City of Houston, Texas, Ordinance No. 2015-759

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 5.609 ACRES COMMONLY KNOWN AS J. WHALEN, INC., AT 8730 MELDRUM LANE, 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 July 17, 2014, **J. Whalen, Inc.** ("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 8730 Meldrum Lane, in Houston, Texas 77075; and

WHEREAS, on May 7, 2015, the Director of the Public Works and Engineering Department conducted a public meeting at the Sagemont Community Center, at 11507 Hughes Road in Houston, Texas 77089 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 May 14, 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 5.609 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 12th 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 1 8 2015.

_____
City Secretary

(Prepared by Legal Department _____)
(PMG/ng/07/30/2015 Assistant City Attorney)
(Requested by Dale A. Rudick, P.E., Director, Public Works and Engineering Department)
(L.D. File No. 066-1400007-001)
G \REAL ESTATE\PHILLIP GOODWIN\MSD\RescarCompaniesOrdinance doc

CAPTION PUBLISHED IN DAILY COURT REVIEW
DATE: AUG 1 8 2015

AYE	NO	
✓		MAYOR PARKER
••••	••••	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
	ABSENT	COHEN
✓		BOYKINS
✓		MARTIN
✓		NGUYEN
✓		PENNINGTON
✓		GONZALEZ
✓		GALLEGOS
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		ROBINSON
✓		KUBOSH
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	

MAY 017 Rev. 01/14

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION

Champion Hi-Tech Manufacturing, Inc.
J. Whalen, Inc.
5.609 Acres

J. Robinson Survey
Abstract No. 680

STATE OF TEXAS §

COUNTY OF HARRIS §

METES AND BOUNDS DESCRIPTION of a 5.609-acre tract in the J. Robinson Survey, Abstract No. 680, Harris County, Texas. Said 5.609-acre tract is part of Lot 2, Block 12 in the South Houston Gardens No. 8 Subdivision as recorded in Volume 3, Page 49 in the Harris County Map Records and is all of that 1.711-acre tract described in a deed to J. Whalen, Inc. as recorded in Clerk's File No. 20130640361, Film Code No. 052-65-0040 in the Harris County Clerk's Office and all of that 3.903-acre tract described in a deed to Champion Hi-Tech Manufacturing, Inc. as recorded in Clerk's File No. P021509, Film Code No. 117-41-1837 in the Harris County Clerk's Office and is more particularly described by metes and bounds as follows:

BEGINNING at a 5/8-inch iron rod found in the south right-of-way line of Meldrum Lane, (right-of-way width varies), said point is in the common lot line of Lot 2 and Lot 3A of said South Houston Gardens No. 8 Subdivision and is the northwest corner of said 3.903 acre tract, said point is also the northeast corner of a tract described in a deed to Nicole Meldrum, L.P. as recorded in Clerk's File No. W748221, Film code No. 569-43-0080 in the Harris County Clerk's Office;

THENCE, North 87°22'49" East, along the south line of said Meldrum Lane, same being the north line of said 3.903-acre tract, at a distance of 172.82 feet pass the northeast corner of said 3.903-acre tract and continue for a total distance of 341.57 feet to a 5/8-inch iron rod set for the northeast corner of the aforementioned 1.711-acre tract, said point is the northwest corner of a 5.535-acre tract described in a deed to AYG Properties, Ltd. as recorded in Clerk's File No. 20140030669, Film Code No. 053-36-2474 in the Harris County Clerk's Office, from which a found ½-inch iron rod bears North 07°20'33" West, 1.87 feet, said point is in the common lot line between said Lot 2 and 2A;

THENCE, South 04°16'07" East, along the east line of said 1.711-acre tract, same being the west line of said 5.535-acre tract, at a distance of 436.75 feet pass a 5/8-inch iron rod found for the southeast corner of said 1.711-acre tract, and continue for a total distance of 710.33 feet to a 1-inch iron pipe found for the southeast corner of the aforementioned 3.903-acre tract, said point is the common lot corner of Lots 2, 2A, 6 and 6A;

THENCE, South 85°37'09" West, along the south line of said 3.903-acre tract, same being the south line of said Lot 2, for a distance of 341.42 feet to a 1-inch iron pipe found for the southwest corner of said 3.903-acre tract, said point is the common lot corner of Lots 2, 3A, 5A and 6;

THENCE, North 04°16'11" West, along the west line of said 3.903-acre tract, same being the common line between said Lots 2 and 3A, for a distance of 720.83 feet to the POINT OF BEGINNING, containing a computed area of 5.609 acres (244,319 square feet).

