

ORDINANCE NO. 2010-10-040

AN ORDINANCE AMENDING ORDINANCE NO. 1270, OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 37.67 ACRE PROPERTY, LOCATED ON THE EAST SIDE OF CUSTER ROAD AND APPROXIMATELY 500 FEET SOUTH OF SYNERGY DRIVE, IS REZONED FROM "AG" – AGRICULTURAL DISTRICT TO "PD" – PLANNED DEVELOPMENT DISTRICT, GENERALLY TO MODIFY THE DEVELOPMENT STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INJUNCTIVE RELIEF, PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

**WHEREAS**, the City of McKinney has considered the rezoning of an approximately 37.67 acre property, located on the east side of Custer Road and approximately 500 feet south of Synergy Drive, be rezoned from "AG" – Agricultural District to "PD" – Planned Development District, generally to modify the development standards, and,

**WHEREAS**, after due notice of the requested rezoning as required by law, and the required public hearings held before the Planning and Zoning Commission and the City Council of the City of McKinney, Texas, the City Council is of the opinion that the change in zoning district should be made.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

Section 1. Ordinance No. 1270 is hereby amended in order to rezone an approximately 37.67 acre property, located on the east side of Custer Road and approximately 500 feet south of Synergy Drive, which is more fully depicted on Exhibit A, attached hereto, is hereby rezoned from "AG" – Agricultural District to "PD" – Planned Development District, generally to modify the development standards.

Section 2. Use and development of the subject property (37.67 acres), more fully depicted on Exhibit B, shall conform to the following regulations:

1. Tract 1 (17.82 acres) shall be developed in accordance with Section 146-84 "BN" – Neighborhood Business District of the City of McKinney Zoning Ordinance and "REC" – Regional Employment Center Overlay District, except as follows:

a. Restaurant or cafeteria (including drive-through window) shall be allowed by right without a specific use permit (SUP).

2. Tract 2 (19.85 acres) shall be developed in accordance with Section 146-87 "O-1" – Neighborhood Office District the City of McKinney Zoning Ordinance and "REC" – Regional Employment Center Overlay District, except as follows:

a. The incidental retail sale of food, beverages, and other convenience items or services is permitted to the occupants, employees, and guests, as long as these items are not advertised nor offered for sale to the general public.

- b. An open space buffer shall be provided along the eastern property line of the subject property. The width of the buffer must be a minimum of 50 feet and must extend at least 15 feet west of the Erosion Hazard Setback Easement, whichever is greater.
3. A development plan, per the requirements of the "REC" – Regional Employment Center Overlay District's third (III) section (General Development Plan Requirements), shall be required prior to the approval of any site plan or plat for the subject property, subject to the review and approval by the Planning and Zoning Commission provided that the plan also meets the following special requirements:
  - a. Mutual access shall be provided in the northwest corner of the subject property to the adjacent property to the north, which is more fully depicted in the clouded area on the proposed zoning exhibit.
  - b. Access to the subject property from Custer Road shall be provided at existing median openings, more fully depicted on the proposed zoning exhibit. Additional access points may be allowed in accordance with the requirements of the City of McKinney's Street Design Manual.
  - c. A Hike and Bike Trail shall be provided on the subject property, and its alignment and location shall be finalized with the development plan in accordance with the Parks, Recreation and Open Space Master Plan then in effect.

Section 3. If any section, subsection, paragraph, sentence, phrase or clause of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.

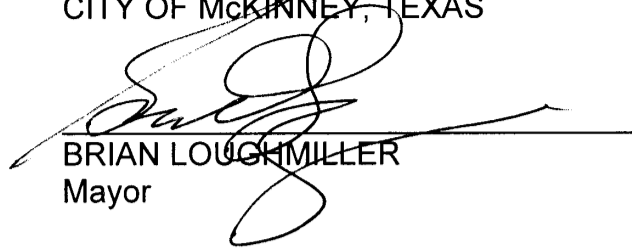
Section 4. It shall be unlawful for any person, firm or corporation to develop this property, or any portion thereof, in any manner other than is authorized by this Ordinance, and upon conviction therefore, shall be fined any sum not exceeding \$2,000.00, and each day that such violation shall continue shall be considered a separate offense. These penal provisions shall not prevent an action on behalf of the City of McKinney to enjoin any violation or threatened violation of the terms of this Ordinance, or an action for mandatory injunction to remove any previous violation hereof.

