

STATE OF TEXAS *
COUNTY OF WILLIAMSON *
CITY OF ROUND ROCK *

38514

~~28587~~

I, JOANNE LAND, Assistant City Manager/City Secretary of the City of Round Rock, Texas do hereby certify that the above and foregoing is a true and correct copy of an ordinance passed and adopted by the City Council of the City of Round Rock, Texas, at a meeting held on the 12th day of May, 19 94, which is recorded in the minutes of the City of Round Rock in book 31.

WITNESSED by my hand and seal of the City of Round Rock, Texas on this 22nd day of May, 19 94.



Joanne Land
JOANNE LAND
Assistant City Manager/
City Secretary

ORDINANCE NO. Z-94-05-12-10F

AN ORDINANCE AMENDING EXHIBIT "B" OF ORDINANCE NO. 1299, ADOPTED BY THE CITY COUNCIL OF ROUND ROCK, TEXAS, ON NOVEMBER 7, 1991, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ROUND ROCK, TEXAS, AS ADOPTED IN SECTION 11.305(2), CODE OF ORDINANCES (1990 EDITION), CITY OF ROUND ROCK, TEXAS TO REFLECT SAID AMENDMENT; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

WHEREAS, on November 7, 1991, the City Council of the City of Round Rock, Texas adopted Ordinance No. 1299, which amended the Official Zoning Map adopted in Section 11.305(2), Code of Ordinances, 1990 Edition, City of Round Rock, Texas, by establishing the 2.45 acres described in Exhibit "A" of said Ordinance as Planned Unit Development (PUD) District #5, and

WHEREAS, an application has been made to the City Council of the City of Round Rock, Texas to amend Exhibit "B" of Ordinance No. 1299, said amendment changing the name of the Developer to TM&M Partnership and to allow the property described in Exhibit "A" of said PUD to be used as a landscape construction storage facility, and

WHEREAS, the Planning and Zoning Commission held two public hearings concerning the requested amendment to Ordinance No. 1299 and P.U.D. #5 on the 21st day of April, 1994, and the 12th of May, 1994, following lawful publication of said public hearings, and

WHEREAS, after considering the public testimony received at such hearing, the Planning and Zoning Commission has recommended that Ordinance No. 1299 be amended, and

WHEREAS, on the 12th day of May, 1994, after proper notification, the City Council held a public hearing on the requested amendment to Ordinance No. 1299 and P.U.D. #5, and

WHEREAS, the City Council determined that the amendment to Ordinance No. 1299 and P.U.D. #5 promotes the health, safety, morals and protects and preserves the general welfare of the community, and

WHEREAS, each and every requirement set forth in Chapter 211, Sub-Chapter A., Texas Local Government Code, and Section 11.300, Code of Ordinances, 1990 Edition, City of Round Rock, Texas concerning public notices, hearings, and other procedural matters has been fully complied with, Now Therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROUND ROCK, TEXAS, THAT:

I.

That the City Council hereby determine that the proposed amendment to Planned Unit Development (PUD) District #5 meets the following goals and objectives:

- (1) The change to the development in the proposed P.U.D. #5 is equal to or superior to development that would occur under the standard ordinance requirements.
- (2) The amendment to P.U.D. #5 is in harmony with the general purposes, goals, objectives and standards of the General Plan.
- (3) The amendment to P.U.D. #5 does not have an undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, utilities or any other matters affecting the public health, safety and general welfare.
- (4) The amendment to P.U.D. #5 will be adequately served by essential public facilities and services including

streets, parking, drainage, water, wastewater facilities, and other necessary utilities.

- (5) The amendment to P.U.D. #5 will be constructed, arranged and maintained so as not to dominate, by scale and massing of structures, the immediate neighboring properties or interfere with their development or use in accordance with any existing zoning district.

II.

That Ordinance No. 1299, passed and adopted by the City Council of Round Rock, Texas, on November 7, 1991, is hereby amended by deleting Exhibit "B" and substituting a new Exhibit "B", which is attached hereto and incorporated herein.

