

ORDINANCE NO. 20-____

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, GRANTING A SPECIFIC USE PERMIT IN ORDER TO OPERATE A “SUBSTANCE ABUSE FACILITY” IN THE COMMERCIAL, HEIGHT AND DENSITY DEVELOPMENT ZONE, ZONE 6 (C-HDDZ-6) AND RESIDENTIAL, SINGLE-FAMILY, HEIGHT AND DENSITY DEVELOPMENT ZONE, ZONE 6 (R-1-HDDZ-6) ZONING DISTRICT ON PROPERTY COMMONLY KNOWN AS **11279 STEWART ROAD** AND LEGALLY DESCRIBED AS THE NORTHEAST PART OF LOT 39 (39-1), TRIMBLE AND LINDSEY SURVEY, SECTION 2, IN THE CITY AND COUNTY OF GALVESTON, TEXAS; PLANNING CASE NUMBER **20P-027**; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, the applicant is Edward Jackson and the Owner is Veco V. Delagardie, and the request is for a Specific Use Permit in order to operate a “Substance Abuse Facility” on property commonly known as **11279 Stewart road** and legally described as the Northeast Part of Lot 39 (39-1), Trimble and Lindsey Survey, Section 2, in the City and County of Galveston, Texas; and,

WHEREAS, the subject site is in the Commercial, Height and Density Development Zone, Zone 6 (C-HDDZ-6) and Residential, Single-Family, Height and Density Development Zone, Zone 6 (R-1-HDDZ-6) Zoning District. A Specific Use Permit is required in order to operate a “Substance Abuse Facility”; and,

WHEREAS, as more detailed in the staff report attached hereto, as **Exhibit 1** and fully incorporated herein, the site is comprised of 3.12 acres of land located on the corner of Stewart and 8 Mile Road). The site is one lot with two zoning designations; and,

WHEREAS, Currently, there is a vacant structure on the site. The vacant structure on the site was originally constructed as a church and would need to be completely brought up to current code in order to receive a certificate of occupancy; and,

WHEREAS, this request is associated with a request for a change of zoning for the southern portion of the property per planning case 20P-028. If granted a change of zoning, the entire site would be zoned Commercial, Height and Density Development Zone, Zone 6 (C-HDDZ-6); and,

WHEREAS, the majority of the property is zoned Commercial (C), which allows for various commercial uses by right. There are limited residential uses in the immediate area and the general vicinity is mostly vacant land. The zoning classification of nearby properties is comprised of Commercial (C), Resort/Recreation (RES/REC), and Traditional Neighborhood (TN); and,

WHEREAS, Staff finds that the rezoning request meets the demonstrative criteria required for approval, per Division 13.601 (C), of the Land Development Regulations based on the following findings:

1. The proposed zoning is preferable to the existing zoning in terms of its likelihood of advancing the goals, objective and policies of the City of Galveston 2011 Comprehensive Plan and other adopted plans;
2. The proposed zoning is consistent with the future land use map prepared by staff and accompanying the staff report for this case;
3. The proposed change is consistent with the implementation of existing or planned streets, water, wastewater, other utilities and delivery of public services to the area in which the proposed rezoning is located;
4. The range of uses and character of development allowed by the proposed zone will be compatible with the properties in the immediate vicinity of the parcel proposed for rezoning and the parcel has sufficient dimensions to accommodate reasonable development that complies with the requirements or the Land Development Regulations including parking and buffering requirements;
5. The pace of development and/or amount of vacant land currently zoned for comparable development in the vicinity suggests a need for the proposed rezoning in order to ensure an appropriate inventory of land to maintain a competitive land market that promotes economic development; and,

WHEREAS, the Planning Commission, at their regular meeting of September 22, 2020, voted to recommend approval of this Specific Use Permit with conditions as specified in Section 3, below; and,

WHEREAS, Staff recommends Case 20P-027 be approved with certain conditions as specified in Section 3 below; and,

WHEREAS, after notice and after conducting a public hearing, the City Council of the City of Galveston, Texas, finds that the rezoning request meets the demonstrative criteria required for approval, per Division 13.601 (C), of the Land Development Regulations and deems it in the public interest to grant applicant's request for a Specific Use Permit on property commonly known as **11279 Stewart road** and legally described as the Northeast Part of Lot 39 (39-1), Trimble and Lindsey Survey, Section 2, subject to certain conditions listed below.

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Subject to certain conditions set forth in Section 3 below, the Applicant, Edward Jackson, is hereby granted a Specific Use Permit in order to operate a "Substance Abuse

Facility” in Residential, Single-Family, Height and Density Development Zone, Zone 6 (R-1-HDDZ-6) Zoning District on property commonly known as **11279 Stewart road** and legally described as the Northeast Part of Lot 39 (39-1), Trimble and Lindsey Survey, Section 2, in the City and County of Galveston, Texas.

SECTION 3. This Specific Use Permit shall be issued to applicant subject to the following conditions:

Specific Conditions for Case 10P-31:

1. Applicant shall provide continuous fencing around perimeter of property, which incorporates landscaping and does not substantially negatively impact the natural environment;
2. Any exterior lighting shall be installed so as to minimize light trespass and reduce overnight lighting between the hours of 10 PM and sunrise;
3. Approval of this Specific Use Permit is subject to the business plan in substantially the same form as submitted per Exhibit B;
4. Applicant shall make available to the City an Emergency Response Plan before issuance of Certificate of Occupancy;
5. Applicant shall provide proof of issuance of any required licenses before commencing operations;
6. Hours of Visitation. Visits to residents of the facility by non-residents shall not occur between the hours of 10:00 PM and 8:00 AM;
7. The use shall be located at least one-half mile from an existing location of the same use, measured as a radius from property lines of the limited use;
8. The use shall be located at least 200 feet from a school or public park, measured as a radius from property lines of the limited use;
9. Ingress to and egress from all assigned living areas for residents shall be made through the interior of the building rather than from direct outside entrances to each unit;
10. No signage is permitted;

Standard Conditions:

11. The applicant shall adhere to all comments/conditions received from City departments and/or private utility companies. Should conformance with the comments/conditions require alterations to the project, as approved, the case must be returned to the Planning Commission for additional review and approval. Failure to comply with all comments/conditions may result in penalties and/or revocation of this permit;
12. If a building permit for a use approved by Specific Use Permit (SUP) has not been issued within two (2) years of the date of final approval by City Council, the SUP and all associated plans shall expire unless the SUP specifically states otherwise or a state or federal declaration of a natural disaster occurs within such period, then the SUP will automatically be extended for one additional two (2) year period;
13. If a use approved by Specific Use Permit is discontinued for a period of one (1) year, then the SUP and all associated plans shall be deemed to have expired and be of no effect;
14. Any change to the land use layout shall be submitted to the Development Services Department

- for possible review by Planning Commission and City Council;
15. The applicant shall submit for approval all plans to the Development Services Department for compliance with all City Codes and Standards; and
 16. The applicant must comply with all requirements of the Land Development Regulations.

SECTION 4. This Specific Use Permit approved in accordance with the provisions of this Ordinance in its original form, and as may be amended, shall be valid only as long as the Applicant uses it in accordance with the conditions and standards established herein. Any violation of any of the conditions of this Specific Use Permit enumerated herein shall upon the option of the City Council cause this Specific Use Permit to be canceled and declared void and of no further effect.

SECTION 5. 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 phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 6. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 7. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 8. This Ordinance shall become effective upon its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its Regular meeting held on October 22, 2020, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this ____ day of _____, 2020.

Secretary for the City Council
of the City of Galveston