

City of Houston, Texas, Ordinance No. 2020- 776

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 24.3 ACRES COMMONLY KNOWN AS 1503 NORTH POST OAK ROAD, HOUSTON, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AT THE REQUEST OF AK STEEL CORPORATION; CONTAINING OTHER PROVISIONS RELATED TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, Subchapter W, "Municipal Setting Designations," of Chapter 361, "Solid Waste Disposal Act," of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality ("TCEQ") to create municipal setting designations; and

WHEREAS, on August 22, 2007, by Ordinance No. 2007-959, the City Council adopted Article XIII, of Chapter 47, Code of Ordinances, Houston, Texas, to provide a process for establishing municipal setting designation ordinances and amended that process on July 14, 2010, by Ordinance No. 2010-556; and

WHEREAS, Sections 47-765(c) and 47-767(a) of the Code of Ordinances, Houston, Texas, authorize municipal setting designation ordinances that prohibit the use of designated groundwater as potable water and thereby enable the TCEQ to certify a municipal setting designation for designated property; and

WHEREAS, on June 25, 2015, **AK Steel Corporation** ("Applicant") applied to the Director of Houston Public Works, requesting that the City Council support a municipal setting designation ordinance for property that is located generally at 1503 North Post Oak Road (24.3 acres), Houston, Harris County, Texas 77055; and

WHEREAS, on September 17, 2019, the Director of Houston Public Works conducted a public meeting at the Trini Mendenhall Community Center, 1414 Wirt Road, Houston, TX 77055, as required by Section 47-764 of the Code of Ordinances, and notified the community when the City Council public hearing would occur; and

WHEREAS, the Regulation and Neighborhood Affairs Council Committee, designated by the Mayor, conducted a public hearing on July 14, 2020; and

WHEREAS, the City Council finds that:

(1) the application meets the eligibility criteria of Section 361.803 of the Texas Health and Safety Code;

(2) the municipal setting designation will not have an adverse effect on the current or future water resource needs or obligations of the City of Houston;

(3) there is a public drinking water supply system that satisfies the requirements of Chapter 341 of the Texas Health and Safety Code and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of designated property; and

(4) this Municipal Setting Designation Ordinance is necessary because the concentrations of contaminants of concern exceed human ingestion protective concentration levels, and the establishment of a municipal setting designation will allow the property to be brought back into productive use; and

WHEREAS, City Council finds that the Director of Houston Public Works on behalf of City Council, in accordance with the Charter of the City of Houston, state law, and the ordinances of the City of Houston, has given the required notices, the Regulation and Neighborhood Affairs Council Committee has held the required public hearing regarding

this Municipal Setting Designation Ordinance and all procedural requirements have been satisfied; **NOW, THEREFORE,**

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

Section 1. That for purposes of this Municipal Setting Designation Ordinance, the “designated property” means the property as described in **Exhibit A**, attached to this Ordinance and incorporated by reference herein.

Section 2. That for purposes of this Municipal Setting Designation Ordinance, “designated groundwater” means groundwater beneath the designated property to a depth not to exceed 200 feet that is prohibited from use as potable water by this Ordinance.

Section 3. That use of the designated groundwater from beneath the designated property as potable water, as that term is defined in Section 47-761 of the Code of Ordinances, Houston, Texas, is prohibited.

Section 4. That the designated property must receive a certificate of completion or other analogous documentation issued by the TCEQ or the United States Environmental Protection Agency (“EPA”) showing that any site investigations and response actions required pursuant to Section 361.808 of the Texas Health and Safety Code have been completed to the satisfaction of the TCEQ or EPA within the time period required by them.

Section 5. That the City Council supports the application to the TCEQ for a municipal setting designation on the designated property, with the following comment:

The TCEQ and the EPA, as agencies charged to protect human health and the environment, are requested to thoroughly review the conditions on the designated

property and issue a certificate of completion only when all contaminants of concern, through the applicable routes of exposure, have been addressed.

Section 6. That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal and state laws and regulations and all ordinances, rules, and regulations of the City of Houston. The City Council's approval of a municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

Section 7. That approval of this Municipal Setting Designation Ordinance shall not be construed to subject the City of Houston to any responsibility or liability for any injury to persons or damages to property caused by any contaminant of concern.

