

ORDINANCE NO. 98-08-44

AN ORDINANCE OF THE CITY OF MCKINNEY, TEXAS AMENDING ZONING ORDINANCE NO. 1270; CREATING A "PD" – PLANNED DEVELOPMENT DISTRICT -- APPLICABLE TO A 215.59-ACRE TRACT LOCATED AT THE NORTHWEST CORNER OF VIRGINIA PARKWAY AND CUSTER ROAD (F.M. 2478); PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, the owner(s) of a 215.59-acre tract located at the northwest corner of Virginia Parkway and Custer Road (F.M. 2478), in the City of McKinney, Collin County, Texas, have petitioned the City of McKinney to rezone such parcel of land from "AG" - Agriculture District to a "PD" - Planned Development District, a complete legal description of such property being attached hereto and marked Exhibit "A", and made a part hereof for all purposes; and,

WHEREAS, after due notice of such requested zoning change 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, the City Council is of the opinion that such zoning change should be made.

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

- Section 1. That Ordinance No. 1270 is hereby amended so that the 215.59-acre tract described in the attached Exhibit "A" is hereby zoned "PD" – Planned Development District.
- Section 2. That the development and use of said tract shall conform to the Zoning Exhibit map, marked Exhibit "B" and attached hereto.
- Section 3. That the development and use of said tract shall conform to all regulations applicable to the Planned Development District, as set forth within the zoning regulations, marked Exhibit "C" and attached hereto.
- Section 4. That no developer or property owner shall acquire any vested interest in this Ordinance, the Planned Development zone, or specific regulations contained herein. This Ordinance and the subsequent site plan and regulations may be amended or repealed by the City Council of the City of McKinney, Texas, in the manner provided by law.
- Section 5. 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 6. 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 therefor, 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 7.

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 THIS 18th DAY OF August, 1998.



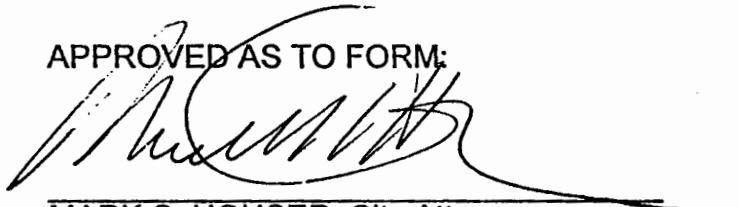
DON DOZIER, Mayor

CORRECTLY ENROLLED:



JENNIFER G. SMITH, City Secretary

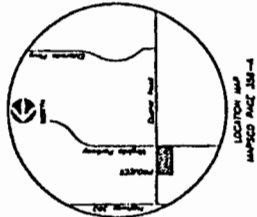
APPROVED AS TO FORM:



MARK S. HOUSER, City Attorney

EXHIBIT "A"

Date: October 13, 1958
 Scale: 1" = 200'
 File: 4-77-37070-10-4
 Proj. No.: 244-007
 Design: M. Egan
 Survey: J.M.E.



GENERAL NOTES:
 The location of the zoning district boundaries as shown on this exhibit are conceptual and the exact location will be determined during the platting process.
 For a period of three (3) years, the developer shall display a two-sided sign at least 4'x8' in size at the corner of Virginia Parkway and Custer Road that reads, "SUBJECT 1/2 ACRE (with arrow pointing west)".
 The developer shall provide a mechanism for notice (acceptable to the city attorney) in any residential lot purchase, which automatically notifies purchasers of the existence of a private report in the vicinity. An updated, actual map shall be provided in conjunction with said notice.
GROSS RESIDENTIAL DENSITY:
 The gross density, including in its calculations all streets, alleys, and other public use areas of the cumulative area platting at any time within the designated 215.59 acre parcel of land for residential zoning shall not exceed five (5.0) dwelling units per acre.
 Not more than 15% of the 750 maximum number of dwelling units is not exceeded.
ELEVATION DRAWINGS:
 All non-residential buildings shall have elevation drawings approved as part of their site plan approval process to determine conformity with other buildings within the immediate development and to ensure reasonable consideration for the finish of all four (4) sides of the building, especially where visible from streets, internal drives, or residential districts.

