

ORDINANCE NO. 1043

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP, AS HERETOFORE AMENDED, BY AMENDING THE PLANNED DEVELOPMENT DISTRICT GRANTED BY ORDINANCE NO. 1036 FOR THE PROPERTY DESCRIBED AS 102.029 ACRES OF LAND IN THE JOHN GREGG SURVEY, ABSTRACT NO. 171, KAUFMAN COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED; APPROVING AN AMENDED SITE PLAN ATTACHED AS EXHIBIT "B"; PROVIDING SPECIAL CONDITIONS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Forney and the City Council of the City of Forney, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and the City Council of the City of Forney is of the opinion and finds that said zoning change should be granted and that the Comprehensive Zoning Ordinance and Map should be amended; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS:

SECTION 1. That the Comprehensive Zoning Ordinance and Map of the City of Forney, Texas, be, and the same are hereby, amended so as to amend the Planned Development District heretofore granted by Ordinance No. 1021, and renumbered as Ordinance No. 1036, for the property described as 102.029 acres, more or less, in the John Gregg Survey, Abstract No. 171, Kaufman County, Texas, and more particularly described in Exhibit "A" attached hereto and made part hereof for all purposes.

SECTION 2. That the amended site plan for this Planned Development District is attached hereto as Exhibit "B", and the same is hereby approved for said Planned Development District as required by Section XX, E1, of the Comprehensive Zoning Ordinance of the City of Forney, Texas.

SECTION 3. That the granting of this Planned Development District is subject to the following special conditions:

- a. That the Planned Development will be constructed in accordance with the amended site plan attached hereto, the special conditions of Ordinance 1036 as amended hereby, and the final Development Plan to be submitted, reviewed, and approved as required by Section XX of the zoning ordinance. Upon approval by the City Council, the final Development Plan shall become an exhibit to this ordinance by reference;
- b. That the Planned Development will be constructed in accordance with the special conditions of Ordinance 1036, except as modified by the special conditions contained in Exhibit "C" attached hereto;
- c. That the final Development Plan required hereby shall conform to the approved site plan and be approved by the City Council prior to the issuance of any permit or certificate necessary to proceed with accomplishment of the plan; and
- d. That section 3 b (7) of Ordinance 1036 is deleted.

SECTION 4. That all ordinances of the City of Forney in conflict with the provisions of this ordinance be, and the same are hereby, repealed.

SECTION 5. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance and Map as a whole.

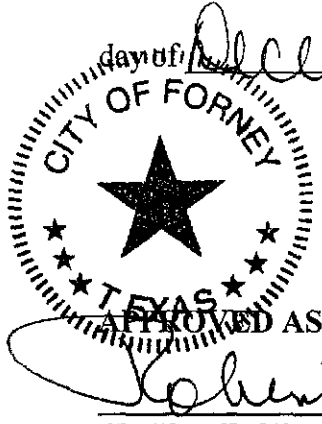
SECTION 6. That any person, firm or corporation violating any of the provisions of this ordinance or the Comprehensive Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Forney, Texas, shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and

each and every day any such violation shall continue shall be deemed to constitute a separate offense.

SECTION 7. That this ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such cases provide.

DULY PASSED by the City Council of the City of Forney, Texas, on the 18

day of December, 2001



APPROVED:

Weldon L. Bowen
MAYOR

ATTEST:

Adessa Moore
CITY SECRETARY

Robert L. Dillard
CITY ATTORNEY
(RLD/12-16-00)

LEGAL DESCRIPTION
TRACT "1"
4.980 ACRES

BEING A 4.980 ACRE TRACT OF LAND IN THE JOHN GREGG SURVEY, ABSTRACT NO. 171, IN THE CITY OF FORNEY, KAUFMAN COUNTY, TEXAS AND BEING A PART OF THAT CERTAIN 102.017 ACRE TRACT OF LAND DESCRIBED IN DEED FROM BETTY LU WILLIAMS (FORMERLY BETTY LU PERRYMAN) TO J.E. HAMBLIN IN VOLUME 500, PAGE 589 AMONG THE DEED RECORDS OF SAID COUNTY AND STATE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING at a 1/2 inch iron pipe found at the intersection of the northwesterly right-of-way line of F.M. 548 (100' ROW) with the northeast line of the JOHN GREGG SURVEY, for the southwest corner of the 295.78 acre tract of land described in deed from Johnny M. Wortham and Sherry Wortham to William E. Armentrout in Volume 1089, Page 338 among the Deed Records of said county and state, said point also being the southeast corner of said 102.017 acre tract and hereof;

