

ORDINANCE NO. 2013-07-065

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING ORDINANCE NO. 1270 OF THE CITY OF MCKINNEY, TEXAS; SO THAT AN APPROXIMATELY 153.62 ACRE PROPERTY IS ZONED TO "PD" – PLANNED DEVELOPMENT DISTRICT, GENERALLY TO ALLOW FOR COMMERCIAL USES AND TO MODIFY THE DEVELOPMENT STANDARDS, GENERALLY LOCATED NORTH AND SOUTH OF FUTURE F.M. 543 AND WEST OF U.S. HIGHWAY 75 (CENTRAL EXPRESSWAY); 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 153.62 acre property, generally located north and south of future F.M. 543 and west of U.S. Highway 75 (Central Expressway), which is more fully depicted on Exhibits "A", "B" and "C", attached hereto, is zoned to "PD" – Planned Development District, generally to allow for commercial uses and to modify the development standards; 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.

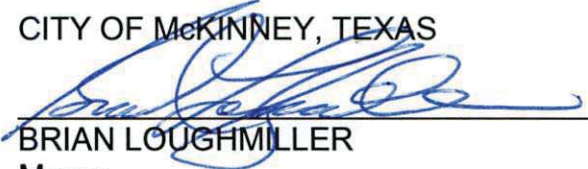
NOW THEREFORE BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS:

- Section 1. Ordinance No. 1270 is hereby amended in order to zone an approximately 153.62 acre property, generally to allow for commercial uses and to modify the development standards, is zoned to "PD" – Planned Development District, generally to allow for commercial uses and to modify the development standards.
- Section 2. Use and development of the subject property, more fully depicted on Exhibits "A", "B" and "C", shall be zoned "PD" – Planned Development District and shall conform to the following special ordinance provisions:
1. Use and development of the subject property shall conform to Exhibit "D" – Development Regulations.
- 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 16th DAY OF JULY, 2013.

