

# AGENDA

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION CITY OF HIGHLAND VILLAGE, TEXAS TUESDAY, FEBRUARY 21, 2023, 7:00 PM HIGHLAND VILLAGE MUNICIPAL COMPLEX CITY COUNCIL CHAMBERS 1000 HIGHLAND VILLAGE ROAD, HIGHLAND VILLAGE, TEXAS

- 1. Call to Order/ Roll Call.
- 2. Consider Approval of the Minutes from the Regular meeting of Planning and Zoning held on November 15, 2022.
- 3. Visitor's Comments.

(Anyone wishing to address the Planning and Zoning Commission must complete a Speakers' Request form and return it to City Staff. In accordance with the Texas Open Meetings Act, the Commission is restricted in discussing or taking action on items not posted on the agenda. Action on your statement can only be taken at a future meeting.)

- 4. Conduct Public Hearing and Review and Consider an application on a proposed change in zoning from SF-40 Residential Zoning District to a Planned Development Overlay District for Townhome Use relating to a 4.364 <u>+</u> acre tract of land located in the F. Hyatt Survey, Abstract No. 559, commonly known as 102 Barnett Boulevard.
- 5. Receive Status Report on Various Projects.
  - Future P&Z Meetings
- 6. Adjournment.

Pursuant to Section 551.071 of the Texas Government Code, the Planning and Zoning Commission reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed.

I HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE PUBLIC BULLETIN BOARD AT THE MUNICIPAL COMPLEX, 1000 HIGHLAND VILLAGE ROAD, HIGHLAND VILLAGE, TEXAS IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE, CHAPTER 551, ON FEBRUARY 17, 2023 NOT LATER THAN 5:00 P.M.

Autumn Aman

Community Development Coordinator

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (972) 899-5132 or Fax (972) 317-0237 for additional information.

Removed from posting on the _	day of	, 2023 at _	by
at			

## DRAFT MINUTES REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION CITY OF HIGHLAND VILLAGE, TEXAS HELD IN THE MINICIPAL COMPLEX, 1000 HIGHLAND VILLAGE ROAD TUESDAY, NOVEMBER 15, 2022

Due to unforeseen circumstances of a power outage at City Hall, the meeting was moved to The Robert & Lee DuVall Center, 948B Highland Village, Road.

## 1. Call to Order/Roll Call.

Chairman Denver Kemery called the meeting to order at 7:00 p.m.

### **Roll Call**

Present:	Denver Kemery Michael George Brent Myers Steve Winkle Adam Ballard	Chairman Vice Chairman Commissioner Commissioner Alternate Commissioner
Absent:	Jared Christianson Greg Kohn	Commissioner Alternate Commissioner
Staff Members:	Autumn Aman Kimberlie Huntley Scott Kriston Gary Cowley Angela Miller	Community Development Coordinator Community Services Assistant Director of Public Works Building Official City Secretary

# 2. Consider Approval of the Minutes from the Workshop Meeting of the Planning and Zoning Commission held on October 24, 2022.

Vice Chairman Michael George made a motion to approve the minutes as written. Alternate Commissioner Adam Ballard seconded the motion.

### Motion Passed (5-0)

### 3. Visitor Comments.

There were no visitor comments.

# 5. Conduct Public Hearing and consider proposed amendments to the City of Highland Village Comprehensive Zoning Ordinance, specifically Section 39, Definitions, relating to amending definition of "Coverage" to exclude the surface area of pools.

Director of Public Works, Scott Kriston, in general gave a briefing of the amendment explaining in single family residential districts, there was a maximum lot coverage which includes the main and accessory structures. As an example, the SF-10 and SF-8 maximum lot coverage is 40%. The rationale for having maximum lot coverage stipulations is to allow for adequate drainage and to not cover up a large amount of the surface of a lot, making it

impervious to rain. The area of accessory buildings and structures are to be included in determining the impervious coverage. Because swimming pools are defined as an accessory structure, under the current regulations, the surface area of swimming pools is included in the lot coverage calculations as impervious coverage. However, swimming pools hold water during a rain event and do not contribute to developed drainage runoff that must be addressed through the construction, operation, and maintenance of drainage facilities.

