

REGULAR MEETING OF THE CITY OF ALVARADO CITY COUNCIL
104 W. COLLEGE
December 14, 2020
6:30 P.M.

AGENDA

The City Council of the City of Alvarado will meet in a Regular Called Session on Monday, December 14, 2020 at 6:30 p.m. by videoconferencing. An electronic copy of the agenda packet has been made available on the City's website and a recording of the meeting will be made available at: <https://us02web.zoom.us/j/98967890821>. Meeting ID Number 989 6789 0821. Passcode: 556575

THE CITY COUNCIL INTENDS TO PARTICIPATE IN THE MEETING VIA VIDEOCONFERENCE.

Members of the public may dial the following number to join the meeting starting at 6:30 p.m.: 1-346-248-7799 (Houston) 1-669-900-6833 (San Jose). Please email the City Secretary at thomassd@cityofalvarado.org if you plan to provide public hearing comments during the meeting and indicate which item you would like to comment on. The speaking list will be called at which time you will be provided an opportunity to comment. You are encouraged to email your public hearing comments to the City Secretary at: thomasd@cityofalvarado.org, any comments submitted will be read aloud during the respective public hearing.

CALL TO ORDER- Roll Call

INVOCATION

CITY MANAGERS REPORTS:

Christmas Parade and City Square
Bond update

CONSENT AGENDA:

- A. Minutes from the regular called meeting on November 16, 2020.
- B. Minutes from the Special Called Meeting on December 7, 2020.

1. Public Hearing and consideration and action regarding a request for a zoning change for 51.23 acres out of the J. Dixon Survey, Abstract No. 214 and the J. M. Ross Survey, Abstract No 737, Alvarado, Johnson County, Texas, from an SF-1 (Single Family) to a PD (Planned Development) zoning district.

Regular Council Meeting

Agenda

December 14, 2020

Page Two

2. Consideration and action regarding a preliminary plat for 51.23 acres out of the J. Dixon Survey, Abstract No. 214 and the J. M. Ross Survey, Abstract No 737, Alvarado, Johnson County, Texas.
3. Consideration and action regarding appointment of members to the Planning and Zoning Commission.
4. Consideration and action regarding an ordinance amending Section 38 of the Alvarado Code of Ordinances by adding 38-51 (4) to authorize the erection of a stop sign at the intersection of South Friou and East Davis Streets; providing that this ordinance shall be cumulative; providing a penalty clause; providing for publication in the official newspaper; and providing an effective date.
5. Consideration and action regarding a request for a variance to Ordinance Number 2018-014 "Sex Offenders".
6. Consideration and action regarding date change for January 2021 regular meeting due to holiday.

EXECUTIVE SESSION

Pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code executive session may be held under one or more of Sections 551.071, 551.073, 551.074, 551-.76, 551.087, 413.183(f) and 418.106(d) & (e), either at the end of The Regular Session or at any time during the meeting on any item on the agenda if a need rises for the City Council to seek advice from the City Attorney or otherwise convene in closed session as permitted by such sections of the Open Meetings Act. The City Council may take action on any agenda item listed for executive session consideration upon reconvening in open session. Please refer to agenda for the items posted.

- a. §551.071 Consultation with Attorney The City Council may convene in Executive Session to conduct a private consultation with its Attorney on any legally posted agenda item, when the City Council seeks the advice of its Attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the Attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provision of Chapter 551, including the following items:

1. Any posted item on the agenda.

- b. §551.072 Deliberation regarding real property. A governmental body can conduct an executive session to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

1. Real Estate on the Square.

- b. §551.073 Personnel Matters. A governmental body may conduct an executive session to discuss matters dealing with individual officers or employees. They may deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or hear a complaint or charge against an officer or employee.

1. City Council.

7. Consideration and action regarding items discussed in Executive Session.

COUNCIL COMMENTS

Pursuant to LGC Section 551.0415, City Council Members may make a report about items of Community interest during a meeting of the governing body without having given notice of the report. Items of community interest include:

- * Expressions of thanks, congratulations, or condolence;
- * Information regarding holiday schedules;
- * An honorary or salutory recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of the person's public office of public employment is not an honorary or salutory recognition for purposes of this subdivision;
- * A reminder about an upcoming event organized or sponsored by the governing body;

Information regarding a social, ceremonial, or community event organized or sponsored by an entity Other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

8. Adjourn.

ACCESSIBILITY STATEMENT

The Alvarado City Hall and Council Chamber are wheelchair accessible. The exit and parking ramps are located in the front of the building. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 817-790-3351, FAX: 817-783-7925, e-mail:. Please call at least two (2) working days prior to the meeting so that appropriate arrangements can be made.

