

ORDINANCE NO. 2015-04-028

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING THE ZONING MAP OF THE CITY OF MCKINNEY, TEXAS; PROVIDING FOR A SPECIFIC USE PERMIT FOR A RESTAURANT WITH DRIVE-THROUGH WINDOW, APPROXIMATELY 1.07 ACRES, LOCATED ON THE SOUTH SIDE OF ELDORADO PARKWAY AND APPROXIMATELY 550 FEET EAST OF RIDGE ROAD; 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 owner or owners of an approximately 1.07 acre tract, located on the south side of Eldorado Parkway and approximately 550 feet east of Ridge Road, have petitioned the City of McKinney to amend the zoning map of the City of McKinney in order to provide for a Specific Use Permit for a restaurant with drive-through window use, and

WHEREAS, the owner or owners are willing to accept and agree to be bound by and comply with the written requirements of the Specific Use Permit, 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 such an amendment should be made.

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

Section 1. The zoning map is hereby amended to provide for a Specific Use Permit for a restaurant with drive-through window use on approximately 1.07 acres, located on the south side of Eldorado Parkway and approximately 550 feet east of Ridge Road, and as depicted on Exhibits "A" and "B", attached hereto.

Section 2. The subject property shall generally develop in accordance with Exhibit "C", and made a part hereof.

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.

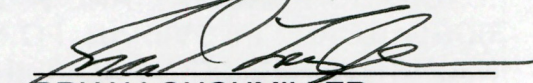
Section 4. It shall be unlawful for any person, firm or corporation to develop this property, or any portion thereof, in any manner other than is authorized by this Ordinance, and upon conviction therefore, shall be fined any sum not exceeding \$2,000.00, and each day that such violation shall continue 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.

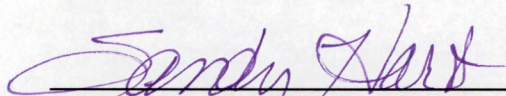
Section 6. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney, and shall become effective upon such publication.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 7th DAY OF APRIL, 2015.

CITY OF MCKINNEY, TEXAS


BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:


SANDY HART, TRMC, MMC
City Secretary
DENISE VICE, TRMC
Assistant City Secretary

DATE: April 7, 2015

APPROVED AS TO FORM:

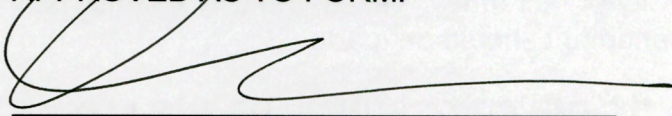
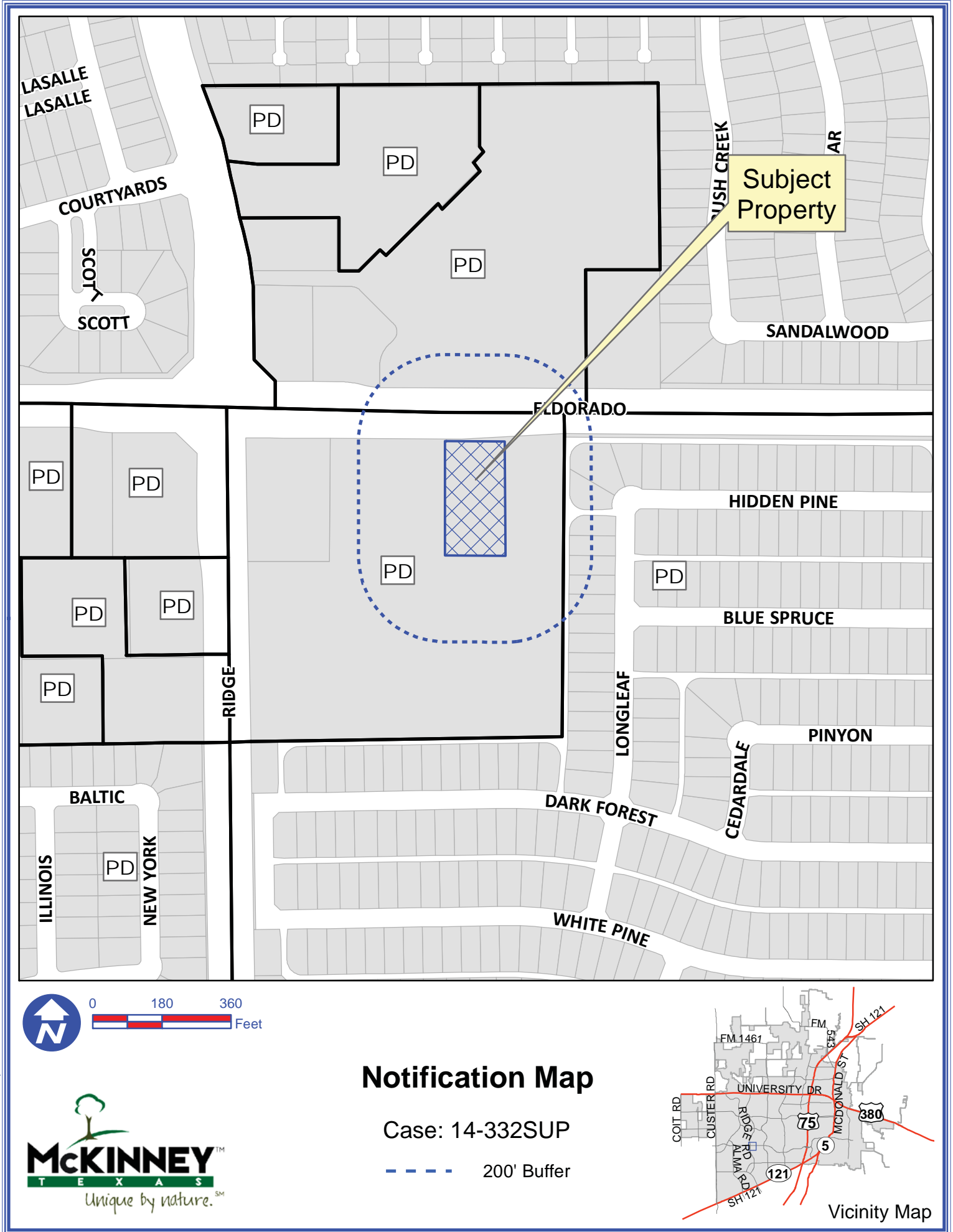

