TOWN OF ADDISON, TEXAS

ORDINANCE NO. 012-039

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN OF ADDISON, THE SAME BEING APPENDIX-A ZONING OF THE TOWN'S CODE OF ORDINANCES, BY (I)(A) CHANGING THE ZONING CLASSIFICATION ON AN APPROXIMATELY 1.723 ACRE TRACT OF LAND LOCATED WITHIN THE TOWN OF ADDISON (THE SAID TRACT OF LAND BEING LOCATED APPROXIMATELY ONE-THIRD MILE NORTH OF SOJOURN DRIVE BETWEEN ADDISON PARKWAY, AND BEING AND DALLAS MORE PARTICULARLY DESCRIBED IN EXHIBIT C ATTACHED HERETO) FROM LR LOCAL RETAIL DISTRICT, WITH A SPECIAL USE PERMIT FOR A RESTAURANT AND A SPECIAL USE PERMIT FOR THE ON-PREMISES SALE OF ALCOHOLIC BEVERAGES, TO PLANNED DEVELOPMENT DISTRICT (PD 009-004 AS ADOPTED BY **009-004) FOR PARKING ORDINANCE** NO. **PURPOSES** CONNECTION WITH TWO TRACTS OF LAND SUBJECT TO THE PROVISIONS OF ORDINANCE NO. 009-004, AND (B) PROVIDING THAT DEVELOPMENT AND USE OF THE SAID APPROXIMATELY 1.723 ACRE TRACT OF LAND SHALL BE IN ACCORDANCE WITH THE CONCEPT PLAN FOR PD-009-004 AS AMENDED HEREBY, THE USE REGULATIONS AND DEVELOPMENT CONDITIONS SET FORTH HEREIN, AND ALL TERMS, CONDITIONS AND PROVISIONS OF THIS ORDINANCE, THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN, AND ALL APPLICABLE LAWS, STATUTES, ORDINANCES, RULES, REGULATIONS, CODES, AND STANDARDS OF THE TOWN AND ANY OTHER GOVERNMENTAL ENTITY OR AUTHORITY, (II) AMENDING THE CONCEPT PLAN ATTACHED TO AND MADE A PART OF ORDINANCE NO. 009-004 BY ADDING THERETO THE SAID 1.1723 ACRE TRACT OF LAND, AND (III) AMENDING THE DEVELOPMENT PLAN ADOPTED BY ORDINANCE NO. 011-002 FOR A PORTION OF THE LAND INCLUDED WITHIN PD 009-004 AS SET FORTH HEREIN (SUCH PORTION BEING A PART OF TRACT I AS DESCRIBED IN ORDINANCE NO. 009-004); PROVIDING FOR A CORRECTION TO A SECTION REFERENCE INCLUDED IN ORDINANCE NO. 011-002; PROVIDING THAT THE OFFICIAL ZONING MAP: SHALL BE AMENDED TO REFLECT THE CHANGES HEREIN MADE; PROVIDING A PENALTY NOT TO EXCEED TWO THOUSAND AND NO/100 (\$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 SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE: AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a tract of land located within the Town of Addison, Texas (the "City"), containing approximately 7.401 acres of land (the said tract of land being referred to herein as "Tract I") (Tract I being generally bounded on the north by a tract of land addressed as 17225 Dallas Parkway, on the east by the Dallas Parkway, on the south by Sojourn Drive, and on the west by Addison Road, and being further described in Exhibit A attached hereto and incorporated herein for all purposes) was zoned Planned Development District (with a special use permit for hospital) by Ordinance No. 009-004 (the said planned development zoning district being referred to herein as "PD 009-004"); and

WHEREAS, a tract of land located within the City and owned by the owner of Tract I, containing approximately 2.410 acres of land (the said tract being herein referred to as "<u>Tract II</u>") (Tract II being generally bounded on the north by Sojourn Drive, on the east by the Dallas Parkway, on the south by a three-story office building addressed as 16901 Dallas Parkway, and on the west by Addison Road, and being further described in <u>Exhibit B</u> attached hereto and incorporated herein for all purposes), is zoned Planned Development District pursuant to Ordinance No. 829 of the City ("<u>Ordinance No. 829</u>"), and Ordinance No. 829 was amended by Ordinance No. 009-004; and

