

073345

COUNCIL CHAMBER

November 12, 2007

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located on the south line of President George Bush Turnpike (State Highway 90), north of the terminus of Pear Ridge Drive, which is the subject of zoning case No. Z067-319(WE); 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 are accepted by the City Council of the City of Dallas to be used in conjunction with the development of property that is the subject of Zoning Case No. Z067-319(WE).

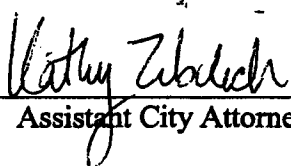
Section 2. That these deed restrictions must be filed in the Deed Records of Dallas County, Texas.

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

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By


Assistant City Attorney

APPROVED BY
CITY COUNCIL

NOV 12 2007


City Secretary

APPROVED


HEAD OF DEPARTMENT

APPROVED

DIRECTOR OF FINANCE

APPROVED

CITY MANAGER

DEED RESTRICTIONS

THE STATE OF TEXAS §
 COUNTY OF DALLAS §

KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, Crow-Billingsley Midway Road South A, Ltd., Crow-Billingsley 544 Carrollton, Ltd., and Lucy Billingsley, individually, (collectively, the "Owners"), are the owners of the property ("the Property"), described in Exhibit A.

II.

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

1. Except as provided in this paragraph for a hotel or motel, the following uses are prohibited on the Property:

(A) Commercial and business service uses.

-- Tool or equipment rental.

(B) Industrial Uses.

-- Temporary concrete or asphalt batching plant.

(C) Lodging Uses.

-- Extended stay motel or hotel.

-- Hotel or motel Exception: A full-service hotel is allowed with residential adjacency review. Full-service hotel means a hotel that has an accessory restaurant without drive-in or drive-through service, and in which all guest room ingress and egress doors enter an enclosed interior area within the hotel .

-- Overnight general purpose shelter.

(D) Retail and Personal Service Uses.

-- Auto service center.

-- Car wash.

-- Commercial amusement (outside).

-- Commercial parking lot or garage.

- Mortuary, funeral home, or commercial wedding chapel.
- Motor vehicle fueling station.
- Restaurant with drive-in or drive through service.
- Restaurant without drive-in or drive through service.
- Swap or buy shop.
- Tattoo parlor or body piercing studio.

(E) Wholesale, distribution, and storage uses.

- Mini-warehouse.
- Recycling buy-back center.
- Recycling collection center.

2. The only detached signs permitted on the Property are monument signs.

3. Prior to the issuance of a building permit for a structure that would bring the cumulative floor area for all structures on the Property (including floor area stated in building permits issued and not revoked) to more than 10,000 square feet, right-of-way for a public street in the area described on Exhibit B must be obtained, and a three way contract must have been executed for the construction of the street in that area.

4. Prior to the issuance of a building permit for a structure that would bring the cumulative floor area for all structures on the Property (including floor area stated in building permits issued and not revoked) to more than 10,000 square feet a three way contract must have been executed for the construction of a minimum 37-foot-wide public street within the existing right-of-way along the southern boundary of the Property.

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 his or 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 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 Owners agrees that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owners 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. For violations of these restrictions that occur after the sale of the Property to a subsequent purchaser, the City shall not seek to enforce these restrictions against a prior owner of the Property.

VII.

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.

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 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.

IX.

Unless stated otherwise in this document, the definitions and provisions of CHAPTER 51A of the Dallas City 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 certifies and represents that there are no 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 12th day of November, 2007.

OWNER # 1:

Crow-Billingsley Midway Road South A, Ltd.
a Texas limited partnership

By: Henry GP, LLC
a Texas limited liability corporation

Its: General Partner

By: H. Billingsley

Printed Name: _____

Title: Henry Billingsley
Manager

OWNER # 2:

Crow-Billingsley 544 Carrollton, Ltd.
a Texas limited partnership

By: Crow-Billingsley 544 Parker, Ltd.
a Texas limited partnership

Its: General Partner

By: 19BCO, Inc.
a Texas corporation

Its: General Partner

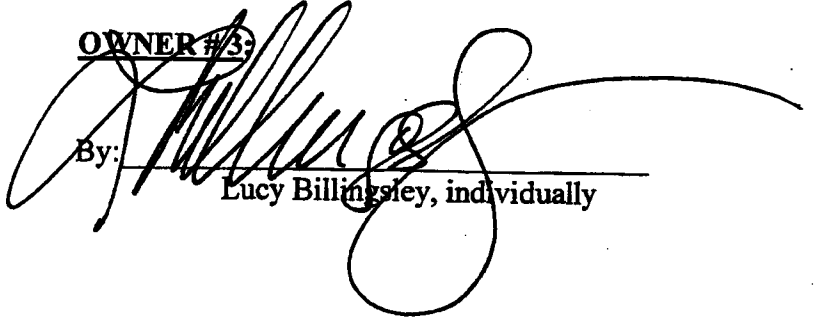
By: H. Billingsley

Printed Name: _____

Title: Henry Billingsley
President

073345

OWNER #3

By:  _____

Lucy Billingsley, individually

073345

CONSENT AND CONCURRENCE OF LIENHOLDER OR MORTGAGOR

NONE

Property Lienholder or Mortgagor

By: _____

Printed Name: _____

Title: _____

APPROVED AS TO FORM:

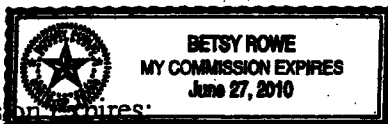
Tom Perkins, City Attorney

By: Wahby Zohledh
Assistant City Attorney

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me, the undersigned Notary Public in and for the State of Texas, on this day personally appeared Henry Billingsley, Manager of Henry GP, LLC, a Texas limited liability corporation, as the General Partner of Crow-Billingsley Midway Road South A, Ltd., a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

[SEAL]



My Commission Expires:

June 27, 2010

Betsy Rowe
Notary Public - State of Texas

Betsy Rowe
Printed Name of Notary Public

073345

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me, the undersigned Notary Public in and for the State of Texas, on this day personally appeared Henry Billingsley, President of 19BCO, Inc., a Texas corporation, as the General Partner of Crow-Billingsley 544 Parker, Ltd., a Texas limited partnership, as the General Partner of Crow-Billingsley 544 Carrollton, Ltd., a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

[SEAL]



Betsy Rowe
Notary Public - State of Texas

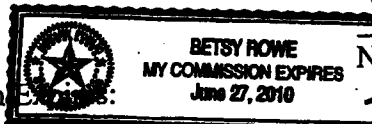
My Commission Expires:
June 27, 2010

Betsy Rowe
Printed Name of Notary Public

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me, the undersigned Notary Public in and for the State of Texas, on this day personally appeared Lucy Billingsley, individually, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

[SEAL]



Betsy Rowe
Notary Public - State of Texas

My Commission Expires:
June 27, 2010

Betsy Rowe
Printed Name of Notary Public

EXHIBIT A
FIELD NOTES

Being 7.774 acres of land situated in the William C. Lewis Survey, Abstract Number 534, in the City of Dallas, Collin County, Texas, being part of Block Number 8761, Official City of Dallas Block Numbers, being a portion of Parcels 8-53, 8-51, and 8-49 described in the deed to North Texas Tollway Authority recorded in Volume 4082, Page 141 of the Land Records of Collin County, Texas, and also being a portion of the tract of land described in the deed to North Texas Tollway Authority recorded in Volume 4946, Page 1270 of said Land Records, said 7.774 acres of land being more particularly described by metes and bounds as follows:

COMMENCING, at a 5/8 inch iron rod with cap stamped "CSM, INC" set in the north line of Pear Ridge Road, a 62 feet wide right of way, for the southwest corner of the tract of land described in the deed to the City of Dallas recorded in Volume 4924, Page 2760 of said Land Records, and the southeast corner of the tract of land described in the deed to Parkway Investors Limited recorded in Volume 1289, Page 300 of said Land Records, said point bears South 89 degrees 31 minutes 14 seconds West, a distance of 2.00 feet from the northwest corner of Versailles II Apartments, an addition to the City of Dallas, in Collin County, Texas, as shown on the plat recorded in Cabinet G, Slide 512 of the Collin County Map Records;

THENCE, North 00 degrees 23 minutes 48 seconds West, along the west line of the City of Dallas tract recorded in Volume 4924, Page 2760 and the east line of said Parkway Investors tract, a distance of 56.00 feet to a 5/8 inch iron rod with cap stamped "CSM INC" set for the northwest corner of the City of Dallas tract recorded in Volume 4924, Page 2760 and the POINT OF BEGINNING of the herein described tract;

