



NOTICE OF MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF BURNET, TEXAS

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

Notice is hereby given that the **Public Hearing and Regular Meeting of the Planning and Zoning Commission** of the City of Burnet, Texas will be held on Monday, **May 3, 2021**, at **6:00 p.m.** at the City of Burnet's Community Center located at 401 E Jackson Street, Burnet, Texas 78611 at which time the following subjects will be discussed, to-wit:

1. CALL TO ORDER:

2. ROLL CALL:

3. CONSENT AGENDA ITEMS:

All of the following items on the Consent Agenda are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these items unless a Commission 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 Commission when the Consent Agenda is opened for Commission action.

- 3.1) Minutes of the meeting of the Planning and Zoning Commission of the City of Burnet, Texas held on April 5, 2021.

4. PUBLIC HEARINGS:

- 4.1) The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a request to rezone property located at 2551 W Hwy 29 (Legal Description: ABS A0405 John Hamilton, Tract 26, 4.0805 acres). The request is to rezone the property from its present designation of Medium Commercial – District "C-2" to a designation of Heavy Commercial – District "C-3": L. Kimbler
- 4.1) The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a city-initiated request to rezone property located 1801 E Polk St (Legal Description: ABS A1525 SARAH ANN GUEST, 5.778 acre tract). The request is to rezone the property from its present designation of Single-family Residential – District "R-1" to a designation of Medium Commercial – District "C-2": L. Kimbler
- 4.2) The Planning & Zoning Commission will discuss and consider a proposed Amendment to the Zoning Code, Chapter 118 (Entitled "Zoning") Section 118-74 (Entitled "Board of Adjustments"): H. Erkan

5. ACTION ITEMS:

- 5.1) The Planning & Zoning Commission will discuss and consider a city-initiated request to rezone property located 1801 E Polk St (Legal Description: ABS A1525 SARAH ANN GUEST, 5.778 acre tract). The request is to rezone the

property from its present designation of Single-family Residential – District “R-1” to a designation of Medium Commercial – District “C-2”: L Kimbler

- 5.2) The Planning & Zoning Commission will discuss and consider a proposed Amendment to the Zoning Code, Chapter 118 (Entitled “Zoning”) Section 118-74 (Entitled “Board of Adjustments”): H. Erkan
- 5.3) The Planning & Zoning Commission will discuss and consider a proposed Amendment to the Zoning Code for the purpose of authorizing authorizing boat and recreational vehicle sales, service and storage in the Heavy Commercial – District “C-3”: H. Erkan
- 5.4) Discuss and consider action: The Planning & Zoning Commission shall discuss and consider action regarding a request to rezone property located at 2551 W Hwy 29 (Legal Description: ABS A0405 John Hamilton, Tract 26, 4.0805 acres). The request is to rezone the property from its present designation of Medium Commercial – District “C-2” to a designation of Heavy Commercial – District “C-3”: L Kimbler
- 5.5) The Planning & Zoning Commission will discuss and consider a proposed Amendment to the Zoning Code, Chapter 118 (Entitled “Zoning”) Section 118-61 (Entitled “Construction Plans”): H. Erkan

6. STAFF REPORTS

7. REQUESTS FOR FUTURE AGENDA ITEMS:

ADJOURN

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Planning and Zoning Commission of the City of 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 April 30, 2021 at or before 5 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this the 30th day of April, 2021

Leslie Kimbler, Assistant City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

The City of Burnet Community Center is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact the Development Services Department at (512) 715-3206, FAX (512) 756-8560 or e-mail at herkan@cityofburnet.com for information or assistance.



PLANNING & ZONING COMMISSION MINUTES

Notice is hereby given that the **Public Hearing and Regular Meeting of the Planning and Zoning Commission** of the City of Burnet, Texas will be held on Monday, **April 5, 2021**, at **6:00 p.m.** at the City of Burnet's Community Center located at 401 E Jackson Street, Burnet, Texas 78611 at which time the following subjects will be discussed, to-wit:

1. **CALL TO ORDER:**

The meeting was called to order at 6:02 p.m. by Chairman Gaut.

2. **ROLL CALL:**

Members Present: Tommy Gaut, Derek Fortin, Ricky Langley, Calib Williams, and Jennifer Wind

Members Absent: Cesar Arreaza

Guests: Wade Langley, Chris Anderson, Jason Peterson, Erika Schuster

Others Present: Habib Erkan, Jr., Assist. City Manager
Leslie Kimbler, Development Services Admin.Tech.

3. **CONSENT AGENDA:**

- 3.1) Minutes of the regular meeting of the Planning and Zoning Commission of the City of Burnet, Texas held on March 8, 2021.

A motion to approve the corrected consent agenda was made by Commissioner Williams. The motion was seconded by Commissioner Fortin and carried by a vote of 5 to 0.

