

**Ordinance No. 09-003**

**An ordinance changing the zoning classification on certain property known as 3900 Avenue E East by the approval of specific use permit SUP08-1R1 for gas drilling; amending the Zoning District Map accordingly; providing for a fine of up to \$2,000.00 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date.**

WHEREAS, after notice and public hearing the Planning and Zoning Commission heard case SUP08-1R1 and recommended approval of the specific use permit on January 7, 2009;

WHEREAS, after notice and public hearing, and upon consideration of the recommendation of the Commission and of all testimony and information submitted during the public hearing, the City Council has determined that the use will: complement or be compatible with the surrounding uses and community facilities; contribute to, enhance or promote the welfare of the area of the SUP and adjacent properties; not be detrimental to the public health, safety or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens that the zoning amendment be approved. Now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

A Specific Use Permit for gas drilling is hereby granted for the property known as 3900 Avenue E East, described in Exhibit A, and the Zoning District Map shall be amended to reflect the zoning change made by this ordinance. Development and use of the property shall be in compliance with this ordinance, the conditions stated in Exhibit B, and the attached site plan. In the event of a conflict between the provisions in Exhibit B and the provisions in any other exhibit, the provisions in Exhibit B control.

2.

If either no gas well permit is issued or drilling activity has not commenced on the property described in Exhibit A within one year after the date of City Council approval, the Specific Use Permit shall expire, unless the director of Community Development and Planning grants an extension as provided in Section 5-500(F) of the Zoning Chapter of the Arlington City Code.

3.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

4.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

5.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

6.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

7.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

8.

The caption and penalty of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

9.

This ordinance shall become effective upon second publication.

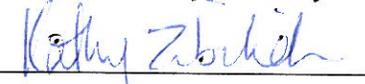
PRESENTED AND GIVEN FIRST READING on the 3rd day of February, 2009, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 17th day of February, 2009, by a vote of 8 ayes; 0 nays; and 1 abstention at a regular meeting of the City Council of the City of Arlington, Texas.

  
ROBERT N. CLUCK, Mayor

ATTEST:

  
KAREN BARLAR, City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY   
Kathy Zbich

SUP08-1R1

EXHIBIT "A"

THAT the following described property now zoned "IM" be modified by the addition of a Specific Use Permit for gas drilling, and that the official zoning map, adopted and described in Article VI, "Zoning" Chapter, Arlington City Code of 1987, be revised accordingly:

BEING a 3.626-acre tract of land located in the P.L. Wheeler Survey, Abstract No. 1733, in the City of Arlington, Tarrant County, Texas, being a portion of a called 7.692-acre tract of land as described in the Warranty Deed to Trinity River Real Estate, LLC, filed for record in County Clerk's Instrument No. D208237893, Deed Records, Tarrant County, Texas, said 3.626-acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of Lot 52, Sixth Installment, Industrial Community No. 2, Great Southwest Industrial District, an addition to the City of Arlington, Tarrant County, Texas, according to the plat recorded in Cabinet A, Slide 5677, Plat Records, Tarrant County, Texas, being on the southeast right-of-way line of Avenue E East, a variable width right-of-way, and being on the west line of said called 7.692-acre tract of land;

THENCE North 00°33'35" West, along said west line, a distance of 12.84 feet, to a 5/8-inch capped iron rod found stamped "Dunaway & Assoc." for the northwest corner of said called 7.692-acre tract of land, and being on the southeast right-of-way line of said Avenue E East;

THENCE northeasterly, along said southeast right-of-way line, the following calls:

North 58°20'48" East, a distance of 24.16 feet, to a 5/8-inch capped iron rod found stamped "Dunaway & Assoc." at the beginning of a curve to the right having a radius of 486.87 feet;

Along said curve to the right, and in an easterly direction, through a central angle of 31°00'30", an arc length of 263.49 feet, and having a long chord which bears North 73°51'03" East, a chord length of 260.29 feet, to a 1/2-inch iron rod found;

North 89°21'11" East, a distance of 40.76 feet, to 5/8-inch capped iron rod found stamped "Dunaway & Assoc." at the beginning of a curve to the right having a radius of 25.00 feet;

Along said curve to the right, and in a southeasterly direction, through a central angle of 89°49'15", an arc length of 39.19 feet, and having a long chord which

bears South 45°44'11" East, a chord length of 35.30 feet, to a 5/8-inch capped iron rod found stamped " Dunaway & Assoc." on the west right-of-way line of Duncan Perry Road, a variable width right-of-way;

THENCE South 00°49'34" East, along said west right-of-way line, a distance of 463.24 feet, to a point for corner, being the northeast corner of a Wetland Conservation Easement, filed for record in Volume 14102, Page 371, of said Deed Records;

THENCE South 89°10'29" West, along the north line of said Wetland Conservation Easement, a distance of 339.36 feet, to a point for corner on the west line of said called 7.962-acre tract, being common to the east line of said Lot 52;

THENCE North 00°33'35" West, along said common line, a distance of 394.36 feet, to the POINT OF BEGINNING and containing 3.626 acres of land of land;

AND being generally located south of Avenue E East and west of Duncan Perry Road with the approximate address being 3900 Avenue E East.

SUP08-1R1

EXHIBIT "B"

1. Operation of a gas drilling use must comply with all requirements in the Gas Drilling and Production Chapter of the Arlington City Code.
2. At the permit stage, a Road Damage Assessment Study is required to mitigate any impacts to the street system during drilling.
3. Landscaping will be provided in accordance with the submitted Site Plan. Landscaping consists of existing trees that will remain and additional new plantings from the Texas Smartscape List that will be installed by the applicant, also a central water feature, all as identified on the Site Plan.
4. Use and development of the property must be in compliance with the attached Site Plan.
5. The applicant is responsible for the viable health of all landscaping on the site and is required to perform any required maintenance or upkeep to keep the property clean and orderly at all times.
6. In the event of a conflict between the provisions in this Exhibit B and any other exhibits to this ordinance, the provisions of Exhibit B control.
7. A conservation easement must be filed for the subject property prior to final approval of the completed construction of the frac pond. If the easement is not filed following construction of the frac pond, then any use of the frac pond for drilling purposes is not permitted unless the easement is filed and remains in place.