

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 013-026

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN, THE SAME BEING APPENDIX-A ZONING OF THE TOWN'S CODE OF ORDINANCES, BY AMENDING ORDINANCE NO. 007-034 (AS AMENDED) THAT ZONES AS PD PLANNED DEVELOPMENT DISTRICT #007-034 THAT AREA OF THE TOWN KNOWN AS VITRUVIAN PARK AND CONTAINING APPROXIMATELY 99.176 ACRES OF LAND (GENERALLY LOCATED SOUTH OF SPRING VALLEY ROAD, WEST OF THE CITY OF FARMERS BRANCH, NORTH OF BROOKHAVEN COMMUNITY COLLEGE AND THE CITY OF FARMERS BRANCH, AND EAST OF MARSH LANE (AND AS MORE PARTICULARLY DESCRIBED IN ORDINANCE NO. 007-034) FOR CERTAIN RESIDENTIAL, RETAIL, OFFICE, HOME OFFICE, CIVIC AND MIXED USES, AND SPECIAL AND ACCESSORY USES, ACCORDING TO THE STANDARDS SET FORTH THEREIN, BY: (I) AMENDING EXHIBIT A ("PROPERTY DESCRIPTION") OF ORDINANCE NO. 007-034 TO ADD FOUR TRACTS OF LAND INTO PLANNED DEVELOPMENT DISTRICT #007-034, WHICH TRACTS ARE GENERALLY LOCATED (A) AT 14248 MARSH LANE (BEING APPROXIMATELY .14 MILE SOUTH OF THE INTERSECTION OF MARSH LANE AND SPRING VALLEY ROAD AND CONTAINING APPROXIMATELY 0.5 ACRES OF LAND), (B) 3710 SPRING VALLEY ROAD (BEING APPROXIMATELY .06 MILE EAST OF THE INTERSECTION OF SPRING VALLEY ROAD AND MARSH LANE AND CONTAINING APPROXIMATELY 0.7 ACRES OF LAND), (C) 14280 MARSH LANE (BEING GENERALLY AT OR ABOUT THE SOUTHEAST CORNER OF THE INTERSECTION OF SPRING VALLEY ROAD AND MARSH LANE AND CONTAINING APPROXIMATELY 17.9 ACRES OF LAND), AND (D) 4000 SPRING VALLEY ROAD (BEING GENERALLY AT OR ABOUT THE SOUTHEAST INTERSECTION OF SPRING VALLEY ROAD AND VITRUVIAN WAY AND CONTAINING APPROXIMATELY 2.7 ACRES OF LAND), (II) AMENDING EXHIBIT B ("PLANNED DEVELOPMENT CONDITIONS AND STANDARDS") OF ORDINANCE NO. 007-034 BY ADDING "PET GROOMING AND PET BOARDING, INCLUDING OVERNIGHT PET BOARDING" TO THE LIST OF ALLOWED RETAIL USES, BY ADDING THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION TO THE LIST OF SPECIAL USES ALLOWED WITH THE ISSUANCE OF A SPECIAL USE PERMIT, PROVIDING THAT RETAIL IS AN ALLOWED USE IN THE TRACTS DESCRIBED IN (A), (B), AND (C) ABOVE AND PROVIDING FOR THE APPLICATION OR NON-APPLICATION OF OTHER CONDITIONS OR STANDARDS TO THOSE TRACTS, (III) CHANGING THE ZONING CLASSIFICATION ON THE TRACTS DESCRIBED IN

(I)(A), (B), (C) AND (D) FROM LR LOCAL RETAIL TO PD PLANNED DEVELOPMENT #007-034 IN ACCORDANCE WITH THE TERMS AND PROVISIONS APPLICABLE THERETO, AND (IV) AMENDING EXHIBIT C (“CONCEPT PLAN”) OF ORDINANCE NO. 007-034 BY APPROVING A REVISED CONCEPT PLAN FOR APPROXIMATELY 120.91 ACRES OF PROPERTY BOUNDED ON THE NORTH BY SPRING VALLEY ROAD, ON THE EAST BY THE CITY OF FARMERS BRANCH, ON THE SOUTH BY BROOKHAVEN COMMUNITY COLLEGE AND THE CITY OF FARMERS BRANCH, AND ON THE WEST BY MARSH LANE AND INCLUDING ALL OF THE LAND INCLUDED IN ORDINANCE NO. 007-034 AS AMENDED; 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, various tracts of land containing approximately 99.175 acres are zoned PD Planned Development District by Ordinance No. 007-034 (as amended) for various uses including residential, retail, office, home office, civic and mixed uses, and special and accessory uses, according to the terms and provisions included therein, which tracts of land are in that area of the Town of Addison, Texas (“City”) generally known as Vitruvian Park which is generally located south of Spring Valley Road, west of the City of Farmers Branch, north of Brookhaven Community College and the City of Farmers Branch, and east of Marsh Lane; and

WHEREAS, the owners of four additional tracts of land adjacent to the said 99.175 acres (which tracts comprise approximately 21.8 acres and are described in Exhibit A attached to this Ordinance and incorporated herein) have filed an application with the City requesting that the tracts be rezoned from their current zoning of LR Local Retail District to PD Planned Development District and included within the Planned Development District established by Ordinance No. 007-034; and

WHEREAS, pursuant to the request, 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, including changes to Ordinance No. 007-034 (as amended), 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. 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. Amendments. 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 "Zoning Ordinance"), is hereby amended as follows:

A. *Change in Zoning; Development, Occupancy, and Use.*

1. The zoning on each of the four (4) tracts of land described in Exhibit A attached hereto and incorporated herein for all purposes shall be and is hereby changed:

from LR Local Retail District to PD Planned Development District, with such Planned Development District being that adopted by Ordinance No. 007-034, as amended ("PD #007-034") and the said four (4) tracts of land are hereby added to and made a part of PD #007-034,

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. 007-034, as amended, 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.

Where and whenever the term "Property" is used in Ordinance No. 007-034, as amended, the term shall include and be applicable to the land described in Ordinance No. 007-034 together with the four (4) tracts of land described in Exhibit A attached to this Ordinance.