4. **PUBLIC HEARINGS:**

- 4.1) The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a request to rezone property located at 603 E Pecan St. (Legal Description: S8450 Vanderveer/Alexander, Lot 4 & Pt of 1, Block 38). The request is to rezone the property from its present designation of Duplex – District "R-2" to a designation of Multi-family Residential – District "R-3": L. Kimbler

Leslie Kimbler, Development Services Admin.Tech., presented staff's report regarding the request to rezone property located at 603 E Pecan St. from its present designation of Duplex – District "R-2" to a designation of Multi-family Residential – District "R-3".

Chairman Gaut then opened the floor for public comment.
There being no public comment, Chairman Gaut closed the public hearing.

- 4.2) The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of an application for a conditional use permit to allow a Car Wash in a Light Commercial – District “C-1” located at the south east intersection of N Water St and Taggard St., legally described as ABS A0405 John Hamilton, .4839 acres: L. Kimbler

Leslie Kimbler, Development Services Admin.Tech., presented staff’s report regarding the application for a conditional use permit to allow a Car Wash in a Light Commercial – District “C-1”.

Chairman Gaut then opened the floor for public comment.

Applicant, Wade Langley, stated he was available to speak should there be any questions in regards to the request.

There being no further public comment, Chairman Gaut closed the public hearing.

- 4.3) The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a proposed Amendment to the Zoning Code for the purpose of authoring “bakeries without drive through service” in the Light Commercial – District “C-1”; authorizing “bakeries with drive through service” in the Medium Commercial – District “C-2”, and authorizing boat and recreational vehicle sales, service and storage in the Heavy Commercial – District “C-3”: H. Erkan

Habib Erkan, Assist. City Manager, presented staff’s report regarding the proposed Amendment to the Zoning Code.

Chairman Gaut then opened the floor for public comment.

Erika Schuster, owner of Sooo Yummy Bakery, spoke in favor of the amendment changes for authorizing “bakeries without drive through service” in the Light Commercial – District “C-1”.

There being no further public comment, Chairman Gaut closed the public hearing.

- 4.4) The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a proposed Amendment to the Zoning Code, Chapter 118 (Entitled “Zoning”) Section 118-61 (Entitled “Construction Plans”): H. Erkan

Habib Erkan, Assist. City Manager, presented staff’s report regarding the proposed Amendment to the Zoning Code, Chapter 118 (Entitled “Zoning”) Section 118-61 (Entitled “Construction Plans”).

Chairman Gaut then opened the floor for public comment.

There being public comment, Chairman Gaut closed the public hearing.

5. ACTION ITEMS:

- 5.1) The Planning & Zoning Commission will discuss and consider a request to rezone property located at 603 E Pecan St. (Legal Description: S8450 Vanderveer/Alexander, Lot 4 & Pt of 1, Block 38). The request is to rezone the property from its present designation of Duplex – District “R-2” to a designation of Multi-family Residential – District “R-3”: L. Kimbler

Commissioner Langley made a motion to approve the request to rezone property located at 603 E Pecan St. from its present designation of Duplex – District “R-2” to a designation of Multi-family Residential – District “R-3”. The motion was seconded by Commissioner Fortin, and carried by a vote of 5 to 0.

Prior to the presentation of the action item 5.2, Chairman Gaut made the Commission aware that Commissioner Langley had filed an Affidavit of Conflict of Interest; at which point Commissioner Langley recused himself.

- 5.2) The Planning & Zoning Commission will discuss and consider an application for a conditional use permit to allow a Car Wash in a Light Commercial – District “C-1” located at the north east intersection of N Water St and Taggard St., legally described as ABS A0405 John Hamilton, .4839 acres: L Kimbler

Commissioner Fortin made a motion to approve the application for a conditional use permit to allow a Car Wash in a Light Commercial – District “C-1” located at the north east intersection of N Water St and Taggard St. The motion was seconded by Commissioner Williams, and carried by a vote of 4 to 0.

- 5.3) The Planning & Zoning Commission will discuss and consider a proposed Amendment to the Zoning Code for the purpose of authoring “bakeries without drive through service” in the Light Commercial – District “C-1”; authorizing “bakeries with drive through service” in the Medium Commercial – District “C-2”, and authorizing boat and recreational vehicle sales, service and storage in the Heavy Commercial – District “C-3”: H. Erkan

Commissioner Gaut made a motion to approve the proposed Amendment to the Zoning Code for the purpose of authoring “bakeries without drive through service” in the Light Commercial – District “C-1”; authorizing “bakeries with drive through service” in the Medium Commercial – District “C-2”, and motioned to table the proposed Amendment authorizing boat and recreational vehicle sales, service and storage in the Heavy Commercial – District “C-3” . The motion was seconded by Commissioner Langley, and carried by a vote of 5 to 0.

