

City of Houston, Texas, Ordinance No. 2015- 739

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 16.8939 ACRES COMMONLY KNOWN AS DENSIMIX, LLC, AT 13501 INDUSTRIAL ROAD, HOUSTON, HARRIS COUNTY, TEXAS, AND SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; 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(f) 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, in September 10, 2013, **Densimix, LLC** ("Applicant") applied to the Director of the Public Works and Engineering Department, requesting that the City Council support a municipal setting designation ordinance for properties that are located **generally at 13501 Industrial Road, in Houston, Texas 77015**; and

WHEREAS, on July 9, 2015, the Director of the Public Works and Engineering Department conducted a public meeting at the Jacinto City Library, at 921 Akron Street in Houston, Texas 77029 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 Transportation, Technology, and Infrastructure City Council committee, designated by the Mayor, conducted a public hearing on July 16, 2015; 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 concentration of contaminants of concern exceeds 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 the Public Works and Engineering Department 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 Technology, Transportation and Infrastructure Committee of City

Council 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 tracts totaling 16.8939 acres 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:

(1) 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 the Public Works and Engineering Department 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 the Public Works and Engineering Department shall send a certified copy of this ordinance to the Applicant, to TCEQ and to EPA.

Section 10. That the Applicant shall provide the Director of the Public Works and Engineering Department 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 the Public Works and Engineering Department 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 5th day of August, 2015.

APPROVED this _____ day of _____, 2015.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is AUG 1st 2015.


City Secretary

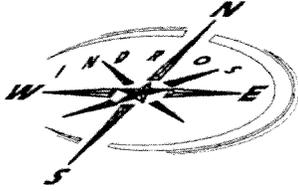
(Prepared by Legal Department Anna Whizend) *for Phillip Goodwin*
(PMG/ng/07/22/2015 Assistant City Attorney)
(Requested by Dale A. Rudick, P.E., Director, Public Works and Engineering Department)
(L.D. File No. 066-1400007-001)
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AYE	NO	
✓		MAYOR PARKER
....	COUNCIL MEMBERS
✓		STARDIG
	ABSENT	DAVIS
✓		COHEN
	ABSENT	BOYKINS
	ABSENT	MARTIN
✓		NGUYEN
	ABSENT	PENNINGTON
✓		GONZALEZ
✓		GALLEGOS
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		ROBINSON
✓		KUBOSH
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT
REVIEW
DATE: AUG 1st 2015

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION



Windrose Land Services, Inc

3200 Wilcrest, Suite 325

Houston, Texas 77042

Phone (713) 458-2281 Fax (713) 461-1151

Professional Development Consultants

Land Surveying, Platting, Project Management and GIS Services

**DESCRIPTION OF
16.8939 ACRES OR 735,897 SQUARE FEET**

A TRACT OR PARCEL CONTAINING 16.8939 ACRES OR 735,897 SQUARE FEET OF LAND, SITUATED IN THE HARRIS & WILSON SURVEY, ABSTRACT NO. 31, BEING ALL OF A CALLED 1.8264 ACRE (TRACT 1), CALLED 15 ACRES (TRACT 2) AND CALLED 6,760 SQ. FT. (TRACT 3) CONVEYED TO DENSIMIX HOLDING CORPORATION IN H.C.C.F. NO. 20120462106, WITH SAID 16.8939 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, WITH ALL BEARINGS BEING BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204, NAD83:

BEGINNING AT A 5/8 INCH IRON ROD FOUND ON THE CURVED NORTHEASTERLY RIGHT-OF-WAY LINE OF INDUSTRIAL ROAD, (CALLED 80' R.O.W.) PER VOL. 379, PG. 44, H.C.M.R., AND VOL. 338, PG. 141, H.C.M.R., MARKING THE SOUTHWEST CORNER OF THE RESIDUE OF A CALLED 40.81 ACRE TRACT I CONVEYED TO WOMBLE COMPANY, INC. IN THAT CERTAIN WARRANTY DEED FILED FOR RECORD UNDER H.C.C.F. NO. T-455362, SAME BEING THE COMMON MOST SOUTHERLY CORNER OF SAID TRACT 2, AND OF THE HEREIN DESCRIBED TRACT;