THENCE, North 00 degrees 23 minutes 48 seconds West, along the east line of said Parkway Investors Limited tract and along the west line of said Parcel 8-49, passing at a distance of 305.67 feet a 1/2 inch iron rod found for the northerly southwest corner of the North Texas Tollway Authority tract as recorded in Volume 4946, Page 141, Collin County Land Records and Volume 2001102, Page 8215 Deed Records Dallas County, Texas, continuing along said the west line of said North Texas Tollway Authority tract passing at a distance of 96.62 feet a 5/8 inch iron rod with cap stamped "CSM INC" found (surface coordinates N = 7,056,057.903, E = 2,482,283.984) for the northwest corner of said North Texas Tollway Authority tract and the southwest corner of said Parcel 8-53, and continuing along the west line of said Parcel 8-53 for a total distance of 427.63 feet to a found monument in the south line of the President George Bush Turnpike, State Highway Number 190, a variable width right of way, and the northwest corner of said Parcel 8-53;

THENCE, North 89 degrees 50 minutes 02 seconds East, a distance of 795.94 feet, along the south line of said President George Bush Turnpike and the north line of said Parcel 8-53, to a 5/8 inch iron rod with cap stamped "CSM INC" set for corner;

FIELD NOTES


THENCE, South 00 degrees 23 minutes 48 seconds East, passing at a distance of 26.33 feet a 5/8 inch iron rod with cap stamped "CSM INC" found for the northwest corner of the tract of land described in the deed to the City of Dallas recorded in Volume 4924, Page 2752 of said Land Records, continuing along the west line of said City of Dallas tract, for a total distance of 423.28 feet to a 5/8 inch iron rod with cap found in the north line of said City of Dallas tract recorded in Volume 4924, Page 2760;

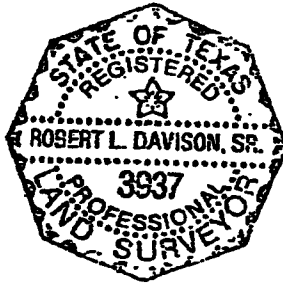
THENCE, South 89 degrees 31 minutes 14 seconds West, along the north line of said City of Dallas tract recorded in Volume 4924, Page 2760, passing at a distance of 318.84 feet a 5/8 inch iron rod with cap stamped "CSM INC" found in the west line of said Parcel 8-51 and the east line of said North Texas Tollway Authority tract as recorded in Volume 4946, Page 1270 Collin County Land Records and Volume 2001102, Page 8215 Deed Records Dallas County, Texas, continuing along the north line of said City of Dallas tract recorded in Volume 4924, Page 2760, passing at a distance of 115.59 feet a 5/8 inch iron rod found in the west line of said North Texas Tollway Authority tract and the east line of said Parcel 8-49, continuing along the north line of said City of Dallas tract recorded in Volume 4924, Page 2760, for a total distance of 795.93 feet to the POINT OF BEGINNING and containing 338,633 square feet or 7.774 acres of land, more or less.

The Basis of Course (Bearings) is the Texas State Plane Coordinate System, North Central Zone, Grid Bearings established by GPS measurements taken from NGS Station "Doran", NASD 83, convergence angle at "Doran" is 00 degrees 58 minutes 07.0 seconds as computed by Corpscon Version 4.11.

SURVEYORS CERTIFICATION

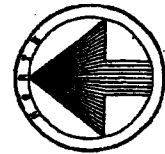
I, Robert L. Davison, Sr., Registered Professional Land Surveyor Number 3937, State of Texas, do hereby certify that this description and the sketch attached hereto were prepared from the public records and from an actual survey made on the ground, under my direction and supervision.


