

ORDINANCE NO. 99-07-53

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1270 OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS; IN ORDER TO REZONE A 24.788 ACRE TRACT LOCATED ON THE NORTH AND SOUTH SIDES OF VIRGINIA PARKWAY, ON THE EAST SIDE OF JORDAN ROAD, AND ON THE WEST SIDE OF DOGWOOD TRAIL, FROM "AG" - AGRICULTURAL DISTRICT TO "PD" - PLANNED DEVELOPMENT DISTRICT, INCLUDING OFFICE AND RETAIL AS PERMITTED 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 owner or owner(s) of a 24.788 acre tract located on the north and south sides of Virginia Parkway, on the east side of Jordan Road, and on the west side of Dogwood Trail, in the City of McKinney, Collin County, Texas, have petitioned the City of McKinney in order to rezone the aforementioned property from "AG" - Agricultural District to "PD" - Planned Development District, a complete legal description of such property being attached hereto and marked Exhibit "A" and more fully depicted on Exhibit "B", and made a part hereof for all purposes; and,

WHEREAS, after due notice of the requested zoning 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 said zoning should be made.

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

- Section 1. The Zoning Ordinance No. 1270 of the City of McKinney is hereby amended so that a 24.788 acre tract located on the north and south sides of Virginia Parkway, on the east side of Jordan Road, and on the west side of Dogwood Trail, in the City of McKinney, Collin County, Texas, which is a complete legal description of such property being attached hereto and marked Exhibit "A", and more fully depicted on Exhibit "B", is hereby rezoned from "AG" - Agricultural District to "PD" - Planned Development District, and the official zoning map shall be amended accordingly.
- Section 2. That the development and use of said tract shall conform to the Development Regulations, marked Exhibit "C" and attached hereto.
- 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. No developer or property owner shall acquire any vested interest in this Ordinance, the Planned Development, 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 FIRST READING ON THE 14th DAY
OF July, 1999.



DON DOZIER, Mayor
City of McKinney, Texas

ATTEST:



JENNIFER G. SPROULL, City Secretary

APPROVED AS TO FORM:



MARK S. HOUSER, City Attorney

TRACT "A"

Being a tract of land situated in the W.D. THOMPSON SURVEY, Abstract No. 891, City of McKinney, Collin County, Texas; said tract being part of a certain 55.473 acre tract conveyed to Marshall M. Searcy from Anne R. Isom, et vir J.T. Isom by deed dated December 11, 1961 and recorded in Volume 590, Page 572, Land Records of Collin County, Texas; said tract being more particularly described as follows:

NNING at the Northeast corner of said 55.473 acre tract, a 1 inch diameter pinched iron found for corner in a North-South fence line and hedge row, being the same corner as established by a Boundary Line Agreement between Louis C. Miller and Mary Betty McKinney as the First Party and Marshall M. Searcy as the Second Party by instrument dated May 6, 1974 and recorded in Volume 918, Page 756, Land Records of Collin County, Texas:

THENCE South 02 deg. 04 min. 08 sec. West, along the East line of said 55.473 acre tract and along an old fence and tree line for a distance of 244.91 feet to a chiseled "X" set for corner in the North right-of-way line of FM 3038 (100 foot wide right-of-way); as established by Right-of-way Condemnation recorded in Volume 732, Page 448, Land Records of Collin County, Texas:

THENCE North 87 deg. 52 min. 00 sec. West, along the North right-of-way line of FM 3038 (known as Virginia Parkway), for a distance of 1616.29 feet to a 1/2 inch diameter iron rod with red plastic cap stamped RPLS 4701 set for corner at the Southeast end of a right-of-way corner clip between the North right-of-way line of FM 3038 and the East right-of-way line of Jordan Road:

THENCE North 42 deg. 31 min. 00 sec. West, along said right-of-way corner clip for a distance of 41.06 feet to the East right-of-way line of Jordan Road as established in Deed to the City of McKinney for right-of-way purposes recorded in Clerks File No 95-0034233, Land Records of Collin County, Texas; a 1/2 inch diameter iron rod with red plastic cap stamped RPLS 4701 set for corner;

THENCE North 03 deg. 10 min. 15 sec. East, along said right-of-way of Jordan Road for a distance of 220.48 feet to a 1/2 inch iron rod with red plastic cap stamped RPLS 4701 set for corner in the North line of said 55.473 acre tract as established by Boundary Line Agreement recorded in Volume 918, Page 756, Land Records of Collin County, Texas:

THENCE South 87 deg. 22 min. 59 sec. East, with said agreed line for a distance of 746.62 feet to a 1 inch diameter pinched iron pipe found for corner beside an old wood fence post.