NOTES:

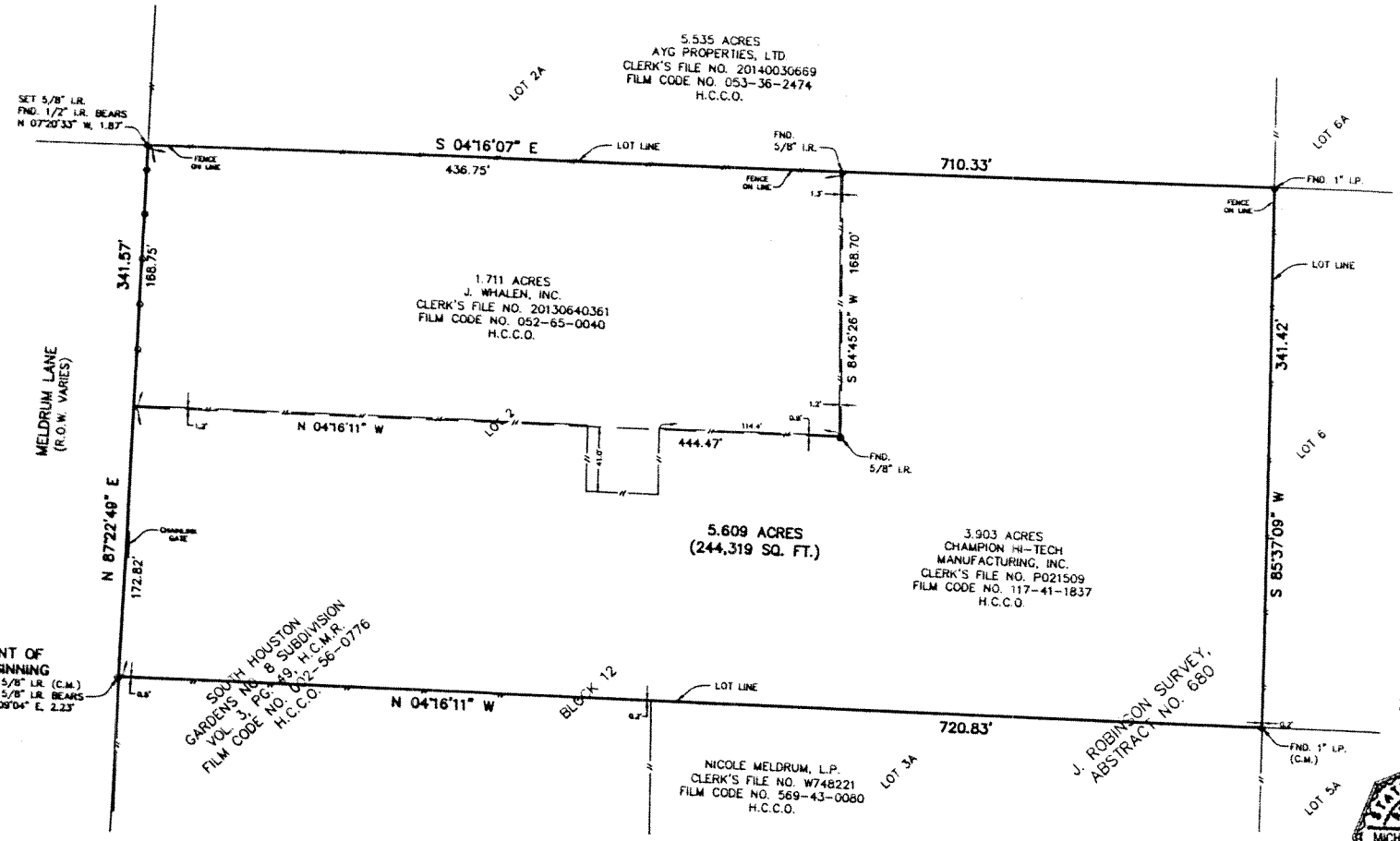
1. The bearings shown hereon are based on the Texas Coordinate System of 1983, South Central Zone.
2. A separate survey plat has been prepared in conjunction with this metes and bounds description.
3. Property corners that were set with 5/8-inch iron rods contain a survey cap stamped "Wilson Survey Group".