CITY OF MCKINNEY, TEXAS

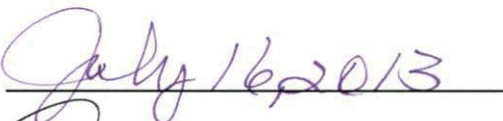

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

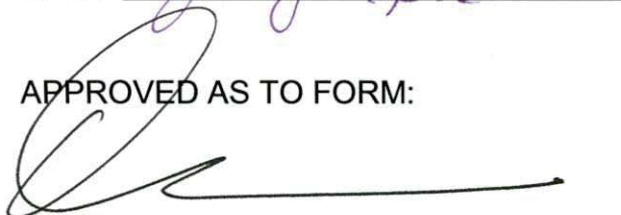


SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA
Assistant City Secretary

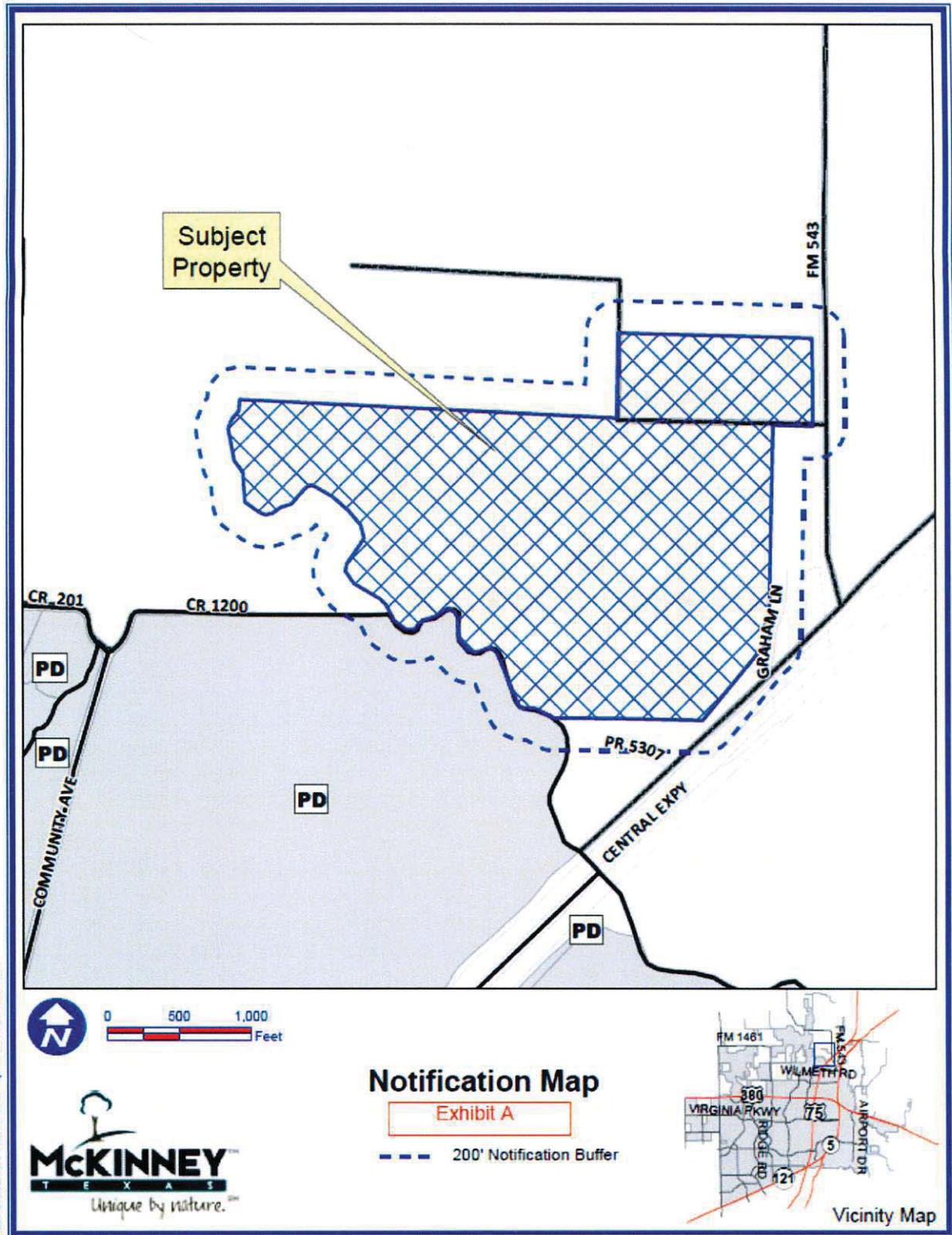
DATE:



APPROVED AS TO FORM:



MARK S. HOUSER
City Attorney



Path: S:\MCK\GIS\Notification\Projects\2013113-09927.mxd

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 A

LEGAL DESCRIPTION
WILSON 155

BEING a tract of land out of the Meredith Hart Survey, Abstract No. 371 in Collin County, Texas, and being all of the called 19.142 acre tract of land described as Tract 3-C and the called 135.991 acre tract of land described as Tract 3-D in deed to Addison G. Wilson, Jr., recorded in Volume 935, Page 590 of the Deed Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at a 1/2-inch iron pipe found for the northeast corner of a called 19.142 acre tract of land described in deed to Addison G. Wilson, Jr., recorded in Volume 935, Page 590, Deed Records, Collin County, Texas, same being the southeast corner of a called 16.856 acre tract of land described in deed to Evelyn Wilson Cole, recorded in Volume 935, Page 605, Deed Records, Collin County, Texas from which a 1/2-inch iron pipe bears North 00°35'00" East, a distance of 547.18 feet, same being on the west right-of-way line of Farm to Market (F.M.) No. 543 (a variable width public right-of-way);

THENCE with said west right of way line, South 00°18'11" East, a distance of 617.16 feet to a 3/8-inch iron rod found for the northeast corner of a called 1.176 acre tract of land described in deed to George & Kathy Krenshavage, as recorded in Collin County Clerk's File No. 94-0059154, Official Public Records of Collin County, Texas;

THENCE leaving said west right-of-way line and along the common line of said 1.176 acre tract and said 19.142 acre tract, North 87°14'28" West, a distance of 278.25 feet to a 1/2-inch iron rod found on the south line of said 19.142 acre tract for the northwest corner of said 1.176 acre tract, same being the northeast corner of a called 135.991 acre tract of land described in deed to Addison Wilson, Jr., recorded in Volume 935, Page 590, Deed Records, Collin County, Texas;