THENCE IN A NORTHWESTERLY DIRECTION, ALONG THE CURVED NORTHEASTERLY RIGHT-OF-WAY LINE OF SAID INDUSTRIAL ROAD, A DISTANCE OF 444.54 FEET ALONG THE THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 2909.56 FEET, SUBTENDING A CENTRAL ANGLE OF 08 DEG. 45 MIN. 14 SEC., AND HAVING A CHORD BEARING AND DISTANCE OF NORTH 51 DEG. 03 MIN. 22 SEC. WEST, 444.11 FEET TO THE MOST EASTERLY CORNER OF A CALLED 1.973 ACRE (TRACT 3) CONVEYED TO SOUTHERN TUBE, LLC. IN THAT CERTAIN WARRANTY DEED FILED FOR RECORD UNDER H.C.C.F. NO. 20120523640, FROM WHICH A 5/8 INCH IRON ROD FOUND FOR REFERENCE BEARS NORTH 61 DEG. 14 MIN. E, 0.3 FEET;

THENCE LEAVING SAID RIGHT-OF-WAY, NORTH 45 DEG. 54 MIN. 40 SEC. WEST, ALONG AND WITH THE COMMON LINE BETWEEN SAID 15 ACRE TRACT AND SAID 1.973 ACRE TRACT, A DISTANCE OF 762.34 FEET TO A POINT ON THE CALLED EASTERLY HIGHBANK OF GREENS BAYOU, MARKING AN INTERIOR CORNER OF SAID 1.973 ACRE TRACT AND THE COMMON MOST WESTERLY CORNER OF SAID 15 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE IN A NORTHEASTERTLY DIRECTION, ALONG THE CALLED MEANDERS OF GREENS BAYOU AND WESTERLY LINE OF SAID 15 ACRE TRACT AND SAID 1.8264 ACRE TRACT, THE FOLLOWING SIX (6) COURSES AND DISTANCES;

SOUTH 87 DEG. 14 MIN. 35 SEC. EAST, 93.58 FEET;

NORTH 77 DEG. 34 MIN. 34 SEC. EAST, 225.64 FEET;

NORTH 74 DEG. 30 MIN. 53 SEC. EAST, 47.44 FEET;

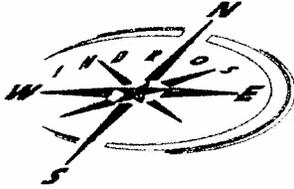
NORTH 61 DEG. 10 MIN. 53 SEC. EAST, 111.40 FEET;

NORTH 48 DEG. 14 MIN. 53 SEC. EAST, 152.86 FEET;

NORTH 41 DEG. 12 MIN. 53 SEC. EAST, 193.26 FEET TO A POINT MARKING A WESTERLY CORNER OF SAID 40.81 ACRE, MARKING THE COMMON MOST NORTHERLY CORNER OF SAID 1.8264 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE ALONG AND WITH A SOUTHWESTERLY LINE OF SAID 40.81 ACRE TRACT, SAME BEING THE NORTHEASTERLY LINE OF SAID 1.8264 ACRE TRACT AND SAID 15 ACRE TRACT, SOUTH 45 DEG. 57 MIN. 07 SEC. EAST, A DISTANCE OF 936.99 FEET TO AN INTERIOR CORNER OF SAID 40.81 ACRE TRACT AND THE COMMON NORTHEAST CORNER OF SAID 15 ACRE TRACT AND THE HEREIN DESCRIBED TRACT;