WHEREAS, Ordinance No. 009-004 provides in part that each phase of development of Tract I and Tract II (a) must comply with a concept plan that is shown in Exhibit C to that Ordinance (the "Concept Plan"), and (b) requires the submission and approval of a development plan for the phase that is in accordance with the provisions of Ordinance No. 009-004; and

WHEREAS, a development plan for a portion of Tract I, which development plan conformed to the Concept Plan and other provisions of Ordinance No. 009-004, was previously approved by Ordinance No. 011-002 (the "011-002 Tract I Development Plan"); and

WHEREAS, a tract of land located within the City and owned by the owner of Tract I and Tract II, containing approximately 1.723 acres of land (the said tract being herein referred to as "Tract III") (Tract III being generally located immediately north of Tract I and approximately one-third mile north of Sojourn Drive between Addison Road and Dallas Parkway, and being further described in Exhibit C attached hereto and incorporated herein for all purposes), is zoned LR Local Retail with a special use permit for a restaurant and a special use permit for the onpremises sale of alcoholic beverages; and

WHEREAS, the owner of Tract II, Tract II, and Tract III (collectively, the "Property") filed an application with the Planning and Zoning Commission of the City requesting the following:

- that Tract III be rezoned to, and included within and as a part of, PD 009-004,
- that PD 009-004 be amended to provide that Tract III be used for parking purposes for each of Tract I and Tract II,
- that the Concept Plan be amended by adding Tract III thereto, and
- an amendment to the 011-002 Tract I Development Plan,

together with corresponding amendments to the official Zoning Map of the City, in accordance with City's comprehensive Zoning Ordinance, the same being Appendix A-Zoning of the City's Code of Ordinances (the "Zoning Ordinance"); and

WHEREAS, this Ordinance provides that Tract III, to be used for surface parking only, may be used for required parking in connection with the use of Tract I and Tract II (each being tracts of land subject to the provisions of PD 009-004), and such use is consistent with Section III of Article II of the Zoning Ordinance that provides that "[r]equired parking for an allowed use must be located as provided in the regulations prescribed for the district in which the use is located..."; and

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with State law and the ordinances of the City, have given the required notices and have held the required public hearings regarding the changes to zoning set forth herein and made hereby; 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 hearings and all other relevant information and materials, the Planning and Zoning Commission of the City recommended and submitted a final report to the City Council regarding all of the changes to zoning described herein; and

WHEREAS, after due deliberations and consideration of the recommendation and final report of the Planning and Zoning Commission and the information and other materials received at the public hearing conducted by the City Council, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City 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. <u>Incorporation of Premises</u>. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.
- Section 2. <u>Amendments</u>. The Comprehensive Zoning Ordinance of the Town of Addison, Texas, the same being Appendix A Zoning of the Code of Ordinances of the City (the "<u>Zoning Ordinance</u>"), is hereby amended as follows:

A. Tract III.

1. Change in Zoning. The zoning on that tract of land described in <u>Exhibit C</u> attached hereto and incorporated herein for all purposes (the said tract of land being located immediately north of Tract I and approximately one-third mile north of Sojourn Drive between Addison Road and Dallas Parkway), the said tract of land being referred to in this Ordinance as "Tract III") shall be and is hereby changed:

From LR Local Retail, with a special use permit for a restaurant and a special use permit for the on-premises sale of alcoholic beverages, to Planned Development District, with

such Planned Development District being that adopted by Ordinance No. 009-004 (referred to herein as "PD 009-004") and the said Tract III same being hereby added to and made a part of PD 009-004,

all in accordance with and subject to the requirements of this Ordinance (including all exhibits referenced herein, each of which is incorporated herein for all purposes), Ordinance No. 009-004, all applicable parts of the City's Zoning Ordinance, and all other applicable laws, ordinances, rules, regulations, codes and standards of the City and any other applicable governmental entity, agency, or authority.

