

AN ORDINANCE OF THE CITY OF VAN ALSTYNE, TEXAS AMENDING THE ZONING ORDINANCE TO CHANGE THE EXISTING ZONING CLASSIFICATION FROM AN AGRICULTURAL ZONING DISTRICT (A) UPON ANNEXATION TO PLANNED DEVELOPMENT (PD) WITH A BASE ZONING OF SF-72, SINGLE-FAMILY RESIDENTIAL DISTRICT ON A 72.350 ACRE TRACT OF LAND DESCRIBED AS PART OF THE ASHLEY MCKINNEY SURVEY, ABSTRACT NO. 851 AND THE WILLIAM CREAGER SURVEY, ABSTRACT NO. 201, CITY OF VAN ALSTYNE, GRAYSON COUNTY, TEXAS; GENERALLY LOCATED ON THE SOUTH SIDE OF BALLARD ROAD, NORTH OF MARTIN DUKE ROAD AND APPROXIMATELY 700 FEET EAST OF SOUTH MAIN DRIVE, IN THE CITY OF VAN ALSTYNE, GRAYSON COUNTY, TEXAS; PROVIDING REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; PROVIDING A PENALTY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Van Alstyne, Texas (the “City Council”) has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Van Alstyne, Texas (“Van Alstyne”) to rezone the Property as a planned development district, as set forth below; and

WHEREAS, the City of Van Alstyne, Texas (“Van Alstyne”) has received a request from TRGS VA Real Estate Holdings, LP to amend the zoning from Agricultural Zoning District (A) upon annexation to a Planned Development Zoning District (PD) with a base zoning classification of SF-72, Single Family Residential Zoning District; and

WHEREAS, the 72.350 acre tract of land being described as part of the Ashley McKinney Survey, Abstract No. 851 and the William Creager Survey, Abstract No 201, Grayson County, Texas, generally located on the south side of Ballard Road and north of Martin Duke Road and approximately 700 feet east of South Main Drive and being more particularly described in Exhibit “A” attached hereto and incorporated herein for all purpose (the “Property”); and

WHEREAS, the City Council has determined that the facts contained in the request are true and correct; and

WHEREAS, the Planning and Zoning Commission and the City Council, in accordance with state law and the City of Van Alstyne Zoning Ordinance No. 557, as codified, (“Zoning Ordinance”), have given the required notices and have held the required public hearings and made a recommendation regarding the zoning of the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VAN ALSTYNE, TEXAS THAT:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated as if fully set forth herein.

SECTION 2: Zoning Reclassification Granted and PD Standards Established. Van Alstyne's Zoning Ordinance is hereby amended to reflect that the Property is hereby rezoned from an Agricultural Zoning District (A) upon annexation to Planned Development Zoning District (PD) with a base zoning classification of SF-72, Single Family Residential Zoning District subject to the Planned Development regulations listed in Exhibit D.

SECTION 3. Exhibits: The attached exhibits are incorporated into this ordinance in their entirety as though set forth fully in the text of this ordinance. The exhibits are as follows:

- Exhibit A: Legal Description of Property
- Exhibit B: Zoning Exhibit
- Exhibit C: Concept Plan
- Exhibit D: Development Regulations

SECTION 4. Concept Plan. The Conceptual Site Plan is attached hereto and incorporated as if fully set forth herein as Exhibit "C." As allowed by Van Alstyne's Zoning Ordinance, Chapter 46, Article II, Section 46-92 (d) (3) a 3, the requirement for the City Council to have a separate public hearing for the Conceptual Site Plan is waived because a single public hearing on the Conceptual Site Plan and PD zoning is adequate and sufficient to determine the appropriate use of the Property. Exhibit "C" shall also qualify to serve as the Development Plan required by the Zoning Ordinance.

SECTION 5. Zoning Map. The Zoning Map of the City shall be amended to reflect this zoning reclassification. The Property shall be developed and used in accordance with all applicable City, state, and federal laws, as they exist or may be in the future amended, including but not limited to building codes, fire codes, and all accessibility standards as required by law.

SECTION 6: No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the City Council in the manner provided for by law.

SECTION 7: Unlawful Use of Property. It shall be unlawful for any person, firm, entity or corporation to make use of the Property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person, firm, entity, or corporation to construct on said Property and building that is not in conformity with the permissible uses under the City's Zoning Ordinance and this Ordinance.