2. The said four (4) tracts of land are subject to the terms, conditions, and provisions of this Ordinance and of Ordinance No. 007-034, as amended, and may be developed, occupied, and used only in accordance with the terms and conditions of this Ordinance and all applicable exhibits attached hereto, Ordinance No. 007-034, as amended, all applicable parts of the City's Zoning Ordinance (and as the same may be hereafter amended or superseded), 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.

B. *Modification of Planned Development Conditions and Standards (Exhibit B to Ordinance No. 007-034, as amended)*. Exhibit B to Ordinance No. 007-034 is amended as set

forth in Exhibit B attached to this Ordinance and incorporated herein. Additions to Exhibit B to Ordinance No. 007-034 are shown in the attached Exhibit B by text that is *italicized*, underlined, and in **bold** font; deletions to Exhibit B to Ordinance No. 007-034 are shown by text that is *italicized*, ~~struck through~~, and in **bold** font. Exhibit B to Ordinance No. 007-034, as amended by this Ordinance, shall serve as Exhibit B (Planned Development Conditions) for PD #007-034.

C. Modification of Concept Plan. Exhibit C (Concept Plan) to Ordinance No. 007-034 is amended in its entirety as set forth in Exhibit C attached to this Ordinance and incorporated herein. Exhibit C (Concept Plan) attached to this Ordinance shall serve as the Concept Plan for PD #007-034.

Section 3. Building Permits, Certificates of Occupancy. 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. Zoning map. The official Zoning Map of the City shall be modified to reflect the zoning change herein made, as appropriate.

Section 5. Purpose. 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.

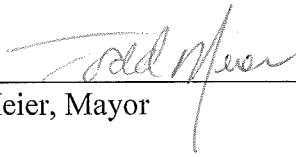
Section 6. No Other Amendment; Savings. Except for the amendments and changes made herein, Ordinance No. 007-034, as amended, is not otherwise amended hereby, and remains and shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal 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. 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, 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. Effective date. 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 9th day of July, 2013.



Todd Meier, Mayor

ATTEST:

By: Chris Terry by Matt McCombs, asst. City Secretary
Chris Terry, City Secretary

Case: 1672-Z/UDR

APPROVED AS TO FORM:

By: 

John Hill, City Attorney

EXHIBIT A

[attach legal descriptions of the four (4) tracts]

LEGAL DESCRIPTION
BURGER HOUSE

Being a 21,120 square feet or 0.485 acre tract of land in the Noah Good Survey, Abstract No. 520, Addison, Dallas County, Texas, said being all of W. G. Investments Addition, an addition to the Town of Addison, Dallas County, Texas according to the map thereof recorded in Volume 78186, Page 2208, Deed Records of Dallas County, Texas, said tract conveyed to Milton L. Wagner and Gay Geiler Golman by deed recorded in Volume 78139, Page 767, Deed Records of Dallas County, Texas and being more particularly described as follows:

Beginning at a set "x" cut on concrete pavement for a corner in the east line of Marsh Lane (a variable width right of way), said point being the northwest corner of said W. G. Investments Addition, said point being the most southerly southwest corner of Brookhaven Village Shopping Center, Phase 2 as recorded in Volume 98221, Page 20, Deed Records of Dallas County, Texas, and said point being S00°01'21" W, a distance of 709.46 feet from the intersection of the east line of Marsh Lane with the south line of Spring Valley Road (a variable width right of way);

THENCE, S 89°46'48" E, departing the east line of Marsh Lane and with the north line of the said W. G. Investments Addition and the south line of the said Brookhaven Village Shopping Center, Phase 2, a distance of 160.00 feet to a set "x" cut on concrete pavement for a corner at the northeast corner of the said W. G. Investments Addition, and said point being the most northerly northwest corner of Brookhaven Village Shopping Center as recorded in Volume 86225, Page 4769, Deed Records of Dallas County, Texas;

THENCE, S 00°01'21" W, with the east line of the said W. G. Investments Addition and the west line of the said Brookhaven Shopping Village Center addition, a distance of 132.00 feet to a found "x" cut on a concrete curb for a corner, said point being the southeast corner of the said W. G. Investments Addition;

THENCE, N 89°46'48" W, with the south line of the said W. G. Investments Addition and the north line of the said Brookhaven Shopping Village Center addition, a distance of 160.00 feet to a set 5/8 inch iron rod for a corner in the east line of Marsh Lane, said point being the southwest corner of the said W. G. Investments Addition;

THENCE, N 00°01'21" E, with the east line of Marsh Lane, a distance of 132.00 feet to the Point of Beginning.

LEGAL DESCRIPTION
DAY CARE

Being a 29,268 square feet or 0.672 acre tract of land in the Noah Good Survey, Abstract No. 520, Addison, Dallas County, Texas, said being Lot 1, Block 1 of Greenhaven Village No. 2, an addition to the Town of Addison, Dallas County, Texas according to the map thereof recorded in Volume 77153, Page 1553, Deed Records of Dallas County, Texas, said tract conveyed to Ka Pri Associates by deed recorded in Volume 78105, Page 3466, Deed Records of Dallas County, Texas and being more particularly described as follows:

Beginning at a set "x" cut on concrete pavement for a corner in the south line of Spring Valley road (a 60 foot right of way), said point being the northwest corner of said Lot 1 and the northeast corner of a tract of land conveyed to Jeff Staffin, Inc. by deed recorded in Volume 99111, Page 3996, Deed Records of Dallas County, Texas and said point being S 89°45'14" E, a distance of 250.0 feet from a found ½ inch iron rod at the east corner of a right of way corner clip at the intersection of the south line of Spring Valley Road with the east line of Marsh Lane (a 100 foot right of way);

THENCE, S 89°45'14" E, with the south corner of Spring Valley Road, a distance of 110.00 feet to a set 5/8 inch iron rod for a corner, said point being the northeast corner of said Lot 1 and the most northerly northwest corner of Brookhaven Village Shopping Center Phase 2 as recorded in Volume 98221, Page 20, Deed Records of Dallas County, Texas;

THENCE, the following courses and distances with the common line of said Lot 1 and the said Greenhaven Village Shopping Center Phase 2:

- S 00°01'48" E, departing the south line of Spring Valley Road, a distance of 166.59 feet to a found "x" cut on concrete pavement for a corner;
- S 45°21'46" W, a distance of 137.83 feet to a found "x" cut on concrete pavement for a corner;
- N 44°23'31" W, a distance of 160.00 feet to a found ½ inch iron rod for a corner, said point being the most westerly corner of said Lot 1, the southwest corner of the said Jeff Staffin, Inc. tract and the southeast corner of a tract of land conveyed to A&A Investments Partnership by deed recorded in Volume 95245, Page 1056, Deed Records of Dallas County, Texas;

THENCE, S 89°45'14" E, a distance of 100.00 feet to a set "x" cut on concrete pavement for a corner, said point being the southeast corner of the said Jeff Staffin, Inc. tract;

THENCE, N 00°01'48" W, a distance of 150.00 feet to the Point of Beginning.