It had been discovered that including the surface area of swimming pools within the lot coverage calculations had put certain lot owners in zoning districts that allow for smaller lots, such as some SF-8 lots, they could not have a reasonably sized pool. The amendment would allow pools to be built on smaller lots and not be a detriment to lot drainage. A review of ordinances of surrounding cities found that other cities also exclude pools from the lot coverage calculations.

The Commissioners, Mr. Kriston, and Building Official Gary Cowley discussed the amendment as it related to setbacks, impervious calculations, decking around the pool, how the amendment did not include overhangs and eaves, and wording of the definition of coverage within the draft ordinance.

Chairman Kemery opened the Public Hearing at 7:09 p.m.

Ms. Viviana Mejia Hoyos, 4305 Highwoods Trail, Highland Village, Texas spoke in favor of the amendment.

Chairman Kemery closed the Public Hearing at 7:12 p.m.

Alternate Commissioner Ballard made a motion recommending sending the draft ordinance forward for approval with the City Attorney reviewing the verbiage within the definition, changing "swimming pools <u>or</u> spas" to "swimming pools <u>and</u> spas". Commissioner Winkle seconded the motion.

# Motion passed (5-0)

### 6. Receive Status Reports on Various Projects

### • Discuss Future P&Z Meeting dates

Community Development Coordinator Aman stated the next regular scheduled meeting would be held on December 20, 2022.

### 7. Adjournment.

Meeting adjourned at 7:18 p.m.

Autumn Aman Community Development Coordinator Denver Kemery – Chairman Planning and Zoning

# CITY OF HIGHLAND VILLAGE PLANNING AND ZONING

AGENDA# 4	MEETING DATE: February 21, 2023
SUBJECT:	Conduct Public Hearing and Consider a request to amend the use and development of 3.96 <u>+</u> acre tract of land located in the F. Hyatt Survey, Abstract No. 559, commonly known as 102 Barnett Boulevard by enacting a Planned Development Overlay District for Attached Single Family Residential Townhouse Development.
PREPARED BY:	Autumn Aman, Community Development Coordinator

# BACKGROUND

The City has received an application from Mr. Dusty Broadway, Broadway Builders, requesting to change the current zoning on the property, which is presently zoned as SF-40, by enacting a Planned Development Overlay District for Attached Single Family Townhouses consisting of thirty-nine (39) lots.

The proposed development regulations provide for the following:

- The townhomes would be required to have a minimum of 2,242 square feet of air conditioned space, two dedicated garage spaces, a driveway with two dedicated parking spaces and not to exceed a height of 35 feet, typical of a two story dwelling.
- In addition to the 78 parking spaces contained in garages and the additional 2 parking spaces from the driveways, there will be an additional 10 parking spaces within the development.
- Garage doors must be designed to appear like a "carriage style" design with hardware.
- A five foot wide sidewalk/trail will be constructed along the eastern boundary of the property along Barnett Boulevard.
- Each unit will have a 4' wrought iron fence in the back yard.
- The developer is going to try to save as many of the existing trees on the Western Property line to serve as a screen from the existing neighborhood.
- The 24' Fire lane within the development will be privately maintained.
- A homeowners'/property owners' association must be established at the time of approval of the final plat of the property to maintain common areas.

As stated above, this is a Planned Development Overlay District and not a Freestanding District, however, the applicant had been able to meet the minimum standards for a Freestanding District, Section 28.2.B, with the exception to the Open Space requirement.

Open spaced required is 46,900 square foot. Open spaced provided is 33,308 square foot.

