

ORDINANCE

AN ORDINANCE OF THE CITY OF DESOTO, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE CITY OF DESOTO, TEXAS, AS HERETOFORE AMENDED TO GRANT A CHANGE OF ZONING FROM SINGLE FAMILY-10 (SF-10) AND PLANNED DEVELOPMENT NO. 70 FOR SINGLE FAMILY TO PLANNED DEVELOPMENT NO. 102 FOR SINGLE FAMILY USES FOR 27.6 ACRES SOUTH OF PLEASANT RUN ROAD AND EAST OF WESTMORELAND ROAD AND BEING FURTHER DESCRIBED IN EXHIBIT "A"; PROVIDING DEVELOPMENT CONDITIONS; PROVIDING FOR THE APPROVAL OF THE SITE PLAN ATTACHED AS EXHIBIT "B"; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Planning and Zoning Commission of the City of DeSoto and the governing body of the City of DeSoto in compliance with the laws of the State of Texas, and the ordinances of the City of DeSoto, have given requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and in the exercise of its legislative discretion have concluded that the Comprehensive Zoning Ordinance and Map should be amended.

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

SECTION 1. That the Comprehensive Zoning Ordinance and Map of the City of DeSoto, Texas, duly passed by the governing body of the City of DeSoto on the 19th day of August, 1997, as heretofore amended, be, and the same are hereby amended to grant a change in zoning from Single Family-10 (SF-10) and Planned Development No. 70 for Single family Uses to Planned Development No. 102 for Single Family Uses for 27.6 acres south of Pleasant Run Road and east of Westmoreland Road in the City of DeSoto, Dallas County, Texas and being more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes.

SECTION 2. That the property shall be developed and used only in accordance with the following development conditions and deviations:

A. **Purpose.** The purpose of this Single Family Planned Development District is to amend the development conditions for two tracts described in Exhibit "A", Sheridan Parc.

- B. **Base Zoning District.** The property shall be used and developed in accordance with Singly Family SF-10 District Regulations of the Comprehensive Zoning Ordinance, except as otherwise provided herein.
- C. **Site Plan.** The Site Plan, attached hereto as Exhibit "B" and made part hereof for all purposes, is hereby approved.
- D. **Minimum Lot Size:** No lots can be less than 11,000 square feet, except the two (2) lots that adjoin Spinner Road shall be at least 35,000 square feet.
- E. **Minimum Dwelling Unit Size:** 2,200 square feet except for the two (2) lots that adjoin Spinner Road shall be 2,500 square feet.
- F. **Setback:** The front setback of the lots that adjoin Spinner Road shall be a minimum of seventy-five (75) feet.
- G. **Fencing.** The fencing along the eastern property line of Lot 27, Block A, cannot be placed in front of the dwelling that presently exists to the east. Any fencing installed along the western property line of Lot 26, Block A, may not be placed in front of the dwelling that presently exists to the west.

A wooden fence, being six feet in height with metal posts and cedar boards, be placed to the rear of Lots 18, 19, 20, 21, 23, 24, 25, 28, and 29, of Block A. This fence must be constructed by the developer before acceptance of the subdivision.
- H. **Alley waiver.** No alleys shall be required except that no front access shall be permitted for the lots that adjoin the existing alley as shown on the Site Plan, which shall be accessed from the alley.
- I. **Homeowners' Association Exclusion.** The two lots that front Spinner Road shall be excluded from the mandatory Homeowners Association.
- J. **Cul-de-Sac.** The lots on the cul-de-sac and knuckles may be less than eighty (80) feet in width at the building setback line, but not less than shown on the Site Plan.
- K. **Landscape Buffer.** A twenty-five (25) foot landscape buffer shall be installed along Pleasant Run Road consisting of wrought iron or tubular steel fence and live screening. A detailed landscape plan for the area adjoining Pleasant Run Road shall be submitted with the Preliminary Plat for the review and approval by the Planning and Zoning Commission.
- L. **Dedication of Right of Way.** Right-of-Way for Pleasant Run Road and Spinner Road, as shown on the Site Plan, shall be dedicated by the plat.

