VILLAGE OF VOLENTE

RESOLUTION NO. 2004-R-21

A RESOLUTION OF THE VILLAGE OF VOLENTE, TEXAS, DISAPPROVING AN APPLICATION FOR A FINAL PLAT WHICH VARIOUS LANDOWNERS AND DEVELOPERS HAD ATTEMPTED TO FILE WITH THE VILLAGE ON JULY 22, 2004, FOR A PROPOSED RITA VISTA ADDITION; PROVIDING FOR CONFLICTS WITH OTHER RESOLUTIONS AND ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE FOR THE RESOLUTION.

WHEREAS, the Village of Volente ("Volente") was incorporated pursuant to the laws of the State of Texas as a Type B General-Law Municipality following an election held on February 1, 2003; and

WHEREAS, the City Council of Volente ("Council") enacted Ordinance 2003-O-01 on May 20, 2003, which established a temporary moratorium on the filing and processing of applications for subdivision plats, site development plans, building permits and zoning applications; and

WHEREAS, the Council excepted from the moratorium those properties upon which construction had commenced prior to May 20, 2003; those properties that had received a site development permit from Travis County, Texas, prior to May 20, 2003; and, single-family residential structures and improvements to be constructed on lots legally platted prior to May 20, 2003; and

WHEREAS, the Council has subsequently extended the moratorium from time to time in order to develop a Comprehensive Plan for Volente prior to enacting ordinances governing the existing and future development of Volente; and

WHEREAS, the most recent extension of the moratorium extends the moratorium to November 6, 2004, unless sooner terminated by action of the Village Council; and

WHEREAS, it took a substantial period of time to solicit, receive, evaluate and incorporate into the Comprehensive Plan the responses to a community survey which requested the citizens of Volente to provide the Council with their opinions, desires and needs in connection with the future growth of Volente; and,

WHEREAS, the Comprehensive Plan will shortly be completed and presented to the Planning and Zoning Commission for recommendation to Council and to the Council for adoption; and

WHEREAS, various citizen committees have been working on ordinances to provide the rules and regulations to achieve the goals set forth in the Comprehensive Plan; and

WHEREAS, many of those ordinances are already in draft form and the Council has scheduled those ordinances for public hearings during the months of August and September; and

WHEREAS, on July 22, 2004, certain persons representing themselves to be landowners and developers of a proposed Rita Vista Addition project attempted to file a final plat application with the Village; and

WHEREAS, the Mayor of the Village refused to permit the filing of the application with the Village and the application was left with the Volente Volunteer Fire Department and later returned to the applicant's engineer; and

WHEREAS, the Council has concluded the moratorium applies to the proposed final plat; and

WHEREAS, the attorney for the applicant has contended that the Village's moratorium does not comply with the provisions of the Texas Local Government Code and the returning of the application "does not obviate the Village's obligation to act on the application within 30 days of the July 20, 2004 submittal date in accordance with §212.009, Tex. Loc. Gov't Code"; and

WHEREAS, the Village Council has concluded that in the event a district court agrees with the applicant's position that the Village's moratorium is not legally effective, it should comply with the provisions of §212.008 of the Texas Local Government Code and disapprove the proposed plat.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF VOLENTE, TEXAS:

1. Disapproval of the Proposed Plat

The application for final subdivision plat which the George Brian Frank Exempt Family Trust and the George Family Partnership attempted to file with the Volente Village Secretary on July 22, 2004 is hereby disapproved for the following reasons:

a. At the time of the attempted filing the Village had a moratorium in effect which prohibited persons from filing and the Village from processing applications for subdivision plats;

b. The Village has not yet adopted a general plan for the Village, but is working diligently to adopt a comprehensive plan, which will be the general plan of the municipality pursuant to the provisions of §212.010 of the Texas Local Government Code. Consequently, the Village Council finds that at this time the proposed Rita Vista Addition plat does not conform to the general plan of the Village;

c. There is an application before the Texas Commission on Environmental Quality to create a municipal utility district to provide water and wastewater utility services within the Village of Volente. Until that municipal utility district is created, the Village Council finds that the proposed Rita Vista Addition plat does not conform to the Village's current and future public utility facilities.

d. For the reasons set forth in (b) and (c) above, the Village Council finds that the proposed Rita Vista Addition plat does not conform to the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality, taking into account access to and extension of sewer and water mains and instrumentalities of public utilities.

e. The Village is in the process of adopting rules pursuant to Section 212.002 of the Texas Local Government Code governing plats and subdivisions of lands within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality. Until such rules are adopted, the Village Council finds that the proposed Rita Vista Addition plat does not conform to any rules adopted under Section 212.002 of the Texas Local Government Code.

Section 2. Conflicting Provisions.

In the event there is a conflict between the provisions of this Resolution and any other currently effective resolution or ordinance of Volente, the provisions of this Resolution will control. In adopting this Resolution, the Village Council is not making any determination on whether it will or will not grant the applicant a waiver from the moratorium in accordance with the waiver provisions in the extension of the moratorium effective August 8, 2004. As of the effective date of this Resolution, the applicant has not applied for a waiver from the moratorium.

Section 3. Severability.

If any portion of this Resolution or the application of this Resolution to any person or set of circumstances is held to be invalid or unenforceable for any reason, then that holding shall not be construed to affect the validity of any other portion of this Resolution, and all other portions

shall remain in full force and effect. All provisions of this Resolution are declared severable for that purpose.

Section 4. Effective Date.

This Ordinance shall take effect immediately upon its approval by the Village Council at a special council meeting held on August 10, 2004.

PASSED AND APPROVED this, the **10th** day of **August 2004**, by a vote of the Volente Village Council of **3** in favor to **0** opposed with **0** abstentions.

Jan Yenawine, Mayor

Attest:

Jennifer L. Zufelt, City Secretary

CERTIFICATION

"The forgoing is a true and correct copy of a resolution that was duly adopted by the Village Council and contains reasons for the Village's denial of the plat application referenced in the resolution. This certification is to comply with the previous Section 212.009 of the Tex. Loc. Gov't Code"

"Signed and certified this 17th day of August, 2004.

Jennifer L. Zufelt, City Secretary

8-17-04
Date