

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

APPROVED BY
CITY COUNCIL

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.

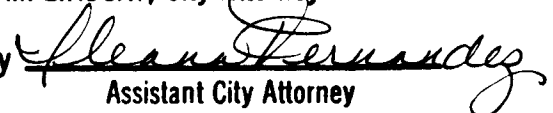
Section 2. That the instruments providing for new deed restrictions on the 2.78 acre parcel of land, the 3.38 acre parcel of land, the 0.6954 acre parcel of land, and the 0.9180 acre parcel of land be and are hereby accepted by the City Council of the City of Dallas, Texas.

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 along the meanders of said Noel Creek as follows:

North 24 deg. 24 min. 14 sec. East along the east line of Lot 1A, Block B/8166 of Preston Oaks Addition as recorded in Volume 83151, Page 0941, Map Records of Dallas County, Texas, a distance of 26.95 feet to a point;

North 43 deg. 31 min. 47 sec. East, along the east line of the Fred O. Delin Tract, as recorded in Volume d-657, Page 1353, Deed Records of Dallas County, Texas, a distance of 59.18 feet to a point;

North 05 deg. 43 min. 13 sec. West, along the east line of said Fred O. Delin Tract, a distance of 83.89 feet to a point;

North 06 deg. 05 min. 47 sec. East, along the east line of said Fred O. Delin Tract, a distance of 72.39 feet to a point;

THENCE North 65 deg. 01 min. 47 sec. East, along the east line of said Fred O. Delin Tract, a distance of 2.72 feet to a point;

THENCE South 81 deg. 36 min. 13 sec. East, along the southerly line of the Preston Oaks on the Creek Joint Venture II Tract, as recorded in Volume 85059, Page 4549, Deed Records of Dallas County, Texas, a distance of 256.08 feet to a point for corner;

THENCE continuing along the inner westerly line of said Preston Oaks on the Creek Joint Venture II Tract the following:

Southerly along a curve to the right, said curve having a central angle of 10 deg. 38 min. 47 sec., a radius of 238.00 feet, an arc length of 44.22 feet, a chord bearing of South 24 deg. 21 min. 24 sec. West, and a chord distance of 44.16 feet, to a point for corner;

South 29 deg. 40 min. 47 sec. West, a distance of 94.70 feet to a point;

THENCE South 65 deg. 26 min. 13 sec. East, a distance of 171.76 feet to a point for corner on the easterly line of Preston Oaks on the Creek Joint Venture II Tract, said point also being the beginning of a curve;

THENCE continuing along the easterly line of said Preston Oaks on The Creek Joint Venture II Tract the following:

Along said curve to the right, said curve having a central angle of 31 deg. 54 min. 23 sec., a radius of 238.00 feet, an arc length of 132.54 feet, a chord bearing of North 20 deg. 09 min. 20 sec. East, and a chord distance of 130.83 feet to a point for corner;

South 53 deg. 53 min. 27 sec. East, a distance of 72.74 feet to a point for corner situated in the west line of White Rock Cemetery Garden of Memories, Inc. Tract, as recorded in Volume 100, Page 124 and 125, Volume 102, Page 219 and Volume 633, Page 106, Deed Records of Dallas County, Texas;

THENCE along the west line of said White Rock Cemetery Garden of Memories, Inc. Tract the following:

South 04 deg. 36 min 37 sec. West, a distance of 99.86 feet to a point for corner;

South 04 deg. 12 min. 07 sec. West, a distance of 109.55 feet to a point for corner;

South 02 deg. 35 min. 27 sec. West, a distance of 103.88 feet to a point for corner;

THENCE North 65 deg. 26 min. 13 sec. West along the northerly line of Lot 1, Block A/8165 of Oak Run Revised, as recorded in Volume 79104, Page 0307, Map Records of Dallas County, Texas, a distance of 241.93 feet to the POINT OF BEGINNING, and CONTAINING 121,096.00 square feet or 2.78 acres of land, more or less.

II.

The Property was impressed with certain deed restrictions ("restrictions") as shown in an instrument dated October 14, 1981, signed by William V. Brown, President of W. Brown Builders, Inc. on behalf of said corporation and recorded in Volume 81226, Page 0606, of the Deed Records of Dallas County, Texas.

III.

The Owner does hereby terminate and release the following restrictions only as they apply to the Property, to wit:

The undersigned, its successors and/or assigns, does hereby agree to a maximum development of fifteen (15) dwelling units per acre on Tract I. All land located within Tract I which is owned by the undersigned, its

successors and/or assigns, shall be used for calculating density, including but not limited to land subsequently acquired from the City of Dallas by abandonment, land returned to an owner as the result of a plat or replat vacation, or land which is subject to easements for any purpose.

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 of Dallas. 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 of Dallas 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.