THENCE South 87 deg. 57 min. 57 sec. East, continuing with said agreed line for a distance 94.69 feet to the POINT OF BEGINNING and containing 9.243 acres of land, more or less. Bearing System is referenced to the South right-of-way line of FM 3038 as North 87 deg 52 min. 00 sec. West.

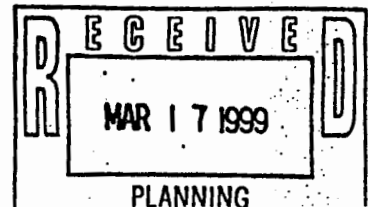


EXHIBIT "A"

TRACT "B"

Being a tract of land situated in the W.D. THOMPSON SURVEY, Abstract No. 891, City of McKinney, Collin County, Texas; said tract being part of a certain 55.473 acre tract conveyed to Marshall M. Searcy from Anne R. Isom, et vir J.T. Isom by deed dated December 11, 1981 and recorded in Volume 590, Page 572, Land Records of Collin County, Texas; said tract being more particularly described as follows.

BEGINNING at the North end of a right-of-way corner clip between the South right-of-way line of FM 3038 (known as Virginia Parkway) (100 foot wide right-of-way), as established by Right-of-way Condemnation recorded in Volume 732, Page 448, Land Records of Collin County, Texas with the East right-of-way line of Jordan Road as established by Right-of-way Donation to the City of McKinney in deed recorded in Clerks File No. 98-0020883, Land Records of Collin County, Texas; a TXDOT 4 inch diameter Brass Disk in concrete found for corner;

THENCE South 87 deg. 52 min. 00 sec. East, along the South right-of-way line of FM 303 for distance of 1590.53 feet to the West right-of-way line of Dogwood Trail, a 1/2 inch dia. iron rod with red plastic cap stamped RPLS 4701, set for corner;

THENCE South 02 deg. 02 min. 26 sec. West, along the West right-of-way line of Dogwood Trail for a distance of 386.58 feet to the Northeast corner of High Meadows Subdivision, a 1/2 inch diameter iron rod found for corner;

THENCE South 89 deg. 33 min. 59 sec. West, along the North line of said subdivision for a distance of 1537.82 feet to the Northwest corner of said subdivision, a 3/8 inch diameter iron rod found for corner, a point in the East line of Jackie Jordan tract;

THENCE North 02 deg. 59 min. 44 sec. East, along the East line of said Jordan tract for a distance of 66.38 feet to a 1/2 inch diameter iron rod with red plastic cap stamped RPLS 4701 set for corner;

THENCE North 86 deg. 39 min. 51 sec. West, along the North line of said Jordan tract for a distance of 84.48 feet to the East right-of-way line of Jordan Road as established by the aforementioned Right-of-way Donation Deed, a 1/2 inch diameter iron rod with red plastic cap stamped RPLS 4701, set for corner;

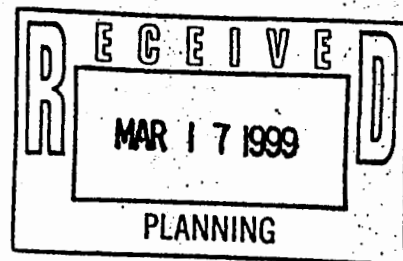
THENCE North 02 deg. 38 min. 25 sec. East, along the East right-of-way of Jordan Road for a distance of 242.31 feet to a 1/2 inch diameter iron rod with red plastic cap stamped RPLS 4701, set for corner;

THENCE North 12 deg. 06 min. 09 sec. East, continuing along said right-of-way of Jordan Road for a distance of 60.83 feet to a 1/2 inch diameter iron rod with red plastic cap stamped RPLS 4701, set for corner;

THENCE North 02 deg. 38 min. 25 sec. East, continuing along said right-of-way line of Jordan Road for a distance of 70.00 feet to a 1/2 inch diameter iron rod with red cap stamped RPLS 4701, set for corner; the Southwest end of said right-of-way corner clip;

THENCE North 47 deg. 28 min. 42 sec. East, along said right-of-way corner clip for a distance of 21.49 feet to the POINT OF BEGINNING and containing 15.545 acres of land, more or less. Bearing System is referenced to the South line of FM 3038 as South 87 deg. 52 min. 00 sec. East as described in deed Volume 732, Page 448, Land Records of Collin County, Texas.

