DATE: August 21, 2012

TO: Honorable Mayor & City Council

FROM: Chris Caso, Chairman, Planning & Zoning Commission

SUBJECT: Results of Planning & Zoning Commission Meeting of August 20, 2012

AGENDA ITEM NO. 6 - PUBLIC HEARING
ZONING CASE 2012-12
APPLICANT: RACETRAC

Request to amend Planned Development-374-Retail on 6.9± acres located at the northeast corner of Plano Parkway and Independence Parkway to modify the development standards of the district including amending or repealing the limitation on the hours of operation. Zoned Planned Development-374-Retail/190 Tollway/Plano Parkway Overlay District. Tabled March 19, 2012, April 16, 2012, and July 16, 2012.

APPROVED: 5-2 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: **SUPPORT:** 2 **OPPOSE:** 11

LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA: **SUPPORT:** 0 **OPPOSE:** 0

PETITION(s) RECEIVED: N/A **# OF SIGNATURES:** N/A

STIPULATIONS:

Recommended for approval as follows: (Proposed additions are indicated by underlined text; deletions are indicated by strikethrough text.)

Restrictions:

1. Maximum Square Footage: 118,701 square feet of building area
2. Maximum Retail: 100% - Neighborhood Support Retail.
   In addition to those uses permitted in the Retail districts, the following uses shall be permitted:
   - Office - showroom/warehouse
   - Office - technical
   - Scientific and research labs
3. Truck docks for these uses shall be located at grade level.
4. Maximum Floor Area Ratio: 0.5:1
5. Maximum Floor Area Ratio on any Given Lot: 0.75:1
6. Maximum Lot Coverage: 40% (inclusive of parking structures)

7. Maximum Building Height: 2 story (36 feet) - all heights shall include mechanical/penthouse

8. Maximum Parking Structure Height: 2 levels above grade (20 feet)

9. Setback Requirements: 50 feet from north property line and 50 feet from Plano Pkwy.

The zoning granted above is granted subject to the following additional stipulations:

1. Regulatory provisions of the Zoning Ordinance pertaining to additional setbacks from residential zoning districts (Sections 3.500, 3.600, and 3.700) shall apply to this tract.

2. A study of Plano Pkwy., from Jupiter Rd. to Preston Rd., shall be conducted by the city to evaluate standards and plans for driveway spacing, median breaks, acceleration/deceleration lanes, signalization, and intersection design. The objective of the study is to enhance the parkway's capacity without adding additional through lanes. The cost of the study shall be borne by the petitioners for zoning. The closing of Longworth Dr. north of Plano Pkwy. shall be a major consideration in the Plano Parkway Study.

3. All landscape areas required by the Design Guidelines (referenced after PD-393-R/O-2) shall be irrigated by an underground, automatic sprinkler system.

4. All subsequently approved preliminary site plans and site plans for this tract shall conform to the Design Guidelines for the Plano Pkwy./S.H. 190 Corridor as adopted by the City Council and as placed by the owner as Restrictive Covenants on the tract binding both the current and future owners to such guidelines.

5. This tract shall be deed restricted to limit the hours of operation to ~~17~~ 19 total hours, preferably ~~11:00 p.m~~ with 12:00 a.m. to 5:00 a.m. being ~~be~~ the ~~closing~~ closed hours.

6. No access to any tract shall be gained from the existing alley or alleys serving the residential area.

7. Truck docks and trash containers shall be to the interior of constructed buildings and at grade.

8. There will be no dedicated street adjacent and parallel to the residential district.

9. Parking structures shall be screened from view of the residential district through the use of natural screens.

10. Sodium vapor lights shall not be used for parking lots and other exterior lighting. All lighting shall meet the requirements of the Plano Lighting Ordinance.

Refer to Design Guidelines after PD-393-R/O-2 for additional stipulations.

The Commissioner's voting in opposition wanted to leave the current restrictions in place with no modifications.

FOR CITY COUNCIL MEETING OF: September 10, 2012 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

EH/sf

xc: Anita James, Racetrac Petroleum
Tommy Mann, Winstead PC

MEMO

August 31, 2012

TO: Mr. Bruce D. Glasscock, City Manager
Mr. Frank F. Turner, Deputy City Manager

FROM: Mr. Eric Hill, Senior Planner

RE: Zoning Case 2012-12

The applicant has requested that Zoning Case 2012-12 be tabled to the City Council's meeting on September 24, 2012 (see attached letter). Staff recommends that Council accept the applicant's request to table.

However, should the Council decide to move forward with consideration of this zoning case, the applicant does not accept the Planning & Zoning Commission's recommendation and requests that the hours of operation limitation be removed as requested in their original zoning petition. Therefore, pursuant to Subsection 6.108 of Section 6.100 (Procedural Steps of Zoning Petitions and Amendments) of Article 6 (Procedures and Administration) of the Zoning Ordinance, a 3/4 majority vote, or 6 out of the 8 Council members is required to completely remove the restriction on the hours of operation.

Phyllis Jarrell, Director of Planning and Tina Firgens, Planning Manager will be present at the City Council meeting to address any questions regarding this item.

