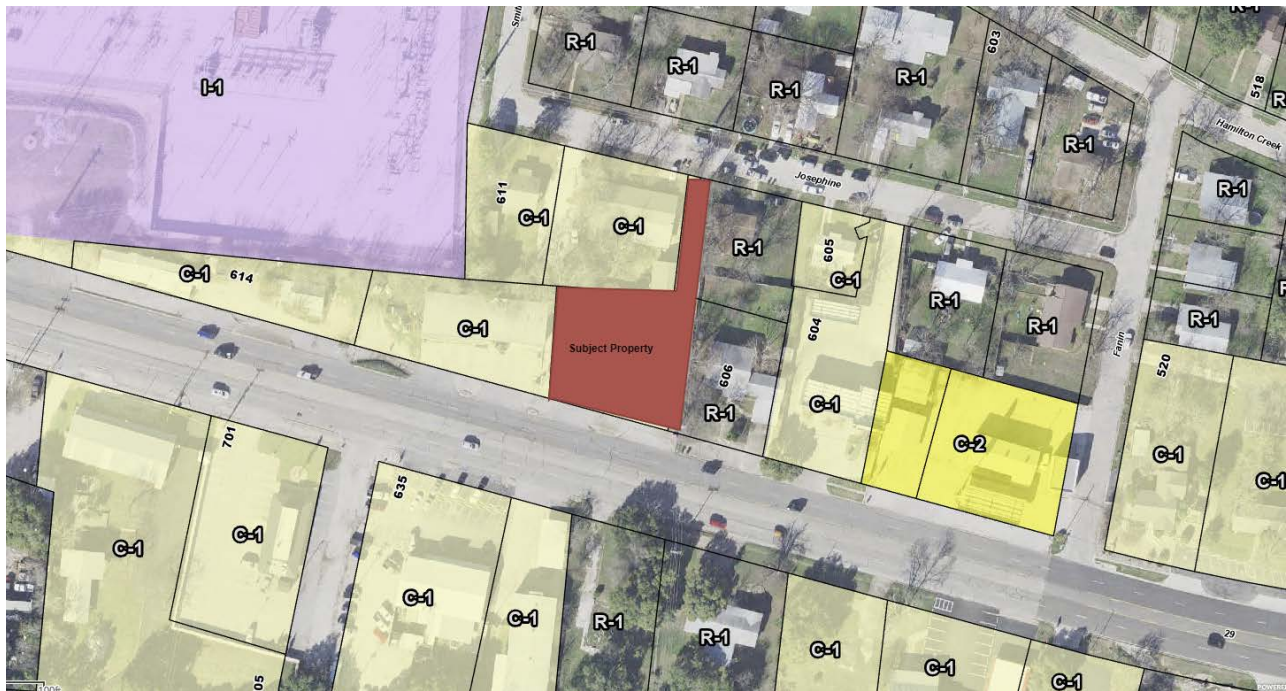


Exhibit B – Additional Land Uses Allowed

C-2 USES

- Air conditioning and heating sales and services.
- Amusement (indoor).
- Amusement (outdoor) and swimming pool (commercial).
- Automobile service station, gasoline station (full and limited), filling or retail service station.
- Apartment hotel, assisted retirement living, boarding house, bed and breakfast, convalescent home, family home, home for the aged and group day care.
- Bakeries with goods primarily prepared for in-store retail sales on site.
- Bonded warehouse and local wholesale distributors.
- Child care center (small, intermediate and large) and child development facilities.
- Cleaning or laundry self-service shop and cleaning shop or laundry (small).
- Clinic and safety services.
- Convenience stores, grocery stores and supermarkets (including the sale of alcoholic beverages for off premise consumption and/or gasoline).
- Cultural services and community center (public and private).
- Day camp.
- Drive-in theaters.
- Dancing and music academies.
- Farm implement display and sales room.
- Farms or truck gardens, limited to the propagation and cultivation of plants; provided that no poultry or livestock other than household pets shall be housed within 50 feet of any property line.
- Florist shops, greenhouses and nurseries with outdoor service and display.
- Golf course (commercial), playfield or stadium (public).
- Hospital services, hospital (acute and chronic care) sanitariums, nursing homes, hospice and home for the aged.
- Hotels, tourist homes, and motels.
- Milk and bread distributing stations.
- Mini storage warehouse and storage garage.
- Parking lots and commercial garage.
- Package liquor stores for off-premise consumption sales.
- Radio and television broadcasting stations and studios, excluding broadcasting towers.
- Recycling collection use.
- Restaurant, cafe or cafeteria, drive-in eating establishment with alcoholic beverage sales for on-premise consumption.

Sale of new automobile parts.
Shopping center.
Small animal clinic/veterinary services.
Heliport.
Taxi cab stations.
Upholstering shops.
Wholesale sales establishments and warehouses.
Wholesale bakeries.

C-3 USES

Automobile repair or retail service station and garage.
Automobile sales (outdoor).
Bar, nightclub, private club, dance hall and social club where alcoholic beverages are sold for on-premise consumption.
Carpentry, painting, plumbing or tinsmiths shop.
Frozen food lockers and cold storage plant.
Heavy machinery sales, storage and service.
Lumber yards and building materials storage yards.
Machine shop without outdoor storage (permitted with conditional use permit).
Manufactured housing and service.
Retail propane sales.
Retail facilities over 10,000 square feet.
Stable.
Taxidermy shops and seasonal meat processing (such as deer meat).
Horse race track and riding stable with a condition use permit.
Private zoo with a conditional use permit.
Transportation services.
Trailer camp or RV park.
Truck stop, with no repair or wash service.
Wood yard.
Veterinary services and hospital.



Development Services

ITEM 3.2

Jason Lutz
Development Services
(512) 715-3215
jlutz@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Public Hearing: The City Council of the City of Burnet, Texas, shall conduct a public hearing to receive public testimony and comments on the merits of a request to rezone property located at 608 Buchanan Drive (Legal Description: S5100 HAMILTON CREEK ADTN. LOT 9B BLK 4). The requested rezoning is from its present designation of Light Commercial—District "C-1" to a designation of Heavy Commercial—District "C-3": J. Lutz

Background: The subject property is currently zoned Light Commercial (C-1) and is located on the north side of Hwy. 29 at 608 Buchanan Dr.

The subject property is a flag shaped lot with access directly from Hwy. 29 and an additional access point on the rear street (Josephine) which would give a secondary point of access through a residential street.

The applicant is requesting to rezone the property from Light commercial—District "C-1" to Heavy commercial—District "C-3" in order to execute a sales contract, pending the zoning change to allow for the proposed business to fall within proper zoning.

The applicant will need to receive a Conditional Use Permit (CUP) for a "Machine shop without outdoor storage" in order to proceed with the proposed business (next item on the agenda).

Staff Analysis: Staff has reviewed the proposed zoning request and looked at several factors such as Future Land Use Plan (FLUP), adjacent zoning/land uses, available utilities, and access.

FLUP: The City's Comprehensive Plan calls out this parcel as "Commercial". This zoning change request is in line with the City's Future Land Use Plan.

Zoning/Land Uses: The applicant is seeking to utilize the property as a "Machine shop without outdoor storage" in order to fabricate metal parts. The proposed use does require a CUP, if it is located in a C-3 district, thus the need for the requested zoning change.

The existing structure is located 50' from the front property line, 20' from the side property lines, and 12' from the rear property lines, which meet the City regulations for the proposed zoning district.

The subject tract is surrounded by C-1 to the north, west, and south. There are some existing R-1 zoning districts to the east and south across Hwy 29. These R-1 zoning districts are residential islands surrounded by C-1 zoning districts (see Exhibit A below). Additionally, there are some Industrial and C-2 zoning districts in the area.

The proposed C-3 zoning will allow all land uses currently permitted by right, within the C-1 zoning district, as well as additional uses listed in the C-2 and C-3 zoning districts (see Exhibit B – Additional Land Uses below).

Available Utilities: There are existing water and sewer lines that may be connected to in order to serve the property.

Access: The property will be accessed via Hwy. 29 but does have a secondary point that could allow traffic to enter or exit from the residential street (Josephine) as is currently permitted.

Public Hearing: Open the public hearing and receive comments.

Exhibit A – Zoning Map

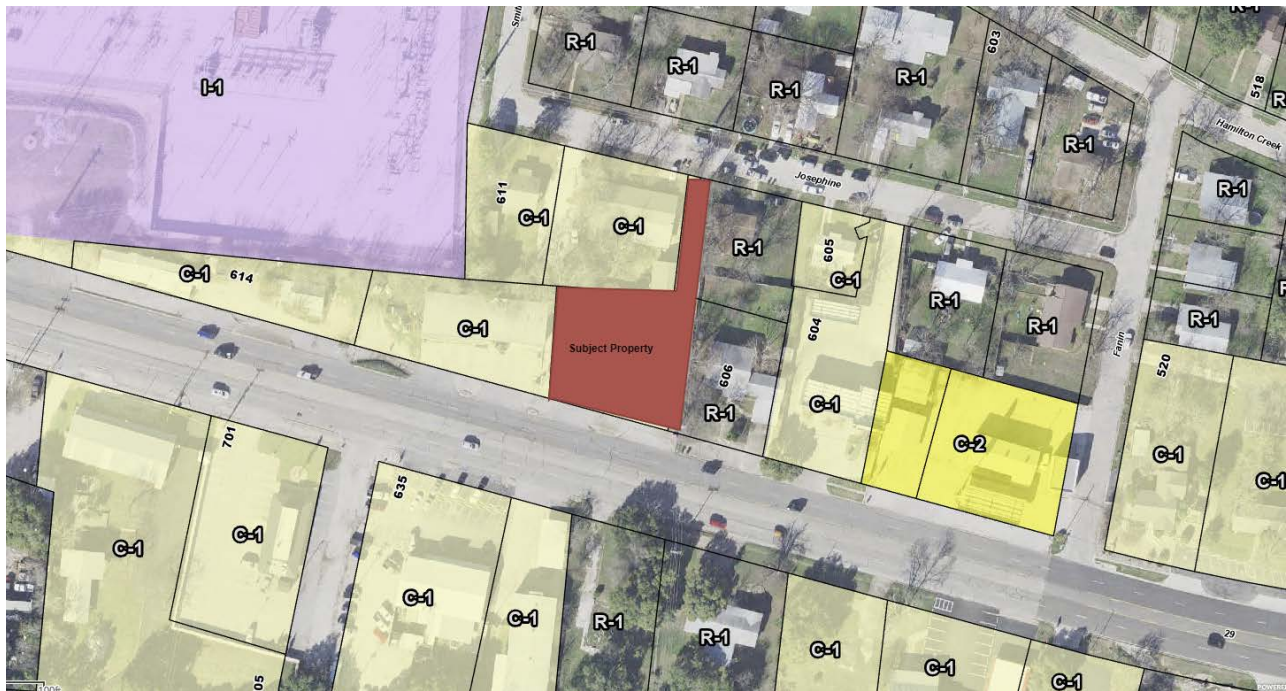


Exhibit B – Additional Land Uses Allowed

C-2 USES

- Air conditioning and heating sales and services.
- Amusement (indoor).
- Amusement (outdoor) and swimming pool (commercial).
- Automobile service station, gasoline station (full and limited), filling or retail service station.
- Apartment hotel, assisted retirement living, boarding house, bed and breakfast, convalescent home, family home, home for the aged and group day care.
- Bakeries with goods primarily prepared for in-store retail sales on site.
- Bonded warehouse and local wholesale distributors.
- Child care center (small, intermediate and large) and child development facilities.
- Cleaning or laundry self-service shop and cleaning shop or laundry (small).
- Clinic and safety services.
- Convenience stores, grocery stores and supermarkets (including the sale of alcoholic beverages for off premise consumption and/or gasoline).
- Cultural services and community center (public and private).
- Day camp.
- Drive-in theaters.
- Dancing and music academies.
- Farm implement display and sales room.
- Farms or truck gardens, limited to the propagation and cultivation of plants; provided that no poultry or livestock other than household pets shall be housed within 50 feet of any property line.
- Florist shops, greenhouses and nurseries with outdoor service and display.
- Golf course (commercial), playfield or stadium (public).
- Hospital services, hospital (acute and chronic care) sanitariums, nursing homes, hospice and home for the aged.
- Hotels, tourist homes, and motels.
- Milk and bread distributing stations.
- Mini storage warehouse and storage garage.
- Parking lots and commercial garage.
- Package liquor stores for off-premise consumption sales.
- Radio and television broadcasting stations and studios, excluding broadcasting towers.
- Recycling collection use.
- Restaurant, cafe or cafeteria, drive-in eating establishment with alcoholic beverage sales for on-premise consumption.

Sale of new automobile parts.
Shopping center.
Small animal clinic/veterinary services.
Heliport.
Taxi cab stations.
Upholstering shops.
Wholesale sales establishments and warehouses.
Wholesale bakeries.

C-3 USES

Automobile repair or retail service station and garage.
Automobile sales (outdoor).
Bar, nightclub, private club, dance hall and social club where alcoholic beverages are sold for on-premise consumption.
Carpentry, painting, plumbing or tinsmiths shop.
Frozen food lockers and cold storage plant.
Heavy machinery sales, storage and service.
Lumber yards and building materials storage yards.
Machine shop without outdoor storage (permitted with conditional use permit).
Manufactured housing and service.
Retail propane sales.
Retail facilities over 10,000 square feet.
Stable.
Taxidermy shops and seasonal meat processing (such as deer meat).
Horse race track and riding stable with a condition use permit.
Private zoo with a conditional use permit.
Transportation services.
Trailer camp or RV park.
Truck stop, with no repair or wash service.
Wood yard.
Veterinary services and hospital.



Development Services

ITEM 3.3

Jason Lutz
Development Services
(512) 715-3215
jlutz@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Public Hearing: The City Council of the City of Burnet, Texas, shall conduct a public hearing to receive public testimony and comments on the merits of a request to rezone property located at 1006 E. Marble St. (Legal Description: S5550 JOHNSON ADDITION LOT 7 & 8 BLK 17). The requested rezoning is from its present designation of Single-family residential 1—District "R-1" to a designation of Townhomes—District "R-2 A": J. Lutz

Background: The subject property is currently zoned Single-family residential (R-1) and is located at the northwest intersection of E. Marble St. and Clark St.

The subject property consists of two separate undeveloped lots (7&8) and are each approximately 0.232 acres (10,105.92 sq. ft.).

The applicant is requesting to rezone the property from Single-family residential 1—District "R-1" to Townhomes—District "R-2 A" in order to construct a single-family attached structure (townhome) consisting of 2 units on each lot.

Staff Analysis: Staff has reviewed the proposed zoning request and looked at several factors such as Future Land Use Plan (FLUP), adjacent zoning/land uses, available utilities, and access.

FLUP: The City's Comprehensive Plan calls out this parcel as "Commercial". This zoning change request is in line with the City's Future Land Use Plan (see Exhibit B below).

Zoning/Land Uses: The subject tract is surrounded by R-1 to the north west, R-1 & M-1 to the south, and R-1 & R-2 to the east. Additionally, there are some M-1, C-1, R-2, and R-3. Zoning districts within a block of the subject property (see Exhibit A below).

Available Utilities: There are existing water and sewer lines that may be connected to in order to serve the property.

Access: The property has access via E. Marble St. and depending on the final layout may have access on Clark St. Currently Clark St. is undeveloped and if the applicant would like to access via that rights-of-way, they would be responsible for the construction of the road.

Public Hearing: Open the public hearing and receive comments.

Exhibit A – Zoning Map

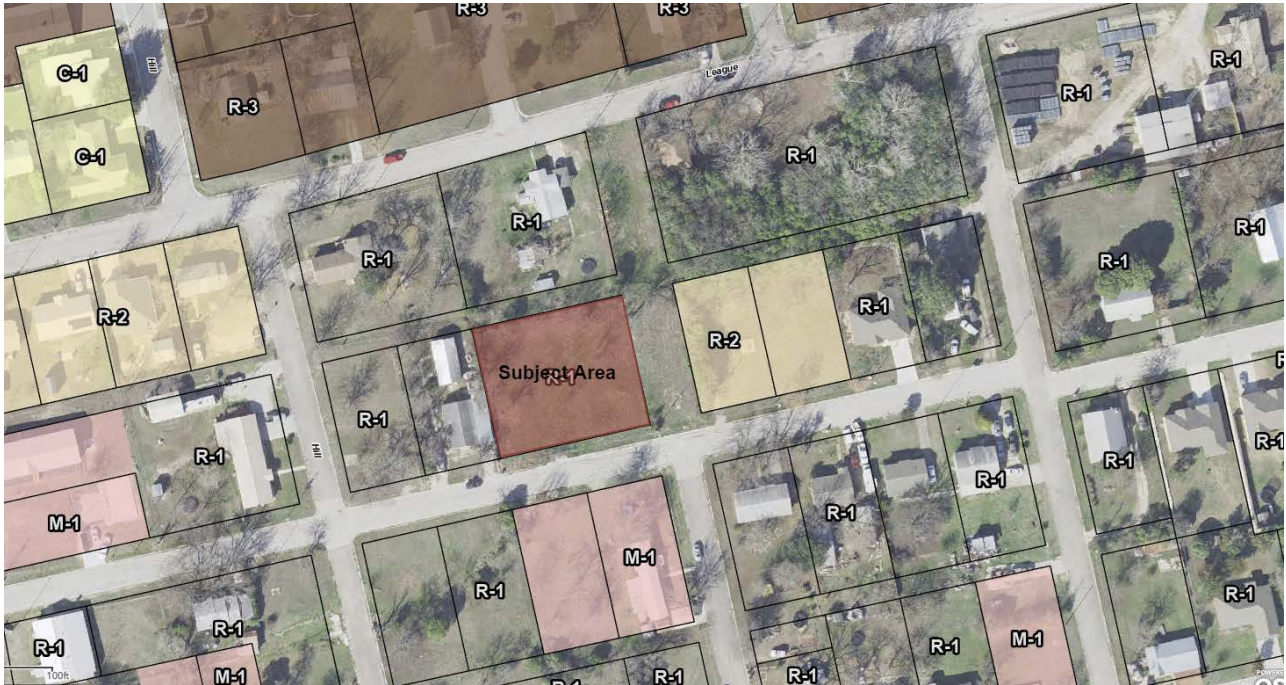
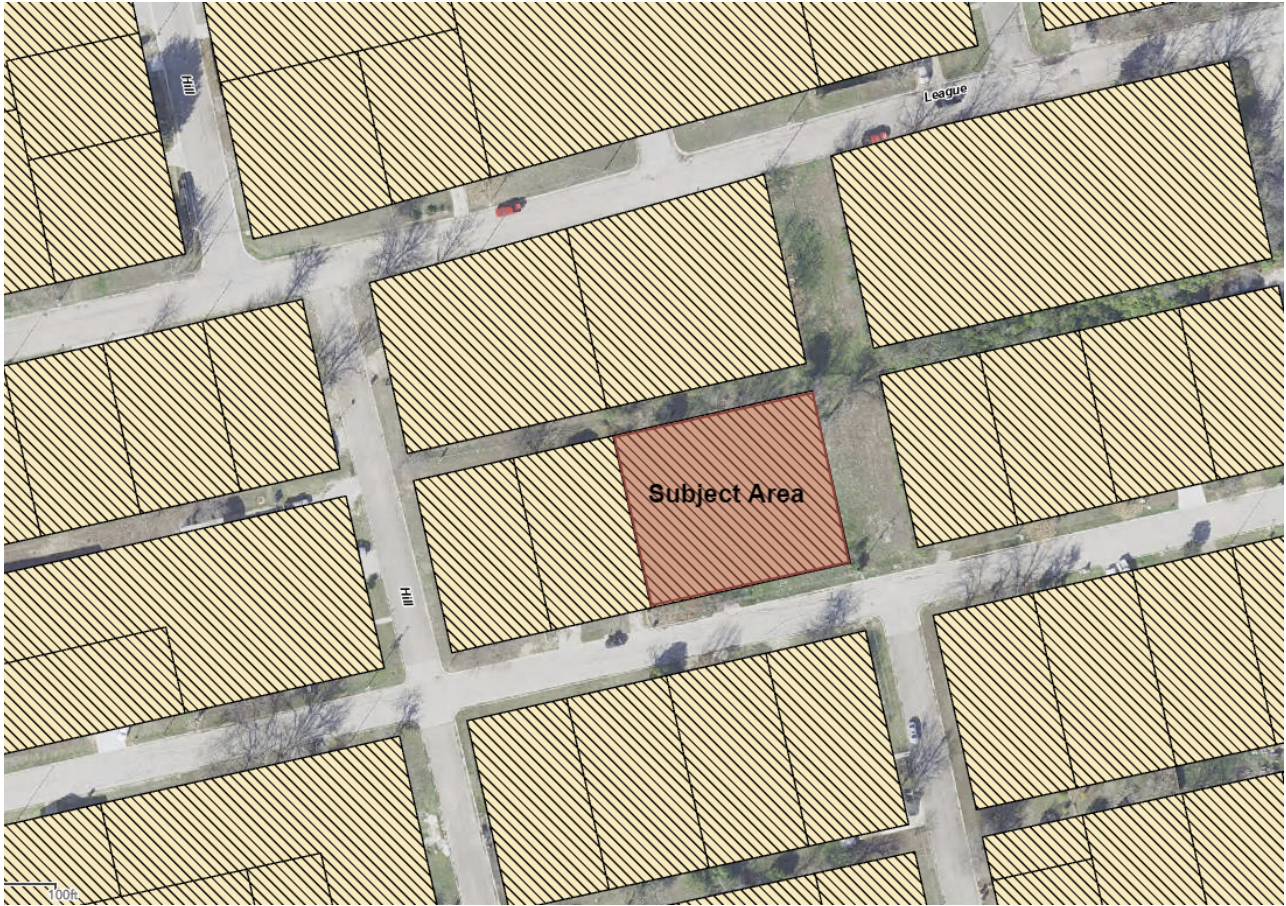






Exhibit B – Future Land Use Map



Future Land Use Plan

	Commercial
	Residential
	Government
	Industrial



Development Services

ITEM 5.1

Jason Lutz
Development Services
(512) 715-3215
jlutz@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Discuss and consider action: SECOND READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-09 BY ASSIGNING A FUTURE LAND USE DESIGNATION OF "RESIDENTIAL" AND "COMMERCIAL" FOR APPROXIMATELY 163 ACRES OF LAND OUT OF THE SARAH ANN GUEST SURVEY, ABSTRACT 1525 AS SHOWN IN EXHIBITS A; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

Background: The City adopted a Comprehensive Plan in 1992 and the Future Land Use Plan map in 2012. Since that time no major updates or amendments have been completed. The proposed amendments are due to recent development patterns in the area and a requested zoning change (next item on the agenda) that would not be in-line with the adopted comprehensive plan.