THENCE with the common line of said 1.176 acre tract and said 135.991 acre tract, South 01°27'54" West, pass at a distance of 183.08 feet, a 5/8-inch iron rod found for the southwest corner of said 1.176 acre tract, same being the northwest corner of a called 1.046 acre tract described in deed to Michael & Teri Wallis, recorded in Volume 2199, Page 371, Deed Records, Collin County, Texas, for a total distance of 208.03 feet to a 5/8-inch iron rod with "KHA" cap set for corner;

THENCE with the common line of said 135.991 acre tract and said 1.046 acre tract, South 01°25'40" West, pass at a distance of 146.25 feet, a point for the southwest corner of said 1.046 acre tract, same being the northwest corner of a called 2.000 acre tract of land described in deed to Daniel & Shawna Wolf, recorded in Volume 3390, Page 427, Deed Records, Collin County, Texas, pass at a distance of 297.80 feet, a point for the southwest corner of said 2.000 acre

tract, same being the northwest corner of a called 0.864 acre tract of land described in deed to J.M. Clay, recorded in Volume 3213, Page 169, Deed Records, Collin County, Texas, pass at a distance of 132.15 feet, a point for the southwest corner of said 0.864 acre tract, same being the northwest corner of a called 0.946 acre tract of land described in deed to Billy W. Clay, recorded in Volume 3213, Page 169, Deed Records, Collin County, Texas, pass at a distance of 167.83 feet, a point for the southwest corner of said 0.964 acre tract, same being the northwest corner of a called 3.03 acre tract of land described in deed to Elaine M. Dawson, recorded in Volume 2874, Page 14, Deed Records, Collin County, Texas, for a total distance of 1167.00 feet to a 5/8-inch iron rod with "KHA" cap set for corner;

THENCE with the common line of said 135.991 acre tract and said 3.03 acre tract, South 01°04'40" West, a distance of 147.76 feet to a 5/8-inch iron rod with Texas Department of Transportation (TxDOT) aluminum cap on the northwesterly right-of-way line of U.S. Highway 75 (a variable width public right-of-way);

THENCE with said northwesterly right-of-way line, South 46°01'05" West, a distance of 102.18 feet to a 5/8-inch iron rod with a Texas Department of Transportation (TxDOT) aluminum cap;

THENCE with said northwesterly right-of-way line, South 39°44'53" West, a distance of 605.43 feet to a 5/8-inch iron rod with a Texas Department of Transportation (TxDOT) aluminum cap for the northeast corner of a called 41.31 acre tract of land (Second Tract) described in deed to W.R. Black and wife, Imogene Black as recorded in Volume 534, Page 469, Deed Records, Collin County, Texas;

THENCE leaving said northwesterly right-of-way line and with the common line of said 135.991 acre tract and said 41.31 acre tract, the following courses and distances, to wit:

- North 88°47'20" West, a distance of 534.81 feet to a 5/8-inch iron rod with "KHA" cap set for corner;
- North 89°16'50" West, a distance of 252.20 feet to a 5/8-inch iron rod with "KHA" cap set for corner
- North 89°54'20" West, a distance of 251.00 feet to a point in the centerline of Honey Creek;

THENCE along the centerline of said creek, the following courses and distances, to wit:

- North 62°24'00" West, a distance of 145.00 feet to a point for corner;
- North 77°12'00" West, a distance of 33.00 feet to a point for corner;