NON-DISCRIMINATION STATEMENT

The City of Alvarado does not discriminate on the basis of race, color, national origin, sex, religion, or disability in the employment or the provision of services. I, the undersigned authority do hereby certify that the above Agenda was posted on the city's website at :<https://www.cityofalvarado.org> on this the 11th day of December, 2020 and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Debbie Thomas, TRMC
City Secretary

CITY OF ALVARADO

APPLICATION FOR ZONING CHANGES

DATE: 11/4/2020 CLERK: Dana FEE: 1424.60 CASE NO: 2021-0057

NAME OF APPLICANT: Clint Vincent PH: (972) 839-3882

MAILING ADDRESS: 1050 E. Hwy 114, Suite 210 Southlake, TX 76092

APPLICANT IS THE: OWNER / LEASER (PURCHASER) OF THE PROPERTY.

NAME OF OWNER: Texas A+M Trust PH: (817) 980-9141

MAILING ADDRESS: P.O. Box 673 Alvarado Tex 76009

STREET ADDRESS OF PROPERTY: N/A ACREAGE: 51.23

LEGAL DESCRIPTION: 51.23 acres out of the J. Dixon Survey, Abstract 214, and J. M. Ross Survey, Abstract 737, Johnson County Texas

PRESENT ZONE OF PROPERTY: SF-1 PRESENT USE: Agricultural

REQUESTED ZONE: PD PROPOSED USE: Single-Family Development

REASON FOR CHANGE: Development of Single-Family Subdivision

USAGE OF ADJACENT PROPERTY NORTH: SF-1

SOUTH: C-2

EAST: SF-1

WEST: C-2

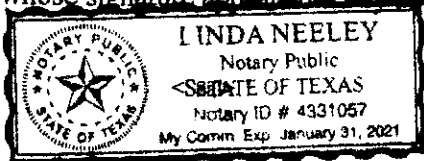
NOTE: If the property can be identified by the subdivision or addition please include that with the lot and block numbers as the legal description. You must also attach a copy of the appropriate portion of the subdivision or addition plat with the subject property clearly indicated on it. If property is not part of a subdivision or addition plat, give the complete metes and bounds description of the property and indicate the location of said property by identifying one or more adjacent tracts and/or rights-of-way or attach a surveyor's plat of the property.

APPLICANT'S SIGNATURE: Clint Vincent

The undersigned hereby, on oath, states that he or she is the record owner of the property for which this application is made.

OWNER: Texas A+M Trust John Reinhold Trustee

SWORN TO AND SUBSCRIBED before me this 5th day of November, 2020, by the person whose signature appears directly above.



Linda Neeley
Notary Public in and for The State of Texas.
My Commission expires _____

SUNSET RIDGE

PD DEVELOPMENT STANDARDS

- I. Purpose and Intent. The purpose of this Planned Development district is to allow for the development of the Sunset Ridge residential community.
- II. Permitted Uses.
 - a. Uses are permitted in accordance with Section 42-22 of the Zoning Ordinance.
 - b. Model homes associated with the sale of single family residences are permitted on the Property until all single family residences are occupied. Temporary sales offices (ie. Trailers) are allowed only until model homes are built and certificate of occupancy is issued.
- III. Single Family uses.
 - a. For purposes of applying provisions in the Zoning Ordinance, single family uses shall be considered to be in a Single Family SF-2 District.
 - b. This Section III shall apply to all single family uses, as well as temporary model homes except as noted in the PD ordinance.
 - c. Permitted uses shall be as defined in Section 42-22 of the Zoning Ordinance.
 - d. Area and height Regulations.
 - i. See Table 1 for area and height regulations.
- IV. Landscaping. See Article 42-839 of the Zoning Ordinance.
- V. Planned Development District Design Standards. All of the standards associated with Section 42-22 (SF-2 Single-Family Residential District) shall apply except as amended herein (Table 1).

