

Deed Rest
CR ord 23647

WHEREAS, the deed restrictions in the attached instrument have been volunteered in conjunction with a request for a CR Community Retail District which was approved by the City Council on September 9, 1998, on Zoning Case No. Z978-174/10525-NC(KC) on property on the north side of Frankford Road, east of Kelly Boulevard; and

WHEREAS, said deed restrictions have been approved as to form; Now, Therefore,


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

Section 1. That the deed restrictions set forth 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 zoned a CR Community Retail District as described in Ordinance No. ~~23647~~ **23647**

Section 2. That said deed restrictions shall be filed in the Deed Records of Denton County, Texas.

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

APPROVED AS TO FORM:
ANGELA K. WASHINGTON, Interim City Attorney

By 
Assistant City Attorney

APPROVED BY
CITY COUNCIL

SEP 09 1998


City Secretary

APPROVED  APPROVED _____ APPROVED _____
HEAD OF DEPARTMENT DIRECTOR OF FINANCE CITY MANAGER

DEED RESTRICTIONS

THE STATE OF TEXAS)
)
 COUNTY OF DENTON)

KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, James J. Hartnett, P.C., a Texas Professional Corporation, Will Ford Hartnett, individually, and James J. Hartnett, Jr., individually, ("the Owners") are the owners of the following described property ("the Property"), being in particular a tract of land out of the William Miller Survey, Abstract No. 883, City Block 8751, City of Dallas ("City"), Denton County, Texas, and which is comprised of the same tract of land conveyed to James J. Hartnett, P.C., a Texas Professional Corporation by substitute trustee's deed dated November 1, 1994 and recorded in the Deed Records of Denton County, Texas, County Clerk No. 94-R0082511, a portion of which was conveyed to Will Ford Hartnett, individually, by James J. Hartnett, P.C., by General Warranty Deed dated November 14, 1996, and recorded in the Deed Records of Denton County, Texas, County Clerk No. 96-R0081533, and a portion of which was conveyed to James J. Hartnett, Jr., individually, by James J. Hartnett, P.C., by General Warranty Deed dated January 15, 1997, and recorded in the Deed Records of Denton County, Texas, County Clerk No. 97-R0067954, and being more particularly described in Exhibit A attached hereto and incorporated herein for all purposes.

II.

The Owners do hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

1. No building will be located within thirty feet (30') of the north right-of-way line of Frankford Road.
2. A landscape buffer twenty-five feet (25') in width and containing at least a three foot (3') high grass or ground cover berm will be constructed and maintained adjacent to the north right-of-way line of Frankford Road. Said buffer shall contain at least fifty-five (55) 5-gal. shrubs. This area will contain 3 1/2" caliper Live Oak trees planted thirty feet (30') on center, except for driveway openings and visibility corner clips. Any protected tree, located in the landscape buffer, which is retained, shall count toward the required trees on a tree per tree basis. Said landscape buffer and Live Oak trees shall be installed prior to the issuance of a certificate of occupancy.
3. There shall not be more than one detached premise sign along Frankford Road. Said sign shall not exceed a maximum height of ten feet (10') and a maximum effective area of one hundred square feet (100-sq. ft.). This sign may be incorporated in the landscape buffer and located on said berm. Non-premise signs within five hundred feet (500') of the north

right-of-way line of Frankford Road are prohibited and may only be located within one hundred feet (100') of the SH 190 right-of-way.

4. No building located within two hundred fifty feet (250') of the north right-of-way line of Frankford Road may exceed two (2) stories and thirty-six feet (36') in height.
5. No tower/antenna for cellular communications, except mounted cellular antenna may be located within two hundred fifty feet (250') of the existing northern right-of-way line of Frankford Road.
6. The maximum permitted floor area ratio for retail uses shall not exceed 0.35 to 1.00.
7. The maximum permitted floor area ratio for office uses shall not exceed 0.50 to 1.00.
8. Any roof mounted mechanical equipment must be screened.
9. Parking lot lights may not exceed twenty-two feet (22') in height and must be fitted with a shielded type of directional fixture to direct light onto the Property and away from adjacent properties.
10. No more than one drive-through restaurant shall be located within one hundred fifty feet (150') of the north right-of-way line of Frankford Road.
11. The only uses permitted on the Property are:
 - A. Agricultural uses:
 - *Crop production*
 - B. Commercial and business service uses:
 - *Catering Service*
 - C. Institutional and community service uses:
 - *Adult day care facility*
 - *Cemetery or mausoleum*
 - *Child-care facility*
 - *Church*
 - *Community service center*
 - *Library, art gallery, or museum*
 - *Public or private school*
 - D. Miscellaneous uses:
 - *Temporary construction or sales office*
 - *Placement of fill material*
 - E. Office uses:
 - *Financial institution without drive-in window*
 - *Financial institution with drive-in window*
 - *Medical clinic or ambulatory surgical center*

-- *Office*

F. Recreation uses:

- *Country club with private membership*
- *Private recreation center, club or area*
- *Public park, playground, or golf course*

