

ORDINANCE NO. 3529-10-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE ZONING REGULATIONS AND ZONING MAP, AS PREVIOUSLY AMENDED, RELATING TO THE USE AND DEVELOPMENT OF A 79± ACRE TRACT OF LAND OUT OF THE L.K. PIGUES SURVEY, ABSTRACT NO. 702, THE FRANCIS C. WILMETH SURVEY, ABSTRACT NO. 999, AND THE HENRY WETSEL SURVEY, ABSTRACT NO. 1026 DESCRIBED IN EXHIBIT “A” HERETO AND PRESENTLY ZONED PLANNED DEVELOPMENT “PD” NO. 45 FOR CORRIDOR COMMERCIAL “CC” BY CHANGING THE BASE ZONING TO SHOPPING CENTER “SC” AND ADOPTING DEVELOPMENT REGULATIONS, A CONCEPT PLAN, BUILDING ELEVATIONS, OPEN SPACE PLAN, SUB-AREA PLAN, PHASING PLAN, SIGN PLAN, FIRE LANE PLAN, CROSS SECTIONS, AND RENDERINGS; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, have concluded that Allen Land Development Code Zoning Regulations and Zoning Map of the City of Allen, Texas, as previously amended, should be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Allen Land Development Code Zoning Regulations and the Zoning Map of the City of Allen, Collin County, Texas, as previously amended, be further amended by amending in accordance with Section Two, below, the development and use regulations of Planned Development No. 45 relating to the development and use of the 79± acre tract of land described in Exhibit “A,” attached hereto and incorporated herein by reference (“the Property”).

SECTION 2. The Property shall be developed and used in accordance with the applicable provisions of the Allen Land Development Code, as amended, (“ALDC”) except to the extent modified by the Development Regulations set forth below:

- A. BASE ZONING DISTRICT:** The Property shall be developed and used in accordance with Shopping Center “SC” zoning regulations except as provided herein.
- B. CONCEPT PLAN:**
 - 1. The Property shall be developed in general conformance with the Concept Plan attached hereto as Exhibit “B” (“Concept Plan”), and incorporated herein by reference. Minor modifications to streets, number and alignment of buildings, building areas and footprints, open spaces, and pedestrian access shown on the Concept Plan may be made at the time of Site Plan approval so long as the general alignment of streets, building areas, and lot layouts are substantially

maintained and the location and boundaries of the various sub-areas identified on the Sub-Area Plan are not altered.

2. A separate Concept Plan, development regulations, and elevations shall be required for Sub-Area 1 prior to the issuance of any permit for Sub-Area 1. The Concept Plan, development regulations and elevations shall be processed as a zoning amendment in accordance with the ALDC. The purpose of the Concept Plan, development regulations, and elevations is to establish a site design and development standards for Sub-Area 1.

C. BUILDING ELEVATIONS: The buildings constructed on the Property shall be developed in general conformance with the Building Elevations (style and materials) attached hereto as Exhibit “C” (“the Elevations”), and incorporated herein by reference. The building elevations for Sub-Area 1 shall comply with the concept plan amendment approved in accordance with Section B.2 of this ordinance.

D. SUB-AREA PLAN: For purposes of enforcement of certain regulations relating to this Planned Development, the Property is divided into Sub-Areas 1 through 5, respectively, the boundaries of which are set forth on Exhibit “D” attached hereto and incorporated herein by reference (“the Sub-Area Plan”). References to a specific sub-area in this ordinance shall mean the portion of the Property within the boundaries of the area shown on the Sub-Area Plan that has been labeled with the referenced sub-area designation.

E. PHASING PLAN: For purposes of determining the timing and order of development of certain areas of the Property in relation to development of other areas of the Property, portions of the Property are designated as Phases I through III, respectively, as shown on the Phasing Plan attached hereto as Exhibit “E” and incorporated herein by reference (“the Phasing Plan”). The timing and order of development of the various Phases of the Property shall be subject to the following:

1. No development permit of any kind will be issued for the areas of the Property within Phases II, or III until a grading or development permit has been issued for development of the area of the Property within Phase 1.
2. No Certificate of Occupancy for any building constructed within the Phase II area of the Property shall be issued until one or more grading or development permits have been issued in relation to the development of all of the Phase I area of the Property, and all streets, utilities, and other infrastructure required to be constructed with respect to the use and development of Phase II have been constructed and accepted by the Director of Engineering or authorized designee.

