

BLK 4414

WHEREAS, deed restrictions were volunteered in conjunction with a request for a CR Community Retail District which was approved by the City Council on June 28, 1989, on Zoning Case No. Z889-165/1308-E on property at the west corner of Gaston Parkway and Magellan Circle (a private street); and

WHEREAS, application has been made to amend the deed restrictions on the property as part of Zoning File No. Z967-252/1308-NE(RB); and

WHEREAS, the City Council at a public hearing on November 12, 1997 approved the amendment to the deed restrictions in accordance with the recommendation of the City Plan Commission; and

WHEREAS, an instrument providing for the amendment to said deed restrictions has been approved as to form; Now, Therefore,

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

Section 1. That the attached instrument titled "First Amendment to Deed Restrictions" be and is 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 No. 20356.

Section 2. That said instrument 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

NOV 12 1997

Robert Horn
City Secretary

Approved as to form:
SAM LINDSAY, City Attorney

By *Sharon Fernandez*
Assistant City Attorney

APPROVED *Cherry J. Peden* HEAD OF DEPARTMENT APPROVED _____ DIRECTOR OF FINANCE APPROVED _____ CITY MANAGER

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**FIRST AMENDMENT TO
DEED RESTRICTIONS**

**THE STATE OF TEXAS X
 X
COUNTY OF DALLAS X**

KNOW ALL PERSONS BY THESE PRESENTS:

I.

That the undersigned, WILLIAM BROWN and LORRAINE BROWN, husband and wife, each an individual residing in Dallas County, Texas (hereinafter referred to as the "Owners"), are the Owners of the following-described property situated in Dallas County, Texas, being in particular a tract of land in the C.A. Lovejoy Survey, Abstract No. 829, being part of City Block 4414, City of Dallas ("City"), Dallas County, Texas, which property was conveyed to the Owners by Safeway Stores 81, Inc., by deed dated December 1, 1986, and is recorded in the Deed Records of Dallas County, Texas, in Volume 86232, Page 0501, and being more particularly described on Exhibit "A" attached hereto and made a part hereof for all purposes (the "Property").

II.

That Safeway Stores 81, Inc., had impressed certain voluntary public Deed Restrictions upon the Property by instrument dated June 26, 1989, and recorded at Volume 89140, Page 1460, of the Deed Records of Dallas County, Texas (the "Original Restrictions").

III.

That among the restrictions impressed upon the Property by the Original Restrictions is the following:

"(1) Tract I shall be restricted to parking uses only; ..."

IV.

That the Owners took title to the Property from Safeway Stores 81, Inc., subject to the Original Restrictions, and that the Owners now wish to amend the Original Restrictions by deleting Restriction (1) recited above so that a portion of the Property can be used for an additional use.

V.

That the Owner ^{1/4 m} _S ^{J.B.} hereby amend the Original Restrictions by deleting (removing) Restriction (1).

VI.

That the preceding amendment was made following notice and public hearing before the City Plan Commission and City Council of the City as required in the Original Restrictions, and notice of such public hearing was given as would have been required by law for a zoning change on the Property. The Owner ^{1/4 m} _S ^{J.B.} must file this instrument in the Deed Records of the county or counties where the Property ^{1/4 m} _S ^{J.B.} is located at his or her sole cost and expense before the amendment becomes effective.

VII.

That the Owner ^{J.B.} _S ^{1/4 m} certify and represent that there are no liens or mortgages, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

VIII.

That the invalidation of any provision in 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.

IX.

That it is expressly stipulated and understood that the preceding amendment of Restriction (1) accomplished hereby shall in no manner operate to impair or reduce the enforceability of the Original Restrictions, as originally written, and that all restrictions and provisions contained in the deed restriction instrument dated June 26, 1989, and recorded at Volume 89140, Page 1460, of the Deed Records of Dallas County, Texas, shall remain in full force and effect except as amended by Paragraph V of this instrument. Furthermore, it is expressly stipulated and understood that all provisions contained in the aforementioned deed restriction instrument apply to this instrument as if recited herein.