- 2. Development, Occupancy, and Use. Tract III may be developed, occupied, and used only in accordance with the terms and conditions of this Ordinance and all applicable exhibits attached hereto (all of which are incorporated herein and made a part hereof for all purposes), Ordinance No. 009-004, all applicable parts of the City's Zoning Ordinance, and all other applicable laws, ordinances, rules, regulations, codes and standards of the City (and as the same may be hereafter amended or superseded) and any other applicable governmental entity, agency, or authority, and including (without limitations) the following:
 - (a) (i) Concept Plan. The use, occupancy, and development of Tract III shall be in accordance with the Concept Plan for Tract I, Tract II, and Tract III (collectively referred to herein as the "Property") as adopted by Ordinance No. 009-004 and as amended by this Ordinance as set forth in Exhibit D attached hereto and incorporated herein for all purposes;
 - (ii) Development Plan. Except for the use, occupancy, and development of Tract III in accordance with this Ordinance, no additional or further use or development of Tract III is or shall be permitted unless and until a development plan in accordance with the ordinances, rules, codes, standards, and regulations of the City (including, without limitation, Article XV of the Zoning Ordinance) for such further use or development has been submitted to the City and has been approved by the City in accordance with the process and procedures for a change in zoning (accordingly, public notice and a public hearing before each of the City's Planning and Zoning Commission and the City Council shall be required). Any future development plan for Tract III shall be subject to and in accordance with Exhibit D attached hereto and incorporated herein, and shall comply with such other conditions, standards or requirements as the City may establish in connection with the City's review and consideration of approval thereof.
 - (b) For purposes of the development of Tract III and in connection with the issuance of a permit for such development, each phase of development of Tract III, and each portion of the development of Tract III as reflected in a development plan for that portion, constitutes a separate and distinct project for which a permit may be required.
 - 3. Permitted Uses. Tract III may be used and occupied only for the following uses:

 Parking (surface parking only) in connection with the use and occupancy of Tract I and Tract II.

- 4. Development Standards and Conditions. Use and development of Tract III shall comply with and be subject to the following standards, regulations and conditions:
 - (a) <u>Parking</u>. Parking on Tract III shall be subject to and in accordance with applicable parking ordinances, rules, codes, standards and regulations of the City and any other governmental entity having jurisdiction over Tract III (and including any amendments or modifications thereto).
 - (b) <u>Electric utilities</u>. Overhead power lines along Addison Road shall be buried so as not to conflict with landscaping and screening wall to be provided along Addison Road.
 - (c) <u>Driveways</u>. All driveway locations must be justified by a traffic impact analysis prepared by a qualified engineer retained by the owner of Tract III, and all driveways and deceleration lanes must be approved by the City's Department of Public Works.
 - (d) <u>Storm water</u>. Development, construction and use of Tract III shall adequately control storm water (drainage) so that there is no additional or further off-site drainage from Tract III than that which exists prior to any development or construction thereon and which is satisfactory to the City. Accordingly, on-site detention of storm water by the owner of Tract III will be required for Tract III.
 - (e) <u>Landscaping</u>. Landscaping on Tract III shall be in accordance with all ordinances, rules, codes, standards and regulations of the City (and including any amendments or modifications thereto). For each phase of development of Tract III and prior to construction of any improvements thereon (including improvements for parking purposes), the owner of Tract III shall submit to the City for its consideration of approval a revised landscaping plan that shows the total percentage of landscaping for each such phase and the total percentage of landscaping for the development of all phases of Tract I and Tract II (which landscaping plan shall show and confirm that Tract I and Tract II shall have twenty percent (20%) landscaping when partially and fully developed).
 - (f) <u>Screening</u>. All mechanical equipment, including oxygen tanks, located on or within Tract III shall be screened from public right-of-way and all adjacent properties. All loading and unloading areas and loading docks shall be screened from public right-of-way and all adjacent properties.
 - (g) <u>Fire Hydrants</u>. All fire hydrants shall be installed by the owner of Tract III at 300-foot intervals along fire lanes in locations approved by the City.
- B. <u>Concept Plan</u>. Exhibit C to Ordinance No. 009-004 constitutes a Concept Plan for Tract I and Tract II. As set forth in Section 2 of this Ordinance, Tract III has been added to and made a part of PD 009-004. Accordingly, the Concept Plan adopted by Ordinance No. 009-004 is hereby amended as shown in Exhibit D attached hereto and incorporated herein for all purposes. Accordingly, the Concept Plan attached to this Ordinance as <u>Exhibit D</u> shall be the Concept Plan applicable to Tract I, Tract II, and Tract III (and any references in Ordinance No. 009-004 to a concept plan or to Exhibit C shall mean and refer to the Concept Plan attached to this Ordinance as Exhibit D).