Information: The property in question is approximately 163 acres with a current designation of Industrial on the future land use plan.

Recent development activity in the area has been trending towards single-family residential and staff expects that trend to continue.

Currently most of the industrial activity has been focused in existing Industrial zones located near the airport, south of Aristokraft, and south of Industrial Dr. (west of the railroad).

Staff Analysis: The development of Single-family homes and zoning along Westfall and west of the railroad tracts has created a situation that calls for SF-1 to be developed adjacent to land that is designated for Industrial uses in the future.

The subject property identified as industrial was rezoned to Industrial and C-3 (Heavy Commercial) in 2010. The areas along Hwy 29 were changed to C-3 and the remainder was changed to Industrial.

Staff expects the areas along Hwy 29 to develop with commercial uses, but with the expansion of single-family homes into the area, staff does not see Industrial as viable or desirable at this location.

P&Z

Recommendation: P&Z held a public hearing on Oct. 5, 2020 and recommended approval of the proposed amendment.

Previous Council

Action: City Council held a public hearing and 1st ordinance reading on Oct. 13, 2020 and approved the ordinance.

Recommendation: Approve and adopt Ordinance 2020-25 as presented.

ORDINANCE NO. 2020-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-09 BY ASSIGNING A FUTURE LAND USE DESIGNATION OF “RESIDENTIAL” AND “COMMERCIAL” FOR APPROXIMATELY 163 ACRES OF LAND OUT OF THE SARAH ANN GUEST SURVEY, ABSTRACT 1525 AS SHOWN IN EXHIBITS A; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Planning and Zoning Commission of the City of Burnet, on October 5, 2020, did conduct a public hearing for the purpose of taking public comment regarding the proposal to assigning a Future Land Use designation of “Residential” and Commercial for approximately 163 acres of land out of the Sarah Ann Guest Survey, Abstract 1525 as shown in Exhibit A; and

WHEREAS, The Planning and Zoning Commission in open deliberation found that applying Future Land Use designation of “Residential” and “Commercial” for approximately 163 acres of land out of the Sarah Ann Guest Survey, Abstract 1525 as shown in Exhibit A, consistent with existing development patterns in the area, and consistent with the best public interest; and

WHEREAS, The Planning and Zoning Commission did then, by a 5-0 vote of members present, recommended approval of assigning a Future Land Use designation of “Residential” and “Commercial” for approximately 163 acres of land out of the Sarah Ann Guest Survey, Abstract 1525 as shown in Exhibit A; and

WHEREAS, The City Council of the City of Burnet, on October 13, 2020 did conduct its own public hearing for the purpose of taking public comment regarding the proposal to assigning a Future Land Use designation of “Residential” and “Commercial” for approximately 163 acres of land out of the Sarah Ann Guest Survey, Abstract 1525 as shown in Exhibit A; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation, as well as its own deliberations, did determine that assigning a Future Land Use designation of “Residential” and “Commercial” for approximately 163 acres of land out of the Sarah Ann Guest Survey, Abstract 1525 as shown in Exhibit A; to be consistent with existing development patterns in the area, and therefore consistent the public health, safety, morals, and the general welfare of the city and its present and future residents;

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Future Land Use Plan. “Residential” and “Commercial” Future Land Uses are hereby assigned to approximately 163 acres of land out of the Sarah Ann Guest Survey, Abstract 1525 as shown in Exhibit A.

Section 3. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 4. Severability. Should any provisions of this ordinance be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

Section 5. Effective Date. This ordinance shall become effective upon passage, adoption and publication as required by law.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

PASSED AND APPROVED on First Reading this 13th day of October 2020.

FINALLY PASSED AND APPROVED on this 27th day of October 2020.

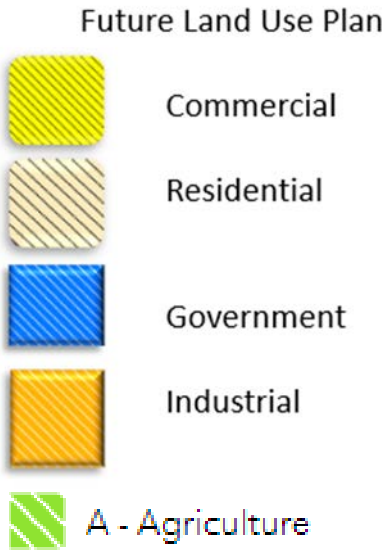
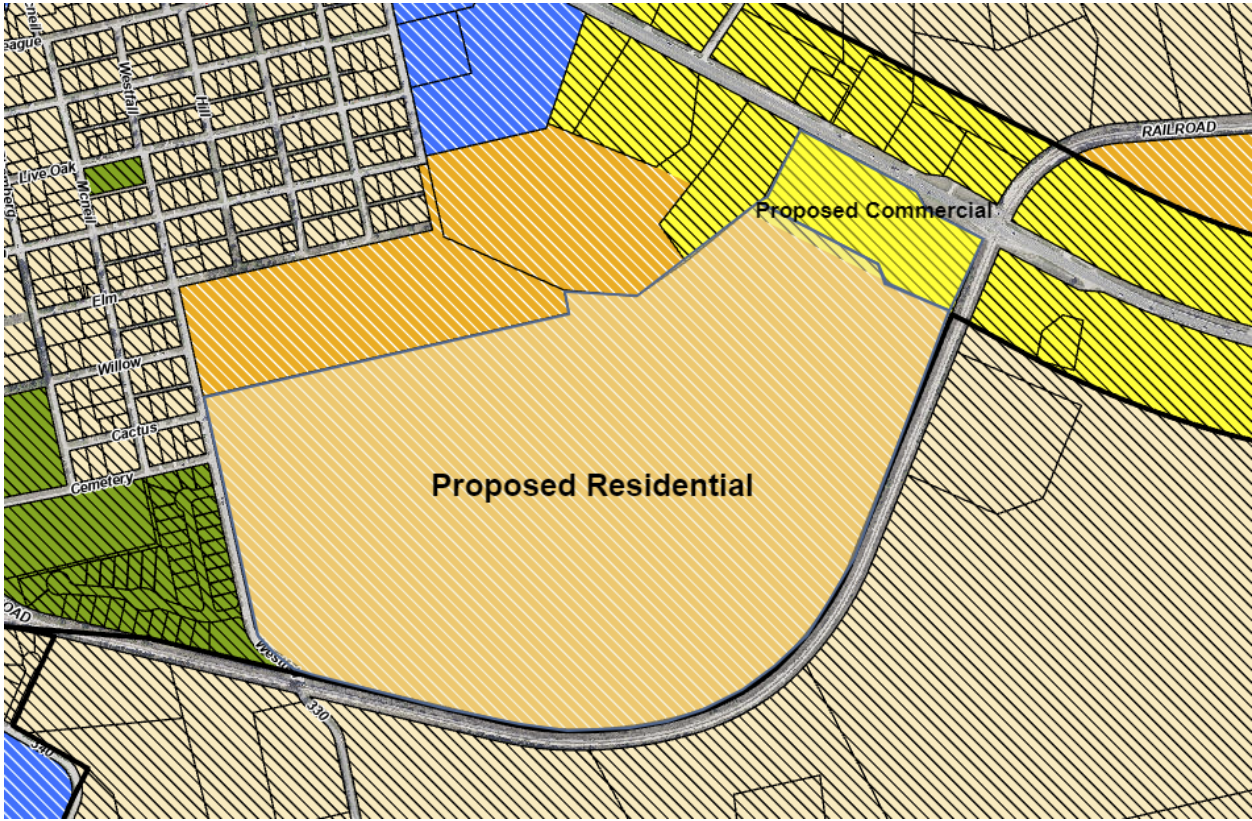
CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Exhibit "A"
Proposed Future Land Use Map





Development Services

ITEM 5.2

Jason Lutz
Development Services
(512) 715-3215
jlutz@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Discuss and consider action: SECOND READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING HEAVY COMMERCIAL—DISTRICT "C-3", SINGLE-FAMILY RESIDENTIAL 1—DISTRICT "R-1", AND MULTI-FAMILY RESIDENTIAL—DISTRICT "R-3" DESIGNATIONS TO APPROXIMATELY 163 ACRES OF LAND OUT OF THE SARAH ANN GUEST SURVEY, ABSTRACT 1525, AS SHOWN AND FURTHER DESCRIBED IN EXHIBIT A; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

Background: The subject property was rezoned from Single-family residential to Heavy commercial—District "C-3" and Light industrial—District "I-1" in 2010.

The applicant is requesting to rezone the property from Heavy commercial—District "C-3" and Light industrial—District "I-1" designations to Heavy commercial—District "C-3", Single-family residential 1—District "R-1", and Multi-family residential—District "R-3" designations.

The C-3 zoning change request is a small boundary change from what was approved in the 2010 rezoning.

The applicant is requesting to rezone the remaining approximate 150 acres from Light Industrial (I-1) to Single-family residential (R-1) for 126 acres and Multi-family residential (R-3) for the remaining 23 acres.

Information: The commercial tract will be developed based on market conditions, but the remaining R-1 and R-3 will be developed as a master planned community.

Recent development activity in the area has been trending towards single-family residential and staff expects that trend to continue. Currently most of the industrial activity has been focused in existing Industrial zones located near the airport, south of Aristokraft, and south of Industrial Dr. (west of the railroad).

Staff Analysis: The development of Single-family homes and zoning along Westfall and west of the railroad tracts has created a situation that calls for SF-1 to be developed adjacent to land that is designated for Industrial.

Staff expects the areas along Hwy 29 to develop with commercial uses, but with the expansion of single-family homes into the area, staff does not see Industrial as viable or desirable at this location (adjacent to single-family homes).

Staff has reviewed the proposed zoning request and looked at several factors such as Future Land Use Plan (FLUP), adjacent zoning/land uses, available utilities, and access.

FLUP: The City’s Comprehensive Plan calls out this parcel as “Industrial”. This zoning change request is not in line with the existing Future Land Use Map, but Council did approve a proposed amendment to the Future Land Use map that will bring this request into compliance with the Future Land Use Plan.

Adjacent Zoning/Land Uses: The subject tract is surrounded by R-1 zoning to the north and west, C-3 to the north, and railroad tracks and ETJ property to the south and east.

Given the large amounts of new single-family being developed immediately adjacent to the existing industrial zone, the requested change would be a more compatible use.

Available Utilities: There are existing water and sewer lines that may be connected to in order to serve the property. Some upgrades to the existing infrastructure and additional electrical, water, and sewer utilities or relocation of existing utilities may be required, depending on the final site plan/layout of the property. Public Works has been involved in the requested zoning change via multiple pre-development meetings and have no major concerns regarding the requested zoning change.

Access: The applicant will construct additional streets to access the proposed multi-family and single-family developments. A TIA will most likely be required by TxDOT once the commercial sites begin to develop as the proposed commercial uses will drive the required improvements to Hwy 29. Additionally, a 36’ wide street will be required to access the residential areas as the property’s size will allow for the construction of more than 200 homes.

P&Z

Recommendation: P&Z held a public hearing on Oct. 5, 2020 and recommended approval of the requested zoning change.

Previous Council

Action: City Council held a public hearing and 1st ordinance reading on Oct. 13, 2020 and approved the ordinance.

Recommendation: Approve and adopt Ordinance 2020-23 as presented.

ORDINANCE NO. 2020-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING HEAVY COMMERCIAL—DISTRICT "C-3", SINGLE-FAMILY RESIDENTIAL 1—DISTRICT "R-1", AND MULTI-FAMILY RESIDENTIAL—DISTRICT "R-3" DESIGNATIONS TO APPROXIMATELY 163 ACRES OF LAND OUT OF THE SARAH ANN GUEST SURVEY, ABSTRACT 1525, AS SHOWN AND FURTHER DESCRIBED IN EXHIBIT A; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Planning and Zoning Commission of the City of Burnet, on October 5, 2020, did conduct a public hearing for the purpose of taking public comment regarding the proposal to assign Heavy commercial—District "C-3", Single-family residential 1—District "R-1", and Multi-family residential—District "R-3" zoning to approximately 163 acres of land out of the Sarah Ann Guest Survey, Abstract 1525, as shown and further described in Exhibit A; and

WHEREAS, The Planning and Zoning Commission in open deliberation found that applying Heavy commercial—District "C-3", Single-family residential 1—District "R-1", and Multi-family residential—District "R-3" zoning to the subject property would be consistent with the City's Future Land Use Plan, consistent with existing development patterns in the area, and consistent with the best public interest; and

WHEREAS, The Planning and Zoning Commission did then, by a 5-0 vote of members present, recommend approval zoning said property to Heavy commercial—District "C-3", Single-family residential 1—District "R-1", and Multi-family residential—District "R-3"; and

WHEREAS, The City Council of the City of Burnet, on October 13, 2020 did conduct its own public hearing for the purpose of taking public comment regarding the proposal to assign Heavy commercial—District "C-3", Single-family residential 1—District "R-1", and Multi-family residential—District "R-3" zoning to said property; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation, as well as its own deliberations, did determine that assigning Heavy commercial—District "C-3", Single-family residential 1—District "R-1", and Multi-family residential—District "R-3" zoning to the subject property to be consistent with Future Land Use Plan intent, and therefore consistent the public health, safety, morals, and the general welfare of the city and its present and future residents;

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Zoning Changed. Heavy commercial—District "C-3", Single-family residential 1—District "R-1", and Multi-family residential—District "R-3" Zoning is hereby assigned to approximately 163 acres of land out of the Sarah Ann Guest Survey, Abstract 1525, as shown and further described in Exhibit A.

Section 3. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 4. Severability. Should any provisions of this ordinance be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

Section 5. Effective Date. This ordinance is effective upon final passage and approval.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

PASSED AND APPROVED on First Reading this 13th day of October 2020.

FINALLY PASSED AND APPROVED on this 27th day of October 2020.

CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Exhibit "A"
Metes & Bounds Description
and Property Survey (Land Uses)

BEING A 162.61 ACRE TRACT OF LAND OUT OF THE SARAH ANN GUEST SURVEY NO. 1503, ABSTRACT NO. 1525 IN THE CITY OF BURNET, BURNET COUNTY, TEXAS, FURTHER BEING A PORTION OF THAT CALLED 184.63 ACRE TRACT DESCRIBED IN SPECIAL WARRANTY DEED TO CGG HOLDINGS III, LLC IN DOCUMENT NO. 201202604 OF THE OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS. SAID 162.61 ACRES BEING MORE PARTICULARLY DESCRIBED BY SEPARATE METES & BOUNDS IN THREE (3) SEPARATE TRACTS FOR ZONING BOUNDARIES AS FOLLOWS:

PROPOSED R-1 TRACT (126.39ACRES)

BEGINNING at a 1/2" iron rod found in the Eastern Right of Way line of Westfall Street (County Road 330) at the Southwest corner of Lot 1 of Westfall Village, Phase One, a subdivision of record in Document No. 202006989, Official Public Records of Burnet County, Texas, at the Northwest corner of a remnant of a tract of land originally called 184.63 acres in a Special Warranty Deed to CGG Holdings III, LLC, of record in Document No. 201202604, Official Public Records of Burnet County, Texas, for the Northwest corner hereof;

THENCE N 76°15'27" E, with the Southern boundary line of said Westfall Village and the Southern boundary line of the Remainder of a tract of land called 21.97 acres in a Special Warranty Deed to Langley Homes, Inc, a distance of 1912.29 feet to a 1/2" iron rod found at the Southeast corner of said Langley tract and a reentrant corner hereof;

THENCE N 13°44'33" W, with the Eastern boundary line of said Langley tract and a western boundary line hereof, a distance of 120.06 feet to a 1/2" iron rod found in the Southern boundary line of a tract of land called 20.82 acres in aa Special Warranty Deed to Don R. Meredith and Donna Meredith of record in Document No. 201008727, Official Public Records of Burnet County, Texas, for a Northeast corner of said Langley tract, a Northwest corner of said remnant of 184.63 acre tract and a Northwest corner hereof;

THENCE with the Southern boundary line of said Meredith tract, the following two (2) courses and distances:

1. S 85°38'20" E, a distance of 369.96 feet to a 1/2" iron rod found for angle point hereof, and
2. N 54°31'25" E, a distance of 312.16 feet to a 1/2" iron rod found at the Southern corner of a tract of land called 5.76 acres in a General Warranty Deed to Airy Mount properties, LLC, of record in Document No. 201612066, Official Public Records of Burnet County, Texas, for angle point hereof;

THENCE N 49°50'36" E, with the Southeast boundary line of said Airy Mount tract, a distance of 404.07 feet to a 1/2" iron rod set with plastic cap stamped "CUPLIN" for the Northernmost corner hereof;

THENCE over and across said 184.63 acre tract and said 162.61 acre tract, the following five (5) courses and distances:

1. S 62°54'26" E, a distance of 589.32 feet to a calculated point in the Northern boundary line hereof for angle point of this tract,
2. S 36°21'17" E, a distance of 111.54 feet to a calculated point for an interior angle point hereof,
3. S 62°56'15" E, a distance of 34.70 feet to a calculated point at the Northwest corner of a 23.31 acre tract described herein to be zones R-3, for the Northernmost Northeast corner hereof,
4. S 37°57'36" W, a distance of 1522.88 feet to a calculated point at the Southwest corner of said R-3 tract, for a reentrant corner hereof, and
5. S 61°55'02" E, a distance of 871.16 feet to a calculated point lying in a curve to the Right, in the Western Right of Way line of the Capital Metro railroad, of record in Volume 911, Page 624, Deed Records of Burnet County, Texas, in the Eastern boundary line of said 184.63 acre tract, the Eastern boundary line of said 162.61 acre tract and the Southeast corner hereof;

THENCE along said curve to the right with radius 1859.76 feet, a delta angle of 08°15'54" , and a chord of 268.04 feet bearing S 35°21'45" W, an arc distance of 268.27 feet to a 1/2" iron rod found with plastic cap stamped RPLS 4452 for the Point of Compound Curvature of another curve to the Right;

THENCE with said compound curve to the right with radius 1095.98 feet, a delta angle of 29°20'05" , and a chord of 555.02 feet bearing S 54°09'23" W, an arc distance of 561.13 feet to a

disturbed 1/2" iron rod found for the Point of Compound Curvature of another curve to the Right; THENCE with said compound curve to the right with radius 1859.92 feet, a delta angle of 33°11'16" , and a chord of 1062.34 feet bearing S 85°25'19" W, an arc distance of 1077.33 feet to a 1/2" iron rod found for the Point of Tangency of same;

THENCE N 77°59'06" W, a distance of 1021.25 feet to a disturbed 1/2" iron rod found, at the intersection of the Northern Right of Way line of said railroad and the Northern Right of Way line of County Road 330, for an angle point hereof;

THENCE leaving said railroad Right of Way and along the Northern and Eastern Right of Way line of said County Road, the following three (3) courses and distances:

1. N 41°07'03" W, a distance of 33.14 feet to a 1/2" iron rod set with plastic cap stamped "CUPLIN" for an interior angle point hereof,
2. N 55°07'40" W, a distance of 278.58 feet to a calculated point for the Southwest corner hereof, and
3. N 13°44'33" W, a distance of 1268.14 feet to the POINT OF BEGINNING and calculated to contain 126.39 acres

PROPOSED C-3 TRACT (12.91 ACRES)

BEGINNING at a 1/2" iron rod found in the Southern Right of Way line of State Highway 29 at the Northeast corner of a tract of land called 5.76 acres in a General Warranty Deed to Airy Mount Properties, LLC, of record in Document No. 201612066, Official Public Records of Burnet County, Texas;

THENCE with the Southern Right of Way line of said Highway 29, the following three (3) courses and distances:

1. S 62°51'48" E, a distance of 661.39 feet to a disturbed concrete TxDot concrete monument found for angle point hereof,
2. S 36°18'54" E, a distance of 110.82 feet to a concrete TxDot concrete monument found for angle point hereof, and
3. S 62°59'26" E, a distance of 318.61 feet to a 1/2" iron rod found in the Western Right of Way line of the Capital Metro railroad, of record in Volume 911, Page 624, Deed Records of Burnet County, Texas, for the Northeast corner of said 184.63 acre tract, the Northeast corner of said 162.61 acre tract and the Northeast corner hereof;

THENCE S 21°05'21" W, along the Western Right of Way line of said railroad, the Eastern boundary line of said 184.63 acre tract and the Eastern boundary line of said 162.61 acre tract a distance of 503.00 feet to a 1/2" iron rod set with plastic cap stamped "CUPLIN" for the Northeast corner of a 23.31 acre tract described herein to be zoned R-3, for the Southeast corner hereof,

THENCE over and across said 184.63 acre tract and said 162.61 acre tract, the following three (3) courses and distances

1. N 62°56'15" W, at 454.23 feet passing a calculated point at the Northeast corner of said 126.39 acre tract to be zoned R-1 and the Northwest corner of said 23.31 acre tract to be zoned R-3, in all a distance of 488.93 feet to a calculated point for an angle point hereof,
2. N 36°21'17" W, a distance of 111.54 feet to a calculated point for an interior angle point hereof, and
3. N 62°54'26" W, a distance of 589.29 feet to a 1/2" iron rod set with plastic cap stamped "CUPLIN" in the Eastern boundary line of said Airy Mount Properties tract, for the Northernmost corner of a 126.39 acre tract to be zoned R-1, and the Southwest corner hereof;

THENCE along the Eastern boundary line of said Airy Mount Properties tract, the following two (2) courses and distances:

1. N 49°49'40" E, a distance of 106.08 feet to a cotton spindle found for angle point hereof, and
2. N 27°50'45" E, a distance of 402.49 feet to the POINT OF BEGINNING and calculated to contain 12.91 acres.