THENCE, with said right-of-way line, being common with said 102.017 acre tract

South 45°22'56" West, a distance of 149.07 feet

to a 5/8 inch rebar found for the southwest corner hereof;

THENCE, leaving said right-of-way line and continuing northwesterly across said 102.017 acre tract for the following two (2) courses and distances

1. North 45°02'59" West, a distance of 1451.05 feet to a 5/8 inch rebar found for the northwest corner hereof
2. North 45°22'36" East, a distance of 149.93 feet

to a 5/8 inch rebar found in the westerly line of said 295.78 acre tract, being common with the northeast line of the JOHN GREGG SURVEY said 102.017 acre tract for the northeast corner hereof;

THENCE, with said line

South 45°00'56" East, a distance of 1451.06 feet

to the TRUE POINT OF BEGINNING and containing within said boundaries 4.980 acres of land. The basis of bearings for the hereinabove described tract being the line held between the 3/8 inch rebar found in the northwesterly right-of-way of F.M. 548 for the southwest corner of said 102.017 acre tract and the 1/2 inch iron pipe found for the northwest corner of said 102.017 acre tract. The bearing of said line being North 45°00'00" West as called for in Volume 500, Page 589 among the Deed Records of said county and state.

EXHIBIT

LEGAL DESCRIPTION
TRACT "2"
75.056 ACRES

BEING A 75.056 ACRE TRACT OF LAND IN THE JOHN GREGG SURVEY, ABSTRACT NO 171, IN THE CITY OF FORNEY, KAUFMAN COUNTY, TEXAS AND BEING ALL OF THAT CERTAIN 75.071 ACRE TRACT OF LAND (97.056 ACRES - SAVE AND EXCEPT 21.985) DESCRIBED IN DEED FROM FORNEY LAND COMPANY, LTD. TO J.E. HAMBLÉN AND DORIS HAMBLÉN IN VOLUME 814, PAGE 195 AMONG THE DEED RECORDS OF SAID COUNTY AND STATE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING at 5/8 inch rebar found in the northwesterly right-of-way line of F.M. 548 (100' ROW), for the southwest corner of said 75.071 acre tract and hereof;

THENCE, with said right-of-way line, being common with said 75.071 acre tract

South 45°22'56" West, a distance of 776.72 feet

to a 5/8 inch rebar found for the southeast corner hereof;

THENCE, leaving said right-of-way line and continuing with the westerly line of said 75.071 acre tract

North 44°59'52" West, a distance of 3765.50 feet

to a 5/8 inch rebar found for the northwest corner of said 75.071 acre tract and hereof, said point being in the south line of the 211.4437 acre tract of land described in deed from Hillwood Holding Corporation to Petrus Land, Ltd. in Volume 1040, Page 346 among the Deed Records of said county and state;

THENCE, with said line

North 45°02'08" East, a distance of 924.60 feet

to a 1/2 inch iron pipe found in the westerly line of the 295.78 acre tract of land described in deed from Johnny M. Wortham and Sherry Wortham to William E. Armentrout in Volume 1089, Page 338 among the Deed Records of said county and state, being common with the northeast line of the JOHN GREGG SURVEY, said point also being the northeast corner of said 75.071 acre tract and hereof;

THENCE, with said line

South 45°00'56" East, a distance of 2320.05 feet

to a 5/8 inch rebar found for the northerly-most, southwest corner of said 75.071 acre tract and hereof;

THENCE, leaving said line and continuing southwesterly with said 75.071 acre tract for the following two (2) courses and distances

- 1 South 45°22'36" West, a distance of 149.93 feet to a 5/8 inch rebar found for an interior ell corner of said 75.071 acre tract and hereof
2. South 45°02'59" East, a distance of 1451.05 feet

to the TRUE POINT OF BEGINNING and containing within said boundaries 75.056 acres of land. The basis of bearings for the hereinabove described tract being the line held between the 3/8 inch rebar found in the northwesterly right-of-way of F.M. 548 for the southwest corner of the 102.017 acre tract of land described in Volume 500, Page 589 among the Deed Records of said county and state and the 1/2 inch iron pipe found for the northwest corner of said 102.017 acre tract. The bearing of said line being North 45°00'00" West as called for in said deed.