- C. <u>Development Plan for a Portion of Tract I</u>. Ordinance No. 011-002 approved a development plan for a portion of Tract I as set forth therein (the "<u>011-002 Tract I Development Plan</u>"). The 011-002 Tract I Development Plan is hereby amended and replaced in its entirety by the development plan attached hereto as <u>Exhibit E</u> and incorporated herein for all purposes. Accordingly, the occupancy, use and development of the portion of Tract I that is shown and included in the development plan attached hereto as <u>Exhibit E</u> shall in all things conform and be subject to such development plan.
- D. <u>Correction to Reference in Ordinance No. 011-002</u>. Section 1 of Ordinance No. 011-002 references an amendment to Section 4, subsection(a), paragraph (iii) of Ordinance No. 009-004. That reference should be to Section 2.A.4.(a)(iii), and Ordinance No. 011-002 is hereby amended to change that reference.
- Section 3. <u>Building Permits, Certificates of Occupancy</u>. No building permit or certificate of occupancy for any use on or in the Property shall be issued until there has been full compliance with this Ordinance and all other ordinances, rules, and regulations of the City.
- Section 4. <u>Zoning map</u>. The official Zoning Map of the City shall be modified to reflect the zoning change herein made, as appropriate.
- Section 5. <u>Purpose</u>. The amendment to zoning herein made has been made in accordance with the comprehensive plan of the City 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. <u>No Other Amendment; Savings</u>. Except for the amendment and change made herein, the PD Ordinance is not otherwise amended hereby, and all other provisions thereof shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City 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. <u>Penalty</u>. 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. <u>Severability</u>. 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, void, unlawful 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, voidness, unlawfulness or unconstitutionality, which remaining portions shall remain in full force and effect.

Section 9. <u>Effective date</u>. This Ordinance shall become effective from and after its passage and approval and after publication as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 12th day of June, 2012.

Todd Meier, Mayor

ATTEST:

Chris Terry, City Secretary

APPROVED AS TO FORM:

John Hill, City Attorney

EXHIBIT A (legal description for Tract I)

BEING a tract of land out of the Eli Shepard Survey, Abstract No. 1361, City of Addison, Dallas County, Texas, being part of a tract of land described as Tract I and Tract II in Special Warranty Deed to Robert J. Schlegel (d/b/a/Schlegel Property Company), recorded in Volume 93162, Page 6493 of the Deed Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at a PK nail found at the intersection of the north right-of-way line of Sojourn Drive (a 60-foot wide right-of-way) and the east right-of-way line of Addison Road (a variable width right-of-way);

THENCE with said east right-or-way line, North 01°East, a distance of 928.34 feet to a 5/8"iron rod found for corner;

THENCE with a jog in said east right-of-way line, South 88°33'43" East, at a distance of 12.00 feet, passing the southwest corner of Two Rows restaurant, an addition to the City of Addison, Texas according to the plat recorded in Volume 2004081, Page 208, Deed Records of Dallas County, Texas, continuing with the south line of said Addition at a distance of 338.00 feet, passing the southeast corner of said Addition wand a point in the west right-of-way line of the Dallas North Tollway (a variable width right-of-way), continuing with a jog in said west right-of-way line, in all a total distance of 350.00 feet to a "X" cut in concrete found for corner;

THENCE with said west right-of-way line, South 01°33'44" West, a distance of 914.05 feet to a ½" iron rod found for corner at the intersection of said west right-of-way line and the said north right-of-way line of Sojourn Drive;

THENCE with said north right-of-way line of Sojourn Drive, South 89°West, a distance of 350.32 feet the **POINT OF BEGINNING** and containing 7.401 acres or 322,399 square feet of land.

