

ORDINANCE NO. 14-78

AN ORDINANCE OF THE VILLAGE OF PLEAK, TEXAS, FINDING AND DETERMINING THAT PUBLIC CONVENIENCE AND NECESSITY NO LONGER REQUIRE THE CONTINUED EXISTENCE OF A 1.9608 ACRE TRACT BEING OUT OF A PART OF USTINIK ROAD, (BEING 85,414 SQUARE FEET) BEING DESCRIBED AS A PRESCRIPTIVE RIGHT OF WAY AS SET FORTH IN INSTRUMENT FILED UNDER FORT BEND COUNTY CLERK'S FILE NO(s) 2006043987 AND 2007051043; VILLAGE TO VACATE, CLOSE AND ABANDON SAID PORTION OF USTINIK ROAD.

\* \* \* \* \*

**WHEREAS**, the Village of Peak is an incorporated municipality operating under the general laws of this State; and

**WHEREAS**, V.T.C.A, Transportation Code Section 311.008 authorizes any such city or town to vacate, abandon and close any street or alley upon a petition of all of the abutting owners on said street or alley; and

**WHEREAS**, BGM Land Investments, Ltd., abutting property owner, on both sides of the portion of Ustinik Road, successfully petitioned the Village of Pleak, Texas, to vacate, abandon, and close a certain 1.9608 Acre portion of Ustinik Road right-of-way, being more particularly described in Field Notes For 1.9608 Acre Tract of Land, **Exhibit "A"**, attached hereto for all purposes and being described on a diagram, **Exhibit "B"**, attached hereto for all purposes; and,

**WHEREAS**, the said Village Council finds and declares that it is in the best interest of all of the citizens of the Village of Pleak that said described portion of Ustinik Road be vacated, closed and abandoned for the reason the same is no longer needed by the Village;

**NOW THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PLEAK, TEXAS:**

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The Village Council of the Village of Pleak, Texas, hereby finds and determines that public convenience and necessity no longer requires the continued existence of this public right-of-way portion of Ustinik Road as described in **Exhibit "A"** and **Exhibit "B"** hereof.

Section 3. That there are no public utilities located on the portion of the public right-of-way of Ustinik Road.

Section 4. That said abandonment, vacating and closure provided for herein shall extend only to the right-of-way described in this ordinance and shall be construed only to that interest the governing body of the Village of Pleak may legally and lawfully abandon.

Section 5. The public right-of-way portion of Ustinik Road herein described, is hereby vacated, abandoned, and closed.

This ordinance shall become effective upon its approval and passage.

**PASSED** by a majority vote of the members of the Village Council this 17 day of December 2014.

APPROVED:

  
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Mayor, Larry Bittner

ATTEST:

  
\_\_\_\_\_  
City Secretary, Ruth Elster

County: Fort Bend  
Project: Ustinik Road Abandonment  
M.S.G.: 131295  
Job Number: 2185-EXH

### FIELD NOTES FOR 1.9608 ACRE TRACT OF LAND

Being 1.9608 acre (85,414 square feet) of land located in the Angus J. James Survey, Abstract-37, Fort Bend County, Texas; said 1.9608 acre tract being a portion of a called 157.07 acre tract recorded in the name of BGM Land Investments, Ltd. in Fort Bend County Clerk's File (F.B.C.C.F.) Number (No.) 2007051043 and a portion of a called 187.087 acre tract recorded in the name of BGM Land Investments, Ltd. in F.B.C.C.F. No. 2006043987; Said 1.9608 acre tract being more particularly described by metes and bounds as follows (bearings based on the Texas Coordinate System of 1983, South Central Zone per GPS observations):

BEGINNING at a 5/8-inch iron rod found on the southeast end of a cutback line from the southeast Right-of-Way (R.O.W.) line of Briarwood Crossing Drive (width varies per Plat No. 20090091, Fort Bend County Plat Records (F.B.C.P.R.)) and the northeast R.O.W. line of Ustinik Road (called 60 feet wide, prescriptive R.O.W.), for the northerly corner of the herein described tract;

THENCE, with the northeast R.O.W. lines of said Ustinik Road, the following two (2) courses:

1. South 47 degrees 57 minutes 54 seconds East, a distance of 1,191.16 feet to an angle point of the herein described tract;
2. South 63 degrees 16 minutes 12 seconds East, a distance of 128.59 feet to the line common to said 157.07 acre tract and the west R.O.W. line of State Highway No. 36 (width varies per Volume 130, Page 503, Fort Bend County Deed Records (F.B.C.D.R.)), for the northeast corner of the herein described tract;

THENCE, with the line common to said 157.07 acre tract and the west R.O.W. line of said Highway No. 36, South 02 degrees 55 minutes 58 seconds East, at a distance of 89.71 feet pass a 1-inch iron pipe found at the southeast corner of said 157.07 acre tract and the northeast corner of said 187.087 acre tract and continue in all a total distance of 132.78 feet to the southerly corner of the herein described tract;

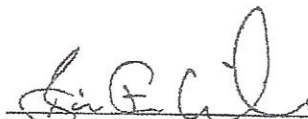
THENCE, with the southwest R.O.W. line of said Ustinik Road, North 47 degrees 57 minutes 54 seconds West, a distance of 1,408.69 feet to a 5/8-inch iron rod found at the southeast end of a cutback from the southeast R.O.W. line of Briarwood Crossing Drive (80 feet wide per Plat No. 20080025, F.B.C.P.R.), for the north westerly corner of the herein described tract;



THENCE, with the southwest R.O.W. line of said Ustinik Road as described in said Plat numbers 20080025 and 20090091, F.B.C.P.R. the following three (3) courses:

1. North 42 degrees 02 minutes 06 seconds East, a distance of 30.00 feet to an angle point of the herein described tract;
2. North 47 degrees 57 minutes 54 seconds West, a distance of 0.34 foot to the line common to said 187.087 acre tract and said 157.07 acre tract, for an angle point of the herein described tract;
3. North 42 degrees 02 minutes 06 seconds East, a distance of 30.00 feet to the POINT OF BEGINNING, and containing 1.9608 acre (85,414 square feet) of land.

An Exhibit of the subject tract has been prepared by Miller Survey Group and accompanies this description.

  
Brian E. Wilson, R.P.L.S.  
Texas Registration No. 5745



Miller Survey Group  
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Date: September 3, 2013  
MSG M&B No. 131295