5400 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270

214.745.5400 OFFICE
214.745.5390 FAX
winstead.com

August 30, 2012

direct dial: 214.745.5724
tmann@winstead.com

Eric Hill
Planning & Zoning Department
City of Plano
1520 Ave. K, Ste. 250
Plano, Texas 75074

Re: Zoning Case 2012-12 (Racetrac at Independence and Plano Parkway

Dear Eric:

It is our understanding that the entire city council will not be present for our hearing scheduled for September 10th. In light of this fact and the potential importance of it on the vote, we respectfully request that our case be tabled until September 24th.

Should you have any questions please contact me.

Sincerely,

Tommy Mann

DALLAS_1 5916858v1

CITY OF PLANO

PLANNING & ZONING COMMISSION

August 20, 2012

Agenda Item No. 6

Public Hearing: Zoning Case 2012-12

Applicant: RaceTrac

DESCRIPTION:

Request to amend Planned Development-374-Retail on 6.9± acres located at the northeast corner of Plano Parkway and Independence Parkway to modify the development standards of the district including amending or repealing the limitation on the hours of operation. Zoned Planned Development-374-Retail/190 Tollway/Plano Parkway Overlay District. Tabled March 19, 2012, April 16, 2012, and July 16, 2012.

REMARKS:

This item was tabled at the July 16, 2012 Planning & Zoning Commission meeting. It must be removed from the table.

The applicant is requesting to amend Planned Development-374-Retail (PD-374-R) in order to remove a stipulation limiting the hours of operation. The R district is primarily intended to provide areas for neighborhood, local, and regional shopping facilities for the retail sales of goods and services including convenience stores, shopping centers, and regional malls but not including wholesaling and warehousing. A planned development district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls appropriate to both off- and onsite conditions.

PD-374-R was initially approved by City Council in 1987, along with several other similar PDs in the Plano Parkway corridor. The stipulations of PD-374-R limit the maximum allowable square footage, floor area ratio (FAR), as well as other area, yard, and bulk requirements. The PD also has stipulations regarding landscaping, lighting, truck dock and trash enclosure construction, and other standards specific to the Plano Parkway corridor.

The purpose of this zoning request is to amend the PD to remove a stipulation limiting the hours of operation. Currently, the PD specifies that “this tract shall be deed restricted to limit the hours of operation to 17 total hours, preferably 11:00 p.m. to be the

closing hour." The applicant owns and operates an existing convenience store with gas pumps facility at this location and would like to operate the store 24 hours a day.

When this PD was created, the surrounding homeowners were concerned about 24 hour operations occurring at this location; therefore, the applicant proposed a PD stipulation deed restricting the hours of operation. The city does not typically impose or enforce deed restrictions, nor does it limit the hours of operation for businesses. Instead, Plano has adopted ordinances which limit noise and lighting, and applies other performance standards. It is the intent of these ordinances to allow businesses to operate 24 hours a day, if preferred, while providing adequate development standards and safeguards important to the welfare and protection of adjacent properties. Although it was never filed, there is an existing deed restriction which meets the intent of the current PD stipulation. The city is not a party to the deed restriction and does not monitor or enforce it.

Additionally, Section 3.1500 (Residential Adjacency Standards) of Article 3 (Supplementary Regulations) of the Zoning Ordinance contains residential adjacency standards which prohibit fuel dispensing facilities from locating within 150 feet of residential zoning districts. The purpose of the residential adjacency standards is to preserve the integrity, enjoyment and property values of residential neighborhoods from uses that may impact the neighborhoods. This setback, along with the performance standard ordinances, protects nearby residential neighborhoods as well as commercial properties from businesses whose operations may impact nearby properties. Staff believes that the language included in this PD is not necessary due to these existing ordinances, and is therefore in support of removing the limitation regarding hours of operations.

Surrounding Land Uses and Zoning

The area of the request is partially developed as a convenience store with gas pumps on the northeast corner of Plano Parkway and Independence Parkway, and vacant properties further to the north and east. The property to the north and east of the PD is zoned Single-Family Residence-9 (SF-9) and is developed as existing residences. There is also an existing office building to the east, zoned Planned Development-375-Retail/General Office (PD-375-R/O-2). To the south, across Plano Parkway, is an existing independent living facility and vacant land, zoned Planned Development-382-Retail/General Office (PD-382-R/O-2). To the west, across Independence Parkway, the property is vacant and zoned Planned Development-373-Retail/General Office (PD-373-R/O-2).

Conformance to the Comprehensive Plan

Future Land Use Plan - The Future Land Use Plan designates this property as Low Intensity Office (LIO). Low Intensity Office includes a variety of employment uses which serve local needs and heights are typically less than four stories with FAR's less than 0.4:1. This request is in conformance with the Future Land Use Plan.

Adequacy of Public Facilities - Adequate water and sanitary sewer services are available via extensions from existing lines along Plano Parkway and Independence Parkway.

Traffic Impact Analysis - A TIA is not required for this request.

SUMMARY:

The applicant is requesting to amend PD-374-R in order to remove a stipulation limiting the hours of operation. The city does not typically enforce or monitor deed restrictions, nor does it limit the hours of operation for businesses. Due to existing residential adjacency and performance standard regulations, staff believes that this PD restriction is no longer necessary. Staff supports the PD amendment as requested.

