

ORDINANCE NO. 491-2010

AN ORDINANCE OF THE CITY OF JOSHUA, TEXAS, AMENDING ORDINANCE NO. 469-2008, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, TO REZONE APPROXIMATELY 0.67 ACRE OUT OF THE J. MINETT SURVEY, ABSTRACT NO. 547, JOSHUA, TEXAS, FROM “C-1” RESTRICTED COMMERCIAL TO “C-2” GENERAL COMMERCIAL; CHANGING THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR A REPEALER CLAUSE; SEVERABILITY; A SAVINGS CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000 AND AUTHORIZATION TO SEEK INJUNCTIVE RELIEF TO ENJOIN VIOLATIONS WHICH CONSTITUTE AN IMMINENT HAZARD OR DANGER TO THE PUBLIC HEALTH AND SAFETY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City Secretary of Joshua, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Joshua and laws of the State of Texas, at a meeting of the City Council, to be held on the 21st day of January 2010, for the purpose of considering rezoning 0.67 acre out of the J. Minett Survey, Abstract No. 547, in the City of Joshua, Johnson County, Texas from “C-1” Restricted Commercial to “C-2” General Commercial; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Joshua, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the Planning and Zoning Commission of said City pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance on the 4th day of January 2010; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 21st day of January, 2010; and

WHEREAS, the City Council is of the opinion and finds that such rezoning would not be detrimental or injurious to the public health, safety and general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Joshua, and as well, the owners and occupants thereof, and the City generally.

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

SECTION 1.
INCORPORATION OF PREMISES

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2.
REZONING OF CERTAIN DESCRIBED TRACTS

2.01 The Comprehensive Zoning Ordinance No. 469-2008, as previously amended, is hereby further amended to rezone 0.67 acre out of the J. Minett Survey, Abstract No. 547, in the City of Joshua, Johnson County, Texas from "C-1" Restricted Commercial to "C-2" General Commercial, said property being described in the legal description on Exhibit "A" attached hereto.

SECTION 3.
CHANGE TO OFFICIAL ZONING MAP

It is directed that the official zoning map of the City of Joshua be changed to reflect the zoning classification established by this Ordinance.

SECTION 4.
CUMULATIVE REPEALER

This ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of said Ordinances except those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided, however, that any complaint, action, claim or lawsuit that has been initiated or has arisen under or pursuant to any of the Ordinance or sections thereof that have been specifically repealed on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance or section thereof and for that purpose the Ordinance or section thereof shall remain in full force and effect.

SECTION 5.
SEVERABILITY

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed

such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6.
SAVINGS CLAUSE

All rights and remedies of the City of Joshua are expressly saved as to any and all violations of the provisions of any Ordinances affecting and which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.
PENALTY CLAUSE

7.01 Any person violating any of the provisions of this Ordinance shall be deemed guilty of a Class C misdemeanor and, upon conviction, shall be fined, except as otherwise provided herein, in a sum not to exceed Two Thousand Dollars (\$2,000) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

7.02 If the City Council of the City of Joshua determines that a violation of this Ordinance creates a threat to the public health and safety, the City of Joshua may bring suit in district court to enjoin the person, firm, partnership, corporation, or association from engaging in the prohibited activity. The City of Joshua is not required to give bond as a condition to the issuance of injunctive relief.

SECTION 8.
PUBLICATION

The City Secretary of the City of Joshua is hereby directed to publish in the Official Newspaper of the City of Joshua the Caption, Penalty, and Effective Date of this Ordinance as required by Section 52.013 of the Texas Local Government Code.

SECTION 9.
ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Joshua is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the City Council of the City of Joshua and by filing this Ordinance in the Ordinance records of the City.

SECTION 10.
EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and publication, in accordance with law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS THIS THE 21st DAY OF January, 2010.

Merle Breitenstein, Mayor
City of Joshua, Texas

ATTEST:

Mary Beth Thomas, City Secretary
City of Joshua, Texas

APPROVED AS TO FORM AND CONTENT:

City Attorney
City of Joshua, Texas

EXHIBIT "A"

A called 1.0 acre tract of land, more or less, situated in the J. Minett Survey, Abstract No. 547, City of Joshua, Johnson County, Texas, SAVE AND EXCEPT a called 0.322 acre tract of land conveyed to Robert Young and Mary K, Young by deed recorded in Volume 4445, Page 158, Real Property Records, Johnson County, Texas.