TABLE 1
AREA, SETBACK, HEIGHT AND COVERAGE REGULATIONS

Zoning District	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Front Setback	Side Setback*	Rear Setback	Height Limit	Max. Ground Coverage**	Min. Principal Dwelling Size	Max. Density
	(Square Feet)	(at front building line ft.)	(average linear feet)	(Linear feet)	(Linear feet)	(Linear Feet)	(linear feet)	(% of Lot)	(square feet)	DU/Acre
SF-2	6,000	50	100	20	5/10	10	35	50/55	1,500 SF	6.0

* The first number in the column is the required setback for a side yard not abutting a street; the second number is the required setback for a side yard abutting a residential street.

** The first number in the column refers to coverage by primary buildings; the second number refers to coverage by all buildings.

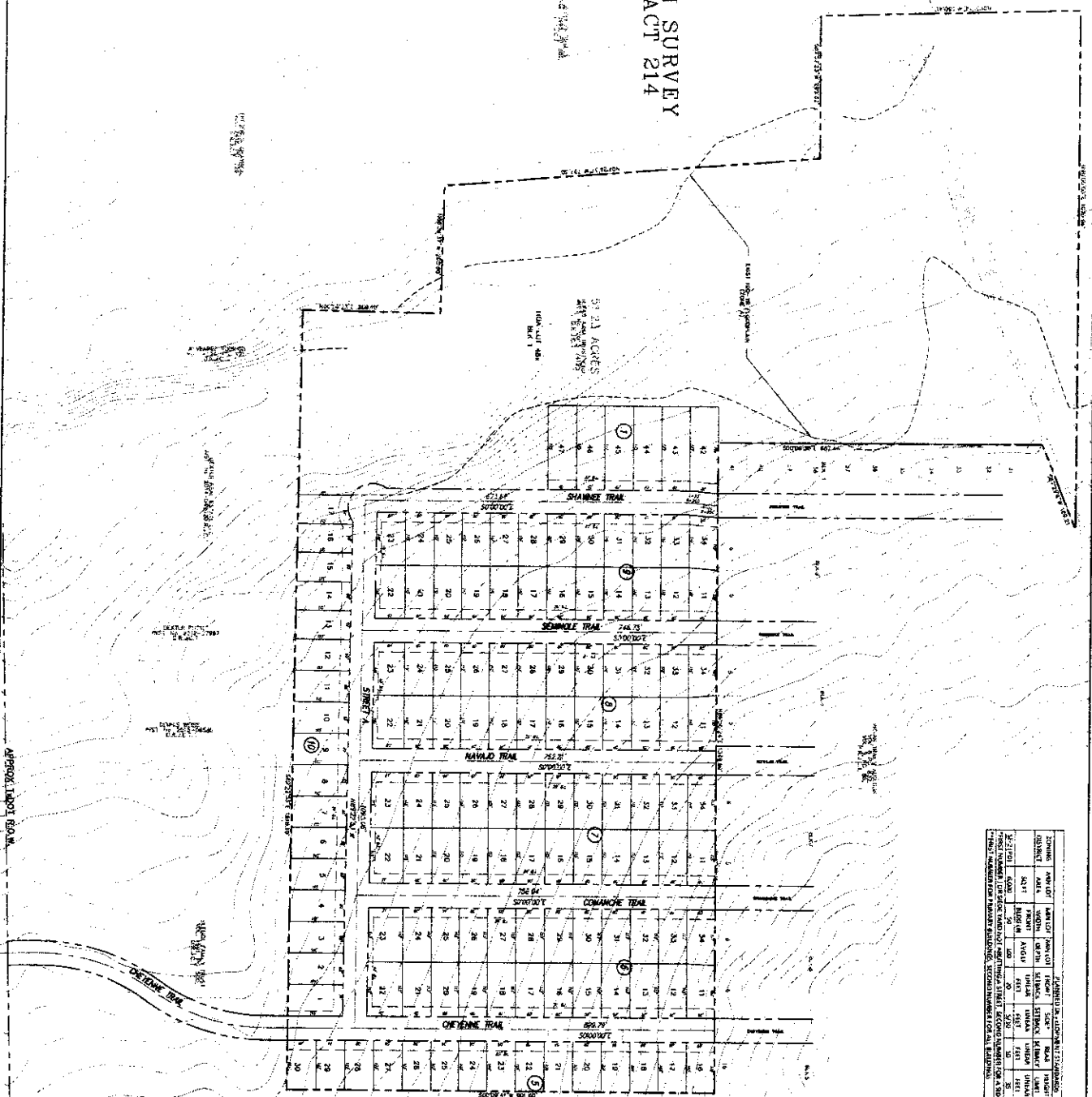
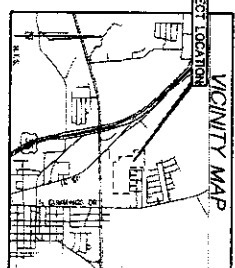
This chart is not complete for all districts and uses. See district regulations (article III of this chapter) for additional regulations.