SHEET 1 OF 2



Windrose Land Services, Inc

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Houston, Texas 77042

Phone (713) 458-2281 Fax (713) 461-1151

Professional Development Consultants

Land Surveying, Platting, Project Management and GIS Services

**DESCRIPTION OF
16.8939 ACRES OR 735,897 SQUARE FEET (CONTD.)**

THENCE SOUTH 42 DEG. 53 MIN. 20 SEC. WEST, ALONG AND WITH A COMMON LINE BETWEEN SAID 15 ACRE TRACT AND SAID 40.81 ACRE TRACT, A DISTANCE OF 274.16 FEET TO A 5/8 INCH IRON ROD FOUND MARKING THE MOST NORTHERLY CORNER OF SAID 6,760 SQ. FT. TRACT, AND AN ANGLE POINT OF THE HEREIN DESCRIBED TRACT;

THENCE ALONG AND WITH THE COMMON LINE BETWEEN SAID 6,760 SQ. FT. TRACT AND SAID 40.81 ACRE TRACT, SOUTH 26 DEG. 01 MIN. 51 SEC. WEST, A DISTANCE OF 46.85 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT;

THENCE IN A SOUTHERLY DIRECTION, CONTINUING ALONG SAID LINE, A DISTANCE OF 168.07 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 291.64 FEET, SUBTENDING A CENTRAL ANGLE OF 33 DEG. 01 MIN. 10 SEC., AND HAVING A CHORD BEARING AND DISTANCE OF SOUTH 09 DEG. 31 MIN. 16 SEC. WEST, 165.76 FEET TO A POINT OF TANGENCY;

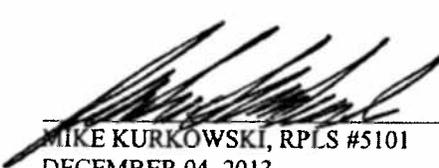
THENCE CONTINUING ALONG SAID LINE, SOUTH 06 DEG. 59 MIN. 19 SEC. EAST, A DISTANCE OF 20.56 FEET TO THE MOST SOUTHERLY CORNER OF SAID 6,760 SQ. FT. TRACT, AND AN INTERIOR CORNER OF SAID 40.81 ACRE TRACT;

THENCE NORTH 32 DEG. 28 MIN. 40 SEC. WEST, ALONG AND WITH THE SOUTHWESTELRY LINE OF SAID 6,730 SQ. FT. TRACT, A DISTANCE OF 124.51 FEET TO A 3/4 INCH IRON ROD FOUND ON THE SOUTHEASTERLY LINE OF SAID 15 ACRE TRACT, MARKING THE MOST WESTERLY CORNER OF SAID 6,760 SQ. FT. TRACT, AND AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 42 DEG. 53 MIN. 20 SEC. WEST, ALONG AND WITH A COMMON LINE BETWEEN SAID 15 ACRE TRACT AND SAID 40.81 ACRE TRACT, A DISTANCE OF 264.62 FEET TO THE PLACE OF BEGINNING AND CONTAINING 16.8939 ACRES OR 735,897 SQ. FT. OF LAND, AS SHOWN ON THE EXHIBIT, JOB NO. 51481, FILED IN THE OFFICES OF WINDROSE LAND SERVICES, INC.

THIS LEGAL DESCRIPTION IS A COMPILATION OF EXISTING DESCRIPTIONS PREPARED UNDER 22 TAC 663.21. IT IS NOT TO BE USED TO CONVEY OR ESTABLISH INTEREST IN REAL PROPERTY EXCEPT THOSE RIGHTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.




MIKE KURKOWSKI, RPLS #5101

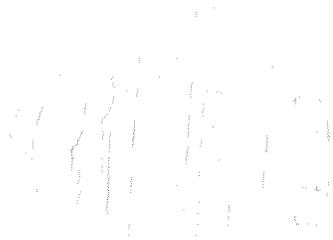
DECEMBER 04, 2013

JOB #51481

SHEET 2 OF 2

I, ANNA RUSSELL, City Secretary of the City of Houston, Texas, do hereby certify that the within and foregoing is a true and correct copy of Ordinance 2015-739 passed and adopted by the City Council of said City on the 5th day of August, 2015, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 12th day of August, 2015.



A handwritten signature in black ink, which reads "Anna Russell". The signature is written in a cursive style and is positioned above a horizontal line.

Anna Russell
City Secretary of the City of Houston