

ORDINANCE NO. 2005-12-132

AN ORDINANCE AMENDING "PD" – PLANNED DEVELOPMENT DISTRICT ORDINANCE NO. 99-07-53 OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 5.86 ACRE TRACT GENERALLY LOCATED ON THE SOUTH SIDE OF VIRGINIA PARKWAY BETWEEN JORDAN ROAD AND DOGWOOD TRAIL, IS REZONED FROM "PD" – PLANNED DEVELOPMENT DISTRICT TO "PD" – PLANNED DEVELOPMENT DISTRICT IN ORDER TO MODIFY PERMITTED USES, INCREASE THE MAXIMUM BUILDING HEIGHT, AND DECREASE THE BUILDING OFFSET REQUIREMENT; 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 owners of approximately 5.86 acres generally located on the south side of Virginia Parkway between Jordan Road and Dogwood Trail, which is zoned "PD" – Planned Development District Ordinance No. 99-07-53, have petitioned the City of McKinney to rezone said tract in order to modify permitted uses, increase the maximum building height, and decrease the building offset requirement, 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. "PD" – Planned Development District Ordinance No. 99-07-53 is hereby amended to modify the permitted uses, increase the maximum building height, and decrease the building offset requirement on an approximately 5.86 acre tract generally located on the south side of Virginia Parkway between Jordan Road and Dogwood Trail, which is more fully depicted on Exhibit "A" attached hereto.

Section 2. Use and development of the subject property shall conform to PD Ordinance No. 99-07-53, with the following exceptions:

- Gift/card shop, jewelry store, mimeograph/letter shop (including copy center), studios (photo, music, art, health), travel agent, and indoor retail stores (as currently permitted in the "BN" – Neighborhood Business District) shall be permitted uses on the subject property.
- Auto laundry (car wash) and auto lube center uses shall be permitted uses on Lot 1 only.
- A maximum of 17,500 square feet of space on the subject property may be used for restaurants.
- Of the 17,500 square feet of permitted restaurant space, one restaurant, which may not exceed 2,500 square feet, may have a drive-through window (with a minimum of 5 stacking spaces) if located at the end of a multi-tenant building on current Lots 4 and 5. One additional restaurant with a drive-through window (and with a

minimum of 5 stacking spaces) may be located on Lot 2 and/or Lot 3, subject to the approval of a Specific Use Permit by the City Council.

- For any proposed restaurant drive-throughs, the applicant shall not position the menu boards and speakers to face the south.
- If a building has more than 200 feet of street frontage, said building shall be designed with offset(s) of at least 5 feet so that no continuous section of said building exceeds 100 feet.
- The maximum building height allowed for one-story buildings on the subject property shall be 35 feet.
- For the auto laundry/auto lube center on Lot 1, the applicant shall provide a living plant screen of evergreen shrubs in the following locations: (a) in front of the 3 parking spaces along the east side of the site, (b) in front of the easternmost 7 parking spaces along the south side of the site, and (c) in the island immediately south of the proposed lube center. The shrubs will be a minimum height of 3' at time of planting. The species, size, spacing and quantity of the evergreen shrubs used in these locations shall be subject to review and approval by the City Arborist.
- In the 10 foot wide landscape zone adjacent to public right-of-way, a combination of evergreen and deciduous trees is permitted.

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.

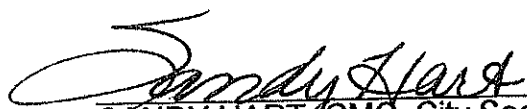
Section 5. That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The ordinance, and the subsequent site plans (if any) and regulations may be amended or repealed by the City Council of the City of McKinney, Texas, in the manner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

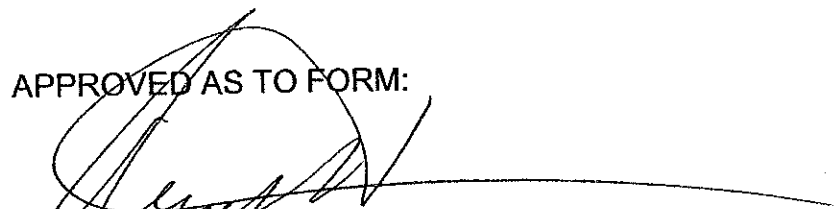
DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
McKINNEY, TEXAS, ON THIS 6th DAY OF DECEMBER, 2005.