PROPOSED R-3 TRACT (23.31 ACRES)

COMMENCING at a 1/2" iron rod found at the intersection of the Southern Right of Way line of State Highway 29 and the Western Right of Way line of the Capital Metro railroad, of record in Volume 911, Page 624, Deed Records of Burnet County, Texas;

THENCE S 21°05'21" W, along the Western Right of Way line of said railroad, the Eastern boundary line of said 184.63 acre tract and the Eastern boundary line of said 162.61 acre tract a distance of 503.00 feet to a 1/2" iron rod set with plastic cap stamped "CUPLIN" for the Northeast corner and true POINT OF BEGINNING hereof,

THENCE S 21°05'21" W, a distance of 1189.02 feet to a disturbed 1/2" iron rod found at the Point of Curvature of a curve to the Right;

THENCE along said curve to the right with radius 1859.76 feet, a delta angle of 10°07'51" , and a chord of 328.41 feet bearing S 26°09'53" W, an arc distance of 328.84 feet to a calculated point at the Southeast corner of a 126.39 acre tract to be zoned R-1, and the Southeast corner hereof;

THENCE over and across said 184.63 acre tract and said 162.61 acre tract the following three (3) courses and distances:

1. N 61°55'02" W, a distance of 871.16 feet to a calculated point for the Southwest corner hereof,
2. N 37°57'36" E, a distance of 1522.88 feet to a calculated point at the Northeast corner of said
126.39 acre tract for the Northwest corner hereof, and
3. S 62°56'15" E, a distance of 454.23 feet to the POINT OF BEGINNING and calculated to contain
23.31 acres.

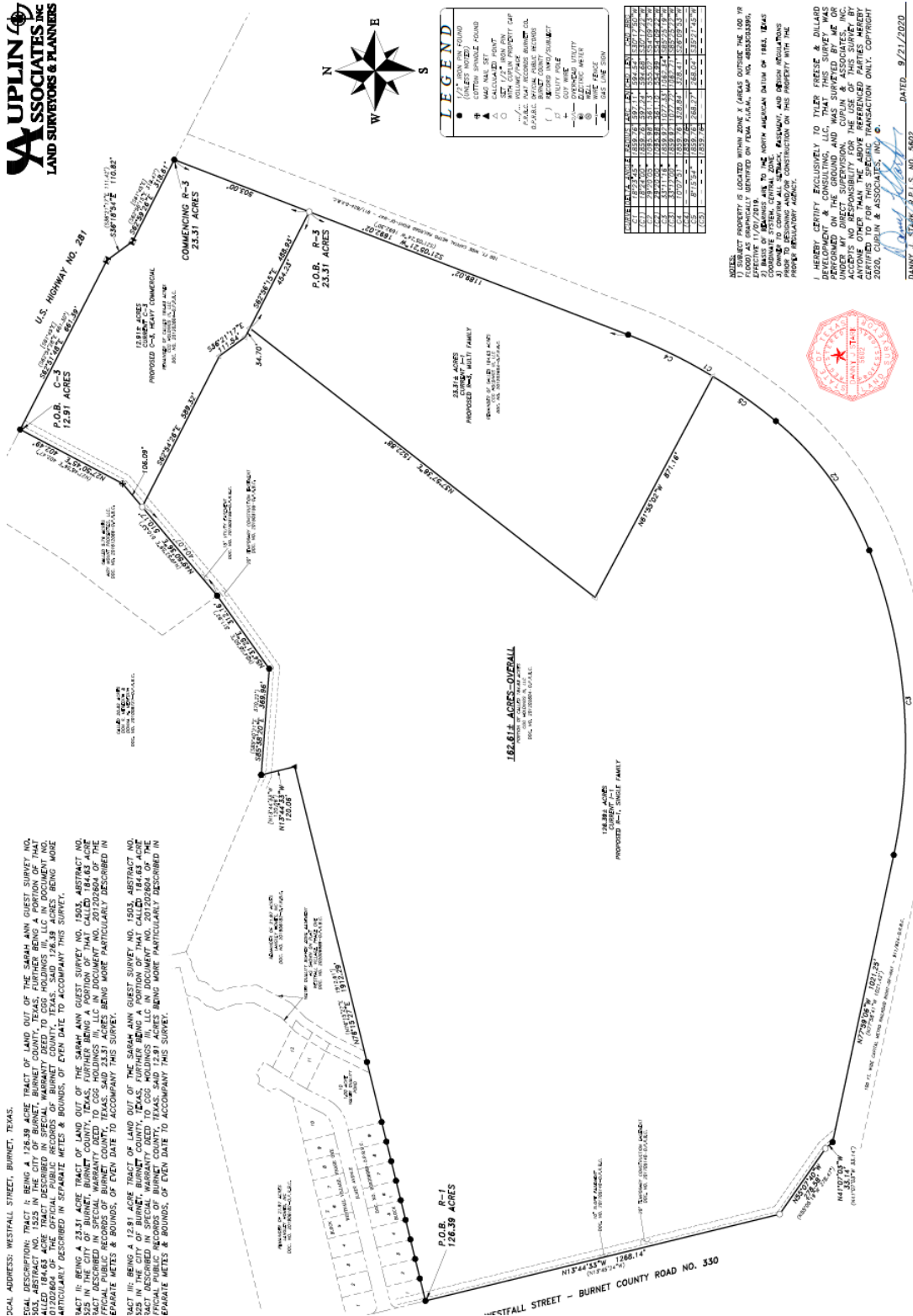
NOTE:

A Plat of Survey of even date was prepared and is intended to accompany the above described tract of land. Bearings are based on North American Datum of 1983, Texas Central Zone.

I HEREBY CERTIFY EXCLUSIVELY TO ATTORNEY'S ABSTRACT COMPANY AND DILLARD DEVELOPMENT & CONSULTING, LLC, THAT THIS SURVEY WAS PERFORMED ON THE GROUND AND WAS SURVEYED BY ME OR UNDER MY DIRECT SUPERVISION. CUPLIN & ASSOCIATES, INC. ACCEPTS NO RESPONSIBILITY FOR THE USE OF THIS SURVEY BY ANYONE OTHER THAN THE ABOVE REFERENCED PARTIES HEREBY CERTIFIED TO FOR THIS SPECIFIC TRANSACTION ONLY. COPYRIGHT 2020, CUPLIN & ASSOCIATES, INC. ©.


Dated: 9/25/2020
Danny J. Stark, Registered Professional Land Surveyor No. 5602

LOCAL ADDRESS: WESTFALL STREET, BURNET COUNTY, TEXAS.
DEAL DESCRIPTION: TRACT I: BEING A 126.39 ACRE TRACT OF LAND OUT OF THE SARAH ANN GUEST SURVEY NO. 1503, ABSTRACT NO. 1532 IN THE CITY OF BURNET COUNTY, TEXAS, FURTHER BEING A PORTION OF THAT LAND DESCRIBED IN THE OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS, SAID 126.39 ACRES BEING MORE PARTICULARLY DESCRIBED IN SEPARATE METES & BOUNDS, OF EVEN DATE TO ACCOMPANY THIS SURVEY.
TRACT II: BEING A 23.31 ACRE TRACT OF LAND OUT OF THE SARAH ANN GUEST SURVEY NO. 1503, ABSTRACT NO. 1532 IN THE CITY OF BURNET COUNTY, TEXAS, FURTHER BEING A PORTION OF THAT LAND DESCRIBED IN THE OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS, SAID 23.31 ACRES BEING MORE PARTICULARLY DESCRIBED IN SEPARATE METES & BOUNDS, OF EVEN DATE TO ACCOMPANY THIS SURVEY.
TRACT III: BEING A 12.91 ACRE TRACT OF LAND OUT OF THE SARAH ANN GUEST SURVEY NO. 1503, ABSTRACT NO. 1532 IN THE CITY OF BURNET COUNTY, TEXAS, FURTHER BEING A PORTION OF THAT LAND DESCRIBED IN THE OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS, SAID 12.91 ACRES BEING MORE PARTICULARLY DESCRIBED IN SEPARATE METES & BOUNDS, OF EVEN DATE TO ACCOMPANY THIS SURVEY.



DATED: 9/21/2020
DANNY J. STARK, S.P.L.S. NO. 5862



Development Services

ITEM 5.4

Jason Lutz
Development Services
(512) 715-3215
jlutz@cityofburnet.com

Agenda Item Brief

Meeting Date: October 13, 2020

Agenda Item: Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TX, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING MULTI-FAMILY RESIDENTIAL—DISTRICT "R-3" TO THAT PROPERTY DESCRIBED AS LOT 2B, BLOCK 38, AND LOTS 2 & 3, BLOCK 37 OF THE ALEXANDER ADDITION SUBDIVISION; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

Background: The property is located at the west side of S. Rhomberg, in the 700 & 800 blocks, between Pecan and Willow St. This location is an undeveloped property consisting of three lots and portions of Elm St. and Silver St. that were previously abandoned by the City. There is a sewer main located in the old Elm St. rights-of-way and the City has retained an easement for this line.

Information: The applicant is requesting the re-zoning in order to construct a multi-family facility consisting of Townhome type structures and a traditional apartment complex.

The property is an approximately 3.784 acres currently zoned Duplex (R-2), which would allow up to 36 units to be constructed on the site.

Under the requested Multi-family (R-3) zoning the applicant would be permitted up to 75 units, notwithstanding setbacks, impervious cover, landscaping, detention, water quality areas, and parking requirements.

Staff Analysis: Staff has reviewed the proposed zoning request and looked at several factors such as Future Land Use Plan (FLUP), adjacent zoning/land uses, available utilities, and access.

FLUP: The City's Comprehensive Plan calls out this parcel as "Residential". While the comp plan does not differentiate between residential types or intensities of land uses, the requested zoning is in line with the Future Land Use Plan (see Exhibit B below).

Adjacent Zoning/Land Uses: The subject tract is surrounded by R-1 zoning to the west and east, R-1 and R-2 to the north, and C-2 (Cemetery) to the south.

Available Utilities: There are existing water and sewer lines that serve the property and have adequate capacity to serve the proposed development. Some changes or relocation of some utilities may be required, depending on the final site plan/layout of the property. Public Works has been involved in the requested zoning change via multiple pre-development meetings and have no concerns regarding the requested zoning change.

Access: No additional streets will be required and the existing road network is sufficient to handle the additional traffic demands.

P&Z

Recommendation: P&Z held a public hearing on Oct. 5, 2020 and recommended approval of the request.

Recommendation: Approve and adopt Ordinance 2020-24 as presented.

ORDINANCE NO. 2020-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING MULTI-FAMILY RESIDENTIAL—DISTRICT "R-3" TO THAT PROPERTY DESCRIBED AS LOT 2B, BLOCK 38, AND LOTS 2 & 3, BLOCK 37 OF THE ALEXANDER ADDITION SUBDIVISION; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Planning and Zoning Commission of the City of Burnet, on October 5, 2020, did conduct a public hearing for the purpose of taking public comment regarding the proposal to assign Multi-family Residential – District “R-3” zoning to the property described as Lot 2B, Block 38, and Lots 2 & 3, Block 37 of the Alexander Addition Subdivision; and

WHEREAS, The Planning and Zoning Commission in open deliberation found that applying Multi-family Residential – District “R-3” zoning to the subject property would be consistent with the City’s Future Land Use Plan, consistent with existing development patterns in the area, and consistent with the best public interest; and

WHEREAS, The Planning and Zoning Commission did then, by a 5-0 vote of members present, recommend approval zoning said property to Multi-family Residential – District “R-3”; and

WHEREAS, The City Council of the City of Burnet, on October 13, 2020 did conduct its own public hearing for the purpose of taking public comment regarding the proposal to assign Multi-family Residential – District “R-3” zoning to said property; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation, as well as its own deliberations, did determine that assigning Multi-family Residential – District “R-3” zoning to the subject property to be consistent with Future Land Use Plan intent, and therefore consistent the public health, safety, morals, and the general welfare of the city and its present and future residents;

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Zoning Changed. Multi-family Residential – District “R-3” Zoning is hereby assigned to Lot 2B, Block 38, and Lots 2 & 3, Block 37 of the Alexander Addition Subdivision, as shown in Exhibit A.

Section 3. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 4. Severability. Should any provisions of this ordinance be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

Section 5. Effective Date. This ordinance is effective upon final passage and approval.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

PASSED AND APPROVED on First Reading this 13th day of October 2020.

FINALLY PASSED AND APPROVED on this 27th day of October 2020.

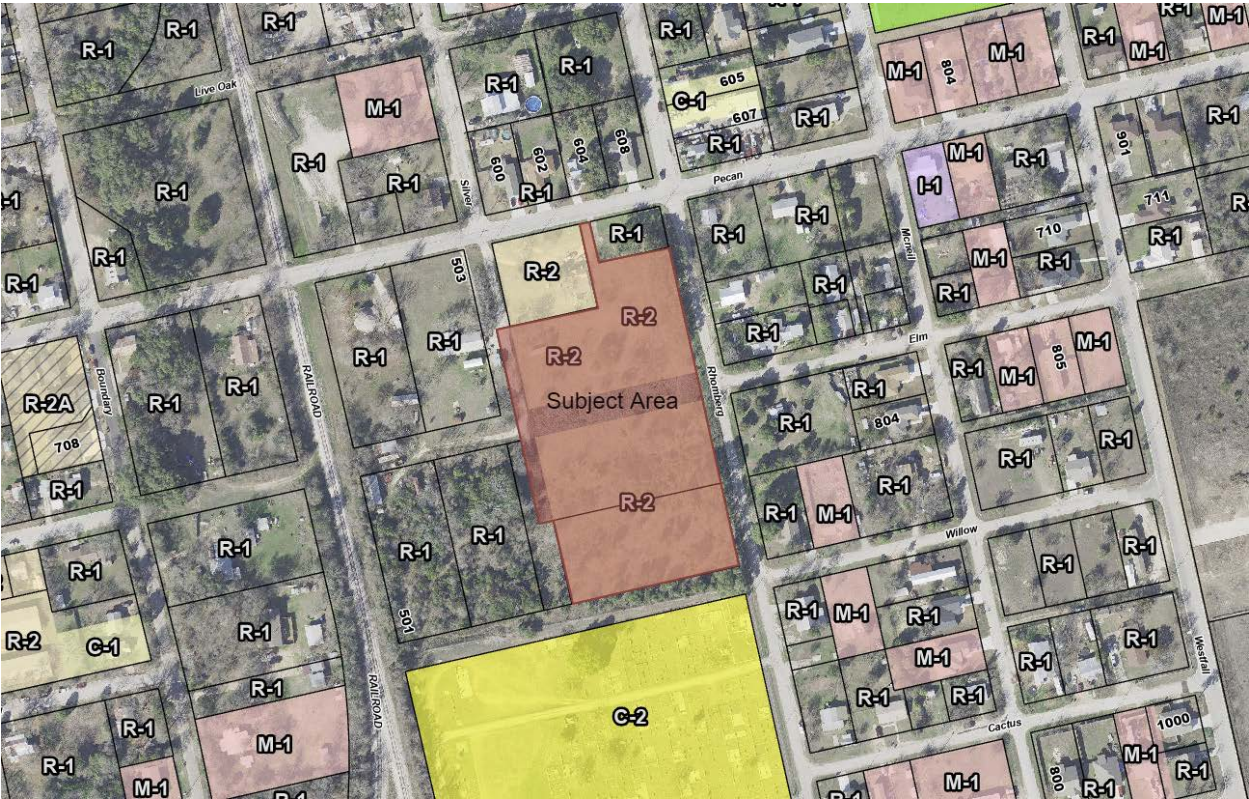
CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Exhibit "A"
Location & Current Zoning Map





Water/Wastewater

ITEM 5.4

Alan Burdell
Water/Wastewater
Operations Manager
(512)-756-2402
aburdell@cityofburnet.com

Agenda Item Brief

Meeting Date:	October 27, 2020
Agenda Item:	Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING THE CODE OF ORDINANCES SECTION 110-1 (ENTITLED "DEFINITIONS") AND SECTION 110-36 (ENTITLED "BULK WATER SALES") BY ADJUSTING THE BULK WATER RATE; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: A. Burdell
Background:	Current rate is >2,000 gallons \$5.79 per 1,000 gallons, or fraction thereof.
Information:	Increase bulk water rate to \$20.00 per 1000 gallons of water or \$.02 per gallon to align with neighboring city rates. Also added definition of Bulk Water means water sold by the city in quantities of one-thousand gallons or more on a prepaid basis at a City of Burnet designated fill station.
Fiscal Impact:	The revenue increase based on last year sales of 840,000 gallons of bulk water would be \$16,800 which is up from \$4,800 in sales at \$5.79 per thousand.
Recommendation:	Staff recommends approving the first reading of ordinance 2020-26

ORDINANCE NO. 2020-26

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING THE CODE OF ORDINANCES SECTION 110-1 (ENTITLED “DEFINITIONS”) AND SECTION 110-36 (ENTITLED “BULK WATER SALES”) BY ADJUSTING THE BULK WATER RATE; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City is a provider of water service to its citizens; and

WHEREAS, as a purveyor of water services, the City offers large quantities of water for sale at a bulk rate; and

WHEREAS, City Council’s purpose for these amendments is to assure the City is fairly compensated for bulk water sales.

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

Section one. Code Amendment. The Code of Ordinances of the City of Burnet, Chapter 110 (entitled “Utilities”) Section 110-1 (entitled “Definitions”) is hereby amended by adding to the existing definitions the following:

Bulk Water means water sold by the City in quantities of one-thousand gallons or more on a prepaid basis at a City of Burnet designated fill station.

Section two. Code Amendment. The Code of Ordinances of the City of Burnet, Chapter 110 (entitled “Utilities”) Section 110-36 (entitled “Bulk water sales”) is hereby amended by replacing the existing language in its entirety with the language that follows:

Sec. 110-36. -Bulk water sales.

The fees for bulk water sales shall be twenty dollars (\$20.00) per one-thousand gallons of water sold, with a one-thousand gallon minimum required. Fractional quantities shall be prorated at \$0.02 per gallon.

Section three. Findings. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section four. Penalty. A violation of this ordinance is unlawful and subject to penalty as prescribed in City Code of Ordinances Sec. 1-6 (entitled “*general penalty*”).

Section five. Cumulative. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are

in direct conflict with the provisions of such Ordinances, in which event section six shall apply.

Section six. Repealer. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section seven. Severability. Pursuant to Code of Ordinances of the City of Burnet, Section 1-7, if any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid or unenforceable, the validity of the remaining portions of this Ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the city council in adopting, and of the mayor in approving this Ordinance, that no portion of this Ordinance, or provision or regulation contained in this Ordinance, shall become inoperative or fall by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

Section eight. TOMA Compliance. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code; as suspended, or otherwise modified, by executive orders of the governor of this state in response to the COVID-19 pandemic.

Section nine. Publication. The publishers of the City Code of Ordinances are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section ten. Notice. The City Secretary is hereby directed to publish notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of Texas.

Section eleven. Effective Date. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 27th day of October 2020
Passed and Adopted on the 10th day of November 2020

CITY OF BURNET

ATTEST:

Crista Goble Bromley, Mayor

Kelly Dix, City Secretary



Water/Wastewater

ITEM 5.5

Alan Burdell
Water/Wastewater
Operations Manager
(512)-756-2402
aburdell@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING A LICENSE AGREEMENT WITH DUSTIN ORMAN FOR THE CULTIVATING AND HARVESTING OF HAY ON BURNET WASTEWATER TREATMENT PLANT LAND AND AUTHORIZING THE MAYOR TO EXECUTE A LICENSE AGREEMENT ON BEHALF OF THE CITY: A. Burdell

Background: The city has leased this property for many years for the purpose of hay cultivation. The city received 33% of the hay produced to generate revenue for the lease agreement.

Information: This agreement as well as the older agreement ensure that the city is still in charge of the sludge and irrigation process that is out lined through TCEQ. The golf course and other city property remain top priority within the agreement. Within the new agreement the licensee will pay an annual sum of \$10,000.

Fiscal Impact: \$10,000 in revenue contract year

Recommendation: Approval of the resolution 2020-47 as presented.