III.

That the Official Zoning Map adopted in Section 11.305(2), Code of Ordinances, 1990 Edition, City of Round Rock, Texas is hereby amended to reflect the amendments to Ordinance No. 1299 and P.U.D. #5 established therein.

IV.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

Alternative 1.

By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on first reading this 12th day of May, 1994.

Alternative 2.

READ and APPROVED on first reading this the _____ day of _____, 1994.

READ, APPROVED and ADOPTED on second reading this the _____ day of _____, 1994.



CHARLES CULPEPPER, Mayor
City of Round Rock, Texas

ATTEST:



JOANNE LAND, City Secretary

EXHIBIT A

The Land referred to in this document is described as follows:

BEING 2.46 acres of land out of the Jacob M. Harrell Survey, Abstract No. 284 in the City of Round Rock, Williamson County, Texas, said Land being that same tract conveyed by deed from Phillip Mays, et ux, to Frank Clayton, et al., of record in Volume 86, Page 584, of the Deed Records of Williamson County, Texas. Surveyed on the ground in the month of May, 1975, by Don more fully as follows:

BEGINNING at an iron pin set in the South right-of-way line of the Missouri Pacific Railroad (formerly called I & G.N.R.R. Co.), said point being the most westerly corner of the said Clayton tract, for the most westerly corner hereof;

THENCE, along the North line of Chisholm Valley, a subdivision shown on a plat of record in Volume 7, Page 51 of the Plat Records of Williamson County, Texas, as follows:

N 89° 39' E at 40.73 feet passing an iron pin found, in all 161.34 feet to an iron pin found, and

N 85° 07' E, 338.66 feet to an iron pin set for the S.E. corner hereof;

THENCE N 13° 00' W, 425.63 feet to an iron pin set in the South R.O.W. line of the said railroad for the most northerly corner hereof;

THENCE S 42° 12' W, 600.00 feet along the said South R.O.W. line to the place of BEGINNING.

TM & M Partnership
DEVELOPMENT PLAN

PUD Number 5
Amended

Exhibit "B"
to City of Round Rock

Ordinance No. _____

This exhibit contains 7 pages
and one Exhibit

PLANNED UNIT DEVELOPMENT NO. 5
Application No. 91-5502

THIS AGREEMENT made the _____ day of _____, 1994, BETWEEN the City of Round Rock, Texas having its offices at 221 East Main Street, Round Rock, Texas, 78664, (hereinafter called the "City") and TM & M Partnership, and its successors and assigns, whose address for purposes hereof is PO Box 2138, Round Rock, Texas 78680 (hereinafter called the "Developer").

WHEREAS the Developer has requested a planned unit development from the City for the development of 2.45 acres of land and a 4,800 square foot access easement for a **landscape construction storage facility** on a tract of land located within the corporate limits of the City and more particularly described by metes and bounds in Exhibit "A" attached hereto and made part hereof (hereinafter called "the land"); and,

WHEREAS the Owner, in accordance with Chapter 11, Section 11.316(8), Code of Ordinances, City of Round Rock, Texas has submitted the development plan set forth in this Agreement ("Development Plan") to the City containing terms and condition for the use and development of the land; and

WHEREAS the City has held two public hearings required by law on the 21st day of April, 1994 and on the 12th day of May, 1994 to solicit input from all interested citizens and affected parties; and,

WHEREAS the Planning and Zoning Commission has recommended approval of the P.U.D. zoning on April 21st, 1994; and,

WHEREAS the City Council has review the proposed Development Plan and determined that it promotes the health, safety, and general welfare of the citizens of Round Rock and that it complies with the intent of the Planned Unit Development Ordinance of the City; and

NOW THEREFORE BY THIS AGREEMENT WITNESSETH that in consideration of the premises and the conditions and covenants hereinafter set forth, the City and the Developer covenant and agree as follows:

1. Owner

The Developer is the owner or has the right to purchase an estate in fee simple of all those certain parcels or tracts of land and premises, being in the City of Round Rock, Williamson County, Texas, and being more particularly known and described in Exhibit A, attached hereto; AND,

The Developer holds an access easement across those portions of the Missouri Pacific Railroad right-of-way, also being described in Exhibit A, attached hereto. (Together referred to herein as the "Land".)