EXHIBIT "A" (continued)



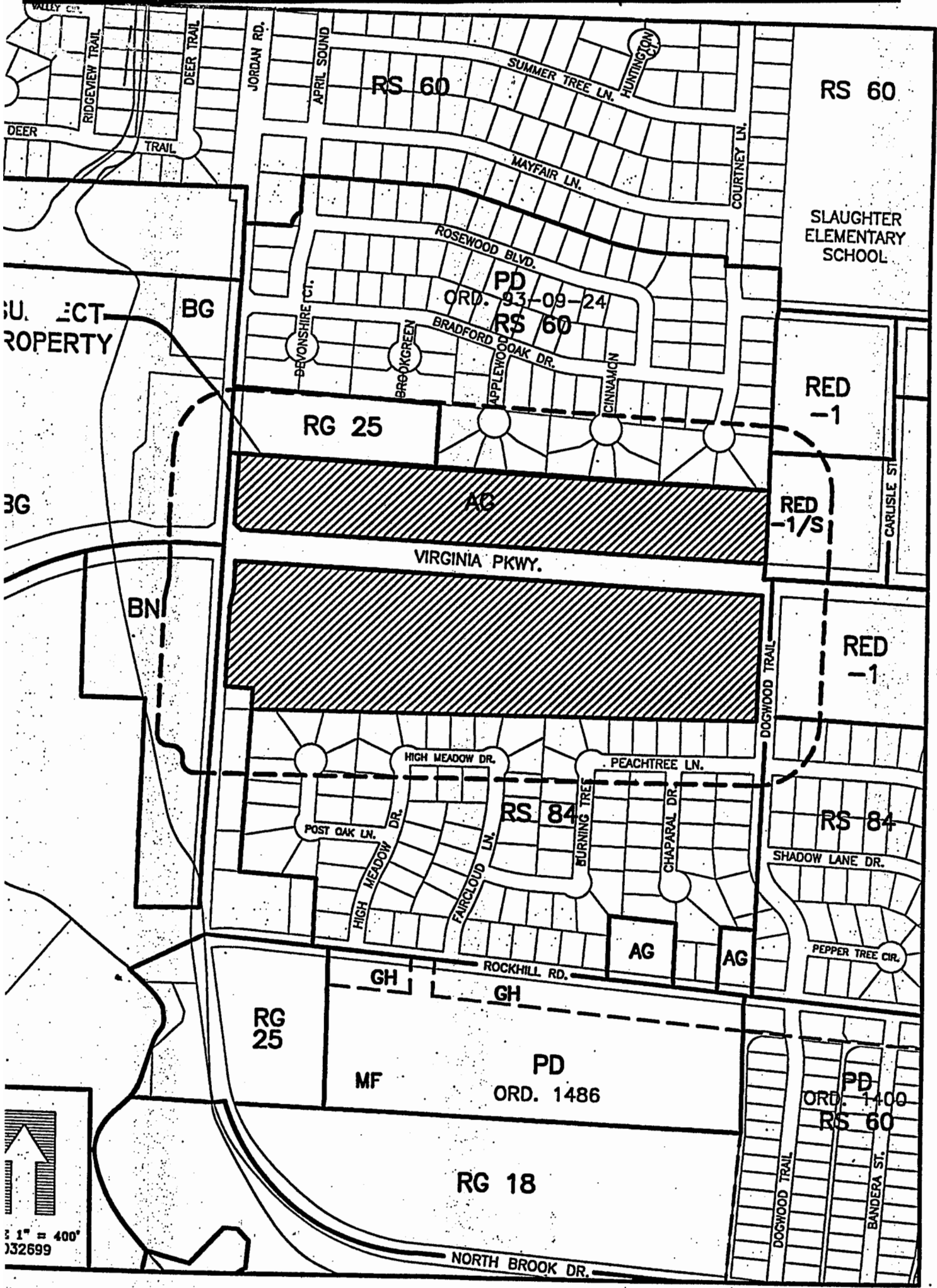


EXHIBIT "B"

**Searcy Tracts Planned Development Ordinance
covering
9.2+ Acres on the North Side of Virginia Parkway
and
15.5+ Acres on the South Side of Virginia Parkway**

The following criteria covers the property immediately adjacent to Virginia Parkway between Dogwood Trail to the east and Jordan Road to the west comprised as follows: 9.243 acres lying on the north side of Virginia Parkway and the 15.545 acres lying on the south side of Virginia Parkway. This property shall be zoned as a Planned Development under the following criteria:

- I. Zoning/Land Use Covering Entire Tract, approximately 25 acres - The following Base Land Use and Additional Overlay Land Uses shall be permitted as detailed below and as depicted on the attached Land Use Schematic.
 - A. Base Land Uses - All land uses permitted in the "O" - Office District as defined and provided for in the City of McKinney Zoning Ordinance shall be permitted on any portion of the referenced 25+ acres, except for Tract 1 which shall allow office uses only.
 - B. Additional uses shall be permitted as Overlay Zoning/Land Uses as follows:
 1. Tract 1 - "O" - Office uses only. Additionally, if such building(s) have more frontage than 200 feet of frontage, said frontage shall be designed with offset(s) of at least 10 feet so that no continuous section of said building exceeds 100 feet.
 2. Tract 2 - "O" - Office uses as provided for in the City of McKinney Zoning Ordinance Section 41-77, plus the following uses shall be permitted if said following uses are placed in a free standing building and conforming to the building design standards as set forth in the Building Design Criteria for office buildings below:
 - a. Florist shop
 - b. With Specific Use Permit (SUP): Other specialty boutique retail such as clothing shop, gift/card shop, jewelry store, or other similar uses as approved by a SUP and off site parking for an authorized adjacent use with approval of a SUP.

EXHIBIT "C"

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3. Tract 3 - "O" - Office uses as provided for in the City of McKinney Zoning Ordinance Section 41-77, and the following additional retail uses shall be permitted if placed in free standing buildings or 'U' shaped attached structures (plain rectangular buildings or 'strip centers' not permitted):

- (a) antique shop
 - (b) apparel and accessory store
 - (c) art supplies
 - (d) retail bakery or confection
 - (e) barber or beauty shop
 - (f) book or card shop
 - (g) pharmacy
 - (h) fabrics or needlework shop
 - (i) florist
 - (j) furniture sales
 - (k) lighting fixture, and other decorative accessories display and sales store
 - (l) hobby or handcraft shop
 - (m) lock and key shop
 - (n) restaurant (maximum of two including private club with SUP, no separate bar area permitted)
- (o) Automobile related uses and restaurants with drive-through window are specifically prohibited in tract 3; plus the following uses and standards shall apply:
- a. Specific Use Permit: Day Care for Children and Other specialty boutique retail such as clothing shop, gift/card shop, jewelry store, or other similar uses as approved by specific use permit.
 - b. Additional development provisions:
 - (1) Restaurants shall be located no closer than 200' from any single family residence.
 - (2) The above listed additional retail uses shall not exceed 6 acres of tract 3 and if in a free standing building or pure retail center shall be no closer than 200 feet from Dogwood Trail; office support businesses in a building used principally for office use shall be permitted.
 - (a) A conceptual site plan shall be approved for Tract 3 that conforms to the requirements as defined in the City of McKinney Zoning Ordinance, and as amended, at such time as the first portion of this tract develops.

EXHIBIT "C" (CONT.)

- (b) The conceptual site plan shall also designate the allocation of land uses to meet the required acreages of each use. This conceptual site plan shall be binding with respect to permitted land uses unless amended through the normal approval process.
- (c) Additionally, if such building(s) have more frontage than 200 feet of frontage, said frontage shall be designed with offset(s) of at least 10 feet so that no continuous section of said building exceeds 100 feet. The offset provision may be waived at time of site plan if building design is of such quality design as to warrant such consideration.

II. Required Yards and Setbacks, Heights and Areas, Coverage and Densities shall be as provided for in the "O" - Office District Section 41-77, except:

- A. Minimum front yard setback from adjacent public street shall be 30 feet.
- B. Minimum side yard at corner shall be 25 feet.
- C. Minimum rear yard shall be 25 feet except a two story building shall be no closer than 80 feet from the south property line of tract 3.
- D. The minimum distance between buildings shall be a minimum of 25 feet on tracts 1 and 2.
- E. Buildings constructed in Tract 1 shall not exceed 12,000 sq. ft. in building area; buildings constructed in Tract 2 shall not exceed 15,000 sq. ft. in building area.

III. Landscape Standards shall be as required by the McKinney Landscape Ordinance (as required by Ordinance 1270, and as amended) or the following, whichever is greater:

- A. A 10 feet wide landscape zone shall be provided adjacent to all public rights-of-way and a 10 foot landscape buffer shall be provided adjacent to all areas adjacent to the north property line of Tracts 1 & 2 and the south property line of Tract 3. Such areas shall have a minimum of one (1) 3-inch caliper minimum evergreen tree every 30 feet average (clustering permitted).