RECOMMENDATION:

Recommended for approval as follows:

Proposed additions are indicated by underlined text; deletions are indicated by strikethrough text.

Restrictions:

1. Maximum Square Footage: 118,701 square feet of building area
2. Maximum Retail: 100% - Neighborhood Support Retail.
   In addition to those uses permitted in the Retail districts, the following uses shall be permitted:
   - Office - showroom/warehouse
   - Office - technical
   - Scientific and research labs
3. Truck docks for these uses shall be located at grade level.
4. Maximum Floor Area Ratio: 0.5:1
5. Maximum Floor Area Ratio on any Given Lot: 0.75:1
6. Maximum Lot Coverage: 40% (inclusive of parking structures)
7. Maximum Building Height: 2 story (36 feet) - all heights shall include mechanical/penthouse
8. Maximum Parking Structure Height: 2 levels above grade (20 feet)
9. Setback Requirements: 50 feet from north property line and 50 feet from Plano Pkwy.

The zoning granted above is granted subject to the following additional stipulations:

1. Regulatory provisions of the Zoning Ordinance pertaining to additional setbacks from residential <u>zoning districts</u> (Sections 3.500, 3.600, and 3.700) shall apply to this tract.

2. A study of Plano Pkwy., from Jupiter Rd. to Preston Rd., shall be conducted by the city to evaluate standards and plans for driveway spacing, median breaks, acceleration/deceleration lanes, signalization, and intersection design. The objective of the study is to enhance the parkway's capacity without adding additional through lanes. The cost of the study shall be borne by the petitioners for zoning. The closing of Longworth Dr. north of Plano Pkwy. shall be a major consideration in the Plano Parkway Study.

3. All landscape areas required by the Design Guidelines (referenced after PD-393-R/O-2) shall be irrigated by an underground, automatic sprinkler system.

4. All subsequently approved preliminary site plans and site plans for this tract shall conform to the Design Guidelines for the Plano Pkwy./S.H. 190 Corridor as adopted by the City Council and as placed by the owner as Restrictive Covenants on the tract binding both the current and future owners to such guidelines.

~~5. This tract shall be deed restricted to limit the hours of operation to 17 total hours, preferably 11:00 p.m. to be the closing hour.~~

~~6.~~ 5. No access to any tract shall be gained from the existing alley or alleys serving the residential area.

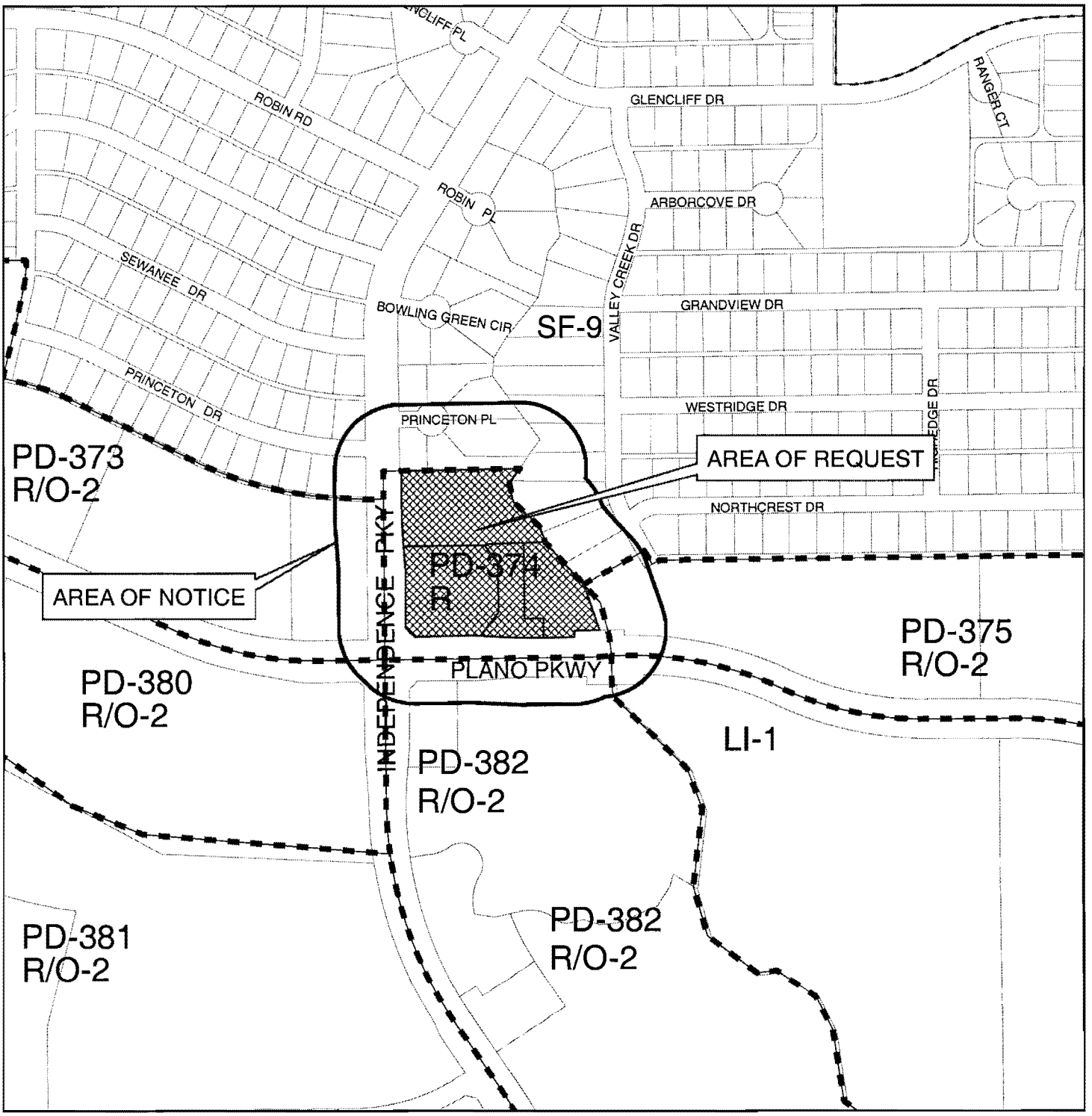
~~7.~~ 6. Truck docks and trash containers shall be to the interior of constructed buildings and at grade.