F. PERMITTED USES: In addition to the uses permitted in an SC District, the following shall be permitted uses on the Property within the identified Sub-Areas:

1. Convenience Store limited to Sub-Areas 3 and 5.
2. Firearms Sale and Service limited to Sub-Areas 2, 3 and 5, but only following approval of a Specific Use Permit.
3. Fueling Station limited to Pad 9 in Sub-Area 3, but only following approval of a Specific Use Permit.
4. Hotel limited to Sub-Areas 2, and 5.
5. Museum/Art Gallery limited to Sub-Areas 3 and 5.

6. Private Club limited to Sub-Areas 2, 3 and 5, but only following approval of a Specific Use Permit.
7. Theatre limited to Sub-Areas 3 and 5.
8. Upholstery Shop limited to Sub-Areas 2 and 3.
9. Urban Residential limited to Sub-Area 5.
10. Sub-Area 1 shall be limited to Townhomes only (Dwelling, Single-Family Attached).

G. HEIGHT AND SETBACK REGULATIONS: All buildings constructed on the Property must comply with the height and setback provisions of the SC District except as modified below or elsewhere in this ordinance:

1. The minimum front yard shall be:
 - a. Sub-Area 5: 15 feet.
 - b. Pads 7, 8 and 9 within Sub-Area 3: 15 feet.
2. The maximum building height shall be:
 - a. Sub-Area 2: Five (5) stories, not to exceed 65 feet.
 - b. Sub-Area 3: Three (3) stories, not to exceed 45 feet.
 - c. Sub-Area 5: Ten (10) stories, not to exceed 100 feet.
3. The height and setback provisions for Sub-Area 1 shall be comply with the concept plan amendment approved in accordance with Section B.2 of this ordinance.

H. TEMPORARY USE/SPECIAL EVENTS: Temporary uses and special events conducted on the Property shall be conducted in accordance with Allen Land Development Code Section 6.04 “Temporary Uses and Special Events” subject to the following:

1. Temporary Uses and Special Events shall not be limited by number or duration in a calendar year;
2. Temporary Uses and Special Events must be held only in Sub-Area 5; and.
3. Temporary Use and Special Event locations may not obstruct fire lanes/emergency access points.

I. URBAN RESIDENTIAL: The use and development of Urban Residential shall be subject to ALDC Section 6.06.13 subject to the following:

1. The regulations applicable to the MF-18 zoning district shall apply except where such regulations are specifically addressed in this ordinance;
2. Buildings shall be constructed with urban styling conceptually similar to the Urban Residential elevations attached hereto as Exhibit “F,” and incorporated herein by reference;
3. The parking ratio shall be at not less than 1.5 parking spaces per residential unit;