- 5.4) The Planning & Zoning Commission will discuss and consider a proposed Amendment to the Zoning Code, Chapter 118 (Entitled “Zoning”) Section 118-61 (Entitled “Construction Plans”): H. Erkan

Commissioner Willaims made a motion to table the Amendment to the Zoning Code, Chapter 118 (Entitled “Zoning”) Section 118-61 (Entitled “Construction Plans”) pending input from the city’s engineer and an evaluation of other city’s code requirements for “Construction Plans”. The motion was seconded by Commissioner Gaut, and carried by a vote of 5 to 0.

6. STAFF REPORTS:

- 6.1) As requested by Commissioner Wind a report on possible future amendment to the zoning code to require notice be mailed to owners of properties in the city's extraterritorial jurisdiction as part of the rezoning applications process. The Commission had discussion on the requirements to include property owners of newly annexed land to receive notice immediately instead of waiting for the updated tax roles.
- 6.2) Report on possibility of updating the Planning & Zoning Commission's City webpage. The Commission did discuss and decided there was no preference as to whether each person's name and picture should appeared on the City's website.

7. REQUESTS FOR FUTURE AGENDA ITEMS:

8. ADJOURN:

There being no further business, Chairperson, Tommy Gaut adjourned the meeting at 7:41 p.m.

Tommy Gaut, Chair
City of Burnet Planning and Zoning Commission

Attest: _____
Herve Derek Fortin, Secretary



Agenda Item Brief

Meeting Date: Monday, May 3, 2021

Public Hearing 4.1: The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a request to rezone property located at 2551 W Hwy 29 (Legal Description: ABS A0405 John Hamilton, Tract 26, 4.0805 acres). The request is to rezone the property from its present designation of Medium Commercial – District “C-2” to a designation of Heavy Commercial – District “C-3”: L. Kimbler

Action Item 5.4: Discuss and consider action: The Planning & Zoning Commission shall discuss and consider action regarding a request to rezone property located at 2551 W Hwy 29 (Legal Description: ABS A0405 John Hamilton, Tract 26, 4.0805 acres). The request is to rezone the property from its present designation of Medium Commercial – District “C-2” to a designation of Heavy Commercial – District “C-3”.

Background: The subject property is located at the corner of Highway 29 West and Hoover Valley Road. The property is currently being utilized as an auto repair shop which is an allowable use in the current Medium Commercial – C-2 zoning. The property is split by the city limits with 4.08 acres being inside the city limits and 0.908 acres being outside of the city limits.

Information: Heavy Commercial – District “C-3” allows for Trailer camps or RV parks, Heavy machinery sales, storage and service, and other similar uses determined by the commission and the council. Conditions and limitations of Heavy Commercial – District “C-3” is that the area is to be improved with concrete, asphalt pavement or other all-weather surface and that it is to be landscaped, screened or fenced. All though RV Storage is not a defined use in the code of ordinances, staff analyzed the uses that are similar as well as the conditions and determined that Heavy Commercial – District “C-3” is the most suitable zoning district for this use.

Staff Analysis: The Future Land Use Map (Exhibit B) designation for the area is commercial. The proposed Heavy Commercial – District “C-3” zoning is appropriate in this area.

Properties adjacent to the subject property are zoned as follows:

	North	South	East	West
Zoning	“C-3”	“ETJ”	“C-3”	“C-2”
FLUM	Commercial	Residential	Commercial	Commercial
Land Use	Vacant	Residential	Proposed RV Park	Convenience Store