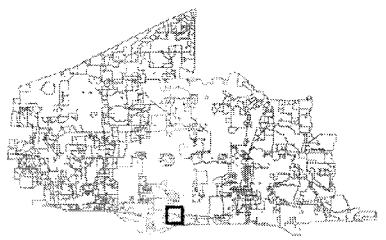
~~8.~~ 7. There will be no dedicated street adjacent and parallel to the residential district.

~~9.~~ 8. Parking structures shall be screened from view of the residential district through the use of natural screens.

~~10.~~ 9. Sodium vapor lights shall not be used for parking lots and other exterior lighting. All lighting shall meet the requirements of the Plano Lighting Ordinance.

Refer to Design Guidelines after PD-393-R/O-2 for additional stipulations.

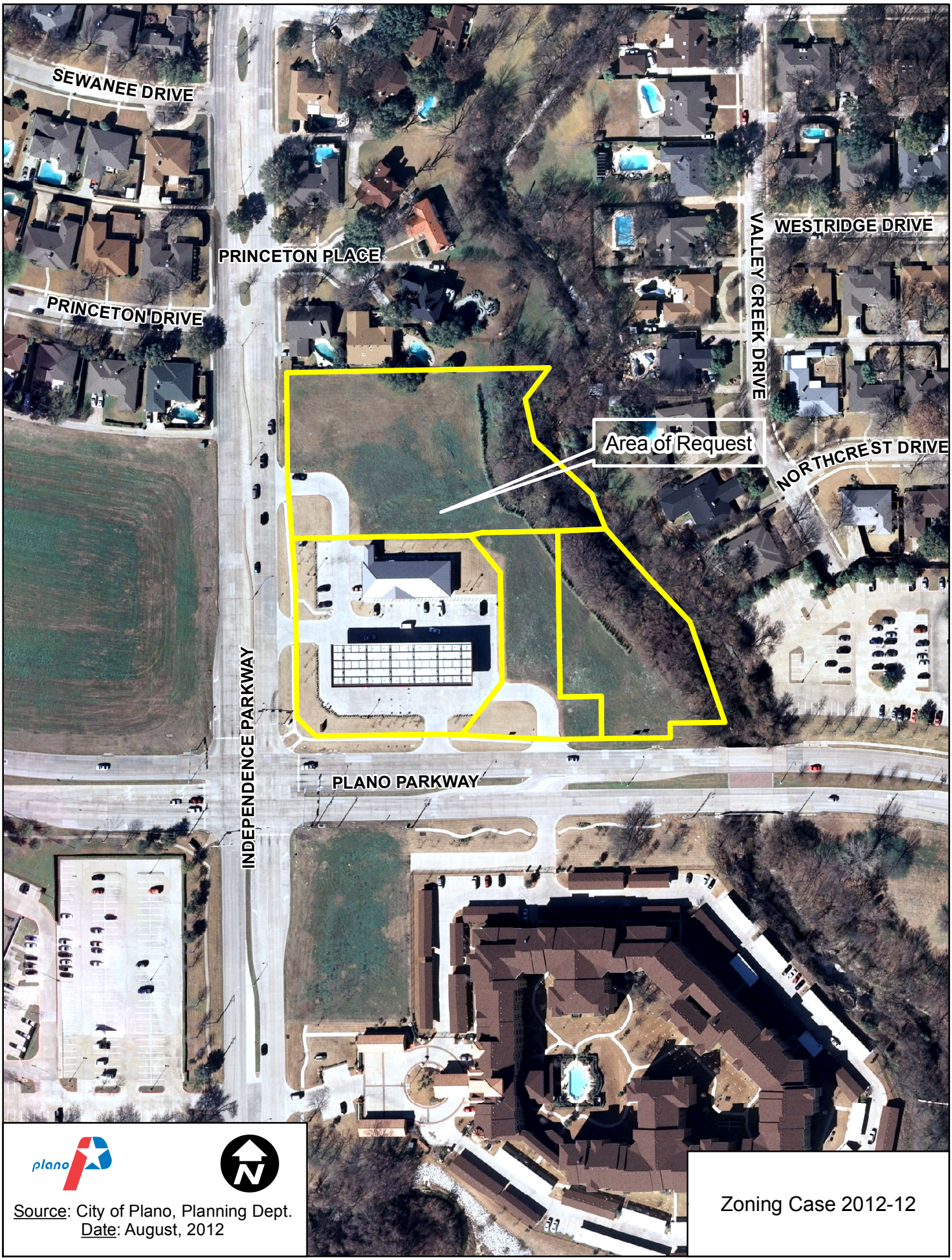




Zoning Case #: 2012-12

Existing Zoning: PLANNED DEVELOPMENT-374-RETAIL/
190 TOLLWAY/PLANO PARKWAY OVERLAY DISTRICT

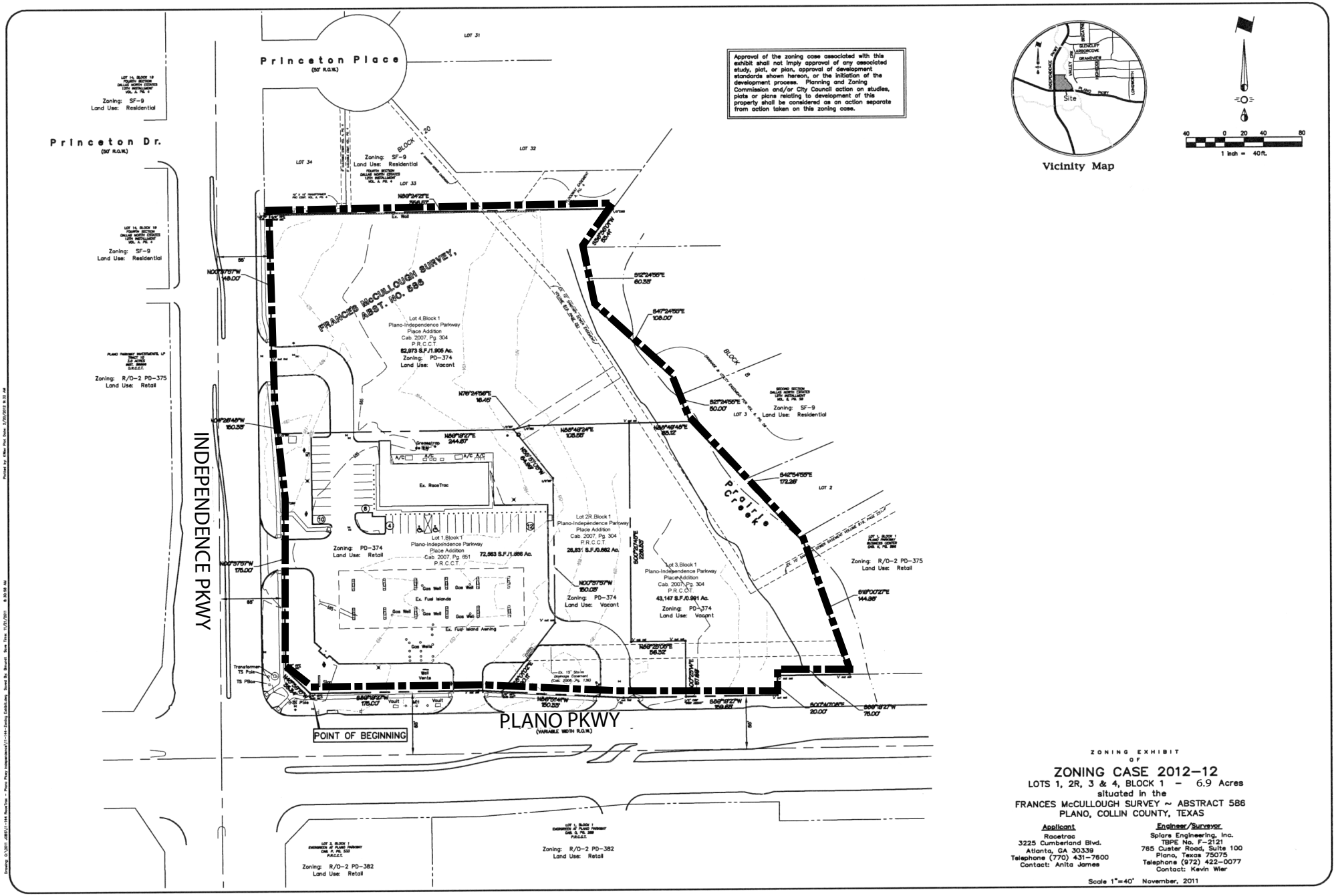
◯ 200' Notification Buffer



Source: City of Plano, Planning Dept.
Date: August, 2012

Zoning Case 2012-12

Dee Sarver 4/10/2012 X:\Dept\P&Z Locators & Graphics\Z2012-12A.mxd



ZONING EXHIBIT
OF

ZONING CASE 2012-12

LOTS 1, 2R, 3 & 4, BLOCK 1 – 6.9 Acres
situated in the
FRANCES McCULLOUGH SURVEY ~ ABSTRACT 586
PLANO, COLLIN COUNTY, TEXAS