Robert L. Davison, Sr., R.P.L.S.
December 17, 2002

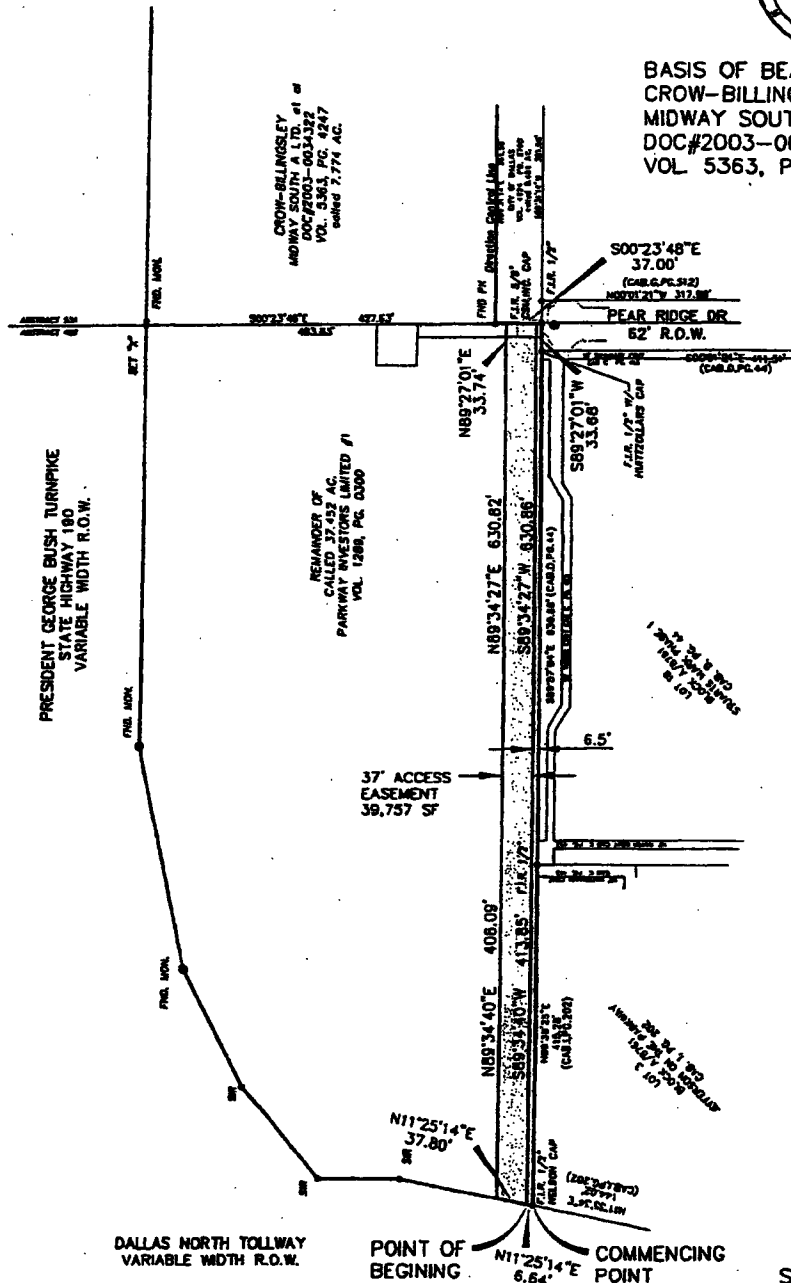


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EXHIBIT "B" ACCESS EASEMENT



BASIS OF BEARING:
CROW-BILLINGSLEY
MIDWAY SOUTH A LTD. et al
DOC#2003-0034322
VOL. 5363, PG. 4247



DALLAS NORTH TOLLWAY
VARIABLE WIDTH R.O.W.

POINT OF BEGINNING
N11°25'14"E
6.64'

Sheet 1 of 2

C&P ENGINEERING, LTD.

Engineering • Planning • Surveying •

1801 GATEWAY BLVD, SUITE 101
RICHARDSON, TEXAS 75080 (972)644-2800

Scale: 1"=200'

Date: 11/08/07

Job No.: 07114

Dwg. File:
07114-EXHIBIT-ACCESS

EXHIBIT "B"
ACCESS EASEMENT

A tract or parcel of land situated in the Moses A. Jackson Survey, Abstract No. 486, in the City of Dallas, Collin County, Texas, being part of the called 37.452 acres tract described in the deed to Parkway Investors Limited #1 recorded in Volume 1289 Page 0300 in the Collin County Deed Records (CCDR), and being more particularly described as follows:

BEGINNING at a found 1/2 inch iron rod with Huitt Zollar cap on the west right-of-way line of Pear Ridge Drive (62' wide right-of-way, 32' from centerline) at the northeast corner of Lot 1B, Block A/8761 of Stuarts Mark Phase I, an addition to the City of Dallas recorded in Cabinet D Page 44 in the Collin County Plat Records (CCPR);

THENCE South 89°34'27" West, 630.87 feet along the north side of said Stuarts Mark Phase I to a found 1/2 inch iron rod;

THENCE South 89°34'40" West, 415.21 feet along the north side of Lot 3, Block A/8761 of Jefferson On The Parkway, an addition to the City of Dallas recorded in Cabinet I Page 202 in the CCPR;

THENCE North 11°25'14" East, 36.27 feet along the east right-of-way line of Dallas North Tollway;

THENCE North 89°34'40" East, 407.77 feet;

THENCE North 89°34'27" East, 630.83 feet;

THENCE North 89°27'01" East, 33.73 feet;

THENCE South 00°23'48" East, 35.50 feet along the west side of said 0.464 acres tract to a found 5/8 inch iron rod with CSM, INC. cap;

THENCE South 89°27'01" West, 33.67 feet to the **POINT OF BEGINNING** and **CONTAINING** 38,199 square feet or 0.8769 acres of land, more or less.