CUSTER ROAD
 (F.M. 2478)

ROCKHILL/CUSTER ADDITION
 215.59 ACRES
 (9,696,216 SQ. FT.)

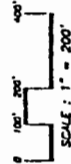
Tract 2
 RS-60
 (4.9 dua)
 ±68 ac.

Tract 3
 RS-60
 (4.9 dua)
 ±22 ac.

Tract 5
 RS-72.5
 (3.0 dua)
 ±25 ac.

Tract 4
 AG
 42,254 ac.

Tract 1
 BN
 ±17.1 ac.



The location of the site for the road corner is determined during the platting process.

Location of Custer Street is conceptual and the exact location will be determined during the platting process.

Location of Custer Street is conceptual and the exact location will be determined during the platting process.

Lots backing to Tract 4 shall have a min. width of 140 ft. Lots backing to Tract 3 shall have a min. width of 15 ft.

Lots backing to Tract 4 shall have a min. width of 140 ft. Lots backing to Tract 3 shall have a min. width of 15 ft.

Developer shall fence the East side of Tract 4.

Developer shall fence the East side of Tract 4.

150' from C. Burmy in Custer Investments P.L.

Jack W. Wenge 211.0 ac.

Area Covenants Property
 Custer Investments P.L.
 File No. 44-0007999
 (DRCT)

±1,000 FT. BURMY

"AG" DISTRICT

The portion of the property designated as "AG" District shall remain in the standards of Section 3.07 of Ordinance 1772, the "AG" Agricultural District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time, except as indicated otherwise herein.

"RS-72.5" DISTRICT

The portion of the property designated as "RS-72.5" District shall remain in the standards of Section 3.07 of Ordinance 1772, the "RS-72.5" Residential District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time, except as indicated otherwise herein.

Special Provisions:

(a) 3.0 dwelling units per acre.

Street limits shall differ from those of the RS-60 District:

Min. Front Yards: 7,250 ft.

Min. Rear Yards: 20 ft. (One Story), 25 ft. (Two Story).

Min. Side Yards: 20 ft. (One Story), 25 ft. (Two Story), necessary building, column, porch, etc.

Min. Lot Coverage: 15% (including a min. of 150 sq. ft. for lot adjacent to Tract 4).

Max. Lot Coverage: 35% (including a min. of 400 sq. ft. in groups).

"RS-60" DISTRICT

The portion of the property designated as "RS-60" District shall remain in the standards of Section 3.07 of Ordinance 1770, the "RS-60" Single Family Residential District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time, except as indicated otherwise herein.

Special Provisions:

(a) 4.9 dwelling units per acre.

Street limits shall differ from those of the RS-60 District:

Min. Front Yards: 20 ft. (One Story), 25 ft. (Two Story).

Min. Rear Yards: 20 ft. (One Story), 25 ft. (Two Story), necessary building, column, porch, etc.

Min. Side Yards: 20 ft. (One Story), 25 ft. (Two Story), necessary building, column, porch, etc.

Min. Lot Coverage: 100% (including a min. of 400 sq. ft. in groups).

"BN" RETAIL DISTRICT

The portion of the property designated as "BN" District shall remain in the standards of Section 3.13 of Ordinance 1270, the "BN" Neighborhood Business District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time, except as indicated otherwise herein.

Special Provisions:

(a) The site or free-standing buildings within the main retail building shall be limited to three (3).

(b) The lot area of the BN District shall be developed, the remaining for the entire district shall be included and shall include a 25 ft. building setback, the first 10 ft. of which shall be a setback buffer with a 6 ft. masonry retaining fence with a three (3) foot berm along the west and north sides of the tract.

(c) One (1) evergreen canopy tree shall be provided every four (4) feet within the setback buffer.

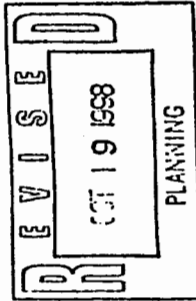
(d) The rear architectural design of the buildings shall be comparable to the front and sides.

Additional Permitted Uses:

- (1) Restaurant with drive-through window.
- (2) Service station without and without a shop.
- (3) A Specific Use Permit shall be required for more than four (4) parking stations on a single lot within the BN District.

