

ORDINANCE NO. 2005-06-064

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1270 OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 1.91 ACRE TRACT LOCATED ON THE NORTH SIDE OF U.S. HIGHWAY 380 (UNIVERSITY DRIVE), APPROXIMATELY 750 FEET EAST OF CUSTER ROAD (F.M. 2478), IS REZONED FROM "AG – AGRICULTURAL DISTRICT TO "PD" – PLANNED DEVELOPMENT DISTRICT, GENERALLY FOR RETAIL USES; PROVIDING REGULATIONS; 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 1.91 acre tract located on the north side of U.S. Highway 380 and approximately 750' east of Custer Road, from "AG" – Agricultural District, to "PD" – Planned Development District, generally for retail uses, 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 HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS:

Section 1. Ordinance No. 1270 is hereby amended so that an approximately 1.91 acre tract located on the north side of U.S. Highway 380 and approximately 750' east of Custer Road, which is more fully depicted on Exhibit "A" attached hereto, is hereby rezoned to "PD" – Planned Development District, generally for retail uses.

Section 2.

1. Use and development of the subject property shall conform to Section 41-79 "BN" – Neighborhood Business District of the City of McKinney Code of Ordinances, and as amended.
2. Any uses not shown on the attached zoning Exhibit "B" or any new building or use added to the property must receive site plan approval, as per Section 41-39 of the City of McKinney Code of Ordinances, and as amended, and comply with all requirements of the City.
3. Required screening as established in Section 41-205 of the City of McKinney Zoning Ordinance, and as amended, shall be installed along the north and east property lines where adjacent to single family zoning or use and along U.S. Highway 380 where open storage and outdoor display are located at such time any alteration or change is made to the site or at such time a building permit is obtained for any portion of the site.
4. The uses of self-storage facilities, trailer sales, farm supply sales, and open storage shall exist as non-conforming uses, which will be subject to the following requirements:

- (a) No non-conforming use may be expanded or increased beyond the lot or tract upon which the use is located.
- (b) If a non-conforming use is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of the Zoning Ordinance. In the case of partial destruction of a nonconforming structure not exceeding 50% of its reasonable value, reconstruction will be permitted but the size or function of the nonconforming structure shall not be expanded beyond the lot on which it is located. The nonconforming structure may only be restored or reconstructed so as to have the same, but not greater, height and floor area that it had immediately prior to the damage or destruction.
- (c) If the nonconforming use is abandoned, all nonconforming rights shall cease and the use of the premises shall be in conformance with Section 41-34 of the Zoning Ordinance. Abandonment shall involve the intent of the user or owner to discontinue a nonconforming operation and the actual act of discontinuance. Any nonconforming use which is discontinued for or which nonconforming structure remains vacant for a period of 6 months shall be considered to have been abandoned.

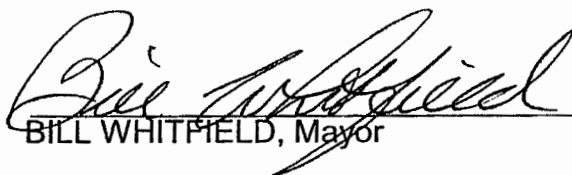
Section 3. If any section, subsection, paragraph, sentence, phrase or clause of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of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

Section 5. 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.

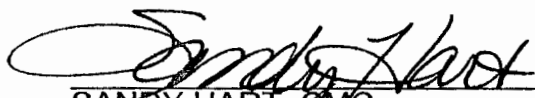
Section 6. That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The ordinance, and the subsequent site plans (if any) and regulations may be amended or repealed by the City Council of the City of McKinney, Texas, in the manner provided by law.

Section 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.

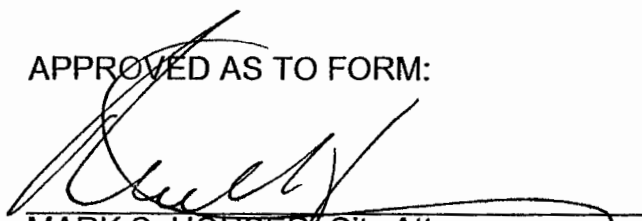
DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
McKINNEY, TEXAS, ON THIS 21ST DAY OF JUNE, 2005.