The Wilson Survey Group, Inc.
2006 East Broadway, Suite 103
Pearland, Texas 77588
(281) 485-3991
Job No. 14-126

Michael D. Wilson, R.P.L.S.
Registration No. 4821

05/28/14

STATE OF TEXAS
REGISTERED
MICHAEL D. WILSON
4821
PROFESSIONAL
LAND SURVEYOR



50 0 25 50 100

SCALE: 1"=50'

STATE OF TEXAS §

COUNTY OF HARRIS §

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THENCE, North 87°22'49" East, along the south line of said Meldrum Lane, same being the north line of said 3.903-acre tract, at a distance of 172.82 feet pass the northeast corner of said 3.903-acre tract and continue for a total distance of 341.57 feet to a 5/8-inch iron rod set for the northeast corner of the aforementioned 1.711-acre tract, said point is the northwest corner of a 5.535-acre tract described in a deed to AYG Properties, Ltd. as recorded in Clerk's File No. 20140030669, Film Code No. 053-36-2474 in the Harris County Clerk's Office, from which a found ½-inch iron rod bears North 07°20'33" West, 1.87' feet, said point is in the common lot line between said Lot 2 and 2A;

THENCE, South 04°16'07" East, along the east line of said 1.711-acre tract, same being the west line of said 5.535-acre tract, at a distance of 436.75 feet pass a 5/8-inch iron rod found for the southwest corner of said 1.711-acre tract, and continue for a total distance of 710.33 feet to a 1-inch iron pipe found for the southeast corner of the aforementioned 3.903-acre tract, said point is the common lot corner of Lots 2, 2A, 6 and 6A;

THENCE, South 85°37'09" West, along the south line of said 3.903-acre tract, same being the south line of said Lot 2, for a distance of 341.42 feet to a 1-inch iron pipe found for the southwest corner of said 3.903-acre tract, said point is the common lot corner of Lots 2, 3A, 5A and 6;

THENCE, North 04°16'11" West, along the west line of said 3.903-acre tract, same being the common line between said Lots 2 and 3A, for a distance of 720.83 feet to the POINT OF BEGINNING, containing a computed area of 5.609 acres (244,319 square feet).

STATE OF TEXAS REGISTERED MICHAEL D. WILSON 4821 PROFESSIONAL LAND SURVEYOR

THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 1B, CONDITION II SURVEY.

MICHAEL D. WILSON R.P.L.S.
TEXAS REGISTRATION NO. 4821

05/28/14

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON A TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE.

2. THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A COMMITMENT FOR TITLE INSURANCE.

3. AN INDEPENDENT EASEMENT RESEARCH REQUEST HAS NOT BEEN PERFORMED FOR THIS TRACT. EASEMENTS MAY EXIST THAT AFFECT THIS TRACT THAT HAVE NOT BEEN SHOWN AS PART OF THIS SURVEY.

4. ACCORDING TO THE F.I.R.M. NO. 48201C0895 L, DATED JUNE 18, 2007, THE SUBJECT TRACT LIES IN AND UNSHADED ZONE "X" AREA.

5. THERE ARE IMPROVEMENTS ON THIS TRACT THAT HAVE NOT BEEN LOCATED OR SHOWN AT THE REQUEST OF THE CLIENT.

LEGEND

H.C.M.R.	HARRIS COUNTY MAP RECORDS
H.C.C.O.	HARRIS COUNTY CLERK'S OFFICE
(C.M.)	CONTROL MONUMENT
FND.	FOUND
I.P.	IRON PIPE
I.R.	IRON ROD
R.O.W.	RIGHT-OF-WAY
SQ. FT.	SQUARE FEET
—//—	CHAINLINK FENCE
—o—	WROUGHT-IRON FENCE

THE WILSON SURVEY GROUP
PROFESSIONAL LAND SURVEYORS
2006 E. BROADWAY PEARLAND, TEXAS
(281) 485-3991 FAX (281) 485-3998

GSI ENVIRONMENTAL, INC.

BOUNDARY SURVEY OF A 5.609 ACRE TRACT IN LOT 2, BLOCK 12 OF SOUTH HOUSTON GARDENS NO. 8 SUBDIVISION IN THE J. ROBINSON SURVEY, A-680 IN HARRIS COUNTY, TEXAS

CAD FILE	14-126.dwg
ORIGINAL PLOT DATE	05/21/14
DWN	C.L.H.
CKD	M.D.W.
APPD	M.D.W.
SCALE	1"=50'
JOB NO.	14-126
SHEET	1

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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 2015-759 passed and adopted by the City Council of said City on the 12th day of August, 2015, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 1st day of September, 2015.

Anna Russell
City Secretary of the City of Houston