

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, PROVIDING AN ALTERNATIVE ENVIRONMENTALLY SENSITIVE AREA (ESA) PLAN FOR THE VILLAGES OF CARMEL PHASE 4, GENERALLY LOCATED ON THE NORTH SIDE OF POCKRUS PAGE ROAD, EAST OF MONTE VERDE DRIVE, AND WEST OF SWISHER ROAD, IN THE CITY OF DENTON, DENTON COUNTY, TEXAS; PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE. (ADP16-0001)

WHEREAS, Rod Zielke, on behalf of the property owner, Justin Bono, has applied for an Alternative Environmentally Sensitive Area Plan ("AESA Plan") for the Villages of Carmel Phase 4, an approximately 45 acre property generally located on the North side of Pockrus Page Road, East of Monte Verde Drive and West of Swisher Road in the City of Denton, Texas and particularly illustrated in Exhibit "A", attached hereto and incorporated herein by reference (hereinafter, the "Property"); and

WHEREAS, the purpose of the AESA Plan, attached as Exhibit "B" and incorporated herein, is to remove the Riparian Buffer ESA designation within the area illustrated as "Existing ESA" (Block F, Lot 10) in exchange for the preservation of trees within the area designated as "Tree Mitigation and Habitat Preserve" (Block 28, Lot 22); and

WHEREAS the stream in the Riparian Buffer ESA will soon disappear due to drainage improvements that will eventually eliminate any water runoff that currently feeds the stream and the ESA will naturally expire in the future; and

WHEREAS, the AESA Plan requires all qualifying tree inches removed from the Existing ESA to be mitigated through preservation of an equal or greater number of tree inches within the Tree Mitigation and Habitat Preserve in consideration of the early removal of the ESA designation; and

WHEREAS, the measurement of tree inches shall be calculated using the standards set forth in Subchapter 13 of the Denton Development Code; and

WHEREAS, for the purposes of this AESA Plan, the City of Denton's Urban Forester, or his/her designee, shall have the final determination as to which tree inches shall be deemed as qualifying; and

WHEREAS, the remainder of tree inches within the Tree Mitigation and Habitat Preserve not used for mitigation of the Existing ESA may be used towards meeting other Tree Code requirements for the development as to be determined; and

WHEREAS, on June 8, 2016, the Planning and Zoning Commission, in compliance with the laws of the State of Texas, have given the requisite notices by publication and otherwise, and

have held due hearings and afforded full and fair hearings to all property owners interested in this regard, and have recommended approval (7-0) of the AESA Plan; and

WHEREAS, on July 19, 2016, the City Council likewise conducted a public hearing as required by law, and finds that the request meets and complies with all substantive and procedural standards set forth in Section 35.3.4 of the Denton Development Code, and is consistent with the Denton Plan and the Denton Development Code;

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Denton, in considering the application for an Alternative Environmentally Sensitive Area Plan for the property, have determined that the proposed district is in the best interest of the health, safety, morals, and general welfare of the City of Denton, and accordingly, the City Council of the City of Denton is of the opinion and finds that said Plan is in the public interest and should be granted as set forth herein; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. The AESA Plan is attached as Exhibit "B" is hereby approved.

SECTION 3. The City's official ESA map is hereby amended to show the change in the ESA designation and classification.

SECTION 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by any court, such invalidity shall not affect the validity of the provisions or applications, and to this end the provisions of this ordinance are severable.

SECTION 5. Any person, firm, partnership or corporation violating any provision of this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by fine in a sum not exceeding \$2,000.00 for each offense. Each day that a provision of this ordinance is violated shall constitute a separate and distinct offense.

SECTION 6. That an offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Denton Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 7. In compliance with Section 2.09(c) of the Denton Charter, this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record-Chronicle, a daily newspaper published in the City of Denton, Texas, within ten (10) days of the date of its passage.

PASSED AND APPROVED this the _____ day of _____, 2016.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

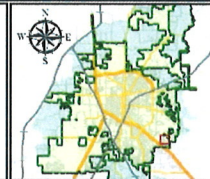
BY: Jennifer W. DeCunzio
Deputy City Attorney

EXHIBIT A

ADP16-0001 Site Location



- | | | | |
|--|---------|--|-----|
| | SITE | | COD |
| | Parcels | | ETJ |
| | Roads | | |



The City of Denton has prepared maps for departmental use. These are not official maps of the City of Denton and should not be used for legal, engineering or surveying purposes but rather for reference purposes. These maps are the property of the City of Denton and have been made available to the public based on the Public Information Act. The City of Denton makes every effort to produce and publish the most current and accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use, or its interpretation. Utilization of this map indicates understanding and acceptance of this statement.

EXHIBIT B