SECTION 8: Penalty. Any person, firm, corporation or entity violating the Ordinance, or

any provision of Van Alstyne's Zoning Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing days' violation under this Ordinance shall not preclude Van Alstyne from filing suit to enjoin the violation. Van Alstyne retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 9: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Van Alstyne hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 10: Savings/Repealing Clause. Van Alstyne Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinances, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 11: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VAN ALSTYNE, TEXAS on the 10th day of August, 2021.

Jim Atchison, Mayor

**ATTESTED TO AND
CORRECTLY RECORDED BY:**

Jennifer Gould, City Clerk

Date of Publication: August 20, 2021, Van Alstyne Leader

EXHIBIT A

Legal Description

Being a 72.350 acre tract of land situated in the Ashley McKinney Survey, Abstract No. 851 and the William Creager Survey, Abstract No. 201, City of Van Alstyne, Grayson County, Texas, being of that called 72.350 acre tract of land conveyed to Chui Moo Rhee, as recorded in Volume 2136, Page 558, Deed Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a "PK" Nail with shiner (control monument) found in the approximate center of Ballard Road (an undedicated right-of-way) at the northwest corner of said Rhee tract, said "PK" Nail being the northwest corner of a tract of land conveyed to Vernon Edmonds and Ida Edmonds as recorded in Volume 1702, Page 528 of said Deed Records, Grayson County, Texas, said "PK" Nail being in the north line of said Ashley McKinney Survey and in the south line of the James McKinney Survey, Abstract No. 770, said "PK" Nail also being in the south line of the Van Alstyne Cemetery;

THENCE South 89 degrees 03 minutes 14 seconds East, with the north line of said Rhee tract, with the north line of said Ashley McKinney Survey and the south line of said James McKinney Survey, and with said Ballard Road, a distance of 2,625.21 feet to a 5/8-inch iron rod with cap stamped (RPLS 6578) (control monument) found for the northeast corner of said Rhee tract and the northwest corner of a tract of land conveyed to Brady Beavers and Rebekah Beavers as recorded in Instrument No. 2017-27989 of said Deed Records, Grayson County, Texas, said 5/8-inch iron rod being in the north line of said William Creager Survey;

THENCE South 01 degrees 23 minutes 56 seconds West, along the east line of said Rhee tract and the west line of said Beavers tract, passing at a distance of 416.06 feet a ½-inch iron rod found for the southwest corner of said Beavers tract and the northwest corner of a tract of land conveyed to Brady Beavers and Rebekah Beavers as recorded in Instrument No. 2017-27990 of said Deed Records, Grayson County, Texas, continuing a total distance of 1,242.20 feet to ½-inch iron rod (control monument) found for the most easterly southeast corner of said Rhee tract and the southwest corner of a tract of land conveyed to Carlos Palao and Cinthya Palaoas recorded in Instrument No. 2018-16270 of said Deed Records, Grayson County, Texas, said 1/2 iron rod also being in the north line of a tract of land conveyed to Van Alstyne Leasing Company as recorded in Volume 3079, Page 752 of said Deed Records, Grayson County, Texas;

THENCE North 88 degrees 07 minutes 31 seconds East, with the south line of said Rhee tract and the north line of said Van Alstyne Leasing tract, a distance of 1,419.14 feet to a ½-inch iron rod (control monument) found for an interior ell corner of said Rhee tract and the northwest corner of a tract of land called "Second Tract" conveyed to Benton Holdings, LP. as recorded in Volume 3015, Page 384 of said Deed Records, Grayson County, Texas;

THENCE South 02 degrees 38 minutes 33 seconds West, along an east line of said Rhee tract and with the west line of said Benton Holdings tract, a distance of 169.94 feet to a "PKn Nail set for the most southerly southeast corner of said Rhee tract in approximate centerline of Martin Duke Road (an undedicated right-of-way), said "PKn Nail being the southwest corner of said Benton Holdings tract and the northwest corner of a tract of land conveyed to the City of Van Alstyne as recorded in Volume 3610, Page 18 of said Deed Records, Grayson County, Texas, said "PK" Nail also being the northeast corner of a tract of land conveyed to the City of Van Alstyne as recorded in Volume 3589, Page 190 of said Deed Records, Grayson County, Texas;

THENCE with the south line of said Rhee tract and with the approximate center of said Martin Duke Road the following;

North 66 degrees 10 minutes 30 seconds West, a distance of 586.72 feet to a "PK" Nail set for corner;

North 66 degrees 15 minutes 44 seconds West, a distance of 343.53 feet to a "PK" Nail set for

corner;

