

WHEREAS, the deed restrictions in the attached instruments have been volunteered in conjunction with a request for a CR Community Retail District and a CR-D Community Retail-Dry District which was approved by the City Council on January 25, 1989, on Zoning Case #Z878-144/8487-N on property at the southeast corner of Midway Road and Rosemeade Parkway; and,

WHEREAS, said deed restrictions have been approved as to form and content;

Now, Therefore,

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

Section 1. That the deed restrictions as 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 and a CR-D Community Retail-Dry District as described in Ordinance 20184.

Section 2. That said deed restrictions shall be filed with the County Clerk of Collin County, Texas, to be recorded in the Deed Records of Collin 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.

cc: Building Inspection - 2
Planning & Development - 2

Approved as to form:
ANALESIE MUNCY, City Attorney

By Angela M. Bares
Assistant City Attorney

**APPROVED BY
CITY COUNCIL**

89-12/ct

JAN 25 1989

Robert S. Brown
City Secretary

APPROVED [Signature] APPROVED
HEAD OF DEPARTMENT

DIRECTOR OF FINANCE

APPROVED _____ CITY MANAGER

II. LOCATION, HEIGHT, SETBACK AND OTHER REQUIREMENTS

The following limitations shall apply to any construction, development or use of the Subject Property from time to time or at any time:

- (a) No building, structure or improvement of any kind or character in Zone 1 or Zone 5 may exceed twenty feet (20') in height and one (1) story.
- (b) No building, structure or improvement of any kind or character in Zone 2 or Zone 3 may exceed twenty-four feet (24') in height and one (1) story.
- (c) No building, structure or improvement of any kind or character in Zone 4 may exceed eighteen feet (18') in height and one (1) story.
- (d) No more than two hundred forty thousand (240,000) gross square feet of building floor area (excluding parking structures) may be constructed, used or occupied on the Subject Property.
- (e) Any mechanical equipment placed on the roof of a building on the Subject Property must be screened from the view of any single-family homes adjacent to the Subject Property and placed on the front one-half of such building. Equipment may also be placed on the ground immediately adjacent to a building, but must be enclosed with a wall around the equipment area, such wall being, at a minimum, the same height as the equipment, and no less than forty feet (40') from any property line adjacent to residentially zoned property. No trash disposal devices are considered as mechanical equipment.
- (f) Attached signs must be affixed to the buildings and not face toward any single-family lots adjacent to the Subject Property and may not extend above the top of the building.
- (g) Detached signs (pole signs) may not exceed twenty-four feet (24') in height and may not be located within two hundred feet (200') of any single-family zoned lot.
- (h) Parking lot lighting must be on poles no taller than the height of the buildings. Any lighting on the side of a building may not be directed toward any single-family zoned lot.
- (i) No building occupied by a restaurant may be located in Zone 1, Zone 2 or Zone 4 as shown on the PLAN.
- (j) There shall be a "no building zone" of fifty feet (50') (including the Landscape Buffer Zone described in III below) along the common boundary line of the Subject Property and any property zoned single-family.

(k) Trash receptacles must be screened from view from any residentially zoned lot and must be located immediately adjacent to the buildings. No trash receptacle may be located within thirty-five feet (35') of any common boundary line between residentially zoned lots and the Subject Property. In addition, grocery stores must have fully enclosed trash receptacles.

(l) Garbage pick up and parking lot cleaning and maintenance are limited to the hours of 7 A.M. to 7 P.M.

(m) No building occupied by an anchor tenant (defined as a tenant occupying over twenty thousand (20,000) square feet of floor area) may be located in Zone 1 or Zone 4 as shown on the PLAN.

(n) Vehicular ingress and egress is prohibited from the community retail-zoned property to any single-family zoned lots.