EXHIBIT B (legal description for Tract 2)

BEING 2.410 acres of land situated in the E. Shepherd Survey, Abstract 1361 and the W. Lomax Survey, Abstract 792 and in the Town of Addison, Texas, Dallas County, and being more particularly described as follows:

BEGINNING at a point which is the intersection of the East Right-of-Way line of Addison Road (A 60' R.O.W.) and the South Right-of-Way line of Sojourn Lane (A 60' R.O.W.);

THENCE North 89°34'56" East a distance of 350.32 feet along said south Right-of-Way line of Sojourn Lane to a point for a corner, said corner being on the West Right-of-Way line of Dallas Parkway (a 200' R.O.W.);

THENCE South 02°01'34" West along said West Right-of-Way line of Dallas Parkway a distance of 300.00 feet to a point for corner;

THENCE South 89°34'56" West a distance of 350.32 feet to a point for a corner, said corner being on said East Right-of-Way line of Addison Road

THENCE North 02°01'34" East along said East Right-of-Way line of Addison Road a distance of 300.00 feet to the POINT OF BEGINNING and containing 104,979.60 square feet or 2.410 acres of land.

EXHIBIT C (legal description for Tract III)

BEING a portion of a tract of land situated in the Eli Shepherd Survey, Abstract No. 1361, City of Addison, Dallas County, Texas, and being a portion of a 4.223 acre tract of land conveyed to Robert J. Schlegel by the deed recorded in Volume 93162, Page 6493, of the Deed Records of Dallas County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a ½ inch iron rod found in the east line of Addison Road (a 60-foot right-of-way), same point being the northwest corner of the said Schlegel tract, and the southwest corner of Lot 1, Park Tree North Addition, an addition to the City of Addison, according to the plat recorded in Volume 78190, Page 0948 of the Deed Records of Dallas County, Texas:

Thence South 89 degrees 56 minutes 59 seconds East with the south line of said Lot 1, passing a ½ inch iron rod found at a distance of 345.07 feet (denoting right-of-way dedication of said Lot 1), continuing a total distance of 350.21 feet to a 5/8 inch capped iron rod marked "RPLS 4838" set for corner in the west line of Dallas Parkway (a 200-foot right-of-way);

Thence South 02 degrees 01 minutes 34 seconds West with the said west line Dallas Parkway, a distance of 233.04 feet to a 5/8 inch capped iron rod marked "RPLS 4838" set for corner;

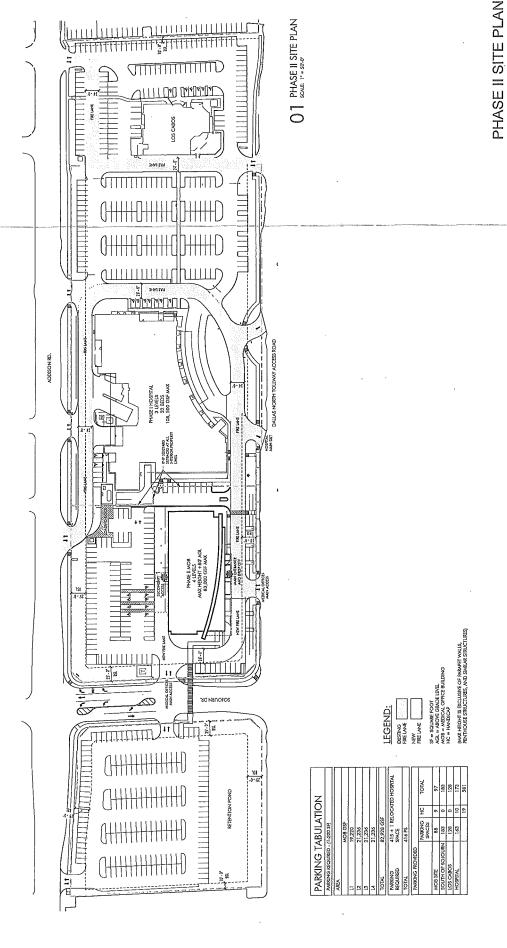
Thence North 87 degrees 58 minutes 26 seconds West, a distance of 350.00 feet to a 5/8 inch capped iron rod marked "RPLS 4838" set for corner in the said east line of Addison Road;

Thence North 02 degrees 01 minutes 34 seconds East with the said east line, a distance of 220.96 feet to the PLACE OF BEGINNING.