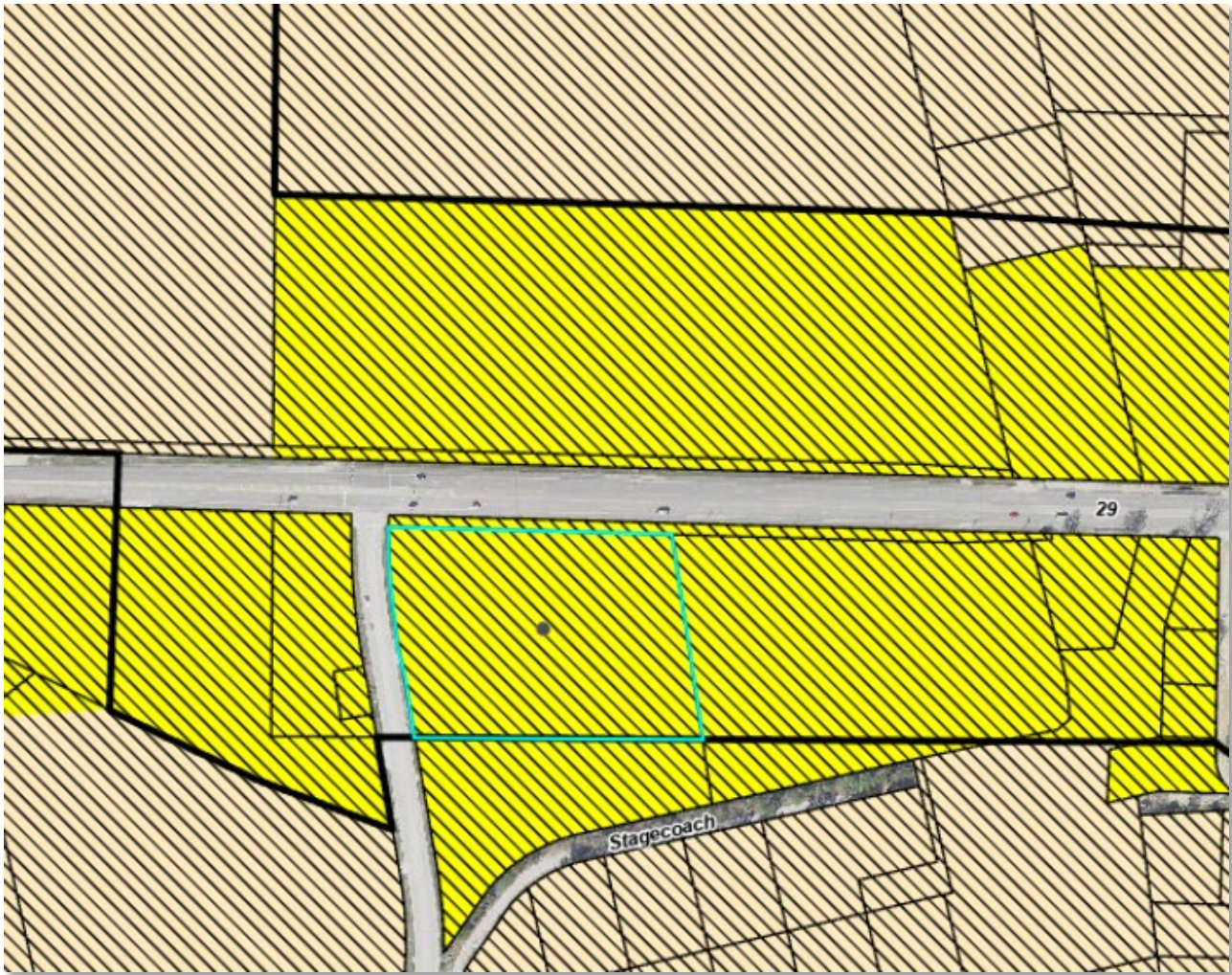
Public Notification: Written notices were mailed to six (6) surrounding property owners within 200 feet of the subject property.

Recommendation: Staff recommends approval of the request to rezone.

Exhibit "A"
Location & Current Zoning Map



Exhibit “B”
Future Land Use Map



Government



Commercial



Residential



Open Space



Development Services

ITEM 4.2 & 5.2

Leslie Kimbler
Interim Planner I
512-715-3206
lkimbler@cityofburnet.com

Agenda Item Brief

Meeting Date: Monday, May 3, 2021

Agenda Item 4.2: The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a city-initiated request to rezone property located 1801 E Polk St (Legal Description: ABS A1525 SARAH ANN GUEST, 5.778 acre tract). The request is to rezone the property from its present designation of Single-family Residential – District “R-1” to a designation of Medium Commercial – District “C-2”: L. Kimbler

Action Item 5.2: Discuss and consider action: The Planning and Zoning Commission shall discuss and consider action regarding a city-initiated request to rezone property located 1801 E Polk St (Legal Description: ABS A1525 SARAH ANN GUEST, 5.778 acre tract). The request is to rezone the property from its present designation of Single-family Residential – District “R-1” to a designation of Medium Commercial – District “C-2”.

Background: The property was annexed in 2002 and designated temporary “R-1”. According to BCAD records, since the time of annexation, a commercial business, ministorage, has continually operated on the property as a legally nonconforming use. As the owner is entitled to permanent zoning on the property this zoning case was initiated by staff.

Information: Staff recommends Medium Commercial – District “C-2” classification for the property. This is consistent with the FLUM and allows ministorage use as a matter of right. It should be noted that recently, the owner sought a building permit to make improvements to the property. The permit cannot be issued until this zoning case is approved as improvement to, or expansion of, a legally nonconforming use is prohibited by the code.

Staff Analysis: The Future Land Use Map (Exhibit B) designation for the area is commercial. As the property abuts a major arterial street (Texas State Hwy 29) the Medium Commercial – District “C-2” classification is appropriate in this area.
Properties adjacent to the subject property are zoned as follows:

	North	South	East	West
Zoning	“R-1”	“R-1”	“I-1”	“R-1”
FLUM	Commercial	Industrial	Commercial	Commercial
Land Use	Vacant	Single-Family Residential	Single-Family Residential	Commercial business

Public Notification: Written notices were mailed to seven (7) surrounding property owners within 200 feet of the subject property.

Recommendation: Staff recommends approval of the request to rezone the property from its present designation of Single-family Residential – District “R-1” to a designation of Medium Commercial – District “C-2”.

