

ORDINANCE NO. 2007-5

AN ORDINANCE AMENDING ORDINANCE NO. 2003-1, THE ANNETTA NORTH ZONING ORDINANCE, BY AMENDING SECTION 5 REGARDING PROPERTY CURRENTLY IN RESIDENTIAL USE BUT WHICH MAY NOT MEET THE CURRENT LOT SIZE REQUIREMENTS AND BY AMENDING SECTION 7 TO PROVIDE FOR SPECIFIC USE PERMITS FOR EXISTING NON-CONFORMING USE AREAS AND TO ALLOW A PROPERTY OWNER WITH AN EXISTING NON-CONFORMING USE TO APPLY FOR A SPECIFIC USE PERMIT; 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 Town of Annetta North, Texas is a Type B general law municipality located in Parker County, and created in accordance with the provisions of Chapter 7 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Board of Aldermen of the Town of Annetta North heretofore adopted Ordinance No. 2003-1, as amended, which regulates and restricts the location and use of buildings, structures, and land for trade, industry, residents 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, the Board of Aldermen of the Town of Annetta North finds and determines that the zoning district designations established herein are for the purpose and are designed to lessen congestion in the streets; secure safety from fire, panic and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; and facilitate the adequate provision of transportation, water, sewer, schools, parks and other public

requirements; and

WHEREAS, the Board of Aldermen held a public hearing in accordance with law with respect to the zoning changes described herein; and

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Local Government Code and other laws dealing with notice, publication, and procedural requirements for the amending of the zoning ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF ANNETTA NORTH, TEXAS:

SECTION 1.

Ordinance No. 2003-1, as amended, is hereby amended by amending Section 4(24) to read, in its entirety, as follows:

“(24) Nonconforming Use - means use of a building or land, which existed previously, that does not conform to the present regulations as to use for the district in which it is situated.”

SECTION 2.

Ordinance No. 2003-1, as amended, is hereby amended by amending Section 5. K by adding a new subsection to read as follows:

“(2) Single family residences or lots in single ownership, existing in the AG zoning district immediately prior to the date Zoning Ordinance 2003-01 was first adopted, shall not be considered nonconforming but as legally existing uses, and the owner shall have the right to construct a detached, single family residential unit on any such vacant lot or to repair, expand and replace existing residential structures thereon, notwithstanding any area or general lot size restrictions contained within the zoning code. If the residence ceases to be used as a single family dwelling and is converted to another type use, the right to exist in the above mentioned zoning district as a single family dwelling is thereupon permanently terminated.”

SECTION 3.

Ordinance No. 2003-1, as amended, is hereby amended by amending Section 7 by adding a new subsection to read as follows:

“(E) SPECIFIC USE PERMITS

(1) As permitted under the provisions of this ordinance, a property owner may petition the Board of Aldermen for a specific use of property which is then a nonconforming use. Such petition shall be considered by the Board of Aldermen in accordance with this zoning ordinance and Chapter 211 of the Texas Local Government Code. After proper notice and public hearing, the Board of Aldermen shall make a decision whether to grant or deny the request. The Board of Aldermen may require the property owner to provide and/or reimburse the town for the costs of information, operating data, and expert evaluation (including consultants', engineers' and attorneys' fees) concerning the location, function, and characteristics of any building or use proposed.

(2) No specific use shall be erected, used or occupied, nor shall any person convert any land, building or structure to such a use unless a specific use permit has been issued by the Board of Aldermen.

(3) An application for a specific use permit shall be completed and signed by the property owner and filed with the city secretary on a form prepared by the Town. The application shall be accompanied by the following:

(i) An application fee as established by the Town’s latest adopted schedule of fees;

(ii) A property description of the area where the specific use permit is proposed to apply;

(iii) A site plan drawn to scale and showing the general arrangements of the project, together with essential requirements such as off street parking facilities;

(iv) Size, height, construction materials and locations of buildings;

(v) The uses to be permitted;

(vi) Location and construction of signs;

(vii) Ingress and egress to public streets;

(viii) Visual screenings such as walls, landscaping, and fences;

(ix) The relationship of the intended use to all existing properties and land uses in all directions to minimum distance of two hundred (200) feet; and

(x) Any other material and/or information which may be required by the Board of Aldermen or the town’s administrative official to fulfill the purpose of this subsection 7(E) and to ensure that the application is in compliance with the ordinances of the Town.