LEGAL DESCRIPTION
SHOPPING CENTER TRACT

Being a tract of land in the Noah Good Survey, Abstract No. 520, Addison, Dallas County, Texas, said being all of Brookhaven Village Shopping Center, an addition to the City of Addison, Texas according to the map thereof recorded in Volume 86225, Page 4769, Deed Records of Dallas County, Texas, and all of Brookhaven Village Shopping Center, Phase 2, an addition to the City of Addison, Texas according to the map thereof recorded in Volume 98221, Page 20, Deed Records of Dallas County, Texas, both being conveyed to Mustang Brookhaven S/C, Ltd. by deed recorded in Volume 94129, Page 111, Deed Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod found for a corner in the east line of Marsh Lane (a 100 foot right of way), said point being the southwest corner of a tract of land conveyed to A&A Investments Partnership by deed recorded in Volume 95245, Page 1056, Deed Records of Dallas County, Texas;

THENCE, S 89°46'10" E, a distance of 150.00 feet along the south line of the said A&A tract to a 1/2 inch iron rod for a corner;

THENCE, S 44°24'27" E, a distance of 160.00 feet along the southwest line of a tract of land conveyed to National Child Care Centers, Inc. as recorded in Volume 77153, Page 1916, Deed Records of Dallas County, Texas to an "x" found in concrete, said point being the most southerly corner of said National Child Care tract;

THENCE, N 45°20'40" E, a distance of 137.82 feet along the southeast line of said National Child Care tract to an "x" found for a corner, said point being the southeast corner of said National Child Care tract;

THENCE, N 00°00'00" E, a distance of 166.59 feet along the east line of said National Child Care tract to an "x" found for a corner in the south line of Spring Valley Road (a 60 foot right of way);

THENCE, S 89°46'10" E, a distance of 443.77 feet along the south line of said Spring Valley Road to a 1/2 inch iron rod found for a corner; said point being the northwest corner of a tract of land conveyed to DCO Glenwood Apartments, LP by deed recorded in Instrument No. 20070159781, Official Public Records of Dallas County, Texas;

THENCE, S 00°16'34" W, a distance of 708.99 feet along the west line of said DCO Glenwood tract passing the southwest corner and continuing along a west line of a tract of land conveyed to DCO Garden Oaks, LP as recorded in Instrument No. 20070096223, Official Public Records of Dallas County, Texas to a 1/2 inch iron rod with red F-D cap set for a corner;

THENCE, N 89°48'09" W, a distance of 369.35 feet along a north line of said DCO Garden Oaks tract to a 1/2 inch iron rod with red F-D cap set for a corner;

THENCE, S 00°00'00" W, a distance of 750.01 feet along a west line of said DCO Garden Oaks tract and continuing along the west line of a tract of land conveyed to DCO Talisker, LP as recorded in Instrument No. 2007159777, Official Public Records of Dallas County, Texas to a 1/2 inch iron rod found for a corner, said point being the southwest corner of said DCO Talisker tract and in the north line of a tract conveyed to DCO Greenbrook Apartments, LP by deed recorded in Instrument No. 20070159785, Official Public Records of Dallas County, Texas;

THENCE, N 90°00'00" W, a distance of 431.00 feet along the north line of said DCO Greenbrook tract to a "x" set for a corner in the east line of said Marsh Lane;

THENCE, N 00°00'00" E, a distance of 619.50 feet along the east line of said Marsh Lane to a 1/2 inch iron rod found for a corner, said point being the southwest corner of the W. G. Investments Addition, an addition to the City of Addison, as recorded in Volume 78186, Page 2208, Plat Records of Dallas County, Texas;

THENCE, S 89°48'09" E, a distance of 160.00 feet along the south line of said W.G. Investments Addition to a 1/2 inch iron rod found for a corner, said point being the southeast corner of said W.G. Investments Addition;

THENCE, N 00°00'00" E, a distance of 132.00 feet along the east line of said W.G. Investments Addition to an "x" found for a corner, said point being the northeast corner of said W. G. Investemts Addition;

THENCE, N 89°48'09" W, a distance of 160.00 feet along the north line of said W.G. Investments Addition to a 1/2 inch iron rod found for a corner in the east line of said Marsh Lane and being the northwest corner of said W.G. Investments Addition;

THENCE, N 00°00'00" E, a distance of 30.00 feet along the east line of said Marsh Lane to an "x" found for a corner, said point being the southwest corner of a tract conveyed to JSL Investments Texas, LLC by deed recorded in Volume 2004054, Page 3836, Deed Records of Dallas County, Texas;

THENCE, S 89°48'09" E, A distance of 209.00 feet along the south line of said JSL tract to an "x" found for a corner, said point being the southeast corner of said JSL tract;

THENCE, N 00°00'00" E, a distance of 120.00 feet along the east line of said JSL tract to a 1/2 inch iron rod found for a corner, said point being the northeast corner of said JSL tract;

THENCE, N 89° 48'09" W, a distance of 209.00 feet to a 1/2 inch ifor rod found for a corner in the east line of said Marsh Lane and being the northwest corner of said JSL tract,

THENCE, N 00°00'00" E, a distance of 409.45 feet along the east line of said Marsh Lane to the Point of Beginning and Containing 779,447 square feet or 17.89363 acres of land.

