

CITY OF ROCKWALL

ORDINANCE NO. 10-34

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ROCKWALL, TEXAS, AS PREVIOUSLY AMENDED, SO AS TO GRANT A SPECIFIC USE PERMIT (SUP) TO ALLOW FOR A "CEMETERY/MAUSOLEUM" WITHIN THE (AG) AGRICULTURAL DISTRICT, SPECIFICALLY FOR THE REST HAVEN CEMETERY LOCATED AT 2720 SH 66, BEING APPROXIMATELY 41 ACRES AND COMPRISED OF TRACTS 1, 2-1, 2-3, 11-1, AND PORTIONS OF TRACTS 2 AND 11, ABSTRACT 72, W. M. DALTON SURVEY; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, a Specific Use Permit (SUP) has been requested by Dewayne Cain of Rest Haven to allow for a "Cemetery/Mausoleum" within the (AG) Agricultural district, specifically for the existing Rest Haven Cemetery located at 2720 SH 66 being approximately 41 acres and comprised of Tracts 1, 2-1, 2-3, 11-1, and portions of Tracts 2 and 11, Abstract 72, W. M. Dalton Survey, City and County of Rockwall, Texas, and more specifically described in Exhibit "A" attached hereto; and

**WHEREAS**, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall, in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall, have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally, and to all persons interested in and situated in the affected area and in the vicinity thereof, the governing body in the exercise of its legislative discretion has concluded that the Unified Development Code of the City of Rockwall should be amended as follows:

**NOW, THEREFORE**, BE IT ORDAINED by the City Council of the City of Rockwall, Texas:

**Section 1.** That the Unified Development Code of the City of Rockwall, as heretofore amended, be and the same is hereby amended so as to grant a Specific Use Permit allowing for a "Cemetery/Mausoleum" within the (AG) Agricultural district, specifically for the existing Rest Haven Cemetery located at 2720 SH 66, being approximately 41 acres and comprised of Tracts 1, 2-1, 2-3, 11-1, and portions of Tracts 2 and 11, Abstract 72, W. M. Dalton Survey, City and County of Rockwall, Texas, and more specifically described in Exhibit "A" attached hereto; and

**Section 2.** That the Specific Use Permit shall be subject to the conditions set forth in **Article V, Section 2.1, (AG) Agricultural District** of the City of Rockwall Unified Development Code (Ord. No. 04-38) as heretofore amended, as amended herein by granting of this zoning change, and as may be amended in the future, and that any new structures built within the boundary of the designated cemetery area shall be subject to the additional following additions:

1. Must adhere to all Engineering and Fire Department standards.
2. Maximum height of structures shall not exceed 36-ft in height.

3. Administrative site plan approval is required for any new structures built within the designated cemetery area.
4. The façade(s) of any new structure that are visible from a public street shall meet the General Commercial District standards of the Unified Development Code for materials and articulation within the designated cemetery area, unless otherwise approved by the Planning and Zoning Commission and City Council.

**Section 3.** That the official zoning map of the City be corrected to reflect the changes in zoning described herein.


**Section 4.** That all ordinances of the City of Rockwall in conflict with the provisions of this ordinance be, and the same are hereby repealed to the extent of that conflict.

**Section 5.** Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of TWO THOUSAND DOLLARS (\$2,000.00) for each offence and each and every day such offense shall continue shall be deemed to constitute a separate offense.

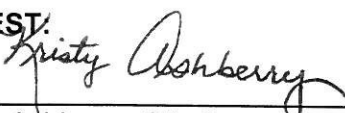
**Section 6.** If any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code No. 04-38 of the City of Rockwall, Texas, and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable.