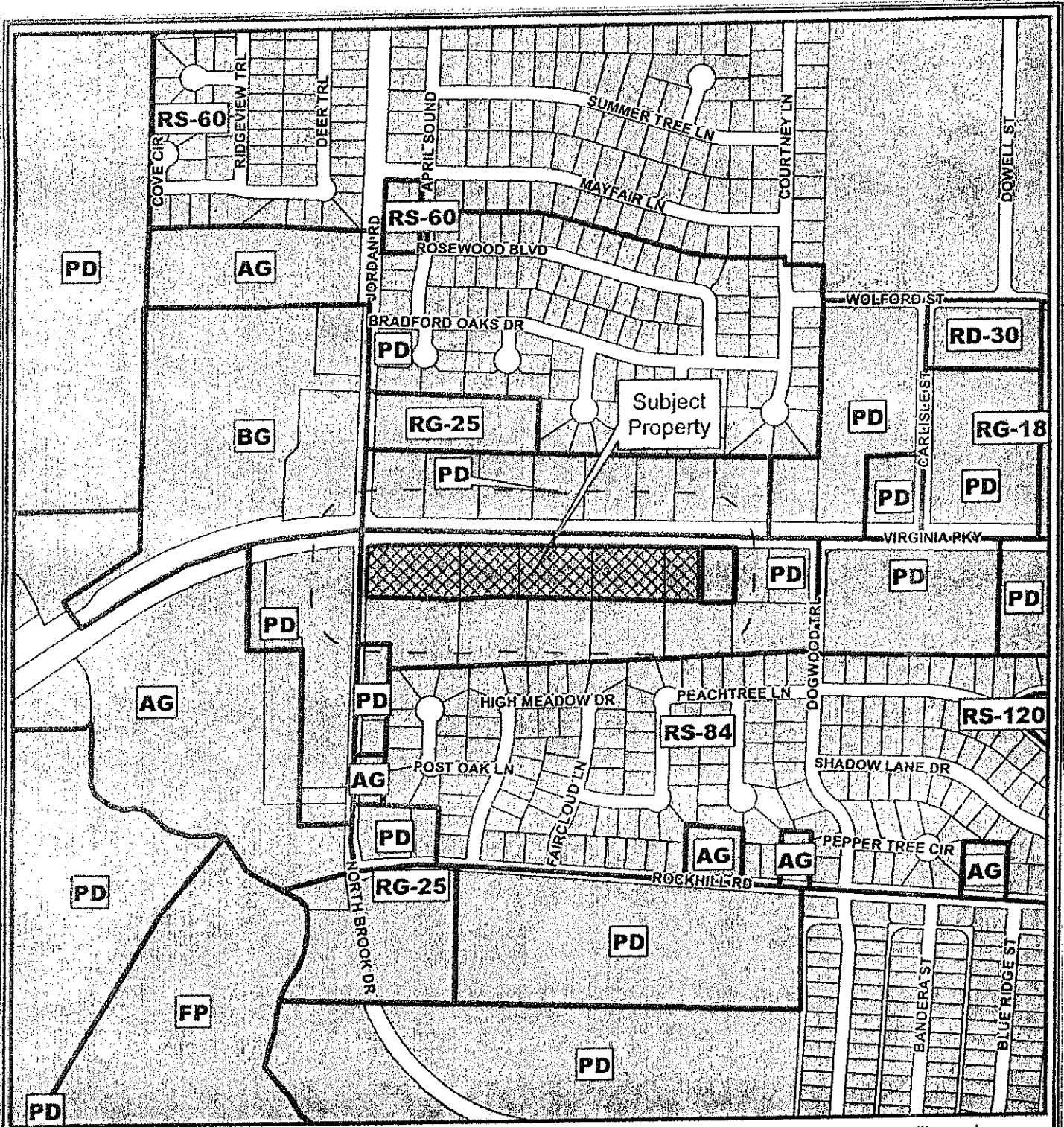

BILL WHITFIELD, Mayor

CORRECTLY ENROLLED:

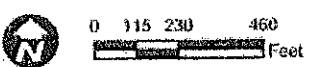

SANDY HART, CMC, City Secretary
BEVERLY COVINGTON, Deputy City Secretary

APPROVED AS TO FORM:


MARK S. HOUSER, City Attorney



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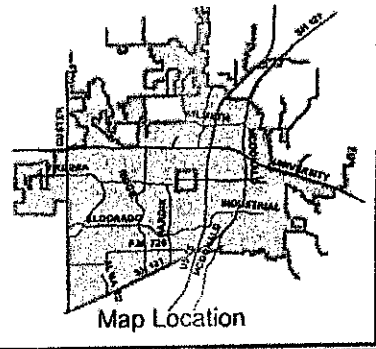


Notification Case

Notice Case #: 05-365Z

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