VI. Development Plan. Development of the Property shall comply with the attached as Exhibit "B" to this Ordinance. Inclusion of the Development Plan to this ordinance shall satisfy sections 42-35 of the Zoning Ordinance. The residential layout contained in the Development Plan may be amended through the preliminary and final plat process without the need to amend this Ordinance.

VII. Amendments to the Planned Development Ordinance. If the City receives an application to rezone only a portion of the Property, the City shall consider the rezoning request for that portion and shall leave the zoning for the remainder of the Property unchanged.

VIII. Timing of Certain Improvements.

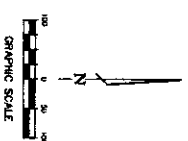
- a. Construction permits for site improvements may be issued prior to formal plan approval at the discretion of the City Manager.
- b. Model homes may be constructed prior to City acceptance of improvements upon approval of the City Manager.

J. DIXON SURVEY
ABSTRACT 214[illegible]

LOT YIELDS	
PAUSE 1. PROCEED AT 100 LBS	117 LBS
PAUSE 1. PROCEED AT 100 LBS	117 LBS
PAUSE 1. PROCEED AT 100 LBS	117 LBS

[illegible]

DECEMBER



DEVELOPMENT PLAN FOR
SUNSET RIDGE
51.23 ACRES SITUATED IN THE J. DIXON SURVEY, ABSTRACT
NO. 214, AND J.M. ROSS SURVEY, ABSTRACT 737,
JOHNSON COUNTY, TEXAS

ALVARADO, TEXAS
NOVEMBER 4, 2020

OWNER	DEVELOPER	ENGINEER/SURVEYOR
REAS AMI INDUST ERM P.O. BOX 6713 ALBUQUERQUE, NM 80000-0673 817-880-9161	ACCOUNTED HOMES, L.P. 10500 E. HWY 14, SUITE 210 SOUTH PLAINS, TEXAS 75082 817-418-1532	READE HALL AND PERKINS, INC. 5237 N. WINTERBURN DR. SUITE 100 FORT WORTH, TEXAS 76114 (817) 338-5713

CONTACT: SAMUEL P. MANNING, P.E.

EXHIBIT "B"

This Petition is to reflect residents that are not favor of " The request for a Zoning change for 51.23 acres out the J. Dixon Survey , Abstract No. 214 and the J.M Ross Survey, Abstract No. 737, Alvarado, Johnson County, Texas. from an SF-1(Single Family) to a PD (Planned Development) zoning district."

1. Name /Resident (Print) Michael Fields Address/housing Addition Indian Trails
122 Cherokee Trail Signature date 12-6-2020
1. Name /Resident (Print) Pamela Fields Address/housing Addition Indian Trails
122 Cherokee Trails Signature date 12-6-2020
2. Name /Resident (Print) Donna Awan S Address/housing Addition Indian Trails
204 Shawnee Trail Signature date 12/6/2020
3. Name /Resident (Print) M. L. Gilk Address/housing Addition Indian Trails
1224 Cheyenne Tr Signature date 12-6-2020
4. Name /Resident (Print) Lara Glibson Address/housing Addition Indian Trails
204 Cheyenne Tr Signature date 12-6-2020
5. Name /Resident (Print) Helen Palmer Address/housing Addition Indian Trails
209 Cheyenne Tr Signature date 12-6-2020
6. Name /Resident (Print) SEAN SCHWEITZER Address/housing Addition Indian Trails
207 Cheyenne Signature date 12-6-2020
7. Name /Resident (Print) Mon Address/housing Addition Indian Trails
201 Cheyenne Signature date 12-6-2020
8. Name /Resident (Print) Teresa Menden Address/housing Addition Indian Trails
206 Cheyenne Signature date 12-6-2020
9. Name /Resident (Print) Rick Hensley Address/housing Addition Indian Trails
103 Apache Signature date 12-6-2020
10. Name /Resident (Print) Sarah Fowler Address/housing Addition Indian Trails
124 Apache Trail Signature date 12/6/2020
11. Name /Resident (Print) Jason Fowler Address/housing Addition Indian Trails
124 Apache Trail Signature date 12/6/2020
12. Name /Resident (Print) Address/housing Addition Indian Trails
 Signature date