RESOLUTION NO.R2020-47

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING A LICENSE AGREEMENT WITH DUSTIN ORMAN FOR THE CULTIVATING AND HARVESTING OF HAY ON BURNET WASTEWATER TREATMENT PLANT LAND AND AUTHORIZING THE MAYOR TO EXECUTE A LICENSE AGREEMENT ON BEHALF OF THE CITY.

Whereas, the City operates a wastewater treatment plant at 301 Wastewater Plant Way, Burnet, Texas

Whereas, approximately 109.63 acres of land surrounding the Wastewater Treatment Plant is designated for hay and vegetation cultivation in order to increase the absorption of wastewater effluent in a manner that is economical and beneficial to the public welfare; and

Whereas, Dustin Orman, is an individual who has demonstrated experience, expertise, and resources to perform the desired cultivating activities.

BE IT RESOLVED BY THE CITY COUNCIL OF BURNET, TEXAS:

Section one. That the License Agreement attached hereto is hereby accepted.

Section two. That the mayor is hereby authorized to execute an instrument, in substantially the same form as the attachment and, execute such other documents and take such other actions reasonably necessary to facilitate the purpose of this Resolution.

Section three. Open Meetings. That it is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

PASSED AND APPROVED to be effective this the 27th day of October, 2020.

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

LICENSE AGREEMENT

This License Agreement is made and entered into as of, and to be effective this the 27th day of October, 2020, by and between Licensor, the City of Burnet, a Texas home rule municipality acting by and through its Mayor and Licensee, Dustin Orman, an individual.

Recitals

Whereas, it is essential to the public health, the proper operation of the wastewater treatment plant, and the disposal of treated wastewater effluent that City directly, or by contracting for services, raise vegetation on the WWTP effluent irrigation land in order to maximize the effectiveness of the effluent irrigation system; and

Whereas, the public health and efficient operation of the WWTP irrigation system require the irrigation and raising of Crops to follow established standards; and

Whereas, licensing the Premises for hay and vegetation cultivation to increase the absorption of wastewater effluent is economical and beneficial to the public welfare; and

Whereas, Licensee, is an individual who under the Prior Contract, has demonstrated experience, expertise, and resources to perform desired cultivating activities on the Premises.

Article I. Definitions

For the purposes of this Agreement, the following words, terms, and phrases shall have the meanings set forth as follows:

“Agreement” shall mean this Agreement to License the Premises.

“City” shall mean the Licensor, City of Burnet, a Texas home rule municipality located within Burnet County.

“City Consent” shall mean the written consent of City, through its City Manager, for the Licensee to take the action requiring consent.

“Council” shall mean the governing body of City.

“Crop” shall mean Coastal Bermuda grass, hay, or other seasonal vegetation approved by the USDA or Texas A&M University.

“Fiscal Year” shall mean the fiscal year of City which begins each year on October 1st and ends the following September 30th.

“Golf Course” shall mean the City of Burnet Municipal Golf Course.

“Licensee” shall mean Dustin Orman who is operating under this Agreement in his individual capacity.

“Licensee Fee” shall mean the annual fee Licensee is required to pay City for the License to cultivate Crops on the Premises.

“Premises” shall mean an area of land owned by the City of Burnet and abutting the City of Burnet wastewater treatment plant located at 301 Wastewater Plant Way, Burnet, Texas, consisting of approximately 109.63 acres, which the City designated for Crop cultivation under the Prior Contract.

“Party” or “Parties” shall mean City or Licensee separately or jointly as context requires.

“Prior Contract” shall mean that certain Hay Field Agreement between Licensor and Licensee dated May 13, 2008.

“TCEQ” shall mean the Texas Commission of Environmental Quality.

“TCEQ Permit” shall mean the permit issued by the TCEQ with respect to the WWTP.

“USDA” shall mean the United States Department of Agriculture.

“Wastewater Treatment Plant” or “WWTP” shall mean the public wastewater treatment facility authorized by TCEQ to treat wastewater effluent produced by City’s wastewater service customers.

Article II. Acceptance and Conditions of Premises

2.1 **As is where is.** Licensee acknowledges and agrees he has had sufficient time and opportunity to examine the Premises and acknowledges that there is in and about them nothing dangerous to life, limb, or health and hereby **waives any claim for damages that may arise from defects of that character after occupancy.** Licensee’s taking possession of the Premises shall be conclusive evidence of Licensee’s acceptance of the Premises in good satisfactory order in its present condition AS IS, WHERE IS AND WITH ALL FAULTS as suitable for the purpose for which licensed. City specifically disclaims any warranty of suitability for intended purposes of Licensee.

2.2 **Representations.** Licensee acknowledges and agrees that no representations respecting the condition of the Premises and no promises to decorate, alter, repair, or improve the Premises, either before or after the execution, have been made by City or its agents to Licensee unless the same are contained herein.

III. Effective Date, Term and Consideration

3.1 **Effective Date.** This Agreement shall commence on the ____ day of _____, 2020.

3.2 **Term of Agreement.** This Agreement shall be effective for a term ending on September 30, 2021 and shall annually renew automatically at the beginning of City's Fiscal Year, subject to termination as provided in Section 3.3.

3.3 **Termination.**

- (A) The License granted by this Agreement is revocable by City without cause, for any reason, and may be terminated by City by providing thirty days prior written notice to Licensee of such termination. In the event of such termination by City, and provided Licensee is not in Default under this Agreement, and, further to the extent Licensee was unable to harvest Crops during the term of the revocation, Licensee shall be entitled to a refund of the License Fee less any amounts Licensee received for sale of Crops during such term.
- (B) This Agreement may terminate for cause as provided in Article VIII.
- (C) Notwithstanding the forgoing City may terminate this Agreement effective October first of any subsequent Fiscal Year Council does not fund the operation of the WWTP for any reason.
- (D) In the event Licensee shall fail to vacate the Premises upon termination of this Agreement, the License Fee Amount, during any holding over period shall increase to Two-thousand Dollars per month; and, City's acceptant of such holdover payments shall not waive City's rights to seek termination remedies as provided in Article VIII.

3.4 **Consideration.** In consideration for permission to grow Crops on the Premises subject to the terms and conditions of this Agreement Licensee agrees to a Licensee Fee in the annual sum of Ten-thousand Dollars to be paid in hand to City.

- (A) Licensee shall make the first payment on or before July 15, 2021; and, shall make subsequent payments on or before July 15th of each new term.

Article IV. Licensee's Use of Premises

4.1 **Use of the Premises.** The License granted under this Agreement allows Licensee to occupy and use the Premises for agriculture purposes, as described herein. To that end, Licensee covenants and warrants to City that the Premises shall be used and occupied only for such purpose, and subject to the terms conditions and prohibitions set forth in this Article.

4.2 **Covenant of Financial responsibility.** Licensee acknowledges and agrees City's License of the Premises is made in reliance on evidence supporting Licensee's representation that Licensee has financial resources to undertake and perform the Licensee's obligations and duties pursuant to this Agreement. Licensee covenants and warrants he shall, as long as this Agreement is in effect, maintain sufficient financial resources to make the performances due to be made by Licensee pursuant to this Agreement; and, upon requested by City, provide City with information and documentation sufficient to show that Licensee continues to possess the financial resources necessary to perform its duties and obligations under this Agreement

4.3 Conditions on Use of the Property. The permission granted Licensee hereunder is subject to City's schedule for irrigation of the Premises, and operation of the irrigation program. Moreover, Licensee shall, at all times, adhere to the following:

- (A) Occupy the Premises, conduct its business, and control its agents, employees, invitees, and visitors in such a manner as is lawful, reputable and will not create a nuisance to other tenants of, or persons adjoining, the Premises.
- (B) Plant and harvest vegetation that will maximize the absorption of effluent to be applied to the Premises by City
- (C) Implement practices and procedures that both furthers City's objective of soil conservation and protects the soil from erosion.
- (D) Only grow Crops approved by the USDA or Texas A&M University as the best available vegetation for the absorption of effluent.
- (E) Focus growing activities to a primary Crop of Coastal Bermuda Grass; and, with the written approval of the City, and as may be required to maximize the absorption of irrigated effluent, hay varieties and seasonal vegetation in areas of the Premises authorized by the City for Crops other than Coastal Bermuda Grass. For the sake of clarity, it is reiterated that Licensee shall grow a primary Crop of Coastal Bermuda Grass on the premises, and may grow Crops, other than Coastal Bermuda Grass, only with City approval and only at such locations within the premises designated by the City for Crops other than Coastal Bermuda Grass.
- (F) Fertilize the Premise and provide chemical supplements as needed to maintain the appropriate level of nutrients in the soil.
- (G) Plant winter vegetation of a variety approved by the USDA or Texas A&M for the maximum absorption of effluent, as required.
- (H) Take reasonable and necessary action, consistent with this Agreement, to control noxious weeds and fire ants in a manner to assure that the grass, hay and other approved vegetation are such, at all times, to maximize the absorption of effluent.
- (I) At his sole cost and expense, Licensee shall comply with all laws, ordinances, orders, acts, rules and regulations of state, federal, municipal or other agencies or bodies having jurisdiction over Licensee and regulating its use of the Premises; provided that City shall be responsible for the costs and expenses of irrigating the Premises in conformance with applicable TCEQ regulations.

4.4 Performance requirements. Licensee shall take specific actions as prescribed below:

- (A) Seasonally plant and harvest Coastal Bermuda and approved vegetation; and periodically fertilize as required by Section 4.3(F).
- (B) Annually cause soil tests to be completed on the Premises sufficient to determine that the appropriate level of nutrients are present in the soil to stimulate the maximum growth of the Coastal Bermuda, hay, or other approved seasonal vegetation.
- (C) In order that City may, to the extent possible, coordinate the irrigation with the Licensee's agricultural work, at the beginning of each growing season, provide City with a plan of operation, which includes details about plowing and leveling of land that is necessary to facilitate and maximize irrigation.

4.5 **Prohibited Activities.**

- (A) Licensee is strictly prohibited from planting, fertilizing, irrigating, mowing or harvesting Crops in a manner that causes any soil to be removed from the Premises.
- (B) Licensee is strictly prohibited from producing any Crop for human consumption.
- (C) Licensee shall not make or allow to be made any alterations, physical additions or improvements in or to the Premises without City Consent.
- (D) Licensee shall not interfere with City's irrigation schedule or irrigation program.
- (E) Licensee shall not interfere with the City's sludge land application process and shall coordinate the rotation of Crops with City to prevent such interference.
- (F) Licensee shall not permit any operation which emits any odor or matter which intrudes into or onto adjoining property, use any apparatus or machine which makes undue noise or causes vibration in any portion of the adjoining property or otherwise interfere with, annoy or disturb any tenant of the adjoining property in its normal business operations, or City in its management of the Premises.
- (G) Licensee shall neither permit any waste on the Premises nor allow the Premises to be used in any way which would, in the opinion of City, be extra hazardous on account of fire or which would in any way increase or render void any insurance on the Premises.
- (H) Licensee is strictly prohibited from placing signs of any type or description on the Premises.

Article V. City Operations.

5.1 **City Operations.** Licensee acknowledges and agrees the paramount purpose of this Agreement is the cultivation of grass and hay Crops on the Premises in a manner that will maximize the absorption of treated wastewater effluent; and that such paramount purpose shall supersede any commercial purpose Licensee may have for cultivating such Crops. Therefore, notwithstanding any provision of this Agreement to the contrary, the Parties agrees to the following:

- (A) The sole source of City's irrigation of the Premises shall be from WWTP; and such irrigation shall be in a manner that disposes of effluent from the WWTP as required by City's TCEQ Permit.
- (B) While WWTP effluent is the sole source of Premises irrigation, the WWTP effluent is also used by City to irrigate the Golf Course; and, City shall retain the right to use any or all of the effluent to irrigate the Golf Course or as otherwise found useful by City.
- (C) Licensee's ability to perform and control irrigation on the Premises shall be limited to the extent City makes reuse water available to the Premises; and, City may interrupt water availability to the Premises, should City in its sole discretion, determines such reuse water is needed to serve the Golf Course or such other use the City determines to be of public importance.

5.2 **City Control of Irrigation on the Premises.** City shall use reasonable effort to irrigate in a manner so as not to damage the grass and vegetation planted by Licensee.

5.3 **TCEQ Regulations.** The Premises will be irrigated with treated wastewater effluent and treated sludge in a manner calculated to comply with the TCEQ regulations. In the event of a conflict between the terms of this Agreement and the TCEQ regulations, the regulations will control. Licensee acknowledges and agrees that the terms of the TCEQ Permit may require, during period of wet weather, or drought conditions, for City to place more or less water on the Premises than would be beneficial for Licensee's Crops.

5.4 **License Imposes no Duty on City.** While City will endeavor to coordinate its activities on the Premises to benefit Licensee, City shall have no obligation to Licensee in the operations of the Wastewater Treatment Plant and irrigation fields on the Premises.

5.6 **City Resources.** City shall have no obligation under this Agreement to provide funds, resources, equipment, or labor to promote or assist with Licensee's efforts to cultivate and harvest Crops.

Article VI. Casualty and Insurance.

6.1 **Insurance.** Licensee, at all times during, the term of this Agreement shall assume all risks associated with, occasioned by, or resulting from Licensee's actions, non-actions, damages and losses, whether on the Premises or otherwise. Licensee, at Licensee's own expense, shall keep in full force and effect such insurance against casualty and liability risks as Licensee in its sole discretion may deem desirable. Licensee has inspected the Premises and assumes any and all risk of damage or injury to Licensee, or to Licensee's employees, agents, invitees, equipment or property that may arise from Licensee's use of the Premises. It is the intent of this Article that, as between City and Licensee with respect to damages to Licensee and Licensee's employees, agents, invitees, sub-Licensees and property, Licensee shall assume all risk, and shall have the duty and responsibility to obtain such insurance as Licensee deems necessary to protect Licensee and Licensee's employees, agents, invitees, Licensees and property.

6.2 **Waiver of Subrogation.** Anything in this Agreement to the contrary notwithstanding, Licensee hereby waives and releases City from any and all right of recovery, claim, action or cause of action, against City its agents, officers and employees, for any loss or damage to Licensee or Licensee's invitees, that may occur to the Premises, improvements to the Premises, or personal property within the Premises, by reason of any condition of the Premises, fire or the elements, regardless of cause or origin, but not including any future negligence of City and its agents, officers and employees. Licensee shall look solely to insurance obtained by Licensee, in his discretion, for any such loss or damages.

6.3 **Liability and Property Insurance.** Licensee at all times during the Agreement term shall, at its own expense, keep in full force and effect comprehensive general liability insurance with "personal injury" coverage, contractual liability coverage and property insurance, in such amounts as Licensee shall, within Licensee's sole discretion, determine necessary to protect Licensee for Licensee's exposure or risk or potential liability from use of the Premises.

6.4 **Environmental Matters.** Throughout the Term and any Extended Terms of this Agreement, Licensee shall prevent the presence, use, generation, release, discharge, storage,

disposal, or transportation of any Hazardous Materials (as hereinafter defined) on, under, in, above, to, or from the Premises by Licensee or persons within the control of Licensee, other than in strict compliance with all applicable federal, state, and local laws, rules, regulations, and orders. For purposes of this provision, the term "Hazardous Materials" shall mean and refer to any wastes, materials, or other substances of any kind or character that are or become regulated as hazardous or toxic waste or substances, or which require special handling or treatment, under any applicable local, state, or federal law, rule, regulation, or order; provided that the term "Hazardous Materials" shall not be interpreted or construed to include or mean any wastewater effluent or treated sludge City causes, suffers, allows or permits to be placed upon the Premises . Licensee shall indemnify, defend, and hold City harmless from and against (a) any loss, cost, expense, claim, or liability arising out of any investigation, monitoring, clean-up, containment, removal, storage, or restoration work (herein referred to as "Remedial Work") required by, or incurred by City or any other person or party in a reasonable belief that such Remedial Work is required by any applicable federal, state or local law, rule, regulation or order, or by any governmental agency, authority, or political subdivision having jurisdiction over the Premises , and (b) any claims of third parties for loss, injury, expense, or damage arising out of the presence, release, or discharge of any Hazardous Materials on, under, in, above, to, or from the Premises , that arise from an action by Licensee or an action by any employee, invitee or agent of Licensee.

In the event Licensee causes any such deposit to be made on the Premises and, as a result, Remedial Work is required under applicable federal, state, or local law, rule, regulation or order, Licensee shall promptly perform or cause to be performed such Remedial Work in compliance with such law, rule, regulation, or order. In the event Licensee shall fail to commence the Remedial Work in a timely fashion, or shall fail to prosecute diligently the Remedial Work to completion, such failure shall constitute an event of default on the part of Licensee under the terms of this Agreement, and City, in addition to any other rights or remedies afforded it hereunder, may, but shall not be obligated to, cause the Remedial Work to be performed, and Licensee shall promptly reimburse City for the cost and expense thereof upon demand.

VII. INDEMNIFICATION

7.1 Licensee covenants and agree to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, City and the elected officials, employees, officers, directors, volunteers and representatives of City, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon City directly or indirectly arising out of, resulting from or related to Licensee's activities under this Agreement, including any acts or omissions of Licensee, any agent, officer, director, representative, or employee, of Licensee, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence of City, it's officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT LICENSEE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED

COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

7.2 The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Licensee shall advise City in writing within 24 hours of any claim or demand against City or Licensee known to Licensee related to or arising out of Licensee's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Licensee's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Licensee of any of its obligations under this paragraph.

VIII. Defaults and Termination Rights

- 8.1 **Default by Licensee. Licensee's failure to keep, observe, or perform any material covenant, agreement, term, or provision of this Agreement shall be a default by Licensee. In the event Licensee's default causes the violation, or the potential for a violation of, the TCEQ Permit City may immediately seek remedies as prescribed in Section 8.2. In the event such default does not, or does not potentially, negatively impact the TCEQ Permit then, in such event, should the default continue for a period of ten days after notice by City to Licensee, City may seek remedies as prescribed in Section 8.2.**
- 8.2 **Remedies of City. Upon the occurrence of an event of default by Licensee as specified in this Agreement, City shall be entitled to terminate this Agreement and shall have such other rights at law or equity to which it may be entitled. After such termination, Licensee shall have no further rights to access the Premises and shall immediately cease all activities thereon.**
- 8.3 **Default by City. City shall be in default under this Agreement if City fails to keep, observe, or perform any material covenant, agreement, term, or provision of this Agreement to be kept, observed, or performed by City, and such default shall continue for a period of ten days after notice thereof by Licensee to City.**
- 8.4 **Remedies of Licensee. Upon the occurrence of an event of default as specified in this Agreement hereof, Licensee shall be entitled to terminate this Agreement and demand refund of the License Fee Licensee tendered for the year of the termination. This shall be Licensee's sole remedy under this Agreement and in no event shall City ever be liable to Licensee for an amount more than one-year's License Fee; provided, Licensee shall not be entitled to any License Fee refund if Licensee is in default with this Agreement.**

IX. Miscellaneous

9.1 **Assignment.** This Agreement is personal to Licensee. It is non-assignable, and any attempt to assign this Agreement will terminate all privileges granted to Licensee.

9.2 **Authority.** The signer of this License Agreement for Licensee hereby represents and warrants that he or she has full authority to execute this Agreement on behalf of Licensee

9.3 **Captions.** **The captions contained in this Agreement are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Agreement.**

9.4 **Conflict of Interest.** Licensee acknowledges that no elected or appointed officer of the City of Burnet has any financial interest in this Agreement.

9.5 **Entire Agreement/Amendment**

- (A) This Agreement, together with its attached exhibits and the authorizing ordinance, in writing, constitutes the entire Agreement between the Parties, any other written or oral agreement with City being expressly waived by Licensee.
- (B) No amendment, modification or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the Parties.

9.6 **Gender.** **Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.**

9.7 **Immunity.** The Parties acknowledge and agree that City entered into this Agreement as a means for compliance with the TCEQ Permit associated with its operation of a public wastewater treatment facility, which is a governmental function; therefore, no provision of this Agreement is intended to or shall be interpreted to negate or diminish any statutory or common law rights City may have to immunity under the laws of the State of Texas.

9.8 **Jurisdiction and Venue.** This Agreement shall be construed under and in accordance with the Laws of the State of Texas; and, all obligations hereunder are performable in Burnet County.

9.9 **No Liability of City Personnel.** Licensee agrees that it may assert claims only against the assets of City and that under no circumstances shall any officer or employee of City ever be personally liable for any of the obligations of City under this Agreement.

9.10 **Notice.** Any notice provided for in or permitted under this Agreement shall be made in writing and may be given or served by: (i) delivering the same in person to the Party to be notified, (ii) depositing the same in the United States mail, postage prepaid, registered or certified with return receipt requested, and addressed to the Party to be notified at the address herein specified, or (iii) delivery by private courier with proof of delivery required. If notice is deposited in the United States mail pursuant to (ii) of this Article, it will be effective from and after the date of receipt or delivery thereof if refused. Notice given in any other manner shall be effective only if and when received by the Party to be notified. For the purpose of notice, the address of the Parties shall be, until changed as hereinafter provided for, as follows:

Licensee: Dustin Orman
754 CR 108
Burnet, Texas 78611

City: The City of Burnet
Attn. City Manager
P.O. Box 1369
Burnet, Texas 78611

The Parties shall have the right, at any time, to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other Party.

9.11

Relationship of the Parties. Nothing contained herein shall be deemed or construed by the Parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship between Parties hereto. It is understood and agreed that no provision contained in this Agreement nor any acts of the Parties create a relationship other than the relationship of Licensor and Licensee.

