

September 14, 1994

Deed

WHEREAS, the deed restrictions in the attached instrument have been volunteered in conjunction with a request for a CR Community Retail District which was approved by the City Council on September 14, 1994, on Zoning Case #Z934-193/9624-N on property on the north side of Emily Road, east of Coit Road; and

WHEREAS, said deed restrictions have been approved as to form; Now, Therefore,

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

Section 1. That the deed restrictions 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 as described in Ordinance 22186

Section 2. That said deed restrictions shall be filed in the Deed Records of Dallas 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.

APPROVED BY
CITY COUNCIL

SEP 14 1994

Robert T. Brown
City Secretary

Approved as to form:
SAM LINDSAY, City Attorney

By *Florencia Fernandez*
Assistant City Attorney

APPROVED *Michael Klopf*
HEAD OF DEPARTMENT

APPROVED _____
DIRECTOR OF FINANCE

APPROVED _____
CITY MANAGER

DEED RESTRICTIONS

THE STATE OF TEXAS)
)
 COUNTY OF DALLAS)

KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, Jean Edwards Hanlin, and James Bell ("the Owners"), are the owners of the following described property ("the Property"), being in particular a tract of land out of the FOSTER W. DUNAWAY Survey, abstract No. 403, City Block C/7756, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to Jean Edwards Hanlin and James Bell by the estate of Jack W. Edwards by Family Settlement Agreement deed dated March 18, 1994, and recorded in Volume 94067, Page 07356, in the Deed Records of Dallas County, Texas, and being more particularly described in Exhibit "A" attached hereto and made a part of this instrument.

II.

The Owners do hereby impress all of the Property with the following deed restriction ("restriction"), to wit: The only use permitted on the Property is: Nursery, garden shop or plant sales, as defined in Chapter 51A "Part II of the Dallas Development Code" of the Dallas City Code, as amended.

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 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 Owners must then file the amending or terminating 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 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.

1.

Z934-193/9624-N

The Owners agree that the restrictions inure to the benefit of the City. The Owners hereby grant 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 Owners agree that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owners agree 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 Owners agree 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 document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owners 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.

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 Owners understand and agree that this document shall be governed by the laws of the State of Texas.

XI.

The Owners certify and represent that there are no liens, other than liens for ad valorem taxes, against the Property if there are no signatures of lienholders subscribed below.

XII.

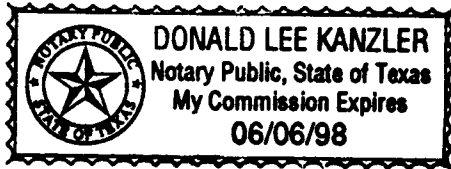
The invalidation of any provision of this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED this the 24th day of August, 1994.

Jean Hanlin
(OWNER) Jean Hanlin

STATE OF TEXAS
COUNTY OF DALLAS

This instrument was acknowledged before me on 24th August 1994
by JEAN HANLIN
(Name or names of person or persons acknowledging)



Donald Lee Kanzler
(Signature of officer)
NOTARY
(Title of officer)

My commission expires: 06/06/98

EXECUTED this the 18th day of August, 1994.

James Bell
(OWNER) James Bell

STATE OF TEXAS

COUNTY OF DALLAS

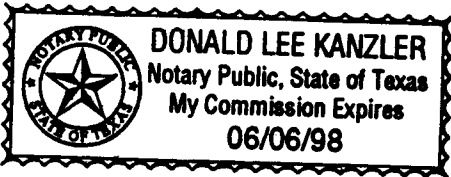
This instrument was acknowledged before me on 18th August 1994

by JAMES BELL
(Name or names of person or persons acknowledging)

Donald Lee Kanzler
(Signature of officer)

NOTARY
(Title of officer)

My commission expires: 6/06/98



Approved as to form:
SAM LINDSAY, City Attorney

By [Signature]
Assistant City Attorney

CHICAGO TITLE INSURANCE COMPANY

EXHIBIT A

BEING all that certain tract or parcel of land situated in the County of DALLAS, State of Texas, out of the FOSTER W. DUNAWAY SURVEY, ABSTRACT NO. 403, and described by metes and bounds as follows, to-wit:

BEGINNING at a point which is the southeast corner of a tract of land owned by John W. Allen, which point is 120 feet along the North line of Emily Road, Valley View Estates, South 76 degrees 10 minutes West from a point which is the Southwest corner of said Allen tract, which point is 529 feet 10-1/2 inches along a line North 85 degrees 34 minutes East from a stake set in concrete, which stake is 34 feet 11-1/2 inches East from the center line of Coit Road and 771 feet 7 inches North from a stake set in concrete, which stake is 34 feet 11-1/2 inches East from the center line of Coit Road and 46 feet 7 inches from the center line of Valley View Lane;

THENCE North 70 degrees 37 minutes East 135 feet to a point for corner;

THENCE North 21 degrees West 349 feet 7 inches to a point for corner;

THENCE South 69 degrees 37 minutes West 108 feet 3-1/2 inches to a point for corner, which is also the Northeast corner of said Allen tract;

THENCE South 16 degrees 38 minutes East along the East line of said Allen tract 348 feet to the POINT OF BEGINNING.