EXECUTED at the City of Dallas, Dallas County, Texas, this the 25th day of September, 1997.

OWNERS:

W.B. Brown
 William Brown

Lorraine Brown
 Lorraine Brown

APPROVED AS TO FORM:

SAM A. LINDSAY, City Attorney

By: [Signature]
 Assistant City Attorney

THE STATE OF TEXAS X
 X
 COUNTY OF DALLAS X

BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this day personally appeared WILLIAM BROWN, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 25th day of September 1997.

[SEAL]

[Signature]
 Robert W. McRister

Notary Public in and for the State of Texas

THE STATE OF TEXAS X
X
COUNTY OF DALLAS X

BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this day personally appeared LORRAINE BROWN, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purpose and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 25th day of September, 1997.

[SEAL]

Robert W. McQuinn
Notary Public in and for the State of Texas

Exhibit "A"

SCHEDULE "A" -- REAL PROPERTY

LEGAL DESCRIPTION

TRACT I

Being a tract of land out of the C. A. Lovejoy Survey, Abstract No. 829, being part of City Block 4414, as shown by an Easements and Street Dedications Plat filed June 14, 1955, in Volume 27, Page 119, Map Records, Dallas, Dallas County, Texas, and being more particularly described as follows:

Beginning at the intersection of the Northwest ROW line of Gaston Parkway (a 50' ROW) with the Southwest ROW line of Magellan Circle (a 36' ROW);

- THENCE: S 45 44'00" W, 8.08 feet with the Northwest ROW line of Gaston Parkway to a point for corner in the North line of a tract deeded to Sinclair Refining Company as recorded in Volume 3889, Page 134, Deed Records, Dallas County, Texas;
- THENCE: S 81 15'00" W, with the North line of said Sinclair Tract passing its Northwest corner at 245.65 feet, in all a distance of 371.34 feet to a point for corner, said point being the intersection of the South ROW line of Sangamon Drive (a 36' ROW) with the South line of a 22.00 foot alley;
- THENCE: N 17 58'00" E, 341.64 feet with the Southeast ROW line of Sangamon Drive to a point for corner, said point being the intersection of the Southeast ROW line of Sangamon Drive with the Southwest ROW line of Magellan Circle;
- THENCE: S 62 23'00" E, 41.81 feet with the Southwest ROW line of Magellan Circle to the beginning of a curve to the right having a central angle of 24 20'00", a radius of 353.06 feet;
- THENCE: Continuing with the Southwest ROW line of Magellan Circle, in a Southeasterly direction, a distance of 149.94 feet to the end of said curve;
- THENCE: S 38 03'00" E, along the Southwest ROW line of Magellan Circle, a distance of 188.25 feet to the PLACE OF BEGINNING.

TRACT II

Being a tract of land out of the C. A. Lovejoy Survey, Abstract No. 829 and being a part of City Block 4413, also being the same tract deeded to Sinclair Refining Company as recorded in Volume 3889, Page 134, Deed Records, Dallas, Dallas County, Texas, and being more particularly described as follows:

Beginning at a point in the Northwest ROW line of Garland Road (a 100' ROW) said point also being the most Southerly corner of the above-referenced Sinclair tract:

THENCE: N 45 44'00" E, 270.00 feet along the Northwest ROW line of Garland Road to a point for corner;

THENCE: S 81 15'00" W, 331.72 feet to a point for corner;