13. Name /Resident (Print) Bridget Praytor Address/housing Addition Indian Tr.
202 Shawnee Signature date Bridget Praytor 12.6-20
14. Name /Resident (Print) MARY E Frye Address/housing Addition
11 Shawnee Trl Signature date Mary E Frye INDIAN TRAILS
15. Name /Resident (Print) JOHN FRYE Address/housing Addition
Signature date 12-7 11 SHAWNEE TRAIL - INDIAN TRAILS
16. Name /Resident (Print) Betty Green Address/housing Addition
Betty Green Signature date 12/7/20 208 Shawnee Trl.
17. Name /Resident (Print) Chriselda Penn Address/housing Addition
Signature date 12/10/20 207 Shawnee Trl.
18. Name /Resident (Print) David Penn Address/housing Addition
David Penn Signature date 12/10/20 207 Shawnee Trl.
19. Name /Resident (Print) _____ Address/housing Addition
Signature date _____
20. Name /Resident (Print) _____ Address/housing Addition
Signature date _____
21. Name /Resident (Print) _____ Address/housing Addition
Signature date _____
22. Name /Resident (Print) _____ Address/housing Addition
Signature date _____
24. Name /Resident (Print) _____ Address/housing Addition
Signature date _____
25. Name /Resident (Print) _____ Address/housing Addition
Signature date _____
26. Name /Resident (Print) _____ Address/housing Addition
Signature date _____
27. Name /Resident (Print) _____ Address/housing Addition
Signature date _____
28. Name /Resident (Print) _____ Address/housing Addition
Signature date _____
29. Name /Resident (Print) _____ Address/housing Addition

ORDINANCE NO. 2020-014

AN ORDINANCE OF THE CITY OF ALVARADO, TEXAS, REZONING 51.23 ACRES OUT OF THE J. DIXON SURVEY, ABSTRACT NO. 214 AND THE J. M. ROSS SURVEY, ABSTRACT NO. 727, ALVARADO, JOHNSON COUNTY, TEXAS FROM AN SF-1 (SINGLE FAMILY) TO A PD (PLANNED DEVELOPMENT) ZONING DISTRICT CITY OF ALVARADO, JOHNSON COUNTY, TEXAS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, notice of a hearing before the Planning and Zoning Commission was sent to real property owners within 200 feet of the property herein described at least 10 days before such hearing; and

WHEREAS, notice of a public hearing before the City Council was published in a newspaper of general circulation in Alvarado, Texas at least 15 days before such hearing; and

WHEREAS, public hearings to change the zoning on the property herein described were held before both the Planning and Zoning Commission and the City Council, and the Planning and Zoning Commission has heretofore made a recommendation concerning the zoning change; and

WHEREAS, The City Council is of the opinion that the zone change herein effectuated furthers the purpose of zoning as set forth in the Comprehensive Zoning Ordinance and is in the best interest of the citizens of the City of Alvarado; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVARADO, TEXAS:

SECTION 1. That the Comprehensive Zoning Ordinance and the Zoning Map of the City of Alvarado are hereby amended by rezoning 51.23 acres out of the J. Dixon Survey, Abstract No. 214 and the J. M. Ross Survey, Abstract No. 737, City of Alvarado, Johnson County, Texas from a "SF-1" (Single Family) zoning district to a "PD" (Planned Development) zoning district.

