

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 096-033

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING ORDINANCE NO. 66 OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE, BY AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY CHANGING THE ZONING ON A CERTAIN TRACT OF LAND DESCRIBED AS A TRACT OF LAND LYING AT THE SOUTHEAST CORNER OF THE INTERSECTION OF MIDWAY ROAD AND KELLER SPRINGS ROAD AND BEING A PORTION OF LOT 2, MIDWAY PARK NORTH II, AN ADDITION TO THE TOWN OF ADDISON, TEXAS AND AS FURTHER DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN, FROM ITS CURRENT ZONING OF INDUSTRIAL-1 (I-1) TO PD PLANNED DEVELOPMENT FOR THE USES ALLOWED IN THE I-1 DISTRICT; PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING THAT THE ZONING MAP SHALL REFLECT THE PD PLANNED DEVELOPMENT ZONING DISTRICT FOR THE SUBJECT PROPERTY; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Texas Turnpike Authority ("TTA") is a state agency authorized to acquire real property for the construction and operation of turnpike projects to facilitate vehicular traffic in the state; and

WHEREAS, the TTA is acquiring property for right-of-way and utility easements for the construction and operation of the Addison Airport Toll Tunnel (the "Project"), which will connect the eastern and western termini of Keller Springs Road and thereby facilitate the flow of traffic in the City and enhance the safety and welfare of the citizens of the City; and

WHEREAS, one of the properties located along Keller Springs Road from which the TTA is acquiring right-of-way and utility easements for the Project is a tract of land described as Lot 2, Midway Park North II, an addition to the City, as depicted on the Final Plat thereof

recorded in Volume 83035, Page 1180, Deed Records, Dallas County, Texas (the "Entire Property"); and

WHEREAS, it is anticipated that the TTA's acquisition of right-of-way and utility easements from the Entire Property (the land acquired being referred to herein as the "Part Taken") will cause the improvements located on the portion of the Entire Property remaining after the acquisition (the "Remaining Property," described and depicted in Exhibit A attached hereto and incorporated herein) to fail to conform to the City's zoning requirements for building setbacks, landscaping and parking; and

WHEREAS, on June 11, 1996 the City Council adopted Resolution No. R96-051 which recognized the anticipated non-conforming status of the Remaining Property and which directed the City Staff to review the steps necessary to cause the Remaining Property to conform to the standards of the Comprehensive Zoning Ordinance, and to institute action to achieve such conforming status for the Remaining Property; and

WHEREAS, pursuant to Resolution No. R96-051, the Planning and Zoning Commission initiated the process to consider a change in zoning on the Remaining Property and to amend the official Zoning District Map of the Town in accordance with Ordinance No. 66 of the City (the "Comprehensive Zoning Ordinance"); and

WHEREAS, all legal notices, requirements and conditions having been complied with, the case to rezone the Remaining Property came on before the Planning and Zoning Commission and City Council; and

WHEREAS, the City Council, at a public hearing, had an opportunity to consider the following factors in making a determination as to whether the requested changes should be granted or denied: effect on the congestion in the streets, safety of the motoring public and the pedestrians using the facilities in the area immediately surrounding the Remaining Property, noise producing elements and glare of vehicular and stationary lights and effect of such lights on the established character of the neighborhood, the fire hazards and other dangers possibly present and the securing of safety from the same, lighting and type of signs and the relation of signs to traffic control and adjacent property, street size and adequacy of width for traffic reasonably expected to be generated for proposed uses around the Remaining Property and in the immediate neighborhoods, the effect on the promotion of health and the general welfare, effect on adequate light and air, the effect on the transportation, water, sewerage, schools, parks and other public facilities; and

WHEREAS, the City Council further considered among other things the character of the districts and their peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the Town, and does hereby find that the rezoning approved hereby accomplishes such objectives; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at the said public hearing and all other relevant information and materials, the Planning and Zoning Commission

of the City has recommended to the City Council the adoption of the amendments to the Comprehensive Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, the City Council has determined that there is a necessity and need for the change in zoning and that there has been a change in the conditions of the property surrounding and in close proximity to the Remaining Property since the Remaining Property was classified and therefore the change in zoning herein made is needed; and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the Town of Addison, Texas and of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Incorporation of premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Rezoning. Ordinance No. 66 of the Town of Addison, Texas, the same being the Comprehensive Zoning Ordinance, is hereby amended in the following particulars, and all other articles, chapters, sections, paragraphs, sentences, phrases and words are not amended but are hereby ratified and affirmed:

A. The zoning on the Remaining Property, being described and depicted in Exhibit A attached hereto and incorporated herein, heretofore zoned I-1 Industrial-1 District is hereby changed to PD Planned Development District for certain commercial and industrial uses, in accordance with the requirements of this Ordinance (including Exhibits B (Development Standards) and C (Development Plan), each of which Exhibits is incorporated herein for all purposes), all applicable parts of the Comprehensive Zoning Ordinance, and all other applicable ordinances, rules and regulations of the City.