EXHIBIT "C" (CONT.)

B. Other Restrictions and Regulations

1. A minimum of ten (10) square feet per one (1) lineal foot of front yard width per platted lot shall be required between the front building line and the street right of way (front yard). A minimum of 10% of each platted lot shall be utilized for landscaping.
2. If head-in parking facing public streets is provided in the area ten to twenty-five feet from the street, the initial ten feet between the street and said parking shall be required to provide additional landscaping beyond the minimum requirements above, including a minimum of low screening shrubbery with ground cover or mulch.
3. Screening and buffering shall be as provided for in the McKinney Zoning Ordinance 1270, and as amended. Additionally, a solid eight foot tall masonry screening fence shall be installed on the property lines of the subject tracts where adjacent to single family residential uses and along the north property line of Tract 1, unless the site plan for development adjacent to Tract 1 warrants waiving a portion of said screening fence.
4. Parking shall be as provided for in the City of McKinney Zoning Ordinance, and as amended, for the respective uses.
5. Floor Area Ratios shall be as follows:
 - A. Tracts 1 & 2 FAR - .25 sq. ft of building area to 1 sq. ft. of lot area (0.25 : 1.0).
 - B. Tract 3 - .35 sq. ft. of building area to 1 sq. ft. of lot area (0.35 : 1.0).

IV. Building Design Standards

A. Maximum Building Height:

1. Tracts 1, 2, and 3 (north side of Virginia Parkway): one story (maximum 30 ft.); no two story buildings permitted.
2. Tract 3 (south side of Virginia Parkway): one story (maximum 30 feet) and/or two stories (maximum 40 ft.) permitted.

- B. Exterior building materials for Tracts 1 & 2 shall be a masonry product, including brick, stone, synthetic stone, a combination of brick or stone and stucco (maximum of 50% stucco), or glass, except for doors, windows, gables, and other architectural design elements (such other design elements shall not exceed 20% of any side of any building).

EXHIBIT "C" (CONT.)

- C. Exterior building materials for Tract 3 shall be a masonry product, including: brick; stone; synthetic stone; a combination of brick, stone and/or stucco (maximum of 50% stucco); architectural CMU (maximum of 50% of any building); or glass, except for doors, windows, gables, and other architectural design elements (such other design elements shall not exceed 20% of any side of any building). Concrete tilt wall construction may be used only if another material such as brick, synthetic stone, stucco, or similar material is applied to the outer surface.
- D. All buildings on parcels in Zoning Tracts 1 and 2, shall have pitched roofs with a minimum pitch of 4:12 (4 feet vertical for every 12 feet horizontal). Additionally, such buildings shall be designed in a manner compatible with residential structures. Each building in tract 3 shall have a pitched roof with a minimum pitch of 4:12 (4 feet vertical for every 12 feet horizontal) or a blend of pitched and flat roof with a minimum of 50% of the building area covered by a pitched roof structure so that each elevation is either a pitched roof or a gable view (minimum pitch of 4:12 (4 feet vertical for every 12 feet horizontal), when viewed from the ground or from all windows of currently existing buildings on adjacent properties.
- E. Elevation drawings for all sides of the proposed development must be submitted and approved as part of the site plan approval process. It is the intent of this ordinance that the buildings constructed on each tract be designed so as to be compatible with the other buildings on that tract. It is further intended that all sides of any building constructed on any of the zoning tracts provided for in this ordinance shall be finished in a manner that blends with or is consistent with the balance of said building.
- F. All freestanding signage shall be monument style per the City Sign Ordinance. Building signage shall be allowed per the City Sign Ordinance.
- G. Mechanical, Air Conditioning, Heating, and associated ductwork can be located on the roof or ground, but must be fully screened from view of the adjacent properties and public right-of-way.
- H. Freestanding lighting standards shall be a maximum of 20 high feet within the rear yard setback area of any two-story building in Tract 3 and shall not be permitted within the minimum rear yard setback area (25 feet) of any building in tracts 1 and 2 or the single story setback area (25 feet) in tract 3.
- I. All City Ordinances shall be in force except where this Planned Development Ordinance is more restrictive.

EXHIBIT "C" (CONT.)