HISTORY:

On June 21, 2022, the Townhome project was presented to the Planning and Zoning Commission and at that meeting the item was tabled. It was then presented again to the Commission on August 16, 2022 and at that meeting the item was denied and the applicant chose not to take it forward to City Council at that time. Within the prior submittal, the applicant was requesting the approval to construct a total of (60) townhouses with a minimum dwelling unit size of 1,789 square feet, there was not going to be any driveways and any required parking would have been dependent on construction of on-street parking.

# **IDENTIFIED NEED/S:**

To conduct a public hearing and consider and make a recommendation to the City Council regarding the request to change of zoning on the property.

# **OPTIONS & RESULTS:**

Options are to recommend to the City Council that the application be (1) approved as submitted, (2) approve with modification, or (3) deny the request. The Planning and Zoning Commission may also postpone any action in order to receive any additional information which it requests be presented.

# **PROGRESS TO DATE: (if appropriate)**

As of the date of this briefing, February 15, 2023, staff has received a total of (1) email regarding this request.

# **BUDGETARY IMPACT/ORDINANCE CHANGE: (if appropriate)**

An Ordinance is required. A copy of the draft ordinance setting forth the required development regulations prepared by the City Attorney is attached.

# **RECOMMENDATION:**

Staff recommends the Planning and Zoning Commission review and forward a recommendation to City Council.

## CITY OF HIGHLAND VILLAGE, TEXAS ORDINANCE NO. 2023-\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, AMENDING THE HIGHLAND VILLAGE COMPREHENSIVE ZONING ORDINANCE AND ZONING MAP BY AMENDING THE REGULATIONS RELATING TO THE USE AND DEVELOPMENT OF 3.96<u>+</u> ACRES LOCATED IN THE F. HYATT SURVEY, ABSTRACT NO. 559, BY ENACTING A PLANNED DEVELOPMENT OVERLAY DISTRICT FOR ATTACHED SINGLE FAMILY RESIDENTIAL TOWNHOUSE DEVELOPMENT (PD 2023-1) AND ADOPTING DEVELOPMENT REGULATIONS, A CONCEPT PLAN, AND LANDSCAPE PLAN; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

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

# NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, THAT:

**SECTION 1**. The Comprehensive Zoning Ordinance ("CZO") and the Zoning Map of the City of Highland Village, Texas, as previously amended (collectively, the "CZO"), be further amended by amending the regulations relating to the use and development of 3.96<u>+</u> acres located in the F. Hyatt Survey, Abstract No. 559, City of Highland Village, Denton County, Texas, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property"), by changing enacting a Planned Development Overlay District for Single Family Residential Townhouse Development (PD 2023-1) subject to the use and development regulations set forth in Section 2 of this Ordinance.

**SECTION 2**. In addition to the uses for which the Property may otherwise be developed in accordance with the "SF-40" Single Family District, the Property may be developed and used for single family attached townhouses subject to the following:

- A. **CONCEPT PLAN:** The Property shall be developed in general conformance with the Concept Plan attached hereto as Exhibit "B" and incorporated herein by reference ("the Concept Plan").
- **B. DEVELOPMENT STANDARDS**: The Property shall be developed and used for the construction and occupancy of townhouses located on individual platted lots within the Property in accordance with the following standards:

Minimum Dwelling Unit Area	2,242 square feet of air-conditioned space
Maximum Density	39 dwelling units (9.85 dwelling units per acre)
Maximum Height	35.0 feet
Minimum Lot Ārea	2,755 square feet
Minimum Lot Width	28 feet
Minimum Lot Depth	98 feet
Minimum Front Yard	20 feet
Minimum Side Yard	15 feet
Corner Lot Side Yard	15 feet
Minimum Rear Yard	20 Feet
Maximum Lot Coverage	85% including main and accessory buildings

# C. SCREENING:

- (1) A four-foot (4.0') tall wrought iron fence with six-foot (6.0') tall 2-foot by 2-foot brick columns spaced not less than One hundred, ninety-two feet (192') apart shall be constructed within the rear yards of the dwelling units backing to the north and south boundaries of the Property as shown on the Concept Plan.
- (2) A four-foot (4.0') tall wrought iron fence without brick columns shall be constructed within the rear yards of the dwelling units backing to the west boundary of the Property as shown on the Concept Plan.
- (3) Construction of the screening fences required by this Sections 2.C must be completed prior to issuance of a certificate of occupancy for any building constructed on the Property.