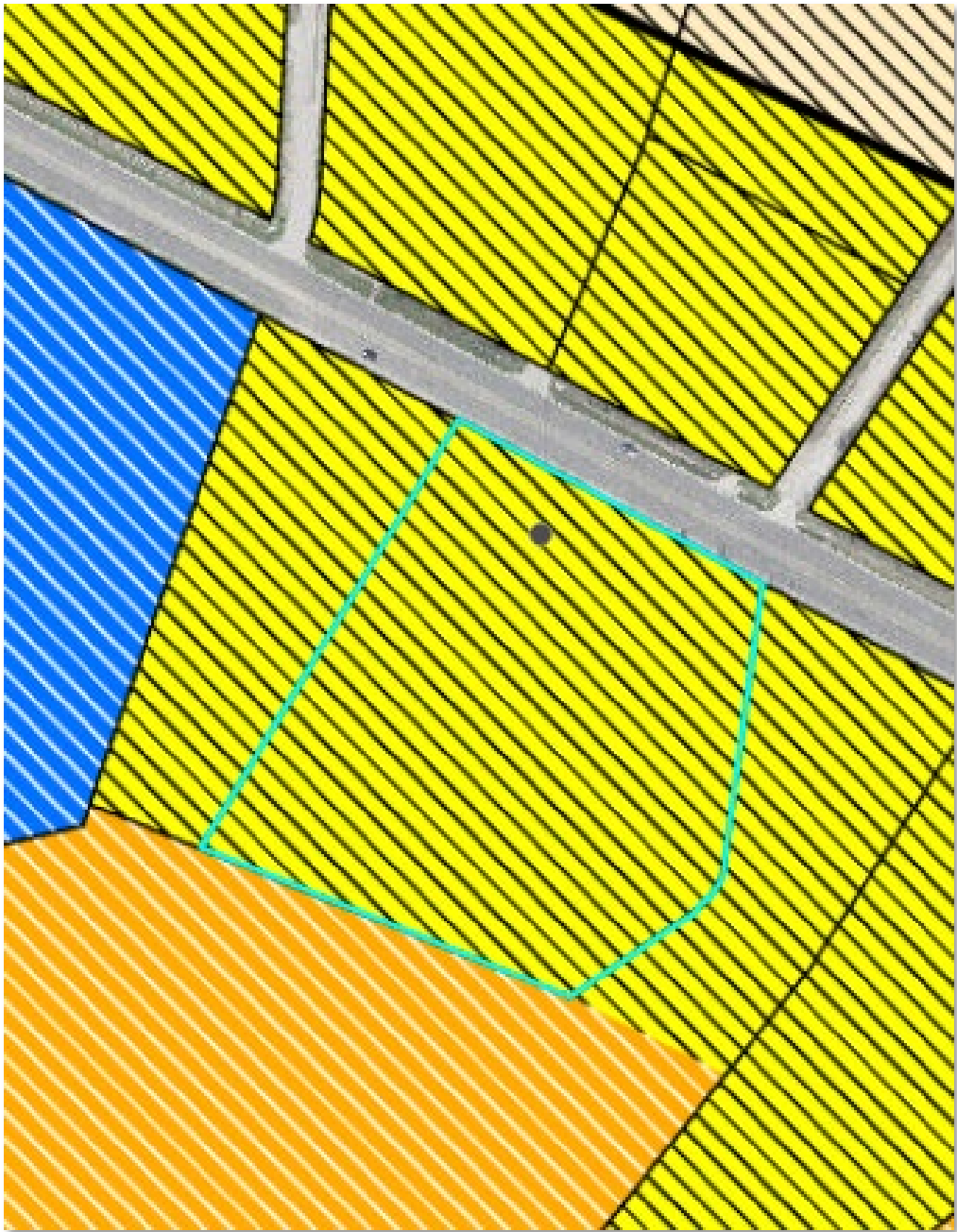
Exhibit "A"

Location & Current Zoning Map



Exhibit “B”

Future Land Use Map



Government



Commercial



Residential



Industrial



Community Development

ITEMS 4.3 & 5.2

Habib Erkan Jr.
Assistant City Manager
512-715-3201
herkan@cityofburnet.com

Planning and Zoning Commission Agenda Item Brief

Meeting Date: Monday, May 3, 2021

Agenda Item: **Item 4.3:** The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a proposed amendment to the Zoning Code for the purpose of codifying the Board of Adjustment's composition, term of office and scope of authority: H. Erkan

Item 5.2 Discuss and consider action on a proposed amendment to the Zoning Code for the purpose of codifying the Board of Adjustment's composition, term of office and scope of authority: H. Erkan

Background: Pursuant to the authority of Texas Local Government Code Sections 211.008 through 211.010, City Council codified Zoning Code Section 118-74 establishing a zoning board of adjustment. The section reads in its entirety as follows:

Established. A board of adjustments (hereafter in this section, the "board") is established in accordance with the provisions of V.T.C.A., Local Government Code § 211.008 and the Home Rule Charter of the City of Burnet, regarding the zoning of cities and with the powers and duties as provided in said code.