- V. **Conceptual Site Plan** – Prior to any subdivision of Tracts 1, 2 or 3 for retail or office use, a conceptual site plan of the tract shall be submitted (may be submitted simultaneously with plat) for the entirety of said tract 1, 2, or 3 indicating concepts to be used on said tract for mutual access, landscaping, screening, parking arrangements, and general building orientation. Development or subdivision of the tract shall be consistent with the approved conceptual site plan as originally approved or as may be subsequently amended. Individual lot site plans shall take into consideration issues to enhance compatibility with adjacent uses existing at the time of development. Tract 3 shall also include an allocation of land uses conforming to the maximum acreage requirements of that tract.

EXHIBIT "C" (CONT.)

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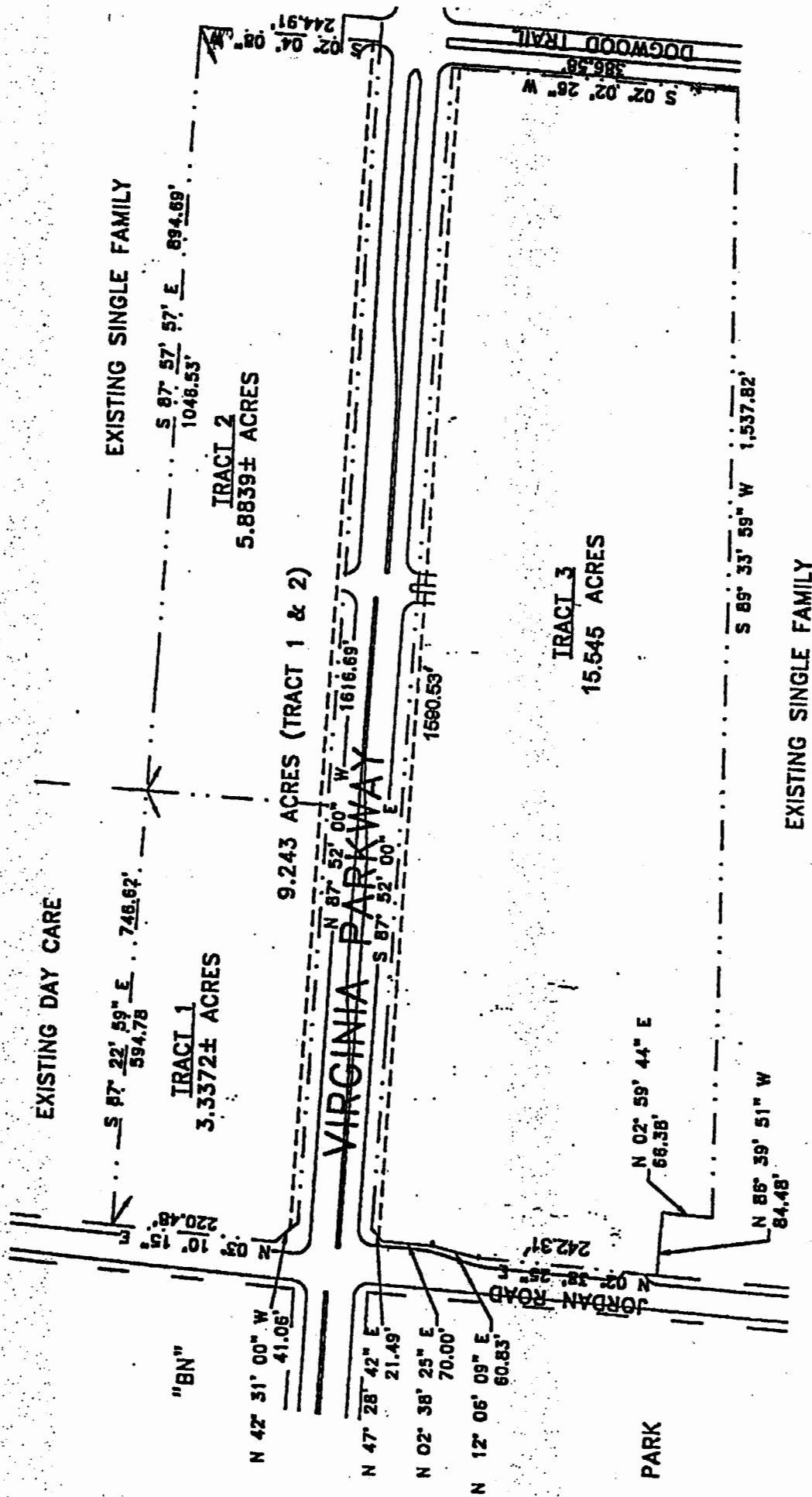


EXHIBIT "C" (CONT.)

PROPOSED ZONING MAP



TRACTS 1, 2, & 3

JULY 6, 1999