SECTION 2. This ordinance shall be cumulative of all provisions and ordinances of the Code of Ordinances of the City of Alvarado, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be

declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and section of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance involving zoning, fire safety, or public health and sanitation shall be fined not more than Two Thousand Dollars (\$2,000.00). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5. The City Secretary of the City of Alvarado is hereby directed to publish the caption, penalty clause, publication clause and effective date clause of this ordinance one time in the official newspaper of the City, as authorized by Section 52.011 of the Local Government Code.

SECTION 6. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

AND SO IT IS ORDAINED.

Passed on this the 14th day of December, 2020 by a vote of ____ ayes ____ naves.

ATTEST:

CITY OF ALVARADO

Debbie Thomas, City Secretary

By:_____
Tom Durlington, Mayor

CITY OF ALVARADO

APPLICATION FOR PLATTING CHANGES

Office Use Only
All necessary
information has
been submitted.
Date: _____

Plat change is: Preliminary / Final / Combo / Replat

Clerk: _____

DATE: 11/4/2020 CLERK: Dana FEE: 870.00 CASE NO: 2021-0056

NAME OF APPLICANT: Clint Vincent PH: (972) 839-3882

MAILING ADDRESS: 1050 E. Hwy 114, Suite 210 Southlake, TX 76092

APPLICANT IS THE: OWNER / LEASER / PURCHASER OF THE PROPERTY.

circle one

NAME OF OWNER: Jean A + M Trust PH: ()

MAILING ADDRESS: P.O. Box 673 Alvarado Texas 76009

STREET ADDRESS OF PROPERTY: N/A

LEGAL DESCRIPTION: 51.23 acres out of the J. Dixon Survey, Abstract 214, and J. M. Ross Survey, Abstract 737, Johnson County Texas

ACREAGE: 51.23 134 lots PRESENT USE: Agricultural

PROPOSED USE OF PROPERTY: Single-Family Development

USAGE OF ADJACENT PROPERTY NORTH: SF-1

SOUTH: C-2

EAST: SF-1

WEST: C-2

NOTE: If the property can be identified by the subdivision or addition please include that with the lot and block numbers as the legal description. You must also attach a copy of the appropriate portion of the subdivision or addition plat with the subject property clearly indicated on it. If property is not part of a subdivision or addition plat, give the complete metes and bounds description of the property and indicate the location of said property by identifying one or more adjacent tracts and/or rights-of-way or attach a surveyor's plat of the property.

APPLICANT'S SIGNATURE: Clint Vincent

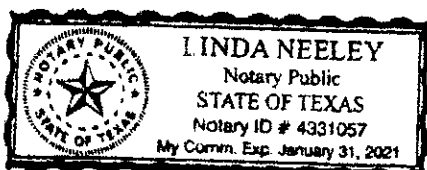
The undersigned hereby, on oath, states that he or she is the record owner of the property for which this application is made.

OWNER: Jean A + M Trust John Reinfield Trustee

SWORN TO AND SUBSCRIBED before me this 5th day of November, 2020, by the person whose signature appears directly above.

<Seal>

Linda Neeley
Notary Public in and for The State of Texas.
My Commission expires _____



ORDINANCE NO. 2020-015

AN ORDINANCE AMENDING SECTION 38 OF THE ALVARADO CODE OR ORDINANCES BY ADDING 38-51 (C) TO AUTHORIZE THE ERECTION OF A STOP SIGN AT THE INTERSECTION OF SOUTH FRIOU AND EAST DAVIS STREETS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Alvarado, Texas is a Type A general-law municipality located in Johnson County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, City Staff has recommended a stop sign at the intersection of 5th and Fannin Streets due to traffic conflicts and pedestrian traffic; and the City Council concurs that such measure will promote traffic safety; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVARADO, TEXAS:

Section 1. That Section 38 of the Alvarado Code of Ordinances be amended by adding thereto a new subsection 38-51 (4) which shall read as follows:

SEC. 38-51 – Stop Signs Authorized.

Stop signs shall be erected at the following location:

(4) South Friou and East Davis

Section 2. This ordinance shall be cumulative of all provisions of the Code of Ordinances of the City of Alvarado, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

Section 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases,

clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 4. Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists enforcement of any of the provisions of this ordinance shall be fined not more than Two Hundred Dollars (\$200.00). Each day that a violation is permitted to exist shall constitute a separate offense.