Section 5. That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The ordinance, and the subsequent site plans (if any) and regulations may be amended or repealed by the City Council of the City of McKinney, Texas, in the manner provided by law.

Section 6. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney, and shall become effective upon such publication.


**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 5<sup>th</sup> DAY OF OCTOBER, 2010.**

CITY OF MCKINNEY, TEXAS



BRIAN LOUGHMILLER  
Mayor


CORRECTLY ENROLLED:



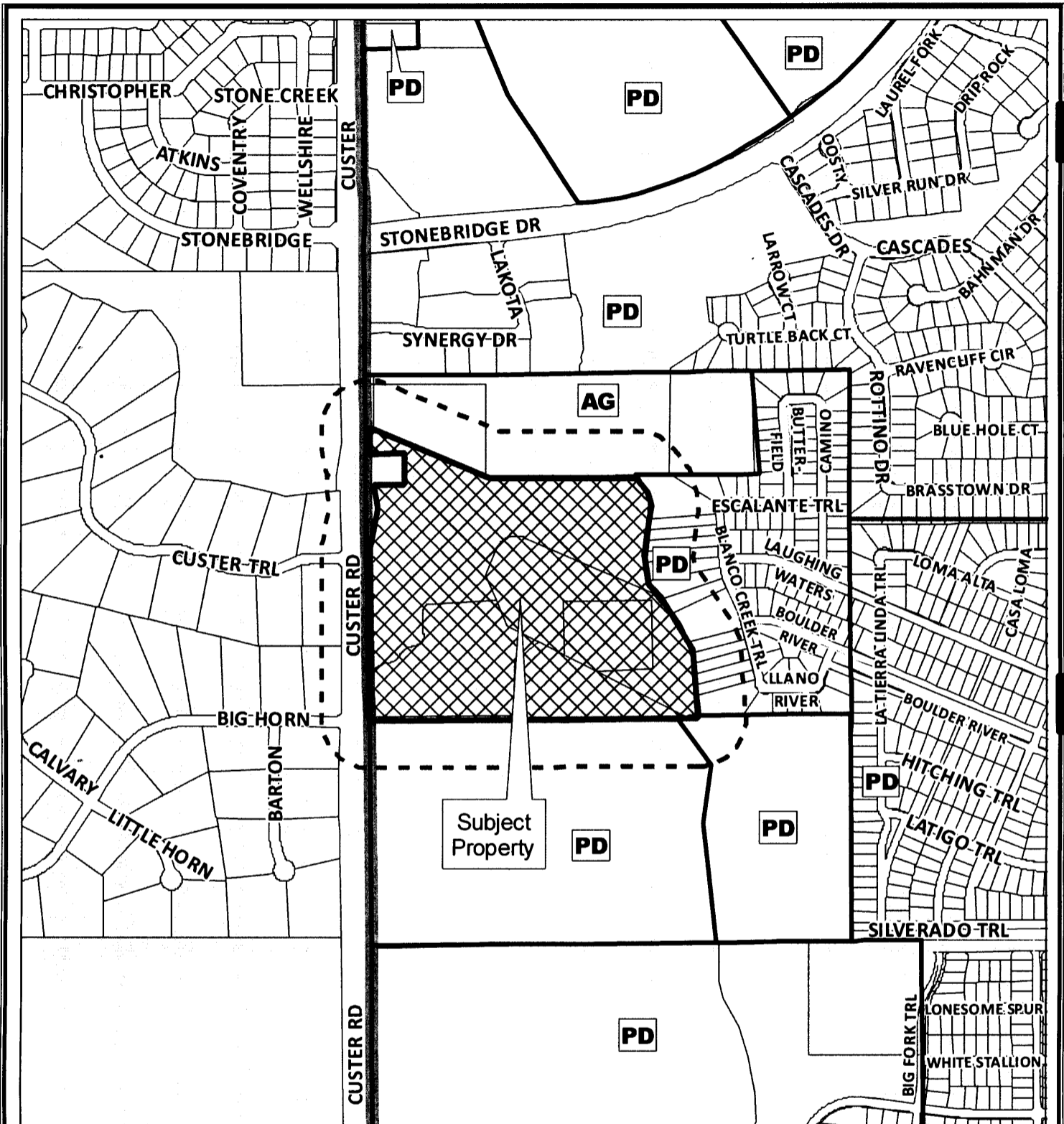
SANDY HART, TRMC, MMC  
City Secretary

DATE: October 7, 2010

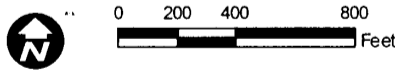
APPROVED AS TO FORM:



MARK S. HOUSER  
City Attorney



S:\MC\GIS\Notification\Projects\2010\10-060Z.mxd

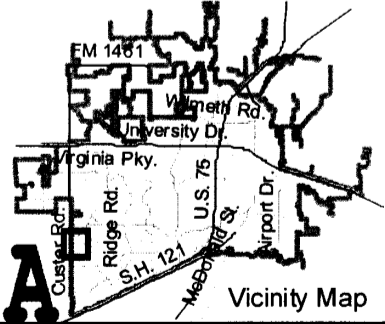


**Notification Case**

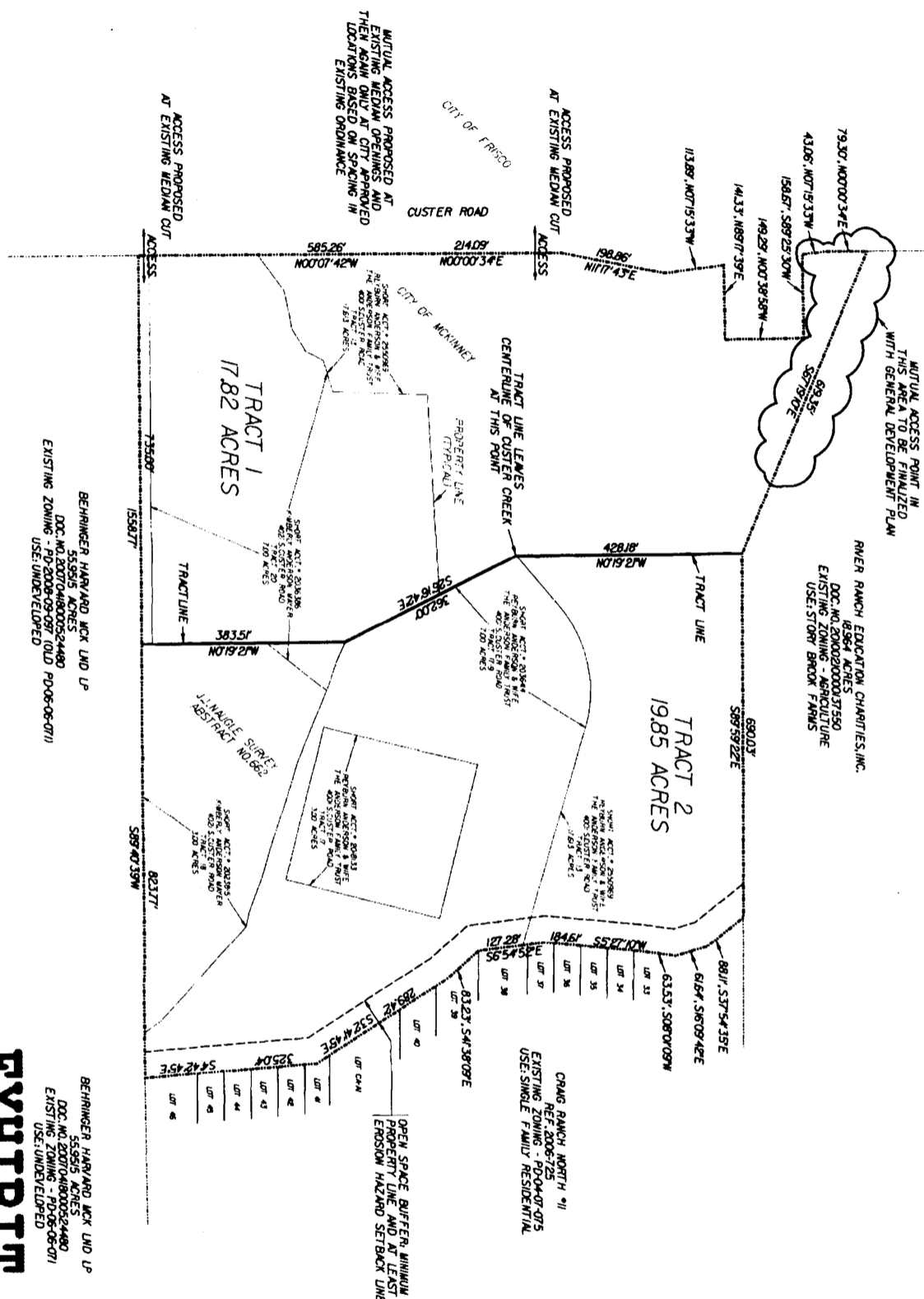
Notice Case: 10-060Z

- - - 200' Notification Buffer

**EXHIBIT A**



DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of McKinney. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of McKinney, it's officials or employees for any discrepancies, errors, or variances which may exist.

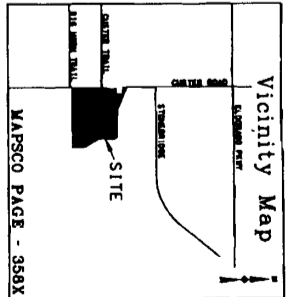


BEHRINGER HARVARD MCK LTD LP  
 55,955 ACRES  
 DOC. NO. 20070480000524480  
 EXISTING ZONING - PD-2008-09-09T (OLD PD-06-06-0711)  
 USE: UNDEVELOPED

BEHRINGER HARVARD MCK LTD LP  
 55,955 ACRES  
 DOC. NO. 20070480000524480  
 EXISTING ZONING - PD-06-06-071  
 USE: UNDEVELOPED

BOUNDARY INFORMATION PREPARED BY  