LEGAL DESCRIPTION
LEMMONS TRACT

Being a 116,920 square feet or 2.684 acre tract of land in the Noah Good Survey, Abstract No. 520, Dallas County, Texas, and being located in the Town of Addison, Texas, said tract being all of a tract of land conveyed to The Lemmons Co. (now Synergy Enterprises, Inc.) by deed recorded in Volume 2002212, Page 5261, Deed Records of Dallas County, Texas and being more particularly described as follows:

Beginning at a found ½ inch iron rod at the intersection of the south line of Spring Valley Road (a variable width right of way) with the southeast line of Vitruvian Way (a variable width right of way), said point being the northeast corner of the said Lemmons Co. tract and the northwest corner of Lot 1, Block A of The Villas At Parkside, Phase I as recorded in Volume 95174, Page 4325, Deed Records of Dallas County, Texas;

THENCE, S 00°07'24" E, with the common line of the said The Lemmons Co. tract and the said Lot 1, a distance of 525.02 feet to a found 5/8 inch iron rod for a corner, said point being the southeast corner of the said The Lemmons Co. tract and the northeast corner of a called 23.705 acre tract of land conveyed to DCO Addison At Brookhaven, LP by deed recorded in County Clerk Instrument No. 200600407616, Official Property Records of Dallas County, Texas;

THENCE, the following courses and distances with the common line of the said The Lemmons Co. tract and the said DCO Addison At Brookhaven, LP tract:

- N 89°39'29" W, a distance of 301.37 feet to a found 5/8 inch iron rod for a corner;
- S 26°24'46" W, a distance of 58.00 feet to a set 5/8 inch iron rod for a corner;
- N 89°39'29" W, a distance of 49.53 feet to a set 5/8 inch iron rod for a corner in the southeast line of Vitruvian Way, said point being the common west corner of the said The Lemmons Co. tract and the said DCO Addison At Brookhaven, LP tract;

THENCE, the following courses and distances with the southeast line of Vitruvian Way:

- N 26°22'15" E, a distance of 548.61 feet to a set 5/8 inch iron rod at the beginning of a non-tangent curve to the right with a central angle of 62°40'12", a radius of 150.00 feet, a chord bearing of N 57°42'21" E and a chord distance of 156.01 feet;
- Northeasterly, along said curve, an arc distance of 164.07 feet to the Point of Beginning.

EXHIBIT B

[attach revised Planned Development Conditions]

EXHIBIT B
PLANNED DEVELOPMENT CONDITIONS AND STANDARDS

1. **Purpose.** The purpose of this Planned Development District No. 007-034 (the “PD District,” “planned development district,” or “district”) is to create a mixed use environment under a unified plan consisting of retail, restaurant, residential and office uses within a pedestrian-oriented village setting, to be developed in accordance with all of the standards, terms and conditions of this Ordinance No. 007-034 (the “Ordinance”). These Planned Development Conditions, Brookhaven Village are incorporated into and made a part of the Ordinance for all purposes. Development, occupancy, and use of the Property and any portion thereof shall comply with development conditions set forth herein, with the Ordinance, with all applicable provisions of the Zoning Ordinance of the Town of Addison, Texas (the “City”) (the same being Appendix A – Zoning of the Code of Ordinances of the City, and as it may be amended or superseded (the “Zoning Ordinance”)), and with all other applicable ordinances, laws, rules, regulations, standards, and codes of the City and any other governmental entity or agency having jurisdiction over the Property or applicable portion thereof.

2. **Definitions, Interpretations.** Unless otherwise stated, the definitions and interpretations in the Zoning Ordinance apply to this Ordinance and the development conditions set forth herein.

3. **Concept Plan.** Development and use of the Property which is the subject of this Ordinance (which Property is described by metes and bounds and a survey of which is attached to this Ordinance as Exhibit “A”) (the “Property”) must substantially comply with the concept plan attached to the Ordinance as Exhibit “C” and incorporated into and made a part of this Ordinance for all purposes (the “Concept Plan”).

4. **Development Plan.**

- a. **Plan Required.** Prior to and as a condition of the issuance of a building or any other permit for (i) any development, or (ii) the construction, erection, alteration, extension, placement or locating of any building, structure, or improvement whatsoever, within the Property or any portion thereof, a development plan for the same must be approved by the Planning and Zoning Commission and by the City Council in accordance with Article XV, Section 5 of the Zoning Ordinance. A development plan (whether submitted for the entire Property or for a portion thereof) must comply with the Conceptual Plan, the standards, terms and conditions of this Ordinance, the Zoning Ordinance, and all other applicable ordinances, laws, rules, regulations, codes and standards of the City and any other governmental entity or agency having jurisdiction over the Property or applicable portion thereof. Development, occupancy, and use of the Property or portion thereof which is covered by or the subject of a development plan must comply in all respects with the development plan. Upon approval of a development plan by the City Council, the same shall be incorporated into and made a part of this Ordinance for all purposes.

Office of the City Secretary

Ordinance 007-034
EXHIBIT B

5. Uses.

- a. Authorized Uses; Prohibited Uses. Only those uses identified herein as permitted uses, special uses, or accessory uses are authorized uses (subject to the terms, conditions and provisions of this Ordinance) within the Property. All other uses are expressly prohibited.
- b. Permitted Uses. The following uses of land are authorized as permitted uses within the Property. Uses are further classified according to general categories of land uses. To the extent expressly authorized by these PD District regulations, a general use category (e.g., "retail") may be identified on the Concept Plan or, except for residential uses, on a development plan. Upon approval of the Concept Plan or a development plan which includes a general use category, any use appearing or classified under such general use category in the use list set forth below, is authorized in accordance with the Concept Plan or development plan, as the case may be, any conditions attached thereto, and all other provisions of this Ordinance, the Zoning Ordinance, and any other ordinance, law, rule, regulation, code, and standard applicable thereto:

1. *Residential.* Residential uses within the Property are limited to the following:

Townhouse
Condominium
Multifamily

2. *Retail.* Retail uses within the Property are limited to the following (all uses listed below are for retail use only (whether or not so specified), and are subject to the General Conditions set forth in subsection e. of this Section 5):

Antique shop
Aquarium
Art gallery
ATM facilities
Bakery, retail sales only
Bank
Barber and beauty shop
Bicycle sales and service
Book or stationery store
Business support services
Camera shop
Candy, cigars and tobaccos, retail sales only