MARK S. HOUSER
City Attorney

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, its officials or employees for any discrepancies, errors, or variances which may exist.

Exhibit B

Being a tract of land situated in the JNO Manning Survey, Abstract No. 636, Collin County, Texas, being a portion of Lot 2, Block A of Vigor-Eldorado Addition, an Addition to the City of McKinney, Collin County, Texas, according to the plat thereof recorded in Cabinet P, Page 271, Map Records, Collin County, Texas, being a portion of that same tract of land conveyed to ASG El Dorado Pavilion, Ltd. By deed recorded in Volume 5582, Page 3867, Deed Records, Collin County, Texas, and being more particularly described by metes and bounds as follows:

Commencing at an "X" found for corner in the South line of Eldorado Parkway (a 120' right-of-way), said point being the Northeast corner of Lot 1, Block A of said Vigor-Eldorado Addition;

Thence South 89 degrees 30 minutes 37 seconds East along the South line of said Eldorado Parkway, a distance of 8.67 feet to an "X" found for corner, said point being in a curve to the left having a radius of 265.00 feet, a delta of 14 degrees 04 minutes 10 seconds and a chord bearing North 83 degrees 27 minutes 17 seconds East, a distance of 64.91 feet;

Thence in a Northeasterly direction along the South line of said Eldorado Parkway and curve to the left, an arc distance of 65.07 feet to a 1/2 inch iron rod found for corner, said point being in a compound curve to the right having a radius of 235.00 feet, a delta of 14 degrees 04 minutes 09 seconds and a chord bearing North 83 degrees 27 minutes 17 seconds East, a distance of 57.56 feet;

Thence continuing in a Northeasterly direction along the South line of said Eldorado Parkway and curve to the right, an arc distance of 57.70 feet to a 5/8 inch iron rod found for corner;

Thence South 89 degrees 30 minutes 37 seconds East continuing along the South line of said Eldorado Parkway, a distance of 167.20 feet to a point for corner and Point of Beginning;

Thence South 89 degrees 30 minutes 37 seconds East along the South line of said Eldorado Parkway, a distance of 156.02 feet to a point for corner;

Thence leaving the South line of said Eldorado Parkway and traversing through said Lot 2, Block A as follows:

South 00 degrees 21 minutes 56 seconds East, a distance of 297.88 feet to a point for corner;

North 89 degrees 30 minutes 37 seconds West, a distance of 156.02 feet to a point for corner;

Exhibit B

North 00 degrees 20 minutes 36 seconds West, a distance of 297.88 feet to the Point of Beginning and containing 46,470 square feet or 1.066 of an acre of land.

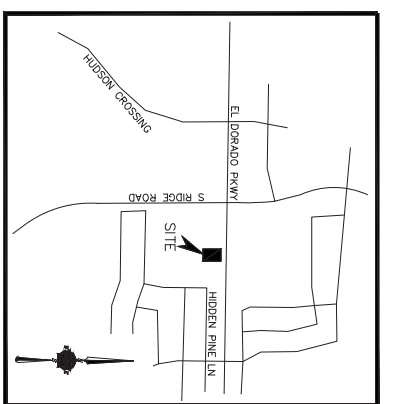
Exhibit C

APPLICANT:
 GUGGENHEIM RETAIL REAL ESTATE PARTNERS, INC.
 3000 INTERNET BLVD., SUITE 570
 FRISCO, TX 75034
 CONTACT: ANGEL ROBINSON
 (214) 872-4000