**Section 7.** That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such cases provides.

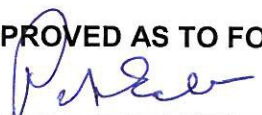
**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, this 6<sup>th</sup> day of December, 2010.**

  
William R. Cecil, Mayor

**ATTEST:**

  
Kristy Ashberry, City Secretary

**APPROVED AS TO FORM:**

  
Pete Eckert, City Attorney



1st Reading: 11-15-10

2nd Reading: 12-06-10

# Exhibit "A"

All that certain lot, tract or parcel of land situated in the WILLIAM DALTON SURVEY, ABSTRACT NO. 72, Rockwall County, Texas, and being all of REST HAVEN MEMORIAL PARK ADDITION, according to the Plat thereof recorded in Cabinet A, Slide 140 of the Plat Records of Rockwall County, Texas, and MEMORIAL GARDEN MAUSOLEUM IN REST HAVEN MEMORIAL PARK, according to the Plat thereof recorded in Cabinet C, Slide 333 of the Plat Records of Rockwall County, Texas, and being a part of a tract of land as described in a Warranty deed from T.D. Cain to E.V.S.R. (D), L.L.C., as recorded in Volume 3822, Page 110 of the Real Property Records of Rockwall County, Texas, and being all of a 13.251 acres tract as described in a Warranty deed from Dewayne and Ann Cain to Cain Cemetery Corporation, as recorded in Volume 771, Page 109 of the Real Property Records of Rockwall County, Texas, and being a part of a tract of land as described in a Deed from Buell C. Florence to Cain Cemetery Corporation, as recorded in Volume 4889, Page 301, of the Real Property Records of Rockwall County, Texas, and being all of a 5.00 acres tract of land as described in a Warranty deed from Buell C. Florence to Cain Cemetery Corp., dated August 8, 2005 and being recorded in Volume 4162, Page 42 of the Official Public Records of Rockwall County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod found for corner in the North right-of-way line of State Highway 66, at the Southeast corner of said REST HAVEN MEMORIAL PARK ADDITION;

THENCE S. 89 deg. 57 min. 09 sec. W. along said right-of-way line, a distance of 895.80 feet to a 1/2" iron rod found for corner at the southwest corner of said REST HAVEN MEMORIAL PARK ADDITION and being at the southeast corner of said 5.00 acres tract;

THENCE N. 89 deg. 56 min. 26 sec. W. a distance of 422.69 feet to a 1/2" iron rod with yellow plastic cap stamped "R.S.C.I. RPLS 5034" set for corner;

THENCE along a steel pipe fence as follows:

N. 00 deg. 01 min. 13 sec. E. a distance of 833.22 feet;  
S. 89 deg. 41 min. 34 sec. E. a distance of 131.17 feet;  
N. 00 deg. 07 min. 41 sec. E. a distance of 362.70 feet;  
S. 88 deg. 55 min. 20 sec. E. a distance of 54.67 feet;  
N. 00 deg. 21 min. 00 sec. E. a distance of 254.99 feet;  
S. 88 deg. 20 min. 13 sec. E. a distance of 230.35 feet;

THENCE along a wire fence as follows:

N. 33 deg. 57 min. 40 sec. E. a distance of 16.06 feet;  
N. 01 deg. 39 min. 57 sec. W. a distance of 73.22 feet;  
N. 85 deg. 41 min. 15 sec. E. a distance of 189.73 feet;  
S. 05 deg. 47 min. 37 sec. E. a distance of 197.64 feet to a point for corner in the north line of said 13.251 acres tract of land;

THENCE N. 88 deg. 03 min. 58 sec. E. along the north boundary line of said 13.251 acres tract, a distance of 682.42 feet to a 1/2" iron rod found for corner at its northeast corner;

THENCE S. 00 deg. 04 min. 20 sec. E. along the east line of said 13.251 acres tract and along the east line of said REST HAVEN MEMORIAL PARK ADDITION, a distance of 1369.33 feet to the POINT OF BEGINNING and containing 40.57 acres of land.