Caterer and wedding service (office only)
 Cleaning, dyeing and laundry pick-up station for receiving and delivery of articles to be cleaned, dyed and laundered, but no actual cleaning, dying, or laundering work is to be done on the premises
 Coffee shop (no seating on premises)
 Convenience store
 Cosmetic and beauty supplies
 Dance studios
 Department store
 Donut and pastry shop, no seating on premises
 Drug store, retail sales only
 Electrical goods and fixtures for consumer use
 Electronics store
 Film developing and printing
 Financial services
 Fix-it shops, bicycle repair, saw filing and lawn mower sharpening, retail sales only
 Florist, retail sales only
 Furniture sales, repairs and upholstery
 Gallery, for the display and sale of artworks
 Grocery store, retail sales only
 Hardware, sporting goods, toys, paints, wallpaper, clothing, retail sales only
 Health club, private and public
 Household and office furniture, furnishings and appliances, retail sales or rental only
 Jewelry, optical goods, photographic supplies, retail sales only
 Laundromat, equipped with automatic washing machines of the type customarily found in a home and where the customers may personally supervise the washing and handling of their laundry
 Magazine store
 Meat market, retail sales only
 Medical and dental clinics
 Movie DVD and VHS rental and sales
 Optician and optical store
 Pet and pet supplies
Pet grooming and pet boarding, including overnight pet boarding
 Photographer or artist studio
 Pizza delivery shop, no seating on premises
 Piano and musical instruments
 Plumbing shop, without warehouse facilities (to include storage for ordinary repairs, but not storage for materials for

contracting work)
 Printing and copy shop, retail sales only
 Professional offices for architect, attorney, engineer and real estate
 Public garage, parking, no repairs
 Retail Store
 Seamstress, dressmaker, or tailor
 Shoe repair shop, retail sales only
 Sporting goods, toy & hobby store
 Studio for the display and sale of glass, china, art objects, cloth and draperies
 Studios, dance, music, drama, martial arts
 Tailors
 Telephone stores
 Title companies
 Travel services
 Wearing apparel, including clothing, shoes, hats, millinery and accessories

3. *Office.* (Defined under article XXX of the Zoning Ordinance)
4. *Home office.* For the purposes of this PD District, “home office” means and includes office uses that are performed in a residential dwelling unit or in an office attached to a residential dwelling unit, that do not involve any structural change to the building or premises in which the use is conducted. A home office use, which is located on the ground floor of a building may include the employment of not more than three employees, including the person who is the primary resident of the residential dwelling unit where the home office use is conducted . A home office use which is located on any floor of a building other than the ground floor may not include the employment of any employee other than a person who is a primary resident of the residential dwelling unit where the home office use is conducted.
5. *Civic.* (Defined under article XXX of the Zoning Ordinance)
6. *Mixed use (with residential).* (Defined under article XXX of the Zoning Ordinance)
7. *Mixed use (with nonresidential).* (Defined under article XXX of the Zoning Ordinance)

c. Special Uses. A use listed below in this subsection may be permitted within the Property ***(or portion thereof, as designated)*** provided the same is first authorized by the approval of a special use permit in accordance with and subject to Article

XX, Special Uses, of the City's Zoning Ordinance (and as the same may be modified or superseded):

1. Hotel.
2. Cleaning, dyeing and laundry pick-up station, with cleaning, dyeing and/or laundry work done on the premises.
3. Library, for loan of books and other materials typically performed by a public library.
4. Public safety facilities.
5. Restaurant.
6. Retirement home.
7. Sale of alcohol for on-premises consumption.
- 8. Sale of beer and wine for off-premises consumption.**
- 98.** Transit facilities.

d. Accessory Uses. The following are permitted as accessory uses within the Property:

1. Community, social, hobby, or laundry facilities, for use by occupants of a residential development within the Property which are customary to residential developments.
2. Recreation space and facilities.
3. Parking and parking structures.
4. Other uses customarily incidental and subordinate to permitted uses and any special uses.

e. General Conditions. Development, occupancy, and use of the Property shall comply with the following conditions, as applicable:

1. *Retail use.* A retail use may be operated or conducted only in accordance with the following:

(a) **Retail is an allowed use in Blocks 209, 210, and 211 (as shown on the Concept Plan.** Except as provided in subsection (b) below (regarding kiosks), a retail use **within all other blocks (that is, all other portions of the Property)** is permitted only in connection with and as a part of a “mixed use (with residential),” as the same is defined in Article XXX of the Zoning Ordinance.

(b) Notwithstanding subsection (a) above (regarding a mixed use (with residential)), a retail use may be provided or conducted from and within a portable kiosk **within all blocks shown on the Concept Plan with the exception of Blocks 209, 210, and 211.** For purposes hereof, “kiosk” means a small, free-standing one-story building or structure having a maximum floor area of 500

square feet which is portable in nature, is not permanent, and can be easily and readily moved from location to location. If a portable kiosk is to be occupied, it shall have a minimum floor area of 25 square feet. A portable kiosk for the purpose of providing or conducting a retail use is permitted anywhere within the Property.

- (c) Except as the same may be provided or conducted from a portable kiosk, free-standing retail is prohibited. For purposes hereof, "free-standing retail" means the use or occupancy of a free-standing building for a retail use.

6. **Development Standards.**

- a. For purposes of determining parking and open space compliance, the entire Property shall be considered as one lot. For example, retail parking in one phase of development, such as parking in a parking structure, may be applied to the required parking in another phase of retail development. Notwithstanding the consideration of the entire Property as one lot for parking and open space compliance purposes, parking for each development or phase of a development within the Property must be sufficient (and satisfy all of the standards set forth herein) for the development or phase thereof.
- b. Development, occupancy, and use of the Property shall comply with the development standards set forth in the following Table A:

TABLE A: DEVELOPMENT STANDARDS	
<p><u>Street Build-to Line</u></p> <p><u>Within all blocks shown on the Concept Plan, except Blocks 209, 210, and 211, All</u> primary buildings, structures, walls, fences, and other improvements shall be constructed, located, placed, and erected along and contiguous to the applicable build-to line; provided, however, that not more than 30 percent of any street frontage may vary from the build-to line. except in that portion of the Property identified on the Concept Plan as "Subarea 1" <u>Not</u> more than 50 percent of any street frontage may vary from the build-to line. The build-to line shall be measured from the closest right-of-way line of the adjacent street.</p>	<p><i>Street build-to lines within the Property are as follows (streets are as shown or identified on the Concept Plan):</i></p> <ul style="list-style-type: none"> • 9 feet along A streets (as shown on the attached Exhibit "C" to this Ordinance No. 007-034) • No less than 6 feet, no more than 9 feet along B streets (as shown on the attached Exhibit "C" to this Ordinance No. 007-034) • No less than 6 feet, no more than 9 feet along all C streets (as shown on the attached Exhibit "C" to this Ordinance No. 007-034) • 4 feet along all D streets (as shown

Office of the City Secretary

Ordinance 007-034
EXHIBIT B

	<p>on the attached Exhibit "C" to this Ordinance No. 007-034)</p> <ul style="list-style-type: none"> • No less than 6 feet, no more than 9 feet along all E streets (as shown on the attached Exhibit "C" to this Ordinance No. 007-034) 	
<u>Side Yard Setback</u>	None, except as required by the City's Fire Code (and as the same may be amended or superseded from time to time)	
<u>Rear Yard Setback</u>	None, except as required by the City's Fire Code (and as the same may be amended or superseded from time to time)	
<u>Maximum height of building</u>	No maximum height; except the portion of any building or other structure which is located within 100 feet of the property line of a lot or other parcel of land which is zoned for single family or apartment use or which is otherwise used or occupied for a residential use shall not exceed 60 feet in height. All heights are subject to FAA approval.	
<u>Minimum lot area</u>	No minimum lot area	
<u>Minimum lot width</u>	No minimum lot width	
<u>Minimum lot depth</u>	No minimum lot depth	
<u>Minimum area per Residential dwelling unit</u>	Efficiency	450 sq. ft.
	One- Bedroom	600 sq. ft.
	Two-Bedroom	850 sq. ft.
	Three-Bedroom	1,000 sq. ft.
	Townhouse	1,600 sq. ft.
	Office uses	500,000 sq. ft.
<u>Maximum nonresidential square footage</u>	Retail, restaurant and personal service uses	500,000 sq. ft.
<u>Maximum lot coverage</u>	95%	

c. Miscellaneous development standards:

1. Lot coverage:

- (a) The area of a porch or arcade fronting a public street is not included in the calculation of lot coverage.
 - (b) The area of an above-grade parking structure is included in the calculations of lot coverage.
2. Height: Architectural features including, but not limited to, turrets, spires and towers may exceed maximum height of building provided that any such structure is no more than 15 feet higher than the maximum permitted height and has a floorplate which is ten percent, or less, of the ground floor area of the building of which it is a part.
3. Setbacks:
- (a) *Overhangs and fireplaces.* The minimum setback requirements shall apply in all cases, except that fireplaces, eaves, bays, balconies and fireproof stairways may extend up to a maximum of five feet into the required setbacks.
 - (b) *Patios.* Patios may be constructed within the required setback zones.

7. **Open Space.**

- a. Two acres for every 1,000 residents shall be dedicated for public open space use by the project applicant up to the point that dedication has been provided for 2,250 residents. After sufficient open space has been dedicated to meet the requirement for 2,250 residents, 1 1/2 acres of open space for each 1,000 residents shall be dedicated for public use by the project applicant. For purposes of this section, the number of residents expected to reside in the Property (or applicable portion thereof) shall be determined by estimating the number of dwelling units authorized for a proposed project, multiplied by a factor of 1.5 persons per dwelling unit.
- b. Land proposed to be dedicated as public open space shall be clearly shown on the Concept Plan and final development plan submittals.
- c. Land to be dedicated for public open space shall be approved initially by the planning and zoning commission and thereafter shall be submitted to the city council for consideration of acceptance of the proposed dedication. No dedication shall be deemed approved without express action of the city council in the form of a written "acceptance of dedication." Failure of the city council to execute an acceptance of dedication shall be deemed to be a refusal of the proposed dedication.

- d. In its approval of any development plan, the Town may impose such conditions as deemed necessary to assure that the intent and purpose of this section is satisfied.

8. **Parking.**

- a. *Generally.* Off-street parking must be provided for the appropriate building use classification according to the following ratios:

1. *General retail.* (1/250 s.f.) One space per each 250 square feet of gross floor area.
2. *Furniture store.* (1/1,000 s.f.) One space per each 1,000 square feet of gross floor area.
3. *Medical or dental clinics.* (1/200 s.f.) One space per each 200 square feet of gross floor area.
4. *Bank or savings and loans.* (1/300 s.f.) One space per each 300 square feet of gross floor area.
5. *Office.* (1/300 s.f.) One space per each 300 square feet of gross floor area.
An office building or group of buildings, which shall total 50,000 square feet or more: (1/300 s.f.). One space per 300 square feet of gross leaseable area.
6. *Health club or studio for dance, music, drama, health and reducing.* (1/100 s.f.) One space per each 100 square feet of gross floor area.
7. *Residential.* One space/bedroom to a maximum of two spaces/unit.
8. *Hotel.* One space/hotel room plus one parking space per every 300 square feet of gross floor area of conference/banquet facilities.
9. *Civic.* To be determined by parking demand analysis study for proposed use and approved by the town's director of development services.
10. *Mixed use.* Number of spaces resulting from application of ratios provided above for respective uses in the development.

- b. *Shared parking.* Uses may join in establishing shared parking areas if it can be demonstrated that the parking for two or more specific uses occurs at alternating time periods. Required parking shall be determined based on parking demand for the peak parking period as determined by a parking analysis study approved by the town's director of development services.
- c. *Below-grade parking.* Off-street below-grade parking is permitted to the lot lines, but must be designed to allow planting of landscape.
- d. *Parking garages.* Parking garage ramps shall not be expressed on the facades of parking structures fronting, or visible from public streets. Steel parking garages and steel guard cables on the garage facades are prohibited. The maximum length of an exposed parking structure along a street is 200 feet.

- e. *Bicycle parking.* Bicycle parking shall be provided for all multi-family and commercial uses.

9. **Streets.** All streets and blocks in the Property shall conform to the provisions of this section.