9.12 **Survival of Covenants.** Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

9.13 **Waivers.** No failure or delay of a Party in the exercise of any right given to such Party hereunder or by law shall constitute a waiver thereof, nor shall any single or partial exercise of any such right preclude other further exercise thereof or of any other right. The waiver by a Party of any breach of any provision hereof shall not be deemed to be a waiver of any subsequent breach thereof or of any breach of any other provision hereof.

The remainder of this page is intentionally blank, and the signature page follows.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first above written.

Licensors:

Licensee:

City of Burnet: a Texas Municipal Corporation

Dustin Orman

Crista Goble Bromley, Mayor

Dustin Orman

ATTEST:

Kelly Dix, City Secretary



FINANCE

ITEM 5.6

Patricia Langford
Director of Finance
(512)-715-3205
plangford@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE ACCEPTANCE OF SUPPLEMENTAL PAYMENTS FROM THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION FOR COSTS INCURRED BY THE CITY IN PROVIDING AMBULANCE SERVICES TO MEDICAID INSURED AND UNINSURED PATIENTS; DIRECTING THE NET PROCEEDS TO BE DEPOSITED IN ACCORDANCE WITH THE CITY'S INVESTMENT POLICY; AND RESTRICTING THE USE OF THE PROCEEDS. P. Langford

Background: The Texas Ambulance Services Supplemental Payment Program ("TASSPP") was created to provide supplemental payments to approved governmental ambulance service providers for the unpaid cost of providing ambulance services to Medicaid insured and uninsured patients.

Information: Patients using Medicaid insurance typically only cover 30-40 percent of the cost of services received and it is significantly less for patients with no insurance.

Fiscal Impact: The gross amount received from HHSC was \$98,451.51. Related expenses totaled \$18,314.18 for the submittal costs and the billing commissions paid. This results in a net amount of \$80,137.33 to be deposited into the Capital Equipment Reserve Account which is a "Restricted by Council Action" account.

Recommendation: Approve and adopt Resolution R2020-48 as presented.

RESOLUTION NO. R2020-48

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE ACCEPTANCE OF SUPPLEMENTAL PAYMENTS FROM THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION FOR COSTS INCURRED BY THE CITY IN PROVIDING AMBULANCE SERVICES TO MEDICAID INSURED AND UNINSURED PATIENTS; DIRECTING THE NET PROCEEDS TO BE DEPOSITED IN ACCORDANCE WITH THE CITY'S INVESTMENT POLICY; AND RESTRICTING THE USE OF PROCEEDS.

Whereas, costs for the provision of ambulance transport service to Medicaid insured and the uninsured is not fully recovered by the City from the insurer or the recipient of services; and

Whereas, the Texas Ambulance Services Supplemental Payment Program ("TASSPP") was established to provide supplemental payments to approved governmental ambulance service providers in such instances; and

Whereas, under the TASSPP the Texas Health and Human Services Commission has issued an award to the City; and

Whereas, City Council wishes to accept the award and give direction as to how the awarded funds are to be deposited; and

Whereas, City Council has formally approved a separate Investment Policy for the City that meets the requirements of the Public Funds Investment Act (PFIA), Section 2256 of the Texas Local Government Code; and

Whereas, the Investment Policy complies with the Public Funds Investment Act and authorizes the investment of city funds in safe and prudent investments; and

Whereas, it is advantageous for the City to withdrawal and deposit restricted fund assets for the purpose of investment as provided for herein.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section 1. Findings. That the recitals to this Resolution are incorporated herein for all purposes.

Section 2. Acceptance. The supplemental payment for providing ambulance services to Medicaid insured and uninsured patients from the Texas Health and Human Services Commission issued on 9/30/2020 in the amount of \$98,451.51 is hereby accepted.

Section 3. Deposit. City Council does hereby authorize and direct the funds received for providing ambulance services to Medicaid insured and uninsured patients from the Texas Health and Human Services Commission issued on 9/30/2020 less related expenses of \$18,314.18 be invested in accordance with the City's investment policy and placed into the "Capital Equipment Reserve Account" which is a "Restricted by Council Action" account.

Section 4. Withdrawals. City Council does hereby direct that the funds received for providing ambulance services to Medicaid insured and uninsured patients from the Texas Health and Human Services Commission issued on 9/30/2020 less related expenses of \$18,314.18, deposited in accordance with Section 3, shall not be withdrawn from the deposited investment account without action by City Council expressly directing such withdrawal to satisfy an authorized expenditure.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

Section 6. Effective Date. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED AND APPROVED this the 27th day of October, 2020.

CITY OF BURNET, TEXAS

ATTEST:

Crista Goble Bromley, Mayor

Kelly Dix, City Secretary



Development Services

ITEM 5.7

Jason Lutz
Development Services
(512) 715-3215
jlutz@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW THE LAND USE OF "MACHINE SHOP WITHOUT OUTDOOR STORAGE" AS PERMITTED IN SEC. 118-47. - HEAVY COMMERCIAL—DISTRICT "C-3" OF THE CITY'S CODE OF ORDINANCES, FOR PROPERTY LOCATED AT 608 BUCHANAN DRIVE (LEGAL DESCRIPTION: S5100 HAMILTON CREEK ADDITION, LOT 9B BLOCK 4); PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

Background: The subject property is currently zoned Light Commercial (C-1) and is located on the north side of Hwy. 29 at 608 Buchanan Dr. The applicant requested a zoning change to Heavy Commercial (C-3) (previous item on the agenda) in order to apply for a Conditional Use Permit for the land use of "Machine shop without outdoor storage" (previous item on the agenda).

The subject property is a flag shaped lot with access directly from Hwy. 29 and an additional access point on the rear street (Josephine) which would give a secondary point of access through a residential street, which is currently available under the current C-1 zoning.

Staff Analysis: Staff has reviewed the proposed CUP request and looked at several factors such as adjacent zoning/land uses, available utilities, and access.

Zoning/Land Uses: The applicant is seeking to utilize the property as a "Machine shop without outdoor storage" in order to fabricate metal parts. The proposed use does require a CUP, if it is located in a C-3 district, thus the need for the previous requested zoning change.

The existing structure is located 50' from the front property line, 20' from the side property lines, and 12' from the rear property lines, which meet the City regulations for the proposed zoning district.

The subject tract is surrounded by C-1 to the north, west, and south. There are some existing R-1 zoning districts to the east and south across Hwy 29. These R-1 zoning districts are residential islands surrounded by C-1 zoning districts (see Exhibit A below). Additionally, there are some Industrial and C-2 zoning districts in the area.

The requested CUP and nature of the product being produced would not be likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences other than the minimum amounts normally resulting from listed uses permitted currently allowed on the property, such permitted uses being generally retail trade, service industries that sale, store, distribute and/or repair goods, vehicles, equipment and materials, and are in general dependent on products and materials produced elsewhere.

Available Utilities: There are existing water and sewer lines that may be connected to in order to serve the property.

Access: The property will be accessed via Hwy. 29 but does have a secondary point that could allow traffic to enter or exit from the residential street (Josephine) as is currently permitted.

P&Z

Recommendation: P&Z will hold its public hearing and make a recommendation on Monday October 26, 2020 and staff will update Council on the results of that meeting prior to the Council meeting.

Recommendation: Approve the requested Conditional Use Permit as presented.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW THE LAND USE OF "MACHINE SHOP WITHOUT OUTDOOR STORAGE" AS PERMITTED IN SEC. 118-47. - HEAVY COMMERCIAL—DISTRICT "C-3" OF THE CITY'S CODE OF ORDINANCES, FOR PROPERTY LOCATED AT 608 BUCHANAN DRIVE (LEGAL DESCRIPTION: S5100 HAMILTON CREEK ADDITION, LOT 9B BLOCK 4); PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Planning and Zoning Commission of the City of Burnet, on October 26, 2020, did conduct a public hearing for the purpose of taking public comment regarding a request for a Conditional Use Permit to allow the land use of "Machine shop without outdoor storage" as permitted in Sec. 118-47. - Heavy commercial—District "C-3" of the City's Code of Ordinances, for property located at 608 Buchanan Drive (Legal Description: S5100 HAMILTON CREEK ADTN. LOT 9B BLK 4), as shown in Exhibit A; and

WHEREAS, The Planning and Zoning Commission in open deliberation found that approving a Conditional Use Permit to allow the land use of "Machine shop without outdoor storage" to the subject property would be consistent with the City's adopted zoning ordinance, consistent with existing development patterns in the area, and consistent with the best public interest; and

WHEREAS, The Planning and Zoning Commission did then, by a 5-0 vote of members present, recommend approval of a Conditional Use Permit to allow the land use of "Machine shop without outdoor storage" for the subject property; and

WHEREAS, The City Council of the City of Burnet, on October 27, 2020 did conduct its own public hearing for the purpose of taking public comment regarding the request for a Conditional Use Permit to allow the land use of "Machine shop without outdoor storage" to said property; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation, the comments and testimony elicited at the public hearing, as well as its own deliberations, did determine that approving a Conditional Use Permit to allow the land use of "Machine shop without outdoor storage" to the subject property to be consistent with City's adopted zoning code, and therefore consistent with the public health, safety, morals, and the general welfare of the city and its present and future residents;

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Conditional Use Permit. A Conditional Use Permit to allow the land use of "Machine shop without outdoor storage" is hereby approved for property located at 608 Buchanan Drive (Legal Description: S5100 HAMILTON CREEK ADDITION, LOT 9B BLK 4) as shown in Exhibit A.

Section 3. Map Revision. The Director of Development Services is authorized and directed to revise the official zoning map to reflect the amendment authorized by this Ordinance

Section 4. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 5. Non-Severability. This ordinance is not severable.

Section 6. Effective Date. This ordinance is effective upon final passage and approval.

Section 7. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

PASSED AND APPROVED on First Reading this the 27th day of October 2020.

FINALLY PASSED AND APPROVED on this the 10th day of November 2020.

CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

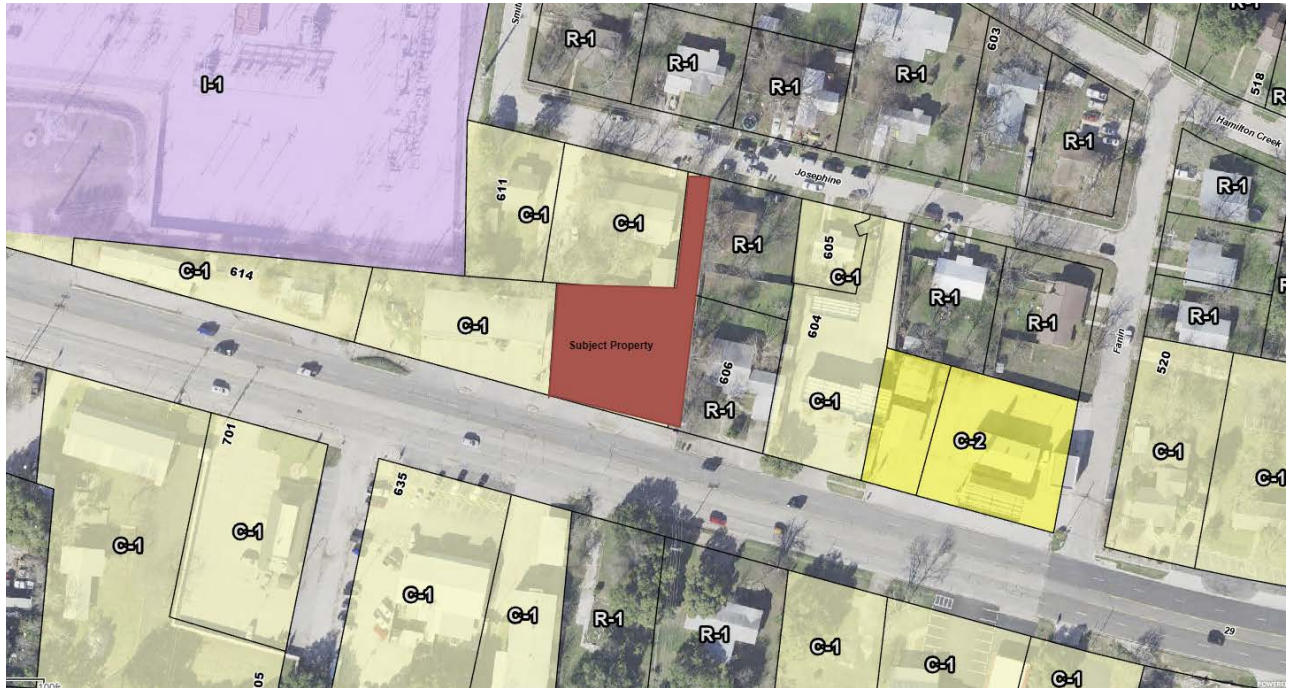


Exhibit B – Additional Land Uses Allowed

C-2 USES

- Air conditioning and heating sales and services.
- Amusement (indoor).
- Amusement (outdoor) and swimming pool (commercial).
- Automobile service station, gasoline station (full and limited), filling or retail service station.
- Apartment hotel, assisted retirement living, boarding house, bed and breakfast, convalescent home, family home, home for the aged and group day care.
- Bakeries with goods primarily prepared for in-store retail sales on site.
- Bonded warehouse and local wholesale distributors.
- Child care center (small, intermediate and large) and child development facilities.
- Cleaning or laundry self-service shop and cleaning shop or laundry (small).
- Clinic and safety services.
- Convenience stores, grocery stores and supermarkets (including the sale of alcoholic beverages for off premise consumption and/or gasoline).
- Cultural services and community center (public and private).
- Day camp.
- Drive-in theaters.
- Dancing and music academies.
- Farm implement display and sales room.
- Farms or truck gardens, limited to the propagation and cultivation of plants; provided that no poultry or livestock other than household pets shall be housed within 50 feet of any property line.
- Florist shops, greenhouses and nurseries with outdoor service and display.
- Golf course (commercial), playfield or stadium (public).
- Hospital services, hospital (acute and chronic care) sanitariums, nursing homes, hospice and home for the aged.
- Hotels, tourist homes, and motels.
- Milk and bread distributing stations.
- Mini storage warehouse and storage garage.
- Parking lots and commercial garage.
- Package liquor stores for off-premise consumption sales.
- Radio and television broadcasting stations and studios, excluding broadcasting towers.
- Recycling collection use.
- Restaurant, cafe or cafeteria, drive-in eating establishment with alcoholic beverage sales for on-premise consumption.
- Sale of new automobile parts.
- Shopping center.

Small animal clinic/veterinary services.
Heliport.
Taxi cab stations.
Upholstering shops.
Wholesale sales establishments and warehouses.
Wholesale bakeries.

C-3 USES

Automobile repair or retail service station and garage.

Automobile sales (outdoor).

Bar, nightclub, private club, dance hall and social club where alcoholic beverages are sold for on-premise consumption.

Carpentry, painting, plumbing or tinsmiths shop.

Frozen food lockers and cold storage plant.

Heavy machinery sales, storage and service.

Lumber yards and building materials storage yards.

Machine shop without outdoor storage (permitted with conditional use permit).

Manufactured housing and service.

Retail propane sales.

Retail facilities over 10,000 square feet.

Stable.

Taxidermy shops and seasonal meat processing (such as deer meat).

Horse race track and riding stable with a condition use permit.

Private zoo with a conditional use permit.

Transportation services.

Trailer camp or RV park.

Truck stop, with no repair or wash service.

Wood yard.

Veterinary services and hospital.



Development Services

ITEM 5.8

Jason Lutz
Development Services
(512) 715-3215
jlutz@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING HEAVY COMMERCIAL—DISTRICT "C-3", DESIGNATIONS TO S5100 HAMILTON CREEK ADDITION, LOT 9B, BLOCK 4, LOCATED AT 608 BUCHANON DR., AS SHOWN IN EXHIBIT A; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

Background: The subject property is currently zoned Light Commercial (C-1) and is located on the north side of Hwy. 29 at 608 Buchanan Dr.

The subject property is a flag shaped lot with access directly from Hwy. 29 and an additional access point on the rear street (Josephine) which would give a secondary point of access through a residential street.

The applicant is requesting to rezone the property from Light commercial—District "C-1" to Heavy commercial—District "C-3" in order to execute a sales contract, pending the zoning change to allow for the proposed business to fall within proper zoning.

The applicant will need to receive a Conditional Use Permit (CUP) for a "Machine shop without outdoor storage" in order to proceed with the proposed business (next item on the agenda).

Staff Analysis: Staff has reviewed the proposed zoning request and looked at several factors such as Future Land Use Plan (FLUP), adjacent zoning/land uses, available utilities, and access.

FLUP: The City's Comprehensive Plan calls out this parcel as "Commercial". This zoning change request is in line with the City's Future Land Use Plan.

Zoning/Land Uses: The applicant is seeking to utilize the property as a "Machine shop without outdoor storage" in order to fabricate metal parts. The proposed use does require a CUP, if it is located in a C-3 district, thus the need for the requested zoning change.

The existing structure is located 50' from the front property line, 20' from the side property lines, and 12' from the rear property lines, which meet the City regulations for the proposed zoning district.

The subject tract is surrounded by C-1 to the north, west, and south. There are some existing R-1 zoning districts to the east and south across Hwy 29. These R-1 zoning districts are residential islands surrounded by C-1 zoning districts (see Exhibit A below). Additionally, there are some Industrial and C-2 zoning districts in the area.

The proposed C-3 zoning will allow all land uses currently permitted by right, within the C-1 zoning district, as well as additional uses listed in the C-2 and C-3 zoning districts (see Exhibit B – Additional Land Uses below).

Available Utilities: There are existing water and sewer lines that may be connected to in order to serve the property.

Access: The property will be accessed via Hwy. 29 but does have a secondary point that could allow traffic to enter or exit from the residential street (Josephine) as is currently permitted.

P&Z

Recommendation: P&Z will hold its public hearing and make a recommendation on Monday October 26, 2020 and staff will update Council on the results of that meeting prior to the Council meeting.

Recommendation: Approve the first reading of Ordinance 2020-28 as presented.

Exhibit A – Zoning Map

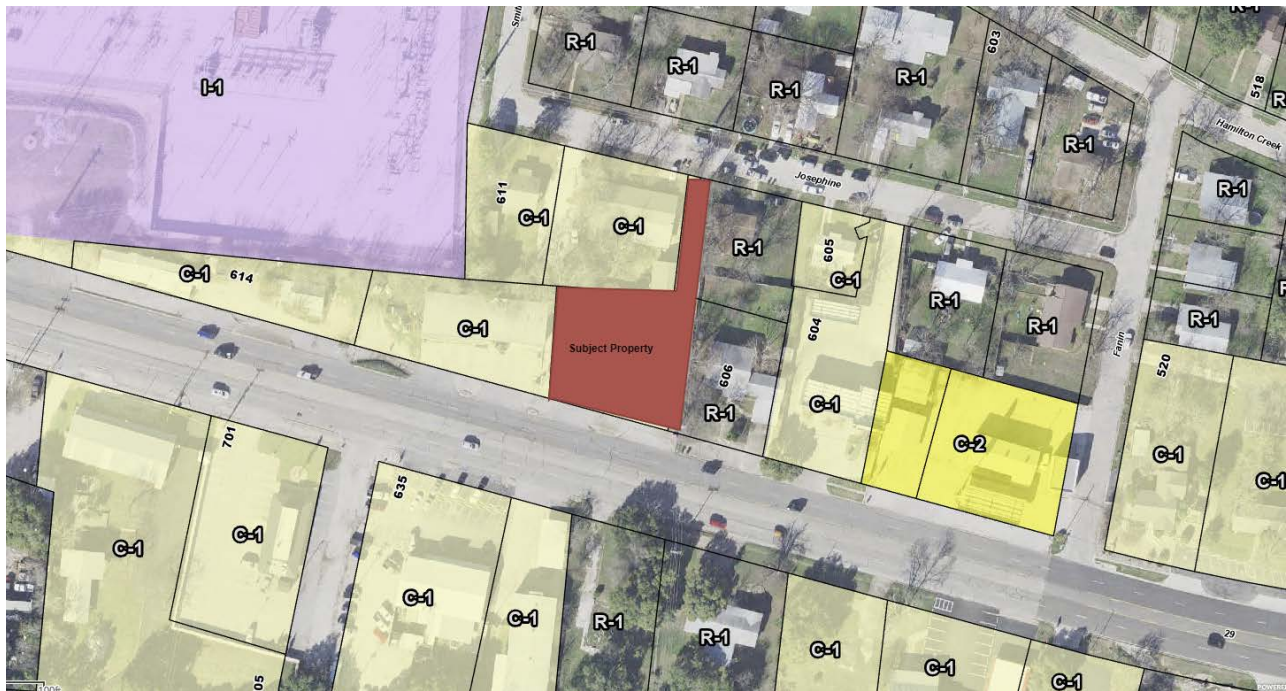


Exhibit B – Additional Land Uses Allowed

C-2 USES

- Air conditioning and heating sales and services.
- Amusement (indoor).
- Amusement (outdoor) and swimming pool (commercial).
- Automobile service station, gasoline station (full and limited), filling or retail service station.
- Apartment hotel, assisted retirement living, boarding house, bed and breakfast, convalescent home, family home, home for the aged and group day care.
- Bakeries with goods primarily prepared for in-store retail sales on site.
- Bonded warehouse and local wholesale distributors.
- Child care center (small, intermediate and large) and child development facilities.
- Cleaning or laundry self-service shop and cleaning shop or laundry (small).
- Clinic and safety services.
- Convenience stores, grocery stores and supermarkets (including the sale of alcoholic beverages for off premise consumption and/or gasoline).
- Cultural services and community center (public and private).
- Day camp.
- Drive-in theaters.
- Dancing and music academies.
- Farm implement display and sales room.
- Farms or truck gardens, limited to the propagation and cultivation of plants; provided that no poultry or livestock other than household pets shall be housed within 50 feet of any property line.
- Florist shops, greenhouses and nurseries with outdoor service and display.
- Golf course (commercial), playfield or stadium (public).
- Hospital services, hospital (acute and chronic care) sanitariums, nursing homes, hospice and home for the aged.
- Hotels, tourist homes, and motels.
- Milk and bread distributing stations.
- Mini storage warehouse and storage garage.
- Parking lots and commercial garage.
- Package liquor stores for off-premise consumption sales.
- Radio and television broadcasting stations and studios, excluding broadcasting towers.
- Recycling collection use.