EXHIBIT B

- South 89°38'00" West, a distance of 59.00 feet to a point for corner;
- North 62°51'00" West, a distance of 36.00 feet to a point for corner;
- North 21°32'00" West, a distance of 274.00 feet to a point for corner;
- North 22°43'00" West, a distance of 122.00 feet to a point for corner;
- North 48°29'00" West, a distance of 53.00 feet to a point for corner;
- South 73°58'00" West, a distance of 75.00 feet to a point for corner;
- South 70°39'00" West, a distance of 35.00 feet to a point for corner;
- North 76°37'00" West, a distance of 49.00 feet to a point for corner;
- North 45°13'00" West, a distance of 104.00 feet to a point for corner;
- North 03°05'00" West, a distance of 157.00 feet to a point for corner;
- North 27°19'00" West, a distance of 48.00 feet to a point for corner;
- North 58°40'00" West, a distance of 47.00 feet to a point for corner;
- South 57°42'00" West, a distance of 111.00 feet to a point for corner;
- South 72°03'00" West, a distance of 98.00 feet to a point for corner;
- South 48°00'00" West, a distance of 44.00 feet to a point for corner;
- South 31°39'00" West, a distance of 34.00 feet to a point for corner;
- South 87°33'00" West, a distance of 60.00 feet to a point for corner;
- North 53°21'00" West, a distance of 104.00 feet to a point for corner;
- North 27°29'00" West, a distance of 132.00 feet to a point for corner;
- North 45°52'00" West, a distance of 56.00 feet to a point for corner;
- North 60°09'00" West, a distance of 210.00 feet to a point for corner;
- North 32°55'00" West, a distance of 104.00 feet to a point for corner;
- North 11°27'00" East, a distance of 54.00 feet to a point for corner;
- North 34°48'00" East, a distance of 211.00 feet to a point for corner;
- North 14°36'00" West, a distance of 96.00 feet to a point for corner;
- North 39°43'00" West, a distance of 133.00 feet to a point for corner;
- North 48°54'00" West, a distance of 149.00 feet to a point for corner;
- North 59°20'00" West, a distance of 138.00 feet to a point for corner;
- North 71°18'00" West, a distance of 31.00 feet to a point for corner;
- South 69°16'00" West, a distance of 29.00 feet to a point for corner;
- South 50°07'00" West, a distance of 31.00 feet to a point for corner;
- South 40°34'00" West, a distance of 130.00 feet to a point for corner;
- South 72°45'00" West, a distance of 84.00 feet to a point for corner;
- South 52°46'00" West, a distance of 64.00 feet to a point for corner;
- South 73°22'00" West, a distance of 56.00 feet to a point for corner;
- North 62°52'00" West, a distance of 52.00 feet to a point for corner;
- North 55°14'00" West, a distance of 115.00 feet to a point for corner;
- North 05°20'00" West, a distance of 135.00 feet to a point for corner;
- North 02°19'00" West, a distance of 68.00 feet to a point for corner;
- North 26°10'00" West, a distance of 30.00 feet to a point for corner;
- North 37°22'00" West, a distance of 76.00 feet to a point for corner;
- North 10°44'00" West, a distance of 230.00 feet to a point for corner;
- North 20°58'00" East, a distance of 69.00 feet to a point for corner;
- North 40°41'00" East, a distance of 77.00 feet to a point for corner;
- North 04°24'05" East, a distance of 80.41 feet to a point for the southwest corner of a called 135.992 acre tract of land described in deed to Evelyn

Wilson Cole, recorded in Volume 935, Page 605, Deed Records, Collin County, Texas;

THENCE along the common line of called 135.991 acre tract and called 135.992 acre tract, South 87°04'20" East, a distance of 2645.24 feet to a 5/8-inch iron rod with "KHA" cap set for the southwest corner of said 19.142 acre tract;

THENCE along the common line of said 19.142 acre tract and said 135.992 acre tract, North 01°11'40" East, a distance of 592.62 feet to a 5/8-inch iron rod with "KHA" cap set for the southwest corner of said 16.856 acre tract;

THENCE along the common line of said 16.856 acre tract and said 19.142 acre tract, South 88°24'20" East, a distance of 1349.62 feet to the POINT OF BEGINNING and containing 153.6208 acres of land.

EXHIBIT B

Exhibit D

Development Regulations

1. The following uses are permitted by right, unless expressly prohibited below in Subsection 2 below:
 - a. All "Commercial Type, Retail, and Service uses" listed in Appendix F, Section F-4, Schedule of Uses, of the Zoning Ordinance, including restaurants (with or without drive-in or drive-through service), hotels, movie theaters (indoor), medical office uses, and clinics.
 - b. Financial institutions.
 - c. Service station or motor vehicle fuel stations, including associated convenience stores and car wash uses.
 - d. Indoor recreation facilities, including, but not limited to, indoor commercial amusement, gymnasium, fitness club, exercise area, and other similar uses.
 - e. School, business or trade.
 - f. Hospital.
 - g. Museum, library, or art gallery.
 - h. Local utility line or utility distribution lines, telephone exchange (no garage or shop).
 - i. Park or playground.
 - j. Swimming pool (private or public).
 - k. Parking incidental to a main use, including surface and structured parking.
 - l. Communications antennas, satellite dishes and support structures/towers, subject to the regulations of Section 146-137 of the Zoning Ordinance applicable to property in a "C" Planned Center zoning district.
 - m. Temporary uses, subject to Section 146-42 of the Zoning Ordinance. Temporary construction-related uses, including, but not limited to, a temporary asphalt or concrete batch plant, may be approved by the chief building official for extended periods of time in excess of the maximum period of 90 days permitted by Section 146-42.