Uses NOT Permitted:

- (1) Dwellinghouse or rooming house.
- (2) Amusement.
- (3) Automobile repair shop.
- (4) Drive-in restaurant.
- (5) Auto parts store.
- (6) Service stations with auto repair facilities.



ZONING EXHIBIT
ROCKHILL/CUSTER ADDITION

215.59 ACRES

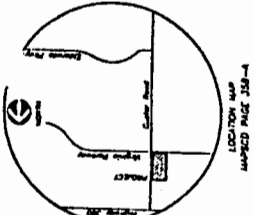
JOHN R. BURROWS SURVEY, ABST. NO. 70
 CITY OF ROCKHILL, COLLIN COUNTY, TEXAS

Custer Investments, Inc.
 911 Second St. Dallas, Texas 75202 (972) 744-1212

Kurtz & Bedford Associates, Inc.
 Consulting Engineers, Architects

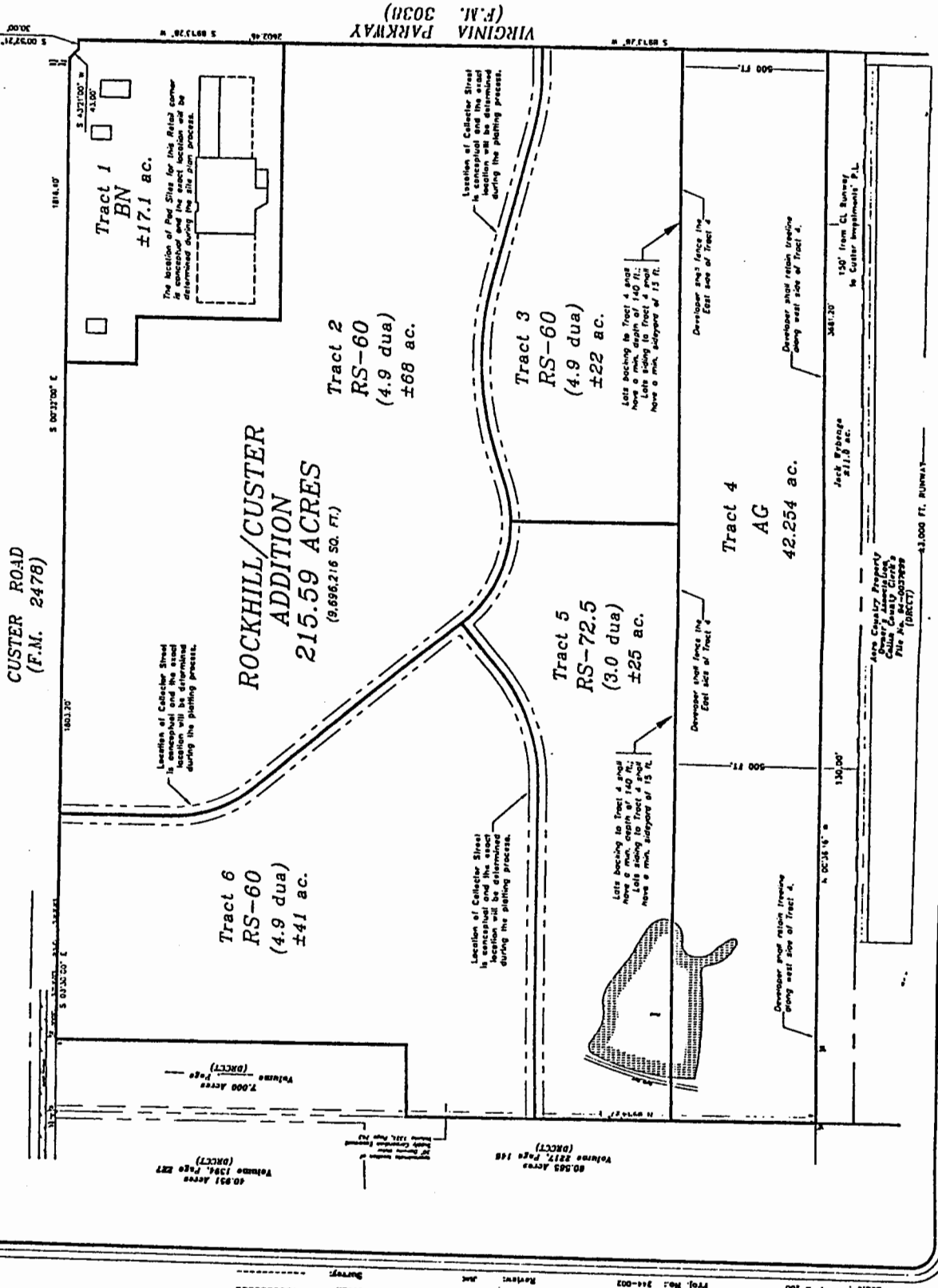
EXHIBIT "B"