EXHIBIT

LEGAL DESCRIPTION
'TRACT "3"
21.993 ACRES

BEING A 21.993 ACRE TRACT OF LAND IN THE JOHN GREGG SURVEY, ABSTRACT NO 171, IN THE CITY OF FORNEY, KAUFMAN COUNTY, TEXAS AND BEING ALL OF THAT CERTAIN 21.98 ACRE TRACT OF LAND DESCRIBED IN DEED FROM THAD WILSON AND SHERYL SUSETTE WILSON TO WILLIAM STEWART DAUM IN VOLUME 1293, PAGE 110 AMONG THE DEED RECORDS OF SAID COUNTY AND STATE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING at 5/8 inch rebar found in the northwesterly right-of-way line of F.M. 548 (100' ROW), for the southeast corner of said 21.98 acre tract and hereof;

THENCE, with said right-of-way line, being common with said 21.98 acre tract

South 45°22'56" West, a distance of 254.40 feet

to a 3/8 inch rebar found for the southwest corner of said 21.98 acre tract and hereof, said point also being the southeast corner of the 211.4437 acre tract of land described in deed from Hillwood Holding Corporation to Petrus Land, Ltd. in Volume 1040, Page 346 among the Deed Records of said county and state;

THENCE, leaving said right-of-way line and continuing with the westerly line of said 21.98 acre tract, being common with said 211.4437 acre tract

North 45°00'00" West, a distance of 3763.95 feet

to a 1/2 inch iron pipe found for the northwest corner of said 21.98 acre tract and hereof, said point also being an interior ell corner of said 211.4437 acre tract,

THENCE, with the north line of said 21.98 acre tract, being common with said 211.4437 acre tract

North 45°02'08" East, a distance of 254.54 feet

to a 5/8 inch rebar found for the northeast corner of said 21.98 acre tract and hereof;

THENCE, with the east line of said 21.98 acre tract

South 44°59'52" East, a distance of 3765.50 feet

to the TRUE POINT OF BEGINNING and containing within said boundaries 21.993 acres of land. The basis of bearings for the hereinabove described tract being the line held between the 3/8 inch rebar found in the northwesterly right-of-way of F.M. 548 for the southwest corner of the 102.017 acre tract of land described in Volume 500, Page 569 among the Deed Records of said county and state and the 1/2 inch iron pipe found for the northwest corner of said 102.017 acre tract. The bearing of said line being North 45°00'00" West as called for in said deed.

EXHIBIT A

CITY OF FORNEY APPLICATION FOR ZONING CHANGE

1. **APPLICANT – IF OWNER(S), SO STATE; IF AGENT OR OTHER TYPE OF RELATIONSHIP, A LETTER OF AUTHORIZATION MUST BE FURNISHED FROM OWNER(S).**

NAME: *GEORGE MARTIN*

MAILING ADDRESS: *P O BOX 2138, ROCKWALL, TX 75087*

TELEPHONE: *972-965-3175*

2. **PROPERTY LOCATION.** *WEST/SOUTHWESTERN QUADRANT OF FM548 AND FUTURE FM 740*

3. **LEGAL DESCRIPTION:** *102.017+/- ACRES OF THE JOHN GREGG SURVEY, ABSTRACT 171, KAUFMAN COUNTY, TEXAS DESCRIBED IN DEED TO WILLIAM DAUM, J E HAMBLEM ESTATE AND DORIS HAMBLEM (SEE ATTACHED METES AND BOUNDS DESCRIPTION)*

SUBDIVISION: *N/A*

ACREAGE: *102.017+/-*

IF ACREAGE, PROVIDE SEPARATE METES AND BOUNDS DESCRIPTION

4. **EXISTING USE OF PROPERTY:** *AGRICULTURAL*

5. **GIVE EXPLANATION OF PROPOSED USE OF PROPERTY AND ATTACH SUPPORTING INFORMATION.** *SINGLE FAMILY, RETAIL AND THEIR ACCESSORY USES, (SEE ATTACHED EXHIBIT A)*

6. **ZONING REQUEST:** *TO CREATE A PD BASED ON SF-R6 AND GR STANDARDS*
FROM: *PD AND MF-15*
TO: *PD*

7. **GIVE BRIEF EXPLANATION OF REQUEST:** *ZONING CHANGE WILL BETTER REFLECT USES SHOWN IN COMPREHENSIVE LAND PLAN AND PROVIDES FUTURE MARKETING OPPORTUNITIES WHILE ENSURING UPSCALE DEVELOPMENT STANDARDS*