2. **Consent**

The Developer has obtained the consent of all persons having a recorded interest in the Land.

3. **Development and Construction**

For the purpose of determining the use of Land, buildings, and structures upon the Land, and the regulation of the size, shape, and siting of buildings and structures, the provision of off-street parking and other zoning regulations, the Land shall be zoned to allow the development of a commercial wholesale landscape complex, not to exceed 12,700 square feet in the greenhouse, together with an office and storage area not to exceed 3,000 square feet gross floor area to serve said complex. No retail sales shall be permitted from the lands. No herbicides or pesticides shall be used in the operation of the greenhouses.

4. **Construction**

All roads, driveways and utilities to be constructed on or to the Land to serve the proposed development and provide adequate fire protection shall be constructed to current City standards, at the sole cost of the Developer, to the satisfaction of the Director of Public Works prior to the issuance of any certificate of occupancy.

5. **Easements and Rights of Way**

The Developer shall provide, at his sole cost, all necessary utility and drainage easements or rights of way at the time of development of the Land. These shall be recorded in the Williamson County Deed Records.

6. **Fire Hydrants**

The Developer shall install, prior to the issuance of any certificate of occupancy, at his sole cost, all fire hydrants required by the City to the satisfaction of the Director of Public Works.

7. **Waste Water Disposal**

The Developer shall, at his sole cost, connect any building on the Land to the wastewater system of the City of Round Rock.

8. **Water**

The Developer shall connect any building on the Land to the City of Round Rock water supply system.

9. **Setback**

Minimum building setbacks shall be provided as follows:

- A. Fifty (50') feet from the southern property line.
- B. Twenty (20') feet from all other property lines.

10. **Fence**

The developer shall erect a six (6) foot (minimum) security fence, with poles set in concrete, along the boundary between the lands and Chisholm Valley Park.

11. **Buffer**

A fifty (50') foot landscaped buffer strip shall be maintained along the southern boundary of the land. Such buffer shall retain all native trees and major shrubs with a caliper size of two (2) inches or greater. This area shall not be used for any other purpose.

12. **Parking**

Parking shall be provided at the ratio of one parking space per 2000 square feet of gross floor area unless an alternate parking standard is approved by the Director of Planning and Community Development, in accordance with Chapter 11 of the Code of Ordinances.

13. **Height**

No building or structure shall exceed thirty (30) feet in height.

14. **Zoning Conformity**

For zoning purposes other than those specifically addressed in this agreement

the land shall conform to the provisions of Chapter 11 of the Code of Ordinances of the city which pertain to the District C-1 (General Commercial) Zoning District.

15. Access

Access is provided by a twenty foot (20') wide easement provided by the License Agreement from the adjacent Railroad west to Bellview Drive as documented in Exhibit B attached hereto. All access driveways shall be constructed of railroad ballast rock or similar material, approved by the Director of Public Works. Road shall be an all weather road capable of carrying emergency vehicles. All access driveways shall be constructed on access easements described above. The developer shall erect a four foot (4') security fence with poles set in concrete along the boundary of the access easement and the Chisholm Valley Park. Driveways and fences shall be completed prior to the issuance of an occupancy permit for the proposed development.

16. Texas Water Commission

The Developer shall meet any requirements of the Texas Water Commission as a condition of Development.

17. Vehicles

Daily commercial vehicle trips to the site shall be limited to a maximum size of 3/4 ton vans or trucks and the number of commercial vehicle trips entering and leaving the site shall be limited to twenty vehicles per day. This restriction does not prohibit the occasional delivery of supplies by vehicles up to 1.5 tons no more often than once weekly. All dual axle vehicles shall be prohibited from making routine pickup or deliveries to the site. Commercial vehicles making deliveries to or from the site shall be prohibited between the hours of 10:00 P.M. and 6:00 A.M. daily.