TOGETHER WITH a 15 foot wide Ingress-Egress Easement along the southwest line of said 0.322 acre tract;

Said properties described by metes and bounds as follows, attached hereto and made a part hereof.

A tract of land out of the J. Minett Survey, Abstract No. 547, in Johnson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 3/8 inch iron rod in the southeasterly line of the Old Cleburne Highway, said rod being by deed call, south 45 degrees, 38 minutes west, 1716.3 feet from the north corner of said Minett Survey, and being the southwest corner of a tract of land deeded to Cherry Lyle Ent., recorded in Volume 1530, Page 69, Deed Records, Johnson County, Texas.

THENCE, south 43 degrees, 44 minutes, 57 seconds east, with said Lyle tract, 436.68 feet to a 5/8 inch iron rod found in the northwesterly line of State Highway No. 174, said point also being the southeast corner of Lyle tract;

THENCE, along the northwesterly line of State Highway No. 174, south 22 degrees, 20 minutes, 14 seconds west, a distance of 103.34 feet, to a point for corner from which a 5.8 inch iron rod found, bears south 44 degrees, 06 minutes, 32 seconds east, 0.81 feet, said point also being the northeast corner of Owl Addition, an addition recorded in Volume 6, Page 168, Plat Records, Johnson County, Texas;

THENCE, leaving the northwesterly line of State Highway No. 174, and with the northeast line of said Owl Addition. north 43 degrees, 52 minutes, 59 seconds west, 477.73 feet to a 5/8 inch iron rod found for corner, said corner being in the southeasterly line of said Old Cleburne Highway;

THENCE, with the southeasterly line of said Old Cleburne Highway, north 45 degrees, 38 minutes, 00 seconds east, 95.59 feet to the POINT OF BEGINNING and containing 1.0 acres of land, more or less.

SAVE AND EXCEPT

All that certain lot, tract or parcel of land situated in the J. Minett Survey, Abstract No. 547, Johnson County, Texas, and being a portion of that called 1.0 acre tract recorded in Volume 1174, Page 817, Deed Records, Johnson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point in the northwesterly line of State Highway No. 174 from which a 5.8 inch iron rod found bears south 44 degrees, 06 minutes, 32 seconds east, 0.81 feet said point also being the northeast corner of Owl Addition, an addition recorded in Volume 6, Page 168, Plat Records, Johnson County, Texas;

THENCE, leaving State Highway No. 174, and along the northeast line of said Owl Addition, north 44 degrees, 06 minutes, 32 seconds west, 169.24 feet to a 5/8 inch iron rod found for corner;

THENCE, north 46 degrees, 37 minutes, 11 seconds east, 94.87 feet to a 5/8 inch iron rod for corner, said corner being in the southwest line of a tract of land deeded to Cherry Lyle Ent., recorded in Volume 1530, Page 69, Deed Records, Johnson County, Texas;

THENCE, along the southwest line of said Lyle tract, south 44 degrees, 03 minutes, 01 seconds east, 126.74 feet to a 5/8 inch iron rod found for corner in the northwesterly line of State Highway No. 174;

THENCE, along the northwesterly line of State Highway No. 174, south 22 degrees, 20 minutes, 14 seconds, west 103.34 feet to the POINT OF BEGINNING and containing 0.32 acres of land, more or less.

TOGETHER WITH:

A 15 foot wide ingress-egress easement across the southwesterly side of the afore described 0.32 acre tract of land, described as follows:

All that certain lot, tract or parcel of land situated in the J. Minett Survey, Abstract NO. 547, Johnson County, Texas, and being a portion of a called 1.0 acre tract recorded in Volume 1174, Page 817, Deed Records, Johnson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point in the northwesterly line of State Highway No. 174, from which a 5/8 inch iron rod found bears south 44 degrees, 06 minutes, 32 seconds east, 0.81 feet said point also being the southeast corner of said 1.0 acre tract of land;

THENCE, leaving the northwesterly line of State Highway No. 174, north 44 degrees, 06 minutes, 32 seconds west, 169.24 feet to a 5/8 inch iron rod found for corner;

THENCE, north 46 degrees, 37 minutes, 11 seconds east, 15.0 feet to a point for corner;

THENCE, south 44 degrees, 06 minutes, 32 seconds east, 162.70 feet to a point for corner, said point being in the northwesterly line of State Highway No. 174;

THENCE, along the northwesterly line of State Highway No. 174, south 22 degrees, 20 minutes, 14 seconds west, 16.36 feet to the POINT OF BEGINNING.