

ORDINANCE NO. 2021-01

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, GRANTING A SPECIAL EXCEPTION AND VARIANCE TO THE COMPREHENSIVE ZONING ORDINANCE OF THIS CITY TO ALLOW **24 HOUR OPERATIONS FOR CERTAIN BUSINESS USES AT THE NORTHEAST CORNER OF MERIDIANA PARKWAY AND THE HIGHWAY 288 ACCESS ROAD (GREEN VALLEY DRIVE), WEST OF SABER POWER LANE;** CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR CONFLICTS IN TERMS; AND PROVIDING A SAVINGS CLAUSE, A SEVERANCE CLAUSE, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

**SECTION 1.**

The City Council of the City of Iowa Colony, Texas ("the City") makes the following findings of fact and conclusions of law:

- a. After giving due regard to the nature and consideration of uses, structures, and the nature and condition of the City as a whole, and after considering all proper factors under applicable law, the City Council is of the opinion that this ordinance conforms to the requirements and intent of the Zoning Ordinance and the Comprehensive Plan of the City, and that this amendment will not constitute a nuisance or be detrimental to the public health, safety, morals, or welfare of the community.
- b. The health, safety, morals, and general welfare of the people of the City of Iowa Colony will best be served by the adoption of this ordinance.
- c. The Planning and Zoning Commission and the City Council each held a public hearing on this ordinance, and at least sixteen (16) days prior to the dates of those hearings, public notice of each such hearing was published once in the Alvin Sun, a newspaper of general circulation in and the official newspaper of the City, stating the date, time, place, and subject of those hearings.
- d. Notice of those public hearings and of the meeting at which this ordinance was passed was given in compliance with the Texas Open Meetings Act and all applicable law.
- e. The Planning and Zoning Commission has recommended approval of the application for this zoning action.
- f. All requirements of law have been satisfied concerning the passage and adoption of this ordinance.

## **SECTION 2.**

The City Council hereby ratifies and confirms any and all actions taken by the Mayor, Mayor Pro-Tem, City Manager, City Attorney, City Secretary, or any other personnel or representatives of the City in connection with this ordinance, any public hearings hereon, the notice of any public hearings or meeting concerning this ordinance, and any procedures concerning this Ordinance.

## **SECTION 3.**

**BACKGROUND:** Section 73(a) of the Zoning Ordinance prohibits businesses in a Business Retail District from being open between the hours of midnight and 5:00 a.m., but that ordinance authorizes the granting of a special exception.

The request in this instance is for a proposed convenience/gas station store to be located on the north side of Meridiana Parkway, east of State Highway 288, and west of Saber Power Lane. The proposed site is within the Meridiana PUD, and the approved Plan of Development indicates this site to be commercial. Proposed use north of the site is multi-family; to the east of the site are existing warehouses; to the south of the site is a proposed retail site; and to the west of the site is existing Saber Power, a light industrial use. The proposed site has frontage on Meridiana Parkway, a designated major arterial.

The proposed commercial use is located within a designated commercial area of the Meridiana Plan of Development and is adjacent to a High-Density Mixed Use (HDMU) area of the City of Iowa Colony Comprehensive Plan.

This site is correctly located for minimal impact to residential uses. This location at the intersection of a Super Arterial (State Highway 288) and a Major Arterial (Meridiana Parkway) will have significant 24-hour traffic and will best serve the region and the City of Iowa Colony by being open 24 hours a day, subject to compliance with applicable law.

## **SECTION 4.**

**a.** A variance and special exception are hereby granted to allow business operations 24 hours per day by a convenience store and gas station on the property at the northeast corner of Meridiana Parkway and the access road of Highway 288 (Green Valley Drive), west of Saber Power Lane.

**b.** This variance does not include all land or all businesses at the intersection quadrant described in subsection a. Rather, the location of this variance is limited to the site of the proposed convenience store and gas station, as shown on the map attached hereto and incorporated in full, and this variance does not include the locations of any other businesses, for example the retail space drawn to the west of the convenience store, regardless whether shown on the attached map.

## SECTION 5.

Subject to the amendments herein stated, the Comprehensive Zoning Ordinance and all prior amendments shall remain in full force and effect. Subject to the amendments herein stated, this ordinance is cumulative of and in addition to all other ordinances of the City of Iowa Colony on the same subject and all such other ordinances are hereby expressly saved from repeal.

## SECTION 6.

If any clause, phrase, provision, sentence, or part of this Ordinance, of whatever size, or the application of the same to any person or circumstance is ever for any reason adjudged invalid by a court of competent jurisdiction, then such invalidity shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid; and the City Council declares that it would have passed each and every part of this ordinance, notwithstanding the omission of any one or more such part or parts thus declared to be invalid.

## SECTION 7.

This ordinance shall become effective immediately upon its passage and adoption.

**PASSED AND ADOPTED on January 25, 2021.**

**CITY OF IOWA COLONY, TEXAS**

By: 

**MICHAEL BYRUM-BRATSEN,  
MAYOR**

**ATTEST:**



**KAYLEEN ROSSER, CITY SECRETARY**



**ATTACHMENT TO VARIANCE FOR 24 HOUR OPERATIONS**

**MAP MARKING LIMITED SITE OF VARIANCE**