Restaurant, cafe or cafeteria, drive-in eating establishment with alcoholic beverage sales for on-premise consumption.

Sale of new automobile parts.

Shopping center.

Small animal clinic/veterinary services.

Heliport.

Taxi cab stations.

Upholstering shops.

Wholesale sales establishments and warehouses.

Wholesale bakeries.

C-3 USES

Automobile repair or retail service station and garage.

Automobile sales (outdoor).

Bar, nightclub, private club, dance hall and social club where alcoholic beverages are sold for on-premise consumption.

Carpentry, painting, plumbing or tinsmiths shop.

Frozen food lockers and cold storage plant.

Heavy machinery sales, storage and service.

Lumber yards and building materials storage yards.

Machine shop without outdoor storage (permitted with conditional use permit).

Manufactured housing and service.

Retail propane sales.

Retail facilities over 10,000 square feet.

Stable.

Taxidermy shops and seasonal meat processing (such as deer meat).

Horse race track and riding stable with a conditional use permit.

Private zoo with a conditional use permit.

Transportation services.

Trailer camp or RV park.

Truck stop, with no repair or wash service.

Wood yard.

Veterinary services and hospital.

ORDINANCE NO. 2020-28

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING HEAVY COMMERCIAL—DISTRICT "C-3", DESIGNATIONS TO S5100 HAMILTON CREEK ADDITION, LOT 9B, BLOCK 4, LOCATED AT 608 BUCHANON DR., AS SHOWN IN EXHIBIT A; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

WHEREAS, The Planning and Zoning Commission of the City of Burnet, on October 26, 2020, did conduct a public hearing for the purpose of taking public comment regarding the proposal to assign Heavy commercial—District "C-3", zoning to property located at 608 Buchanan Drive (Legal Description: S5100 HAMILTON CREEK ADTN. LOT 9B BLK 4), as shown in Exhibit A; and

WHEREAS, The Planning and Zoning Commission in open deliberation found that applying Heavy commercial—District "C-3" zoning to the subject property would be consistent with the City's Future Land Use Plan, consistent with existing development patterns in the area, and consistent with the best public interest; and

WHEREAS, The Planning and Zoning Commission did then, by a 5-0 vote of members present, recommend approval zoning said property to Heavy commercial—District "C-3"; and

WHEREAS, The City Council of the City of Burnet, on October 27, 2020 did conduct its own public hearing for the purpose of taking public comment regarding the proposal to assign Heavy commercial—District "C-3" zoning to said property; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation, the comments and testimony elicited at the public hearing, as well as its own deliberations, did determine that assigning Heavy commercial—District "C-3" zoning to the subject property to be consistent with Future Land Use Plan intent, and therefore consistent the public health, safety, morals, and the general welfare of the city and its present and future residents;

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Zoning Changed. Heavy commercial—District "C-3" Zoning is hereby assigned to 608 Buchanan Drive (Legal Description: S5100 HAMILTON CREEK ADTN. LOT 9B BLK 4) as shown in Exhibit A.

Section 3. Map Revision. The Director of Development Services is authorized and directed to revise the official zoning map to reflect the amendment authorized by this Ordinance.

Section 4. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 5. Severability. This ordinance is not severable.

Section 6. Effective Date. This ordinance is effective upon final passage and approval.

Section 7. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

PASSED AND APPROVED on First Reading this the 27th day of October 2020.

FINALLY PASSED AND APPROVED on this the 10th day of November 2020.

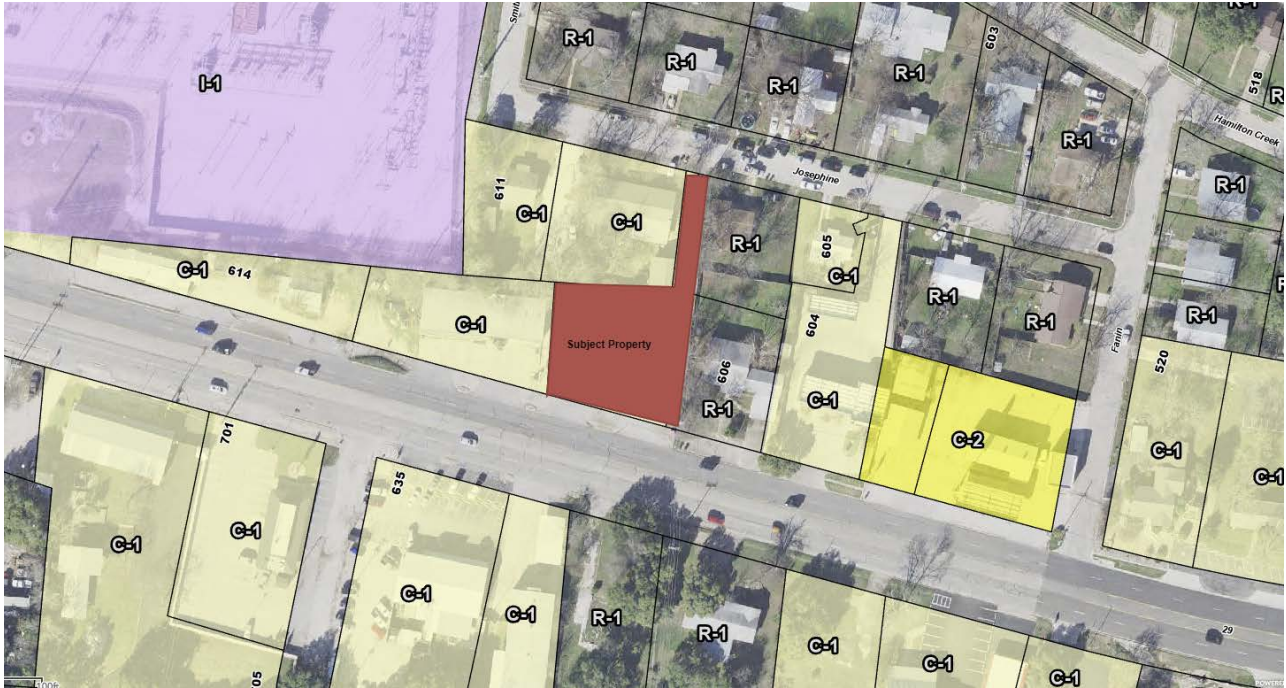
CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Exhibit A – Zoning Map





Development Services

ITEM 5.9

Jason Lutz
Development Services
(512) 715-3215
jlutz@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING TOWNHOMES—DISTRICT "R-2 A", DESIGNATIONS TO S5550 JOHNSON ADDITION, LOTS 7 & 8, BLOCK 17, AS SHOWN IN EXHIBIT A; LOCATED AT 1006 E. MARBLE ST.; PROVIDING A REPEALER CLAUSE; PROVIDING FOR NON-SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE: J. Lutz

Background: The subject property is currently zoned Single-family residential (R-1) and is located at the northwest intersection of E. Marble St. and Clark St.

The subject property consists of two separate undeveloped lots (7&8) and are each approximately 0.232 acres (10,105.92 sq. ft.).

The applicant is requesting to rezone the property from Single-family residential 1—District "R-1" to Townhomes—District "R-2 A" in order to construct a single-family attached structure (townhome) consisting of 2 units on each lot.

Staff Analysis: Staff has reviewed the proposed zoning request and looked at several factors such as Future Land Use Plan (FLUP), adjacent zoning/land uses, available utilities, and access.

FLUP: The City's Comprehensive Plan calls out this parcel as "Commercial". This zoning change request is in line with the City's Future Land Use Plan (see Exhibit B below).

Zoning/Land Uses: The subject tract is surrounded by R-1 to the north west, R-1 & M-1 to the south, and R-1 & R-2 to the east. Additionally, there are some M-1, C-1, R-2, and R-3. Zoning districts within a block of the subject property (see Exhibit A below).

Available Utilities: There are existing water and sewer lines that may be connected to in order to serve the property.

Access: The property has access via E. Marble St. and depending on the final layout may have access on Clark St. Currently Clark St. is undeveloped and if the applicant would like to access via that rights-of-way, they would be responsible for the construction of the road..

P&Z

Recommendation: P&Z will hold its public hearing and make a recommendation on Monday October 26, 2020 and staff will update Council on the results of that meeting prior to the Council meeting.

Recommendation: Approve the first reading of Ordinance 2020-29 as presented.

Exhibit A – Zoning Map

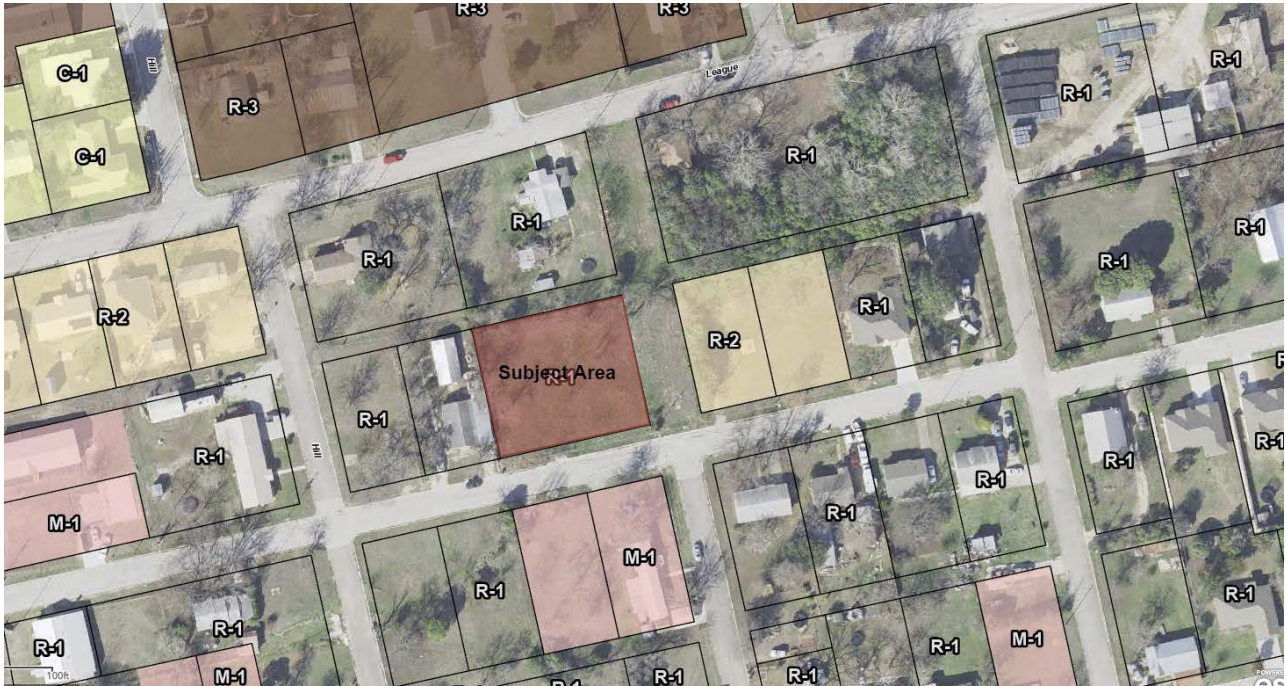
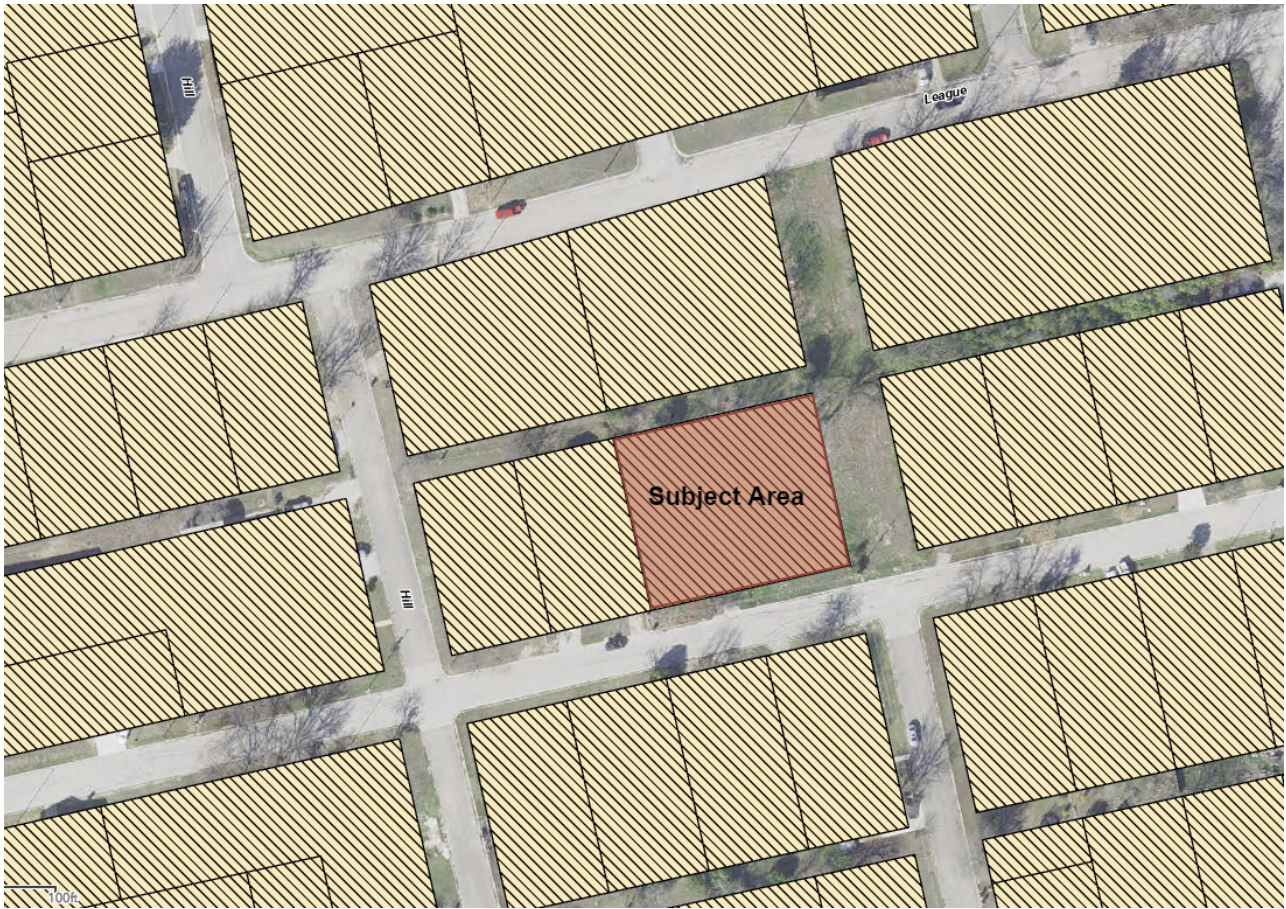
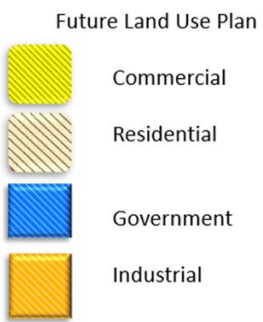


Exhibit B – Future Land Use Map





ORDINANCE NO. 2020-29

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING TOWNHOMES—DISTRICT "R-2 A", DESIGNATIONS TO S5550 JOHNSON ADDITION, LOTS 7 & 8, BLOCK 17, AS SHOWN IN EXHIBIT A, LOCATED AT 608 BUCHANON DR., AS SHOWN IN EXHIBIT A; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Planning and Zoning Commission of the City of Burnet, on October 26, 2020, did conduct a public hearing for the purpose of taking public comment regarding the proposal to assign Townhomes—District "R-2 A", zoning to property located at 1006 E. Marble St. (Legal Description: S5550 JOHNSON ADDITION LOT 7 & 8 BLK 17), as shown in Exhibit A; and

WHEREAS, The Planning and Zoning Commission in open deliberation found that applying Townhomes—District "R-2 A" zoning to the subject property would be consistent with the City's Future Land Use Plan, consistent with existing development patterns in the area, and consistent with the best public interest; and

WHEREAS, The Planning and Zoning Commission did then, by a 5-0 vote of members present, recommend approval zoning said property to Townhomes—District "R-2 A"; and

WHEREAS, The City Council of the City of Burnet, on October 27, 2020 did conduct its own public hearing for the purpose of taking public comment regarding the proposal to assign Townhomes—District "R-2 A" zoning to said property; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation, the comments and testimony elicited at the public hearing, as well as its own deliberations, did determine that assigning Townhomes—District "R-2 A" zoning to the subject property to be consistent with Future Land Use Plan intent, and therefore consistent the public health, safety, morals, and the general welfare of the city and its present and future residents;

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Zoning Changed. Townhomes—District "R-2 A" Zoning is hereby assigned to 1006 E. Marble St. (Legal Description: S5550 JOHNSON ADDITION LOT 7 & 8 BLK 17) as shown in Exhibit A.

Section 3. Map Revision. The Director of Development Services is authorized and directed to revise the official zoning map to reflect the amendment authorized by this Ordinance

Section 4. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 5. Severability. Should any provisions of this ordinance be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

Section 6. Effective Date. This ordinance is effective upon final passage and approval.

Section 7. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

PASSED AND APPROVED on First Reading this the 27th day of October 2020.

FINALLY PASSED AND APPROVED on this the 10th day of November 2020.

CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Exhibit A – Zoning Map





Administration

ITEM 5.10

Sid Fuller
Interim Police Chief
(512)-716-6404
sfuller@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Discuss and consider action. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING AN APPLICATION FOR A GRANT FROM THE CAPITAL AREA COUNCIL OF GOVERNMENTS FOR MONETARY ASSISTANCE TO THE POLICE DEPARTMENT; AND, IF AWARDED, AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN INTERLOCAL AGREEMENT WITH THE CAPITAL AREA COUNCIL OF GOVERNMENTS FOR ACCEPTANCE AND USE OF GRANT FUNDS S. Fuller

Background: Each year millions of dollars are lost to credit card fraud in Texas. One of the most popular scams involves stealing credit card information via electronic devices (skimmers) illegally placed into gas pump card readers, ATM's, etc. These devices will capture credit card numbers and the PIN. This information is then used to make fraudulent purchases or sold on the dark web. A copy of the grant application is included herewith for Council's ready reference.

Information: If approved, this Grant would provide overtime money for police officers to surveille potential targets of credit card skimmers on fuel pumps.

Fiscal Impact: If awarded, the grant would provide the Police Department with \$3812.00 for overtime police work surveilling potential credit card skimmer targets.

Recommendation: Approve and adopt Resolution R2020-49 as presented.

RESOLUTION NO. R2020-49

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING AN APPLICATION FOR A GRANT FROM THE CAPITAL AREA COUNCIL OF GOVERNMENTS FOR MONETARY ASSISTANCE TO THE POLICE DEPARTMENT; AND, IF AWARDED, AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN INTERLOCAL AGREEMENT WITH THE CAPITAL AREA COUNCIL OF GOVERNMENTS FOR ACCEPTANCE AND USE OF GRANT FUNDS

Whereas, criminals stealing credit card information via electronic devices (skimmers) illegally placed into gas pump card readers and automatic teller machines adversely affects citizens and businesses across the nation, including our City; and

Whereas, the Capital Area Council of Governments ("CAPCOG") and the Texas Department of Agriculture are jointly making grants available to law enforcement agencies within the CAPCOG ten county area; and

Whereas, the Police Chief recommends the City apply for a grant to cover \$3812.00 in overtime pay for surveillance of potential credit card skimmer operations.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section 1. Findings. The recitals to this Resolution are incorporated herein for all purposes.

Section 2. Application authorized. The Police Chief is hereby authorized and directed to submit a grant application to CAPCOG for \$3812.00 to provide overtime reimbursement for surveillance of potential credit card skimmer operations.

Section 3. Interlocal Agreement. If the City awarded a grant, the Mayor is authorized to negotiate and execute an interlocal agreement with CAPCOG, and take such other actions as may be reasonably required, as a prerequisite to receiving funds.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

Section 6. Effective Date. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

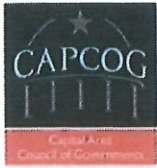
PASSED AND APPROVED this the 27th day of October, 2020.

CITY OF BURNET, TEXAS

ATTEST:

Crista Goble Bromley, Mayor

Kelly Dix, City Secretary



CAPITAL AREA COUNCIL OF GOVERNMENTS

Application for Gas Pump Skimmer Surveillance

Issued Oct 2, 2020

Applications will be accepted beginning Oct 3, 2020 through Oct 20, 2020 from local Law Enforcement agencies in the CAPCOG ten-county region, for a grant to cover surveillance of businesses that sell gas and have multiple reports of gas-skimming incidents. The grants are made possible by the Texas Department of Agriculture's partnership with CAPCOG to address increasing fraudulent transactions at gas pumps. CAPCOG will award funding through an Interlocal Agreement (ILA) with the local governments.