Section 5. The City Secretary of the City of Alvarado, Texas, is hereby directed to publish the caption, penalty clause, publication clause and effective date clause of this ordinance one time in the official newspaper of the City, as authorized by Section 52.011 of the Texas Local Government Code.

Section 6. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

AND SO IT IS ORDAINED.

Passed and approved this the 14th day of December, 2020, by a vote of ____ to ____.

City of Alvarado

Tom Durlington, Mayor

Attest:

Debbie Thomas, City Secretary

My name is Marie Sutterfield. I am the cousin of Gary England. I am addressing this letter to The City Manager of Alvarado Texas Emile Moline and the Members of the City Council of Alvarado Texas. This letter is in reference to the Sex Offender Exemption. His offence was in July 1998. He has always reported and registered on time. Gary's mothers house in Grand Prairie Texas is where he has resided since his release. She now has passed from cancer September of this year. The home is a rental. Gary is handicapped (one leg) and has had a stroke that has left him verbally challenged. He is needing a new home. We believe that he would be better off in a Nursing Home in your city. Gary is able to take care of himself in every way except getting to his appointments. There is no one else to help Gary besides myself and his niece Felica Skervin. Neither of us are able to house him. We are asking for the Residence Sex Offender Exemption from the City Council Member and the City Manager for Gary England to be able to reside in your city.

Thank You 

Marie Sutterfield

14015 West Travis Ln.

Log Cabin, Tx

817-235-2477

12/4/2020

ORDINANCE NO. 2018-014

AN ORDINANCE AMENDING CHAPTER 24, "OFFENSES," OF THE ALVARADO CITY CODE, AS AMENDED, BY MAKING IT UNLAWFUL FOR CERTAIN SEX OFFENDERS TO RESIDE WITHIN 1,000 FEET OF ANY DEFINED PREMISE WHERE CHILDREN COMMONLY GATHER; PROVIDING THAT A CULPABLE MENTAL STATE IS NOT REQUIRED FOR COMMITTING AN OFFENSE UNDER THIS REGULATION; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR AFFIRMATIVE DEFENSES; PROVIDING A PENALTY FOR VIOLATION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Alvarado, Texas, is a Type A general-law municipality located in Johnson County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council finds and declares that sex offenders are a threat to public safety; and

WHEREAS, the City Council finds from the evidence that the recidivism rate for released sex offenders is significant, especially for those who commit their crimes against children; and

WHEREAS, the City Council finds from the evidence that restrictions on the proximity of sex offenders to schools or other facilities that might create temptation to repeat offenses are one way to minimize the risk of recidivism; and

WHEREAS, the City Council finds that establishing a policy to restrict the property available for residence of registered sex offenders will provide better protection for children gathering in the City; and

WHEREAS, the 2017 Texas Legislature adopted House Bill 1111, effective September 1, 2017, which adds Section 341.906 to Chapter 341 of the Texas Local Government Code, expressly authorizing the governing body of a general-law municipality to restrict registered sex offenders from being within a specified distance of a child safety zone in the municipality; and

WHEREAS, the City Council of the City of Alvarado, Texas, desires to establish the statutory child safety zones and distance restrictions for registered sex offenders in order to protect the health, safety, and welfare of its residents.

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

SECTION 1.

That the Alvarado Code of Ordinances Chapter 24 "Offenses," Article V., "Child Safety Zones and Distance Restrictions for Registered Sex Offenders," be amended and reenacted to read as follows:

ARTICLE V. SEX OFFENDER RESIDENCY

Sec. 24-100. Findings incorporated.

The findings set forth in this Ordinance are incorporated into the body of this Article as if fully set forth herein.

Sec. 24-101. Definitions.

For the purpose of this section, the following terms, words, and the derivations thereof shall have the meaning given herein.

Minor: A person under the age of 17.

Permanent residence: Means a place where a person abides, lodges, or resides for 14 or more consecutive days.

Child Safety Zone: Means premises where children commonly gather. The term includes all improved and unimproved areas on a lot where a park (excluding planted street medians), private or public school (excluding in-home schools), video arcade facility, skate park, playground, child care facility, community or residential swimming pool, City-owned indoor or outdoor recreational facility, or private recreational facility, including any such facility owned by a residential property owners' association or for which an entrance, admission, or rental fee is charged. The term does not include a church, as defined by Section 544.251, Insurance Code.

