

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. 83-9109 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 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 Owner does hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

1. Development of the Property is limited to a maximum of 19 dwelling units per acre.

III.

This restriction 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.

This restriction 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 this restriction, the Owner 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.

This restriction is 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 this restriction inures to the benefit of the City. The Owner hereby grants the City the right to enforce this restriction 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 this restriction, either to prevent the violation or to require its correction. If the city substantially prevails in a legal proceeding to enforce this restriction, 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 this restriction is complied with. The right of the City to enforce this restriction 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.

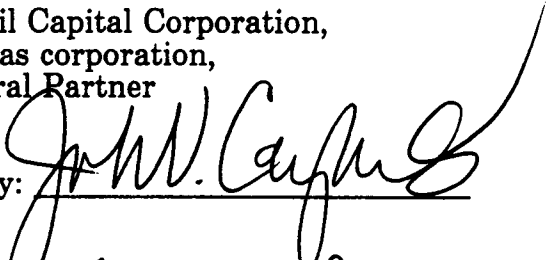
The invalidation of any provision in this document by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared severable.

EXECUTED at the City of Irving, Dallas County, to be effective the 8th day of November, 1993.

OWNER:

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

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

By: 
Title: Chairman of the Board

APPROVED AS TO FORM:

SAM A. LINDSEY, City Attorney

By: 
Assistant City Attorney

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on November 8, 1993,
by John W. Carpenter III, Chairman of the Board (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.



Kathleen Matus

Notary Public, State of Texas

My Commission Expires:

(Printed/Typed Name of Notary)