

ADDENDUM
CITY COUNCIL MEETING
WEDNESDAY, MAY 11, 2005
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TEXAS 75201
9:00 A.M.
REVISED ORDER OF BUSINESS

#31
FOR 7
to 25
Hill
Grayson
Finkelman
Salazar
Hill
Blandon
Rozanski
Chase
Miller
Fantry
Griffith
Garcia
Oakley
Griffith, mto to re-consider
w/ 2nd
9 vote to Reconsider
6 vote agnt reconsider
Hill moves differ 2 wks,
Grayson substitute
+ move to deny 31
→ Rozanski 2nd's
→ rego. simple majority
→ 8 majority to
deny
Mill, Fanti, T-R,
Grayson, Chaney
Blandon, Rozanski, Oakley

Agenda items for which individuals have registered to speak will be considered no earlier than the time indicated below:

9:00 a.m. **MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**

CLOSED SESSION

OPEN MICROPHONE

MINUTES Item 1

Addendum Item 1

CONSENT AGENDA Items 2 - 25

CONSENT ADDENDUM Items 2 - 4

#34
Unanimous

ITEMS FOR INDIVIDUAL CONSIDERATION

No earlier Items 40 - 44
than 9:30 a.m. Addendum Items 6 - 8

PUBLIC HEARINGS AND RELATED ACTIONS

1:00 p.m. Items 26 - 39

Addendum Item 5

#34

Consent Agenda is
26-30 + Addendum #5
Passed
31 hold to exist. (FNL)
32 pass
33 hold to 4/8
34 hold to end.
35?
See agenda

**ADDENDUM
CITY COUNCIL MEETING
MAY 11, 2005
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TEXAS 75201
9:00 A.M.**

ADDITIONS:

1. Approval of Minutes of the April 13, 2005 City Council Meeting

Closed Session

Attorney Briefings (Sec. 551.071 T.O.M.A.)

- Erubial Cruz, et al. v. Mark DeLaPaz, et al., Cause No. 3:02-CV-0649-K

- Yvonne Gwyn v. Mark DeLaPaz, et al., Cause No. 3:03-CV-2121-K

- Environmental Conservation Organization v. City of Dallas, Cause No. 3:03-CV-2951-M and in the administrative proceeding styled Administrative Order Docket Nos. CWA-06-2004-1911 and RCRA-06-2004-0907

- Legal issues related to James, et al. v. City of Dallas, Case No. 3:98-CV-00436 (N.D. Tex.); and Bell et al. v. City of Dallas, Consol. Case No. 3:95-CV-00383 (N.D. Tex.) and Appellate Case No. 4-10818 (5th Cir.), and related matters

CONSENT ADDENDUM

PURCHASING OF EQUIPMENT, SUPPLIES AND SERVICES

2. Authorize a twelve-month price agreement for the installation of full body auto decal sets for Police patrol cars with the lowest responsible bidder of three - Chroma-Tone, Inc. - Not to exceed \$75,984 - Financing: Current Funds

RATIFICATION OF EMERGENCY PURCHASE

3. Ratify an emergency purchase of approximately 272 feet of 96-inch pipe to repair a water main located between the East Side Water Treatment Plant and the Jim Miller Pump Station - Hanson Pipe & Products - Not to exceed \$225,670 - Financing: Water Utilities Capital Improvement Funds

MISCELLANEOUS

4. Authorize the issuance of tax-exempt financing by the Manvel Cultural Educational Facilities Finance Corporation in an amount not to exceed \$7,250,000 for the acquisition of a 4.66 acre

tract of land located at the northwestern corner of the intersection of Field Street and Woodall Rodgers Freeway for cultural facilities for the Dallas Museum of Natural History Association - Financing: No cost consideration to the City

ADDENDUM

**CITY COUNCIL MEETING
MAY 11, 2005**

ADDITIONS: (Continued)

PUBLIC HEARINGS AND RELATED ACTIONS

ZONING CASES - CONSENT

5. An application for and an ordinance granting an R-5(A) Single Family district on property zoned Planned Development district No. 304 for a police training facility and water storage and utilities, generally located on the northwest corner of the intersection of Interstate Highway 20 and Interstate Highway 45, east of J. J. Lemmon Road

Recommendation of Staff and CPC: Approval
Z034-250(DC)

ITEMS FOR INDIVIDUAL CONSIDERATION

6. Authorize payment to Design Professionals Insurance Company for the legal services of Capshaw, Goss, Bowers, L.L.P. related to the lawsuit styled Bencor Corporation of America Foundation Specialist, et al. v. Manhattan Construction Company, Inc. v. Austin Commercial, Inc., Cause No. 3:03-CV-2821-M involving a construction claim related to the Dallas Convention Center Expansion and Renovation 2002 Project - Not to exceed \$250,000 - Financing: Convention Center Revenue Contingency Funds

7. Authorize (1) settlement of the lawsuit styled Bencor Corporation of America Foundation Specialist, et al. v. Manhattan Construction Company, Inc. v. Austin Commercial, Inc., Cause No. 3:03-CV-2821-M involving a construction claim related to the Dallas Convention Center Expansion and Renovation 2002 Project; (2) payment to Manhattan Construction Company, Inc. for the city's contribution towards the settlement of this lawsuit in an amount not to exceed \$2,077,188; (3) release of the previously authorized remaining contract balance of \$858,976 to Manhattan Construction Company, Inc., pursuant to the terms of the settlement agreement; and (4) an increase in appropriations in an amount not to exceed \$2,077,188 in the Convention Center Revenue Contingency Funds - Total not to exceed \$2,077,188 - Financing: Convention Center Revenue Contingency Funds

8. An ordinance amending Chapter 18 of the Dallas City Code to lower the allowed height at which vegetation may project over sidewalks from 15 feet to 8 feet above the ground - Financing: No cost consideration to the City (via Mayor Miller)

RECEIVED

2015 APR 29 PM 4:46

CITY SECRETARY
DALLAS, TEXAS

Public Notice

00530

POSTED CITY SECRETARY
DALLAS, TX



COUNCIL AGENDA

May 11, 2005

DATE

(FOR GENERAL INFORMATION AND RULES OF COURTESY PLEASE SEE OPPOSITE SIDE.)
 (LA INFORMACIÓN GENERAL Y REGLAS DE CORTESÍA QUE DEBEN OBSERVARSE
 DURANTE LAS ASAMBLEAS DEL CONSEJO MUNICIPAL APARECEN EN EL LADO OPUESTO, FAVOR DE LEERLAS.)

JW 01161

General Information

The Dallas City Council regularly meets on Wednesdays beginning at 9:00 a.m. in the Council Chambers, 6th floor, City Hall, 1500 Marilla. Council agenda meetings are broadcast live on WRR-FM radio (101.1 FM) and on AT&T CityCable Channel 6B. Briefing meetings are held the first and third Wednesdays of each month. Council agenda (voting) meetings are held on the second and fourth Wednesdays. Anyone wishing to speak at a meeting should sign up with the City Secretary's Office by calling (214) 670-3738 before 9:00 a.m. on the meeting date. Citizens can find out the name of their representative and their voting district by calling the City Secretary's Office.

Sign interpreters are available upon request with a 48-hour advance notice by calling (214) 670-5208 V/TDD. The City of Dallas is committed to compliance with the Americans with Disabilities Act. The Council agenda is available in alternative formats upon request.

If you have any questions about this agenda or comments or complaints about city services, call 311.

Rules of Courtesy

City Council meetings bring together citizens of many varied interests and ideas. To insure fairness and orderly meetings, the Council has adopted rules of courtesy which apply to all members of the Council, administrative staff, news media, citizens and visitors. These procedures provide:

- That no one shall delay or interrupt the proceedings, or refuse to obey the orders of the presiding officer.
- All persons should refrain from private conversation, eating, drinking and smoking while in the Council Chamber.
- Posters or placards must remain outside the Council Chamber.
- No cellular phones or audible beepers allowed in Council Chamber while City Council is in session.

"Citizens and other visitors attending City Council meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the City Council. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the City Council or while attending the City Council meeting shall be removed from the room if the sergeant-at-arms is so directed by the presiding officer, and the person shall be barred from further audience before the City Council during that session of the City Council. If the presiding officer fails to act, any member of the City Council may move to require enforcement of the rules, and the affirmative vote of a majority of the City Council shall require the presiding officer to act." Section 3.3(c) of the City Council Rules of Procedure.

Informacion General

El Ayuntamiento de la Ciudad de Dallas se reúne regularmente los miércoles en la Cámara del Ayuntamiento en el sexto piso de la Alcaldía, 1500 Marilla, a las 9 de la mañana. Las reuniones informativas se llevan a cabo el primer y tercer miércoles del mes. Estas audiencias se transmiten en vivo por la estación de radio WRR-FM 101.1 y por cablevisión en la estación AT&T CityCable Canal 6B. El Ayuntamiento Municipal se reúne el segundo y cuarto miércoles del mes para tratar asuntos presentados de manera oficial en la agenda para su aprobación. Toda persona que desee hablar durante la asamblea del Ayuntamiento, debe inscribirse llamando a la Secretaría Municipal al teléfono (214) 670-3738, antes de las 9 de la mañana del día de la asamblea. Para enterarse del nombre de su representante en el Ayuntamiento Municipal y el distrito donde usted puede votar, favor de llamar a la Secretaría Municipal.

Intérpretes para personas con impedimentos auditivos están disponibles si lo solicita con 48 horas de anticipación llamando al (214) 670-5208 (aparato auditivo V/TDD). La Ciudad de Dallas se esfuerza por cumplir con el decreto que protege a las personas con impedimentos, *Americans with Disabilities Act*. La agenda del Ayuntamiento está disponible en formatos alternos si lo solicita.

Si tiene preguntas sobre esta agenda, o si desea hacer comentarios o presentar quejas con respecto a servicios de la Ciudad, llame al 311.

Reglas de Cortesía

Las asambleas del Ayuntamiento Municipal reúnen a ciudadanos de diversos intereses e ideologías. Para asegurar la imparcialidad y el orden durante las asambleas, el Ayuntamiento ha adoptado ciertas reglas de cortesía que aplican a todos los miembros del Ayuntamiento, al personal administrativo, personal de los medios de comunicación, a los ciudadanos, y a visitantes. Estos reglamentos establecen lo siguiente:

- Ninguna persona retrasará o interrumpirá los procedimientos, o se negará a obedecer las órdenes del oficial que preside la asamblea.
- Todas las personas deben abstenerse de entablar conversaciones, comer, beber y fumar dentro de la cámara del Ayuntamiento.
- Anuncios y pancartas deben permanecer fuera de la cámara del Ayuntamiento.
- No se permite usar teléfonos celulares o enlaces electrónicos (*paggers*) audibles en la cámara del Ayuntamiento durante audiencias del Ayuntamiento Municipal.

"Los ciudadanos y visitantes presentes durante las asambleas del Ayuntamiento Municipal deben obedecer las mismas reglas de comportamiento, decoro y buena conducta que se aplican a los miembros del Ayuntamiento Municipal. Cualquier persona que haga comentarios impertinentes, utilice vocabulario obsceno o difamatorio, o que al dirigirse al Ayuntamiento lo haga en forma escandalosa, o si causa disturbio durante la asamblea del Ayuntamiento Municipal, será expulsada de la cámara si el oficial que esté presidiendo la asamblea así lo ordena. Además, se le prohibirá continuar participando en la audiencia ante el Ayuntamiento Municipal. Si el oficial que preside la asamblea no toma acción, cualquier otro miembro del Ayuntamiento Municipal puede tomar medidas para hacer cumplir las reglas establecidas, y el voto afirmativo de la mayoría del Ayuntamiento Municipal precisará al oficial que esté presidiendo la sesión a tomar acción." Según la sección 3.3(c) de las reglas de procedimientos del Ayuntamiento.

**AGENDA
CITY COUNCIL MEETING
WEDNESDAY, MAY 11, 2005
ORDER OF BUSINESS**

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9:00 a.m. **MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**

OPEN MICROPHONE

MINUTES

Item 1

CONSENT AGENDA

Items 2 - 25

ITEMS FOR INDIVIDUAL CONSIDERATION

No earlier
than 9:30 a.m.

Items 40 - 44

PUBLIC HEARINGS AND RELATED ACTIONS

1:00 p.m.

Items 26 - 39

NOTE: A revised order of business may be posted prior to the date of the council meeting if necessary.

JW 01163

AGENDA
CITY COUNCIL MEETING
MAY 11, 2005
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TEXAS 75201
9:00 A. M.