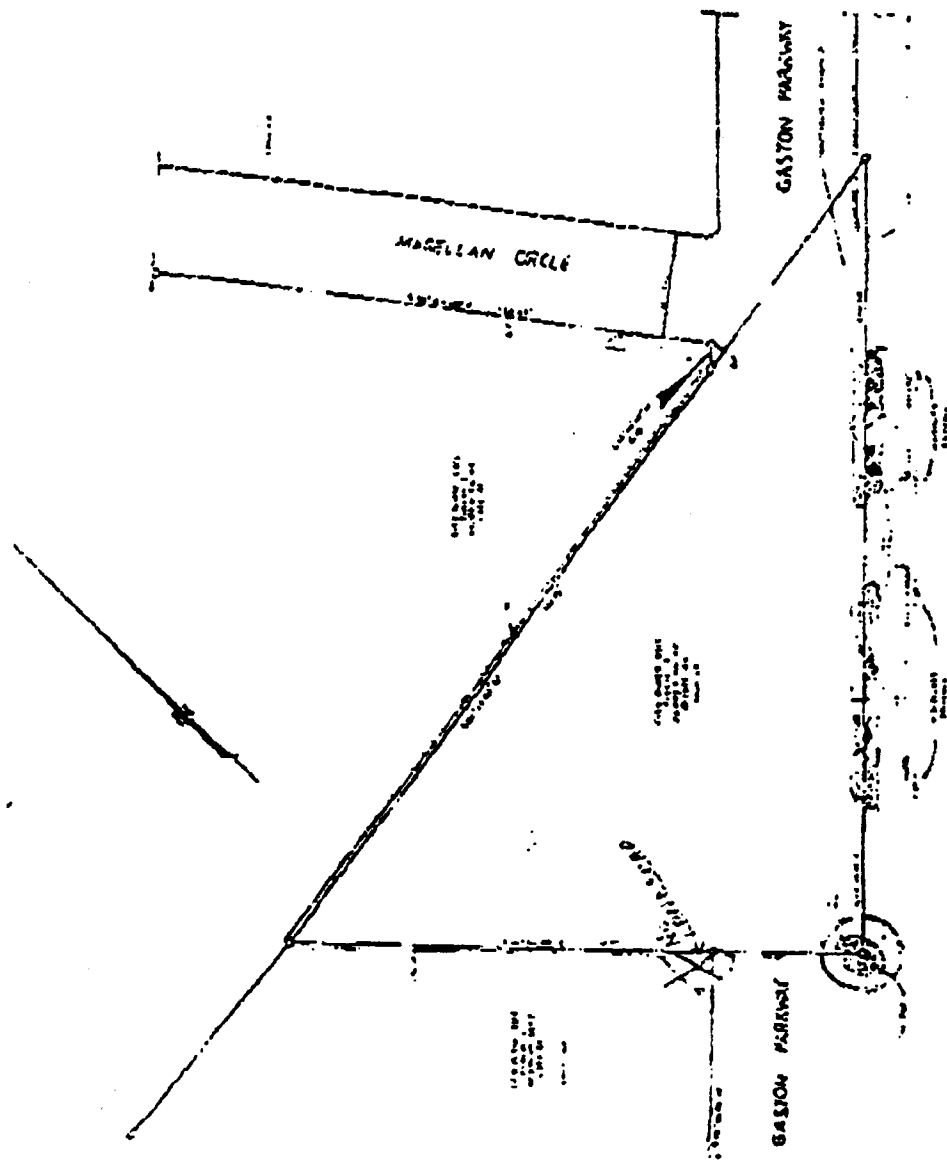
THENCE: S 44 16'00" E, 192.71 feet to the PLACE OF BEGINNING.

PLANT		LEGEND	
411	CONCRETE	411	CONCRETE
412	STEEL	412	STEEL
413	WOOD	413	WOOD
414	PAINT	414	PAINT
415	GLASS	415	GLASS
416	ROOFING	416	ROOFING
417	MECHANICAL	417	MECHANICAL
418	ELECTRICAL	418	ELECTRICAL
419	PLUMBING	419	PLUMBING
420	HEATING	420	HEATING
421	Cooling	421	Cooling
422	Lighting	422	Lighting
423	Signage	423	Signage
424	Landscaping	424	Landscaping
425	Other	425	Other

POINT TABULATION	
Point	Value
1	100
2	200
3	300
4	400
5	500
6	600
7	700
8	800
9	900
10	1000

POINT TABULATION	
Point	Value
1	100
2	200
3	300
4	400
5	500
6	600
7	700
8	800
9	900
10	1000

E. 100.000 6



CARLING ROAD

100.000