Section 3. Paved areas; drainage structures. All paved areas, permanent drives, streets and drainage structures shall be constructed in accordance with standard City specifications adopted for such purpose.

Section 4. Zoning map. The Planning and Zoning Administrator is hereby directed to mark and indicate on the official Zoning District Map of the Town to reflect the zoning change herein made.

Section 5. Purpose. The amendment to zoning herein made has been made in accordance with the Comprehensive Plan of the Town for the purpose of promoting the health, safety and welfare of the community, and with consideration of the reasonable suitability for the particular use and with a view of conserving the value of the buildings and encouraging the most appropriate use of land within the community.

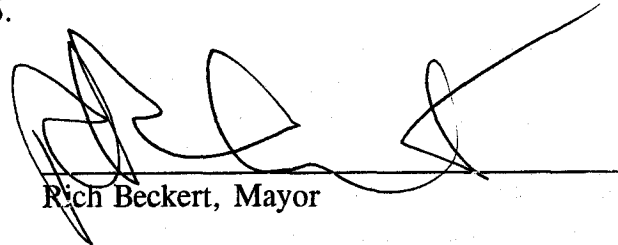
Section 6. Savings. This Ordinance shall be cumulative of all other ordinances of the City affecting the regulation of land and zoning and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

Section 7. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 8. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 9. Effective date. This Ordinance shall become effective from and after its date of adoption and publication as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 23 day of July, 1996.



Rich Beckert, Mayor

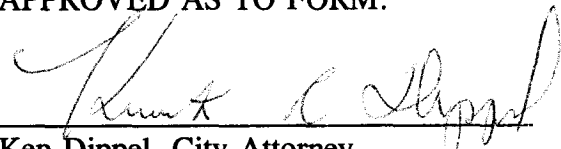
ATTEST:



Carmen Moran, City Secretary

[SEAL]

APPROVED AS TO FORM:



Ken Dippel, City Attorney

Published
8/22/96

EXHIBIT A

BEING generally described as 15980 Midway Road, Addison, Texas, and more particularly described as Lot 2 of the Midway Park North II subdivision as described and depicted on the final plat thereof recorded in Volume 83035, Page 1180, Deed Records, Dallas County, Texas, SAVE AND EXCEPT the following:

A. Right-of-Way:

BEING a portion of that called 3.00 acre tract or parcel of land being in the David Myers Survey, Abstract 923 and the W. H. Witt Survey, Abstract 1609, Dallas County, Texas, shown as Lot 2 on a plat entitled "MIDWAY PARK NORTH II," as recorded in Volume 83035, Page 1180, in the Deed Records of Dallas County, Texas, and being conveyed to M & F Development Company, Inc., by the deed recorded in Volume 90081, Page 3202, of said Deed Records and being more particularly described as follows (Basis of bearings is Texas State Plane NAD83 as determined from monumentation found on Addison Airport runway centerline):

BEGINNING at a found 3/4 inch iron rod, a point for corner in the existing southerly line of Keller Springs Road (a variable width right-of-way, at this point), said point being at the intersection of said southerly line of Keller Springs Road with the existing easterly line of Midway Road (a variable width right-of-way, at this point), said point also being the most westerly northwest corner of said Lot 2;

THENCE, North 62°47'14" East, along the common line between Keller Springs Road and said Lot 2, a distance of 55.96 feet to a set 5/8 inch iron rod for corner;

THENCE, North 89°16'07" East, continuing along said common line, a distance of 538.82 feet to a set drill hole in concrete for corner, from which bears a found 'X' cut in concrete at South 76°47'12" West, a distance of 0.21 feet, also from which bears another found 'X' cut in concrete at South 40°47'12" East, a distance of 0.19 feet, said corner being the northern-most common corner of said Lot 2 and Lot 1, as shown on said plat and as conveyed to Midpark North, Joint Venture, by the deed recorded in Volume 91136, Page 1164, of said Deed Records;

THENCE, leaving said common line, South 00°43'53" East, along the common line between Lots 1 and 2, a distance of 35.50 feet to a set 5/8 inch iron rod for corner;