Section 8. That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Applicant shall provide the Director of Houston Public Works with an electronic file showing the location of the designated property and the designated groundwater in a format compatible with the City's geographic information system and its integrated land management system, and shall provide an electronic file showing the location of the designated property and the designated groundwater to the Harris County Appraisal District in a format compatible with its system.

Section 9. That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Director of Houston Public Works shall send a certified copy of this ordinance to the Applicant, the TCEQ, and the EPA.

Section 10. That the Applicant shall provide the Director of Houston Public Works with a copy of the municipal setting designation certificate issued by the TCEQ pursuant

to Section 361.807 of the Texas Health and Safety Code within 30 days after issuance of the certificate.

Section 11. That within 30 days after receipt of the municipal setting designation certificate from the TCEQ, the Director of Houston Public Works shall file a certified copy of this Municipal Setting Designation Ordinance in the deed records of Harris County.

Section 12. That if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 13. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on that date and shall take effect immediately upon its passage and approval by the mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 9th day of September, 2020.

APPROVED this _____ day of _____, 2020.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is SEP 15 2020.

[Signature]

City Secretary

(Prepared by Legal Department) [Signature]
(EG/tm 8/21/20 Assistant City Attorney)
(Requested by Carol Ellinger Haddock, P.E., Director, Houston
(L.D. File No. 080-2000209-001)

AYE	NO	
✓		MAYOR TURNER
....	COUNCIL MEMBERS
✓		PECK
✓		DAVIS
✓		KAMIN
✓		EVANS-SHABAZZ
✓		MARTIN
✓		THOMAS
✓		TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		POLLARD
✓		MARTHA CASTEX-TATUM
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		PLUMMER
✓		ALCORN
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT
REVIEW
DATE: SEP 15 2020

EXHIBIT "A"

SURVEY OF DESIGNATED PROPERTY



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FIELD NOTES FOR 24.3 ACRES (1,058,885 SQUARE FEET) OF LAND BEING PART OF A CERTAIN TRACT OF LAND DATED APRIL 30, 1997, CONVEYED TO V&G ENTERPRISES, INC., AS RECORDED IN FILE NO. S456088 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF HARRIS COUNTY, TEXAS (O.P.R.R.P.H.C., TX.), A CERTAIN TRACT OF LAND DATED JULY 21, 1997, CONVEYED TO CHIEF CONTRACTORS, INC., AS RECORDED IN FILE NO. S559638, O.P.R.R.P.H.C., TX., AND A CERTAIN TRACT OF LAND DATED DECEMBER 16, 1994, CONVEYED TO T.T. INVESTMENT COMPANY, AS RECORDED IN FILE NOS. R197681 AND U411945, O.P.R.R.P.H.C., TX, ALL OF UNRESTRICTED RESERVE "A" OF BLOCK 1, NORTH POST OAK ROAD AT WESTVIEW DRIVE RESERVE, AS RECORDED IN FILM CODE NO. 626054, HARRIS COUNTY MAP RECORDS (H.C.M.R.), BEING A CERTAIN TRACT OF LAND DATED APRIL 25, 2013, CONVEYED TO NPO 1495, LP, AS RECORDED IN FILE NO. 20130197774, O.P.R.R.P.H.C., TX., A CERTAIN TRACT OF LAND DATED APRIL 11, 2013, CONVEYED TO NPO 1403, LP, AS RECORDED IN FILE NO. 20130173332, O.P.R.R.P.H.C., TX., ALL OF A 30.0 FEET PRIVATE ROADWAY, KNOWN AS JOHNSON ROAD, AS RECORDED IN VOLUME 2752, PAGE 139, HARRIS COUNTY DEED RECORDS (H.C.D.R.) AND PORTION OF WESTVIEW DRIVE (WIDTH VARIES PER VOLUME 6422, PAGE 204, H.C.D.R. AND FILE NO. Y980300, O.P.R.R.P.H.C., TX.), LOCATED IN THE J. WHARTON SURVEY, ABSTRACT NO. 871, HENRY REINERMAN SURVEY, ABSTRACT NO. 644 AND JOHN REINERMAN SURVEY, ABSTRACT NO. 642, HARRIS COUNTY, TEXAS: (All bearings and coordinates shown hereon are grid values referenced to the Texas Coordinates System, South Central Zone No. 4202, NAD 83. Grid values may be converted to surface values by applying a combined scale factor of 0.999899739.)