Date: October 11, 1968
 Scale: 1" = 200'
 Title: 215.59 Acres / Rockhill/Custer Addition
 Project No.: 215-002
 Designer: M. Egan
 Surveyor: [Name]



GENERAL NOTES:
 The location of the zoning district boundaries as shown on this exhibit are conceptual and the exact location will be determined during the planning process.
 For a period of three (3) years, the developer shall display a two-sided sign at least 4'x6' in size at the corner of Virginia Parkway and Custer Road that states, "SUPPORT 1/2 MILE (with arrow pointing west)".
 The developer shall provide a mechanism for notice (accessible to the city attorney) to any residential lot purchaser, which adequately notifies purchasers of the existence of a people report in the vicinity. An updated, scaled map shall be provided in conjunction with said notice.
GROSS RESIDENTIAL DENSITY:
 The gross density, including in its subdivisions of streets, alleys, and other public use areas of the cumulative area platted at any time within the designated 215.59 acre parcel of land for residential zoning shall not exceed five (5.0) dwelling units per acre.
 Not more than 15% of the number of residential units on any residential tract may be transferred to another residential tract as long as the 750 maximum number of dwelling units is not exceeded.
ELEVATION DRAWINGS:
 All non-residential buildings shall have elevation drawings submitted as part of their site plan approval process to determine continuity with other buildings within the immediate area. The drawings shall include consideration for the finish of all four (4) sides of the building, including those visible from streets, internal streets, or residential districts.

ROCKHILL/CUSTER ADDITION
 215.59 ACRES
 (9,696,216 SQ. FT.)



"AG" DISTRICT
 The portion of the property designated as "AG" District shall develop in the standards of Section 3.02 of Ordinance 1270, the "AG" Single-Family Residential District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time.

"RS-72.5" DISTRICT
 The portion of the property designated as "RS-72.5" District shall develop in the standards of Section 3.07 of Ordinance 1270, the "RS-80" Single-Family Residential District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time, except as otherwise specifically stated herein.

Special Provisions:
 (a) 1.0 dwelling units per acre.
 (b) 4.9 dwelling units per acre.

Space limits which shall differ from those of the RS-60 District:
 Min. Front Yard: 7.50 ft.
 Min. Rear Yard: 20 ft.
 Min. Side Yard: 7.5 ft.
 Min. Front Yard: 100 ft.
 Min. Rear Yard: 100 ft.
 Min. Lot Coverage: 35% (excluding a max. of 400 sq. ft. in garage).

"RS-60" DISTRICT
 The portion of the property designated as "RS-60" District shall develop in the standards of Section 3.07 of Ordinance 1270, the "RS-80" Single-Family Residential District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time, except as otherwise specifically stated herein.

Special Provisions:
 (a) 4.9 dwelling units per acre.

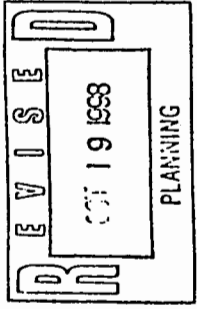
Space limits which shall differ from those of the RS-80 District:
 Min. Front Yard: 20 ft.
 Min. Rear Yard: 20 ft.
 Min. Side Yard: 5 ft.
 Min. Front Yard: 100 ft.
 Min. Rear Yard: 100 ft.
 Min. Lot Coverage: 45% (excluding a max. of 400 sq. ft. in garage).

"BN" RETAIL DISTRICT
 The portion of the property designated as "BN" District shall develop in the standards of Section 3.12 of Ordinance 1270, the "BN" Neighborhood Business District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time, except as otherwise specifically stated herein.