- a. *Street standards.* Standards for streets within the Property shall be as set forth in Exhibit “D,” which is attached to ~~this Ordinance,~~ No. 007-034 and made a part hereof by reference. The Town’s Master Thoroughfare Plan is amended to conform to Exhibit “D” for streets within this planned development district.
- b. *Street type and pattern.* The location of streets on the master thoroughfare plan is approximate. Precise location of streets shall be determined in conjunction with the approved Concept Plan and the approval of development plans.
- c. *Block length.* Except in Blocks 209, 210, and 211 as shown on the Concept Plan, ~~the~~ length of a block shall not be less than 200 feet, nor more than 750 feet.

10. **Exterior Appearance.**

a. *Materials:*

- 1. Except in Blocks 209, 210, and 211 as shown on the Concept Plan, At least 80 percent of the exterior cladding of all exterior walls fronting or visible from public streets (including above grade parking structures) shall be masonry construction. For purposes of this planned development district, “masonry construction” includes, but is not limited to brick, stone, cultured stone, glazing and plate glass, and split face concrete masonry units. An applicant, however may submit a design for construction of parking structures that employs alternative construction materials for exterior cladding with an application for a development plan. The alternative may be approved by the city upon determination that such construction will result in an appearance that is compatible with surrounding buildings and the overall character of the district.
- 2. At least 60 percent of exterior cladding of all walls not fronting on, or not visible from, public ways (including above grade parking structures) may be constructed of noncombustible materials including exterior stucco and fibrous cementitious material (e.g. hardi-material) construction.
- 3. The exterior cladding (excluding glass) of all buildings, (including above grade parking structures) shall be composed of not more than three materials (excluding roofs).

4. The following materials are prohibited as primary cladding materials:

Aluminum siding or cladding

Wood roof shingles

Unfinished concrete block (architecturally finished concrete block is permitted as a cladding material).

5. The following materials are prohibited as primary roofing materials:

Wood roof shingle

Composite shingles with less than a 50-year life

6. Balcony and patio railings and fences shall be constructed of wrought iron or metal. Wood fences and railings and chain-link fencing are prohibited.

b. *Windows:*

1. Where a retail use occupies the first floor, at least 70 percent of the first floor exterior wall facing a thoroughfare, street, boulevard or parking plaza shall be transparent glazing.

2. The exterior wall surface of all buildings above the first floor shall not be more than 50 percent glass.

3. Glass is to be clear or tinted, not reflective.

c. *Walls.* Walls attached to buildings shall be developed as architectural extensions of the building, constructed of the same material and in the same style.

d. *Color.* The dominant color of all buildings (including above-grade parking structures) shall be muted shades of color. Black and stark white shall not be used except as accent color. There are no restrictions on accent colors which comprise less than 1.0% of the building face, except that fluorescent colors are prohibited.

11. **Landscape.** Landscaping within the Property shall comply with the provisions in this section and with the standards contained in Article XXI, landscaping regulations of the Zoning Ordinance. Where conflicts exist between this section and the landscaping regulations, requirements in this section shall control. **These landscaping regulations do not apply to Blocks 209, 210, and 211 as shown on the Concept Plan.**

- a. **Streetscape Zone.** In the district, all streetscape elements, including street trees, lighting and other furnishings must be provided in the right-of-way, exclusive of

driveways and access ways at points of ingress and egress to and from each lot.

1. Street Trees – Street trees shall be provided in accordance with the following:
 - (a) Each street (except treeless mews streets) shall have street trees planted at uniform spacing, commencing no closer than 40 feet from the face of curb of intersecting streets.
 - (b) Typically, street trees shall be planted as shown on Exhibit “D”.
 - (c) Street trees shall be large shade species having a minimum of four (4) caliper inches, selected in accordance with the Town’s landscape regulations.

2. Street Lighting – Street lighting shall be provided in accordance with the following :
 - (a) Each street shall have street lamps uniformly spaced between trees as shown on Exhibit “D(b)On A and B streets (as shown on the attached Exhibit “D”), locate street lamps at intervals no greater than 200 feet.
 - (c) Street lamps shall be selected in accordance with Exhibit “E”, attached to this Ordinance No. 007-034 showing acceptable selections.

3. Street Furnishings – Street furnishings shall be provided in accordance with the following:
 - (a) Street furnishings shall include, but not be limited to, benches, trash receptacles, and bicycle racks.
 - (b) Street furnishings shall be located at the discretion of the developer, subject to the approval of the town’s Director of Parks and Recreation.
 - (c) Street furnishings shall be selected in accordance with Exhibit “E”, attached to this Ordinance No. 007-034, showing acceptable selections.

4. Landscaping for Non-residential ground floor frontages. Non-Residential ground floor frontages may pave the area between the building face and sidewalk.

5. Landscaping for Residential ground floor frontages. Residential ground floor frontages shall be required to landscape the entire area between the edge of sidewalk and the primary building façade, excluding access to sidewalks, stairs, stoops, porches and patios. This area must be irrigated, and may be landscaped with ground cover, low shrubs, and ornamental trees.
- b. Private Open Space. Private open space, which is owned and maintained by the developer, shall be landscaped and irrigated. The landscaping plan for the private open space shall be approved by the Town as a part of the development plan approval for each development.
- c. Parking Lot Screening. Screening must be provided for all surface parking lots within the Property from all adjacent streets. The screening must extend along the entire street frontage of each surface parking lot, exclusive of (i) driveways and access ways at points of ingress and egress to and from the site, and (ii) visibility triangles. Screening shall be provided in accordance with the standards contained in Article XXI, Landscaping Regulations.

12. **Sustainability.**

Except for Blocks 209, 210, and 211 as shown on the Concept Plan, All land contained within this Planned Development District shall be developed, and all buildings within this Planned Development District shall be constructed with the goal of providing a sustainable neighborhood. All developments shall conform to the requirements of the Brookhaven Neighborhood Sustainability Program, which is attached as Exhibit "F", attached to this Ordinance No. 007-034, and incorporated herein for all purposes.

