

EXHIBIT 5

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, AMENDING THE TRANSPORTATION DESIGN CRITERIA MANUAL BY ADDING NEW SUBSECTION 1.3 ("GUIDELINES FOR PERIMETER STREET IMPROVEMENTS") AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance No. 2002-040, the City Council of the City of Denton, Texas adopted the Denton Development Code (the "Development Code"); and

WHEREAS, the Development Code established a process, whereby the policies, regulations, and procedures relating to zoning and development within the City and its regulatory extraterritorial jurisdiction are legislatively established by Council after public hearing, in accordance with State law, but specific design standards and methodologies are delegated to a staff of professionals possessing the licensure and expertise necessary and appropriate to establishing such standards and methodologies in the public interest, after consultation with their peers in both the public and private sectors, consistent with the policy direction of Council; and

WHEREAS, the Development Criteria Manual process was intended to benefit the public and the development community by empowering City professional staff to more quickly implement new and improved materials and methods as they are developed, in accordance with generally accepted design standards of the industry, as appropriate to achieving an equal or greater public benefit for cost expended, for issues not involving policymaking decisions; and

WHEREAS, the City Council had previously adopted by ordinance the Transportation Design Development Criteria Manual, which has subsequently been amended administratively in accordance with the Development Code; and

WHEREAS, the City Council had previously adopted Ordinance No. 2016-189, which established Roadway Impact Fees and provided that guidelines could be developed to administer the ordinance; and

WHEREAS, after providing notice and after conducting a public hearing as required by law, the City Council finds that these changes to the Transportation Design Criteria Manual are consistent with the Comprehensive Plan, and are in the public interest; **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 as true and as if fully set forth in the body of this ordinance.

SECTION 2. The Transportation Design Criteria Manual is hereby amended by adding a new Section 1.3 ("Guidelines for Perimeter Street Improvements"), which shall read as contained in Exhibit 'A.'

SECTION 3. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place and purpose of the meeting was given as required by law.

SECTION 4. This ordinance shall be cumulative of all other ordinances of the City of Denton and shall not repeal any of the provisions of those ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

SECTION 5. If any section, subsection, paragraph, sentence, clause, phrase, or word in this Ordinance, or the application thereof to any person or under any circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Denton, Texas, hereby declares it would have enacted such remaining provisions despite any such invalidity.

SECTION 6. Save and except as amended hereby, all the provisions, sections, subsections, paragraphs, sentences, clauses, and phrases of the Code of Ordinances shall remain in full force and effect.

SECTION 7. This ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this the 24th day of October 2017.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY:  _____

EXHIBIT ‘A’

AMENDMENT TO THE TRANSPORTATION DESIGN CRITERIA MANUAL

ADD NEW SUBSECTION 1.3 TO SECTION 1 – STREET DESIGN

1.3 GUIDELINES FOR PERIMETER STREET IMPROVEMENTS

1.3.1 Summary

These are guidelines for perimeter street improvement requirements for proposed developments under the Roadway Impact Fee Ordinance. These guidelines are intended to be general in nature, and in the event that these guidelines conflict with provisions of the Denton Development Code (“DDC”) or the Roadway Impact Fee Ordinance No. 2016-189 (the “Ordinance”), the provisions in the DDC and Ordinance will prevail over these guidelines.

1.3.2 Guidelines

The Roadway Impact Fee Ordinance No. 2016-189 became effective on July 5, 2016. The Ordinance authorizes staff to use its discretion to either (1) collect the roadway impact fee amount,¹ or (2) require perimeter street improvements for a development consistent with Subchapter 20 of the Denton Development Code.² The below guidelines define when perimeter street improvements will be required, with the cost of those improvements credited against the assessed roadway impact fee for the development.³ Credits will only be provided up to the amount of the assessed fee.⁴ The guidelines are as follows:

1.3.2.1 Level of Service

For any proposed development that would generate enough traffic to reduce the Level of Service below LOS D⁵ on an affected street, the development will be required to construct street capacity enhancements proportionate to the development’s impact. The Denton Development Code currently has a requirement for developments that generate 1,000 vehicle trips per day or 100 trips in a peak hour to submit a traffic study. Developments with this requirement will be required to evaluate the Level of Service for all affected streets to determine the development’s impact. If a development does not generate enough traffic to require a traffic study, then the existing traffic counts plus estimated trips from the current Trip Generation Manual will be used to determine the LOS impact. LOS is to be determined by the proposed development, with verification by the City Engineer.