Special Provisions:
 (a) Retail sites or free-standing buildings besides the main retail building shall be limited to three (3).
 (b) Retail sites shall be a minimum of 15,000 sq. ft. in area, net, maximum.
 (c) The maximum height of the BN District shall be determined by the zoning commission. The maximum height shall be 10 ft. for all other uses.
 (d) The maximum height of the BN District shall be determined by the zoning commission. The maximum height shall be 10 ft. for all other uses.
 (e) The maximum height of the BN District shall be determined by the zoning commission. The maximum height shall be 10 ft. for all other uses.

Additional Permitted Uses:
 (a) Restaurant with drive-through window.
 (b) Service station, without auto repair and a single sign automatic car wash, only on the two (2) east sides immediately adjacent to the intersection of Custer Road and Virginia Parkway, and not on any other residential district.
 (c) A Service Use Permit shall be required for more than four (4) loading stations for a single lot within the BN District.

Uses NOT Permitted:
 (a) Bed-and-breakfast or rooming houses.
 (b) Dwellings.
 (c) Multiple family dwellings.
 (d) Adult family homes.
 (e) Auto repair houses.
 (f) Service stations with auto repair facilities.



ZONING EXHIBIT
ROCKHILL/CUSTER ADDITION
 215.59 Acres
 JOHN R. BURROWS SURVEY, ABST. NO. 70
 CITY OF MCKINNEY, COLLIN COUNTY, TEXAS
 Custer Investments, Inc.
 3918 National Drive, Dallas, Texas 75226 (972) 248-3322

Kurtz Bedford Associates, Inc.
 255 East Commerce Street, Suite 100, Dallas, Texas 75201
 214-521-2444

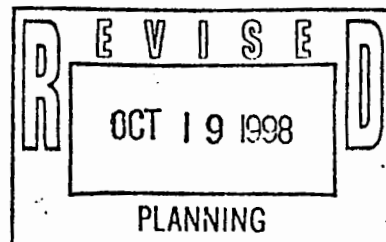
Sheet: 1

ZONING ORDINANCE

**ROCKHILL / CUSTER ADDITION
215.59 ACRES**

MIXED-USE DEVELOPMENT

APPROVED AT CITY COUNCIL:
AUGUST 18, 1998



Owner: Custer Investments, Inc.
5916 Rosebud Drive
Dallas, Texas 75252
(972) 248-1330 - Phone
(972) 248-2377 - Fax

Representative: Winstead, Sechrest, & Minick
5400 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270-2199
(214) 745-5400 - Phone
(214) 745-5864 - Fax

EXHIBIT "C"

**ROCKHILL / CUSTER ADDITION
215.59 ACRES**

**PLANNED DEVELOPMENT DISTRICT
ZONING ORDINANCE**

SECTION 1. The subject tract of land is located at the northwest corner of Virginia Parkway and Custer Road (FM 2478) in the City of McKinney, Collin County, Texas, which is more fully described on Exhibit "A" and depicted on Exhibit "B" attached hereto, is hereby rezoned from "AG" - Agricultural to "PD" - Planned Development District.

SECTION 2. "AG" DISTRICT

The portion of property designated as a "AG" district shall develop to the standards of Section 3.02 of Ordinance 1270, the "AG" Agricultural District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time.

- (1) Special Provisions:
- (a) The developer shall retain the tree line on the west side of Tract 4.
 - (b) The developer shall fence the east side of Tract 4.

SECTION 3. "RS-72.5" DISTRICT

The portion of property designated as a "PD RS-72.5" district shall develop to the standards of Section 3.07 of Ordinance 1270, the "RS-60" Single Family Residential District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time, except as specified otherwise herein.

- (1) Special Provisions:
- (a) Max. density: 3.0 dwelling units per acre.
- (2) Space limits which shall differ from those of the "RS-60" District:
- (a) Min. lot area: Seven thousand two hundred fifty (7,250) square feet.
 - (b) Min. front yard: Twenty (20) feet for one (1) story homes. Twenty five (25) feet for two (2) story homes.
 - (c) Min. rear yard: Twenty (20) feet to main structure (excluding accessory buildings, cabanas, decks, pools, etc.)
 - (d) Min. side yard: Seven and one half (7.5) feet; Fifteen (15) feet at corner; Fifteen (15) feet for lots adjacent to Tract 4.
 - (e) Min. lot depth: 100 feet; lots backing to Tract 4 shall have a minimum depth of 140 feet.
 - (f) Max. lot coverage: Thirty five percent (35%) of the lot area excluding maximum of four hundred (400) square feet in garage.