4. The maximum building height shall be four (4) stories, but not exceeding 55 feet;
 5. Where shown on the Concept Plan, the first floor shall be retail ready, and shall be constructed with minimum 14-foot-high ceilings and mechanical chases necessary for conversion to commercial uses.
- J. FUELING STATION STANDARDS:** Development and use of the Property for a fueling station shall comply with ALDC Section 6.06.2, as amended, when an application for the Specific Use Permit is submitted.
- K. SIGNS:** Signs installed or constructed on the Property shall comply with ALDC Section 7.09 and in be located and designed in general conformance with the Sign Plan attached hereto as Exhibit “G,” and incorporated herein by reference, subject to the following:
1. Pylon Sign 1 and the multi-tenant monument signs located on Pads 5 and 6 may identify any owner and/or tenant occupying a building constructed anywhere on the Property. All remaining signs may identify only an owner and/or tenant occupying a building constructed on the same lot on which the sign is located.
 2. Any existing billboard(s) located on the Property must be removed prior to the issuance of a Certificate of Occupancy for any building constructed on the Property.
- L. TRAFFIC:**
1. **Driveway and Throat Depths:**
 - a. The required minimum throat depth for driveways accessing US Highway 75 will be 73 feet measured from the existing US Highway 75 right-of-way.
 - b. The required minimum throat depth for driveways accessing Stacy Road shall be as noted on the Concept Plan.
 - c. The Required minimum throat depth from Chelsea Blvd shall be 18’.
 - d. The required minimum throat depth from Sweetwater shall be 18’.
 2. **Roadway Improvements:**
 - a. Acceleration and Deceleration Lanes: The acceleration and deceleration lanes and concrete sidewalks shall be constructed and completed prior to the issuance of a Certificate of Occupancy for any building constructed on Sub-Area 1, 2, or 3.
 - b. Traffic Signals and Pedestrian Crossings: Traffic signal modifications and pedestrian crossing at Chelsea Boulevard and Stacy Road, including new pedestrian heads and poles, must be completed prior to the issuance of a Certificate of Occupancy for any building constructed on Sub-Area 1, 2, or 3.
 - c. Turn Lane Construction: An additional eastbound right turn lane on Stacy Road at the Southbound US Highway 75 Access Road and an additional southbound left turn lane on Chelsea Boulevard at Stacy Road, including appropriate striping and signal modifications to accommodate the proposed opposing turns lanes to operate concurrently, must be completed prior to the issuance of a Certificate of Occupancy for any building constructed on Sub-Area 1, 2, or 3.

- d. Chelsea Boulevard Extension: The Chelsea Boulevard extension from Stacy Road to US Highway 75 shall be dedicated as public right of way and constructed as a public collector street with the final design to be approved by the Director of Engineering and Director of Community Development. Construction of the Chelsea Boulevard segment within the Property must be completed and accepted by the City prior to the issuance of a Certificate of Occupancy for any building on Sub-Area 1, 2, or 3.
- e. Sweetwater Lane Extension: The Sweetwater Lane extension from Stacy Road and connecting to Sub-Area 1 shall be constructed as a public street with the final design to be approved by the Director of Engineering and Director of Community Development.
- f. Escrow: Prior to approval of a final plat for any portion of the Property, the owner and/or developer of the Property will enter into an escrow agreement with the City providing for the escrow of \$300,000 with the City to be used to pay for the design, purchase, and installation of a new traffic signal at Stacy Road and Sweetwater Lane (“the Signal”) that provides as follows:
 - (1) \$150,000 is to be paid prior to any Certificates of Occupancy for any building constructed on the Phase II area of the Property.
 - (2) \$150,000 is to be paid prior to a Building Permit to be issued for any building constructed on any portion of the Phase III areas of the Property.
 - (4) Any funds escrowed with the City that remain unspent for the design, purchase, and installation of the Signal as of the fifth (5th) anniversary of the final payment made pursuant to this paragraph e. shall be refunded to the owner and/or developer as provided in the escrow agreement.

M. FLOODPLAIN IMPROVEMENTS AND MAINTENANCE: The floodplain area is to be dedicated to the City at the time of final plat. Prior to approval of a final plat for any portion of the Property, the owner and/or developer of the property must enter into an agreement(s) with the City setting for the terms and conditions relating to the responsibility for:

- 1. Development and maintenance standards for the flood plain and all improvements located within the floodplain;
- Trail and trailhead improvements; and
- 3. Land acquisition necessary to complete recreational trail extensions and linkages.

N. LANDSCAPING/OPEN SPACE: The Property shall be developed in general conformance with the Open Space Plan attached hereto as Exhibit “H,” and incorporated herein by reference, and subject to the following:

- 1. Drive A, Drive B and the Chelsea Boulevard extension shall meet the “Landscape buffer planting requirements” requirements of Section 7.05.3 of the ALDC.
- 2. The landscape buffer along US Highway 75 shall be 25 feet wide.
- 3. The landscape buffer along Stacy Road shall be an average width of 25 feet; with a minimum width of 20 feet west of Chelsea Boulevard and a minimum width of 15 feet east of Chelsea Boulevard.

