

ORDINANCE NO. 140

AN ORDINANCE AMENDING ORDINANCE NO. 138 RELATED TO THE ZONING OF AN APPROXIMATE 36 ACRE TRACT OF LAND DESCRIBED IN EXHIBIT "A" LOCATED AT 3554 RR 620 IN THE CITY OF BEE CAVE, TEXAS, WHICH LAND WAS ZONED PLANNED DEVELOPMENT DISTRICT-SINGLE FAMILY ATTACHED IN ACCORDANCE WITH THE MORNINGSIDE DEVELOPMENT AGREEMENT AND THE SECOND AND THIRD AMENDMENTS THERETO;AMENDING ORDINANCE 138 TO REPEAL SECTION 7 OF SAID ORDINANCE AND SUBSTITUTING NEW TRAFFIC CONTROLS RELATED TO CONSTRUCTION TRAFFIC AS DESCRIBED IN EXHIBIT "B" ATTACHED HERETO; PROVIDING FOR FINDINGS OF FACT, SEVERABILITY, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the Property described in Exhibit "A" attached hereto (the "Property") was zoned Planned Development District with a base zoning of Single Family- Attached in Ordinance No. 138;

WHEREAS, Section 7 of Ordinance No. 138 provided certain restrictions on the development of a portion of the Property related to construction of a roadway in order to better control construction vehicle access to the Property and limit adverse traffic impacts to adjoining neighborhoods;

WHEREAS, the Owners of the Property have determined that the restrictions set out in Section 7, of Ordinance No. 138 virtually prohibit access to the Property in order to construct the Project;

WHEREAS, the Owners of the Property have requested that the City consider alternative traffic control measures, described in Exhibit "B", attached hereto, to mediate adverse traffic impacts to adjoining neighborhoods in lieu of Section 7 to Ordinance 138;

WHEREAS, and the City finds that such proposed alternative traffic control measures provide a reasonable alternative to the restrictions set out in Section 7 of Ordinance No. 138;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

SECTION 1. Findings of Fact. All of the above premises are hereby found to be true and correct legislative and factual findings of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Amendment. Ordinance No. 138 is hereby amended to repeal Section 7 of said Ordinance in its entirety.

SECTION 3. Construction Traffic Controls. The construction traffic control measures

set out in Exhibit "B", attached hereto, are hereby approved in conjunction with construction of the Project and such traffic control measures shall be enforced as part of Ordinance 138 as if originally approved as part of said Ordinance.

SECTION 4. Except for Section 7, and any and all associated exhibits, terms and conditions set out in Ordinance No. 138 remain in full force and effect as originally adopted.

SECTION 5. Severability. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjusted or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of Chapter 32, Zoning, of the City of Bee Cave Code of Ordinances and Map as a whole.

SECTION 6. Effective Date. That this Ordinance shall take effect immediately from and after its passage.

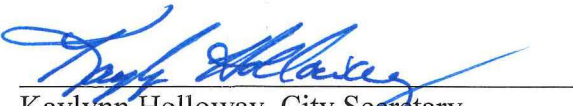
SECTION 7. Notice and Meeting Clause. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED by the City Council of the City of Bee Cave, Texas, on the 26th day of March, 2013.

CITY OF BEE CAVE, TEXAS

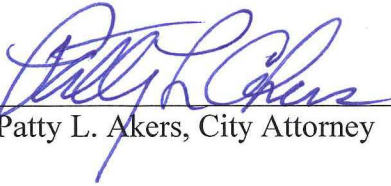

Caroline Murphy, Mayor

ATTEST:


Kaylynn Holloway, City Secretary

[SEAL]

APPROVED AS TO FORM:



Patty L. Akers, City Attorney

EXHIBIT "A"
PROPERTY DESCRIPTION

Owner is the fee simple owner of that certain tract of land containing approximately 35.733 acres legally described as LOT 1, BLOCK A, MORNINGSIDE SUBDIVISION, a subdivision in Travis County, Texas, according to plat recorded at Document No. 200900139 of the Official Public Records of Travis County, Texas (the "Property"), also described as Travis Central Appraisal District Property ID Number 785933.

