

December 8, 1993

WHEREAS, the City Council on October 14, 1981 passed Resolution No. 81-3006 accepting a deed restriction instrument submitted in conjunction with an application for an MF-1 Multiple Family District on property located north of Preston Oaks Road and east of Montfort Drive involving Zoning File No. Z801-238/1928-N; and

WHEREAS, application has been made to terminate the deed restriction limiting the density to 15 dwelling units per acre on two portions of the subject property (a 2.78 acre parcel owned by JPI Montfort -Phase 2, L.P., and a 3.38 acre parcel owned by the the Resolution Trust Corporation) as part of Zoning File No. Z923-242/1062-N; and

WHEREAS, the City Council at a public hearing on October 27, 1993, approved the termination of said deed restriction; and

WHEREAS, in conjunction with the application to terminate the above referenced deed restriction, new deed restrictions were offered on said 2.78 acre and 3.38 acre parcels of land which were approved as part of the City Council's action at its hearing on October 27, 1993; and

WHEREAS, in addition to the deed restrictions placed on the above referenced parcels of land, new deed restrictions were also placed on a 0.6954 acre parcel of land and a 0.9180 parcel of land owned by the Resolution Trust Corporation and also approved as part of the City Council's action at its hearing on October 27, 1993; and

WHEREAS, the City Council on November 11, 1981, passed Resolution No. 81-3241 accepting deed restrictions on a 13.8 acre tract of land in conjunction with an application for an MF-1 Multiple Family District on property located north of Preston Oaks Road and east of Montfort Drive involving Zoning File No. Z801-220/1062-N; and

WHEREAS, application was made to terminate the restriction limiting the density to 18 dwelling units per acre, and further combining the 13.8 acre tract of land with a contiguous 16.96 acre tract of land and placing a new deed restriction on the combined properties limiting development to a maximum of 630 dwelling units as part of Zoning File Z801-220/1062-Na; and

WHEREAS, the City Council at a public hearing on September 21, 1983, approved the above referenced application; and

WHEREAS, the City Council on September 21, 1983 passed Resolution, No. 83-2109 providing for the formal acceptance of the new restrictions, but not providing for the acceptance of an instrument terminating the density limitation since an instrument had not been submitted at that time; and

DEC 8 1993

APPROVED

[Signature]
HEAD OF DEPARTMENT

APPROVED

DIRECTOR OF FINANCE

APPROVED

[Signature]
CITY MANAGER

WHEREAS, in conjunction with the processing of the recent application involving Zoning File No. Z923-242/1062-N, an instrument providing for the termination of the deed restriction limiting the density to 18 dwelling units per acre as part of the City Council's action on September 21, 1983 was submitted for formal acceptance by the City Council; and

WHEREAS, application was also made as part of Zoning File No. Z923-242/1062-N to terminate the building height restriction placed on the 13.8 acre tract of land as part of Zoning File No. Z801-220/1062-N in the instrument adopted by Resolution No. 81-3241 passed by the City Council on November 11, 1981; and

WHEREAS, the City Council at a public hearing on October 27, 1993, approved the termination of said deed restriction; Now, Therefore,

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

Section 1. That the instrument providing for the termination of the existing deed restrictions on the 2.78 acre parcel of land and the instrument providing for the termination of the existing deed restrictions on the 3.38 acre parcel of land be and are hereby accepted by the City Council of the City of Dallas, Texas.

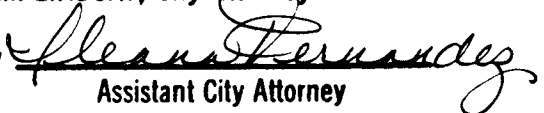
Section 2. That the instruments providing for new deed restrictions on the 2.78 acre parcel of land, the 3.38 acre parcel of land, the 0.6954 acre parcel of land, and the 0.9180 acre parcel of land be and are hereby accepted by the City Council of the City of Dallas, Texas.

Section 3. That the instrument providing for the termination of the deed restrictions on the 13.712 acre parcel of land (i.e., the combination of the 8.991 acres in Tract A and the 4.721 acres of land in Tract B as described in the instrument) be and is hereby accepted by the City Council of the City of Dallas, Texas.

Section 4. That said instruments shall be filed in the Deed Records of Dallas County, Texas.

Section 5. 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:
SAM LINDSAY, City Attorney

By 
Assistant City Attorney

THENCE northwesterly along said non-tangent curve to the left and said north right-of-way line of Preston Oaks Road, an arc distance of 112.69 feet to an x-cut at the end of said non-tangent curve;

THENCE South 88 deg. 53 min. 07 sec. West, along said north right-of-way line of Preston Oaks Road, a distance of 3.40 feet to an iron rod for corner in a non-tangent curve to the right having a central angle of 25 deg. 17 min. 43 sec. a radius of 288.00 feet, a tangent length of 64.63 feet, and a chord bearing and distance of North 11 deg. 55 min. 26 sec. East, 126.12 feet;

THENCE northeasterly along said non-tangent curve to the right and leaving said north right-of-way line of Preston Oaks Road, an arc distance of 127.15 feet to an iron rod at the end of said non-tangent curve;

THENCE North 24 deg. 34 min. 17 sec. East, a distance of 194.99 feet to an iron rod at the POINT OF BEGINNING;

THENCE North 65 deg. 25 min. 43 sec. West, a distance of 157.84 feet to a point for corner in the centerline of Noel Creek, a tributary of White Rock Creek;

THENCE with the meanders of said centerline of Noel Creek, the following bearings and distances:

North 03 deg. 08 min. 52 sec. East, a distance of 40.30 feet;
North 48 deg. 23 min. 37 sec. East, a distance of 64.80 feet;
North 32 deg. 10 min. 37 sec. East, a distance of 105.97 feet
to a point for corner;

THENCE South 65 deg. 25 min. 43 sec. East, leaving said centerline of Noel Creek, a distance of 132.36 feet to an iron rod for corner;

THENCE South 24 deg. 34 min. 17 sec. West, a distance of 201.83 feet to the POINT OF BEGINNING and CONTAINING 0.6954 acres of land.