III. LANDSCAPE BUFFER ZONE AND REQUIREMENTS

Any development, construction and/or use of the Subject Property shall include the construction, installation and maintenance of a ten foot (10') wide Landscape Buffer Zone contiguous and adjacent to the common boundary between the Subject Property and any single-family zoned property as shown on the PLAN. This area shall be considered the "Landscape Buffer Zone" and shall be limited to dirt, grass, trees, shrubbery, ground cover and retaining walls and shall include an eight foot (8') reinforced masonry screening wall along the side of the Landscape Buffer Zone adjacent to the Subject Property. Said Landscape Buffer Zone is set forth in more detail on the PLAN. As part of any future development of the Subject Property, and prior to applying for any Certificate of Occupancy by the City of Dallas relative to the Subject Property, the Subject Property Owner (and its heirs, successors and assigns) shall:

(a) Plant and cultivate the Landscape Buffer Zone adjacent to the area being developed with:

(1) Live Oak trees, 3½" caliper, thirty-five feet (35') on center on the outside of the screening wall referred to above.

(2) Some type of evergreen vertical hedge between the trees.

(3) Grass or gravel on the ground.

(b) Install an irrigation or sprinkler system within the Landscape Buffer Zone.

The Landscape Buffer Zone shall be watered, clipped, trimmed and maintained on a regular basis so that it at all times appears in healthy condition (including replacement of dead trees and plants). The screening wall must also be maintained on a regular basis.

No signs, monuments, structures or improvements, save and except fences and retaining walls, landscape lighting, and signs or improvements required by a governmental entity shall be constructed in the Landscape Buffer Zone.

IV. GRADING AND RETAINING WALL

In order to lower the heights of the buildings constructed in Zone 1 and Zone 2 of the Subject Property, the following must be accomplished:

- (a) The Subject Property will be graded in such a manner that the ground level of the Subject Property will be lowered below grade of the adjacent single-family lots as shown on the PLAN.
- (b) A retaining wall will be constructed along the retail side of the Landscape Buffer Zone, as shown on the PLAN, in all areas where the ground level of the Subject Property is lowered.

V. PROHIBITED USES

The following uses, as defined in the Dallas Development Code, are prohibited on the Subject Property:

- (a) Pawn Shop
- (b) Building repair and maintenance shop
- (c) Establishments for the care of alcoholic, narcotic or psychiatric patients
- (d) Group home or shelters for disabled, indigent or abused persons
- (e) Half-way house
- (f) Hotel or motel
- (g) Lodging or boarding house
- (h) Radio, television or microwave tower

- (i) Recycling collection center
- (j) Amateur communication tower
- (k) Helistop
- (l) Bar, lounge or tavern
- (m) Commercial amusement (outside)
- (n) Commercial parking lot or garage
- (o) Liquor store

VI. TRAFFIC IMPROVEMENTS

No person may apply for a Certificate of Occupancy until Midway Road is completed as a six-lane divided thoroughfare from Windhaven to Rosemeade Parkway and including a right-turn lane from northbound Midway Road to eastbound Rosemeade Parkway.

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 to title to any of the above described property shall thereby agree and covenant to abide by and fully perform the foregoing restrictions and covenants.

EXECUTED this 16th day of January, 1989.

Approved as to form:
ANALESIE MUNCY, City Attorney.

By Angela M. Sauer
Assistant City Attorney

EMERALD HEIGHTS JOINT VENTURE

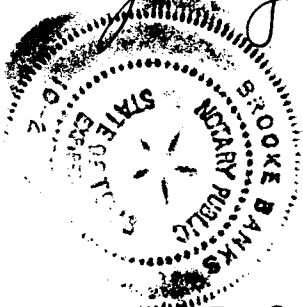
BY: Joseph M. Luedtke
MANAGING VENTURER

THE STATE OF TEXAS

COUNTY OF COLLIN

Before me, the undersigned authority, on this day personally appeared Joseph M. Friedheim, Managing Venturer in Emerald Heights Joint Venture, 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.

Given under my hand and seal of office on this 16th day of January, 1989.



Brooke Banks
Notary Public, State of Texas

10-28-92
My Commission Expires:

EXHIBIT "A"

Being a tract of land situated in the City of Dallas, Collin County, Texas, and being out of the Edwin Allen Survey, Abstract No. 8, and being part of Dallas City Block No. 8740 and being more particularly described as follows:

COMMENCING at a point in the Denton-Collin County line, said point being in the North right-of-way line of a 100 foot Texas Power & Light Company easement and the West right-of-way line of a variable width Texas Power & Light Company easement as recorded in Volume 1282, Page 520, Collin County Deed Records, THENCE North $0^{\circ} 02' 00''$ West, along said County line a distance of 356.39 feet to the POINT OF BEGINNING, an iron pin found for corner;