EXHIBIT D

2. The following uses are prohibited: truck fueling stations; automobile, truck, motorcycle, or recreational vehicle sales, service, and repair uses; payday loan or cash advance uses; game rooms for slot machines, 8-liners, and related machines; residential uses; all "Industrial and Manufacturing Uses" listed in Appendix F, Section F-4, Schedule of Uses, of the Zoning Ordinance; sexually oriented businesses; tattoo parlors; mini-warehouses; pawn shops; funeral homes and mortuaries; heavy machinery sales and storage; mobile home display and sales; pet store, kennel, or animal boarding with outside runs; psychic/paranormal readings; and veterinarian clinics with outside runs.
3. Restaurants that will sell alcohol under a Private Club Permit (N or NB) and derive at least 50 percent of their gross receipts from the sale of food are permitted by right, subject to the following requirements: (A) payment of a City permit fee equal to that collected for a Mixed Beverage Restaurant Permit fee; (B) 50 percent or more of the gross receipts shall be derived from the sale of food, and (C) the permittee shall comply with the applicable provision of the Texas Alcoholic Beverages Code, as amended, and have obtained a Private Club Permit from the Texas Alcoholic Beverage Commission prior to selling alcohol.
4. All other uses that are not expressly permitted or prohibited above in Section 2 are permitted if approved by the City Council in conjunction with its approval of a site plan for such use(s); however private clubs selling alcohol and which derive at least 35 percent of their gross receipts from the sale of food, are permitted only pursuant to an SUP approved by the City Council in conjunction with its approval of a site plan for such private club.
5. Buildings are permitted to be a maximum of 180 feet in height, except that portions of buildings, located within 115 feet of the boundary of the Property or within 115 feet of a public right-of-way, shall be a maximum of 90 feet in height. There is no maximum number of stories.
6. Lot coverage may be a maximum of 50 percent, except that lot coverage may be a maximum of 75 percent for any lot "served by" structured parking, regardless of whether the structured parking is on the same lot as the building it serves. The term "coverage" includes only the building footprint. There shall be no restrictions on floor area or floor area ratio. In this subsection, "served by" shall mean a structured parking improvement that is within 500 feet of the building containing the use requiring improved parking.
7. The minimum front yard setback shall be 25 feet. The minimum side and rear yard setbacks shall be zero, except that any side or rear yard setback adjacent to the boundary of the Property shall be 25 feet. Minimum setback requirements shall always be measured from the property line.

EXHIBIT D

8. The vehicle parking requirements in Section 146-30 of the Zoning Ordinance shall apply, except a business or trade school shall meet the same parking requirement as a professional office use.
9. The portion of the Property described in the Drainage Easement attached as Exhibit E-1 to the development agreement and the Temporary Construction Easement attached as Exhibit E-2 to the development agreement, shall not be subject to any regulations related to the preservation of trees or requiring any type of mitigation or payment for removal of any trees, including, but not limited to Section 146-136 of the Zoning Ordinance. Section 146-136 of the Zoning Ordinance shall apply to the balance of the Property, and shall serve as the tree preservation/mitigation regulations applicable to the Property.
10. Except as otherwise provided in this paragraph, the Property shall be subject to Section 146-139 of the Zoning Ordinance (Architectural and Site Standards). Buildings with four or more stories shall be required to meet the following criteria in lieu of complying with Section 146-139: (A) each wall of each building shall be finished with masonry as specified in subsections (B) through (D) of this paragraph; (B) each wall on buildings 60 to 90 feet in height shall be finished with at least 25 percent masonry; (C) each wall on buildings 105 to 135 feet in height shall be finished with at least ten percent masonry; and (D) no masonry finishing materials shall be required on buildings over 135 feet in height. For purposes of this paragraph, masonry shall be defined as brick, stone and/or synthetic stone materials, including, but not limited to, slate, flagstone, granite, limestone, and marble.

EXHIBIT D