13. **Screening:**

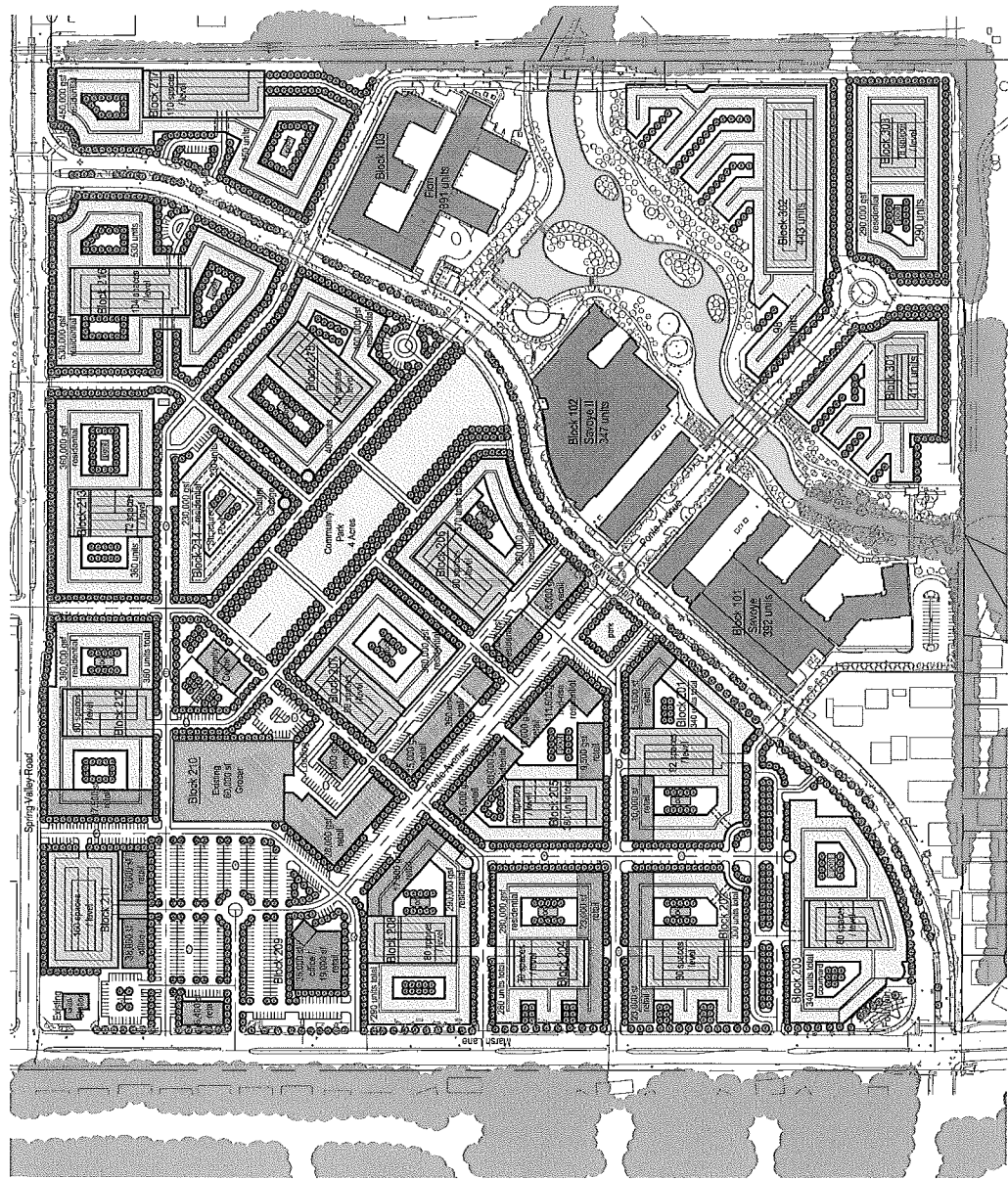
- a. Mechanical equipment shall be screened from view from all public roadways and located to minimize noise intrusion off each lot. The required screening must be composed of the same exterior materials as the buildings on the lot, or through the use of masonry walls, ornamental fence (80 percent opaque), evergreen landscape material, or combination thereof.
- b. Loading, service, and trash storage areas shall be screened from all public roadways. Refuse containers must be placed on a designed, reinforced concrete pad, including drive approach. The required screening must be composed of the same exterior materials as the buildings on the lot, or through the use of masonry walls, ornamental fence (80 percent opaque), evergreen landscape material, or combination thereof.
- c. All roof-mounted mechanical elements must be screened from view from the public right-of-way and neighboring properties. Screening must be

architecturally compatible with the building design.

14. **Flexible Standards.** It is intended that all of the standards set forth in Sections 5-13 herein shall be flexible in order to encourage development within the Property. The planning and zoning commission and the city council may approve waivers to any standards set forth herein as part of the development plan provided any such waiver does not authorize a use not authorized in this planned development district, and does increase the allowable intensity or density of any land use.

EXHIBIT C

[attach new Concept Plan]



Master Plan - Summary

Block 101 Residential	392 units 13,000 gsf
Block 102 Residential	347 units 17,000 gsf
Block 103 Retail	17,000 gsf
Block 201 Residential	391 units
Block 202 Residential	340 units 25,000 gsf
Block 203 Residential	300 units 23,000 gsf
Block 204 Residential	340 units
Block 205 Residential	280 units 23,000 gsf
Block 206 Residential	380 units 42,500 gsf
Block 207 Residential	370 units 8,000 gsf
Block 208 Residential	360 units 15,000 gsf
Block 209 Residential	290 units 17,800 gsf
Block 210 Office	36,000 gsf 19,000 gsf
Block 211 Grocer	60,000 gsf 32,800 gsf
Block 212 Retail	38,000 gsf 22,400 gsf
Block 213 Residential	360 units 17,500 gsf
Block 214 Residential	360 units
Block 215 Residential	230 units
Block 216 Residential	400 units
Block 217 Residential	530 units
Block 301 Residential	450 units
Block 302 Residential	411 units
Block 303 Residential	541 units
Block 304 Residential	290 units
Total Residential	7,862 units
Total Office	59,000 gsf
Total Retail	936,000 gsf

SCALE = 1:200

2001 Bryan Street :: Suite 3100 :: Dallas TX 75201 :: Tel. 214.949.5311

CONCEPT PLAN

VITRUVIAN PARK RETAIL GATEWAY | ADDISON, TX
DA12012 | 3/24/13