Moment of Silence and Pledge of Allegiance (Council Chambers)

Agenda Item/Open Microphone Speakers

VOTING AGENDA

1. Approval of Minutes of the April 27, 2005 City Council Meeting

CONSENT AGENDA

AUTHORIZATIONS RELATED TO CONSTRUCTION PROJECTS

Engineering and Architectural Contracts

2. Authorize a professional services contract with Halff Associates, Inc. to provide engineering design services for the replacement of water mains and the rehabilitation or replacement of wastewater mains at 17 various locations (list attached) - \$466,544 - Financing: Water Utilities Capital Improvement Funds

JW 01164

CONSENT AGENDA (Continued)

AUTHORIZATIONS RELATED TO CONSTRUCTION PROJECTS (Continued)

Authorization of Contracts

3. Authorize a contract for the construction of a security fence and removal of the existing fence at the Police Auto Pound located at 1955 Vilbig Road - United Fence Contractors, Inc. dba Richardson Bros. Fence Co., lowest responsible bidder of nine - Not to exceed \$296,539 - Financing: 1996 Omnibus Appropriation Local Law Enforcement Block Grant Funds
4. Authorize a contract for the construction of the new Timberglen Branch Library to be located near the corner of Timberglen Road and Midway Road - CME Builders & Engineers, Inc., lowest responsible bidder of two - \$3,637,000 - Financing: 2003 Bond Funds
5. Authorize a contract for the construction of meter and pump improvements at the Elm Fork Water Treatment Plant - Archer Western Contractors, Ltd., lowest responsible bidder of four - \$4,414,000 - Financing: Water Utilities Capital Improvement Funds

Contract Amendments

6. Authorize an increase in the contract with Alshall Construction Company for additional costs for utility work at the street, steel work at masonry fence, removal of tree stumps at steel fence, metal and wood framing, electrical work and credits for concrete piers, masonry fence and kiln hood at the Timberglen Recreation Center located at 3810 Timberglen Drive - Not to exceed \$63,925, from \$2,217,232 to \$2,281,157 - Financing: 1998 Bond Funds
7. Authorize an increase in the contract with Parks for Play, Inc. for a picnic shelter at South Central Park located at 4753 Fellows Lane - \$21,229, from \$139,720 to \$160,949 - Financing: 2002-03 Community Development Grant Funds
8. Authorize a decrease in the contract with Rebcon, Inc. for the South Central Improvements, Phase I, for additional paving and drainage quantities and deletion of the original Linfield Road bridge structure - (\$247,893), from \$3,885,744 to \$3,637,851 - Financing: 1998 Bond Funds

Construction Miscellaneous

9. Authorize an Interlocal Agreement with the Texas Department of Transportation to provide cost reimbursement for traffic signal improvements at the intersection of IH 20 at SH 342 (Lancaster Road) - \$37,464 - Financing: Texas Department of Transportation Grant Funds

CONSENT AGENDA (Continued)

LAND MISCELLANEOUS

10. Authorize an environmental deed restriction, proposed by Aviall Services, Inc., prohibiting the use of groundwater for residential, agricultural, recreational, industrial or commercial purposes without the express written pre-approval of the State of Texas under portions of (1) Shorecrest Drive near its intersection with Reeves and Weiss Streets, (2) Reeves Street near its intersection with Wylie and Love Field Drives and Putnam Street, (3) Wylie Drive near its intersection with Reeves and Weiss Streets, (4) Putnam Street near its intersection with Reeves Street, (5) Love Field Drive near its intersection with Reeves Street, and (6) Weiss Street near its intersection with Shorecrest and Wylie Drives - Revenue: \$154,244
11. An ordinance abandoning Hobbs Avenue to Southern Foods Group, L.P., the abutting owner, containing approximately 22,939 square feet of land located near its intersection with Haskell Avenue, authorizing the quitclaim and providing for the dedication of approximately 4,557 square feet of land needed for street right-of-way - Revenue: \$31,250 plus the \$20 ordinance publication fee
12. An ordinance granting a private license to Southwestern Bell Telephone, L.P. for a total of approximately 598 square feet of land to use and maintain existing transformer vault and basement areas in the Field Street right-of-way located near the intersection of Field and Wood Streets - Revenue: \$1,000 annually plus the \$20 ordinance publication fee

PURCHASING OF EQUIPMENT, SUPPLIES AND SERVICES

13. Authorize a forty-eight-month service contract for utility vehicle rental with the lowest responsible bidder of two - Metro Golf Cars - Not to exceed \$716,441 - Financing: Current Funds (\$665,266), Golf Improvement Trust Funds (\$51,175)
14. Authorize a thirty-six-month service contract for court reporting services with the most favorable proposer of three - All-American Reporting - Not to exceed \$235,000 - Financing: Current Funds
15. Authorize the purchase of a replacement trailer tipper for use at the McCommas Bluff Landfill from the lowest responsible bidder of two - Phelps Industries - Not to exceed \$283,525 - Financing: 2003 Equipment Acquisition Contractual Obligation Notes
16. Authorize the purchase of one flusher truck for use at the McCommas Bluff Landfill from the lowest responsible bidder of three - Southwest International Trucks - Not to exceed \$85,741 - Financing: 2003 Equipment Acquisition Contractual Obligation Notes

CONSENT AGENDA (Continued)

PURCHASING OF EQUIPMENT, SUPPLIES AND SERVICES (Continued)

17. Authorize a forty-eight-month price agreement for anthracite filter media to be used in the water purification process with the lowest responsible bidder of three - New Life Environmental, Inc. dba Spartan Filtration - Not to exceed \$669,089 - Financing: Water Utilities Current Funds
18. Authorize a thirty-six-month price agreement for anhydrous ammonia to be used in the water disinfecting process with the lowest responsible bidder of two - LaRoche Industries, Inc. - Not to exceed \$1,605,600 - Financing: Water Utilities Current Funds
19. Authorize a twenty-four-month price agreement for methanol to be used at the Southside Wastewater Treatment Plant with the lowest responsible bidder of three - Buckley Oil Company - Not to exceed \$994,400 - Financing: Current Funds
20. Authorize the purchase of various radio tower parts to improve the clarity of the WRR radio broadcast from the only bidder - Dielectric Communications - Not to exceed \$155,135 - Financing: WRR Capital Construction Funds

RATIFICATION OF EMERGENCY REPAIRS

21. Ratify emergency repairs to the 96-inch water main between the East Side Water Treatment Plant and the Jim Miller Pump Station and authorize an increase in the contract with John Burns Construction Company of Texas, Inc. for the repairs - \$486,851, from \$5,570,666 to \$6,057,517 - Financing: Water Utilities Capital Improvement Funds

MISCELLANEOUS

22. Authorize a public hearing to be held on May 25, 2005 to receive citizens' comments regarding the establishment of approved basic service tier and equipment rates for cable television services provided by Comcast Cable of Dallas, Inc. - Financing: No cost consideration to the City
23. Authorize (1) a public hearing to be held on May 25, 2005 to receive citizens' comments on re-adopting and continuing in effect Chapter 12, "City Youth Program Standards of Care," of the Dallas City Code, to re-establish standards of care for certain city youth programs in compliance with State law, and at the close of the public hearing, (2) consideration of the re-adoption of Chapter 12 of the Dallas City Code - Financing: No cost consideration to the City

CONSENT AGENDA (Continued)MISCELLANEOUS (Continued)

24. Authorize application for the continuation of the Commercial Auto Theft Interdiction Squad grant in the amount of \$484,994 to provide a specialized proactive automobile theft program from the Texas Automobile Theft Prevention Authority, for the period September 1, 2005 through August 31, 2006 (local match in the amount of \$72,528, or 7.4% of all expenses, will be required if awarded and in-kind contributions in the amount of \$485,285 will be contributed by the Dallas Police Department) - Financing: This action has no cost consideration to the City
25. Authorize (1) the application for and acceptance of the "Click It or Ticket" Overtime Enforcement grant in the amount of \$77,000 from the Texas Department of Transportation for a seat belt enforcement initiative for the period of May 23, 2005 through June 5, 2005, (2) a City contribution of pension and Federal Insurance Contributions Act costs in the amount of \$21,729, and (3) execution of the grant agreement - Total not to exceed \$98,729 - Financing: Current Funds (\$21,729) and Texas Department of Transportation Grant Funds (\$77,000)

PUBLIC HEARINGS AND RELATED ACTIONSZONING CASES - CONSENT

26. An application for and an ordinance granting a Specific Use Permit for an alcoholic beverage establishment use for a bar, lounge, or tavern on property zoned an IR Industrial Research District, on the east side of Emerald Lane, south of Crown Boulevard
Recommendation of Staff and CPC: Approval for a two-year period with eligibility for automatic renewal for additional two-year periods, subject to a site plan and conditions
Z034-290(RB)
27. A City Plan Commission authorized hearing to determine proper zoning on property zoned an R-7.5(A) Single Family District, an R-5(A) Single Family District, an MF-2(A) Multifamily District, an MH(A) Manufactured Home District, a CR Community Retail District and Planned Development District No. 694 for a Community Center with consideration given to an R-5(A) Single Family District in an area bounded by Simpson Stuart Road, Lancaster Road, Givendale Road, Barbee Boulevard, Persimmon Road and Tracy Road and an ordinance granting an R-5(A) Single Family District on a portion on the property
Recommendation of Staff and CPC: Approval, of an R-5(A) Single Family District on that area described as being bounded by and including properties on either side of Kemrock Drive, Tracy Road and Kavasar Drive and the frontage on the north side of Simpson Stuart Road between Tracy Road and Blunter Street currently zoned an R-7.5(A) Single Family District exclusive of Planned Development District No. 694 for a Community Center with no change for the remainder of the area
Z034-319(MF)

PUBLIC HEARINGS AND RELATED ACTIONS (Continued)

ZONING CASES - CONSENT (Continued)

28. An application for and an ordinance granting an amendment to, and an expansion of, Planned Development District No. 368 for a private school and child-care facility and an ordinance terminating Specific Use Permit No. 1061 for a private school and child-care facility on property zoned Planned Development District No. 368 and an R-16(A) Single Family District, on the south side of Churchill Way, east of Preston Road
Recommendation of Staff and CPC: Approval, subject to a development plan and conditions and approval of the termination of SUP No. 1061
Z045-147(WE)

29. An application for and an ordinance granting a Specific Use Permit for a child-care facility on property zoned a TH-3(A) Townhouse District, on the northwest side of Ryan Road, southwest of Garapan Drive
Recommendation of Staff and CPC: Approval for a two-year period with eligibility for automatic renewals for additional two-year periods, subject to a site plan and conditions
Z045-186(DW)

30. An application for and an ordinance granting a Planned Development Subdistrict for MF-2 Multiple-family Subdistrict uses within Planned Development District No. 193, the Oak Lawn Special Purpose District, and a resolution terminating the existing deed restrictions, and a resolution accepting new deed restrictions volunteered by the applicant providing for access to the Katy Trail, on property zoned a P Parking Subdistrict within Planned Development District No. 193 located on the northwest side of Buena Vista Street, southwest of Fitzhugh Avenue with consideration given to an MF-2 Multiple-family Subdistrict in Planned Development District No. 193
Recommendation of Staff: Approval of an MF-2 Multiple-family Subdistrict subject to deed restrictions volunteered by the applicant in lieu of the requested Planned Development Subdistrict for MF-2 Multiple-family Uses
Recommendation of CPC: Approval, subject to a development plan, conditions, and new deed restrictions volunteered by the applicant and approval of the termination of existing deed restrictions
Z045-188(DW)

PUBLIC HEARINGS AND RELATED ACTIONS (Continued)

ZONING CASES - INDIVIDUAL

31. A City Plan Commission authorized hearing to determine proper zoning on property zoned an MF-2(A) Multifamily District with consideration given to a Single Family District, on property northwest of Live Oak between Munger Avenue and Ross Avenue and an ordinance granting an R-7.5(A) Single Family District on a portion of the area
Recommendation of Staff: No change to existing zoning on lots west of Matilda Street and on lots fronting on the south side of Ross Avenue and the approval of an R-5(A) Single Family District on the remainder of the area, or consideration given to authorizing a public hearing to consider a D(A) Duplex District on this portion of the request area
Recommendation of CPC: No change to existing zoning for properties in the northwest portion of the area, and approval of an R-7.5(A) Single Family District for the remainder of the area
Z045-143(DW)

ZONING CASES - DALLAS INDEPENDENT SCHOOL DISTRICT

32. An application for and an ordinance granting a Planned Development District for a public school other than an open-enrollment charter school and R-16(A) Single Family District uses on property zoned an R-16(A) Single Family District, on the east side of Hedgeway Drive between Killon Drive and Walnut Hill Lane
Recommendation of Staff and CPC: Approval, subject to a development plan and conditions
Z045-180(WE)
33. An application for and an ordinance granting an RR Regional Retail District on property zoned Planned Development District No. 579 for a bus fueling station and light service facility, on the southeast corner of Lancaster Avenue and Ninth Street
Recommendation of Staff and CPC: Approval
Z045-182(WE)

May 11, 2005

Blaydes
Sala
Razan
Chaney
Greyson
Dr. J-R

Mayor
Loza
Hill
Fantroy
Finkelman
Lil
Griffith
Garcia
Oakley

*Passed
unanimously*

*Hill MKS. Appl.
Loza - yes.*

PUBLIC HEARINGS AND RELATED ACTIONS (Continued)

ZONING CASES - UNDER ADVISEMENT - INDIVIDUAL

- 34. An application for and an ordinance granting an MU-2 Mixed Use District with retention of the D-1 Liquor Control Overlay on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay and an MC-1-D-1 Multiple Commercial District with a D-1 Liquor Control Overlay and a resolution accepting new deed restrictions volunteered by the applicant and a resolution terminating existing deed restrictions, north of Bruton Road, west of St. Augustine Road

Recommendation of Staff and CPC: Approval of an MU-2 Mixed Use District with retention of the D-1 Liquor Control Overlay subject to new deed restrictions volunteered by the applicant and approval of the termination of existing deed restrictions

Z034-327(DW)

Note: This item was considered by the City Council at public hearings on February 9 and 23, March 9, and April 13, 2005, where the public hearing was closed with instructions for the case to be readvertised for a public hearing on May 11, 2005.

DEVELOPMENT CODE AMENDMENTS

- 35. Consideration of and an ordinance granting an amendment to Chapters 51 and 51A of the Dallas Development Code to establish appropriate standards for single family accessory structures

Recommendation of Staff and CPC: Approval
DCA 045-005

Panconelly speaks
Santos opposed
3 provisions
Kirk W. in favor

FLOODPLAIN APPLICATION

- 36. A public hearing regarding the application for a fill permit and removal of the floodplain (FP) prefix from 1.66 acres of land, zoned R-16 for single family development, currently in the 100-year floodplain of White Rock Creek located at 6500 Spring Valley Road - Fill Permit 05-02 - Financing: No cost consideration to the City

MISCELLANEOUS HEARINGS

- 37. A public hearing to receive citizens' comments in preparation of the FY 2005-06 Operating, Capital, Grant and Trust budgets - Financing: No cost consideration to the City

[Handwritten mark]

PUBLIC HEARINGS AND RELATED ACTIONS (Continued)

MISCELLANEOUS HEARINGS (Continued)

Private Sale of Unimproved Properties **Note:** Item nos. 38 and 39 must be considered collectively.