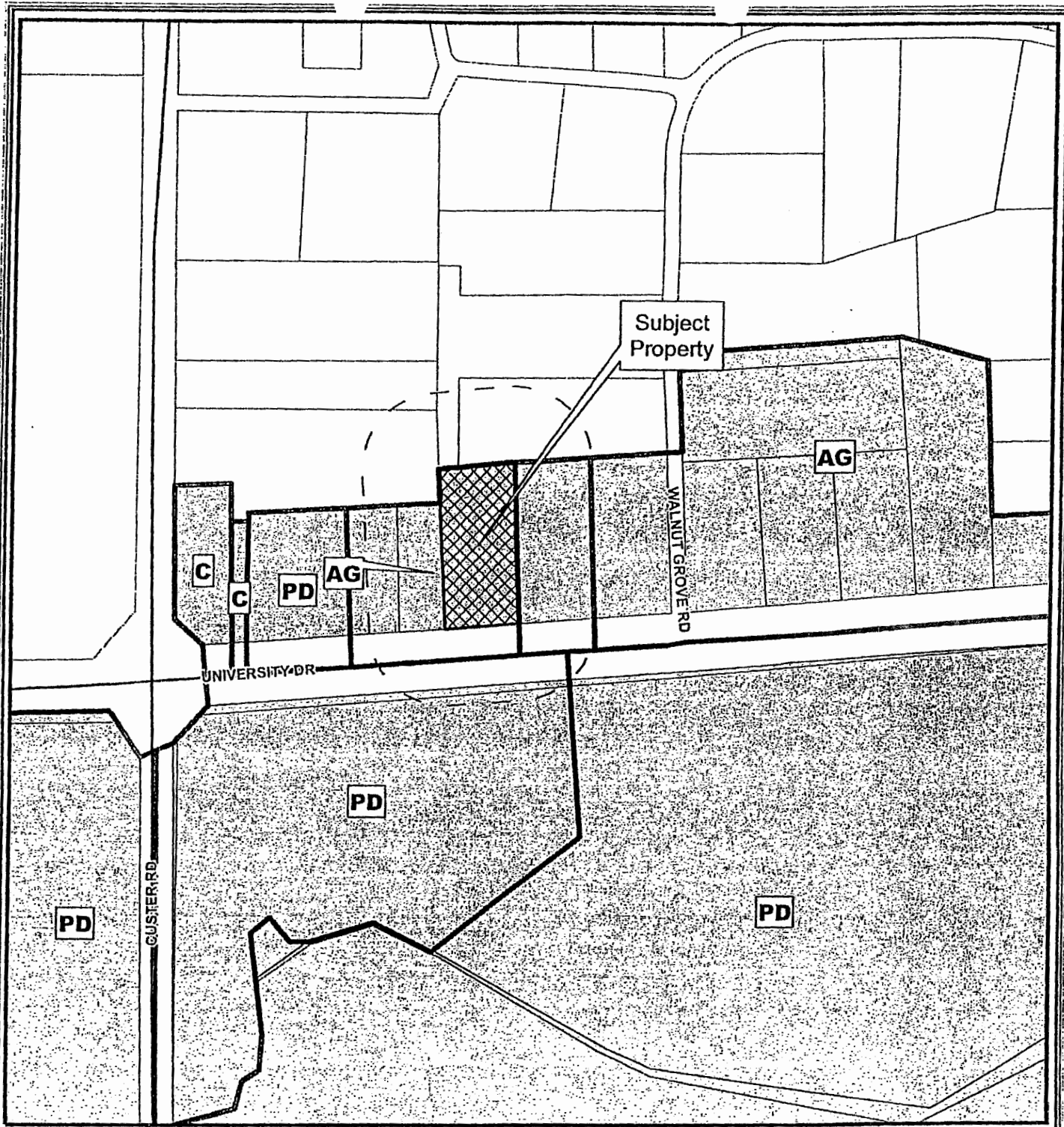

BILL WHITFIELD, Mayor

CORRECTLY ENROLLED:


SANDY HART, OMC
City Secretary
BEVERLY COVINGTON
Deputy City Secretary

APPROVED AS TO FORM:


MARK S. HOUSER, City Attorney



Subject Property

AG

WALNUT GROVE RD

UNIVERSITY DR

CUSTER RD

C

C

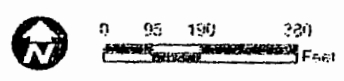
PD

AG

PD

PD

PD



Notification Case

Notice Case #: 2005-118Z

--- 200' Notification Buffer

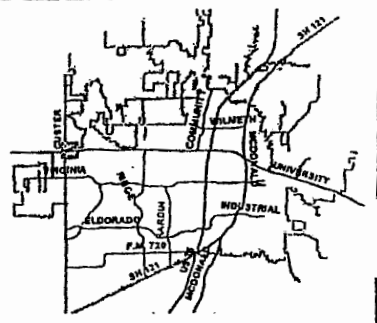
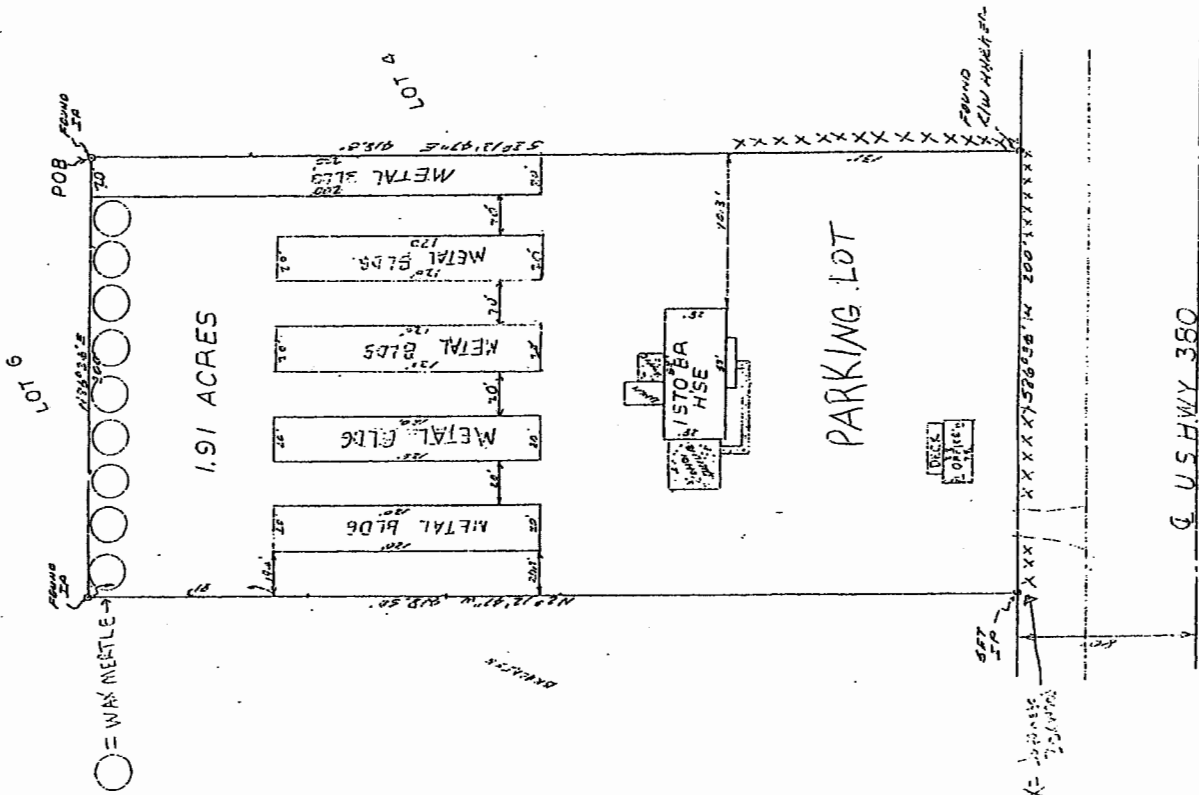


EXHIBIT "A"

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

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SURVEY PLAT



Situated in the S.W. 1/4 of Section 1, T12N, R10E, E2, in Collin County, Texas, and being part of a 1-acre tract of land that was conveyed to Paul S. Brackham, et ux by Paul S. Brackham in deed recorded in Volume 2176, Page 466, of the Land Records of Collin County, Texas, being more particularly described by meter and bounds as follows:

BEGINNING at an Iron Pin found, being the Northwest corner of said tract, same being the Northwest corner of Lot 4, Block 1 of Walnut Grove Estate, THENCE South 2 deg. 12 min. 47 sec. East with the West line of Lot 4 a distance of 418.5 feet to a right-of-way marker found in the North line of US Hwy. 380; THENCE South 88 deg. 36 min. West with said right-of-way line 200 feet to an Iron Pin set; THENCE North 2 deg. 12 min. 47 sec. West 418.5 feet to an Iron Pin found; THENCE North 88 deg. 36 min. East 200 feet to the place of beginning, containing 1.91 Acres.

I hereby certify to Collin County National Bank, Wilson Title Company, its underwriters and McWilliams & Thompson that I made the survey on the ground on March 11, 1997 of the Brackham Property shown hereon and found corner stakes as attached on the plat and that the only improvements on the ground are as shown on the survey; that there are no apparent encroachments, overlapping of improvements or conflicts found during the time of this survey, except as shown on the survey plat.



Billy M. Lamm
 BILLY M. LAMM No. 1633

The above described property does not lie in a flood hazard area according to the F.E.M.A. Flood Insurance rate map community panel No. 474580 200
ZONE 1
 NTEC 1-4-96

Easement to Danville Water Supply Corp. Vol. 703, Page 484 is a blanket easement, unable to locate.

U.S. HWY 380

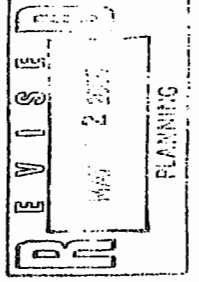


EXHIBIT "B"