- M. **Trees.** A Tree Survey must be submitted to the Planning and Zoning Commission prior to the submittal of Construction Plans. The Tree Survey must identify all trees that are 6" calipers in size or greater. The survey must denote all trees that will be saved and the trees that will not be saved. All trees that are 6" caliper in size or greater that are removed must be replaced with trees equal to the caliper inch of the tree removed, excluding those trees removed from the proposed right-of-way. The replacement trees must be at least 2 ½ inch caliper in size and be container grown. The replacement trees are in addition to the Zoning Ordinance requirement of having two trees planted in the front of the lot, one in the rear and one on the side if the lot is a corner lot.
- N. **Maximum Number of Lots.** The maximum number of lots allowed in this development shall be seventy-six (76).
- O. **Homeowners' Association:**
1. A mandatory Homeowners' Association shall be established and created to assume and be responsible for the continuous and perpetual operation, maintenance and supervision of the open space and common properties as shown on the plat for the property including but not limited to the detention pond and landscape buffer.
 2. **Dedications to Homeowners' Association:** All open space and common properties that are to be operated, maintained and/or supervised by the Homeowners' Association shall be dedicated by easement or deeded in fee simple ownership interest to the Homeowners' Association after construction and installation as applicable by the Owner and shall be clearly identified on the record Final Plat of the property. The developer shall establish a reserve fund equivalent to at least two (2) months of the lot assessments for the maintenance of the common prior to the transfer of the common areas to the homeowners association
 3. **Approval:** A copy of the agreements, covenants and restrictions establishing and creating the Homeowners' Association must be approved by the City Attorney prior to the approval of the Final Plat of the subdivision and must be filed of record with said record plat in the Map and Plat Records of the County. The record Final Plat shall clearly identify all facilities, structures, improvements, systems, areas or grounds that are to be operated, maintained and/or supervised by the Homeowners' Association.

4. Contents of Homeowners' Association Agreements: At a minimum, the agreements, covenants and restrictions establishing and creating the Homeowner's Association required herein shall contain and/or provide for the following:
- a. Definitions of terms contained therein;
 - b. Provisions acceptable to the City for the establishment and organization of the mandatory Homeowners' Association and the adoption of by-laws for said Homeowners' Association, including provisions requiring that the owner(s) of any lot or lots within the applicable subdivision and any successive purchase(s) shall automatically and mandatorily become a member of the Homeowners' Association;
 - c. The initial term of the agreement, covenants and restrictions establishing and creating the Homeowners' Association shall be for a twenty-five (25) year period and shall automatically renew for successive ten (10) year periods, and the Homeowners' Association may not be dissolved without the prior written consent of the City;
 - d. Provisions acceptable to the City to ensure the continuous and perpetual use, operation, maintenance, and/or supervision of all facilities, structures, improvements, systems, open-space or common areas that are responsibility of the Homeowners' Association and to establish a reserve fund for such purposes;
 - e. Provisions prohibiting the amendment of any portion of the Homeowners' Association's agreements, covenants or restrictions pertaining to the use, operation, maintenance and/or supervision of any facilities, structures, improvements, systems, areas or grounds that are the responsibility of the Homeowners' Association without the prior written consent of the City.
 - f. The right and ability of the City or its lawful agents, after due notice to the Homeowners' Association, to remove any landscape systems, features or elements that cease to be maintained by the Homeowners' Association; to perform the responsibilities of the Homeowners' Association and its Board of Directors if the Homeowners' Association fails to do so in compliance with any provisions of the agreements, covenants or restrictions of the Homeowners' Association or of any applicable city codes or regulations; to assess the Homeowners' Association for all costs incurred by the City in performing said responsibilities if the Homeowners' Association fails to do so; and/or to avail itself of any other enforcement actions available to the city pursuant to State law or City codes or regulations; and

- g. Provisions indemnifying and holding the City harmless from any and all costs, expenses, suits, demands, liabilities or damages, including attorney's fees and costs of suit, incurred or resulting from the City's removal of any landscape systems, features or elements that cease to be maintained by the Homeowners' Association or from the City's performance of the aforementioned operation, maintenance or supervision responsibilities of the Homeowners' Association due to the Homeowners' Association's failure to perform said responsibilities.

