

ORDINANCE NO. 2004-07-070

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1270, AND AS AMENDED, OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 59.3 ACRE TRACT LOCATED ON THE SOUTH SIDE OF U.S. HIGHWAY 380, APPROXIMATELY 1,200 FEET WEST OF U.S. HIGHWAY 75 IS HEREBY REZONED FROM "AG" – AGRICULTURAL DISTRICT AND "PD" – PLANNED DEVELOPMENT DISTRICT TO "PD" – PLANNED DEVELOPMENT DISTRICT GENERALLY FOR COMMERCIAL AND OFFICE 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 59.3 acre tract located on the south side of U.S. Highway 380, approximately 1,200 feet west of U.S. Highway 75, from "AG" – Agricultural District and "PD" – Planned Development District, to "PD" – Planned Development District generally for office and commercial 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. Zoning Ordinance No. 1270 is hereby amended so that an approximately approximately 59.3 acre tract located on the south side of U.S. Highway 380, approximately 1,200 feet west of U.S. Highway 75, which is more fully depicted on Exhibit "A" attached hereto, is hereby rezoned from "AG" – Agricultural District and "PD" – Planned Development District, to "PD" – Planned Development District generally for office and commercial uses.

Section 2. Use and Development of the subject property shall conform to the following regulations:

1. The property shall generally develop according to the attached general development plan – Exhibit "B." The office portion of the subject property may be developed in different layout as part of the site plan approval process.
2. Residential uses, day cares, schools, and hospitals are not allowed uses for the subject property.
3. The office portion of the property shall develop per Section 41-72, "O" – Office District of the City of McKinney Zoning Ordinance, and as amended.

4. The northern two-thirds of the property shall develop as per Section 41-81, "C" – Planned Center District of the City of McKinney Zoning Ordinance, and as amended except as follows:
5. Outdoor display be allowed to exceed 10% of the building size and not be enclosed by walls on all sides if constructed as per the proposed general development plan. Including wrought iron with masonry columns and a planter box. Additionally a masonry screening wall and living screening wall shall be provided along Community Avenue as per the general development plan.
6. Open storage be allowed as shown on the general development plan, with wrought iron and masonry columns and a living screen along the southern property line.

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.

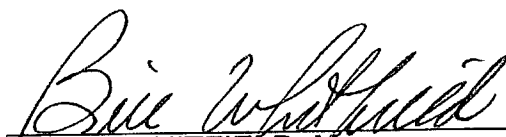
Section 4. The developer shall provide language in the deeds for notice (acceptable to the city attorney) to any residential lot purchaser, which adequately notifies purchasers of the existence of a private airport in the vicinity. An updated, scaled map shall be provided in conjunction with said notice.

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.

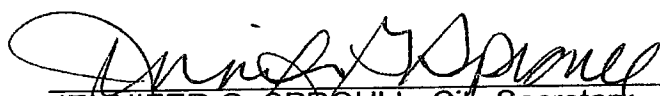
Section 6. That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The ordinance, and the subsequent site plans (if any) and regulations may be amended or repealed by the City Council of the City of McKinney, Texas, in the manner 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 6th DAY OF JULY, 2004.


BILL WHITFIELD, Mayor

CORRECTLY ENROLLED:


JENNIFER G. SPROULL, City Secretary
BEVERLY COVINGTON, Deputy City Secretary

APPROVED AS TO FORM:

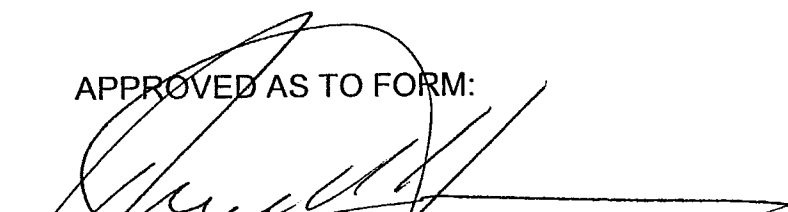
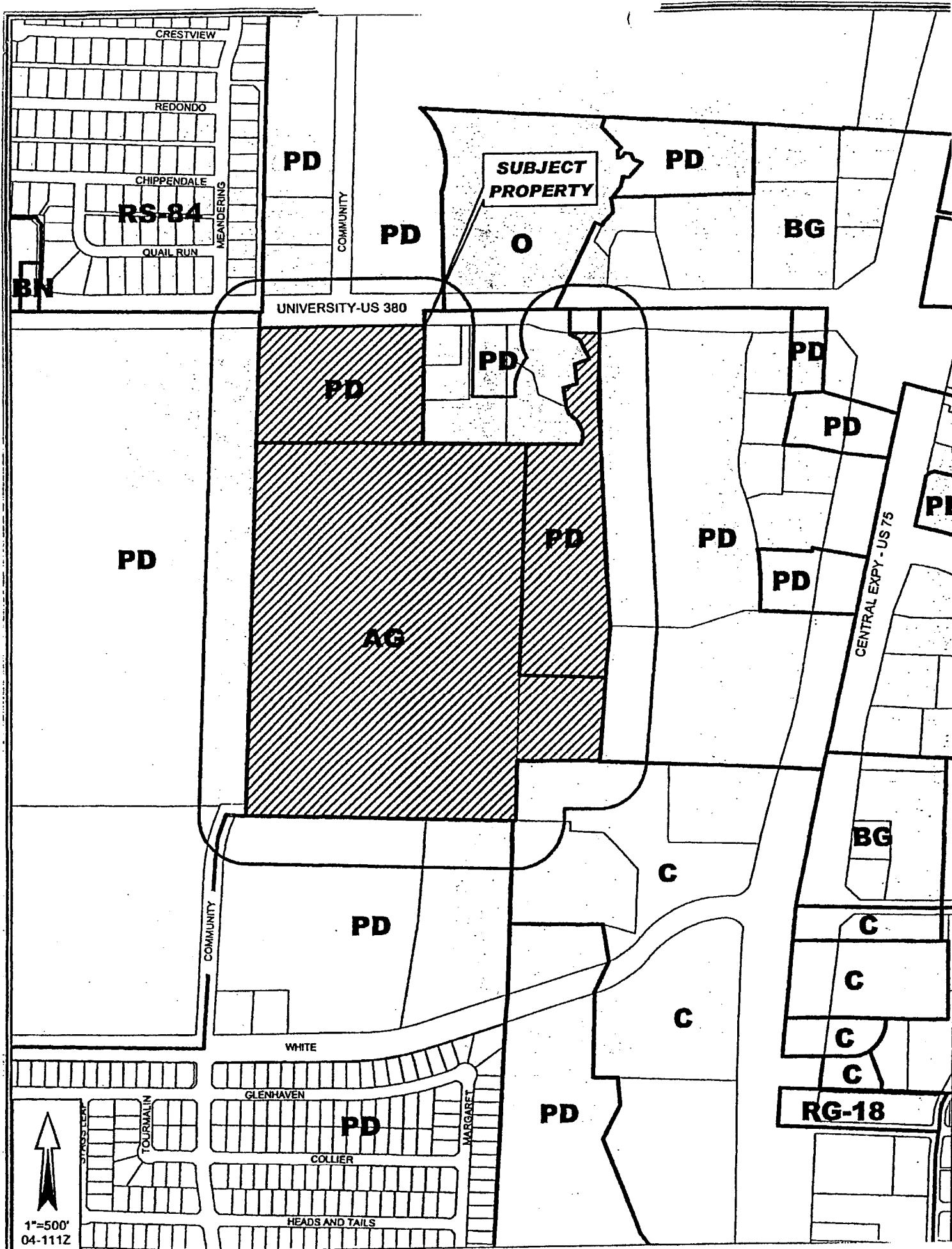
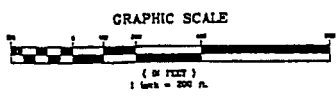
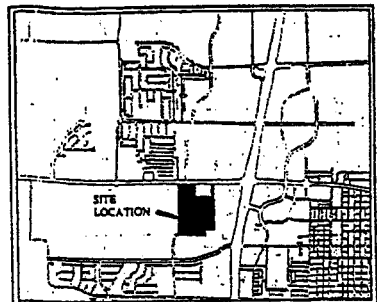
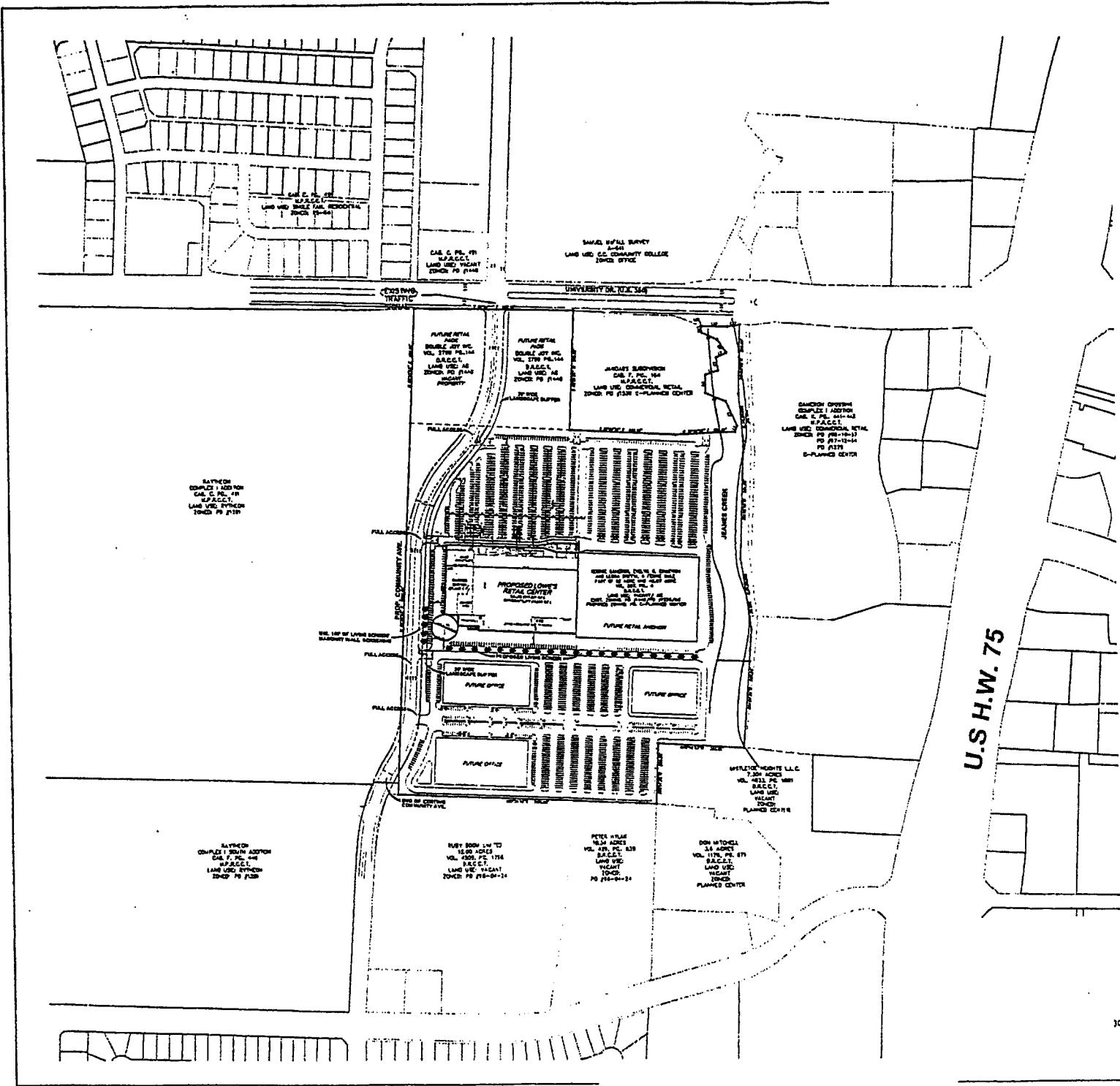