- 38. * A public hearing to receive citizens' comments on the proposed private sale by quitclaim deed of 3 unimproved properties acquired by the taxing authorities from the Sheriff's Sale to The 2000 Roses Foundation, Inc. and Light Economic and Development, Inc., qualified non-profit organizations (list attached) - Financing: No cost consideration to the City
- 39. * Authorize the private sale, as provided for by Section 34.015 of the Texas Property Tax Code by quitclaim deed of 3 unimproved properties acquired by the taxing authorities from a Sheriff's Sale to qualified non-profit organizations (list attached) - Revenue: \$3,000

ITEMS FOR INDIVIDUAL CONSIDERATION

- 40. Consideration of appointments to boards and commissions and the evaluation and duties of board and commission members (List of nominees is available in the City Secretary's Office)
- 41. Appointment of members to the DART Board (Closed Session, if necessary, Personnel, Sec. 551.074, T.O.M.A) (List of nominees is available in the City Secretary's Office)
- 42. Authorize a new resolution in support of Texas Department of Housing and Community Affairs award of 4% Low Income Housing Tax Credits and tax-exempt bonds for the new construction of St. Augustine Estates senior multifamily development to be located at the northeast corner of Bruton Road and St. Augustine - Financing: No cost consideration to the City

ITEMS FOR FURTHER CONSIDERATION

- 43. Authorize (1) a public hearing to be held on June 8, 2005 to receive citizens' comments to consider the creation of a tax increment financing reinvestment zone for the Deep Ellum area (Deep Ellum TIF District) under the authority of the Tax Increment Financing Act, as amended (V.T.C.A, Tax Code Chapter 311); and at the close of the hearing, (2) consideration of an ordinance creating the Deep Ellum TIF District - Financing: No cost consideration to the City
- 44. Authorize Supplemental Agreement No. 1 to the Interlocal Agreement with the Texas Department of Transportation for the construction of IH 20 frontage roads from Bonnie View Road to J.J. Lemmon Road - Financing: No cost consideration to the City

May 11, 2005

10

**Water and Wastewater Main Replacements
at 17 Various Locations
Agenda Item #2**

District 9

Alley between Forest Hills Blvd. & Santa Clara Dr. from St. Francis Ave. to
Lakeland Dr.
Alley between San Benito Way & San Leandro Dr. from San Rafael Dr. to
Breezewood Dr.
Alley between San Rafael Dr. & Highland Rd. from San Leandro Dr. to San Rafael Dr.
Corday St. and Groveland Dr. from San Leandro Dr. to Lakeland Dr.
Lakeland Dr. from San Pedro Dr. to Arturo Dr.
San Benito Way from St. Francis Ave. to Lakeland Dr.
San Benito Way from White Rock Dr. to St. Francis Ave.
Santa Clara Dr. from St. Francis Ave. to Lakeland Dr.
San Cristobal Dr. from Highland Rd. to St. Francis Ave.
San Pedro Dr. from Whittier Ave. to Lakeland Dr.
San Rafael Dr. east and west of San Fernando Way
San Rafael Dr. from San Benito to San Leandro Dr.
St. Francis Ave. from Garland Rd. to Barbaree Blvd.
White Rock Dr. from Garland Rd. to San Cristobal Dr.
Whittier Ave. from Santa Clara Dr. to San Pedro Dr.
Whittier Ave. and Eustis Ave. from San Leandro Dr. to Lakeland Dr.

District 14

Jackson St. from Field St. to Saint Paul St.

JW 01173

May 11, 2005

11

Tax Foreclosure Property Resale
Agenda Item #38/39

<u>Parcel No.</u>	<u>Address</u>	<u>Mapsco</u>	<u>Non-Profit Organization</u>	<u>DCAD Value</u>	<u>Sale Amount</u>	<u>Council District</u>
1.	3415 Detonte	47J	Light Economic and Development, Inc.	\$5,800	\$1,000	7
2.	4831 Dolphin	47J	Light Economic and Development, Inc.	\$5,800	\$1,000	7
3.	336 Denley	55B	The 2000 Roses Foundation, Inc.	\$1,500	\$1,000	7

JW 01174

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. Contemplated or pending litigation, or matters where legal advice is requested of the City Attorney. Section 551.071 of the Texas Open Meetings Act.
2. The purchase, exchange, lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.072 of the Texas Open Meetings Act.
3. A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.073 of the Texas Open Meetings Act.
4. Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Section 551.074 of the Texas Open Meetings Act.
5. The deployment, or specific occasions for implementation of security personnel or devices. Section 551.076 of the Texas Open Meetings Act.
6. Deliberations regarding Economic Development negotiations. Section 551.087 of the Texas Open Meetings Act.

May 11, 2005

13

PUBLIC MEETINGS FOR MAY 1 - MAY 15, 2005

Monday, May 2, 2005

Civil Service Board
8:30 a.m.
City Hall - 1CS Conference Room

Thursday, May 5, 2005

Community Development Commission
6:00 p.m.
City Hall Room 6ES

Thursday, May 12, 2005

Police & Fire Pension System
8:30 a.m.
2301 N. Akard Street - 1st Floor Conference Room

JW 01176

CATEGORY: PUBLIC HEARINGS AND RELATED ACTIONS

AGENDA DATE: May 11, 2005
COUNCIL DISTRICT(S): 5
DEPARTMENT: Department of Development Services
CMO: ^{ps} Ryan S. Evans, 670-3314
MAPSCO: 59 B

SUBJECT

An application for and an ordinance granting an MU-2 Mixed Use District with retention of the D-1 Liquor Control Overlay on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay and an MC-1-D-1 Multiple Commercial District with a D-1 Liquor Control Overlay and a resolution accepting new deed restrictions volunteered by the applicant and a resolution terminating existing deed restrictions, north of Bruton Road, west of St. Augustine Road

Recommendation of Staff and CPC: Approval of an MU-2 Mixed Use District with retention of the D-1 Liquor Control Overlay subject to new deed restrictions volunteered by the applicant and approval of the termination of existing deed restrictions
Z034-327(DW)

Note: This item was considered by the City Council at public hearings on February 9 and 23, March 9, and April 13, 2005, where the public hearing was closed with instructions for the case to be readvertised for a public hearing on May 11, 2005.

FILE NUMBER: Z034-327 (DW)

DATE FILED: September 22, 2004

LOCATION: North of Bruton Road, west of St. Augustine Road

COUNCIL DISTRICT: 5

MAPSCO: 59-B

SIZE OF REQUEST: 11.2 acres

CENSUS TRACT: 120

APPLICANT: Dallas I, LTD
(See attached list of Officers)

OWNER: Odyssey Residential Holdings, LP
(See attached list of Partners)

REPRESENTATIVE: Suzan Kedron, Jackson Walker, LLP

REQUEST: An application for an MU-2 Mixed Use District with retention of the D-1 Liquor Control Overlay on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay and an MC-1-D-1 Multiple Commercial District with a D-1 Liquor Control Overlay and termination of existing deed restrictions

SUMMARY: The purpose of the request is to allow the site to be developed into a mixed-use residential, office/retail project

CPC RECOMMENDATION: Approval, of an MU-2 Mixed Use District with retention of the D-1 Liquor Control Overlay, subject to deed restrictions volunteered by the applicant, and approval of termination of the deed restrictions.

STAFF RECOMMENDATION: Approval, of an MU-2 Mixed Use District with retention of the D-1 Liquor Control Overlay, subject to deed restrictions volunteered by the applicant, and approval of termination of the deed restrictions.

Z034-327 (DW)

BACKGROUND INFORMATION:

- The site is currently undeveloped.
- Existing deed restrictions filed in 1982 prohibit the site from being developed with multifamily residential uses.
- The purpose of the request is to allow the site to be developed into a mixed-use residential, office/retail project.
- The applicant has volunteered deed restrictions limiting the number of dwelling units to 240 units; requiring a minimum of 10,000 square feet of retail, personal service and office uses; and limiting the maximum structure height to 4 stories.

Zoning History: There have been two zoning change requests in the area:

1. Z045-103 On January 12, 2005, the City Council approved a Specific Use Permit for a tower/antenna for cellular commutation for a monopole cellular tower for a ten-year period with eligibility for automatic renewals for additional ten-year periods, located north corner of Bruton Road and east of St. Augustine Road.
2. Z034-264 On September 22, 2004, City Council denied without prejudice an application for a Specific Use Permit for a tower/antenna for cellular commutation for a monopole cellular tower located north of Bruton Road and east of St. Augustine Road.

Thoroughfares/Streets:

Thoroughfares/Street	Type	Existing ROW	Proposed ROW
Bruton Road	Principal Arterial	100 feet	100 feet
St. Augustine Road	Collector	80 feet	60 feet

Land Use:

	Zoning	Land Use
Site	MC-1-D-1 & CR-D-1	Undeveloped
North	TH-2(A)-D-1	Townhomes
South	R-7.5(A) & CR-D-1	Undeveloped, Car wash, and gas station
West	TH-2(A)	Townhomes
East	CR-D-1	Retail and undeveloped

STAFF ANALYSIS:

Land Use Compatibility:

The 11.2 acre request site is located on the north side of Bruton Road, west of St. Augustine Road. The property is undeveloped and is zoned an MC-1-D-1 Mixed Commercial District with a D-1 Liquor Control Overlay and a CR Community Retail District with a D-1 Liquor Control Overlay. The property is immediately adjoined north and west by a TH-2(A)-D-1 Townhouse District and is developed with townhomes. A drainage channel is situated along the north and western boundary of the request site, separating it from the townhouse property. Property across St. Augustine Road to the east is zoned a CR-D-1 Community Retail District and developed with retail uses and a portion of the property is undeveloped. Property immediately adjoining the property to the southeast at the corner of Bruton Road and St. Augustine Road is zoned a CR-D-1 Community Retail District and is developed with a car wash and gas station. Property across Bruton Road to the south is zoned an R-7.5(A) Single Family District and is undeveloped.

The existing retail zoning does not allow for residential uses, and the existing deed restrictions further prohibit the property from being developed with multifamily uses. The purpose of the requested zoning and termination of the existing deed restrictions is to allow for the property to be developed into a mixed use residential, office/retail project. The applicant is proposing a three-story structure with flex space for ground floor retail and/or office uses. The applicant is volunteering deed restrictions limiting the number of dwelling units to 240 units; requiring a minimum of 10,000 square feet of retail, personal service and office uses combined; and limiting the maximum structure height to 4 stories.

Given the existing development in the area, the requested zoning change would allow the property to function as a transition from the non-residential properties to the east and the residential properties to the north and west. While the requested zoning would allow for a greater maximum height than the existing zoning, the residential proximity slope triggered by residential properties adjoining the request site would limit the height of development on the request site to a maximum that is compatible with surrounding

Z034-327 (DW)

development. Further, the applicant has volunteered deed restrictions that would place a maximum structure height of 4 stories on the property. Staff feels that the requested change is compatible with existing development.

Development Standards:

DISTRICT	SETBACKS		Density FAR	Height	Lot Coverage	Special Standards	Primary Uses
	Front	Side/Rear					
Existing							
MC-1* Multiple commercial-1	15' Urban form	20' adjacent to residential OTHER: No Min.	0.8 FAR base 1.0 maximum	70' 5 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office, retail & personal service, lodging
CR* Community retail	15'	20' adjacent to residential OTHER: No Min.	0.75 FAR overall 0.5 office	54' 4 stories	60%	Proximity Slope Visual intrusion	Retail & personal service, office
Proposed							
MU-2 Mixed use-2	15'	20' adjacent to residential OTHER: No Min.	1.6 FAR base 2.0 FAR maximum + bonus for residential	135' 10 stories 180' 14 stories with retail	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office, retail & personal service, lodging, residential

* Deed restrictions prohibiting multifamily uses.

Landscaping: Landscaping required as per Article X.

CPC Action
November 4, 2004

Motion: In considering an application for an MU-2 Mixed Use District on property zoned a CR-D-1 Community Retail District with a Dry-1 Liquor Control Overlay and an MC-1-D-1 Mixed Commercial District with a Dry-1 Liquor Control Overlay, and termination of existing deed restrictions, north of Bruton Road, west of St. Augustine Road it was moved to hold this case under advisement until November 18, 2004.

Maker: Cunningham
 Second: Marshall
 Result: Carried: 12 to 0
 For: 12 - Vera, Strater, Gary, Marshall, Alonzo, Traylor, Brandon, Cunningham, Avery, Scott, Emmons, Isenberg

Against 0
 Absent: 3 - Lee, Wilke, Perkett
 Vacancy 0

Notices: Area: 400 Mailed: 118
 Replies: For: 5 Against 1

Z034-327 (DW)

Speakers: None

December 2, 2004

Motion: In considering an application for an MU-2 Mixed Use District with retention of the D-1 Dry Liquor Control Overlay on property zoned a CR-D-1 Community Retail District with a Dry Liquor Control Overlay and an MC-1-D-1 Mixed Commercial District with a Dry Liquor Control Overlay and termination of existing deed restrictions, north of Bruton Road, west of St. Augustine Road, it was moved to **hold** this case under advisement until December 16, 2004.

Maker: Lee

Second: Brandon

Result: Carried: 13 to 0

For: 13 - Vera, Strater*, Gary, Marshall, Lee, Traylor,
Brandon, Cunningham, Avery, Wilke, Perkett,
Scott, Isenberg

Against 0

Absent: 2 - Alonzo, Emmons

Vacancy 0

* Out of room, shown voter in favor of the motion.

Notices: Area: 400

Mailed: 118

Replies: For: 6

Against: 5

Speakers: None

December 16, 2004

Motion: It was moved to recommend **approval** of an MU-2 Mixed Use District with retention of the D-1 Dry Liquor Control Overlay, and **approval** of termination of the existing deed restrictions, on property zoned a CR-D-1 Community Retail District with a Dry Liquor Control Overlay and an MC-1-D-1 Mixed Commercial District with a Dry Liquor Control Overlay, north of Bruton Road, west of St. Augustine Road subject to deed restrictions volunteered by the applicant that limit the maximum number of dwelling units, provide a minimum amount of retail, personal service and office uses, and limit the maximum structure height.