OWNER:
 ASG EL DORADO PAVILLION LTD
 2220 COIT RD., STE. 360
 PLANO, TX 75075
 CONTACT: WALID KEILAM
 (214) 390-1900

CIVIL ENGINEER:
 JOHN THOMAS ENGINEERING
 800 N. WATTERS, STE. 170
 ALLEN, TX 75013
 CONTACT: JOHN MEASELS
 (214) 491-1830

(R.W. VARIES)



LOCATION MAP
NOT TO SCALE

ELDORADO PARKWAY
 S 88°57'09" E
 478.66'

S 89°30'37" E
 156.02'

S 00°20'36" E
 297.88'

S 89°30'37" W
 156.02'

N 00°24'06" W
 319.29'

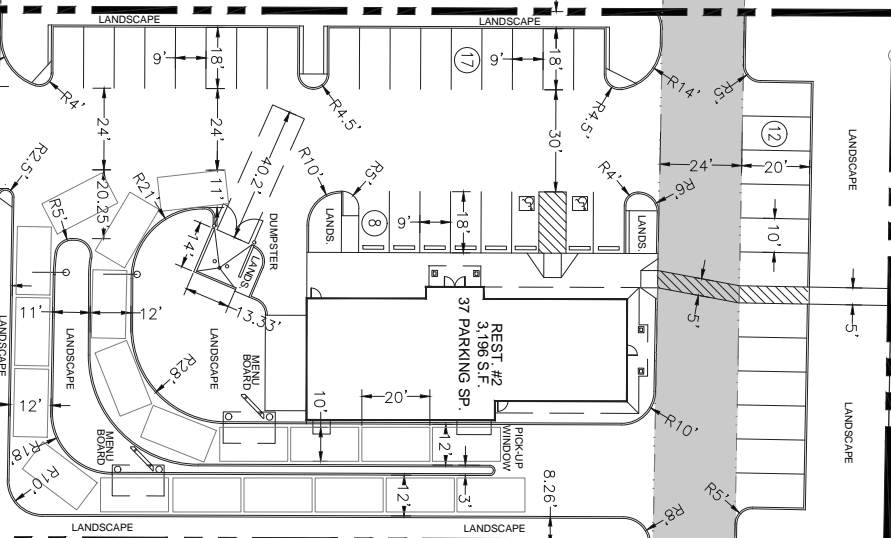
24' FIRE LANE MUTUAL ACCESS
 & UTILITY EASEMENT

LEGEND:

- PROPERTY LINE
- PROPOSED CURB & GUTTER
- PARKING SPACES
- FRELANE
- HANDICAP SPACES
- ADA RAMP

SITE DATA TABLE

| | |
|------------------------------------|---|
| LOCATION: | SEC. EL DORADO PKWY. & RIDGE ROAD, MCKINNEY, TX 75070 |
| SITE AREA: | 1,068 AC. (46,470 S.F.) |
| ZONING: | PD-PLANNED DEVELOPMENT |
| CURRENT USE: | VACANT |
| PROPOSED USE: | RESTAURANT W/DRIVE-THRU |
| BUILDING DATA: | |
| BUILDING HEIGHT: | 21'-0" (1 STORY) |
| BUILDING FOOTPRINT AREA: | 3,196 S.F. |
| LOT COVERAGE: | 7% |
| FLOOR AREA RATIO: | 0.07 |
| OCCUPANCY LOAD: | 148 |
| PARKING REQUIREMENTS: | REQUIRED PROVIDED |
| *1 SPACE PER 150 SQ.FT. | |
| PARKING SPACES: | 22 35 |
| ADA ACCESSIBLE PARKING SPACES: | 1 2 |
| TOTAL PARKING: | 23 37 |
| 6 CAR MIN. STACKING FOR DRIVE THRU | |
| LANDSCAPE REQUIREMENTS: | |
| PERVIOUS: | 12,285 S.F. (28.4%) |
| IMPERVIOUS: | 34,215 S.F. (73.6%) |



SUP EXHIBIT
 EL DORADO PKWY & RIDGE ROAD
 A PORTION OF LOT 2, BLOCK A
 OF THE VIGOR-ELDORADO ADDITION
 MCKINNEY, TX 75070
 COLLIN COUNTY

| REVISION RECORD | |
|-----------------|------------------------------|
| 12-25-14 | INITIAL SUBMITTAL |
| 1-12-15 | CITY COMMENTS |
| 1-27-15 | CITY COMMENTS |
| 1-30-15 | CITY COMMENTS |
| 2-23-15 | UPDATE SITE PLANS |
| 3-2-15 | UPDATE WHATABURGER SITE PLAN |
| 3-9-15 | UPDATE SITE PLANS |

SUP EXHIBIT
 DRIVE THRU REST. #2
 EL DORADO PKWY & RIDGE ROAD
 MCKINNEY, TX 75070

PRM. NO. E-12225

John Thomas ENGINEERING
 800 N. WATTERS, SUITE 170 ALLEN, TX 75013 PH: 214-491-1830