- O. TREE MITIGATION:** The Property shall be developed in general conformance with the following:
1. The caliper inches of trees that must be replaced as the result of removal of trees during the course of development shall be reduced by 25% with respect to Hackberry trees that are removed.
 2. Mitigation for removed protected trees will be accomplished by one or more of the following:
 - a. Additional trees planted on the Property in addition to trees that must be planted to comply with minimum landscaping requirements, whether set forth in the ALDC or this ordinance.
 - b. New trees planted that are larger than the required 3 caliper inches in diameter.
 - c. Payment to City Tree Fund in the amount of \$200 per negative credit.
 - d. Delivery of trees, species to be approved by the City arborist, not less than three (3) caliper inches in diameter to the City of Allen tree farm for offset of negative credits as follows: 1 caliper inch = 1 negative credit.
 3. Unless specified herein, all other requirements for tree mitigation in Section 7.06 of the ALDC shall be applicable.
- P. FIRE LANE PLAN:** The Property shall be developed in general conformance with the Fire Lane Plan attached hereto as Exhibit “I,” and incorporated herein by reference.
- Q. CROSS SECTIONS:** The Property shall be developed in general conformance with the Cross Sections attached hereto as Exhibit “J,” and incorporated herein by reference. Minor modifications and changes in dimensions may be made at the time of Site Plan approval.
- R. RENDERINGS:** The Property shall be developed in general conformance with the Renderings attached hereto as Exhibit “K,” and incorporated herein by reference.

SECTION 3. To the extent of any irreconcilable conflict with the provisions of this Ordinance and other ordinances of the City of Allen governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the Allen Land Development Code Zoning Regulations, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Allen Land Development Code Zoning Regulations, as amended hereby, which shall remain in full force and effect.

SECTION 5. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Allen Land Development Code Zoning Regulations, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 6. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Allen Land Development Code Zoning Regulations of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

SECTION 7. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 24TH DAY OF OCTOBER 2017.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, City Attorney
(kbl:10/18/17:90348)

Shelley B. George, TRMC, City Secretary

EXHIBIT "A"
BOUNDARY DESCRIPTION OF THE PROPERTY

BEING a tract of land situated in the F.C. WILMETH SURVEY, ABSTRACT NO. 999, in the City of Allen, Collin County, Texas, and being a portion of a tract of land as described in deed to Nimbus Partners, L.P., recorded in Volume 5156, Page 3442, a portion of a tract of land as described in deed to Brookside Partners, Ltd., recorded in Volume 4066, Page 1849, Correction deed to Brookside Partners, Ltd., recorded in Volume 5128, Page 311, and all of the same tract of land as described in deed to VSS Limited Partnership, recorded in Volume 4070, Page 1051, Official Public Records, Collin County, Texas, and being a portion of a tract of land as described in deed to Nimbus Partners, L.P., recorded in Volume 5156, Page 3437, a portion of a tract of land as described in deed to Brookside Partners, Ltd., recorded in Volume 4066, Page 1842, a portion of a tract of land as described in deed to VSS Limited Partnership, recorded in Volume 4070, Page 1011 and a portion of a tract of land as described in deed to VSS Limited Partnership, recorded in Volume 4070, Page 1016, Official Public Records, Collin County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner from which an "X" cut in concrete found bears South 57 deg 15 min 45 sec East, a distance of 0.93 feet, said point being at the Northwest end of a corner clip at the intersection of the South right-of-way of Stacy Road, a variable width right-of-way, with the Westerly right-of-way of U.S. Highway 75, a variable width right-of-way;

THENCE South 26 deg 47 min 43 sec East, along said corner clip, a distance of 17.88 feet to a point for corner from which an "X" cut in concrete found bears North 14 deg 50 min 23 sec East, a distance of 0.83 feet, said point being the Southeast end of said corner clip and being on the Westerly right-of-way of said U.S. Highway 75;

THENCE along the Westerly right-of-way of said U.S. Highway 75, the following courses and distances:

South 37 deg 00 min 47 sec West, a distance of 467.39 feet to a 5/8 inch iron rod found for corner;

South 31 deg 17 min 47 sec West, a distance of 201.00 feet to a point for corner, from which a TxDOT (Texas Department of Transportation) aluminum monument found bears North 43 deg 29 min 46 sec East, a distance of 4.65 feet;