18. Outdoor Storage

Outdoor storage of materials shall be restricted as a conditional use and regulated by the Development Review Board in accordance with Chapter 11 Code of Ordinances. No storage of compost, fertilizers, or soil which would result in objectionable odors in the adjacent residential subdivision or park shall be permitted.

19. **Incorporation**
Exhibits "A" and "B" hereinbefore referred to are hereby incorporated into and made part of this Agreement.

20. **Ordinances**
Except as provided in this contract, the Land shall be used and developed strictly in compliance with the Code of Ordinances of the City.

21. **Representation**
It is understood and agreed that the City has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with the Developer other than those in this Contract.

22. **Recordation**
This Agreement shall be construed as running with the Land and shall be recorded in the Williamson County Official Deed Records.

23. **Recording Fees**
The Developer agrees to pay all costs related to the recording of this Agreement. This Agreement shall be deemed the "Development Plan" referred to by the Code of Ordinances.

24. **Interpretation**
Whenever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.

25. **Binding**
This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the said parties to this Agreement have hereunto set their hands and seals the day and year first above written.

CITY OF ROUND ROCK, TEXAS

BY: *Charles Culpepper*
Charles Culpepper, Mayor

ATTEST:

Joanne Land
JOANNE LAND, City Secretary

DATE: _____
TM&M Partnership

BY: *Mike Robinson*
Mike Robinson, Partner

DATE: _____

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

This instrument was acknowledged before me on the ____ day of _____, 1994
by Charles Culpepper, Mayor of the City of Round Rock, Texas.

Notary Public, State of Texas

Commission Expires: _____

Name Printed: _____

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

This instrument was acknowledged before me on the 9th day of May, 1994
by Mike Robinson, Partner, on behalf of said corporation.

Virginia M. Moreno
Notary Public, State of Texas

Commission Expires: _____

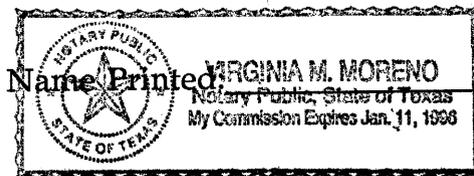


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ZONING CHANGE APPLICATION VOL. ~~2544~~ PAGE ~~0341~~
(Form A)

DATE: 4/5/94

To the City Council:

Bryan Byrd
(name of present owner)

By: Mike Robinson
(name of agent)

hereby make(s) application to the City Council of the City of Round Rock for change in zoning designation of the property described below:

FROM N/A District
(present zoning classification)

TO N/A District
(present proposed classification)

for the purpose of N/A
Land area of property to be rezoned: N/A

PROPERTY DESCRIPTION: Describe only the property to be rezoned using either metes and bounds or subdivision reference.
2.46 acres out of the Jacob M. Harrell Survey Survey.
(or)
Subdivision; Lot _____; Block _____.
(and/or)

Street Address (es) of the Property

Volume and Page of deed(s) which conveyed the property to the present owner:

Volume 86, Page 584, 2.46 acres.

Type of Ownership: Sole Owner; Community Property;
X Partnership; Corporation; Trust.

OWNER'S SIGNATURE B. L. Byrd
300 Hickok Court Austin, TX
(mailing address)
78753
(zip code)

AGENT'S SIGNATURE Mike Robinson
P.O. Box 2138 Round Rock, TX
(mailing address)
78680
(zip code)

TELEPHONE 512-255-7100

If ownership is other than sole or community property, name the partners, principals, beneficiaries, etc..... respectively:

- 1) Mike Brosie P.O. Box 2138 Round Rock, TX 78680 (partner)
(name) (position) (address) (zip code)
- 2) Tom Kroll (partner) P.O. Box 2138 Round Rock, TX 78680
(name) (position) (address) (zip code)
- 3) Mike Brosie (partner) P.O. Box 2138 Round Rock, TX 78680