Applicant
Racetrac
3225 Cumberland Blvd.
Atlanta, GA 30339
Telephone (770) 431-7600
Contact: Anita James

Engineer/Surveyor
Spiars Engineering, Inc.
TBPE No. F-2121
765 Custer Road, Suite 100
Plano, Texas 75075
Telephone (972) 422-0077
Contact: Kevin Wier

Scale 1"=40' November, 2011

Zoning Case 2012-12

An Ordinance of the City of Plano amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-374-Retail on 6.9± acres of land out of the Frances McCullough Survey, Abstract No. 586, located at the northeast corner of Plano Parkway and Independence Parkway, in the City of Plano, Collin County, Texas, to modify the development standards of the district including amending or repealing the limitation on the hours of operation; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 10th day of September, 2012, for the purpose of considering amending Planned Development-374-Retail on 6.9± acres of land out of the Frances McCullough Survey, Abstract No. 586, located at the northeast corner of Plano Parkway and Independence Parkway, in the City of Plano, Collin County, Texas, to modify the development standards of the district including amending or repealing the limitation on the hours of operation; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 10th day of September, 2012; and

WHEREAS, the City Council is of the opinion and finds that such amendment would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to amend Planned Development-374-Retail on 6.9± acres of land out of the Frances McCullough

Survey, Abstract No. 586, located at the northeast corner of Plano Parkway and Independence Parkway, in the City of Plano, Collin County, Texas, to modify the development standards of the district including amending or repealing the limitation on the hours of operation, said property being described in the legal description on Exhibit "A" attached hereto.

Section II. The change granted in Section I is granted subject to the following:

Restrictions:

1. Maximum Square Footage: 118,701 square feet of building area

2. Maximum Retail: 100% - Neighborhood Support Retail.
   In addition to those uses permitted in the Retail districts, the following uses shall be permitted:

   - Office - showroom/warehouse
   - Office - technical
   - Scientific and research labs

3. Truck docks for these uses shall be located at grade level.

4. Maximum Floor Area Ratio: 0.5:1

5 Maximum Floor Area Ratio on any Given Lot: 0.75:1

6. Maximum Lot Coverage: 40% (inclusive of parking structures)

7. Maximum Building Height: 2 story (36 feet) - all heights shall include mechanical/penthouse

8. Maximum Parking Structure Height: 2 levels above grade (20 feet)

9. Setback Requirements: 50 feet from north property line and 50 feet from Plano Pkwy.

The zoning granted above is granted subject to the following additional stipulations:

1. Regulatory provisions of the Zoning Ordinance pertaining to additional setbacks from residential zoning districts (Sections 3.500, 3.600, and 3.700) shall apply to this tract.

2. A study of Plano Pkwy., from Jupiter Rd. to Preston Rd., shall be conducted by the city to evaluate standards and plans for driveway spacing, median breaks,

acceleration/deceleration lanes, signalization, and intersection design. The objective of the study is to enhance the parkway's capacity without adding additional through lanes. The cost of the study shall be borne by the petitioners for zoning. The closing of Longworth Dr. north of Plano Pkwy. shall be a major consideration in the Plano Parkway Study.

3. All landscape areas required by the Design Guidelines (referenced after PD-393-R/O-2) shall be irrigated by an underground, automatic sprinkler system.

4. All subsequently approved preliminary site plans and site plans for this tract shall conform to the Design Guidelines for the Plano Pkwy./S.H. 190 Corridor as adopted by the City Council and as placed by the owner as Restrictive Covenants on the tract binding both the current and future owners to such guidelines.

5. This tract shall be deed restricted to limit the hours of operation to 19 total hours, preferably with 12:00 a.m. to 5:00 a.m. being the closed hours.

6. No access to any tract shall be gained from the existing alley or alleys serving the residential area.

7. Truck docks and trash containers shall be to the interior of constructed buildings and at grade.

8. There will be no dedicated street adjacent and parallel to the residential district.

9. Parking structures shall be screened from view of the residential district through the use of natural screens.

10. Sodium vapor lights shall not be used for parking lots and other exterior lighting. All lighting shall meet the requirements of the Plano Lighting Ordinance.

Refer to Design Guidelines after PD-393-R/O-2 for additional stipulation.

Section III. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

Section IV. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section V. The repeal of any ordinance or part of ordinances affectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or

altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section VI. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VII. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VIII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 10TH DAY OF SEPTEMBER, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Zoning Case 2012-12

BEING a tract or parcel of land situated in the City of Plano, Collin County, Texas; and being out of the Francis McCullough Survey, Abstract No. 586; and being more particularly described as follows:

BEGINNING at a point for corner at the intersection of the centerline of Plano Parkway (100 feet wide) and the centerline of Independence Parkway (100 feet wide);

THENCE North, 00° 09' 14" East, along said centerline of Independence Parkway a distance of 563.05 feet to a point for corner;

THENCE South, 89° 48' 28" East, along the southerly line of the Dallas North Estates, 12th Installment, Fourth Section, an addition to the City of Plano as recorded in Cabinet A, Page 4 of the Map Records of Collin County, Texas a distance of 411.57 feet to an iron rod for corner;