South 37 deg 00 min 47 sec West, a distance of 1,596.50 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

South 36 deg 23 min 47 sec West, a distance of 251.06 feet to a 5/8-inch iron rod found for corner;

South 35 deg 09 min 17 sec West, a distance of 251.06 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

South 33 deg 54 min 47 sec West, a distance of 251.06 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

South 42 deg 06 min 17 sec West, a distance of 215.93 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

South 31 deg 59 min 47 sec West, a distance of 104.34 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

South 30 deg 59 min 47 sec West, a distance of 23.04 feet to a point for corner and situated on the approximate centerline of Cottonwood Creek;

THENCE departing the Westerly right-of-way of said U.S. Highway 75 and along the approximate centerline of said Cottonwood Creek, the following courses and distances:

North 30 deg 19 min 59 sec West, a distance of 171.39 feet to a point for corner;

North 10 deg 04 min 59 sec West, a distance of 70.00 feet to a point for corner;

North 05 deg 34 min 59 sec West, a distance of 99.11 feet to a point for corner;

North 22 deg 09 min 16 sec East, a distance of 360.30 feet to a point for corner;

North 21 deg 15 min 45 sec West, a distance of 242.00 feet to a point for corner;

North 50 deg 09 min 17 sec East, a distance of 140.00 feet to a point for corner;

North 39 deg 39 min 16 sec East, a distance of 117.00 feet to a point for corner;

North 12 deg 15 min 43 sec West, a distance of 208.00 feet to a point for corner;

North 25 deg 15 min 43 sec West, a distance of 162.00 feet to a point for corner;

North 51 deg 50 min 45 sec West, a distance of 423.01 feet to a point for corner;

North 40 deg 50 min 44 sec West, a distance of 100.00 feet to a point for corner;

North 63 deg 50 min 44 sec West, a distance of 200.00 feet to a point for corner;

North 39 deg 50 min 45 sec West, a distance of 257.00 feet to a point for corner;

North 04 deg 39 min 15 sec East, a distance of 202.00 feet to a point for corner;

North 39 deg 39 min 16 sec East, a distance of 110.00 feet to a point for corner;

North 02 deg 54 min 16 sec East, a distance of 269.45 feet to a point for corner;

North 35 deg 48 min 31 sec West, a distance of 123.59 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner on the South right-of-way of said Stacy Road;

THENCE departing the approximate centerline of said Cottonwood Creek and along the South right-of-way of said Stacy Road, the following courses and distances:

North 88 deg 09 min 42 sec East, a distance of 9.43 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

North 88 deg 52 min 27 sec East, a distance of 1,576.06 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

North 88 deg 52 min 27 sec East, a distance of 281.04 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

North 89 deg 14 min 03 sec East, a distance of 576.38 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

South 86 deg 34 min 18 sec East, a distance of 136.74 feet to a 1/2-inch iron rod with red plastic cap stamped "W.A.I." set for corner;

THENCE North 89 deg 14 min 03 sec East, continuing along the South right-of-way of said Stacy Road, a distance of 111.15 feet to the POINT OF BEGINNING.

CONTAINING within these metes and bounds 78.324 acres or 3,411,801 square feet of land, more or less. Bearings shown hereon are based upon an on-the-ground Survey performed in the field on the 10 day of August, 2016, utilizing a G.P.S. measurement (NAD 83, Grid) from the GeoShack VRS network.

The following exhibits are on file in the City Secretary's Office.

EXHIBIT "B"
CONCEPT PLAN

EXHIBIT "C"
BUILDING ELEVATIONS

EXHIBIT "D"
SUB-AREA PLAN

EXHIBIT "E"
PHASING PLAN

EXHIBIT "F"
URBAN RESIDENTIAL ELEVATIONS

EXHIBIT "G"
SIGN PLAN

EXHIBIT "H"
OPEN SPACE PLAN

EXHIBIT "I"
FIRE LANE PLAN

EXHIBIT "J"
CROSS-SECTIONS

EXHIBIT "K"
RENDERINGS