Maker: Lee

Second: Brandon

Result: Carried: 12 to 1

Z034-327 (DW)

For: 12 - Vera, Strater, Gary, Marshall, Lee, Alonzo,
Traylor, Brandon, Cunningham, Wilke, Scott,
Isenberg

Against 1- Emmons
Absent: 2 - Avery, Perkett
Vacancy 0

Notices:	Area: 400	Mailed: 118
Replies:	For: 6	Against 5

Speakers: For: Suzan Kedron, 901 Main St., Dallas, TX, 75202
Darren Reagan, [REDACTED] Dallas, TX, 75237
Against: Jerry Tolbert, [REDACTED] Dallas, TX, 75227

Z034-327 (DW)

**List of Partners
Dallas I, LTD**

DALLAS I LTD.

List of Officer of the GP

Mike Harland, President and Secretary

Mike Harland

Z034327

Z034-327 (DW)

**List of Partners
Odyssey Residential Holdings, LP**

Odyssey Residential Holdings, LP

List of Officer of the GP

**Saleem Jafar, President and Secretary
Bill Fisher, Vice President**

Saleem Jafar

Proposed Deed Restrictions

DEED RESTRICTIONS

THE STATE OF TEXAS)
)
COUNTY OF DALLAS)

KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, DALLAS I, LTD., a California Limited Partnership, ("the Owner"), is the owner of the following described property ("the Property"), being in particular 11.199 acre tract of land situated in the Thomas M. Johnson Survey, Abstract No. 695, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by deed dated November 19, 1984, and recorded in Volume 84231, page 4370, in the Deed Records of Dallas County, Texas, and being more particularly described in Exhibit A attached hereto and incorporated herein for all purposes.

II.

The Owner does hereby impress all of the Property with the following deed restrictions ("Restrictions"), to wit:

- (1) The Property shall be limited to a maximum of two hundred and forty (240) dwelling units.
- (2) The minimum amount of area occupied by retail and personal service and office uses combined shall be ten thousand (10,000) square feet.
- (3) The maximum structure height shall be four (4) stories, exclusive of roof-top structures, such as mechanical equipment rooms, elevator penthouses or bulkheads, cooling towers, skylights, clerestories, chimneys and vent stacks, amateur communications towers, and visual screens which surround roof mounted mechanical equipment.

III.

These Restrictions shall continue in full force and effect for a period of twenty (20) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless amended or terminated in the manner specified in this document.

IV.

These Restrictions may be amended or terminated only after public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings must be given as would be required by law for a zoning change on the Property. The amending or terminating instrument must be approved as to form by the city attorney. If the City Council approves an amendment or termination of these Restrictions, the Owner must then file the amending or terminating instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the amendment or termination becomes effective.

V.

These Restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owner agrees that these Restrictions inure to the benefit of the City. The Owner hereby grants the City the right to enforce these Restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these Restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these Restrictions, the Owner agrees that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owner agrees that the City may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these Restrictions are complied with. The right of the City to enforce these Restrictions shall not be waived, expressly or otherwise.

VII.

The Owner agrees to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with the provisions of this document.

VIII.

The provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owner who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

IX.

Unless stated otherwise in this document, the definitions and provisions of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, apply and are incorporated into this document as if recited in this document.

X.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas.

XI.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

XII.

The invalidation of any provision of this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED this 7th day of JANUARY, 2005

OWNER:

DALLAS I, LTD.

By: Michael F. Herland

Name: Michael F. Herland
Title: General Partner

CONSENT AND CONCURRENCE OF LIENHOLDER:

NONE ~~most~~
Property Lienholder

By: _____

Title: _____

APPROVED AS TO FORM:

MADELENE B. JOHNSON, City Attorney

By: _____
Assistant City Attorney

THE STATE OF CALIF
COUNTY OF San Diego

This instrument was acknowledged before me on the 17th day of JAN, 2005 by
Michael F. Harland, General Partner of DALLAS I, LTD.

[Signature]
Notary Public - State of CALIF



DEED RESTRICTIONS - Page 3
37529801

Termination of Existing Deed Restrictions

TERMINATION OF DEED RESTRICTIONS

THE STATE OF TEXAS)
) KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF DALLAS)

I.

The undersigned, DALLASI, LTD., a California Limited Partnership, ("the Owner"), is the owner of the following described property ("the Property"), being in particular 11.199 acre tract of land situated in the Thomas M. Johnson Survey, Abstract No. 695, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by deed dated November 19, 1984, and recorded in Volume 84231, page 4370, in the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEING a tract of land in the Thomas M. Johnson Survey, Abstract No. 695 in the City of Dallas, Dallas County, Texas, City Block 6735, and being all of a tract of land conveyed to Dallas I, Ltd., as recorded in Volume 84231 Page 4370 Deed Records, Dallas County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod set for corner in the West line of St. Augustine Road, said point being North 00 degrees 02 minutes 30 seconds East, a distance of 145.0 feet from the Northerly cut back clip of the intersection of the West line of said St. Augustine Road with the North line of Bruton Road, and said point being at the Northeast corner of a tract of land conveyed to LeThai, as recorded in Volume 9119, page 4388, Deed Records, Dallas County, Texas;

THENCE South 89 degrees 48 minutes 30 seconds West along the North line a distance of 300.0 feet to a 1/2" iron rod set for corner, said point being at the Northwest corner of a tract of land conveyed to Self Service Car Wash, as recorded in Volume 96005, Page 1389, Deed Records, Dallas County, Texas;

THENCE South 00 degrees 02 minutes 30 seconds West along the West line of said Self Service Car Wash tract, a distance of 150.0 feet to a 1/2" iron rod for corner set in the North line of said Bruton Road;

THENCE South 89 degrees 48 minutes 31 seconds West along the North line of said Bruton Road a distance of 660.26 feet to a 1/2" iron rod for corner;

THENCE along the Southeast line of a tract of land conveyed to Creek Homeowners, as recorded in Volume 88009, Page 3364, Deed Records Dallas County, Texas, the following calls

North 00 degrees 09 minutes 09 seconds East a distance of 37.54 feet to a 1/2" iron rod set for corner, said point being the beginning of curve to the right having a radius of 485.0 feet, a central angle of 64 degrees 00 minutes 06 seconds, a chord bearing of North 32 degrees 09 minutes 29 seconds East, and a chord of 514.03 feet;

Northeasterly direction along said curve a distance of 541.76 feet to a 1/2" iron rod set for corner;

North 64 degrees 09 minutes 30 seconds East (Directional Control) a distance of 763.49 feet to a 1/2" iron rod for corner in the West line of St. Augustine Road;

TERMINATION OF DEED RESTRICTIONS - PAGE 1

Z034-327 (DW)

THENCE South 00 degrees 02 minutes 29 seconds West along the West right of way line of said St. Augustine Road, a distance of 652.29 feet to the PLACE OF BEGINNING and containing 11.199 acres of land.

II.

The Property was impressed with certain deed restrictions ("restrictions") as shown in an instrument dated January 27, 1982, signed by EDIZ, INC. and recorded in Volume 82051, Page 0676, of the Deed Records of Dallas County, Texas, a true and correct copy of which is attached to this instrument as Exhibit "A" and made a part of this instrument.

III.

The Owner does hereby terminate and release the restrictions attached to this instrument as Exhibit "A" in its entirety, as to the Property.

IV.

The above termination was made following a public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings was given as would have been required by law for a zoning change on the Property. The Owner must file this instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the termination becomes effective.

V.

The termination of these restrictions is not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owner agrees to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with this termination.

VII.

Unless stated otherwise in this instrument, the definitions and provisions of CHAPTER 51A, DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED of the Dallas City Code, as amended, apply and are incorporated into this instrument as if recited in this instrument.

TERMINATION OF DEED RESTRICTIONS - PAGE 2

VIII.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

IX.

The invalidation of any provision in this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED at the City of SAN DIEGO SAN DIEGO County, this the 7th day of JANUARY, 2005.

OWNER:

DALLAS I, LTD.

By: [Signature]

Name: Michael F. Harland

Title: General Partner

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

NONE [Signature]
Property Lienholder or Mortgagee

By: _____
Printed Name: _____
Title: _____

Z034-327 (DW)

1-10-2005 5:05PM

FROM BIC 2149538626

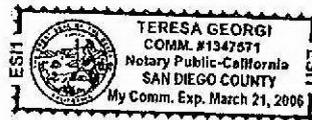
APPROVED AS TO FORM:
MADELEINE B. JOHNSON, City Attorney

By: _____
Assistant City Attorney

THE STATE OF Calif §
COUNTY OF San Diego §
§

This instrument was acknowledged before me on the 7th day of
JAN, 20 05 by Michael F. Harland, General Partner of DALLAS I, LTD.

Teresa Georgi
Notary Public - State of Calif



TERMINATION OF DEED RESTRICTIONS - PAGE 4

3759796v1

Existing Deed Restrictions

82 05 05

	<u>DEED RESTRICTIONS</u>	DEED RECORD	
THE STATE OF TEXAS)	A	
)	2140	L. R. B 1 05/15
)	KNOW ALL MEN BY THESE PRESENTS:	
COUNTY OF DALLAS)		

That the undersigned, EDIZ, INC., is the owner of the following described property situated in Dallas County, Texas, being in particular a tract of land out of the Thomas M. Johnson Survey, Abstract No. 695, City Block 6735, City of Dallas, Dallas County, Texas, and being that same tract of land conveyed to EDIZ, INC., by Nationwide Corporation by deed dated January 29, 1981, and recorded in Volume 81021, Page 1464 in the Deed Records of Dallas County, Texas, and being more particularly described as follows:

Being a tract of land situated in the Thomas M. Johnson Survey, Abstract No. 695, and being part of City of Dallas Block 6735, Dallas County, Texas, and being more particularly described as follows:

Beginning at a point formed by the intersection of the West right of way line of St. Augustine Road and the North right of way line of Bruton Road; thence along the North right of way line of Bruton Road South 44°55'32" West, a distance of 7.09 feet to a corner;

Thence continuing along the North right of way line of Bruton Road South 89°48'30" West, a distance of 955.53 feet to a corner;

Thence departing the North right of way line of Bruton Road North 0°09'30" East, a distance of 37.54 feet to the point of curvature of a circular curve to the right whose central angle is 64°00'00", whose radius is 485.00 feet, and whose tangents are 303.06 feet;

Thence along said circular curve to the right, a distance of 541.75 feet to the point of tangency;

Thence North 64°09'30" East, a distance of 763.80 feet to a corner in the West right of way line of St. Augustine Road;

Thence along the West right of way line of St. Augustine Road South 0°02'30" West, a distance of 797.41 feet to the point of beginning and containing 12.237 acres of land.

82051 0676

280-296/2296-8

Z034-327

- 2 -

That the undersigned, EDIZ, INC., does hereby impress all of the above-described property with the following deed restrictions, to-wit:

Multiple Family Dwellings shall not be constructed or placed on the above described property.

These restrictions shall continue in full force and effect for a period of twenty-five (25) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless terminated in the manner specified herein.

These restrictions shall not be altered, amended or terminated without a public hearing before the City Plan Commission and the City Council of the City of Dallas. Notice of such public hearings shall be given as would be required by law for a zoning change on the property described herein.

The restrictions contained herein are not in any manner intended to restrict the right of the City Council of the City of Dallas to exercise its legislative duties and powers insofar as zoning of the property is concerned.

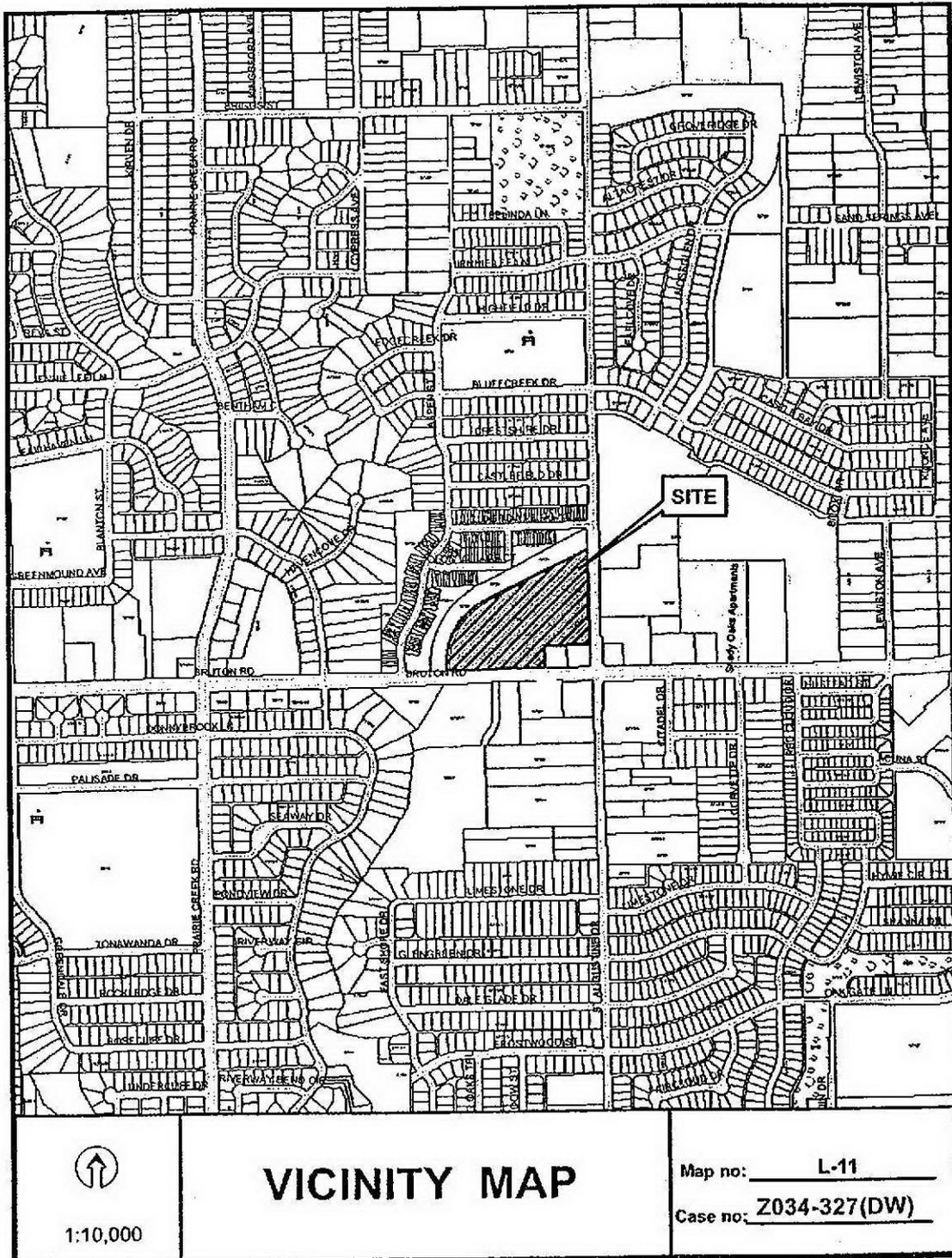
These restrictions inure to the benefit of the City of Dallas, and the undersigned owner hereof does hereby grant to the City of Dallas the right to prosecute, at law and in equity, against the person violating or attempting to violate such restrictions, either to prevent him from so doing and to correct such violation and for further remedy, the City of Dallas may withhold the Certificate of Occupancy necessary for the lawful use of the property until such restrictions described herein are fully complied with.