(Ord. No. 2012-06, § 3(exh. A), 2-28-12)

Information: This code amendment expands Section 118-74 to include subsections that address the following:

- Membership of the board
- Alternate members
- Term of office
- Scope of authority

- hear and decide: an appeal that alleges error in an order, requirement, decision or determination made by the zoning administrator; special exceptions to the terms of zoning ordinance; and requests variances from the terms of the zoning ordinance
- hear and decide other matters as assigned by council
- serve as airport zoning board of adjustment
- Quorum
- Rules of procedure.

Fiscal Impact:

These Zoning Code Amendment shall have no direct financial impact.

Recommendation:

Staff recommends the Commission take action in support of the proposed Zoning Code Amendment.

ORDINANCE NO. 2021-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET AMENDING THE CODE OF ORDINANCES SECTION 118-74 (ENTITLED "BOARD OF ADJUSTMENT") BY CODIFYING THE BOARD OF ADJUSTMENT'S COMPOSITION; TERM; AND SCOPE OF AUTHORITY PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Texas Local Government Code Section 211.008 authorizes City Council to appoint a Board of Adjustment; and

WHEREAS, Texas Local Government Code Section 211.009 provides that the Board of Adjustment may hear and decide: an appeal that alleges error in an order, requirement, decision or determination made by the zoning administrator; special exceptions to the terms of zoning ordinance; and requests variances from the terms of the zoning ordinance; and

WHEREAS, City Council established a Board of Adjustment by the adoption of City Code Section 118-74

WHEREAS, City Council's objective in adopting this ordinance is to codify the Board of Adjustment's composition, term of office and scope of authority.

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 118 (entitled "Zoning") Section 110-74 (entitled "Board of Adjustment") is hereby amended by replacing the existing language in its entirety with the language that follows:

Sec. 118-74. - Board of adjustments.

- (a) Established.* A board of adjustments (hereafter in this section, the "board") is established in accordance with the provisions of Chapter 211 of the Local Government Code and the Home Rule Charter of the City of Burnet, regarding the zoning of cities and with the powers and duties as provided in said code.
- (b) Members.* The board shall consist of 5 members appointed by City Council.
- (c) Alternates.* City Council may appoint up to two alternate members to serve in the absence of one or more regular members at the request of the mayor of city manager.
- (d) Term.* Members and alternate members shall serve two-year terms. Vacancies in the term of a member or alternate member shall be filled for the unexpired term.

A member or alternate member may only be removed from the board, before the expiration of a term for cause, as found by city council on a written charge after a public hearing.

(e) *Scope of Authority.* The board may hear and decide:

(i) *Special Exceptions.* In appropriate cases and subject to appropriate conditions and safeguards, the board may make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the zoning ordinance and in accordance with any applicable rules contained in the zoning ordinance.

(ii) *Appeals.* The board may hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by zoning administrator in the enforcement of Texas Local Government Code Chapter 211, subchapter A or the zoning ordinance.

(iii) *Variances.* The board may authorize in specific cases a variance from the terms of the zoning ordinance if the variance:

(A) is not contrary to the public interest; and,

(B) is not contrary to the spirit of the zoning ordinance; and

(C) is necessary for substantial justice to be done; and

(D) is necessary due to special conditions, which causes a literal enforcement of the regulation to result in unnecessary hardship. To find unnecessary hardship exists the board must affirmatively find:

(1) The hardship is in no way the result of the applicant's own actions; and

(2) Special conditions exist of restricted area, topography or physical features that are peculiar to the subject property and are not applicable to other properties in the same zoning district; and

(3) the application of the regulation to the subject property deprives the applicant of rights commonly enjoyed by other properties in the same zoning district that are in compliance with the same regulation.

(iv) *Other matters.* The board may hear and decide other matters authorized by the zoning ordinance.

(v) *Airport Zoning Board of Adjustment.* Pursuant to, and in accordance with the requirements of, Texas Local Government Code Chapter 241, subchapter C, and City Code Chapter 18, article IV, the board shall serve as the Airport Board of Adjustment and hear and decide an appeal of an

order, requirement, decision, or determination of the airport's administrative agency; matters on which the board is required to pass under an airport zoning regulation; or a request variation in an airport zoning regulation.

(f) *Quorum.* Each case before the board must be heard by at least 75 of the members.

(g) *Rules.* The board, by majority vote, shall adopt rules in accordance with the zoning ordinance; City Code Chapter 18, article IV; Texas Local Government Code Chapter 211, subchapter A and Texas Local Government Code Chapter 241, subchapter C. The adopted rules shall become effective upon approval by City Council.