# D. LANDSCAPING AND OPEN SPACE:

- (1) The Property shall be landscaped substantially in accordance with the Landscape Plan attached hereto as Exhibit "C" and incorporated herein by reference ("the Landscape Plan").
- (2) All landscaping shall be irrigated with an automatic irrigation system and maintained in a healthy, growing condition.
- (3) The planting of all required landscaping shall be completed prior to issuance of a certificate of occupancy for any building constructed on the Property; provided, however, the planting of landscaping located on an individual lot on which a dwelling unit will be constructed and the related irrigation system may be delayed until completion of construction of the dwelling unit on such lot, in which case a certificate of occupancy or approval of final inspection for the dwelling constructed on such lot shall not be granted until installation of such landscaping and irrigation is completed.
- (4) The trees on the western boundary of the Property in existence on the effective date of this Ordinance as shown on the Landscape Plan shall be preserved; provided, however, trees that have been determined by a certified arborist or tree surgeon to be dead, dying, or diseased beyond the point of being restored to a healthy, growing condition may be removed provided no such trees shall be

removed prior to such determination being provided in a writing delivered to the City Manager.

- (5) The Property may be developed with usable Open Space as defined in Section 21.6.L. of the Zoning Ordinance with an area of less than 1.074 acres but not less than 0.764 acres as shown on the Concept Plan.
- E. ENTRY FEATURE: Construction of an entry feature designed as shown on Exhibit "D", attached hereto and incorporated herein by reference ("Entry Feature"), and located in a dedicated common area easement outside of any public street right-of-way as shown on the Concept Plan shall be completed prior to issuance of the building permit for the 18<sup>th</sup> dwelling unit to be constructed on the Property.
- **F. SIDEWALK**: Construction of sidewalks not less than five feet (5') wide located as shown on the Concept Plan must be completed as follows:
  - (1) Construction of the sidewalk adjacent to Barnett Boulevard must be completed prior to issuance of certificate of occupancy for any building to be constructed on the Property; and
  - (2) Construction of the sidewalks within the interior of the Property located between buildings shall be completed prior to issuance of a certificate of occupancy for each individual building with a means of egress to such sidewalk.
- **G. EXTERIOR BUILDING ELEVATIONS**: The exterior elevation of the buildings constructed on the Property shall be designed and constructed to appear substantially similar to the elevations shown on Exhibit "E," attached hereto and incorporated herein by reference ("Elevations").

# H. GARAGES AND PARKING:

- (1) Every dwelling unit shall be constructed with an attached garage with space for parking for no fewer than two (2) vehicles and a driveway large enough to park no fewer than two (2) vehicles in tandem.
- (2) Garages shall be classified as "Front Entry" as indicated on the Concept Plan;
- (3) Garage doors shall be designed with an appearance of a "carriage style" door with architectural hinges and handles substantially as shown on the Elevations; and
- (4) The Property shall be developed with no fewer than ten (10) off-street parking spaces located on the Property as shown on the Concept Plan.
- I. HOMEOWNERS'/PROPERTY OWNERS' ASSOCIATION: Prior to approval of the final plat for the Property, a homeowners' association shall be established and created to assume and be responsible for the continuous and perpetual operation, maintenance and supervision of landscape systems, screening walls and fences, features or elements located in the parkways, common areas between screening walls or living screens and adjacent curbs or street pavement edges, adjacent to drainage ways or drainage structures or at subdivision entryways, open space common areas or properties, including but not limited to: landscape features and irrigation systems, subdivision entryway features

and monuments, playgrounds, pavilions, detention ponds, trail, private neighborhood park and related amenities with the Property subject to the following:

- (1) All open space and common properties or areas, facilities, structures, improvements systems, or other property 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 recorded final plat of the Property or portion thereof;
- (2) 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 Property and must be recorded prior to or concurrently with the recording of the final plat in the map and plat records of the Denton County. The recorded 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;
- (3) At a minimum, the agreements, covenants, and restrictions establishing and creating the homeowners' association required herein shall contain and/or provide for the following:
  - **i.** Definitions of terms contained therein;
  - **ii.** Provisions for the establishment and organization of the homeowners' association and the adoption of bylaws for said homeowners' association, including provisions requiring that the owner(s) of any lot or lots within the applicable subdivision and any successive purchaser(s) shall automatically and mandatorily become a member of the homeowners' association; the initial term of the agreement, covenants and restrictions establishing and creating the homeowners' association shall be for a period of not less than 25 years and, if not established to be perpetual, shall automatically renew for successive periods of not less than 10 years thereafter;
  - **iii.** The homeowners' association may not be dissolved without the prior written consent of the City;
  - iv. Provisions ensuring the continuous and perpetual use, operation maintenance and/or supervision of all facilities, structures, improvements, systems, open space or common areas that are the responsibility of the homeowners' association and to establish a reserve fund for such purposes;
  - v. 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, area or grounds that are the responsibility of the homeowners' association without the prior written consent of the City;
  - vi. 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 ordinances 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 of City ordinance or regulations; and

vii. Provisions indemnifying and holding the City harmless from any and all costs, expenses, suits, demands, liabilities or damages including attorney's fees and cost 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 of 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.** All ordinances of the City of Highland Village related to the use and development of the Property heretofore adopted and in effect upon the effective date of this Ordinance are and shall remain in full force and effect except to the extent amended by this Ordinance or to the extent there is an irreconcilable conflict between the provisions of said other ordinance and the provisions of this Ordinance, in which case the provision of this Ordinance shall be controlling.

**SECTION 4**. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or the Comprehensive Zoning Ordinance, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance or the Comprehensive Zoning Ordinance, as amended hereby, which shall remain in full force and effect.

**SECTION 5.** An offense committed before the effective date of this Ordinance is governed by 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 6.** 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 Comprehensive Zoning Ordinance as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

**SECTION 7.** This ordinance shall take effect immediately from and after its passage on Second Reading and publication of the caption in accordance with the provisions of the Charter of the City of Highland Village, and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL, CITY OF HIGHLAND VILLAGE, TEXAS ON FIRST READING ON THIS THE \_\_\_\_DAY OF \_\_\_\_\_, 2023.

PASSED AND APPROVED BY THE CITY COUNCIL, CITY OF HIGHLAND VILLAGE, TEXAS ON SECOND READING ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

**APPROVED:** 

Daniel Jaworski, Mayor

ATTEST:

Angela Miller, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Kevin B. Laughlin, City Attorney (kbl:2/16/2023:133656)

#### Ordinance No. 2023-\_\_\_ EXHIBIT A - Description of the Property

Being all that certain lot, tract or parcel of land lying and being situated in the F. Hyatt Survey, Abstract number 559, City of Highland Village, Denton County, Texas, being part of Tract 4, Barnett Subdivision, an addition to the City of Highland Village according to the plat thereof recorded in Cabinet F, Page 31 of the Plat Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a ½" rebar found at the northwest corner of Tract 4, Barnett Subdivision, being the southwest corner of Tract 5 of same and being on the east line of Briarhill Estates, Phase III, an addition to the City of Highland Village according to the plot thereof recorded in Cabinet H, Page 342 of the Plat Records of Denton County, Texas;

THENCE S 88'32'24" E, 225.82 feet, along the north line of Tract 4 and the south line of Tract 5, to a  $\frac{1}{2}$ " rebar found at an angle point therein;