These restrictions are hereby declared covenants running with the land and shall be fully binding upon all persons acquiring property within the above-described tract, and any person by acceptance of title to any of the above described property shall thereby agree and covenant to abide by and fully perform the foregoing restrictions and covenants.

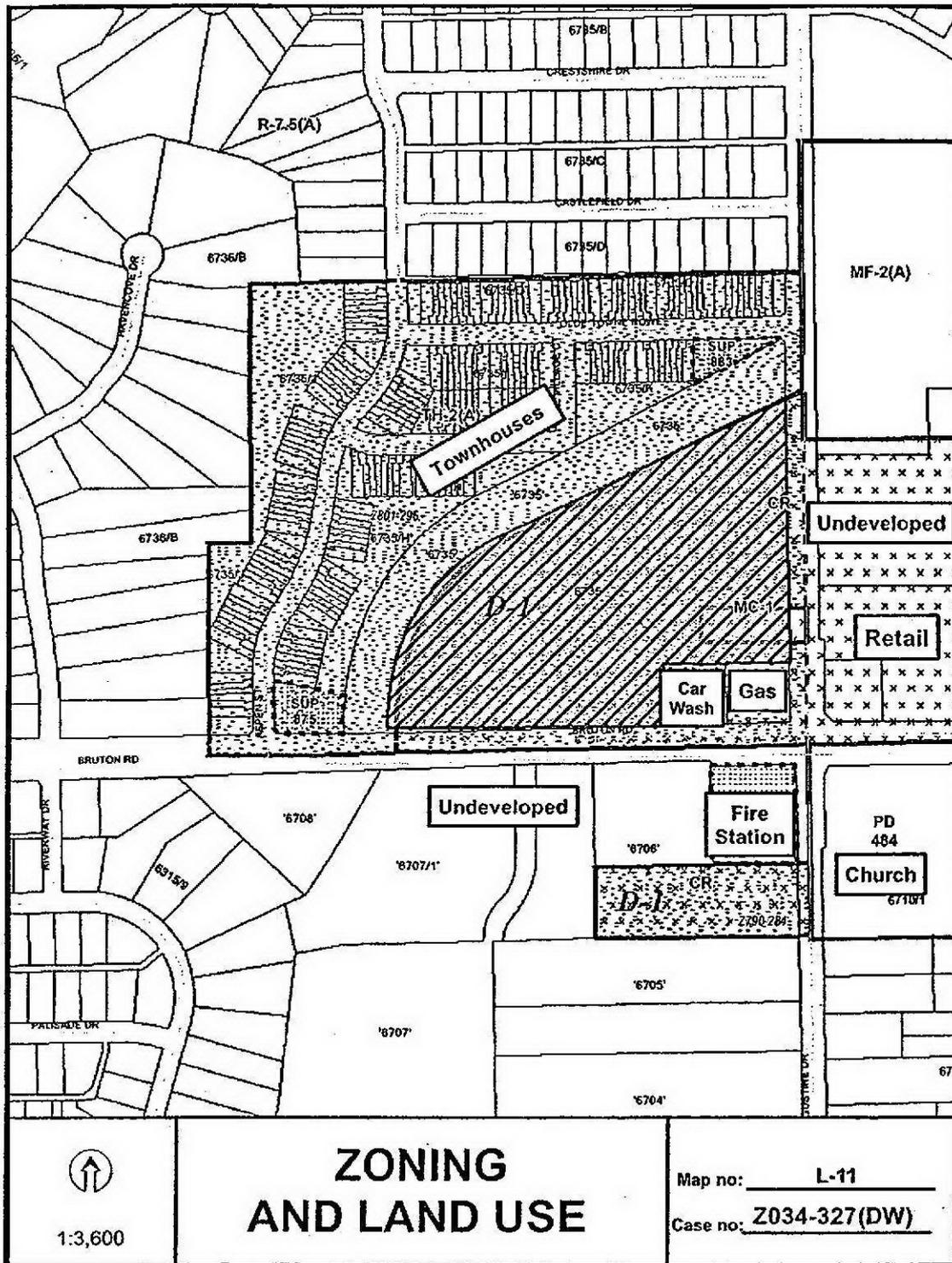
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Z034-327



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deed_restrictions [x x] D-1

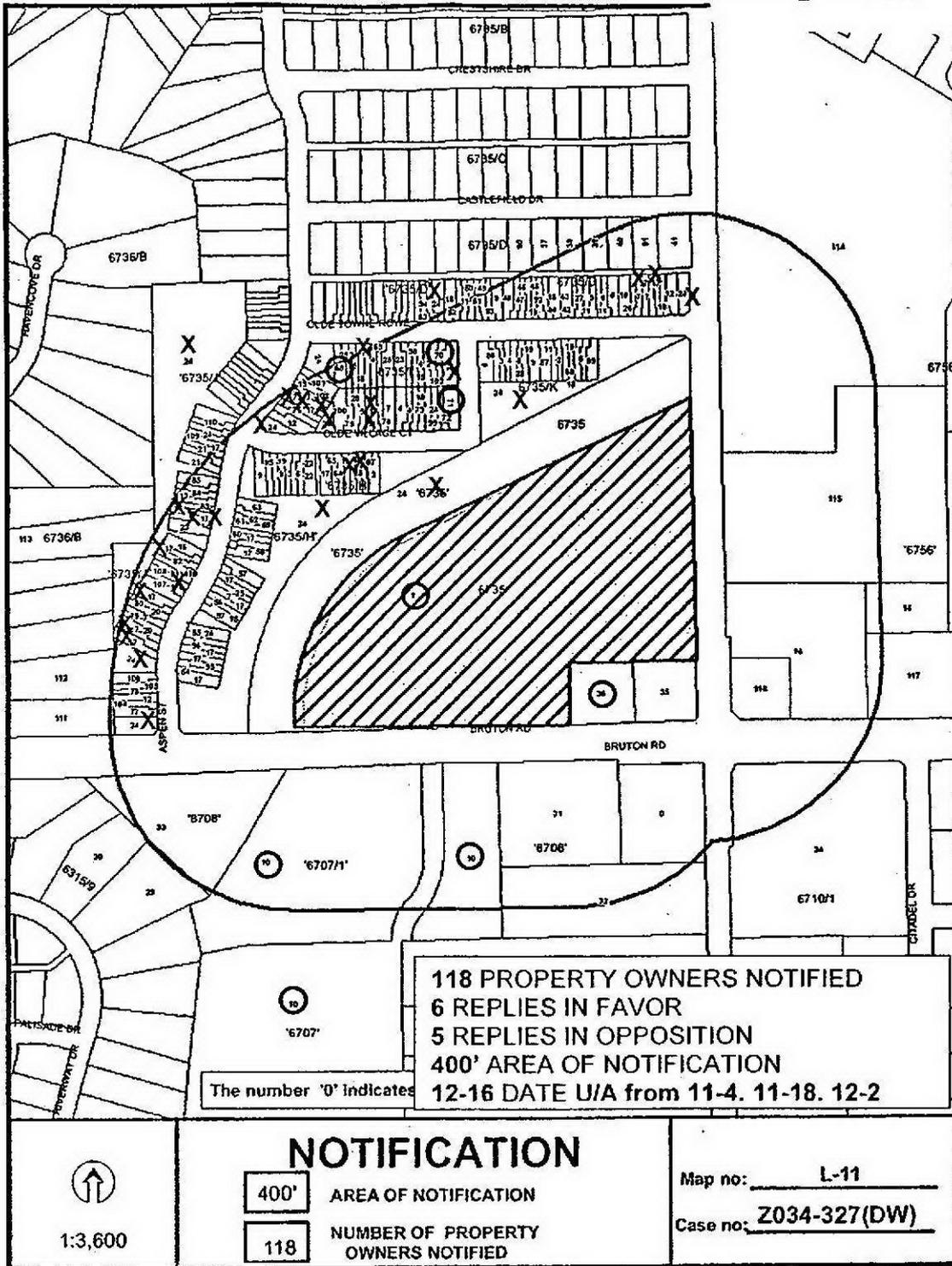
Z034-327 (DW)



1

2

CPC Notification Responses



118 PROPERTY OWNERS NOTIFIED
 6 REPLIES IN FAVOR
 5 REPLIES IN OPPOSITION
 400' AREA OF NOTIFICATION
 12-16 DATE U/A from 11-4, 11-18, 12-2

The number '0' indicates

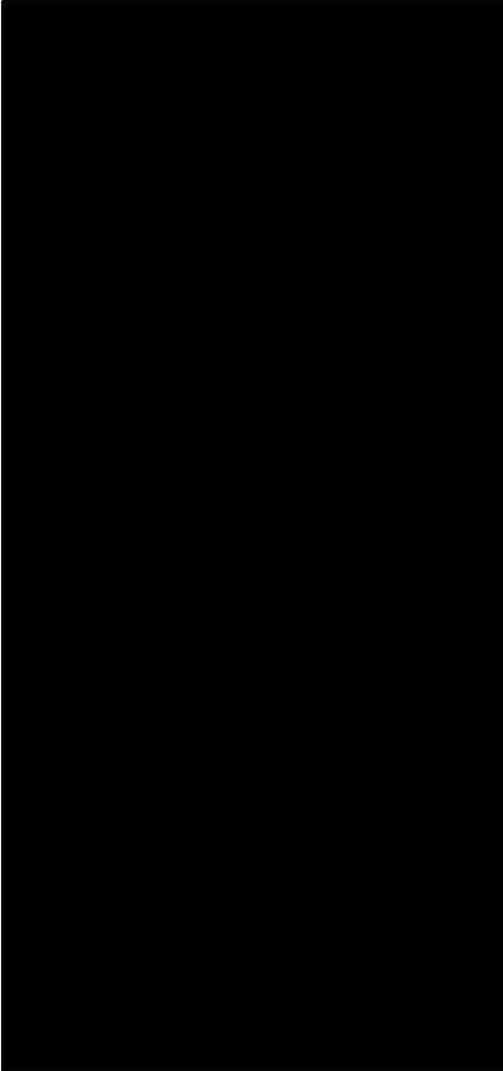
 1:3,600	NOTIFICATION		Map no: <u>L-11</u> Case no: <u>Z034-327(DW)</u>
	400' AREA OF NOTIFICATION	118 NUMBER OF PROPERTY OWNERS NOTIFIED	

Z034-327 (DW)

Notification List of Property Owners

Z034-327(DW)(VJ)

118 Property Owners Notified

Label #	Address	Owner
①		DALLAS I LTD
2		APEX FINANCIAL
3		BOGGS JERRY LEE &
4		BREWER TIM & LUCINDA
5		BREWER TIM & LUCINDA ETAL
6		BREWER TIM & LUCINDA
7		BREWER TIM ET AL
8		CHACKO JASMINE
9		CHACKO THOMAS
⑩		COLON WILDO
11		COMMUNITY HOUSING FUND
12		CONAGHAN JAMES A
13		COMMUNITY HOUSING FUND
14		CORNER PROPERTIES LTD
15		FOSTER C R
16		FOSTER GREGORY
X17		GARCIA CARL R
18		MARINSIK DANIEL S &
19		MCLAIN DARRELL
20		MURPHY FELTON
21		POTH JACK
22		RHODES WILLA
23		TOLBERT J W TRUSTEE
X24		VILLAGE BY THE CREEK HOA
25		YI DRAKE C
26		THOMAS DAVID

Monday, October 11, 2004

Z034-327 (DW)

Label # Address

27
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X 30
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32
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Owner

CROW GENIKA
STAPP CARL R & BETTY C
BOLES HUBERT J & JEAN ANN
HINES KELSEY R
COLON ENTERPRISES P S
BUDDIES CHAPTER II
MEADOWS JOHN A
DALLAS I S D
LE THAI VAN & TRAM P VU
SELF SERVICE CAR WASHES
DAVIS OLEN T
HUDSPETH ROBERT C &
THURMAN FRED L LF EST
HOFFMAN VALENCIA ET AL
SHULL JO ANN
RAAB DAVID
ERSKINE PAT
BOLDEN BETTY
NAFTEL CAROL J ET AL
MIDFIRST BANK
CHARRIER DARNELL &
BAILEY DAVID SCOTT
STULTZ JAMES A
VILLAGE 693 TRUST
MCKAY ALICE B
MULESHOE PROP INC
HAYNES STACY
SELDON BETTIE H
WHITE SYLVESTER
KORNBLUTH GEORGE
ELDRIDGE DOROTHY A

Monday, October 11, 2004

Z034-327 (DW)

Label # Address

Owner

58		ANDERSON ELLIOTT JR
59		SMITH DAVID
60		MEDINA EMILIO ET AL
61		LAMANTIA LARRY JR ET AL
62		DRAKE C YI
63		MERCHANT FARZANA
64		BARKLEY GARY TRUSTEE
65		ULMER MICHAEL
X 66		HERWIG MARGARET
67		REID CHARLES F
68		TUTSON KIMBERLYN KAYE
69		WHEELER JOHN W
70		HARDAWAY BONNELLE B
71		JACKSON A L
72		CONAGHAN ALEXANDER
73		HENSLING AL &
74		JORDAN JASON & ALI SHEIKH
75		SHELTON CEDRIC
76		ROBERSON ERICA D
77		WILLIAMS SHERMAN &
78		JACKSON JOHN A
79		REECE SOPHIA
80		LEGATE MARTHA
81		MEDINA EMILIO & ALEJANDRA
82		RAY PATRICIA
83		SIMPSON JUANITA
X 84		LEWIS NAPOLEON
85		MILLER JANET
86		VARGAS INGRID
87		OMILADE JOHNNY & BETTY
88		ANTHONY THRESIAMMA