THENCE along the westerly line of the Dallas North Estates, 12th Installment, Second Section, an addition to the City of Plano as recorded in Volume 6, Page 59 of the Map Records of Collin County, Texas, the following calls:

South, 37° 23' 12" West, a distance of 53.41 feet to an iron rod for angle point;

South, 11° 37' 44" East, a distance of 60.33 feet to an iron rod for angle point;

South, 46° 37' 44" East, a distance of 108.00 feet to an iron rod for angle point;

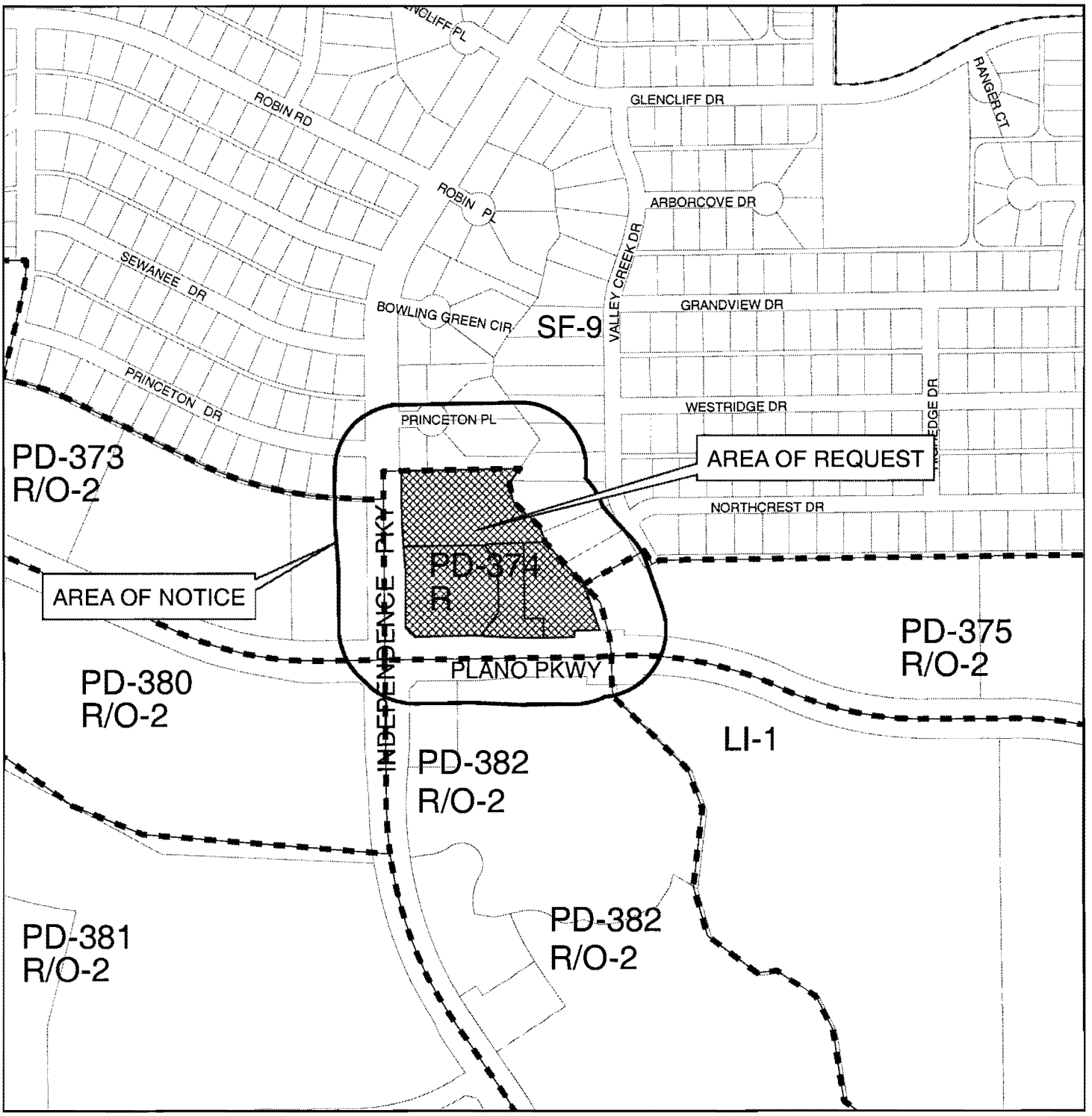
South, 20° 37' 44" East, a distance of 50.00 feet to an iron rod for angle point;

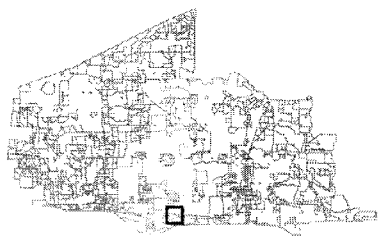
South, 42° 07' 44" East, a distance of 172.26 feet to an iron rod for corner, said rod being the southwesterly corner of said addition;

THENCE South, 18° 13' 16" East, a distance of 144.98 feet to an iron rod for corner in the northerly line of said Plano Parkway;

THENCE South 00° 06' 38" West, a distance of 75.00 feet to a point for corner in the centerline of said Plano Parkway;

THENCE North, 89° 53' 22" West, continuing along said centerline of Plano Parkway a distance of 649.68 feet to the POINT OF BEGINNING and CONTAINING 298,600 square feet or 6.8549 acres.