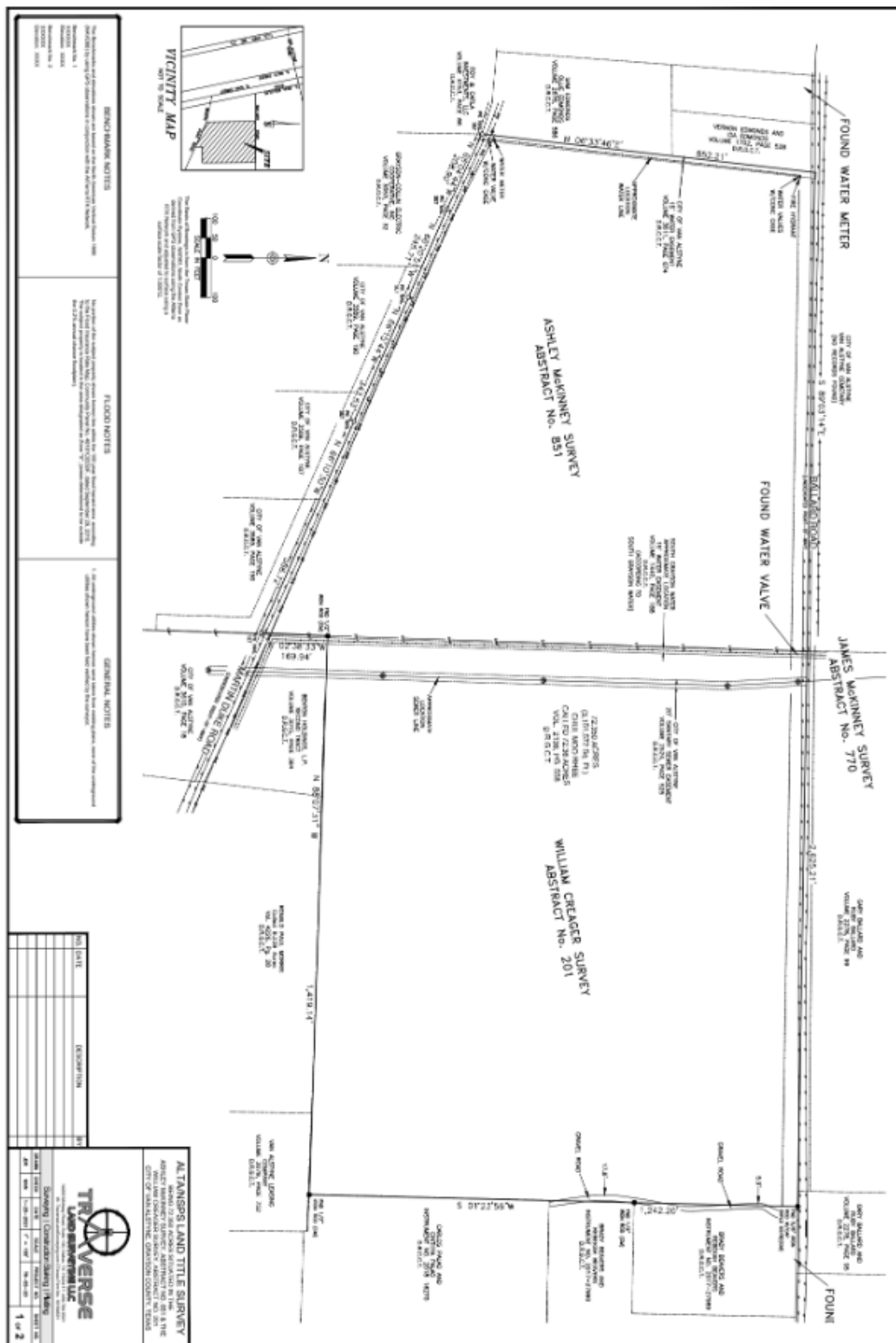
North 66 degrees 20 minutes 51 seconds West, a distance of 245.71 feet to a "PK" Nail set for corner;

North 65 degrees 04 minutes 44 seconds West, a distance of 208.90 feet to a "PK" Nail set for the southwest corner of said Rhee tract and the southeast corner of a tract of land conveyed to Sam Edmonds and Ollie Edmonds as recorded in Volume 2876, Page 586 of said Deed Records, Grayson County, Texas, said "PK" Nail also being the northeast corner of a tract of land conveyed to Roy & Carla Investments, LLC as recorded in Volume 4153, Page 66 of said Deed Records, Grayson County, Texas;

THENCE North 06 degrees 33 minutes 46 seconds West, along the west line of said Rhee tract and the east line of said Sam Edmonds tract, a distance of 852.21 feet to the **POINT of BEGINNING** and containing 72.350 acres of land (3,151,572 square feet), more or less.