THENCE North $0^{\circ} 02' 00''$ West, continuing along said County line a distance of 618.67 feet, an iron pin found for corner;

THENCE North $88^{\circ} 56' 00''$ East, departing said County line, a distance of 61.50 feet, an iron pin found for corner;

THENCE North $0^{\circ} 06' 23''$ West, a distance of 183.44 feet, an iron pin found for corner;

THENCE North $44^{\circ} 27' 24''$ East, a distance of 14.26 feet, to a point in the South line of Rosemeade Road an 80 foot right-of-way, an iron pin found for corner;

THENCE North $88^{\circ} 56' 00''$ East, along said South line of Rosemeade Road, a distance of 179.16 feet, to the beginning of a curve to the left having a central angle of $42^{\circ} 15' 11''$, a radius of 630.00 feet, a tangent of 243.43 feet, a railroad spike found for corner;

THENCE along said curve to the left and along said South line of Rosemeade Road an arc distance of 464.60 feet to the end of said curve and the beginning of a reverse curve to the right having a central angle of $42^{\circ} 15' 11''$, a radius of 550.00 feet, a tangent of 212.52 feet, an iron pin found for corner;

THENCE along said curve to the right and along said South line of Rosemeade Road an arc distance of 405.60 feet to the end of said curve, an iron pin found for corner;

THENCE North $88^{\circ} 56' 00''$ East, along said South line of Rosemeade Road a distance of 585.65 feet, an iron pin found for corner;

THENCE South $1^{\circ} 04' 00''$ East, leaving said South line of Rosemeade Road, a distance of 250.00 feet, an iron pin found for corner;

THENCE South 88° 56' 00" West, a distance of 664.89 feet, an iron pin found for corner;

THENCE South 43° 56' 00" West, a distance of 110.00 feet, an iron pin found for corner;

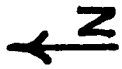
THENCE South 1° 04' 00" East, a distance of 172.21 feet, to a point in the most Northerly North line of the Bently Court Addition as recorded by plat in Cabinet "D", Page 150, Collin County Deed Records, an iron pin found for corner;

THENCE South 88° 56' 00" West, along said North line of Bently Court Addition a distance of 271.70 feet, to the most Northerly Northwest corner of said Bently Court Addition, an iron pin found for corner;

THENCE South 0° 02' 00" East, along the West line of said Bently Court Addition a distance of 618.67 feet, a chisled "+" found for corner;

THENCE South 88° 56' 00" West, along the North line of said Bently Court Addition a distance of 618.63 feet to the POINT OF BEGINNING and CONTAINING 18.405 acres of land, more or less.

Exhibit B



$\Delta = 42^{\circ} 15' 11''$
 $R = 630.00'$
 $T = 243.43'$
 $L = 464.60'$

ROSEMEADE PARKWAY

MIDWAY ROAD

N 88° 56' 00" E

179.16'

RR SPIKE FND.

N 44° 27' 24" E

14.26'

BLOCK 8740

Zone 4

Zone 3

Zone 2

Zone 1

Zone 5

Lower Elevations
(Refer to Article V)

Point A - 1 Ft.

Point B - 4 Ft.

Point C - 6 Ft.

No Building Zone
50 Ft. width
(Landscape Buffer Zone)

S 88° 56' 00" W

S 43° 56' 00" W

110.00'

S 01° 04' 00" E

172.21'

I.R.F.

271.70'

I.R.F.

S 88° 56' 00" W

271.70'

I.R.F.

S 88° 56' 00" W

618.67'

I.R.F.

S 00° 02' 00" E

618.67'

I.R.F.

S 88° 56' 00" W

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I.R.F.

664.89'

S 88° 56' 00" W

S 43° 56' 00" W

110.00'

S 01° 04' 00" E

172.21'

I.R.F.

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S 88° 56' 00" W

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Z878-144/8487-N

PLANO

Deed Restricted
Z823 - 583/617-N

R-1/2 ac.

PD no. 165

Undeveloped

ROSEMADE PRVY PKWY.

RD.

TR II
Apartments

Undeveloped

TR I
Undeveloped

CR
Undeveloped

MF
Apartments

MF
Apartments

DENTON

MIDWAY

COLLIN

72

73

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