Applications should be scanned and emailed to CAPCOG as follows:

tkroeger@capcog.org , cc: mjennings@capcog.org

Please put "Skimmer Surveillance Application" in the Subject line.

Applicants will be notified of acceptance and funding details by Nov 2, 2020.

Criteria for Participation:

CAPCOG will give priority to those areas with the highest number of reported incidents and to those officers who have completed CAPCOG's skimmer training. Also taken into consideration is if the agency has demonstrated efforts to address reported incidents but are limited on resources to conduct surveillance. Officers must also be able to meet the required surveillance pilot schedule.

Application Requirements:

Applicant agencies must agree to provide four (4) continuous weeks of surveillance, three (3) days per week for a minimum of four (4) hours per day. A report detailing surveillance activity will be required within three (3) weeks of the close of the surveillance period.

Reimbursement Process:

Reimbursement to the local government will be made only upon completion of required reports and shall be based solely on the eligible, regular hourly rate for officers conducting surveillance during the pilot project. The request must be accompanied by a list of all officers who logged time to the project, including their regular hourly rate and schedule of locations visited each day.

All reports and requests for reimbursement must be submitted to CAPCOG no later than Feb 1, 2020.

Part 1. Application Information and Signature Page

Burnet Police Dept

10-20-2020

Applicant Agency

Date Submitted

2000 S. Water St

\$3812.00

Address

Funding Amount Requested

Burnet, TX 78611

512-756-6404

City, State Zip

Phone

Sid Fuller

sfuller@cityofburnet.com

Contact Person

Email

Signature {Print, sign, and submit with your application documents. Signatures are required to submit a complete application.}

By the following signature, the Applicant certifies that it has reviewed the certifications, assurances, and deliverables included in this application, that all certifications are true and correct, that assurances have been reviewed and understood, and that all required deliverables are included with this application.

Signature

Interim Police Chief

Title

Sid Fuller

Typed/Printed Name

Date

Part 2. Certifications and Assurances

Certifications

In order to receive funds under this program, the proposed project must conform to the provisions of the program. By signing this Application, the person acting on behalf of the Applicant makes the certifications listed below.

Authority to Sign Application

The person signing this Application hereby certifies that he/she is the official contact regarding this Application and has authority from the Applicant to sign the Application and that such authority will bind the Applicant in subsequent agreements.

Application Contains No False Statements

Applicant certifies that this Application has no false statements and that the Applicant understands that signing this Application with a false statement is a material breach of contract and shall void the submitted Application and any resulting contracts. The Applicant understands that the COG will not accept any amendment, revision, addition or alteration to this Application after the final date and time for submission.

Governmental Status

Applicant certifies that it is a law enforcement agency located in the State of Texas and fits within one of the governmental classifications listed below, as determined under state law:

1. City
2. County

Debarment from State Contracts

Applicant certifies that it is not barred from participating in state contracts by the State of Texas Comptroller of Public Accounts under the provisions of §2155.077, Government Code.

Technical Feasibility

Applicant certifies that it has carefully reviewed its Scope of Work and that to the best of their knowledge and ability all activities are technically feasible and can be satisfactorily completed within the grant period as set forth in the Request for Applications.

Costs Reasonable and Necessary

Applicant certifies to the best of their knowledge and ability that the proposed project activities and the expenses outlined in this application are reasonable and necessary to accomplish the project objectives, and that the proposed expenses are consistent with the costs of comparable goods and services.

Assurances

If the application is approved for funding, the grant funds will be awarded through a contract between the Applicant and the COG. The grant contract will contain a number of standards, requirements, and processes that must be complied with as a condition of receiving the grant funds. In order to ensure an understanding by the Applicant of some of the main conditions that will be included in the contract, the Applicant is asked to review the following assurances. By signing this Application, the person acting on behalf of the Applicant indicates their understanding of these conditions and provides assurances that these and other conditions set forth in the grant contract will be adhered to if funding is awarded.

Compliance with Progress and Results Reporting Requirements

Applicant provides assurances that, if funded, the Applicant will comply with requirements for: reporting on the progress of the project tasks and deliverables; documenting the results of the project and providing those results to the COG on a schedule established by the COG, and additionally, to continue to document the results of the project activities for the life of the project; and to provide the COG with a follow-up results report approximately one year after the end of the grant term.

Financial Management

Applicant provides assurances that, if funded, the Applicant will comply with contract provisions and requirements necessary to ensure that expenses are reasonable and necessary, and to adhere to financial administration and reimbursement procedures and provide financial reports on a schedule established by the COG.

Compliance with Program and Fiscal Monitoring

Applicant provides assurances that, if funded, the Applicant will comply with program and fiscal monitoring provisions of the contract, including providing additional reports or information as may be requested to adequately track the progress of the project, and allowing site visits to evaluate the progress of the project and to view any grant-funded equipment or facility.

Part 3. Project Description

To be considered for the gas skimmer surveillance program, please provide all items requested below when returning application and complete all questions:

1. Provide a complete report of skimmer statistics in your city/county for the last 2 years.
(Scan and email with application)
2. Please provide a map of the proposed surveillance area(s) and/or list the locations that you propose to monitor.

Name	Location/Address
Shell/Fast Way Food	1015 E.Polk St. Burnet, TX 78611

CAPCOG FY 2020 – APPLICATIONS FOR GAS PUMP SKIMMER PILOT PROJECT

3. Will your agency use officers trained on surveillance techniques? **Yes(IF POSSIBLE)** No

4. Please list the number of staff you will utilize with surveillance plan details:

Name	If Received Surveillance Training, List Date/Location of Class
SEE ROSTER	

5. Can your agency remain dedicated to surveillance for 4 weeks, 3 times per week and a minimum of 4 hours/day? If not, explain why. (Funding may still be granted if you are not able to participate for the full time period).

YES

6. What is the regular hourly rate for your officers? **\$23/HR FOR OFFICER AND \$34/HR FOR INVESTIGATOR.**

CAPCOG FY 2020 – APPLICATIONS FOR GAS PUMP SKIMMER PILOT PROJECT

7. Will your agency be able to use undercover vehicles for surveillance activities? **Yes** No

8. Have your officers attended CAPCOG's skimmer training? Yes **No**

If yes, what date was the training? _____

9. How will funding at this time help you in addressing this problem?

Funding will help provide surveillance on convenience stores that have had several offenses of skimmers being placed in the card readers located at the fuel pumps. In addition it will help prevent people from becoming victims.

10. What has your agency done in the past to mitigate reported skimmer crimes?

Siezed 2 skimmers and followed up on offenses.

11. The reporting for this project must include:

- Address of locations, day and time of surveillance visits
- Identification of breach – officer, location, day and time
- Description of investigation

Reimbursement Process:

Reimbursement to the local government will be made upon completion of required reports and shall be based on hourly rate for officers conducting surveillance during the pilot project.

Request for reimbursement must be accompanied by a list of all officers who logged time to the project including their hourly rate and schedule of locations visited on each day.

All reports and requests for reimbursement must be submitted to CAPCOG no later than **Feb 1, 2020.**

Do you agree to the application criteria and reimbursement process as defined above?

Yes No

Part 4. Project Cost

Hourly cost (regular hourly rate): SEE ATTACHED	\$63.54
Total hours committed to surveillance (at least 4 weeks, 3X per week, time number of officers)	60
TOTAL PROJECT COST (total hours X hourly rate):	\$3812.00

Provide explanation of project cost, including details for any matching funds or other resources.

One officer or investigator providing surveillance for 4hrs per day, 3 times per week for 4 weeks on overtime.

CITY OF BURNET
 2020-2021 CURRENT RATES
 As of 10/19/20

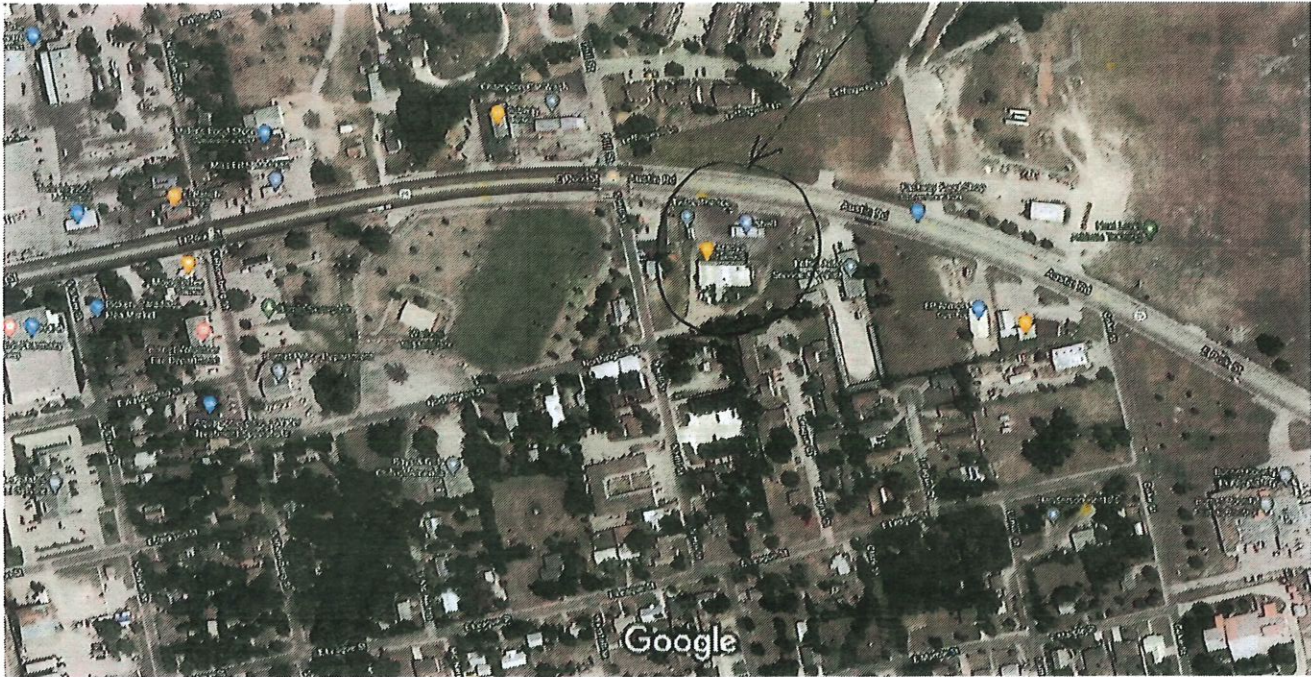
	Reg Rate	OT Rate	FICA	Benefits W/C	RET	TOTAL
Lowest Patrol Officer	22.87	34.31	2.62	0.86	4.48	\$ 42.27
Highest Patrol Officer	26.18	39.27	3.00	0.98	5.13	\$ 48.38
Sergeant Investigator	34.38	51.57	3.95	1.29	6.73	\$ 63.54

10/19/2020

Google Maps

1015 E. Polk St

Google Maps



Imagery ©2020 CAPCOG, Maxar Technologies, USDA Farm Service Agency, Map data ©2020 100 ft

UNIT	NAME/TITLE
302	Captain Jason Davis
304	Sergeant Jeremy Stewart
305	Sergeant Lance Besancon
307	Sergeant Matt Imrie
309	Officer Myron Hall
310	Officer Mary Chitwood
311	Officer Michael Daugherty
312	Officer Sean Stohlman
313	SRO JJ Castro
314	Officer Jeffrey Morris
315	Officer Ryan Folkerts
317	Officer Christine Cummings
322	Sgt. Investigator Steven Vollmar
323	Sgt. Investigator Ronald Sillavan
331	ACO Robert Vaughan
341	SRO Jeff Phillips
342	Corporal Brandon Bertelson
344	SRO Courtney Raney



Police Department

ITEM 5.11

Sid Fuller
Interim Chief of Police
Police Department
(512)-756-6404
sfuller@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27,2012

Agenda Item: Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING A \$10,000.00 REWARD FOR INFORMATION LEADING TO THE ARREST OF THE PERSON OR PERSONS COMMITTING ARSONS IN THE COMMUNITY; AND AUTHORIZING HILL COUNTRY AREA CRIME STOPPERS TO ADMINISTER THE REWARD PROCESS . S. Fuller

Background: During the past year there have been several suspicious fires in and around the City of Burnet. Several of these fires have been officially designated as arson including three cases in the City of Burnet. Law enforcement and fire officials from the city, county and state level are investigating.

Crime Stoppers offers a platform for individuals to submit an anonymous tip and collect a reward without being identified. They will also do a press release announcing the reward, thus helping get the word out about these crimes. If no information is received the city is not out any money.

Information: Arsons, by nature, are difficult crimes to solve. So far, no witnesses have come forward. A reward, offered through the Hill Country Area Crime Stoppers, could move someone to come forward and provide valuable information and assist in solving these arson cases. It will also bring media coverage to the crimes.

Fiscal Impact: \$10,000 (Or whatever amount the Council deems appropriate.)

Recommendation: Approve and adopt Resolution R2020-50 as presented

RESOLUTION NO. R2020-50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING A \$10,000.00 REWARD FOR INFORMATION LEADING TO THE ARREST OF THE PERSON OR PERSONS COMMITTING ARSONS IN THE COMMUNITY; AND AUTHORIZING HILL COUNTRY AREA CRIME STOPPERS TO ADMINISTER THE REWARD PROCESS

Whereas, the Burnet community has recently experienced a rash of fires causing significant damage to buildings and motor vehicles; and

Whereas, Arson Investigators have determined the fires to be intentionally set; and

Whereas, the fires have caused an emergency response of Fire Department and Police personnel, therefore taxing County and City resources; and

Whereas, arson is a crime that is difficult to solve without witnesses coming forward; and

Whereas, Texas Crime Stoppers organizations are community-based partnerships formed by dedicated citizens, law enforcement, and the media designed to achieve citizen interest and involvement in solving crimes by assuring witness anonymity, establishing reward systems that pay for information leading to the arrest or charges filed on persons involved in crimes, and selecting an unsolved "Crime of the Week" featured by reenactment in nightly television news broadcasts, radio spots, and newspaper articles; and

Whereas, the Hill Country Area Crime Stoppers has proven to be successful solving crimes in the past by providing a platform for a person to submit an anonymous tip and collect the reward without being identified or coming forward as a witness; and

Whereas, City staff recommends the City offer a reward through the Hill Country Area Crime Stoppers for information leading to the arrest of the person/persons responsible for the arsons; and

Whereas, City Council deems it promotes public safety, and is in the public interest, to offer such reward.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section 1. Findings. The recitals to this Resolution are incorporated herein for all purposes.

Section 2. Reward Authorized. It is hereby authorized that an offer of a \$10,000.00 reward for information leading to the arrest of the person, or persons, responsible for the arsons committed in the area. In no event shall the reward exceed \$10,000.00, without further Council action.

Section 3. Administration of Reward. The Hill Country Area Crime Stoppers shall administer all matters related to the publication of the reward, the receipt of tips from witnesses and the award of a reward for information leading to the arrest of the perpetrator or perpetrators of the crimes described in Section 2, above.

Section 4. Mayor's Authorization. The Mayor is hereby authorized to execute such instruments and take such actions as may reasonably be necessary to facilitate the purpose of this Resolution. If required by the Crime Stoppers program, the Mayor may delegate such authority to the Police Chief.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

Section 6. Effective Date. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED AND APPROVED this the 27th day of October, 2020.

CITY OF BURNET, TEXAS

ATTEST:

Crista Goble Bromley, Mayor

Kelly Dix, City Secretary



Administration

ITEM 5.12

David Vaughn
City Manager
512.715.3208
dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date: October 27, 2020

Agenda Item: Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS APPROVING AMENDMENTS TO THE BURNET ECONOMIC DEVELOPMENT CORPORATION'S BYLAWS: D. Vaughn

Background: Staff has been reviewing city policies and procedures and has found that there are some updates that needed to be reviewed with the Board pertaining to the BEDC Bylaws.

Information: Staff is proposing the following amendments to the BEDC Bylaws:

- Provide that a city councilmember or staff member that is appointed to the board automatically forfeits their seat on the board if they are no longer a councilmember or staff member.
- Aligns terms of office with the current practice of appointing in June of each year. The current bylaws actually call for a 2 year term, however it has long been the City's practice to appoint in June of each year.

Fiscal Impact: No fiscal impact

Recommendation: Approve and adopt Resolution R2020-51 as presented.

RESOLUTION NO. R2020-251

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET,
TEXAS APPROVING AMENDMENTS TO THE BURNET ECONOMIC
DEVELOPMENT CORPORATION'S BYLAWS**

Whereas, on October 20, 2020, by resolution the Burnet Economic Development Corporation's Board of Director's adopted amendments to the Corporate Bylaws, and forwarded the amended bylaws to City Council for approval.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF BURNET, TEXAS:

Section one. That the amendments to the Bylaws of the Burnet Economic Development Corporation as shown on attach **Exhibit "A"**, with added language shown as underlined (underlined) and deleted language shown as stricken (~~stricken~~), are hereby approved.

Section two. That the Board of Directors are hereby authorized to have the amended Bylaws of the Burnet Economic Development Corporation as shown on attach **Exhibit "B"**, certified in accordance with their Articles of Incorporation and the laws of this state.

Section four. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THIS 27th DAY OF October 2020.

CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

EXHIBIT "A"

Amendments to Bylaws shown with added language shown as underlined (underlined) and deleted language shown as stricken (~~stricken~~).

FIRST AMENDMENT TO THE BYLAWS OF THE THE BURNET ECONOMIC DEVELOPMENT CORPORATION

ARTICLE I

POWERS AND PURPOSES

Section 1.1. Corporate Identity; Offices. The name of the Non-Profit Corporation is the Burnet Economic Development Corporation, (the "Corporation"). ~~The principal office of the Corporation shall be at City Hall, 1001 Buchanan Drive, Suite 4, Burnet, Burnet County, Texas 78611. The Corporation may have such other offices as the Board of Directors shall determine.~~

Section 1.2. Powers, Purposes and Authority. In order to implement the purposes for which the Corporation was formed, as set forth in its Articles of Incorporation, the Corporation shall have all the authority and powers of every nature and kind whatsoever, both express and implied, which are authorized or permitted by the terms of the Development Corporation Act of 1979, Article 5190.6, Tex. Rev. Civ. Stat., as amended (the "Act"). The Corporation shall have and may exercise each power and authority enumerated in the Act as if such power and authority were specifically set forth herein; provided that the Corporation shall be governed by §4B of the Act and to the extent of any conflict between §4B and any other term or provision of the Act, §4B shall govern and prevail. The Corporation shall have the power and authority to undertake any lawful action not inconsistent with the Act and it shall undertake the promotion and development of industrial manufacturing enterprises to promote and encourage employment and the public welfare in the City of Burnet (the "City"). The powers of the Corporation shall include the authority to contract and be contracted with and, absent a conflict with §4B, the power to purchase, lease, sell and mortgage real estate, and to issue obligations for or otherwise finance all or part of the cost of one or more Projects as defined in the Act.

Section 1.3. Books and Records; Review of Financial Statements. The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors and committees having any of the authority of the Board of Directors. All books and records of the Corporation may be inspected by any director or his or her agent or attorney at any reasonable time; and at all times the City Council of the City (the "City Council") will have access to the books, records and financial statements of the Corporation.

Section 1.4. Powers in General. The Corporation may exercise all powers granted under the Act consistent with its Articles of Incorporation, these Bylaws and the resolutions, orders and ordinances of the City Council.

ARTICLE II BOARD OF DIRECTORS

Section 2.1. Appointment, Powers, Number and Term of Office. The Board of Directors shall exercise all of the powers of the Corporation, subject to the restrictions imposed by law, the Articles of Incorporation and these Bylaws.

The Board of Directors shall consist of seven (7) persons who shall each be appointed by the City Council. Not more than four (4) of such ~~directors~~Directors shall be an employee, officer or member of the governing body of the City. ~~The term of each directorship~~All Directors shall be ~~for two~~(designated as Director 1 through 7. The terms of Directors 1, 2, 3 and 4 shall expire on June 30th of odd numbered years (2021, 2023, etc.). Thedirectors~~terms of Directors, 5, 6 and 7 shall expire on June 30th of even numbered years (2022, 2024, etc.).~~ The Directors constituting the initial Board of Directors shall be those persons named in the Articles of Incorporation, each of whom, as well as any subsequent ~~directors~~Directors, shall serve for the term to which he or she is selected or appointed or until his or her successor is appointed by the City Council.

Any director, or all ~~directors~~Directors, may be removed from office at any time by the City Council, for cause or at will. Any vacancy occurring on the Board of Directors shall be filled by appointment by majority vote of the City Council.

Any employee, officer or member of the governing body of the City appointed to the Board who resigns, is terminated, or fails to be re-elected or appointed to office shall automatically forfeit their position on the Board of Directors. Such forfeiture shall be deemed to be effective immediately and shall not be subject to the hold-over provisions provided for herein.

Section 2.2. Meetings of Directors in General. The Board of Directors may hold its meetings at any place authorized by the Act and as the Board of Directors may from time to time determine; provided that, in the absence of any such determination by the Board of Directors, the meetings shall be held at the principal office of the Corporation or at the City Council Chambers of the City. The Board of Directors shall conduct its meetings in accordance with the requirements of the Act and Chapt. 551, Tex. Gov't. Code, as amended.

Section 2.3. Regular Meetings. Regular meetings of the Board of Directors shall be held within the City at such times and places as shall be designated, from time to time, by resolution of the Board of Directors. Notice of regular meetings need not be given to each of the Directors but public notice of each meeting shall be given in the manner prescribed by law.