EXHIBIT A
CITY OF FORNEY APPLICATION FOR ZONING CHANGE
HAMBLEN TRACT

Single Family – Planned Development to be based on the SF-R6 standards set forth in that zoning ordinance except as otherwise restricted below:

- The average lot size shall be 7,500 square feet, with a minimum lot size of 6,820 square feet; lots shall have a minimum width of sixty-two feet (62') (measured at the front building line) and a minimum lot depth of one hundred ten feet (110').
- Interior side yards shall maintain a setback of six feet (6'); corner lots shall have a minimum side yard on the street side of fifteen feet (15'), except when abutting arterials, when they shall have a minimum side yard of twenty feet (20').
- Lots shall have a minimum front yard setback of twenty-five feet (25') and a minimum rear yard setback of twenty feet (20'); key corner lots shall observe a front yard setback on both street frontages.
- Maximum lot coverage for the single family lots shall be forty-five percent (45%) of the area of the lot; the minimum house size shall be seventeen hundred (1,700) square feet.
- Exterior wall covering shall be not less than eighty percent (80%) masonry on the first floor.
- Four foot standard sidewalks shall be provided; two (2) three inch (3") caliper trees shall be planted in each front yard.
- Use of a uniform design for mailboxes or dual mailboxes shall be required.
- Exact alignment of the road system in the development shall be determined in the final Development Plan.
- The developer shall be required to organize a Homeowners Association for the development; documents establishing the Association shall be subject to approval by the City Attorney; the Association shall be operated by the property owners to fulfill the requirements of this Planned Development District for both common area maintenance and the dedication of a five foot (5') wide greenbelt/trail

General Retail – Planned Development to be based on the GR standards set forth in that zoning ordinance except as amended below:

Permitted Uses:

All currently permitted uses to include those of the (N) Neighborhood Service District with the addition of Drive-thru facilities such as financial institutions, eating establishments, drugstore/convenience store and dry cleaners. These uses shall be permitted in the 11.5+/- acres as described in the attached metes and bounds description.

Landscaping Requirements:

Front Landscape Buffer Area – minimum fifteen feet (15') for all street frontages, as measured from the front property line (i.e., maximum future right-of-way line for the street); may include sidewalks, turf, ground cover, trees, shrubs, decorative landscape features, etc., and may be crossed by vehicular driveways entering the property

Front Buffer Trees – minimum one (1) large shade tree (minimum 3" caliper) and four (4) small ornamental trees (minimum 2" caliper and/or 7-foot planted height) per fifty linear feet (50') of street frontage (or portion thereof).

Front Buffer Screening Hedge (for any parking areas adjacent to a public street) – minimum three-foot (3') tall screen comprised of hardy, evergreen shrubs, decorative walls with shrubs, or similar landscaping (screen must attain a minimum height of three feet tall within two years of initial planting/installation date).

Side/Rear Landscape Buffer Area – minimum five feet (5') along any property side or rear lot line, and except where the property line is within or adjacent to a shared parking area, drive aisle, fire lane, etc., or where the property line divides properties constructed with common walls used for in-line commercial uses.

Side/Rear Screening Hedge – minimum four-foot (4') tall screen comprised of hardy, evergreen shrubs, decorative walls with shrubs, or similar landscaping (screen must attain a minimum height of four feet tall within two years of initial planting/installation date).

Interior Parking Lot Landscaping Islands – a landscaped island (eight-foot minimum width) is required at the end of each bay (i.e., row) of parking spaces; one (1) large shade tree (minimum 3" caliper) shall be placed within each landscaped island such that the minimum distance from the centerpoint of the tree is at least four feet (4') from any curb or paved surface.

All landscaped areas are to be maintained in a clean, living and growing condition at all times, and shall be equipped/irrigated with an automatic, underground irrigation system which has moisture and freeze sensors (to minimize water waste, and to prevent accidental roadway icing in freezing weather).

Building Façade Articulation:

All facades (i.e., elevations) of all buildings within the district, particularly those fronting or visible from a public street, shall be articulated (i.e., with convexities, concavities, awnings/overhangs, and other features that provide visual interest) and fenestrated with windows, door openings, colonnades, and similar details such that elevations are interesting, aesthetically pleasing, and three-dimensional in overall appearance (i.e., not flat, planar, unappealing, etc.).

