

**ORDINANCE NO. O-2014-001-15**

**CASE NO. CU-006-13**

**AN ORDINANCE AMENDING ORDINANCE NO. O-2002-032-15, AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF HALTOM CITY, TEXAS, BY APPROVING A CONDITIONAL USE PERMIT FOR AUTOMOBILE & LIGHT TRUCK REPAIR SHOP USE ON CERTAIN PROPERTY IN THE CITY OF HALTOM CITY, TEXAS; AND REVISING THE OFFICIAL ZONING MAP IN ACCORDANCE THEREWITH; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Haltom City is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council of the City of Haltom City heretofore adopted Ordinance No. O-2002-032-15, as amended, the Zoning Ordinance of the City of Haltom City, Texas, which Ordinance regulates and restricts the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and

**WHEREAS**, in accordance with Section 9 of the Zoning Ordinance, the owner of property consisting of approximately 2.83 acres of land located on Tract 14 of the Thomas Akers Survey, Abstract 25, locally known as 5532 Midway Road (hereinafter-referenced as the "Property"), has filed an application for approval of a Conditional Use Permit for Automobile & Light Truck Repair Shop use on the Property; and

**WHEREAS**, the Planning and Zoning Commission of the City of Haltom City, Texas held a public hearing on March 25, 2014 and the City Council of the City of Haltom City,

Texas held a public hearing on April 14, 2014 with respect to the Conditional Use permit described herein; and

**WHEREAS**, the City has complied with all requirements of Chapter 211 of the Local Government Code, and all other laws dealing with notice, publication and procedural requirements for the approval of the Conditional Use Permit.

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

### **SECTION 1.**

Ordinance No. O-2002-032-15, as amended, is hereby amended by approving a Conditional Use Permit for Automobile and Light Truck Repair Shop use on property consisting of approximately 2.83 acres of land located on Tract 14 of the Thomas Akers Survey, Abstract 25, locally known as 5532 Midway Road.

### **SECTION 2.**

The Conditional Use Permit as herein established has been made in accordance with a comprehensive land use plan for the purpose of promoting the health, safety, morals and general welfare of the community.

### **SECTION 3.**

The official zoning map of the City of Haltom City is hereby amended and the City Secretary is directed to revise the zoning map to reflect the Conditional Use Permit as set forth above.

#### **SECTION 4.**

The use of the Property described above shall be subject to the restrictions, terms and conditions set forth in Exhibit "A" Site Plan and Exhibit "B" Performance Standards attached hereto and shall further be subject to all the applicable regulations contained in the Zoning Ordinance and all other applicable and pertinent ordinances of the City of Haltom City, Texas.

#### **SECTION 5.**

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Haltom City, Texas (1998), as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

#### **SECTION 6.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

## **SECTION 7.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

## **SECTION 8.**

All rights and remedies of the City of Haltom City, Texas, are expressly saved as to any and all violations of the provisions of Ordinance No. O-2002-032-15 or any ordinances governing zoning that 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 9.**

The City Secretary of the City of Haltom City, Texas, is hereby directed to publish in the official newspaper of the City of Haltom City, Texas, the caption, Section 1, penalty clause, publication clause and effective date clause of this Ordinance one (1) time within ten (10) days after the first reading of this Ordinance as required by Section 10.01 of the Charter of the City of Haltom City, Texas.

## **SECTION 10.**

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

**PASSED AND APPROVED ON FIRST READING THIS 14th DAY OF April, 2014.**

PASSED AND APPROVED ON SECOND READING THIS 28<sup>th</sup> DAY OF April, 2014.



Mayor

ATTEST:

City Secretary

EFFECTIVE:

APPROVED AS TO FORM AND LEGALITY:

City Attorney



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**EXHIBIT "B"**

Request for a Blanket Conditional Use Permit for Auto Repair and Auto Paint and Body for the remaining lease spaces at 5524 and 5532 Midway Rd., Haltom City, TX 76117  
Legal: Tract 14, Abstract 25 of the Thomas Akers Survey containing 3.274 acres

**Business Overview and Performance Standards**

**Business Overview**

Business Hours: Hours for operations for tenant businesses are Monday to Saturday  
Most businesses are expected to be closed on Sundays

Operating Hours: Businesses are expected to be open from 8:00 A.M. to 6:00 P.M.

Property Owner: Ron Sturgeon Real Estate L.P. is the owner of Tract 14

Site Description: Tract 14, Abstract 25 of the Thomas Akers Survey contains 3.274 acres of an existing commercial/industrial facility with two masonry buildings locally known as 5524 and 5532 Midway Rd. The facility was built in 1981 and is conducive for automotive uses. The facility and its existing uses have been in operation with various automotive uses, including Automotive Sales, Repair, and Paint & Body, prior to Zoning Ordinance # 2002-032-15. Therefore, the uses and structures of the site should be classified as "Exempt to Non-Conforming Regulations" under Sections 3A and 3B of the above said ordinance.