Section two. 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 three. 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 four. 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 five. 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 six. 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 seven. 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 eight. 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 has published 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 25th day of May, 2021

Passed and Adopted on the 8th day of June, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelley Dix, City Secretary



Community Development

ITEM 5.3

Habib Erkan Jr.
Assistant City Manager
512-715-3201
herkan@cityofburnet.com

Planning and Zoning Commission Agenda Item Brief

Meeting Date: Monday, April 5, 2021

Agenda Item: Discuss and consider action: Report and recommendation to City Council on the merits of an amendment to the Zoning Code for the purpose of authorizing boat and recreational vehicle sales, service and storage in the Heavy Commercial – District “C-3”: H. Erkan

Background: At its April 5, 2021 meeting, the commission conducted a hearing to receive comments from citizens on the merits of amending the zoning use table to allow “bakeries without drive through service” C-1 districts; allow “bakeries with drive through service” in C-2 districts; and allow “boat and recreational vehicle sale, service and storage in C-3 districts. After the close of the public hearing, the commission made a recommendation to city council that the zoning use table be amended to allow “bakeries without drive through service” C-1 districts, allow “bakeries with drive through service” in C-2 districts. The commission directed staff to survey surrounding communities regarding how they address boat and recreational vehicle sales, service and storage.

Information: Below is a table showing how Marble Falls, Bertram and Liberty Hill classify similar uses.

Marble Falls:

P=Permitted R=Restricted	Neighborhood Commercial District	General Commercial District	Downtown District	Downtown Transition District	Business/ Industrial Park District	General Industrial District
Vehicle Sales and Rentals		P	R			P
Vehicle Services		P			R	P
Storage, Self		R				R

Bertram:

P=Permitted	Commercial-District C	Restricted Commercial District C-1	Central Business District District CBD	District O Office	Light Industrial District LI	Heavy Industrial District HI
Mini-Storage warehouse and storage garage	P					
Heavy machinery sales, storage and service	P					
Automobile repair (major), auto sales (outdoor) and auto sales facility.					P	

Liberty Hill:

P=Permitted	Neighborhood Commercial/Retail C1	Downtown Comm./Retail C2	General Comm./Retail C3	Light Industrial/Warehousing I1	General Industrial I2
Self Storage		C	P	C	C
Vehicle Sales Service			P	P	P

None of the surveyed cities specify “boats, recreational vehicles sales, service and storage” on their use tables. All of the survey cities allow vehicle sales and service, and self storage, in their commercial districts.

Fiscal Impact:

These Zoning Code Amendment shall have no direct financial impact.

Recommendation:

Take action to recommend city council adopt an ordinance allowing “boats, recreational vehicles sales, service and storage” in the C-3 zoning districts.

ORDINANCE NO. 2020-XX

AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED “ZONING”) FOR THE PURPOSE OF AUTHORIZING BOAT AND RECREATIONAL VEHICLE SALES, SERVICE AND STORAGE IN THE HEAVY COMMERCIAL – DISTRICT “C-3”; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Zoning Administrator proposed certain amendments to the zoning districts and regulations in Section 118-20 of the City Code; and

WHEREAS, on April 5, 2021, the Planning and Zoning Commission conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, at the conclusion of the public hearing, the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed amendments; and

WHEREAS, on April 27, 2021, City Council conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation and citizen testimony, as well as its own deliberations, determine that enacting said Code of Ordinance amendments will serve to promote 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. Amendment. The Code of Ordinances, Chapter 118 (entitled “Zoning”) Section 118-47 (entitled “Heavy commercial – District ‘C-3’”) is hereby amended by adding the language that is italics (*italics*) as new subsection 118-47(a)(4) as follows:

(4) *Boats and Recreational Vehicles sales, service, and storage.*

Note to Publisher: Existing subsections 118-47(a)(4) to 118-47(a)(21) shall be recodified as subsections 118-47(a)(5) to 118-47(a)(22).

Section 2. 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 3. Penalty. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled “general penalty”).

Section 4. 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 5, (entitled “Repealer”) shall be controlling.

Section 5. 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 6. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. TOMA Compliance. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted 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.

Section 8. Publication. The publishers of the City Code 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 9. 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 25th day of May, 2021

Passed and Adopted on 8th day of June, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary



Community Development

ITEM 5.5

Habib Erkan Jr.
Assistant City Manager
512-715-3201
herkan@cityofburnet.com

Planning and Zoning Commission Agenda Item Brief

Meeting Date: Monday, May 3, 2021

Agenda Items: **Item 5.4:** Discuss and consider action: Report and recommendation to City Council on the merits of an amendment to the Zoning Code for the purpose of amending Section 118-61 (entitled “construction plans”): H. Erkan

Background: At its April 5, 2021 meeting, the commission conducted a hearing to receive comments from citizens on the merits of amending Zoning Code Section 118-61 (entitled “construction plans”). The proposed Zoning Code amendment would clarify that Section 118-61 construction plans are required at the time of development (building permit stage). The commission question authorizing an exception for remodeling projects that did not increase the building footprint more than 20%; and requested information on how surrounding municipalities address this issue. Staff surveyed the cities of Marble Falls, Georgetown and Bertram:

Marble Falls – Unified Development Code Sec. 11.5.3 (entitled “Site Development Plan”)

Applicability: Approval of a Site Development Plan shall be required for the development of any property within the City limits.