Containing a computed area of 79,450 square feet or 1.723 acres of land.

EXHIBIT D

[attach revised Concept Plan for Tract I, Tract II and Tract III]

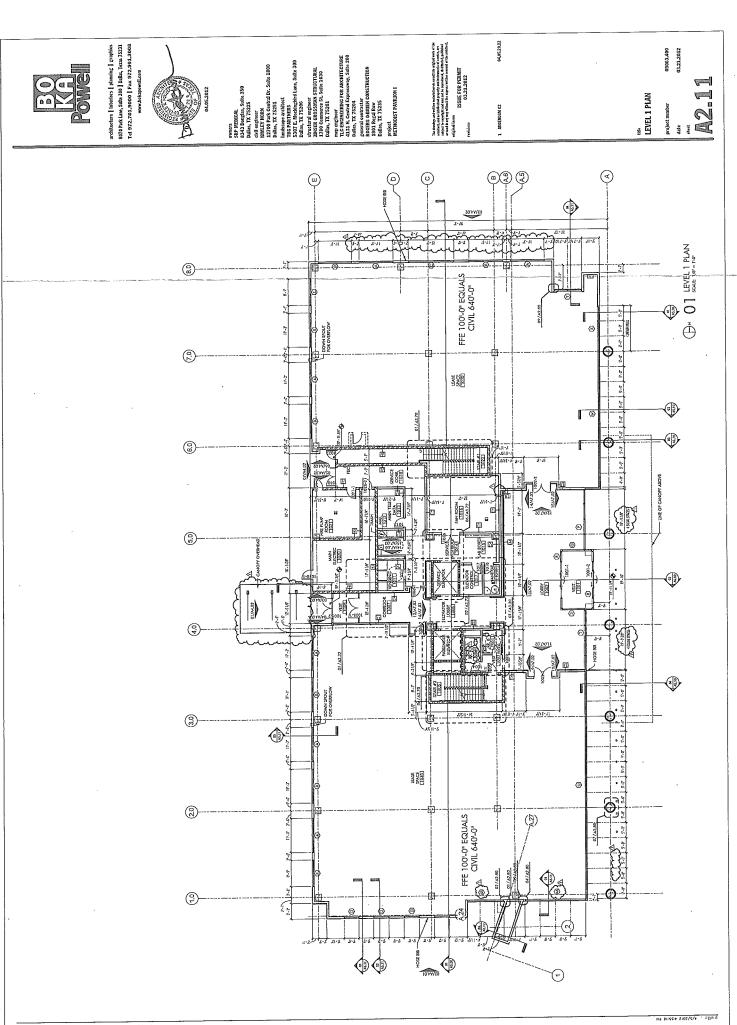


METHODIST MEDICAL OFFICE PAVILION I

Donald R. Powell, Jr. Rog. No.: 7206 Chie W. Barnos Rog. No.: 10147 John E. Ordeld Rog. No.: 1164 Androw Bernott Androw Bernott Rog. No.: 18129

EXHIBIT E

[attach development plans for MOB]



architecture | interiors | planning | graphics 8070 Park Lane, Sulta 300 | Dallar, Taxaa 75231 Tel 972,701,9000 | Fax 972,991,3008 EXTERIOR ELEVATIONS project number date sheet – COMPOSITE METAL PANEL – PORTLAND CEMENT PLASTER FINISH 2 - LEVEL 4 (B) - 148 COT (B) - CURTAINWALL SPANDER. PORTLAND CEMENT PUR FINISH 1 GLAZED ALUMINUM STORESTONT VISION LEVEL 1 100 - 0 - 0 OT EAST ELEVATION 1.0.P. 167-6 -1881-1-O (<u>@</u>) 02 SOUTH ELEVATION < 15 TO (3) **% %** (g)-(B) (B) (0)-PORTLAND CEMENT PLASTER PINISH I SUPER NB METAL PANEL ROOF SCREEN REYOND GLAZED ALUMINUM STOREPRONT SPANDREL GLAZED ALUMINUM. STOREFRONT VISION --SOLAR SHADE TIPICAL ON SOUTH ELEVATION (2) (10) (2)