EXHIBIT "B"
TO CITY OF BEE CAVE ORDINANCE NO 140

CONSTRUCTION AND TRAFFIC CONTROL MEASURES FOR MORNINGSIDE

Construction traffic shall be managed and conducted in accordance with the requirements set out herein. Reference is made to the Site Development Cont. Permit No. 07651, issued 12/11/2012, regarding the approval of construction and Phases of the Property.

- a. Developers shall during construction utilize off-duty Bee Cave police officers or Travis County Sheriff's deputies to assist with control of traffic along Falconhead Blvd. at any time that heavy trucks are needed to access the property or leave the property from Falconhead Blvd. This provision shall not apply to the incidental delivery of construction materials to the single-family Phase III property pursuant to paragraph h below.
- b. Developers shall attempt in good faith to negotiate alternative access to the property through the Home Depot property. If such access is granted, Developers shall utilize the Home Depot alternative access during construction in lieu of access from Falconhead Blvd. In such case, Falconhead Blvd. shall not be utilized by construction traffic related to the Morningside project.
- c. Developers shall include the traffic controls described herein in all contracts executed by each Developer involving construction activities on the property and shall provide for penalties in such contracts if the contractors or their subcontractors violate such provisions.
- d. Coincident with commencement of construction, Developers shall extend striping for two lanes of traffic on Falconhead Blvd. from RR 620 to the Phase I entrance.
- e. Developers shall post fiscal security with the City in an amount sufficient to cover any damages to Falconhead Blvd. caused by the construction traffic relating to the Property during the civil site construction of the Morningside project. The amount of the fiscal security shall be determined by the City in accordance with the City Engineer's estimate of the probable cost to repair.
- f. As soon as the RR 620 access point is constructed, the Multifamily Developer shall utilize the RR 620 access for all construction activity associated with construction of the multifamily portion of the project and the Single-family Developer shall utilize the same access for construction of the single family portion of the project, provided however, that once vertical construction of the multifamily portion commences, the Single-family Developer shall cease to use the RR 620 access and shall use the Phase I access from Falconhead Blvd. In the event that there is any construction related to utility trenching, paving operations, or similar construction within the RR 620 right of way or on Phase II that prevents access from RR 620, or poses a threat to life or safety, the Multifamily Developer and the Single-family Developer shall use the Phase I access from Falconhead Blvd.

g. The City shall not issue and Developers shall not be entitled to a final Certificate of Occupancy unless and until damage to Falconhead Blvd. caused by Morningside site construction traffic is repaired by Developer.

h. Multifamily Developer shall install a gate, fence or provide a person to block access to Phase II from Falconhead Blvd as soon as the access from RR 620 is constructed to assure compliance with these construction traffic requirements. Construction associated with the multifamily construction shall not utilize Phase I access to the property from Falconhead Blvd except, as allowed in paragraph f. Developer of the single family residential portion of the project is authorized to utilize Phase I as access for construction of the single family portion of the project when construction of the multifamily portion of the property begins vertical construction.

i. At commencement of Phase II construction, the Phase II Multifamily Developer will complete the excavation and build-up of the RR 620 access as a first priority. Thereafter the Phase II construction shall be conducted in accordance with these construction traffic requirements.

j. Multifamily Developer shall allow Single-family Developer access through the Phase II property to and from RR 620 and the Phase III property until such time as vertical construction activities commence, subject to the provisions and limitations of paragraph f above.

k. Developers shall include two new notifications in the traffic plan for Falconhead Boulevard.

i) Place signs adjacent to the currently required "Construction Zone" signs, on both the inbound and outbound directions of Falconhead Blvd., stating "No Construction Equipment or heavy trucks Allowed When School Buses are Present"; and

ii) Place signs at these same locations indicating that "Construction Vehicles May Not Block Roadway".