 G.M. GEER ENGINEER - SURVEYOR  
 MARCH 30, 2010

# EXHIBIT B



NOTE: GENERAL DEVELOPMENT PLAN (GDP) APPROVAL BY CITY COUNCIL REQUIRED PRIOR TO DEVELOPMENT

REVISED  
 AUG 13 2010  
 PLANNING

OWNER: BEHRINGER HARVARD MCK LTD LP  
 4001 SOUTH CUSTER ROAD  
 DENTON, TEXAS 76205  
 PHONE: 817.258.0452  
 EMAIL: MCK@BEHRINGERHARVARD.COM

PREPARED BY: G.M. GEER ENGINEER - SURVEYOR  
 1111 JORDAN ROAD, SUITE 100  
 DALLAS, TEXAS 75248-9821  
 PHONE: 972.442.1429  
 EMAIL: G.M. GEER@GMEER.COM

DATE: 03/30/2010

ZONING EXHIBIT - 10-060Z

ANDERSON TRACTS		37,868.3 TOTAL ACRES	
CITY OF MCKINNEY, TEXAS			
REGISTERED ENGINEER: BEHRINGER HARVARD MCK LTD LP			
REGISTERED ENGINEER: G.M. GEER ENGINEER - SURVEYOR			
DATE	SCALE	BY	NO.
03/30/2010	AS SHOWN	G.M. GEER	1000
DATE	SCALE	BY	NO.
03/30/2010	AS SHOWN	G.M. GEER	1000
DATE	SCALE	BY	NO.
03/30/2010	AS SHOWN	G.M. GEER	1000