

ORDINANCE NO. 2022-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING APPROXIMATELY 3 ACRES OF THE COMAL COUNTY JOINT VENTURE 2, LOT 2, COMAL COUNTY, TEXAS, ADDRESSED AT 4755 S IH 35 FROM “APD” AGRICULTURAL/PRE-DEVELOPMENT DISTRICT AND “M-1” LIGHT INDUSTRIAL DISTRICT TO “M-1A” LIGHT INDUSTRIAL DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of the “M-1A” Light Industrial District, the City Council has given due consideration to all components of said district; and

WHEREAS, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

WHEREAS, the requested rezoning is in accordance with Envision New Braunfels, the City’s Comprehensive Plan; and

WHEREAS, the City Council desires to amend the Zoning Map by rezoning approximately 3 acres of the Comal County Joint Venture 2, Lot 2, Comal County, Texas, addressed at 4755 S IH 35 from “APD” Agricultural/Pre-Development District and “M-1” Light Industrial District to “M-1A” Light Industrial District, **now, therefore;**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by rezoning the following described tract of land from “APD” Agricultural/Pre-Development District and “M-1” Light Industrial District to “M-1A” Light Industrial District:

Approximately 3 acres of the Comal County Joint Venture 2, Lot 2, Comal County, Texas, addressed at 4755 S IH 35 as described in Exhibit “A” and

delineated in Exhibit “B” attached.

SECTION 2

THAT all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 3

THAT all other ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 5

THIS ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this 24th day of January, 2022.

PASSED AND APPROVED: Second reading this 14th day of February, 2022.

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, Mayor

ATTEST:

CAITLIN KROBOT, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**Deed of Trust
(Security Agreement - Financing Statement - Fixture Filing)**

Effective Date: June 30, 2021

Grantor: Penny's Holdings, LLC (fee simple interest) and Johnny's Backyard, LLC (leasehold interest) *wrong address*

Grantor's Mailing Address: Penny's Holdings, LLC, ~~2603 Turkey Oak, San Antonio, Texas 78232~~ and Johnny's Backyard, LLC, ~~2603 Turkey Oak, San Antonio, Texas 78232~~

130412 FH 10 MARION FA 78124

Trustee: Mark A. Long

Trustee's Mailing Address: 1336 E. Court St., Seguin, Texas 78155

Lender: First Commercial Bank, N.A.

Lender's Mailing Address: 1336 E. Court St., Seguin, Texas 78155

ARTICLE I - DEFINITIONS

1.1 Definitions. As used herein, the following terms shall have the following meanings:

Agricultural Lien(s): Any claims, trusts, notices, liens, financing statements, or security interests in favor of an agricultural produce or livestock lien holder, agricultural product seller, lien or trust claimant or secured party arising by virtue of the Agricultural Lien Laws.

Agricultural Lien Laws: The Perishable Agricultural Commodities Act of 1930, as amended, ("PACA") 7 U.S.C. §499(a) et seq.; the Packers and Stockyards Act ("PASA") 7 U.S.C. §181, et seq.; the Food Security Act of 1985 ("FSA") 7 U.S.C. §1631, et seq.; Texas Property Code Section 70.401 et seq.; and any other federal or state statutory agricultural or other lien laws.

Anti-Terrorism Laws: Any and all present and future judicial decisions, statutes, rulings, rules, regulations, permits, certificates, orders and ordinances of any Governmental Authority relating to terrorism or money laundering, including, without limiting the generality of the foregoing, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Pub. L. No. 107-56); the Trading with the Enemy Act (50 U.S.C.A. App. 1 et seq.); the International Emergency Economic Powers Act (50 U.S.C.A. 1701-06); Executive Order No 13224 on Terrorist Financing, effective September 24, 2001 (relating to "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism") and the United States Treasury Department's Office of Foreign Assets Control List of "Specifically Designated National and Block Persons" (as published from time to time in various mediums, including, without limitation, at <http://www.treas.gov/ofac/t11sdn.pdf>).

Architectural Barrier Laws: Any and all architectural barrier laws including, without limitation, the Americans with Disabilities Act of 1990, P.L. 101-336, and the Architectural Barrier Act, Tex. Gov't Code § 469.001 et seq., as amended, or any successor thereto.

Borrower: Penny's Holdings, LLC.

Lender: The above-named Lender, and the subsequent holder or holders, from time to time, of the Note.

Lender's Agent: Grantor, for the purpose of collecting Rent, and applying Rent, as set forth in this Deed of Trust, which agency shall never be deemed to be that of trustee and beneficiary for any purpose, and which agency relationship cannot be terminated by Grantor so long as the Loan Documents are in effect.

CGL: The broadest available form of commercial general liability insurance (utilizing the then prevailing ISO form or an equivalent form acceptable to Lender in its sole discretion).

Charges: All fees, charges and/or other things of value, if any, contracted for, charged, received, taken or reserved by Lender in connection with the transactions relating to the Note and the Loan Documents, which are treated as interest under applicable law.

Code: The Uniform Commercial Code, as amended from time to time, in effect in the state of Texas.