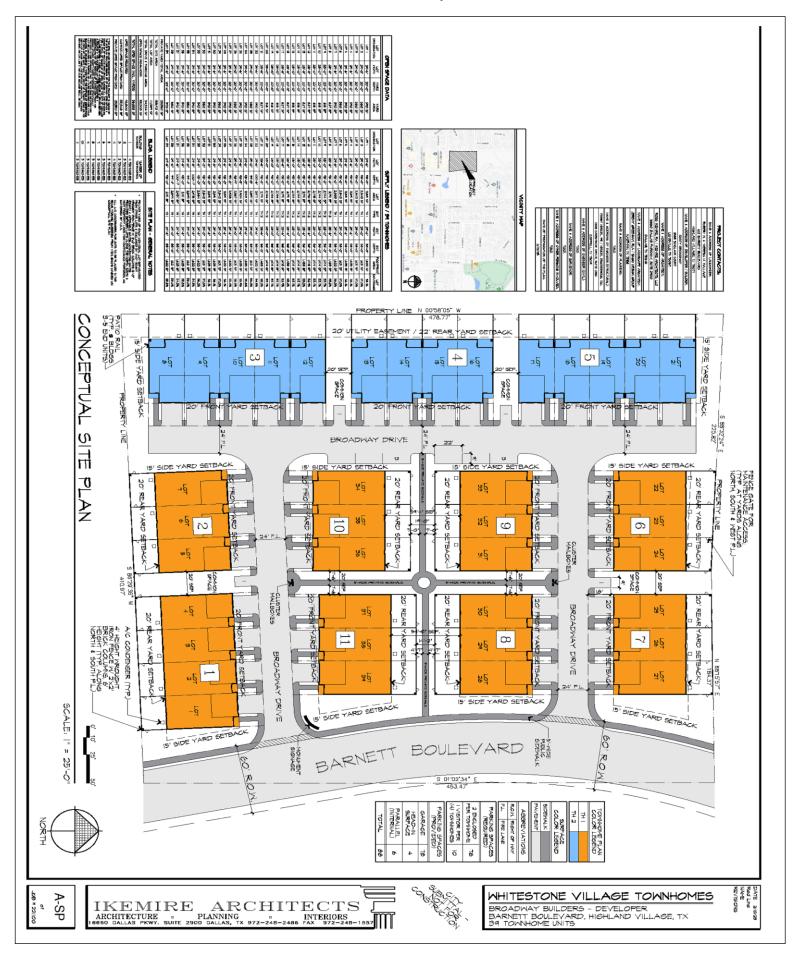
THENCE N 88'15'57" E, 184.37 feet, continuing along said line, to an "X" found at the northeast corner of Tract 4, being the northwest corner of Tract 3B, Barnett Subdivision, an addition to the City of Highland Village according to the plat thereof recorded in Cabinet H, Page 285 of the Plat Records of Denton County, Texas;

THENCE S 01'02'3.4" E, 453.47 feet, along the east line of Tract 4 and the west line of Tract 3A, to an "X" set in concrete at the northeast corner of that certain called 2.000 acre tract of land described in deed to Gladys Louise Barnett Dixon recorded in Volume 2378, Page 111 of the Real Property Records of Denton County, Texas;

THENCE S 86'29'36" W, 410.97 feet, along the north line of said 2.00-acre tract, to a  $\frac{1}{2}$ " capped rebar (G & A) set at the northwest corner thereof, being on the west line of Tract 4, Barnett Subdivision and the east line of Briarhill Estates, Phase 3;

THENCE N 00'53'05" W, 478.77 feet along the west line of Tract 4, Barnett Subdivision and the east line of Briarhill Estates, Phase 3, to the POINT OF BEGINNING and containing approximately 3.96 acres of land.

Ordinance No. 2023-\_\_\_\_ Exhibit "B" - Concept Plan



Ordinance No. 2023-\_\_\_\_ EXHIBIT "C"- Landscape Conceptual Plan