BEGINNING at a point, from which a found 1/2-inch iron rod bears South 85° 44' 14" East, 0.8 feet, in the south right-of-way line of said Westview Drive for the northwest corner of a certain tract of land conveyed to Harris County Department of Education Public Facility Corporation, as recorded in File No. Y980300, O.P.R.R.P.H.C., TX;

THENCE North 02° 40' 02" West, along the west line of said Unrestricted Reserve "A" and said NPO 1495, LP tract and the east line of a certain tract of land conveyed to Herzstein Investments, Inc. (0.7113-acre), as recorded in File No. V719829, O.P.R.R.P.H.C., TX., a distance of 310.09 feet to a corner of the herein described parcel;

THENCE North 02° 31' 10" West, continuing along the west line of said Block 1 and said NPO 1495, LP tract and the east line of said Herzstein Investments, Inc. tract (0.7113-acre), a certain tract of land conveyed to Houston Industrial Warehouses Joint Venture, as recorded in File No. R257731, O.P.R.R.P.H.C., TX. and said Herzstein Investments, Inc. tract (5.087-acre), a distance of 641.79 feet to a point in the south line of said T.T. Investment Company tract for the northeast corner of said Herzstein Investments, Inc. tract (5.087-acre), the northwest corner of said 30.0 feet private roadway and a corner of the herein described parcel;

THENCE North 00° 08' 54" East, a distance of 474.73 feet to the most northwest corner of the herein described parcel;

THENCE North 89° 59' 39" East, a distance of 582.46 feet to an ell corner of the herein described parcel;



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THENCE North 00° 02' 46" East, a distance of 62.90 feet to a corner of the herein described parcel;

THENCE North 89° 59' 02" East, a distance of 302.86 feet to the most northeast corner of the herein described parcel;

THENCE South 00° 06' 15" East, a distance of 102.53 feet to a point in the northwest right-of-way line of North Post Oak Road (80.0 feet wide per File No. J317653, O.P.R.R.P.H.C., TX.) and in the south line of said T.T. Investment Company tract (File No. R197681) for a corner of the herein described parcel;

THENCE South 38° 02' 45" West, along the northwest right-of-way line of said North Post Oak Road and the south line of said T.T. Investment Company tract (File No. R197681), a distance of 293.18 feet to a 3/4-inch iron pipe found for an ell corner of the herein described parcel;

THENCE South 02° 44' 20" East, continuing along the west right-of-way line of said North Post Oak Road and the east line of said T.T. Investment Company tract (File No. R197681), said Block 1, Said NPO 1495, LP tract and said NPO 1403, LP tract, a distance of 1130.73 feet to the southwest corner of the intersection of said North Post Oak Road and said Westview Drive for the northeast corner of said Harris County Department of Education Public Facility Corporation tract and the southeast corner of the herein described parcel;

THENCE South 87° 13' 01" West, along the north line of said Harris County Department of Education Public Facility Corporation tract and the south right-of-way line of said Westview Drive, a distance of 572.05 feet to a point of curvature;

THENCE continuing along the south right-of-way line of said Westview Drive and the north line of said Harris County Department of Education Public Facility Corporation tract with a curve to the right, having a radius of 1185.92 feet, a central angle of 07° 03' 54", an arc length of 146.23 feet, and a chord of North 89° 15' 02" West, 146.14 feet to the POINT OF BEGINNING and containing 24.3 acres of land.

Job No. 14-2-0157.00

Drawing No. 2209-D-3067

Survey date: AUGUST 2014

Paul P. Kwan 9/18/2014

Paul P. Kwan

Texas Registered Professional Land Surveyor No. 4313



This metes and bounds description is accompanied by a separate plat.