Constituent Party: Any (i) general partner or managing member of Grantor, as applicable, or (ii) any signatory to this Deed of Trust that signs on Grantor's behalf that is a corporation, general partnership, limited partnership, limited liability company, joint venture, trust, or other type of business organization.

Contracts: All of the right, title, and interest of Grantor, including equitable rights, in, to, and under any and all (i) contracts for the sale and purchase of all or any portion of the Mortgaged Property, whether such Contracts are now or at any time hereafter

this Deed of Trust, such as paying delinquent ad valorem taxes, obtaining insurance, etc. Such Grantor is also liable for any other capacities in which such Grantor has executed documents in connection with the Loan, such as a guarantor.

EXECUTED as of the date first above written.

NOTICE OF INDEMNIFICATION: GRANTOR HEREBY ACKNOWLEDGES AND AGREES THAT THIS DEED OF TRUST CONTAINS CERTAIN INDEMNIFICATION PROVISIONS (INCLUDING, WITHOUT LIMITATION, THOSE CONTAINED IN SECTIONS 7.1(b) AND 8.4 HEREOF) WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION BY GRANTOR OF LENDER FROM CLAIMS OR LOSSES ARISING AS A RESULT OF LENDER'S OWN NEGLIGENCE.

Penny's Holdings, LLC

Jonathan David Valente
Jonathan David Valente, Manager

Johnny's Backyard, LLC

Jonathan David Valente
Jonathan David Valente, Manager

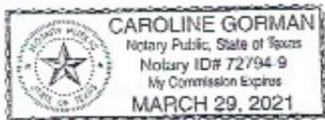
STATE OF TEXAS

§

COUNTY OF COMAL

§

This instrument was acknowledged before me on 30 June 2021 by Jonathan David Valente, Manager of Penny's Holdings, LLC on behalf of Penny's Holdings, LLC, a Texas limited liability company.



Caroline Gorman
Notary Public, State of Texas

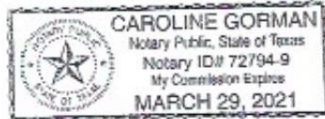
STATE OF TEXAS

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COUNTY OF COMAL

§

This instrument was acknowledged before me on 30 June 2021 by Jonathan David Valente, Manager of Johnny's Backyard, LLC on behalf of Johnny's Backyard, LLC, a Texas limited liability company.



Caroline Gorman
Notary Public, State of Texas

PREPARED IN THE OFFICE OF: Moore Ganske Murr pllc, 536 E. Court Street, Seguin, Texas 78155, (830) 386-3805
AFTER RECORDING RETURN TO: New Braunfels Title Company, 243 S. Seguin Avenue, New Braunfels, Texas 78130

LOT 2
COMAL COUNTY JOINT VENTURE
SUBDIVISION, UNIT NO. 2
A SUBDIVISION IN COMAL COUNTY, TEXAS
ACCORDING TO THE MAP OR PLAT THEREOF RECORDED
IN VOLUME 5, PAGE 264 MAP AND PLAT RECORDS
OF COMAL COUNTY, TEXAS

NOTE: SUBJECT TO COVENANTS, CONDITIONS, AND RESTRICTIONS LISTED IN SCHEDULE B, ITEM 10 F. OF THE HEREIN REFERENCED TITLE COMMITMENT.

NOTE: MAY BE SUBJECT TO DEED RESTRICTIONS AND/OR ADDITIONAL COVENANTAL, SUE DING, RECORDS MONITORING, AND/OR OTHER RESTRICTIONS.



THIS PROPERTY IS AFFECTED BY THE
50 YEAR FLOOD PLAIN AS PER FIRM
PANEL NO. 48091C 0445 F
MAP REVISION: 09-02-2005
TONE A
BASED ONLY ON VISUAL EXAMINATION OF MAPS.
INACCURACIES OF FEMA MAPS PREVENT EXACT
DETERMINATION WITHOUT DETAILED FIELD STUDY.

A SUBSURFACE INVESTIGATION
WAS BEYOND THE SCOPE OF THIS SURVEY

A.C.L. = DIRECTIONAL CONTROL LINE
RECORD BEARING: VOI 5 PG 284 MPRCCT

D.C.L. = DIRECTIONAL CONTROL LINE
 RECORD BEARING: VOL 5 PG 284 MPRCCT



D.C.L. = DIRECTIONAL CONTROL LINE
 RECORD BEARING: VOL 5 PG 284 MPRCCT

HEREBY CERTIFY THAT THIS SURVEY WAS MADE IN THE GROUND, THAT THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF SURVEY AND THAT THERE ARE NO ENCUMBRANCES APPARENT ON THE GROUND, EXCEPT AS SHOWN HEREON. THIS SURVEY IS CERTIFIED FOR THIS TRANSACTION ONLY AND ABSTRACTING PROVIDED IN THE ABOVE REFERENCED TITLE COMMITMENT WAS RELIED UPON IN PREPARATION OF THIS SURVEY.

PROFESSIONAL LAND SURVEYOR
NO. 4615
FOR NO. SA2021-01691

JOB NO. SA2021-01691
MAY 19, 2021

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96 FAX 281-4150
100 STREET SUITE 150 HOUSTON, TX 77057

281-950 TM

ALCOHOL
consumers

PRECISION
surveyors



EXHIBIT "B"