¹ Some smaller developments are exempt from roadway impact fees. The exemption in Sec. 12.B of the roadway impact fee ordinance states, “[a] change in use that generates less than 10 times the number of Service Units attributable to the immediately preceding use is exempt from the payment of Impact Fees.” These developments will also be exempt from these perimeter street paving guidelines.

² If the development has 100 feet or less of frontage on the perimeter street, the development will not be required to improve the street. See DDC Sec. 35.20.2.L.4.

³ The fee is assessed and “locked in” at the time of the final plat recordation. The fee will not change unless there is an increase in service units. The fee is collected at the time the building permit is pulled.

⁴ Credits are given for facilities identified in the roadway impact fee Capital Improvements Plan, and for facilities (streets classified as a collector or above) that qualify to be included in the Mobility Plan, even if not currently depicted on the Mobility Plan map, where the City has entered into a Credit Agreement.

⁵ If the LOS is already below D, the development must improve the LOS to at least level D.

1.3.2.2 Safety

- a. For any proposed development that is adjacent to an affected perimeter street where the pavement width is less than 22 feet in width, the development will be required to widen the street to at least 25 feet in width (with a 2 in. minimum Type C asphaltic concrete overlay for asphalt pavements and without an overlay for concrete pavements) with appropriate transitions to the existing pavement; or
- b. If the adjacent affected perimeter street has a pavement width that is less than 22 feet wide and has an Overall Condition Index (OCI) of below 40, and the street is not scheduled to be reconstructed by the City's current Capital Improvements Program, then the development will be required to reconstruct the entire 25-ft width of the perimeter street to current City standards, which includes curb and gutter, in the ultimate location with appropriate transitions to the existing pavement. If the development is located adjacent to an affected perimeter street that would, in the City Engineer's opinion and discretion, be sufficient with reconstruction of a 24-ft width with no curb and gutter, then the development may be allowed to pursue this alternative standard.

1.3.2.3 Adjacent Curb and Gutter Improvements

For any proposed development that has an affected perimeter street which is improved to City standards with curb and gutter across from or immediately adjacent to the development, the development is required to construct the perimeter street improvements according to Subchapter 20 of the Denton Development Code by adding curb and gutter improvements and a maximum of 25-ft. width of additional pavement.

1.3.2.4 Alternate and Interim Roadway Sections

The City Engineer may allow an alternate or interim pavement section (including pavement type, width and thickness), based on the anticipated schedule for reconstruction of a roadway section, differences between existing and future roadway elevations, and other design factors applicable to the Perimeter Street segment.

1.3.4 City Participation

The City reserves the right to participate in the costs of improving the remainder of a perimeter street, if applicable, within its discretion, in accordance with the law, and in the event that adequate funding exists for such contribution.

1.3.4 Credits

Pursuant to Ordinance No. 2016-189, Section 14, The City may credit the contribution of land, improvements or funding for construction of any System Facility (collector street and above), required or agreed to by the City, toward the Roadway Impact Fees due for a development. Such credits are limited to the provisions of said Section 14 and the following guidelines:

1.3.4.1 For Right-of-Way

Right-of-way will be credited, at the Denton County Appraisal District appraised value prior to the beginning of the development process for the property, for only the area of right-of-way provided beyond the current maintained right-of-way limits and excluding right-of-way required for any development site-related improvements.

1.3.4.2 For Street Construction

Construction value will be credited at the total cost of the construction of the roadway and related appurtenances, based on competitive bids and less sidewalks and development site-related roadway or facility improvement, e.g., turn-lanes, acceleration/ deceleration lanes, etc. serving the development. The construction costs for the System Facilities must also be comparable to the costs of roadway improvements within the development and agreed on by the City Engineer. System Facilities may include perimeter or off-site roadway improvements.

1.3.4.3 Development Agreements Required

Any Credits allowed against Roadway Impact Fees for a development are to be included in a Development Agreement between the developer and City, with identification of "... the basis for and the method for computing and the amount of the Credit due and any reduction in Credits attributable to consumption of road capacity for developed lots or tracts served by the Roadway Capital Improvements." City participation in the costs of Perimeter Street Paving improvements requires approval of a Development Agreement between the developer and City by the City Council.

1.3.5 Appeal

An appeal to the City Council of City staff's determination of requirements for Perimeter Street Paving and related off-site roadway improvements may be filed by a property owner or the permit applicant, in accordance with the Denton Development Code, Section 35.3.12.E. An appeal of City Staff's determination of Credits may be filed by the property owner or applicant in accordance with Ordinance No. 1016-189, Section 21.