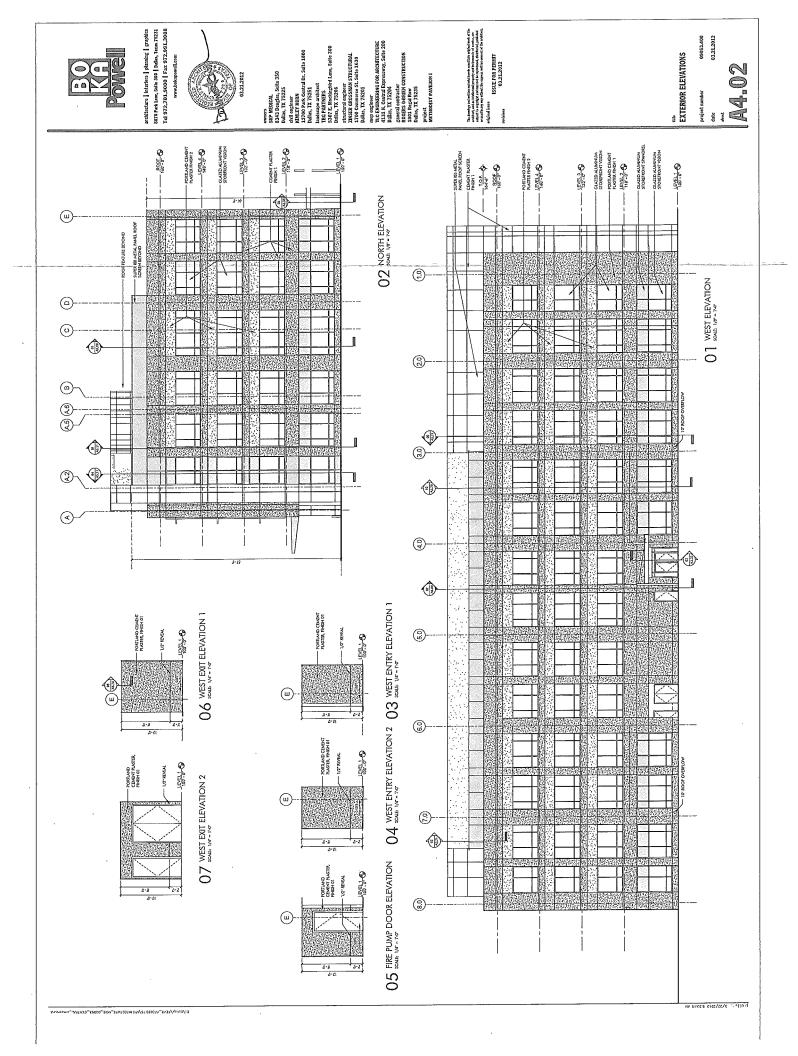


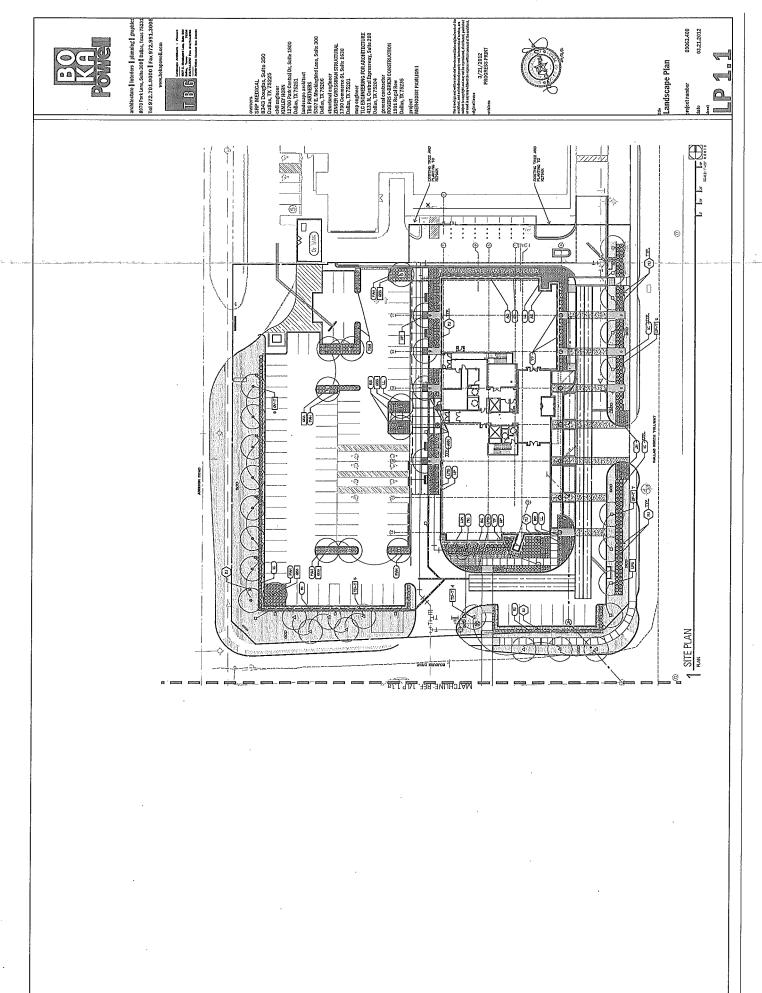
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