

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE MAKING CERTAIN FINDINGS OF FACT AND VACATING AND ABANDONING A PORTION OF A VARIABLE WIDTH SLOPE EASEMENT, WHICH CROSSES AND LIES WITHIN LOT 1, BLOCK 19, EMERALD FOREST SUBDIVISION PHASE 11A IN THE CITY OF COLLEGE STATION, TEXAS.

WHEREAS, the City of College Station has received an application for the vacation and abandonment of a portion of a variable width slope easement, which crosses and lies within Lot 1, Block 19, Emerald Forest Subdivision Phase 11A in the City of College Station, said portion of the variable width slope easement being more particularly described on Exhibit "A" attached hereto; and

WHEREAS on February 26, 2004, the City Council of the City of College Station, Texas, heard the application of Dean Schieffer, President of Schieffer Corp., Managing Venturer for Emerald Forest Joint Venture #1 for the vacation and abandonment of the aforementioned portion of the variable width slope easement that crosses and lies within Lot 1, Block 19, Emerald Forest Subdivision Phase 11A, according to separate agreement metes & bounds recorded in Volume 1566, Page 342, of the Official Records of Brazos County, Texas; and

WHEREAS, in order for any portion of an easement to be vacated and abandoned by the City Council of the City of College Station, the Council must make certain findings of facts; and

WHEREAS, after hearing the application of Dean Schieffer, President of Schieffer Corp., Managing Venturer for Emerald Forest Joint Venture #1 to vacate and abandon the variable width slope easement, the City Council of the City of College Station, finds the following facts:

1. The location of the variable width slope easement crosses the applicant's property and inhibits its development.
2. The variable width slope easement is no longer used by the City and there is no infrastructure in the easement.
3. That the land use in the neighborhood appears to be stable and the use to which this property is being put is not likely to change within the foreseeable future and is similar to the use to that of the neighborhood; and

WHEREAS, the City Council after hearing the application and finding the specific facts as stated above now concludes and finds that:

1. The fact that the location of the variable width slope easement that crosses the applicant's property would deprive the applicant of the reasonable use of his property.
2. The fact that the land use is not likely to change within the foreseeable future provides a basis for granting applicant's request to vacate and abandon a portion of the variable width slope easement necessary for the preservation and enjoyment of the substantial property right of the applicant. The portions of the utility easements dedicated by plat in volume 4580, page 196 and volume 823, page 546 of the Official Records of Brazos County, Texas, and included within

this variable width slope easement, are not abandoned and any permanent structure is prohibited from being constructed within these utility easements.

3. The fact that the abandonment of a portion of the easement is not detrimental to the public health, safety or welfare or injurious to the property in the area; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, that a portion of a variable width slope easement, which crosses and lies within Lot 1, Block 19, Emerald Forest Subdivision Phase 11A in the City of College Station, as described on Exhibit "A" attached hereto, be abandoned and vacated.

PASSED, ADOPTED and APPROVED this 26<sup>th</sup> day of February, 2004.

APPROVED:

\_\_\_\_\_  
Ron Silvia, Mayor

ATTEST:

\_\_\_\_\_  
CONNIE HOOKS, City Secretary

APPROVED:

 E-Signed by Carla A. Robinson  
VERIFY authenticity with Approver

\_\_\_\_\_  
City Attorney