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 to be severable.

EXECUTED at the City of Irving, Dallas County, to be effective the 1 day of December, 1993.

OWNER:

JPI MONTFORT - PHASE 2, L.P.
a Texas Limited Partnership

By: Carmil Capital Corporation,
a Texas corporation,
General Partner

Approved as to form:
SAM LINDSAY, City Attorney

By: [Signature]
Assistant City Attorney

By: [Signature]

Title: Chief Executive Officer

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on December 1, 1993
by John W. Carpenter III, CEO (Title) of Carmil Capital
Corporation, a Texas corporation, General Partner, on behalf of JPI MONTFORT -
PHASE 2, L.P., a Texas Limited Partnership, on behalf of said limited partnership.

Karen Bushnell

Notary Public, State of Texas



My Commission Expires:

(Printed/Typed Name of Notary)

THENCE North 53 deg. 53 min. 27 sec. West, leaving said common line, a distance of 72.74 feet to a point at the beginning of a non-tangent curve to the left, said curve having a radius of 238.00 feet and a chord distance of 131.07 feet;

THENCE along said curve to the left, a distance of 132.54 feet to a point for corner;

THENCE North 65 deg. 26 min. 13 sec. West, a distance of 171.76 feet to a point for corner;

THENCE North 29 deg. 40 min. 47 sec. East, a distance of 94.70 feet to a point at the beginning of a curve to the left, said curve having a radius of 238.00 feet and a chord distance of 44.16 feet;

THENCE along said curve to the left, a distance of 44.22 feet to a point for corner;

THENCE North 81 deg. 34 min. 13 sec. West, a distance of 256.08 feet to a point in the centerline of Noel Creek, said point also being the most westerly line of said Third Replat;

THENCE along the meanders of said Noel Creek as follows:

North 65 deg. 01 min. 47 sec. East, a distance of 49.77 feet to a point;

North 16 deg. 38 min. 13 sec. West, a distance of 51.37 feet to a point;

North 34 deg. 25 min. 13 sec. West, a distance of 45.30 feet to a point;

North 14 deg. 13 min. 13 sec. West, a distance of 60.79 feet to a point;

South 78 deg. 46 min. 47 sec. West, a distance of 45.31 feet to a point;

North 00 deg. 16 min. 47 sec. East, a distance of 46.34 feet to a point at the northwest corner of said Third Replat;

THENCE North 00 deg. 55 min. 08 sec. East, a distance of 20.16 feet to a point for corner in the centerline of Celestial Road;

THENCE North 84 deg. 54 min. 29 sec. East, a distance of 448.08 feet with said centerline to a point for corner;

THENCE South 82 deg. 16 min. 15 sec. East, a distance of 27.22 feet with said centerline to a point for corner;

THENCE South 04 deg. 22 min. 10 sec. East, a distance of 15.26 feet to the POINT OF BEGINNING;

CONTAINING 147,232.00 square feet or 3.38 acres of land, more or less.

II.

The Property was impressed with certain deed restrictions ("restrictions") as shown in an instrument dated October 14, 1981, signed by William V. Brown, President of W. Brown Builders, Inc. on behalf of said corporation and recorded in Volume 81226, Page 0606, of the Deed Records of Dallas County, Texas.

III.

The Owner does hereby terminate and release the following restrictions only as they apply to the Property, to wit:

The undersigned, its successors and/or assigns, does hereby agree to a maximum development of fifteen (15) dwelling units per acre on Tract I. All land located within Tract I which is owned by the undersigned, its successors and/or assigns, shall be used for calculating density, including but not limited to land subsequently acquired from the City of Dallas by abandonment, land returned to an owner as the result of a plat or replat vacation, or land which is subject to easements for any purpose.

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 of Dallas. 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 of Dallas 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.

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 to be severable.

EXECUTED at the City of Dallas, Dallas County, this the 3 day of December, 1993.

OWNER:

RESOLUTION TRUST CORPORATION
as receiver for First Savings and
Loan Association, F.A. (Waco)

By: Robert H. Beutler Jr.
Title: Attorney-in-Fact

APPROVED AS TO FORM:

SAM A. LINDSEY, City Attorney

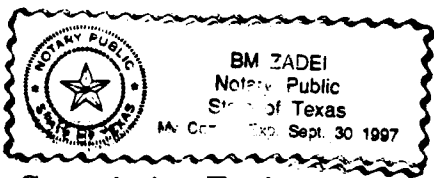
By: _____
Assistant City Attorney

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Robert H. Benthas, 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, as receiver for First Savings and Loan Association, F.A. (Waco), for the purposes and consideration therein expressed, and in the capacity therein stated.

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



My Commission Expires:
9/30/97

B.M. Zadei
Notary Public, State of Texas

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