

ORDINANCE NO. 2024-646

AN ORDINANCE OF THE CITY OF SMITHVILLE, TEXAS AMENDING THE ZONING FOR THE AREA GENERALLY KNOWN AS BURLESON BLOCK 30 NORTH HALF OF LOT 7, 0.096 ACRES FROM SINGLE FAMILY DWELLING DISTRICT (SF-1) ZONING DISTRICT TO HIGHWAY COMMERCIAL (C-3) ZONING DISTRICT; DIRECTING THE AMENDMENT OF THE ZONING MAP; REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Pivot Endeavors LLC has filed an application, attached hereto as Exhibit A and incorporated herein for all purposes (the "*Application*"), requesting that zoning for the subject property located at Burleson Block 30 for the North half of Lot 7, 0.096 acres depicted and described in the Application (the "*Property*"), be changed from Single Family Dwelling District (SF-1) to Highway Commercial (C-3); and

WHEREAS, the Planning and Zoning Commission of the City of Smithville, Texas, and the City Council of the City of Smithville, Texas, in compliance with State law with reference to the zoning ordinance and zoning map of the City of Smithville, Texas, have given requisite notices by publication and otherwise, and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council, having received the final report of the Planning and Zoning Commission and having determined that the proposed zoning change will be harmonious with existing buildings, structures, and uses on abutting and nearby properties in the vicinity of the Property in accordance with the current zoning regulations of the City, has determined that changing the zoning of the Property as set forth herein will promote the health, safety and welfare of the public and is of the opinion that the Property should be zoned as set forth herein; and

WHEREAS, the City Council finds and determines that the meeting at which this Ordinance was passed was open to the public, that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code;


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

- 1. Findings of Fact.** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.
- 2. Enactment.** The Property is hereby zoned Highway Commercial (C-3).
- 3. Amendment of Zoning Map.** The City Manager is hereby ordered and directed to cause the Zoning Map of the City of Smithville to be amended to establish zoning for the Property in conformance with this ordinance.

4. **Repealer.** All ordinances, resolutions, or parts thereof, that are in conflict or are inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict or inconsistency, and the provisions of this Ordinance shall be and remain controlling as to the matter regulated herein.
5. **Severability.** Should any section, subsection, sentence, provision, clause, or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance, and same are deemed severable for this purpose.
6. **Effective Date.** This Ordinance shall be effective as of the date of adoption.

PASSED, APPROVED AND ADOPTED THIS 8th DAY OF APRIL, 2024.

APPROVED:


Sharon Foerster, Mayor

ATTEST:

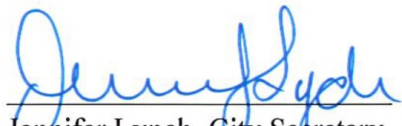

Jennifer Lynch, City Secretary

EXHIBIT "A"
CITY OF SMITHVILLE

PLANNING & ZONING APPLICATION

APPLICATION TYPE

Zoning Change Request: Change in Zoning Class
 Change in Ordinance
 Variance
 Special Use Permit
 Minor Plat/Subdivision
 Other _____

Number of Requests: Single
 Multiple

PROPERTY IDENTIFICATION

Street Address 301 Bishop Street

*** Applicant must submit an accurate location map and site plan for application to be considered ***

Legal description Platted Land (please provide subdivision, block and lot information below)
 Unplatted Land (please submit the metes and bounds description from deed)