Section 2.4. Special Meetings. Special meetings of the Board of Directors shall be held within the City whenever called by the president, by the secretary or by a majority of the ~~directors~~Directors then in office, or upon advice of or request by the City Council.

The secretary or his/her designee shall give or cause public notice to be given of each special meeting. Special notice of each special meeting shall also be given to each director either by mail, telephone, ~~telegraph~~email or in person, at least ~~seventy-two~~ (72) hours before the meeting. Notice required by law to be given to any other person or entity shall be given in the manner prescribed by law. Except

as otherwise provided by law or unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special meeting.

Section 2.5. Quorum. A majority of the ~~directors~~Directors fixed by these Bylaws shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. The act of a majority of the ~~directors~~Directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board of Directors, unless the act of a greater number is required by law.

Section 2.6. Conduct of Business. At the meetings of the Board of Directors, matters pertaining to the purposes of the Corporation shall be considered in such order as from time to time the Board of Directors may determine.

Section 2.7. Compensation of Directors. Directors shall not receive any compensation for their services as ~~directors~~Directors except that they shall be reimbursed for their actual expenses incurred in the performance of their official duties.

ARTICLE ~~IIII~~III **OFFICERS**

Section 3.1. Titles and Term of Office. The officers of the Corporation shall be a president, a vice president, a secretary and a treasurer, and such other officers as the Board of Directors may from time to time elect or appoint. One person may hold more than one office, except the president shall not hold the office of secretary. Each officer shall be appointed by a majority vote of the ~~directors~~Directors then in office and shall hold office ~~for a term of two years or~~ until his or her successor is elected or appointed. The Board of Directors shall cause a vote to be conducted at the first meeting following July 1st of each year to elect officers.

All officers shall be subject to removal from office with or without cause at any time by a majority vote of the ~~directors~~Directors then in office.

A vacancy in any office shall be filled by appointment by a majority vote of the ~~directors~~Directors then in office.

Section 3.2. President. The president shall be the chief executive officer of the Corporation, and, subject to the control of the Board of Directors, the president shall be in general charge of the properties and affairs of the Corporation; the president shall preside at all meetings of the Board of Directors; in furtherance of the purposes of this Corporation, the president may sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments in the name of the Corporation.

Section 3.3. Vice President. The vice president shall have such powers and duties as may be assigned by the Board of Directors and shall exercise the powers of the president during the president's absence or inability to act. Any action taken by the vice president in the performance of the duties of the president shall be conclusive evidence of the absence or inability of the president to act at the time such action was taken.

Section 3.4. Treasurer. The treasurer shall have custody of all the funds and securities of the Corporation that come into his or her hands. When necessary, or proper, the treasurer may sign or endorse, on behalf of the Corporation, for collection or payment, checks, notes and other obligations and shall deposit any funds received to the credit of the Corporation in such bank or banks or depositories as shall be designated by the Board of Directors; whenever required by the Board of Directors, the treasurer shall render a statement of the treasurer's cash account; the treasurer shall enter or cause to be entered regularly in the books of the Corporation to be kept by the treasurer for that purpose full and accurate amounts of all monies received and paid out on account of the Corporation; the treasurer shall perform all acts incident to the position of treasurer subject to the control of the Board of Directors; the treasurer, if required by the Board of Directors, shall give such bond for the faithful discharge of his/ her duties in such form as the Board of Directors may require.

Section 3.5. Secretary. The secretary shall keep the minutes of all meetings of the Board of Directors in books provided for that purpose; the secretary shall attend to giving and serving notices; in furtherance of the corporate purposes, the secretary may attest or sign with the president, in the Corporation's name, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation; the secretary shall have charge of the corporate books, records, and all records of the securities of which the treasurer shall have custody, and such other books and papers as the Board of Directors may direct, all of which shall during business hours be open to inspection at the office of the Corporation; and the secretary shall in general perform all duties incident to the office of secretary subject to the control of the Board of Directors.

In the absence of the secretary, the president may appoint any other board member to act as secretary during such absence.

Section 3.6. Compensation. Officers shall not receive any compensation for their services as officers except that they may be reimbursed for their actual expenses incurred in the performance of their official duties.

ARTICLE IV PROVISIONS REGARDING BYLAWS

Section 4.1. Effective Date. These Bylaws shall become effective only upon the occurrence of the following events:

(1) the approval of these Bylaws by the City Council, which approval may be granted prior to creation of the Corporation; and

(2) the adoption of these Bylaws by the Board of Directors.

Section 4.2. Amendments to Bylaws. These Bylaws may be amended at any time and from time to time by majority vote of the ~~directors~~Directors then in office, subject to the approval of the City Council, or with the City Council's prior approval.

Section 4.3. Interpretation of Bylaws. These Bylaws shall be liberally construed to effectuate the purposes set forth herein. If any word, phrase, clause, sentence, paragraph, section or other part of these Bylaws, or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these Bylaws and the application of such word, phrase, clause, sentence, paragraph, section or other part of these Bylaws to any other person or circumstance shall not be affected thereby.

ARTICLE V GENERAL PROVISIONS

Section 5.1. Principal Office. The principal office of the Corporation shall be 1001 Buchanan Drive, Suite 4, Burnet, Burnet County, Texas 78611. The Corporation may have such other offices as the Board of Directors shall determine.

Section 5.2. Fiscal Year. The fiscal year of the Corporation shall be as determined by the Board of Directors.

Section 5.3. Seal. The seal of the Corporation shall be as determined by the Board of Directors.

Section 5.4. Notice and Waiver of Notice. Whenever any notice whatsoever is required to be given to the Board of Directors under the Act, the Articles of Incorporation or these Bylaws, such notice shall be deemed to be sufficient if given by depositing it for mailing in a post office box in a sealed postpaid envelope addressed to the person entitled thereto at his or her post office address, as it appears on the books of the Corporation, and such notice shall be deemed given on the day of such mailing.

Attendance of a ~~director~~ Director at a meeting shall constitute a waiver of notice of such meeting, except where a ~~director~~ Director attends a meeting for the sole purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. A written waiver of notice, signed by the person or persons entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Neither the business to be transacted nor the purpose of any regular or special meeting of the Board of Directors need be set forth in any notice to a ~~director~~ Director of such meeting, unless required by the Board of Directors.

Any notice whatsoever that may be required to be given to the public by law, shall be given in the manner prescribed by law.

Section 5.5. Resignations. Any ~~director~~ Director or officer may resign at any time. Any such resignation shall be made in writing and shall take effect: (i) at the time specified therein, or; or, (ii) at such time as a successor takes office, if the resignation letter so specifies; or, (iii) if no time be specified, at the time of its receipt by the president or the secretary. ~~Absent a written notice of resignation, the City Council of the City shall cause a notice of the resignation to be provided.~~ The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided

in the resignation. ~~Notwithstanding the effective date, a resigning director shall serve until such time as his or her successor takes office.~~

Section 5.6. Approval of the City Council. To the extent these Bylaws refer to any approval or action to be taken by the City, such shall be evidenced by a certified copy of a resolution, ordinance, order or motion duly adopted by the City Council.

Section 5.7. Action Without a Meeting of Directors. To the extent permitted by and not inconsistent with law, any action that may be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by all of the ~~directors~~Directors then in office. Such consent shall have the same force and effect as a unanimous vote and may be stated as such in any articles or document filed with the Secretary of State or any other person.

Section 5.8. Organizational Control. The City Council may, in its sole discretion and at any time, alter or change the structure, organization or activities of the Corporation (including the termination of the Corporation), subject to the Act and any limitation on the impairment of contracts.

Section 5.9. Dissolution of the Corporation. Upon dissolution of the Corporation, title to or other interests in any real or personal property then owned by the Corporation shall vest in the City except and unless as authorized by the City Council.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting secretary of the Burnet Economic Development Corporation and that the foregoing Bylaws constitute the Bylaws of the Corporation. These Bylaws were duly adopted at a meeting of the Board of Directors held on the ____ day of _____, ~~2008~~_____, ~~2020~~.

DATED: _____, ~~2008~~2020.

Secretary of the Corporation

EXHIBIT “B”

Amended Bylaws with amendments shown in Exhibit “A” incorporated therein with edits removed.

FIRST AMENDMENT TO THE BYLAWS OF THE THE BURNET ECONOMIC DEVELOPMENT CORPORATION

ARTICLE I POWERS AND PURPOSES

Section 1.1. Corporate Identity; Offices. The name of the Non-Profit Corporation is the Burnet Economic Development Corporation, (the “Corporation”).

Section 1.2. Powers, Purposes and Authority. In order to implement the purposes for which the Corporation was formed, as set forth in its Articles of Incorporation, the Corporation shall have all the authority and powers of every nature and kind whatsoever, both express and implied, which are authorized or permitted by the terms of the Development Corporation Act of 1979, Article 5190.6, Tex. Rev. Civ. Stat., as amended (the “Act”). The Corporation shall have and may exercise each power and authority enumerated in the Act as if such power and authority were specifically set forth herein; provided that the Corporation shall be governed by §4B of the Act and to the extent of any conflict between §4B and any other term or provision of the Act, §4B shall govern and prevail. The Corporation shall have the power and authority to undertake any lawful action not inconsistent with the Act and it shall undertake the promotion and development of industrial manufacturing enterprises to promote and encourage employment and the public welfare in the City of Burnet (the “City”). The powers of the Corporation shall include the authority to contract and be contracted with and, absent a conflict with §4B, the power to purchase, lease, sell and mortgage real estate, and to issue obligations for or otherwise finance all or part of the cost of one or more Projects as defined in the Act.

Section 1.3. Books and Records; Review of Financial Statements. The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors and committees having any of the authority of the Board of Directors. All books and records of the Corporation may be inspected by any director or his or her agent or attorney at any reasonable time; and at all times the City Council of the City (the “City Council”) will have access to the books, records and financial statements of the Corporation.

Section 1.4. Powers in General. The Corporation may exercise all powers granted under the Act consistent with its Articles of Incorporation, these Bylaws and the resolutions, orders and ordinances of the City Council.

ARTICLE II BOARD OF DIRECTORS

Section 2.1. Appointment, Powers, Number and Term of Office. The Board of Directors shall exercise all of the powers of the Corporation, subject to the restrictions imposed by law, the Articles of Incorporation and these Bylaws.

The Board of Directors shall consist of seven (7) persons who shall each be appointed by the City Council. Not more than four (4) of such Directors shall be an employee, officer or member of the governing body of the City. All Directors shall be designated as Director 1 through 7. The terms of Directors 1,2,3 and 4 shall expire on June 30th of odd numbered years (2021, 2023, etc.). The terms of Directors, 5, 6 and 7 shall expire on June 30th of even numbered years (2022, 2024, etc.). The Directors constituting the initial Board of Directors shall be those persons named in the Articles of Incorporation, each of whom, as well as any subsequent Directors, shall serve for the term to which he or she is selected or appointed or until his or her successor is appointed by the City Council.

Any director, or all Directors, may be removed from office at any time by the City Council, for cause or at will. Any vacancy occurring on the Board of Directors shall be filled by appointment by majority vote of the City Council.

Any employee, officer or member of the governing body of the City appointed to the Board who resigns, is terminated, or fails to be re-elected or appointed to office shall automatically forfeit their position on the Board of Directors. Such forfeiture shall be deemed to be effective immediately and shall not be subject to the hold-over provisions provided for herein.

Section 2.2. Meetings of Directors in General. The Board of Directors may hold its meetings at any place authorized by the Act and as the Board of Directors may from time to time determine; provided that, in the absence of any such determination by the Board of Directors, the meetings shall be held at the principal office of the Corporation or at the City Council Chambers of the City. The Board of Directors shall conduct its meetings in accordance with the requirements of the Act and Chapt. 551, Tex. Gov't. Code, as amended.

Section 2.3. Regular Meetings. Regular meetings of the Board of Directors shall be held within the City at such times and places as shall be designated, from time to time, by resolution of the Board of Directors. Notice of regular meetings need not be given to each of the Directors but public notice of each meeting shall be given in the manner prescribed by law.

Section 2.4. Special Meetings. Special meetings of the Board of Directors shall be held within the City whenever called by the president, by the secretary or by a majority of the Directors then in office, or upon advice of or request by the City Council.

The secretary or his/her designee shall give or cause public notice to be given of each special meeting. Special notice of each special meeting shall also be given to each director either by mail, telephone, email or in person, at least seventy-two (72) hours before the meeting. Notice required by law to be given to any other person or entity shall be given in the manner prescribed by law. Except as otherwise provided by law or unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special meeting.

Section 2.5. Quorum. A majority of the Directors fixed by these Bylaws shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. The act of a majority of the Directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board of Directors, unless the act of a greater number is required by law.

Section 2.6. Conduct of Business. At the meetings of the Board of Directors, matters pertaining to the purposes of the Corporation shall be considered in such order as from time to time the Board of Directors may determine.

Section 2.7. Compensation of Directors. Directors shall not receive any compensation for their services as Directors except that they shall be reimbursed for their actual expenses incurred in the performance of their official duties.

ARTICLE III OFFICERS

Section 3.1. Titles and Term of Office. The officers of the Corporation shall be a president, a vice president, a secretary and a treasurer, and such other officers as the Board of Directors may from time to time elect or appoint. One person may hold more than one office, except the president shall not hold the office of secretary. Each officer shall be appointed by a majority vote of the Directors then in office and shall hold office until his or her successor is elected or appointed. The Board of Directors shall cause a vote to be conducted at the first meeting following July 1st of each year to elect officers.

All officers shall be subject to removal from office with or without cause at any time by a majority vote of the Directors then in office.

A vacancy in any office shall be filled by appointment by a majority vote of the Directors then in office.

Section 3.2. President. The president shall be the chief executive officer of the Corporation, and, subject to the control of the Board of Directors, the president shall be in general charge of the properties and affairs of the Corporation; the president shall preside at all meetings of the Board of Directors; in furtherance of the purposes of this Corporation, the president may sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments in the name of the Corporation.

Section 3.3. Vice President. The vice president shall have such powers and duties as may be assigned by the Board of Directors and shall exercise the powers of the president during the president's absence or inability to act. Any action taken by the vice president in the performance of the duties of the president shall be conclusive evidence of the absence or inability of the president to act at the time such action was taken.

Section 3.4. Treasurer. The treasurer shall have custody of all the funds and securities of the Corporation that come into his or her hands. When necessary, or proper, the treasurer may sign or endorse, on behalf of the Corporation, for collection or payment, checks, notes and other obligations and shall deposit any funds received to the credit of the Corporation in such bank or banks or

depositories as shall be designated by the Board of Directors; whenever required by the Board of Directors, the treasurer shall render a statement of the treasurer's cash account; the treasurer shall enter or cause to be entered regularly in the books of the Corporation to be kept by the treasurer for that purpose full and accurate amounts of all monies received and paid out on account of the Corporation; the treasurer shall perform all acts incident to the position of treasurer subject to the control of the Board of Directors; the treasurer, if required by the Board of Directors, shall give such bond for the faithful discharge of his/ her duties in such form as the Board of Directors may require.

Section 3.5. Secretary. The secretary shall keep the minutes of all meetings of the Board of Directors in books provided for that purpose; the secretary shall attend to giving and serving notices; in furtherance of the corporate purposes, the secretary may attest or sign with the president, in the Corporation's name, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation; the secretary shall have charge of the corporate books, records, and all records of the securities of which the treasurer shall have custody, and such other books and papers as the Board of Directors may direct, all of which shall during business hours be open to inspection at the office of the Corporation; and the secretary shall in general perform all duties incident to the office of secretary subject to the control of the Board of Directors.

In the absence of the secretary, the president may appoint any other board member to act as secretary during such absence.

Section 3.6. Compensation. Officers shall not receive any compensation for their services as officers except that they may be reimbursed for their actual expenses incurred in the performance of their official duties.

ARTICLE IV PROVISIONS REGARDING BYLAWS

Section 4.1. Effective Date. These Bylaws shall become effective only upon the occurrence of the following events:

(1) the approval of these Bylaws by the City Council, which approval may be granted prior to creation of the Corporation; and

(2) the adoption of these Bylaws by the Board of Directors.

Section 4.2. Amendments to Bylaws. These Bylaws may be amended at any time and from time to time by majority vote of the Directors then in office, subject to the approval of the City Council, or with the City Council's prior approval.

Section 4.3. Interpretation of Bylaws. These Bylaws shall be liberally construed to effectuate the purposes set forth herein. If any word, phrase, clause, sentence, paragraph, section or other part of these Bylaws, or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these Bylaws and the application of such word, phrase, clause, sentence, paragraph, section or other part of these Bylaws to any other person or circumstance shall not be affected thereby.

ARTICLE V GENERAL PROVISIONS

Section 5.1. Principal Office. The principal office of the Corporation shall be 1001 Buchanan Drive, Suite 4, Burnet, Burnet County, Texas 78611. The Corporation may have such other offices as the Board of Directors shall determine.

Section 5.2. Fiscal Year. The fiscal year of the Corporation shall be as determined by the Board of Directors.

Section 5.3. Seal. The seal of the Corporation shall be as determined by the Board of Directors.

Section 5.4. Notice and Waiver of Notice. Whenever any notice whatsoever is required to be given to the Board of Directors under the Act, the Articles of Incorporation or these Bylaws, such notice shall be deemed to be sufficient if given by depositing it for mailing in a post office box in a sealed postpaid envelope addressed to the person entitled thereto at his or her post office address, as it appears on the books of the Corporation, and such notice shall be deemed given on the day of such mailing.

Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the sole purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. A written waiver of notice, signed by the person or persons entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Neither the business to be transacted nor the purpose of any regular or special meeting of the Board of Directors need be set forth in any notice to a Director of such meeting, unless required by the Board of Directors.

Any notice whatsoever that may be required to be given to the public by law, shall be given in the manner prescribed by law.

Section 5.5. Resignations. Any Director or officer may resign at any time. Any such resignation shall be made in writing and shall take effect: (i) at the time specified therein; or, (ii) at such time as a successor takes office, if the resignation letter so specifies; or, (iii) if no time be specified, at the time of its receipt by the president or the secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 5.6. Approval of the City Council. To the extent these Bylaws refer to any approval or action to be taken by the City, such shall be evidenced by a certified copy of a resolution, ordinance, order or motion duly adopted by the City Council.

Section 5.7. Action Without a Meeting of Directors. To the extent permitted by and not inconsistent with law, any action that may be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by all of the Directors

then in office. Such consent shall have the same force and effect as a unanimous vote and may be stated as such in any articles or document filed with the Secretary of State or any other person.

Section 5.8. Organizational Control. The City Council may, in its sole discretion and at any time, alter or change the structure, organization or activities of the Corporation (including the termination of the Corporation), subject to the Act and any limitation on the impairment of contracts.

Section 5.9. Dissolution of the Corporation. Upon dissolution of the Corporation, title to or other interests in any real or personal property then owned by the Corporation shall vest in the City except and unless as authorized by the City Council.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting secretary of the Burnet Economic Development Corporation and that the foregoing Bylaws constitute the Bylaws of the Corporation. These Bylaws were duly adopted at a meeting of the Board of Directors held on the ____ day of _____, 2020.

DATED: _____, 2020.

Secretary of the Corporation



Administration

ITEM 5.13

David Vaughn
City Manager
512.715.3208
dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date:	October 27, 2020
Agenda Item:	Discuss and consider action: Appointment of Burnet Economic Development Corporation board members to director positions one (1) through seven (7): D. Vaughn
Background:	<p>Appointment of the BEDC board members to a director position will align terms of office with the current practice of appointing in June of each year. The current bylaws actually call for a 2 year term, however, it has long been the City's practice to appoint in June of each year.</p> <p>Attachment "A" represents the board's recommendation for position assignment.</p>
Information:	If the amendments to the bylaws are approved, current board members will need to be appointed to positions one through seven to allow for terms to end on June 30 th .
Fiscal Impact:	No fiscal impact
Recommendation:	To be determined by Council

Attachment “A”

BURNET ECONOMIC DEVELOPMENT CORPORATION BOARD

(As of: October 20, 2020)

<u>DIRECTOR POSITION</u>	<u>NAME</u>	<u>ADDRESS</u>	<u>EMAIL</u>	<u>PHONE</u>	<u>APPOINTED</u>	<u>EXPIRES</u>
1.	Cary Johnson President	P.O. Box 10	cjohnson@fsbburnet.com	(512) 756-6999 Office	8/27/2019	6/30/2021
2.	Wayne Brown Vice President	4649 CR 200	sunnymark@wildblue.net	(512) 755-5458 Home	8/27/2019	6/30/2021
3.	Crista Bromley Secretary/Treasurer	P.O. Box 1369	mayor@cityofburnet.com	(512)-715-8232 Home (830) 613-6549 Cell	8/27/2019	6/30/2021
4.	David Vaughn	P.O. Box 1369	dvaughn@cityofburnet.com	(512) 715-3208 Office (830) 798-3974 Cell	6/13/2019	6/30/2021
5.	Brad Zehner	512 CR 140	wbzehner@gmail.com	(512)-569-7675 Cell	11/12/2019	6/30/2022
6.	Danny Lester	300 Alexander	dlester@cityofburnet.com	(512) 756-6173 Office (830) 656-9957 Cell	3/24/2020	6/30/2022
7.	Jason Lutz	P.O. Box 1369	jlutz@cityofburnet.com	(512) 715-3215 Office (830) 798-3973 Cell	3/24/2020	6/30/2022