Tract 2: Being in particular a tract of land out of the Thomas Garvin Survey, Abstract No. 524, City Block 8166, City of Dallas, Dallas County, Texas, and being a portion of the previously known Third Replat of Preston Oaks on the Creek, an addition to the City of Dallas, Texas, as recorded in Volume 80192, page 0992, Deed Records of Dallas, Texas and more particularly described as follows:

BEING 0.9180 acres of land situated in the Thomas Garvin Survey, Abstract No. 524, City Block 8166, City of Dallas, Dallas County, Texas said tract being a portion of the previously known Third Replat of Preston Oaks on the Creek, an addition to the City of Dallas, Texas, as recorded

in Volume 80192, Page 0992, Deed Records of Dallas County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at an iron rod for corner in the north right-of-way line of Preston Oaks Road, (a 64-foot right-of-way), and being the southeast corner of said previously known Third Replat of Preston Oaks on the Creek and now being the southeast corner of Preston Oaks on the Creek, Phase I, an addition to the City of Dallas, Texas, as recorded in Volume 82232, age 3327, Deed Records of Dallas County, Texas; said point also being the southwest corner of Lot 1, Block A/8165 of the Oak Run Addition, an addition to the City of Dallas, Texas as recorded in Volume 78105, Page 1203, Deed Records of Dallas County, Texas; said point also lying on a non-tangent curve to the left having a central angle of 13 deg. 40 min. 47 sec., a radius of 472.00 feet, a tangent length of 56.62 feet, and a chord bearing and distance of North 84 deg. 16 min. 31 sec. West, 112.43 feet;

THENCE northwesterly along said non-tangent curve to the left and said north right-of-way line of Preston Oaks Road, an arc distance of 112.69 feet to an x-cut at the end of said non-tangent curve;

THENCE South 88 deg. 53 min. 07 sec. West, along said north right-of-way line of Preston Oaks Road, a distance of 13.40 feet to an iron rod at the POINT OF BEGINNING;

THENCE South 88 deg. 53 min. 07 sec. West, along said north right-of-way line of Preston Oaks Road, a distance of 245.93 feet to a point for corner in the centerline of Noel Creek, a tributary of White Rock Creek;

THENCE leaving said north right-of-way line of Preston Oaks Road and wit the meanders of said centerline of Noel Creek, the following bearings and distances:

North 54 deg. 50 min. 32 sec. East, a distance of 70.40 feet;
North 44 deg. 30 min. 27 sec. East, a distance of 133.60 feet;
North 01 deg. 43 min. 08 sec. West, a distance of 123.10 feet;
North 47 deg. 28 min. 32 sec. East, a distance of 30.26 feet
to a point for corner;

THENCE South 65 deg. 25 min. 43 sec. East, leaving said centerline of Noel Creek, a distance of 155.71 feet to an iron rod for corner;

THENCE South 24 deg. 34 min. 17 sec. West, a distance of 94.99 feet to an iron rod at the beginning of a curve to the left having a central angle of 25 deg. 17 min. 43 sec., a radius of 288.00 a tangent length of 64.63 feet, and a chord bearing and distance of South 11 deg. 55 min. 26 sec. West, 126.12 feet;

THENCE southwesterly along said curve to the left, an arc distance of 127.15 feet to the POINT OF BEGINNING and CONTAINING 0.9180 acres of land.

II.

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

- 1. Development of Tract 1 is limited to a private recreation center, club or area, single-family, and off-street parking for multi-family use.**
- 2. Development of Tract 2 is limited to a private recreation center, club or area, single-family, and off-street parking for multi-family use.**

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 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 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 (or its successor or assign) must then file the amending or terminating instrument in the Deed Records of the county or counties where the Property is located at its 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 instrument 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 instrument.

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 invalidation of any provision in this document 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 severable.

EXECUTED on this 3RD day of NOVEMBER, 1993.

RKB

OWNER:

**RESOLUTION TRUST CORPORATION AS RECEIVER FOR
FIRST SAVINGS AND LOAN ASSOCIATION, F.A. (WACO)**

By: *Robert W. Beutler*

Title: *Attorney-in-fact*

APPROVED AS TO FORM:

SAM A. LINDSEY, City Attorney

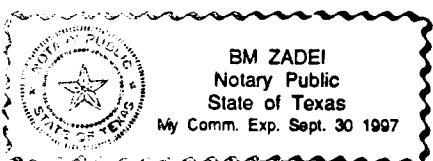
By: *Alexander Fernandez*
Assistant City Attorney

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared ROBERT H. BEUTIAS JR known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as an authorized Attorney-in-fact, and as the agent of the RESOLUTION TRUST CORPORATION, for the purposes and consideration therein expressed, and in the capacity therein stated. *AS RECEIVER FOR FIRST SAVINGS AND LOAN ASSOCIATION, F. A. (WACO)* *fil*

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 3 day of November, 1993.



My Commission Expires:
9/30/97

B.M. Zadei
Notary Public, State of Texas

BRIGID M. ZADEI
(Printed/Typed Name of Notary)