Subdivision Name: Burleson BIK

Property Tax Code: _____ Block Number: 30 Lot Number: 748

Property Owner (as listed on Deed): Pivot Endeavors LLC

Property Owner Mailing Address: 205 Fawcett St

Owner's Phone No: _____ Owner's Email: _____

Agent's Name (if applicable): _____

Agent's Mailing Address: _____

Agent's Phone No: _____ Agent's Email: _____

DESCRIPTION OF VARIANCE / EXCEPTION REQUEST

Current Zone Class:	SF-1 <input checked="" type="checkbox"/>	SF-2 <input type="checkbox"/>	Proposed Zone Class:	SF-1 <input type="checkbox"/>	SF-2 <input type="checkbox"/>
	MR <input type="checkbox"/>	C-1 <input type="checkbox"/>		MR <input type="checkbox"/>	C-1 <input type="checkbox"/>
	C-2 <input type="checkbox"/>	C-3 <input checked="" type="checkbox"/>		C-2 <input type="checkbox"/>	C-3 <input checked="" type="checkbox"/>
	MHS <input type="checkbox"/>	MF <input type="checkbox"/>		MHS <input type="checkbox"/>	MF <input type="checkbox"/>
	CF <input type="checkbox"/>	PD <input type="checkbox"/>		CF <input type="checkbox"/>	PD <input type="checkbox"/>
	PD-Z <input type="checkbox"/>	I <input type="checkbox"/>		PD-Z <input type="checkbox"/>	I <input type="checkbox"/>
	CBD <input type="checkbox"/>	PD-Z <input type="checkbox"/>		CBD <input type="checkbox"/>	PD-Z <input type="checkbox"/>

Describe variance requested:

See attached

Describe special use requested:

Reason for Request:
(explain why special exception is sought or why a variance has been requested)

See attached

PETITION

As Owner/Agent, I hereby petition the City of Smithville for approval of the above described request as provided by the laws of the State of Texas and Ordinances of the City. I understand and agree that the Petition fee is non-refundable and that I must attend the Planning & Zoning meeting and subsequent City Council meeting in order for my application to be considered for approval.

Signature: _____

[Handwritten Signature]

Date: _____

3/27/24

OFFICE USE ONLY:

Fee Amount: _____

775

Fee Payment: _____

775

P&Z Date: _____

April 2, 2024

Council Date: _____

April 8, 2024

Accepted By: _____

[Handwritten Signature]

Date Submitted: _____

3-4-24

Notice sent to property owners within 200 feet of proposed property

3-8-24



**Please provide detailed information for consideration by the P&Z and City Council.
Use additional pages if necessary:**

1. Is the variance request contrary to the public interest?

YES NO

2. Are there any special condition(s) affecting the property.

YES NO

3. Explain the unnecessary hardship caused by the special condition(s).

4. Will the spirit of the ordinance be observed and substantial justice be done if the variance is granted? Please explain.

YES NO

5. Is this land being used or developed for a reason other than a homeowner building or improving the homeowner's residence?

YES NO

6. If YES checked above, do any of the unnecessary hardships in Section B apply to your variance request? Please explain.

NO

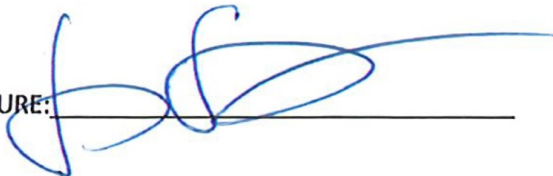
7. I **affirm** that I have read, Chapter 14, Part 5, §5.5.4, Lapse of Variance.

YES

A. Any rights authorized by a variance which are not exercised within **one (1) year** from the date of granting such variance shall lapse and may be reestablished only after a new application, notice and hearing pursuant to Section 5.5.

B. The City Council may waive the requirement for the payment of fees for such variance renewal application if there has been no material change of conditions pertaining to the property since the granting of the first variance.

APPLICANT SIGNATURE: _____



DATE: _____

2/27/24

1. Approval of rear yard setback reduced to 8' from 10'.
 - a. Due to the unusual division and layout of the lots on this corner our rear yard is drastically reduced in depth by approximately 40 feet. We're requesting a reduction of 2' for the setback for a covered patio.

2. Approval of a wooden fence as an equivalent noise attenuating barrier.
 - a. We feel, along with the resident abutting our lot, a wooden fence will be adequate in providing the separation needed to satisfy any anticipated issues. The abutting resident has also expressed to us that he does not want a masonry type wall separating the lots. You'll also see that directly on the property line is a large oak tree. Constructing a masonry wall would present issues in regards to this tree that could be overcome with the construction of a wooden fence instead.

3. Approval to allow parking to extend into the front yard setback on lot 7 ½ N.
 - a. We are trying to maximize the parking on the property. If allowed to utilize the front yard setback we would be able to add at least 2 additional parking spots. The neighbor abutting this lot has no issue with this variance being issued.

I think it's worth noting that we have a right of first refusal on the abutting residential property mentioned above (R15832). We have been working diligently with Mr. Knippa, the owner, during this whole process keeping him up to date with all the details of our upcoming project. Our reason for acquiring this right of first refusal is to be able to add additional parking if need be in the future. By securing the right of first refusal now we are proactively looking into the future as we see the growth potential of our business.