THENCE, leaving said common line, South 85°54'09" West, a distance of 349.09 feet to a set 5/8 inch iron rod for corner;

THENCE, South 89°16'08" West, a distance of 101.00 feet to a set 5/8 inch rod for corner;

THENCE, South 00°43'52" East, a distance of 10.00 feet to a set 5/8 inch iron rod for corner;

THENCE, South 56°09'26" West, a distance of 117.23 feet to a set 5/8 inch iron rod for corner, said corner lying on the common line between Midway Road and said Lot 2;

THENCE, North 33°50'34" West, along said common line, a distance of 75.56 feet to a found 1/2 inch iron rod for corner;

THENCE, North 00°39'42" West, continuing along said common line, a distance of 41.80 feet to the **POINT OF BEGINNING**, and containing 34,659 square feet for 0.796 acre of land in the metes and bounds recited.

B. Utility Easement:

BEING a portion of that called 3.00 acre tract or parcel of land being in the David Myers Survey, Abstract 923 and the W. H. Witt Survey, Abstract 1609, Dallas County, Texas, shown as Lot 2 on a plat entitled "MIDWAY PARK NORTH II," as recorded in Volume 83035, Page 1180, in the Deed Records of Dallas County, Texas, and being conveyed to M & F Development Company, Inc., by the deed recorded in Volume 90081, Page 3202, of said Deed Records and being more particularly described as follows (Basis of bearings is Texas State Plane NAD83 as determined from monumentation found on Addison Airport runway centerline):

COMMENCING at a set drill hole in concrete in the southerly line of Keller Springs Road (a variable width ROW), from which bears a found 'X' cut in concrete at South 76°47'12" West, a distance of 0.21 feet, also from which bears another found 'X' cut in concrete at South 40°47'12" East, a distance of 0.19 feet, said corner being the northern-most common corner of said Lot 2 and Lot 1, as shown on said plat and as conveyed to Midpark North, Joint Venture, by the deed recorded in Volume 91136, Page 1164, of said Deed Records;

THENCE, leaving said southerly line of Keller Springs Road, South 00°43'53" East, along the common line between Lots 1 and 2, a distance of 35.50 feet to the **POINT OF BEGINNING**, a set 5/8 inch iron rod for corner;

THENCE, continuing along said common line, South 00°43'53" East, a distance of 15.03 feet to a point for corner;

THENCE, leaving said common line, South 85°54'09" West, a distance of 108.67 feet to a point for corner;

THENCE, North 04°05'51" West, a distance of 5.00 feet to a point for corner;

THENCE, South 85°54'09" West, a distance of 239.83 feet to a point for corner;

THENCE, South 89°16'08" West, a distance of 101.29 feet to a point for corner;

THENCE, North 00°43'52" West, a distance of 10.00 feet to a point for corner;

THENCE, North 89°16'08" East, a distance of 101.00 feet to a point for corner;

THENCE, North 85°54'09" East, a distance of 349.09 feet to the **POINT OF BEGINNING**, and containing 5,045 square feet for 0.116 acre of land in the metes and bounds recited.

EXHIBIT B

**DEVELOPMENT STANDARDS
LOT 2, MIDWAY PARK NORTH II**

Except as modified herein, the development of the Remaining Property described in Exhibit A, including regulations relating to use, height, area, type of construction, emergency access easement, outside storage display, mechanical equipment, refuse containers and site landscaping, shall be in accordance with the following Development Standards, conditions and requirements:

1. Generally. All provisions of the I-1 Industrial-1 Zoning District as set forth Ordinance No. 66, the Comprehensive Zoning Ordinance of the Town of Addison, Texas.

2. Area regulations.

A. Setback: Setback for the yard adjacent and contiguous to Keller Springs Road shall be 10 feet, except as provided in the Article on Variances and Exceptions of the Comprehensive Zoning Ordinance. The setback shall be measured from the Keller Springs right-of-way line.

EXHIBIT C

**DEVELOPMENT PLAN
LOT 2, MIDWAY PARK NORTH II**

1. Development plan. The Development Plan for the Remaining Property shall be comprised of the following:

A. Final Plat of Lot 2, Midway Park North II, recorded in Volume 83035, Page 1180, Deed Records, Dallas County, Texas; and

B. Texas Turnpike Authority Right-of-Way and Utility Easement Plat, Addison Toll Tunnel (Attachment 1); and

C. Aerial photograph of Remaining Property on file in the office of the City Engineer.

2. Future development/construction. Future development or construction on the Remaining Property which is in accordance with this Ordinance shall not require an amendment to the Development Plan.