Monday, October 11, 2004

Label # Address

Owner

89	[REDACTED]	HUD
90	[REDACTED]	AGUIRRE REBECCA R
91	[REDACTED]	SCHELLER MELVIN M
92	[REDACTED]	HELTON SHIRLEY M
93	[REDACTED]	FRUMKIN MIKHAIL
94	[REDACTED]	BENOVSKY LINDA KAY &
95	[REDACTED]	OLIVEROS LEILA L
96	[REDACTED]	HUDSON BERNADETTE L
97	[REDACTED]	FRUMKIN NATHAN & ROZA
98	[REDACTED]	HASHAWAY MAE BELLE
99	[REDACTED]	TANG KANG
100	[REDACTED]	EASON COMMODORE & DOROTHY
101	[REDACTED]	SLIDER EARL SR AND
102	[REDACTED]	HUNTER CHARLES W
103	[REDACTED]	PENNY CHERYL
104	[REDACTED]	HUDSON CAROLYN J
105	[REDACTED]	TENISON SHERRY GOODEN
106	[REDACTED]	ASHCRAFT GLEN D & ALYCE S
107	[REDACTED]	LEE LOLA L
108	[REDACTED]	LITTMON LAVERN
109	[REDACTED]	HARRIS WILLIE O JR
110	[REDACTED]	DICKENS SANDY K
111	[REDACTED]	CASTILLO LUZ MARIA
112	[REDACTED]	CLARK GEORGIA LEE
113	[REDACTED]	MITCHELL BEVERLY J
114	[REDACTED]	DALLAS TREES & PARKS FNDN
115	[REDACTED]	IGLESIA CRISTIANA NUEVA
116	[REDACTED]	SILWAD INC
117	[REDACTED]	LAFAYETTE LIFEPLANS CORP
118	[REDACTED]	BAXAVANIS NICHOLAS

Z034-327 (DW)

Early Notification List

*EN Z034-327(DW)

Al Romero

Mesquite, TX 75150

Bridge Ballowe c/o Nextel

Ricardson, TX 75081

Jeff Bosse

Dallas, TX 75208

Mike Sultan

Dallas, TX 75203

Robert P. Garza

Dallas, TX 75203

Steve Craft

Dallas, TX 75354

.Alpha Testing, Inc
Virginia Brown

Dallas, TX 75229

.Dallas Asoc for Decency
Dan Panetti

Dallas, TX 75379

*Donald W. Hill
Deputy Mayor Pro Tem
District 5
5FN

Anthony Jones

Galveston, TX 77553

D.J. Young

Dallas, TX 75209

Joe Martin

Dallas, TX 75208

Pam Conley

Dallas, TX 75208

Signs Manufacturing

Dallas, TX 75236

Suzanne Smith

Dallas, TX 75206

.Am. Metro/Study Corp
Marque Nelson

Dallas, TX 75240

.Dallas Homeowners
Mary Jane Beaman

Dallas, TX 75214

*D' Angelo Lee
CPC Member
District 5

Betty Wadkins

Dallas, TX 75227

Jane Guerrini

Dallas, TX 75225

Marcus Wood

Dallas, TX 75206

Rob Baldwin

Dallas, TX 75226

Stephanie Pegues

Dallas, TX 75201

Steve Kim

Dallas, TX 75229

.Arborilogical Services, Inc.
Bill Seaman

Wylie, TX 75098

.Dallas ISD
Stan Armstrong

Dallas, TX 75204

Z034-327 (DW)

.Dallas Planning Assoc
Stuart Pully
[REDACTED]
Dallas, TX 75378

.Kiestwood Neighbors
Neoma Shafer
[REDACTED]
Dallas, TX 75233

.Master Plan
Karl Crawley
[REDACTED]
Dallas, TX 75201

.Oak Cliff Chamber
Joe Burkleo
[REDACTED]
Dallas, TX 75224

.Reed Construction Data
Renee Williams
[REDACTED]
Dallas, TX 75229

.United Homeowner
Raymond Montgomery
[REDACTED]
Dallas, TX 75232

Glen Oaks HOA
Eli Davis
[REDACTED]
Dallas, TX 75232

Early Notification List

.FW Dodge Reports
Donna McGuire
[REDACTED]
Dallas, TX 75063

.Lake Highlands AIA
Tammy Santi
[REDACTED]
Dallas, TX 75238

.Micheal R Coker Co
Michael R Coker
[REDACTED]
Dallas, TX 75240

.PARC DU LAC
Linda Sharp
[REDACTED]
Dallas, TX 75230

.United HOA
Norma Parry
[REDACTED]
Dallas, TX 75232

H. Victor Sturm
[REDACTED]
Dallas, TX 75217

Hatfield Branch
Darlene Hammer
[REDACTED]
Dallas, TX 75217

.Jackson Walker
Suzan Kedron
901 Main St. #6000
Dallas, TX 75202

.Lake Highlands AIA
Terri Woods
[REDACTED]
Dallas, TX 75243

.Minyards Properties Inc
David Hardin
[REDACTED]
Coppell, TX 75019

.Quick Trip Co.
Teri Dorazil
[REDACTED]
Fort Worth, TX 76155

.United HOA
Thelma J. Norman
[REDACTED]
Dallas, TX 75237

Coalition for Betterment FSD
Nancy Bingham
[REDACTED]
Dallas, TX 75253

Pleasant Wood/Grove
J. Eugene Thomas
[REDACTED]
Dallas, TX 75250

*EN Z034-327(DW)

DEPARTMENT OF PLANNING & DEVELOPMENT
PRE-CITY COUNCIL AGENDA
ORDINANCE REVIEW FORM

- ZONING CASE # 2034 - 327 (DW)
- DEV'L CODE AMENDMENT # _____

.....
APPLICANT REVIEW

*Applicant/Representative _____ Date _____
(Concurrence as to content)

*Applicant/Representative _____ Date _____
(Concurrence as to accuracy of field notes/property description)

***NOTE:**

Applicant must sign twice – once for content and once to verify the property description

.....
STAFF REVIEW

Planner *Paul Witley*
(Reviewed for content, accuracy and form)

Date *May 6, 2005*

.....
Place original signed form in case folder and give Neva a copy.

ORDINANCE NO. _____

An ordinance amending the zoning ordinances of the City of Dallas, as amended, by changing the zoning classification on the following property:

BEING a tract of land in City Block 6735, located near the northwest corner of Bruton Road and St. Augustine Road, fronting approximately 652.29 feet on the west line of St. Augustine Road, having a depth of approximately 960.53 feet, and containing approximately 11.2 acres, from a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay and an MC-1-D-1 Multiple Commercial District with a D-1 Liquor Control Overlay to an MU-2 Mixed Use District with retention of the D-1 Liquor Control Overlay; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the city, have given the required notices and have held the required public hearings regarding the rezoning of the property described below; and.

WHEREAS, the city council finds that it is in the public interest to grant this change in zoning; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the zoning ordinances of the City of Dallas, as amended, are amended by changing the zoning classification from a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay and an MC-1-D-1 Multiple Commercial District with a D-1 Liquor Control Overlay to an MU-2 Mixed Use District with retention of the D-1 Liquor Control Overlay on the property described in Exhibit A, attached to and made a part of this ordinance.

DEED RESTRICTIONS

SECTION 2. That, pursuant to Section 51A-4.701 of CHAPTER 51A of the Dallas City Code, as amended, the property description in Section 1 of this ordinance shall be construed as including the area to the centerline of all adjacent streets and alleys.

SECTION 3. That the director of development services shall correct Zoning District Map No. L-11 in the offices of the city secretary, the building official, and the department of development services to reflect the changes in zoning made by this ordinance.

SECTION 4. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

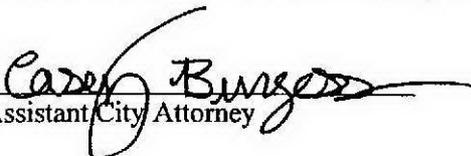
SECTION 5. That the zoning ordinances of the City of Dallas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 7. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the Charter of the City of Dallas and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., Interim City Attorney

By 
Assistant City Attorney

Passed _____

DEED RESTRICTIONS

EXHIBIT A

BEING a tract of land in the Thomas M. Johnson Survey, Abstract No. 695 in the City of Dallas, Dallas County, Texas, City Block 6735, and being all of a tract of land conveyed to Dallas I, Ltd., as recorded in Volume 84231 Page 4370 Deed Records, Dallas County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod set for corner in the West line of St. Augustine Road, said point being North 00 degrees 02 minutes 30 seconds East, a distance of 145.0 feet from the Northerly cut back clip of the intersection of the West line of said St. Augustine Road with the North line of Bruton Road, and said point being at the Northeast corner of a tract of land conveyed to LeThai, as recorded in Volume 9119, page 4388, Deed Records, Dallas County, Texas;

THENCE South 89 degrees 48 minutes 30 seconds West along the North line a distance of 300.0 feet to a ½" iron rod set for corner, said point being at the Northwest corner of a tract of land conveyed to Self Service Car Wash, as recorded in Volume 96005, Page 1389, Deed Records, Dallas County, Texas;

THENCE South 00 degrees 02 minutes 30 seconds West along the West line of said Self Service Car Wash tract, a distance of 150.0 feet to a ½" iron rod for corner set in the North line of said Bruton Road;

THENCE South 89 degrees 48 minutes 31 seconds West along the North line of said Bruton Road a distance of 660.26 feet to a ½" iron rod for corner;

THENCE along the Southeast line of a tract of land conveyed to Creek Homeowners, as recorded in Volume 88009, Page 3364, Deed Records Dallas County, Texas, the following calls

North 00 degrees 09 minutes 09 seconds East a distance of 37.54 feet to a ½" iron rod set for corner, said point being the beginning of curve to the right having a radius of 485.0 feet, a central angle of 64 degrees 00 minutes 06 seconds, a chord bearing of North 32 degrees 09 minutes 29 seconds East, and a chord of 514.03 feet;

Northeasterly direction along said curve a distance of 541.76 feet to a ½" iron rod set for corner;

North 64 degrees 09 minutes 30 seconds East (Directional Control) a distance of 763.49 feet to a ½" iron rod for corner in the West line of St. Augustine Road;

THENCE South 00 degrees 02 minutes 29 seconds West along the West right of way line of said St. Augustine Road, a distance of 652.29 feet to the PLACE OF BEGINNING and containing 11.199 acres of land.

DEED RESTRICTIONS

COUNCIL CHAMBER

May 11, 2005

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located in City Block 6735 near the northwest corner of St. Augustine Road and Bruton Road, which is the subject of Zoning Case No. Z034-327(DW); and

WHEREAS, the City Council desires to accept the deed restrictions in the attached instrument; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the deed restrictions in the attached instrument be and are hereby accepted by the City Council of the City of Dallas, Texas, to be used in conjunction with the development of property that is the subject of Zoning Case No. Z034-327(DW).

Section 2. That the deed restrictions in the attached instrument shall be filed in the Deed Records of Dallas County, Texas.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, Texas, and it is accordingly so resolved.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., Interim City Attorney

By


Assistant City Attorney

APPROVED _____
HEAD OF DEPARTMENT

APPROVED _____
DIRECTOR OF FINANCE

APPROVED _____
CITY MANAGER

S/N 753-038-006

SUP-00055A

JW 01211

DEED RESTRICTIONS

THE STATE OF TEXAS)
)
COUNTY OF DALLAS) **KNOW ALL PERSONS BY THESE PRESENTS:**

I.

The undersigned, DALLAS I, LTD., a California Limited Partnership, ("the Owner"), is the owner of the following described property ("the Property"), being in particular 11.199 acre tract of land situated in the Thomas M. Johnson Survey, Abstract No. 695, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by deed dated November 19, 1984, and recorded in Volume 84231, page 4370, in the Deed Records of Dallas County, Texas, and being more particularly described in Exhibit A attached hereto and incorporated herein for all purposes.

II.

The Owner does hereby impress all of the Property with the following deed restrictions ("Restrictions"), to wit:

- (1) The Property shall be limited to a maximum of two hundred and forty (240) dwelling units.
- (2) The minimum amount of area occupied by retail and personal service and office uses combined shall be ten thousand (10,000) square feet.
- (3) The maximum structure height shall be four (4) stories, exclusive of roof-top structures, such as mechanical equipment rooms, elevator penthouses or bulkheads, cooling towers, skylights, clerestories, chimneys and vent stacks, amateur communications towers, and visual screens which surround roof mounted mechanical equipment.

III.

These Restrictions shall continue in full force and effect for a period of twenty (20) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless amended or terminated in the manner specified in this document.

IV.

These Restrictions may be amended or terminated only after public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings must be given as would be required by law for a zoning change on the Property. The amending or terminating instrument must be approved as to form by the city attorney. If the City Council approves an amendment or termination of these Restrictions, the Owner must then file the amending or terminating instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the amendment or termination becomes effective.

V.

These Restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owner agrees that these Restrictions inure to the benefit of the City. The Owner hereby grants the City the right to enforce these Restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these Restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these Restrictions, the Owner agrees that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owner agrees that the City may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these Restrictions are complied with. The right of the City to enforce these Restrictions shall not be waived, expressly or otherwise.

VII.

The Owner agrees to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with the provisions of this document.

VIII.

The provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owner who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

IX.

Unless stated otherwise in this document, the definitions and provisions of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, apply and are incorporated into this document as if recited in this document.

X.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas.

XI.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

XII.

The invalidation of any provision of this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED this 7th day of JANUARY, 2005

OWNER:

DALLAS I, LTD.