EXHIBIT B

Zoning Exhibit



Concept Plan

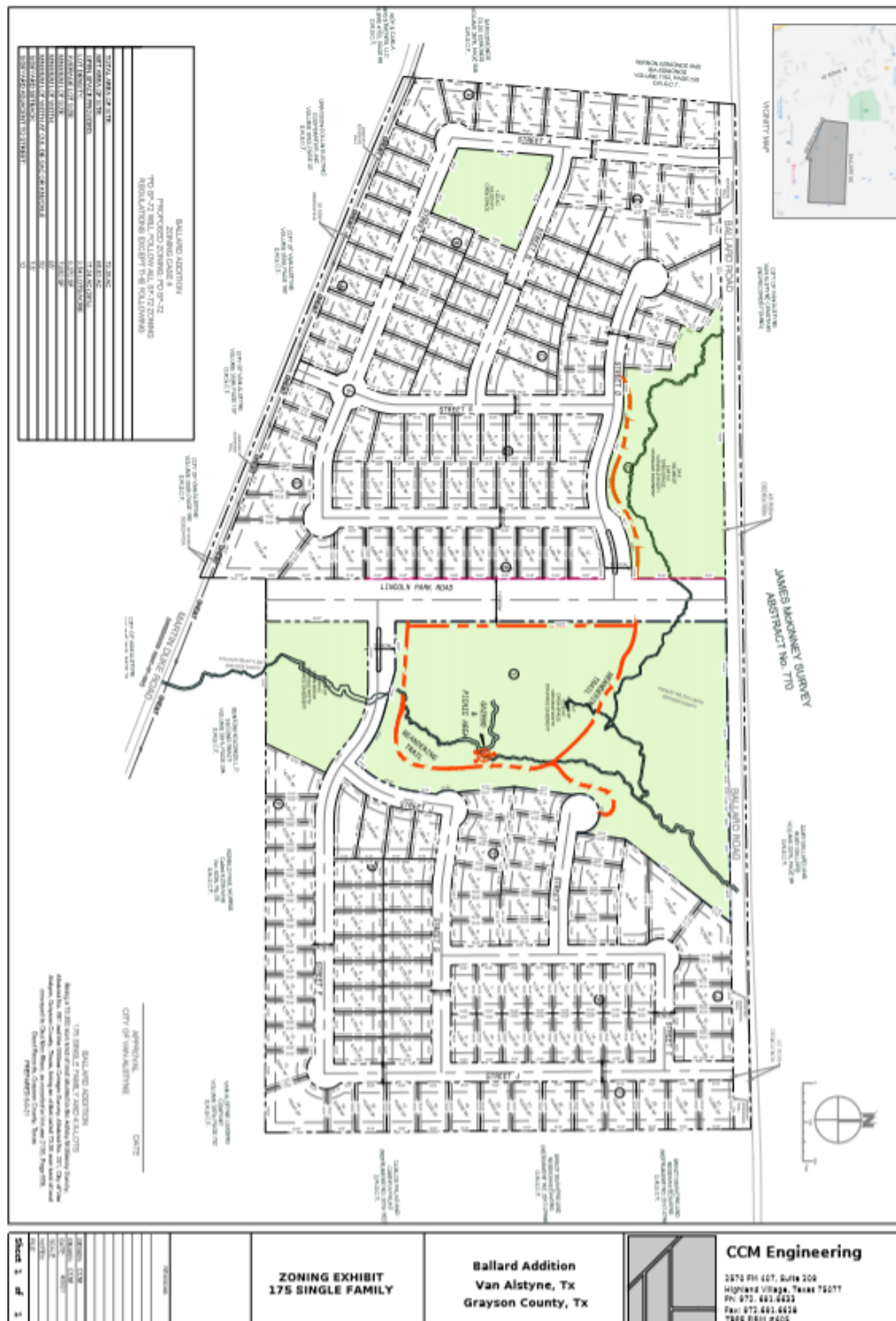


EXHIBIT D
Planned Development Regulations

Total area of site:	72.350 acres
Net area of site:	65.83 acres
Open space provided:	17.24 acres (26%)
Lot density:	2.54/acre
Average lot size:	9,370 square feet
Minimum lot size:	7,650 square feet
Minimum lot width:	65 feet
Minimum lot width:	50 feet
(at cul de sac or knuckle)	
Side yard setback:	7.5 feet
Side yard setback:	10 feet
(adjacent to street)	
Exterior masonry:	60% minimum