SECTION 4. "RS-60" DISTRICT

The portion of property designated as a "PD RS-60" district shall develop to the standards of Section 3.07 of Ordinance 1270, the "RS-60" Single Family Residential District Regulations, and all other regulations applicable to development within said zoning district, as amended from time to time, except as specified otherwise herein.

- (1) Special Provisions:
 - (a) Max. density: 4.9 dwelling units per acre.
- (2) Space limits which shall differ from those of the "RS-60" District:
 - (a) Min. front yard: Twenty (20) feet for one (1) story homes. Twenty five (25) feet for two (2) story homes.
 - (b) Min. rear yard: Twenty (20) feet to main structure (excluding accessory buildings, cabanas, decks, pools, etc.)
 - (c) Min. side yard: Five (5) feet; Fifteen (15) feet at corner; Fifteen (15) feet for lots adjacent to Tract 4.
 - (d) Min. lot depth: 100 feet; lots backing to Tract 4 shall have a minimum depth of 140 feet.
 - (e) Max. lot coverage: Forty percent (40%) of the lot area excluding maximum of four hundred (400) square feet in garage.

SECTION 5. "BN" RETAIL DISTRICT

The portion of the property designated as "PD BN" Retail District shall develop to the standards as Section 3.12 of Ordinance 1270, the "BN" Neighborhood Business District regulations, and all other regulations applicable to development with said zoning district, except as specified otherwise herein.

- (1) Special Provisions:
 - (a) Pad sites or free standing buildings besides the main retail building shall be limited to three (3).
 - (b) Fifteen (15) acres, net, maximum.
 - (c) When the first phase of the BN tract is developed, the screening for the entire district shall be installed and shall include a 25 foot building setback, the first ten (10) feet of which shall be a landscape buffer with a six (6) foot masonry screening fence atop a three (3) foot berm along the west and north sides of the tract. One (1) evergreen canopy tree shall be provided every 40 feet within this landscape buffer.
 - (d) The rear architectural design of all buildings shall be comparable to the front and sides.

(2) Additional Permitted Uses:

- (a) Restaurant with drive-through window.
- (b) Service station without auto repair and a single stall automatic car wash, only on the two pad sites immediately adjacent to the intersection of Custer Road and Virginia Parkway, and not on property with residential adjacency. A Specific Use Permit shall be required for more than four (4) fueling stations on a single lot within the BN District.

(3) Uses NOT permitted:

- (a) Boardinghouse or rooming house.
- (b) Dormitories.
- (c) Multiple family dwellings.
- (d) Half-way houses.
- (e) Auto parts sales.
- (f) Service stations with auto repair facilities.

SECTION 6. RESIDENTIAL DENSITY

The gross density, including in its calculation all streets, alleys, and other public use areas of the cumulative area platted at any time within the designated ±156.0 acre parcels of land for residential zoning shall not exceed five (5.00) dwelling units per acre.

Not more than 15 percent of the number of residential units on any residential tract may be transferred to another residential tract so long as the 780 maximum number of dwelling units is not exceeded.

Such transfers of densities shall be approved through the General Development Plan process, as described within the Subdivision Ordinance and including a public hearing at both the Planning and Zoning Commission and the City Council with the normal notification process to surrounding property owners in and within 200 feet of the subject property(s).

SECTION 7. ELEVATION DRAWINGS

All non-residential buildings shall have elevation drawings approved as part of their site plan approval process to determine continuity with other buildings within the immediate development and to ensure reasonable consideration for the finish of all four (4) sides of the building, especially where visible from streets, drives, or residential districts.

SECTION 8. MISCELLANEOUS

The developer shall provide a mechanism for notice (acceptable to the city attorney) to any residential lot purchaser, which adequately notifies purchasers of the existence of a private airport in the vicinity. An updated, scaled map shall be provided in conjunction with said notice.

For a period of three (3) years, the developer shall display a two-sided sign at least 4' x 6' in size at the corner of Virginia Parkway and Custer Road that states "AIRPORT 1/2 MILE (with arrow pointing west)".