By: Michael F. Harland

Name: Michael F. Harland
Title: General Partner

CONSENT AND CONCURRENCE OF LIENHOLDER:

NONE ~~MAST~~

Property Lienholder

By: _____

Title: _____

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.
Interim City Attorney

By: Carey Burgess
Assistant City Attorney

THE STATE OF CALIF
COUNTY OF San Diego

§
§
§

This instrument was acknowledged before me on the 7th day of JAN, 2005 by
Michael F. Harland, General Partner of DALLAS I, LTD.

[Signature]
Notary Public - State of CALIF

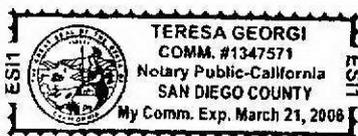


EXHIBIT A

BEING a tract of land in the Thomas M. Johnson Survey, Abstract No. 695 in the City of Dallas, Dallas County, Texas, City Block 6735, and being all of a tract of land conveyed to Dallas I, Ltd., as recorded in Volume 84231 Page 4370 Deed Records, Dallas County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod set for corner in the West line of St. Augustine Road, said point being North 00 degrees 02 minutes 30 seconds East, a distance of 145.0 feet from the Northerly cut back clip of the intersection of the West line of said St. Augustine Road with the North line of Bruton Road, and said point being at the Northeast corner of a tract of land conveyed to LeThai, as recorded in Volume 9119, page 4388, Deed Records, Dallas County, Texas;

THENCE South 89 degrees 48 minutes 30 seconds West along the North line a distance of 300.0 feet to a ½" iron rod set for corner, said point being at the Northwest corner of a tract of land conveyed to Self Service Car Wash, as recorded in Volume 96005, Page 1389, Deed Records, Dallas County, Texas;

THENCE South 00 degrees 02 minutes 30 seconds West along the West line of said Self Service Car Wash tract, a distance of 150.0 feet to a ½" iron rod for corner set in the North line of said Bruton Road;

THENCE South 89 degrees 48 minutes 31 seconds West along the North line of said Bruton Road a distance of 660.26 feet to a ½" iron rod for corner;

THENCE along the Southeast line of a tract of land conveyed to Creek Homeowners, as recorded in Volume 88009, Page 3364, Deed Records Dallas County, Texas, the following calls

North 00 degrees 09 minutes 09 seconds East a distance of 37.54 feet to a ½" iron rod set for corner, said point being the beginning of curve to the right having a radius of 485.0 feet, a central angle of 64 degrees 00 minutes 06 seconds, a chord bearing of North 32 degrees 09 minutes 29 seconds East, and a chord of 514.03 feet;

Northeasterly direction along said curve a distance of 541.76 feet to a ½" iron rod set for corner;

North 64 degrees 09 minutes 30 seconds East (Directional Control) a distance of 763.49 feet to a ½" iron rod for corner in the West line of St. Augustine Road;

THENCE South 00 degrees 02 minutes 29 seconds West along the West right of way line of said St. Augustine Road, a distance of 652.29 feet to the PLACE OF BEGINNING and containing 11.199 acres of land.

COUNCIL CHAMBER

May 11, 2005

WHEREAS, the termination of deed restrictions in the attached instrument has been volunteered in connection with property located in City Block 6735 near the northwest corner of St. Augustine Road and Bruton Road, which is the subject of Zoning Case No. Z034-327(DW); and

WHEREAS, the City Council desires to approve the termination of deed restrictions in the attached instrument; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the termination of deed restrictions in the attached instrument be and is hereby approved by the City Council of the City of Dallas, Texas, to be used in conjunction with the development of property that is the subject of Zoning Case No. Z034-327(DW).

Section 2. That the termination of deed restrictions in the attached instrument shall be filed in the Deed Records of Dallas County, Texas.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, Texas, and it is accordingly so resolved.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., Interim City Attorney

By


Assistant City Attorney

APPROVED _____
HEAD OF DEPARTMENT

APPROVED _____
DIRECTOR OF FINANCE

APPROVED _____
CITY MANAGER

S/N 753-038-006

SUP-00055A

JW 01216

TERMINATION OF DEED RESTRICTIONS

THE STATE OF TEXAS)
)
COUNTY OF DALLAS) KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, DALLAS I, LTD., a California Limited Partnership, ("the Owner"), is the owner of the following described property ("the Property"), being in particular 11.199 acre tract of land situated in the Thomas M. Johnson Survey, Abstract No. 695, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by deed dated November 19, 1984, and recorded in Volume 84231, page 4370, in the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEING a tract of land in the Thomas M. Johnson Survey, Abstract No. 695 in the City of Dallas, Dallas County, Texas, City Block 6735, and being all of a tract of land conveyed to Dallas I, Ltd., as recorded in Volume 84231 Page 4370 Deed Records, Dallas County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod set for corner in the West line of St. Augustine Road, said point being North 00 degrees 02 minutes 30 seconds East, a distance of 145.0 feet from the Northerly cut back clip of the intersection of the West line of said St. Augustine Road with the North line of Bruton Road, and said point being at the Northeast corner of a tract of land conveyed to LeThai, as recorded in Volume 9119, page 4388, Deed Records, Dallas County, Texas;

THENCE South 89 degrees 48 minutes 30 seconds West along the North line a distance of 300.0 feet to a ½" iron rod set for corner, said point being at the Northwest corner of a tract of land conveyed to Self Service Car Wash, as recorded in Volume 96005, Page 1389, Deed Records, Dallas County, Texas;

THENCE South 00 degrees 02 minutes 30 seconds West along the West line of said Self Service Car Wash tract, a distance of 150.0 feet to a ½" iron rod for corner set in the North line of said Bruton Road;

THENCE South 89 degrees 48 minutes 31 seconds West along the North line of said Bruton Road a distance of 660.26 feet to a ½" iron rod for corner;

THENCE along the Southeast line of a tract of land conveyed to Creek Homeowners, as recorded in Volume 88009, Page 3364, Deed Records Dallas County, Texas, the following calls

North 00 degrees 09 minutes 09 seconds East a distance of 37.54 feet to a ½" iron rod set for corner, said point being the beginning of curve to the right having a radius of 485.0 feet, a central angle of 64 degrees 00 minutes 06 seconds, a chord bearing of North 32 degrees 09 minutes 29 seconds East, and a chord of 514.03 feet;

Northeasterly direction along said curve a distance of 541.76 feet to a ½" iron rod set for corner;

North 64 degrees 09 minutes 30 seconds East (Directional Control) a distance of 763.49 feet to a ½" iron rod for corner in the West line of St. Augustine Road;

TERMINATION OF DEED RESTRICTIONS – PAGE 1

JW 01217

THENCE South 00 degrees 02 minutes 29 seconds West along the West right of way line of said St. Augustine Road, a distance of 652.29 feet to the PLACE OF BEGINNING and containing 11.199 acres of land.

II.

The Property was impressed with certain deed restrictions ("restrictions") as shown in an instrument dated January 27, 1982, signed by EDIZ, INC. and recorded in Volume 82051, Page 0676, of the Deed Records of Dallas County, Texas, a true and correct copy of which is attached to this instrument as Exhibit "A" and made a part of this instrument.

III.

The Owner does hereby terminate and release the restrictions attached to this instrument as Exhibit "A" in its entirety, as to the Property.

IV.

The above termination was made following a public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings was given as would have been required by law for a zoning change on the Property. The Owner must file this instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the termination becomes effective.

V.

The termination of these restrictions is not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owner agrees to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with this termination.

VII.

Unless stated otherwise in this instrument, the definitions and provisions of CHAPTER 51A, DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED of the Dallas City Code, as amended, apply and are incorporated into this instrument as if recited in this instrument.

VIII.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

IX.

The invalidation of any provision in this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED at the City of SAN DIEGO, SAN DIEGO County, this the 7th day of JANUARY, 2005.

OWNER:

DALLAS I, LTD.

By: [Signature]

Name: Michael F. Harland

Title: General Partner

CONSENT AND CONCURRENCE OF LIENHOLDER OR MORTGAGEE

NONE [Signature]
Property Lienholder or Mortgagee

By: _____

Printed Name: _____

Title: _____

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.
Interim City Attorney

By: Caden Burrows
Assistant City Attorney

THE STATE OF Calif §
COUNTY OF San Diego §

This instrument was acknowledged before me on the 7th day of JAN, 20 05 by Michael F. Harland, General Partner of DALLAS I, LTD.

Teresa Georgi
Notary Public - State of CA



TERMINATION OF DEED RESTRICTIONS - PAGE 4

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JW 01220

DEED RESTRICTIONS

DEED RECORD

THE STATE OF TEXAS)

A

2140

FILED
1981

)

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF DALLAS)

That the undersigned, EDIZ, INC., is the owner of the following described property situated in Dallas County, Texas, being in particular a tract of land out of the Thomas M. Johnson Survey, Abstract No. 695, City Block 6735, City of Dallas, Dallas County, Texas, and being that same tract of land conveyed to EDIZ, INC., by Nationwide Corporation by deed dated January 29, 1981, and recorded in Volume 81021, Page 1464 in the Deed Records of Dallas County, Texas, and being more particularly described as follows:

Being a tract of land situated in the Thomas M. Johnson Survey, Abstract No. 695, and being part of City of Dallas Block 6735, Dallas County, Texas, and being more particularly described as follows:

Beginning at a point formed by the intersection of the West right of way line of St. Augustine Road and the North right of way line of Bruton Road; thence along the North right of way line of Bruton Road South 44°55'32" West, a distance of 7.09 feet to a corner;

Thence continuing along the North right of way line of Bruton Road South 89°48'30" West, a distance of 955.53 feet to a corner;

Thence departing the North right of way line of Bruton Road North 0°09'30" East, a distance of 37.54 feet to the point of curvature of a circular curve to the right whose central angle is 64°00'00", whose radius is 485.00 feet, and whose tangents are 303.06 feet;

Thence along said circular curve to the right, a distance of 541.75 feet to the point of tangency;

Thence North 64°09'30" East, a distance of 763.80 feet to a corner in the West right of way line of St. Augustine Road;

Thence along the West right of way line of St. Augustine Road South 0°02'30" West, a distance of 797.41 feet to the point of beginning and containing 12.237 acres of land.

82051 0676

8-296/2296-8

That the undersigned, EDIZ, INC., does hereby impress all of the above-described property with the following deed restrictions, to-wit:

Multiple Family Dwellings shall not be constructed or placed on the above described property.

These restrictions shall continue in full force and effect for a period of twenty-five (25) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless terminated in the manner specified herein.

These restrictions shall not be altered, amended or terminated without a public hearing before the City Plan Commission and the City Council of the City of Dallas. Notice of such public hearings shall be given as would be required by law for a zoning change on the property described herein.

The restrictions contained herein are not in any manner intended to restrict the right of the City Council of the City of Dallas to exercise its legislative duties and powers insofar as zoning of the property is concerned.

These restrictions inure to the benefit of the City of Dallas, and the undersigned owner hereof does hereby grant to the City of Dallas the right to prosecute, at law and in equity, against the person violating or attempting to violate such restrictions, either to prevent him from so doing and to correct such violation and for further remedy, the City of Dallas may withhold the Certificate of Occupancy necessary for the lawful use of the property until such restrictions described herein are fully complied with.

These restrictions are hereby declared covenants running with the land and shall be fully binding upon all persons acquiring property within the above-described tract, and any person by acceptance of title to any of the above described property shall thereby agree and covenant to abide by and fully perform the foregoing restrictions and covenants.

VOL 1824

82051 0677

EXECUTED this the 27th day of January, 19 82.

Ed Worthy

THE STATE OF TEXAS)
)
COUNTY OF DALLAS)



BEFORE ME, the undersigned, a Notary Public in and for Dallas County, Texas, on this day personally appeared Ed Worthy, President of EDIZ, INC., known to me to be the person and officer of EDIZ, INC., whose name is subscribed to the foregoing instrument and acknowledge to me that he executed the same for the purposes and consideration therein expressed and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 27 day of January, 19 82.

Jim F. Selph
Notary Public in and for JIM F. SELPH
Commission Expires
June 1, 1983
DALLAS COUNTY, TEXAS

Approved as to form:
LEE E. ROLT, City Attorney
By Henry F. Knight
Assistant City Attorney

VOL PAGE
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PLAS
L.E. Murdoch
COUNTY CLERK
DALLAS COUNTY

6290 15028

'82 MAR 12 AM 11:10

COUNTY CLERK, Dallas County, Texas

L.E. Murdoch



MAR 15 1982

STATE OF TEXAS
COUNTY OF DALLAS
I hereby certify that this instrument was filed on the
date and time stamped herein by me and was duly
recorded in the volume and page of the public records
of Dallas County, Texas as stamped herein by me.

RECEIVED
NOV 23 1981
ZONING OFFICE

Forward to:
City of Dallas
CITY SECRETARY
CITY HALL
DALLAS, TEXAS 75201

Return to:
CITY SECRETARY
CITY HALL
DALLAS, TEXAS 75201

JW 01224

(3) the conveyance is operated as a temporary use which is accessory to the main use on the property for the purpose of cooking, wrapping, packaging, processing, or portioning ready-to-eat food for service, sale, or distribution; and

(4) all required permits are obtained from the Department of Environmental and Health Services. (Ord. Nos. 19455; 19786; 20360; 21398; 21895; 22759; 23694)

SEC. 51A-4.604. RESTRICTIONS ON ACCESS THROUGH A LOT.

(a) Access to a use may not go through a lot in a residential district unless the use is permitted in that residential district. If the use is permitted in the residential district by SUP only, the access is also permitted by SUP only.

(b) This section does not affect access to a use through a lot in a nonresidential district. (Ord. 20238)

Division 51A-4.700. Zoning Procedures.

SEC. 51A-4.701. ZONING AMENDMENTS.

(a) Initiation.

(1) The city council or the commission may authorize a public hearing on an amendment to this article or a change in a zoning district classification or boundary. If 10 or fewer property owners are involved, the director shall send written notice to the owners of real property within the subject area not less than 10 days before the meeting at which the city council or commission will consider authorization of a public hearing. This notice must be written in English and Spanish if the area of request is located wholly or partly within a census tract in which 50 percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census. If more than 10 property owners are involved, the director shall give notice of the public hearing in the official newspaper of the city at least 10 days before the meeting at which the city council or commission will consider authorization of a public hearing.