(4) Among the additional information which may also be required by staff, the Town Engineer or the Board of Aldermen, if deemed appropriate, are the following:

- (i) Description of the present use, assessed value and actual value of the land affected by the proposed facility;
- (ii) Description of the proposed use, anticipated assessed value and supporting documentation;
- (iii) A description of any long-term plans or master plan for the future use or development of the property;
- (iv) A description of the applicant's ability to obtain needed easements to serve the propose use;
- (v) A description of any special construction requirements that may be necessary for any construction or development on the subject property; and
- (vi) A traffic impact analysis prepared by a qualified professional in the field of traffic evaluation and forecasting.

(5) The Board of Aldermen shall authorize issuance of a specific use permit only after determining that the proposed use or uses are harmonious and adaptable to building structures and uses of adjacent property and other property in the vicinity of the property under consideration.

(6) The Board of Aldermen shall authorize issuance of a specific use permit only after determining that adequate provisions have been made for the paving of streets, alleys and sidewalks, means of access to public streets, provisions for drainage, adequate off-street parking, protective screening and open space, height of structures, and compatibility of buildings, as well as the safety of the motoring public and of pedestrians using the facility and the area immediately surrounding the site, safety from fire hazard and measures for fire control, protection of adjacent property from flood or water damage, noise producing elements and glare of vehicular and stationary lights and effect of such lights on other property in the vicinity, location, lighting and type of signs and relation of signs to traffic control and adverse effect on adjacent properties, adequacy of parking facilities, and such other measures as will secure and protect the public health, safety, morals and general welfare.

(7) No specific use permit shall be granted unless the applicant, owner, and/or grantee of the specific use permit shall be willing to accept and agree to be bound by and comply with the written requirements of the permit, as attached to the site plan drawing (or drawings) and approved by the Board of Aldermen. No public hearing is necessary for site plan approval.

(8) Whenever regulations or restrictions imposed by this ordinance are either more or less restrictive than regulations imposed by any other applicable governmental authority through legislation, rule, or regulation, the regulations, rules or restrictions which are more restrictive or impose higher standard or requirement shall govern. Regardless of any other provision of this ordinance, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

(9) When the Board of Aldermen authorizes granting of a specific use permit, the zoning map shall be amended according to its legend to indicate that the affected area has conditional and limited uses.

(10) A specific use permit may be granted for specific periods of time after which the Board of Aldermen may inquire into the continuation of the permit and, based on its findings, recommend its discontinuance or an extension of time period as the case may be. A specific use permit issued under this division shall become null and void unless construction or use is substantially underway within one (1) year of the granting of the permit, unless an extension of time is approved by the city council.

(11) A specific use permit may be revoked or modified, after notice and hearing, for either of the following reasons:

- (i) The permit was obtained or extended by fraud or deception;
- (ii) One or more of the conditions imposed by the permit has not been met or has been violated.

(12) The procedure for amending a specific use permit shall be the same as for a new application, provided the Board of Aldermen may approve minor variations from the original permit which do not increase density, change traffic patterns, or result in an increase in external impacts on adjacent properties or neighborhoods.

(13) Every specific use permit granted shall be considered an amendment to the zoning ordinance as applicable to the property affected but shall not be considered as a permanent change in zoning. If the building, premises, or land use under the specific use permit is voluntarily vacated for a period of six (6) months or more, or if the building, premises, or land is more than fifty (50) percent destroyed by fire or other cause, the use of the property shall conform to the regulations of the original zoning district unless a new specific use permit is granted for continuation of the use.”

SECTION 4.

The zoning districts herein established have 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 5.

This ordinance shall be cumulative of all provisions of ordinances of the Town of Annetta North, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 6.

Should any section or part of this ordinance be held unconstitutional, illegal or invalid, or the application thereof, the unconstitutionality, illegality, invalidity or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof, but as to such remaining portions, the same shall be and remain in full force and effect.

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 Town of Annetta North are expressly saved as to any and all violations of the provisions of any ordinance related to substandard or dangerous buildings as they may have been amended or any other ordinance or code provision 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 9.

The City Secretary of the Town of Annetta North is hereby directed to publish the caption and penalty clause of this ordinance at least once in the official newspaper of the Town of Annetta North.

SECTION 10.

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

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PASSED AND APPROVED ON THIS 11th DAY OF September 2007

Ken Hall
MAYOR

ATTEST:

Barb Webster
CITY SECRETARY

DATE: _____
ADOPTED: _____
EFFECTIVE: _____