Existing Zoning: Tract 14, Abstract 25 of the Thomas Akers Survey containing 3.274 acres is zoned "M-2" Heavy Industrial District. As stated above, Tract 14 has numerous existing automotive related uses and is bordered to the west by additional automotive uses located on Lot 1, Blk. 1 of the Kathi's Addition. The Kathi's Addition was granted a blanket CUP for automotive uses in 2002 (CU-006-02). Additional surrounding zoning to the east is "M-2" Heavy Industrial, to the south is Fossil Creek and to the north is Midway Road (per City Zoning Map). This portion of Midway Road is not a State Highway.

Types of Permitted Uses: In addition to the request for a CUP for Auto Repair and Auto Paint and Body, uses at the facility will meet Permitted Uses as indicated in Section 9 of the Use Matrix for "M-2" Heavy Industrial District.

Existing Buildings Specifications: Both Buildings located on Tract 14 are Concrete Tilt Wall which currently meets the City's masonry requirements and are 16 feet in height. The building addressed 5524 Midway is 62.5' by 360' having a total square footage of 22,500. The other building addressed at 5532 Midway is 80' by 385' and has a total square footage of 30,800. Again both buildings were constructed in 1981; have fully concrete pavement; are designed for automotive uses and located on 3.274 acres.

Existing Parking: Tract 14 has a total of 53,300 square feet of combined leasing space. Using Section 31.B. "Schedule of Minimum Parking Spaces" for Office Warehouse (1 parking space per 350 sq. ft. of building) 152 parking spaces are required. The site currently has this minimum requirement. All parking spaces (excluding Handicapped Spaces) are 9' x 18'.

Landscaping: Exempt due to Preserving Rights Sec 3; The Site is fully paved and all the green spaces were condemned by the city in the taking.

The Taking: The city condemned or took a portion off the rear of the property in 2010, about 33,000sf. The owner worked with the city to help with the plans for flood improvement and greenbelt projects, which benefited the city and many residents and adjoining property owners. Specifically discussed at the time of the taking was any impairment to the remaining portion, and more specifically, parking, landscaping, fire lanes, and overall ability to continue using the property, apply for future building permits, etc. The property owner did not want to become non-conforming, as a result of the taking. The city officials and engineers working on the project assured the property owner that there would be no impairment to the existing property, and the ability to use the remaining portion of the property would not be affected adversely by the taking. Accordingly, the city did not pay for any impairment or damages to the remaining portion as a result of the taking. To help assure any issues in the future, the owner requested a letter from the planning director, James Pliska, a copy of that letter is attached. The owner is seeking to use the property for exactly the same uses that have always existed at the site. The land taken represented all the green space and additional land for parking at the rear of the property. The benefits of the taking to other parties outweigh any improvements at the front of the property.

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**Performance Standards \***

Noise levels: Tenants are to be routinely reminded by notification that the allowable noise level per section 29 pg 27-7 shall not exceed a day night average of seventy-five (75) decibels. *This to be complied with.*

Vibration: Shall not exceed the decibel limits for octave bands shown in column I of section 29 pg 29-7. *This to be complied with.*

Smoke, particulate matter and visible emissions: Emissions (emitted) shall not exceed an opacity of twenty percent (20%) averaged over a 5 minute Any emission of air pollutant must be in accordance with the emission the requirements of the State of Texas. Emissions shall not exceed any of the net ground level concentrations as set forth in Section 29page 27. *This to be complied with.*

Toxic and Noxious matter: The handling and processing , storage and disposal of Hazardous, toxic or noxious materials shall be in accordance with the applicable State and federal laws and regulations. *This be to be complied with.*

Odor: No operation shall permit odors to be released which are detectable at the property line and which offensively affects the sense of smell. *This to be complied with.*  
*Note: All paint and body uses will have a Fire Department approved paint booth with air filtration.*

Glare: All artificial light sources shall be shielded so as to prevent direct rays of light from crossing a zoning district boundary line. *Note: Wall pack lighting and man door porch lights only are used on buildings 5524 and 5532 Midway Rd and direct rays do not cross zoning district boundary lines.*

Effluent: If the proposed use is to emit sanitary sewage effluent containing industrial wastes or other effluents into the City's' sanitary sewer system which is considered by the City Engineer to be unusual to or damaging to the sanitary sewer system, a description of pre-treatment must accompany the development site plan. *No unusual or damaging industrial waste or effluents have been cited or known to have existed in this existing Tract 14 and existing buildings 5524 and 5532.*

\* Testing to be by Federal, State, or City personnel not by property Owner

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