VILLAGE OF VOLENTE

RESOLUTION NO. 2004-R-23

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE VILLAGE OF VOLENTE, TEXAS, RECOMMENDING THAT THE VILLAGE COUNCIL DISAPPROVE AN APPLICATION FOR A FINAL PLAT WHICH VARIOUS LANDOWNERS AND DEVELOPERS HAD ATTEMPTED TO FILE WITH THE VILLAGE ON SEPTEMBER 10, 2004, FOR A PROPOSED CIELO VENTANA ADDITION.

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 Village 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 Village Council; and

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

WHEREAS, public hearings on those ordinances have been held and they will shortly be sent to the Village Council for adoption; and

WHEREAS, on September 10, 2004, certain persons representing themselves to be landowners and developers of a proposed Cielo Ventana 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 instructed the City Attorney to return the application to the applicant's engineer; and

WHEREAS, the Planning and Zoning Commission 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 September 10, 2004 submittal date in accordance with §212.009, Tex. Loc. Gov't Code; and

WHEREAS, the Village Planning and Zoning Commission 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 recommend disapproval of the proposed plat.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNIG AND ZONING COMMISSION OF THE VILLAGE OF VOLENTE, TEXAS:

1. Recommended Disapproval of the Proposed Plat

The Village Council for the following reasons should disapprove 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 September 10, 2004:

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 Council has not yet adopted a general plan for the Village, but is working diligently to adopt a comprehensive plan that 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 should find that at this time the proposed Cielo Ventana Addition plat does not conform to the general plan of the Village;

c. For the reasons set forth in (b) above, the Village Council should find that the proposed Cielo Ventana 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.

d. 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 should find that the proposed Cielo Ventana Addition subdivision plat does not conform to any rules adopted under Section 212.002 of the Texas Local Government Code.

2. In adopting this Resolution, the Planning and Zoning Commission is not making any recommendation on whether the Village Council should or should 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.

PASSED AND APPROVED this, the 4th day of October 2004, by a vote of the Volente Village Planning and Zoning Commission of 3 in favor to 0 opposed with 0 abstentions.

Jack Hirschhorn, Chair of the Village of Volente's Planning and Zoning Commission

Attest:

Jennifer L. Zufelt, City Secretary