Masonry Requirements.

Buildings: All front and side facades of all buildings (including accessory structures) shall be of standard masonry exterior construction for a minimum of 80% of each exterior wall surface (excluding doors and windows).

Standard Masonry Construction – Standard masonry construction shall include brick, stucco, stone, glass block, decorative concrete masonry units (i.e., split face, but not including smooth face), and concrete wall sections (e.g., poured in place, precast, tilt wall) provided that such wall sections are varied in nature (i.e., non-uniform, textured, fenestrated, etc.) and not a smooth, uniform surface. Brick masonry veneer products shall be no less than three inches in thickness, and all other masonry products shall be no less than three and five/eighths (3 5/8) inches in thickness when used as a veneer. EIFS shall not be considered masonry construction (i.e., shall not count toward the masonry requirement).

Lighting Requirements:

Lighting fixtures shall be of a type that can be oriented downward or upon building facades, and shall not produce light overspill onto adjacent properties or public rights-of-way. Adequate lighting for safety and security at nighttime shall be provided, but the amount of lighting shall not be excessive such that it produces a “glowing” effect that would detract from the community’s peaceful, semi-rural setting.

Screening:

Loading Area Screening – All truck docks/loading areas shall be screened from view from any public street through the use of 12-foot tall masonry walls (which are the same colors and materials as main building) and/or evergreen living screens (eight-foot height and at least 75% opacity within four years of planting), unless such areas are screened from public views by a building.

Dumpster Screening (including dumpsters and other solid waste facilities such as trash compactors, recycling containers/compactors, etc.) – All free-standing solid waste facilities shall be screened from view from any public street and the residential zoning district of the south by a six-foot tall masonry wall (same colors and materials as main building) on at least three sides. Landscaping (tall evergreen shrubs and trees) shall be placed around, or in the vicinity of, solid waste facilities to

minimize the visual and noise impacts of these facilities.

Mechanical Equipment Screening – All mechanical equipment and satellite dishes (including rooftop – and ground-mounted) shall be screened from view of any public street by architecturally integrated facades extensions, parapet or “wing” walls, a living screen, or by some other device/means that is approved by the City (via site plan and elevation plan review/approval). Traditional “line-of-sight” techniques shall be used (and documented/submitted during site plan review) to verify that such equipment will not be visible from any public street.

Signage:

All free-standing signage (except for small, on-site directional/movement control signs) shall be as follows:

For pad sites (i.e., sites 1.5 acres or smaller) – masonry; monument-style; maximum six feet (6') in height; maximum size fifty (50) square feet per sign face, ten-foot (10') setback from the street right-of-way line; same materials, colors and architectural style as the main building.

For larger sites (i.e., sites larger than 1.5 acres) – masonry; pylon-style (i.e., tall monument signs with a solid masonry base or supported by masonry columns); maximum twenty-five feet (25') in height; maximum size one hundred and fifty (150) square feet per sign face; fifteen-foot (15') setback from the street right-of-way line; same materials, colors and architectural style as the main building.

FUTURE) Exhibit "B"
FM 740

PROPOSED F.M. 740
CENTERLINE TO INTERSECT
F.M. 548 AT CENTER
OF TRUCK DRIVEWAY, A
CONTROLLED INTERSECT

NEIGHBORHOOD
SERVICES (N)
3.1 AC.

50' R.O.W.

Exhibit "B"

CHANGE FROM
MULTI-FAMILY
TO

RETAIL
(R)
11.5 AC.

(WITH 2 EA DRIVE THRU PADSITES)

F.M. 548

FM 740 BYPASS

J.L. CRITTENDEN
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D.R.K.C.T.

UTURE) Exhibit "B"
FM 740

PROPOSED F.M. 740
CENTERLINE TO INTERSECT
F.M. 548 AT CENTER
OF TRUCK DRIVEWAY, A
CONTROLLED INTERSECTION



50' R.O.W.

Exhibit "B"

CHANGE FROM
MULT-FAMILY
TO

RETAIL
(R)

11.5 AC.

(WITH 2 EA DRIVE THRU PAD/SITES)

NEIGHBORHOOD
SERVICES (N)
3.1 AC.

TRU

F.M. 548

FM 740 BYPASS

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