(2) A person may request a change in the zoning district classification or boundary by filing an application with the director.

(A) The application must be on a form approved by the commission and furnished by the department.

(B) Each owner of property within the area of request must sign the application.

(C) The applicant must pay an application fee.

(D) If the area of request is adjacent to a public street or alley, the director shall extend its boundaries to the centerline of the adjacent street or alley.

(E) An applicant requesting a change in zoning to an urban corridor district shall submit a concept plan in addition to the general requirements for a zoning change. The concept plan must indicate:

(i) the location of the urban corridor district site showing frontage along an urban corridor, indicating existing widths of rights-of-way, number of lanes, lane widths, and street designations according to the city's thoroughfare plan or Texas Department of Transportation;

(ii) the existing zoning district classifications and land uses for all properties within 250 feet of the area of request;

(iii) the proposed urban corridor lot dimensions, lot area, existing building footprints, and setback lines showing buildable area based on urban corridor regulations; and

(iv) the proposed mix of land uses.

(b) Commission report and recommendation required.

(1) The commission shall make a report and recommendation to the city council on all proposed amendments to this article or requests for a change in a zoning district classification or boundary.

(2) The director shall conduct those studies necessary for the commission to make its recommendation and report to city council.

(3) The commission or a committee of the commission shall hold a public hearing to allow proponents and opponents of an amendment to this article or request for a change in a zoning district classification or boundary to present their views.

(4) Before the commission holds the public hearing on an amendment to this article or on a request for a change in a zoning district classification or boundary, the director shall give notice of the public hearing in the official newspaper of the city at least 10 days before the hearing.

(5) The director shall send written notice of a public hearing on a request for a change in a zoning district classification or boundary to all owners of real property lying within 200 feet of the boundary of the area of request. The measurement of the 200 feet includes streets and alleys. The notice must be given not less than 10 days before the date set for the hearing by depositing the notice properly addressed and postage paid in the United States mail to the property owners as evidenced by the last approved city tax roll. This notice must be written in English and Spanish if the area of request is located wholly or partly within a census tract in which 50 percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census. The applicant may not alter, change, amend, enlarge or withdraw a portion of an application after notices have been mailed for the public hearing.

(6) The commission shall make its recommendation on a proposed amendment to this article or request for a change in a zoning district classification or boundary from staff reports of the director, field inspections and the evidence presented at the public hearing.

(7) The director shall forward to the city council the commission's recommendation and report on all amendments to this article and requests for a change in a zoning district classification or boundary except that when the request for a change in a zoning district classification or boundary is denied by the commission, the director shall not forward that recommendation and report to the city council unless the applicant within 10 days of the denial files with the director a request in writing that the city council review the commission's findings.

(8) A request for a change in a zoning district classification or boundary that has been forwarded to the city council may not be held for longer than six months from the date of the commission's action without being scheduled for a city council hearing. The commission shall review a request for a change in a zoning district classification or boundary that has not been scheduled within six months of the commission's action to determine whether a time extension should be granted for a specified period or whether the application should be terminated and declared null and void.

(c) City council action.

(1) Before the city council holds the public hearing on an amendment to this article or on a request for a change in a zoning district classification or boundary, the city secretary shall give notice of the public hearing in the official newspaper of the city at least 15 days before the hearing.

(2) An amendment to this article and requests for a change in a zoning district classification or boundary must be approved by the affirmative vote of a majority of city council members present; except, the favorable vote of three-fourths of all members of the city council is required if:

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(A) the request for a change in a zoning district classification or boundary has been recommended for denial by the commission; or

(B) a written protest against a change in a zoning district boundary or classification has been signed by the owners of 20 percent or more of either the land in the area of request or land within 200 feet, including streets and alleys, measured from the boundary of the area of request and the protest has been filed with the director.

(3) When city council passes an amending ordinance, the city secretary shall file the amending ordinance in the official city records. Unless the amending ordinance expressly indicates otherwise, the area of request is presumed to include the area to the centerline of an adjacent street or alley.

(d) Two year limitation.

(1) Except as provided in Subsections (d)(2) and (d)(3), after a final decision is reached by the commission or city council either granting or denying a request for a change in a zoning district classification or boundary, no further applications may be considered for that property for two years from the date of the final decision.

(2) If the commission or the city council renders a final decision of denial without prejudice, or if the city council grants a specific use permit and imposes a time limit of two years or less, the two year limitation is waived.

(3) A property owner may apply for a waiver of the two year limitation in the following manner:

(A) The applicant shall submit his request in writing to the director. The director shall inform the applicant of the date on which the commission shall consider his request and shall advise the applicant of his right to appear before the commission.

(B) The commission may waive the time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote by the commission is required to grant the request. If a rehearing is granted, the applicant shall follow the procedure for an amendment to this article or a request for a change in a zoning district classification or boundary.

(C) If the commission denies the request, the applicant may appeal in writing to the city council by filing an appeal with the director.

(e) Postponements.

(1) The applicant and the opponents shall each be allowed to postpone one hearing date before the commission and one hearing date before the city council.

(2) A request for postponement must be in writing and must be submitted to the director no later than 5:00

p.m. on the Monday of the week preceding the week of the hearing. If the deadline falls on an official city holiday, then the request must be submitted no later than noon on the following day.

(3) Before a hearing to be held by the city plan commission may be postponed, the person requesting postponement shall pay a fee of \$150.00 to the director. Before a hearing to be held by the city council may be postponed, the person requesting postponement shall pay a fee of \$150.00 to the director.

(4) Only the applicant or his representative may postpone the hearing date prior to the mailing of the hearing notices. A hearing postponed by the applicant or his representative whether prior to the mailing of required notices or after the mailing of required notices may be postponed for no longer than 60 days from the date of the scheduled or advertised hearing. If the applicant fails to request in writing within 60 days a new hearing date, the application is automatically withdrawn, and the director shall return the application to the applicant and the filing fee, less that amount necessary for administrative cost as determined by the director.

(5) Only a property owner within the area of notification may request a postponement for the opposition. The request for postponement must set forth the grounds for the postponement and must be signed by the party making the request. A postponement granted for the opposition may not exceed four weeks or a period equal to the time that the case would normally be scheduled for a hearing in the following month, whichever is longer.

(f) Withdrawals.

(1) If an applicant desires to withdraw his application, the applicant shall request in writing to withdraw an entire application for a change in a zoning district classification or boundary.

(2) If the applicant withdraws the application prior to the mailing of notice, the director shall return the application to the applicant. The director shall determine the administrative cost of processing the application, and shall return the filing fee less the administrative cost to the applicant.

(3) If the applicant withdraws the application after the mailing of notices for a public hearing before the commission, the applicant shall forfeit 65 percent of the filing fee to cover the administrative cost.

(A) If the application is withdrawn before 5:00 p.m. of the day that will leave five full working days (excluding Saturdays, Sundays and official city holidays) before the date of the hearing, the applicant shall not be subject to the two year waiting period required in Subsection (d).

(B) If an applicant requests withdrawal after 5:00 p.m. of the day that will leave five full working days (excluding Saturdays, Sundays and official city holidays) before the date of the hearing, the commission shall hold the public hearing and make a formal recommendation on the application. The applicant shall be subject to the two year waiting period required in Subsection (d).

(4) Once the commission has acted on a request for a change in a zoning district classification or boundary, the applicant may withdraw his application, but the entire application fee shall be retained by the city to cover administrative cost if:

(A) the commission approved the request; or

(B) the commission denied the request, but the applicant within 10 days of the denial files with the director a request in writing that the city council review the commission's findings.

(5) If the commission denies a request for a change in a zoning district classification or boundary and the

applicant does not appeal the decision to city council, the city controller shall refund 35 percent of the filing fee to the applicant.

(g) Written protest procedures.

(1) Purpose.

(A) The state law expressly enables the governing body of a municipality to establish procedures for adopting and enforcing zoning regulations and district boundaries. Pursuant to that authority, the city council enacts this subsection governing the receipt of written protests submitted for the purpose of requiring the favorable vote of three-fourths of all members of the city council to effect a change in a zoning district classification or boundary.

(B) This subsection is not intended to conflict with the state law; it is being enacted at a time when the state law does not explicitly provide how, when, or where a written protest must be filed. The city council expressly recognizes that this subsection may be partially or completely preempted at any such time that the state law is amended to explicitly provide how, when, or where a written protest must be filed.

(C) This subsection is intended to accomplish the following listed objectives which, in the opinion of the city council, are fully in keeping with the purposes, spirit, and intent of the state law:

(i) To allow the staff sufficient time to accurately calculate the land area percentages that determine the voting requirement.

(ii) To protect the rights of all parties by establishing minimum criteria to assure the reliability of written protests received.

(iii) To protect the rights of those protesting by establishing procedures and deadlines which are not unduly burdensome or restrictive.

(iv) To promote order and maintain the integrity of the zoning process.

(2) Form of protest.

(A) A protest must be in writing and, at a minimum, contain the following information:

(i) A description of the zoning case at issue.

(ii) The names of all persons protesting the proposed change in zoning district classification or boundary.

(iii) A description of the area of lots or land owned by the protesting parties that is either covered by the proposed change or located within 200 feet of the area covered by the proposed change.

(iv) The mailing addresses of all persons signing the protest.

(v) The date and time of its execution.

(B) The protest must bear the original signatures of all persons required to sign under Paragraph (3).

(3) Who must sign.

(A) A protest must be signed by the owner of the property in question, or by a person authorized by power of attorney to sign the protest on behalf of the owner. If the property is owned by two or more persons, the protest be signed by a majority of the owners, or by a person authorized by power of attorney to sign the protest on behalf of a majority of the owners, except that in the case of community property, the city shall presume the written protest of one spouse to be the protest of both.

(B) In the case of property owned by a corporation, the protest must be signed by the president, a vice-president, or by an attorney in fact authorized to sign the protest on behalf of the corporation. In the case of property owned by a general or limited partnership, the protest must be signed by a general partner or by an attorney in fact authorized to sign the protest on behalf of the partnership.

(C) Lots or land subject to a condominium regime are presumed to be commonly owned in undivided interests by the owners of all condominium units and under the control of the governing body of the condominium. For such lots or land to be included in calculating the lots or land area protesting a proposed rezoning, the written protest must state that the governing body of the condominium has authorized a protest in accordance with procedures required by its bylaws, and that the person signing the protest is authorized to act on behalf of the governing body of the condominium. A written protest signed by the owner of an individual condominium unit shall not be accepted unless the filing party produces legal documents governing the condominium which clearly establish the right of an individual owner to act with respect to his or her respective undivided interest in the common elements of the condominium.

(4) When signatures must be acknowledged.

(A) Except as otherwise provided in Subparagraphs (B) and (C), all signatures on a written protest must be acknowledged before a notary public.

(B) A signature on an original reply form sent by the city to the mailing address of the property owner need not be acknowledged.

(C) A signature on a protest delivered in person by the person signing need not be acknowledged if its reliability is otherwise established to the satisfaction of the director. In such a case, a summary of the evidence of reliability considered by the director must be endorsed on the protest by the director.

(5) Filing deadline.

(A) A written protest must be filed with the director before noon of the working day immediately preceding the date advertised for the city council public hearing in the statutory notice published in the official newspaper of the city. A protest sent through the mail must be received by the director before the deadline.

(B) Before the public hearing on the case, the filing deadline is automatically extended whenever the public hearing is re-advertised in the official newspaper of the city pursuant to statutory notice requirements.

(C) After the public hearing has begun, the filing deadline may only be extended by calling a subsequent public hearing and advertising that public hearing in the official newspaper of the city pursuant to statutory notice requirements. In such a case, the new filing deadline is noon of the working day immediately preceding the newly advertised public hearing date.

(6) Withdrawals of protests filed. Withdrawals of protests filed must be in writing and filed with the director before the filing deadline. The provisions of this subsection governing the form and filing of protests apply equally to withdrawals.

(7) Presumptions of validity.

(A) In all cases where a protest has been properly signed pursuant to this subsection, the city shall presume that the signatures appearing on the protest are authentic and that the persons or officers whose signatures appear on the protest are either owners of the property or authorized to sign on behalf of one or more owners as represented.

(B) In cases of multiple ownership, the city shall presume that a properly signed protest which on its face purports to represent a majority of the property owners does in fact represent a majority of the property owners.

(C) The presumptions in Subparagraphs (A) and (B) are rebuttable, and the city attorney may advise the city council that a presumption should not be followed in a specific case based on extrinsic evidence presented.

(8) Conflicting instruments. In the event that multiple protests and withdrawals are filed on behalf of the same owner, the instrument with the latest date and time of execution controls. (Ord. Nos. 19455; 19872; 19935; 20037; 20381; 21431; 22389; 24718)

SEC. 51A-4.702. PLANNED DEVELOPMENT (PD) DISTRICT REGULATIONS.

(a) General provisions.

(1) The purpose of the PD is to provide flexibility in the planning and construction of development projects by allowing a combination of land uses developed under a uniform plan that protects contiguous land uses and preserves significant natural features.

(2) A PD may contain any use or combination of uses listed in Division 51A-4.200. The uses permitted in a PD must be listed in the ordinance establishing the district.

(3) An ordinance establishing or amending a PD may not authorize the erection, relocation, or alteration of a detached non-premise sign. A special provision sign district must be established to authorize the erection, relocation, or alteration of a detached non-premise sign. For more information regarding special provision sign districts, see Division 51A-7.500.

(4) The ordinance establishing a PD must specify regulations governing building height, floor area, lot area, lot coverage, density, yards, off-street parking and loading, signs, landscaping, and streets and alleys. The following table may be used as a general guide in establishing these regulations:

General Guidelines for Establishing PD Regulations

<u>GENERAL USE CATEGORY</u>	<u>ZONING DISTRICT</u>
Single family	TH-3(A)*
Multifamily	MF-3(A)
Retail	CR
Office	MO-1
Commercial	CS