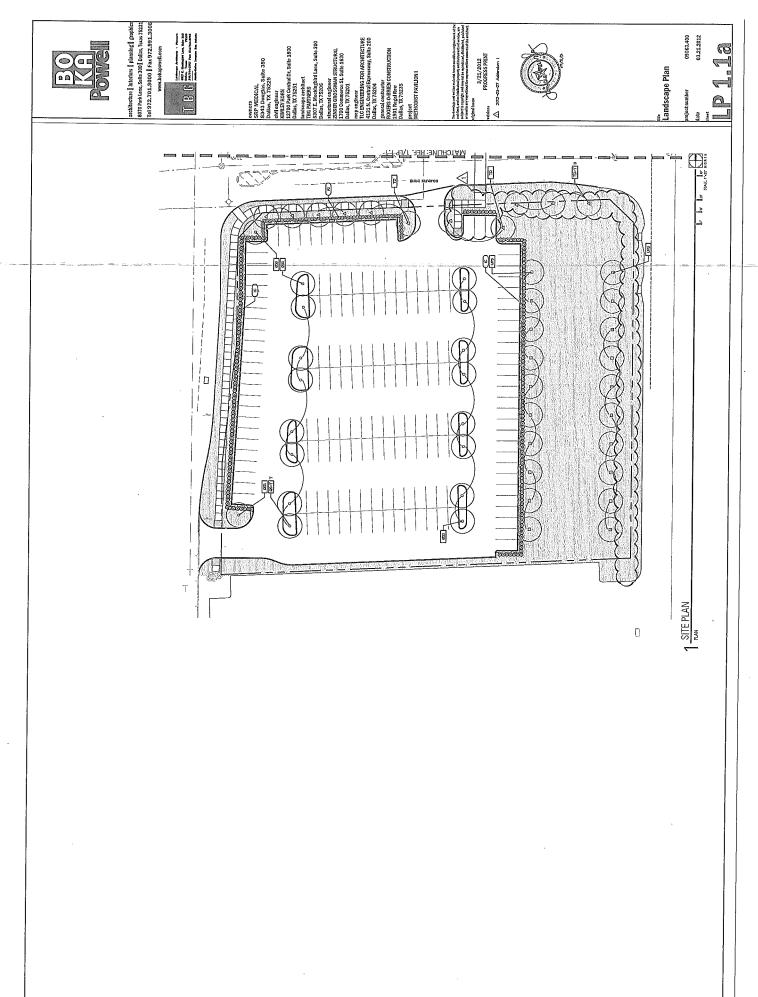
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