Playground, premise, school, video arcade facility, and youth center: Shall have the meanings assigned by Section 481.134, Health and Safety Code.

Sex Offender: Means a person required to register as a sex offender pursuant to Chapter 62, Code of Criminal Procedure, on the Texas Department of Public Safety's Sex Offender Database because of a reportable conviction or adjudication involving a minor.

Temporary residence: Means a place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where a person routinely abides, resides, or lodges for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec. 24-102. Offenses.

(a) It is unlawful for a sex offender to establish a permanent residence or temporary residence within 1,000 feet of any child safety zone.

(b) It is unlawful for a person who owns, rents, leases, or inhabits property within the City of Alvarado, Texas, to knowingly allow a sex offender to establish a permanent residence or temporary residence within 1,000 feet of any child safety zone.

(c) Nothing in this provision shall require any person to sell or otherwise dispose of any real estate or home acquired or owned prior to the conviction of the person as a sex offender.

Sec. 24-103. Culpable mental state is not required.

Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined in this chapter.

Sec. 24-104. Evidentiary matters; measurement.

(a) It shall be prima facie evidence that this article applies to a person, if that person's record appears on the database and the database indicates that the victim was less than 17 years of age.

(b) For the purpose of determining the minimum distance of separation, the requirements shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the child safety zone, or, in the case of multiple residences on one property, measuring from the nearest property line of the premises to the nearest property line of the child safety zone.

(c) A map depicting the prohibited areas shall be created by the City and maintained by the Alvarado Police Department. The City shall review the map annually for changes. Said map will be available to the public at the Alvarado Police Department.

Sec. 24-105. Exemptions; Affirmative defenses.

(a) A person who established residency in a temporary or permanent residence located within 1,000 feet of a child safety zone before July 16, 2018, is exempt from the application of this Article.

(b) A person subject to this Article may seek an exemption from its application by submitting a request in writing to the City Manager specifying the background, reason, and scope of the requested exemption. The City Manager may seek additional information from the requestor, and shall issue a written determination on the requested exemption within 10 business days from the filing of the request. The requestor may appeal to the City Council from the determination of the City Manager by filing such appeal request in writing to the City Secretary within 10 business of the City Manager's determination.

(c) It is an affirmative defense to prosecution that any of the following conditions apply:

(1) The person required to register on the database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.

(2) The person required to register on the database is a minor.

(3) The child safety zone within 1,000 feet of the permanent or temporary residence of the sex offender, was designated, declared and/or determined, after the person established the permanent or temporary residence and complied with all sex offender registration laws of the State of Texas.

(4) The information on the database is incorrect, and, if corrected, this section would not apply to the person who was erroneously listed on the database.

Sec. 24-106. Penalty.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be guilty of a misdemeanor and upon conviction thereof shall be fined for each offense as provided in Section 1.01.009 of this Code. Each day that a violation is permitted to exist shall constitute a separate offense.

Sec. 24-107. Governmental function; liability.

All of the regulations provided in this Article are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this Article, acting for the City in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

Sec. 24-108. Injunctive relief.

Any violation of this Article can be enjoined by a suit filed in the name of the City in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Article or in the Code of the City."

SECTION 2.

This Ordinance shall be cumulative of all provisions of the Code of Ordinances of the City of Alvarado, Texas, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such Code, in which event the conflicting provisions of such Code are hereby repealed.

SECTION 3.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined in accordance with Section 1.01.009 of the Code of Ordinances, City of Alvarado, Texas. Each day that a violation exists shall constitute a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 5.

The City Secretary of the City of Alvarado, Texas, is hereby directed to publish the caption and penalty clause of this Ordinance one time in the official newspaper of the City, as authorized by Section 52.011 of the Local Government Code.

SECTION 6.

This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

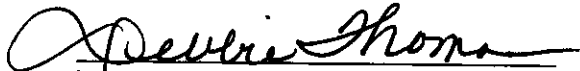
AND IT IS SO ORDAINED.

Passed on this 16th day of July, 2018, by a vote of 5 to 0.

CITY OF ALVARADO, TEXAS

By: Tom Durlington
Tom Durlington, Mayor

ATTEST:


Debbie Thomas, City Secretary

Approved as to form and legality:

Ashley D. Dierker, City Attorney