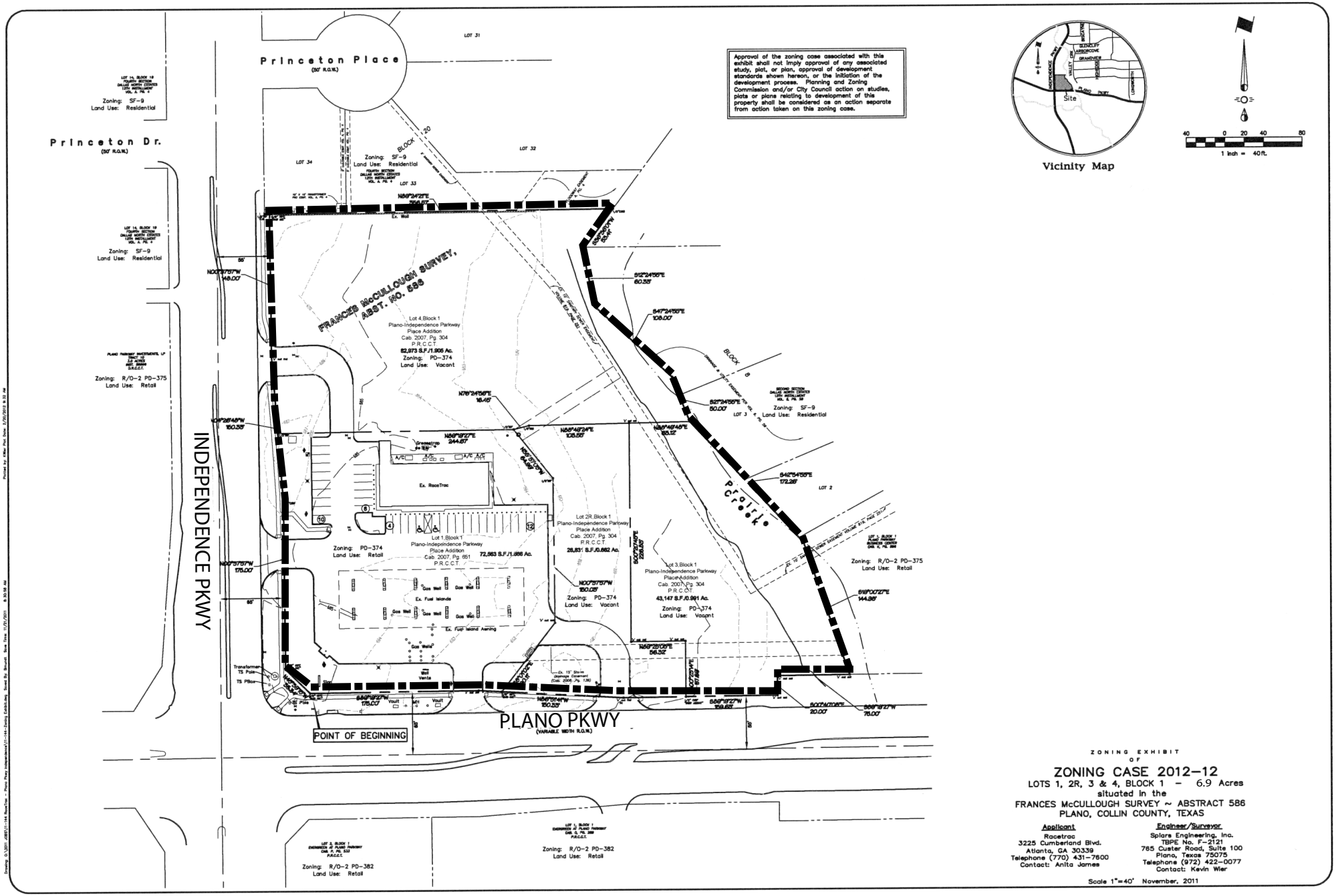




Zoning Case #: 2012-12

Existing Zoning: PLANNED DEVELOPMENT-374-RETAIL/
190 TOLLWAY/PLANO PARKWAY OVERLAY DISTRICT

◯ 200' Notification Buffer



ZONING EXHIBIT
OF

ZONING CASE 2012-12

LOTS 1, 2R, 3 & 4, BLOCK 1 – 6.9 Acres
situated in the
FRANCES McCULLOUGH SURVEY ~ ABSTRACT 586
PLANO, COLLIN COUNTY, TEXAS

Applicant
Racetrac
3225 Cumberland Blvd.
Atlanta, GA 30339
Telephone (770) 431-7600
Contact: Anita James

Engineer/Surveyor
Spiars Engineering, Inc.
TBPE No. F-2121
765 Custer Road, Suite 100
Plano, Texas 75075
Telephone (972) 422-0077
Contact: Kevin Wier

Scale 1"=40' November, 2011