

COUNCIL CHAMBER

August 22, 2007

WHEREAS, the deed restrictions recorded in the attached instrument have been volunteered in connection with Lot 1 in City Block A/7409, located at the northwest corner of Preston Road and the Lyndon B. Johnson Freeway frontage road, and containing 2.898 acres, which is the subject of zoning case No. Z056-226; 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. Z056-226.

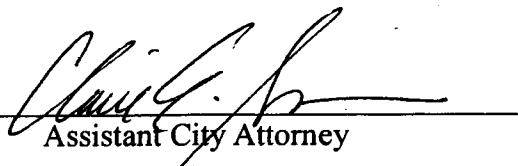
Section 2. That these deed restrictions must be filed in the Deed Records of Dallas County, Texas.

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

HEAD OF DEPARTMENT

APPROVED

DIRECTOR OF FINANCE

APPROVED

CITY MANAGER

IV.

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.

V.

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.

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 the provisions of this document.

VII.

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 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 document.

VIII.

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.

IX.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas.

X.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

XI.

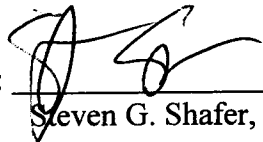
The invalidation of any provision in this document by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED at the City of Dallas, Dallas County, this the 15 day of November, 2006.

OWNER:

SHAFER PLAZA XLIX, LTD., a Texas limited partnership

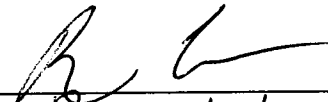
By: Shafer Plaza Forty Nine CM, LLC,
a Texas limited liability company,
General Partner

By: 
Steven G. Shafer, Manager


CONSENT AND CONCURRENCE OF LIENHOLDER OR MORTGAGEE

LIENHOLDER:

STERLING BANK, a Texas banking association

By: 
Name: Bruce Leib
Title: CEO

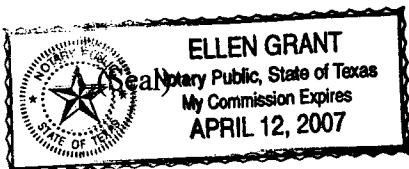
APPROVED AS TO FORM:
THOMAS P. PERKINS, JR., City Attorney

By: 
Assistant City Attorney

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on the 15th day of November, 2006, by Steven G. Shafer, Manager of Shafer Plaza Forty Nine CM, LLC, a Texas limited liability company, General Partner of Shafer Plaza XLIX, Ltd., a Texas limited partnership, and on behalf of said limited liability company and limited partnership.



My commission expires:

Ellen Grant
Notary Public

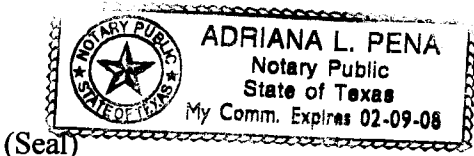
4-12-2007

(date)

STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on the 22nd day of January, 2006, by Bruce Leio, CEO of Sterling Bank, a Texas banking association, and on behalf of said banking association.



(Seal)

My commission expires:

Adriana L. Pena
Notary Public

Feb 09, 2008
(date)