G. Retail and personal service uses:

- *Auto service center only in conjunction with a motor vehicle fueling station*
- *Car wash only in conjunction with a motor vehicle fueling station*
- *Dry cleaning or laundry store*
- *Furniture Store*
- *General merchandise or food store 3,500 square feet or less*
- *General merchandise or food store greater than 3,500 square*
- *Home improvement center, lumber, brick or building materials sales yard*
- *Motor vehicle fueling station*
- *Nursery, garden shop, or plant sales*
- *Personal service use*
- *Restaurant without drive-in or drive-through service*
- *Restaurant with drive-through service.*

H. Utility and public service uses:

- *Electrical substation*
- *Local utilities*
- *Police or fire station*
- *Post office*
- *Radio, television, or microwave tower*
- *Tower/antenna for cellular communication*
- *Utility or government installation other than listed*

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

Owners must then file the amending or terminating instrument in the Deed Records of the county or counties where the Property is located at their 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 Owners agree that these restrictions inure to the benefit of the City. The Owners hereby grant 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 Owners agree that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owners agree 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 provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owners 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.

VIII.

The Owners agree 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.

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 Owners understand and agree that this document shall be governed by the laws of the State of Texas.

XI.

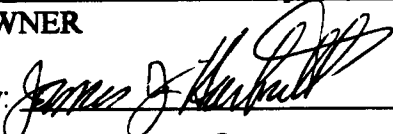
The Owners certify and represent that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

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 the 4th day of SEPT, 1998

JAMES J. HARTNETT, P.C.,
a Texas Professional Corporation
OWNER

By: 

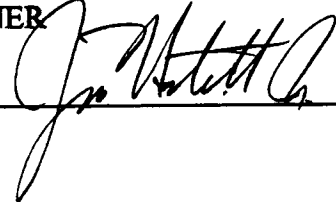
Printed Name: James J. Hartnett

Title: President

WILL FORD HARTNETT
OWNER

By: 

JAMES J. HARTNETT, JR.
OWNER

By: 

ANNE PERREAULT HARTNETT

OWNER

By: Anne Hartnett 9/4/98

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

Property Lienholder

By: _____

Printed Name: _____

Title: _____

APPROVED AS TO FORM:

ANGELA K. WASHINGTON, Interim City Attorney

By: Alana Fernandez
Assistant City Attorney

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 4th day of September by
(month)
James J. Hartnett, Jr.

(SEAL)

Donna Lynn Spencer

Notary Public

My commission expires:

Donna Lynn Spencer
(date)

3-31-01

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 4th day of September by James J. Hartnett as President of JAMES J. HARTNETT, P.C., a/an Texas professional corporation, on behalf of said corporation.

(SEAL)

Donna Lynn Speck

Notary Public

My commission expires:
3-31-01

DONNA LYNN SPECK
(date)

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 4th day of September by
(month)
Will Ford Hartnett.

(SEAL)

Denise Lynn Spencer

Notary Public

My commission expires:

3-31-01

Denise Lynn Spencer
(date)

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 4 day of September by
(month)
Anne Perreault Hartnett.

(SEAL)

Dana Lynn Spencer

Notary Public

My commission expires:

3-31-01

Dana Lynn Spencer
(date)

EXHIBIT A

Legal Description

Being all that certain lot, tract, or parcel of land situated in the William Miller Survey, Abstract Number 883, and the J. McCants Survey, Abstract Number 885, in the City of Dallas, Denton County, Texas and being part of that certain (called) 280.36 acre tract of land conveyed by deed from J.L. McKamy, et us, Annie McKamy, to Charles C. McKamy, as recorded in Volume 157, Page 104, Deed Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner in the north boundary line of said 280.36 acre tract and in the proposed west right-of-way line of State Highway 190 (proposed 400' right-of-way), said point being N 88°48'22" W, 850.17 feet from an iron rod found in the centerline of Marsh Lane, a public roadway, and in the east line of said John Smith Survey and in the west line of the William Larkin Survey, Abstract Number 755, Denton County, Texas, said iron rod being the southeast corner of that certain (called) 5.471 acre tract of land conveyed by deed from Charles S. McKamy to Charles L. McKamy, as recorded in Volume 557, Page 646, Deed Records of Denton County, Texas;

THENCE S 30°00'32" W, 405.65 feet along said west right-of-way line to a point for corner;

THENCE N 89°29'32" W, 528.07 feet to a point for corner;

THENCE S 00°30'28" W, 615.19 feet to a point in the proposed north right-of-way line of Frankford Road (proposed 100' right-of-way);

THENCE N 89°29'32" W, 186.15 feet along said proposed north right-of-way line to a point for corner;

THENCE N 00°03'16" E, 979.31 feet to a point in the north boundary line of said 280.36-acre tract;

THENCE S 88°42'22" E, ^{921.80}~~1021.81~~ feet along said north boundary line to the PLACE OF BEGINNING ~~and containing approximately 9.429 acres of land.~~

SAVE AND EXCEPT any property, if any, south of the north line of Frankford Road (100 feet wide) as established by the Dallas City Council by Resolution No. 87-3834, dated December 2, 1987, such street being shown on City of Dallas Frankford Road Plans 311D-3407 as prepared by C.L. Moon and on file with the Chief City Surveyor of the City of Dallas, and same north line being the most northerly line described in an easement from Charles S. McKamy to the City of Dallas dated September 19, 1994, and recorded on October 8, 1996, at Document No. 96-R0071572 in the Document Records of Denton County, Texas.