SECTION 3. That all provisions of the ordinances of the City of DeSoto in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of DeSoto not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. That the above property shall be used only in the manner and for the purpose provided for by the Comprehensive Zoning Ordinance of the City of DeSoto, as heretofore amended, and as amended herein.

SECTION 5. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.


SECTION 7. An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 8. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of DeSoto, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand (\$2,000.00) Dollars for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 9. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provides.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
DE SOTO, TEXAS, THE 16th DAY OF March, 2004.

APPROVED:



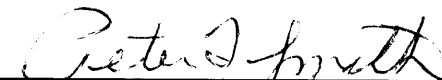
Michael B. Hurtt, Mayor

ATTEST:



Anell Shipman, City Secretary

APPROVED AS TO FORM:



Peter G. Smith, City Attorney
(PGS/tc 2/14/04) (63018)

EXHIBIT "A"**LEGAL DESCRIPTION**

BEING a tract of land out of the ZEBEDEE HEATH SURVEY, ABSTRACT No. 562, located in the City of Desoto, Dallas County, Texas, being all of Lot 1 and part of Lot 2, Heath Creek Estates, an addition to the City of Desoto, as recorded in Volume 80238, Page 2316, Dallas County Deed Records, also being all of that tract of land conveyed to William and Betty Coggins, as recorded in Volume 2000220, Page 1500, Dallas County Deed Records, and being more particularly described as follows;

BEGINNING at a point in the south line of Pleasant Run Road, said point being the northwest corner of said Lot 1, also being the southeast corner of a 0.197 acre tract of land conveyed to the City of Desoto as shown on the plat of Westmoreland Junior High Addition recorded in Volume 86114, Page 2332, Dallas County Deed Records:

THENCE North 89 degrees 54 minutes 37 seconds East, 327.72 feet along the south line of said Pleasant Run Road to a point for corner, said point being the northeast corner of said Lot 1, and in the west line of said Coggins tract:

THENCE North 01 degrees 57 minutes 28 seconds West, 20.01 feet to a point for corner, said point being the northwest corner of said Coggins tract, and in the south line of said Pleasant Run Road:

THENCE North 89 degrees 58 minutes 02 seconds East, 328.00 feet along the south line of said Pleasant Run Road to a point for corner, said point being the northeast corner of said Coggins tract, and said point being the northwest corner of Morris Manors Addition, an addition to the City of Desoto, as recorded in Volume 73007, Page 533, Dallas County Deed Records:

THENCE South 01 degrees 47 minutes 58 seconds East, 2130.20 feet along the east line of said Coggins tract to a point for corner, said point being the southeast corner of said Coggins tract and the southwest corner of tract of land conveyed to William and Susan Leftwich, as recorded in Volume 88045, Page 1451, Dallas County Deed Records, and said point being in the north line of Spinner Road:

THENCE South 89 degrees 13 minutes 02 seconds West, 322.00 feet along the north line of Spinner Road to a point for corner, said point being the southwest corner of said Coggins tract:

THENCE North 01 degrees 57 minutes 28 seconds West, 540.59 feet along the west line of said Coggins tract to a point for corner, said point being the northeast corner of Lot 2A, Replat of Lot 2 in Heath Creek Estates, an addition to the City of Desoto, as recorded in Volume 84160, Page 6700, Dallas County Deed Records:

THENCE South 88 degrees 57 minutes 23 seconds West, 323.38 feet to a point for corner, said point being the northwest corner of Lot 3, in the Heath Creek Estates Addition, an addition to the City of DeSoto, as recorded in Volume 2316, Page 80238, Dallas County Deed Records:

THENCE North 02 degrees 06 minutes 38 seconds West, 1579.53 feet along the west line of said Lot 2 and the west line of said Lot 1 to the POINT OF BEGINNING and containing 1, 205, 915 square feet or 27.684 acres of land:

EXHIBIT B