Exceptions. Other than nonpoint source pollution control plan review, a Site Development Plan shall not be required for:

- (1) A single-family detached or duplex dwelling unit located on an individually platted lot in an improved subdivision; or
- (2) A change of use on a property that requires no required site upgrades pursuant to [Division 12.5](#), Nonconforming Sites.

Georgetown – Unified Development Code Section 3.09.010 (entitled “Site Development Plan”)

An approved, valid Site Development Plan is required prior to the construction, expansion, or removal of any improvements to a property, as defined in Section 16.2 of this Code and including driveways, sidewalks, drainage structures and utility improvements, within the City's limits, except as follows:

- (1) Single-family and Two-family structures, accessory structures, and fences on individually platted lots; and
- (2) Agricultural buildings for the purposes of farming, ranching or sheltering of animals.

Bertram – Code of Ordinances Section 60 (entitled “construction plans”)

Purpose and Applicability. Construction Plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces, and general conformance with the Master Plan and ordinances of the City. Construction Plan approval by the City Engineer shall be required for any development or improvement of land subject to this Ordinance, and not otherwise required by City's Subdivision Ordinance.

It should be noted that the Bertram code section is very similar to, except it does not contain the language in the Burnet Code that is causing the confusion “***Construction plans will not be required for development of existing lots or short form subdivisions which have adequate utilities and public access as determined by the city engineer.***”

Information:

The purpose of the proposed Zoning Code amendment is to amend the bolded italicized language in the paragraph above and clarify that Section 118-61 construction plans are required at the time of development (building permit stage) but would require duplication of any information provided with Chapter 98 construction plans.

In light of the Commissions comments at the April 5, meeting and staff’s survey of other municipalities staff recommends the Section 118061, subsection (a) read as follows.

(a) *Purpose, scope, and exceptions.*

- (1) *Purpose. Construction plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting,*

signage, landscaping, vehicle and pedestrian circulation, open spaces and general conformance with the master plan and ordinances of the city when necessary in accordance with the city building codes.

(2) Scope. Construction plan approval by the city engineer shall be required for any development or improvement of land subject to this chapter.

(3) Exceptions. It is an exception to the construction plan approval requirement of this section if the construction plans for the development or improvement of the land was approved by the city engineer under chapter 98 (entitled "Subdivisions").

Fiscal Impact:

These Zoning Code Amendment shall have no direct financial impact.

Recommendation:

Staff recommends the Commission take action in support of the proposed Zoning Code Amendment.

ORDINANCE NO. 202-XX

AN ORDINANCE AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED “ZONING”) SECTION 118-61 (ENTITLED “CONSTRUCTION PLANS”); PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Zoning Administrator proposed certain amendments to the setback requirements in Section 118-61 of the City Code; and

WHEREAS, on April 6, 2021, the Planning and Zoning Commission conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, at the conclusion of the public hearing, the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed amendments; and

WHEREAS, on April 27, 2021, City Council conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation and citizen testimony, as well as its own deliberations, determine that enacting said Code of Ordinance amendments will serve to promote 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. Amendment. The Code of Ordinances, Chapter 118 (entitled “Zoning”) Section 118-61 (entitled “Construction plans”) is hereby amended by replacing the existing language in subsection (a) (entitled “Purpose and applicability”) with the language that is italics (*italics*) below:

(a) *Purpose, scope, and exceptions.*

- (1) *Purpose. Construction plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces and general conformance with the master plan and ordinances of the city when necessary in accordance with the city building codes.*
- (2) *Scope. Construction plan approval by the city engineer shall be required for any development or improvement of land subject to this chapter.*
- (3) *Exceptions. It is an exception to the construction plan approval requirement of this section if the construction plans for the development or improvement of*

the land was approved by the city engineer under chapter 98 (entitled "Subdivisions").

Note to Publisher: Existing subsections 118-61(b) through (i) are not amended by this ordinance and shall remain in full force and effect as currently published.

Section 2. 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 3. Penalty. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled "general penalty").

Section 4. 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 5, (entitled "Repealer") shall be controlling.

Section 5. 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 6. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. TOMA Compliance. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was conducted in compliance with the Texas Open Meeting Act.

Section 8. Publication. The publishers of the City Code 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 9. 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 April, 2021

Passed and Adopted on the 11 day of May, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelley Dix, City Secretary