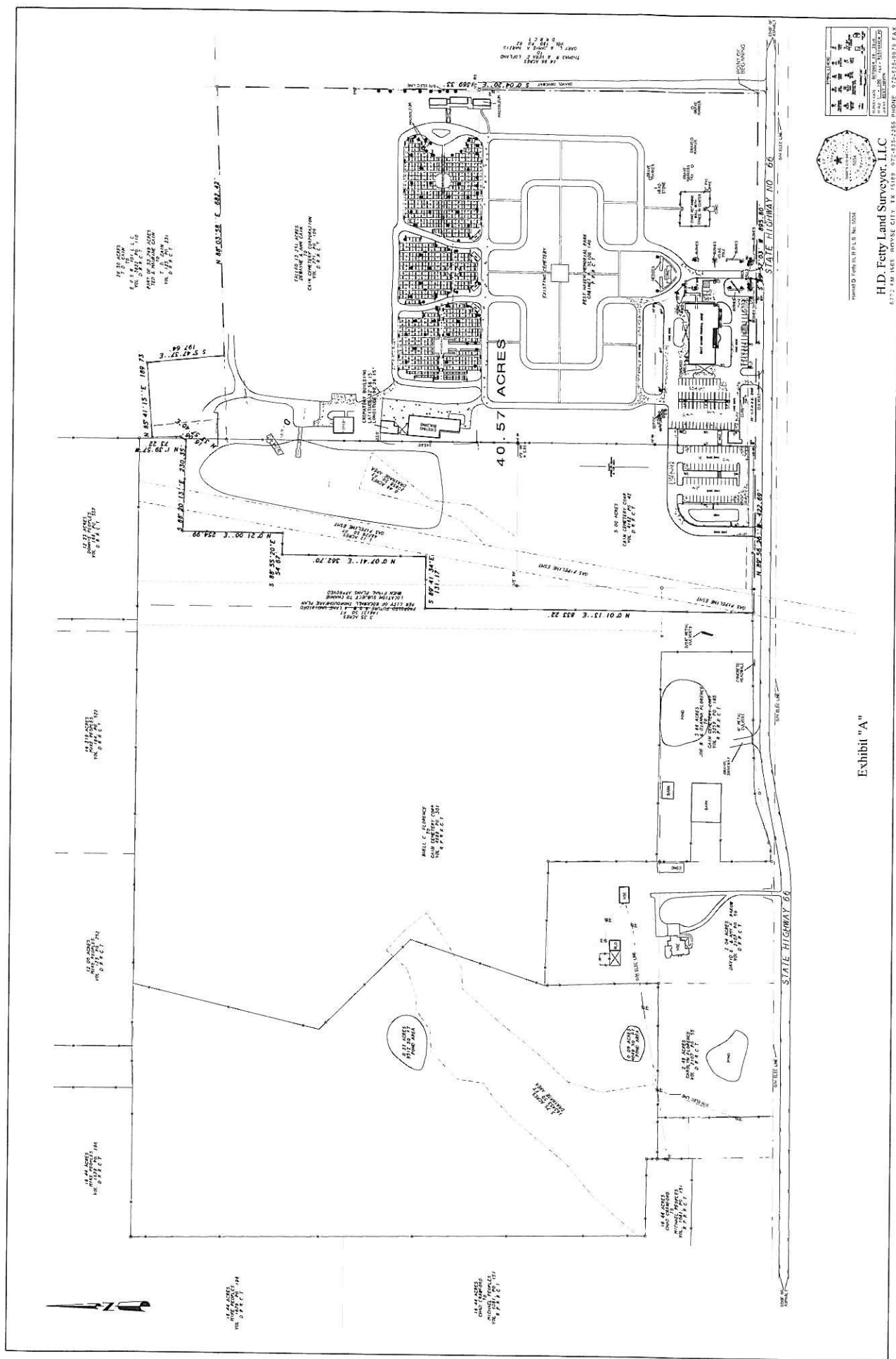
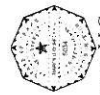


Exhibit "A"



H.D. Petty Land Surveyor, LLC  
1077 W. 10th Avenue, Suite 100, Fort Collins, CO 80521  
Phone: 970-225-2255 Fax: 970-225-2256

NO.	DATE	DESCRIPTION	BY	CHECKED
1	10/1/10	PRELIMINARY SURVEY	H.D. PETTY	
2	10/1/10	FINAL SURVEY	H.D. PETTY	
3	10/1/10	REVISION	H.D. PETTY	
4	10/1/10	REVISION	H.D. PETTY	
5	10/1/10	REVISION	H.D. PETTY	
6	10/1/10	REVISION	H.D. PETTY	
7	10/1/10	REVISION	H.D. PETTY	
8	10/1/10	REVISION	H.D. PETTY	
9	10/1/10	REVISION	H.D. PETTY	
10	10/1/10	REVISION	H.D. PETTY	