MARK S. HOUSER, City Attorney

EXHIBIT "A"





- SITE NOTES**
1. APPLICANT REQUESTING ZONING FROM PDR1440/PD#00-02-017/AG TO PD-C PLANNED CENTER
 2. TOTAL ACRES 59.29 acres
 3. TOTAL BLDG. AREA (PROP. LOWE'S) 167,930 sq.ft.
 TOTAL BLDG. AREA (FUT. RETAIL ANCHOR) 140,000 sq.ft.
 TOTAL BLDG. AREA (FUT. OFFICE) 190,845 sq.ft.
 4. PROP. RETAIL PARKING 840 required / 694 provided
 FUT. RETAIL PARKING 700 required / 701 provided (1 per 200 SF)
 5. FUT. OFFICE PARKING 636 required / 993 provided (1 PER 300 SF)
 6. NO FLAIR REQUIRED FOR COMMUNITY AVE.
 7. FLAIR WILL BE REQUIRED FOR U.S. 380
 8. NO BUILDING SETBACK REQUIRED BETWEEN LOWE'S AND FUTURE RETAIL ANCHOR.

BASIC GENERAL DEVELOPMENT PLAN HAS BEEN PROVIDED BY KITE DEVELOPMENT AND ADAMS CONSULTING ENGINEERS INC. ONLY MODIFIED BY KIMLEY-HORN AND ASSOCIATES

PARCEL DATA OBTAINED FROM THE CITY OF MCKINNEY GIS DATABASE

APPLICANT:
 KITE DEVELOPMENT
 30 S. MERIDIAN STREET, SUITE 1100
 INDIANAPOLIS, IN 46204
 TEL. (317) 577-5600
 FAX. (317) 577-5605

PLANNER/ENGINEER:

 KIMLEY-HORN AND ASSOCIATES
 1014 N. MESA, SUITE 400
 EL PASO, TX 79902
 TEL. (915) 313-0130
 FAX. (915) 313-0949

Kimley-Horn
 and Associates, Inc.
 1014 N. MESA, SUITE 400
 EL PASO, TEXAS 79902
 TEL. (915) 313-0130
 FAX. (915) 313-0949

KITE DEVELOPMENT
 59.29 ACRE TRACT
 South of 380 / West of 75
 MCKINNEY, TEXAS

GENERAL
 DEVELOPMENT
 PLAN

Scale:	1"=200'
Designed by:	HW/AS
Drawn by:	HW/AS
Checked by:	AS
Date:	JANU 2004
Project No.:	081114009
Sheet:	5-SHEET
	1
	2

EXHIBIT "B"