

COUNCIL CHAMBER

August 10, 2005

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located in City Block 7295 near the intersection of Ferguson Road and Lakeland Drive, which is the subject of Zoning Case No. Z045-198/12376(RB); 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 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 that is the subject of Zoning Case No. Z045-198/12376(RB).

Section 2. That the deed restrictions in the attached instrument shall 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, Texas, and it is accordingly so resolved.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By Cadey Burgess
Assistant City Attorney

APPROVED BY
CITY COUNCIL

AUG 10 2005

Shirley Gray
City Secretary

APPROVED David Love APPROVED _____ APPROVED _____
HEAD OF DEPARTMENT DIRECTOR OF FINANCE CITY MANAGER

A minimum of 70% of the net caliper inches the developer is required to provide for the removal of protected trees after taking into account all credits and allowances as specified in the Building Code, or one hundred (100) large evergreen trees, whichever is greater, must be planted in the Conservation Easement between the buildings and Ash Creek. Large evergreen trees must be planted on center a minimum of twenty-five feet apart in the Conservation Easement. In the event the building official shall determine that it is not feasible or desirable to plant the mentioned number of caliper inches in the conservation easement, then the excess caliper inches shall be planted or mitigated as determined by the building official.

Each dwelling unit shall^{CB} must contain a minimum 1,750 square feet of air-conditioned living space, excluding the garage.

A minimum of 15 feet between each group of six single family structures must be provided by plat.

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 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 these restrictions, 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 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.

VI.

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.

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 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.

IX.

Unless stated otherwise in this document, the definitions and provisions of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City 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 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.

XII.

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 this the 12 day of July, 2005.

Owner:

Charles B. Magee

By: *Charles B Magee*

Printed Name: Charles B Magee

APPROVED AS TO FORM:
Thomas P. Perkins, Jr., City Attorney

By: *Caren Bunyard*
Assistant City Attorney

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 12 day of July, 2005 by
Charles B Magee

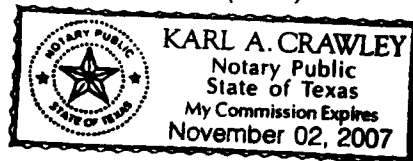
Karl A. Crawley

Notary Public

(SEAL)

My commission expires:

(date)



CONSENT AND CONCURRENCE OF LIENHOLDER OR MORTGAGEE

American Bank of Commerce
Property Lienholder or Mortgagee

By: Ken Mixon

Printed Name: Ken Mixon

Title: Dallas President

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 12 day of July, 2005 by

Ken Mixon as Dallas President of
[Name of Officer] [Title of Officer]

American Bank of Commerce a/an Texas corporation, on
[Name of Corporation], [State of Incorporation]

behalf of said corporation.

(SEAL)

Patricia Saulsman

Notary Public

My commission expires:

1-4-09
(date)

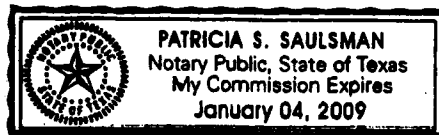


EXHIBIT A

LEGAL DESCRIPTION

BEING a 8.0129 acre tract of land situated in the JOHN DANIEL SURVEY ABSTRACT NO. 402, and the RICHARD SCURRY SURVERY ABSTRACT NO. 1382 and being in the City of Dallas Block No. 7295, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8' iron rod found in the northwesterly right-of-way line of Ferguson Road (a 100' R.O.W.), said point also being the northeast corner of a tract of land conveyed by deed to QUAKER STATE MINI LUBE, as recorded in Volume 87019, Page 1599, of the Map Records, Dallas County, Texas;

THENCE, N44 deg. 52 min. 53 sec. W, departing the north right-of-way line of said Ferguson Road, and along the northeast line of said QUAKER STATE MINI LUBE tract a distance of 103.30 feet to a 1/2' iron rod set for corner;

THENCE, S 59deg. 40 min. 48 sec. W, along the northwest line of said QUAKER STATE MINI LUBE tract, a distance of 124.99 feet to a 1/2' iron rod set in the northeast right-of-way line of Lakeland Drive (a variable width R.O.W.);

THENCE, N 45 deg. 04 min. 50 sec. W, departing the northwest line of said QUAKER STATE MINI LUBE tract, and along the northeast right-of-way line of said Lakeland Drive, a distance of 285.81 feet to a 1/2' iron rod set for corner, said point also being the southeast corner of a tract of land conveyed by deed to the City of Dallas, Dallas County, Texas;

THENCE, N 42 deg. 35 min. 00 sec. E, departing the northeast right-of-way line of said Lakeland Drive, and along the east line of said City of Dallas tract, a distance of 43.30 feet to a 1/2' iron rod set in the center of South Branch Ash Creek, said point also being a corner in the southeasterly line of WESTGLEN PARK ADDITION, an addition to the City of Dallas according to the plat thereof recorded in Volume 26, Page 251, of the Map Records, Dallas County, Texas;

THENCE, along said Ash Creek, and along the southeasterly lines of said WESTGLEN PARK ADDITION, the following three (3) calls:

(1) THENCE, N 73 deg. 24 min. 00 sec. E, a distance of 120.96 feet to a 1/2' iron rod set for corner;

(2) THENCE, S 56 deg. 10 min. 00 sec. E, a distance of 83.15 feet to a 1/2' rod set for corner;

(3) THENCE, N 59 deg. 59 min. 00 sec. E, a distance of 129.00 feet to a 1/2' iron rod set for corner, said point also being the southeast corner of CASA LINDA

FOREST ADDITION, an addition to the City of Dallas according to the plat thereof recorded in Volume 39, Page 81, of the Map Records, Dallas County, Texas;

THENCE, along said Ash Creek, and along the southeast lines of said CASA LINDA FOREST ADDITION, the following fifteen (15) calls;

(1) THENCE, S 43 deg. 41 min. 00 sec. E, a distance of 105.95 feet to a ½' iron rod set for corner;

(2) THENCE, N 49 deg. 58 min. 00 sec. E, a distance of 120.60 feet to a ½' iron rod set for corner;

(3) THENCE, S 86 deg. 52 min. 00 sec. E, a distance of 126.35 feet to a ½' iron rod set for corner;

(4) THENCE, N 41 deg. 42 min. 00 sec. E, a distance of 73.00 feet to a ½' iron rod set for corner;

(5) THENCE, N 69 deg. 11 min. 00 sec. E, a distance of 185.80 feet to a ½' iron rod set for corner;

(6) THENCE, N 20 deg. 11 min. 00 sec. E, a distance of 80.00 feet to a ½' iron rod set for corner;

(7) THENCE, N 88 deg. 49 min. 00 sec. E, a distance of 93.40 feet to a ½' iron rod set for corner;

(8) THENCE, N 03 deg. 56 min. 00 sec. W, a distance of 118.90 feet to a ½' iron rod set for corner;

(9) THENCE, N 66 deg. 13 min. 00 sec. E, a distance of 60.40 feet to a ½' iron rod set for corner;

(10) THENCE, S 46 deg. 43 min 00 Sec. E, a distance of 77.25 feet to a ½' iron set for corner;

(11) THENCE, N 42 deg. 55 min 00 sec. E, a distance of 98.70 feet to a ½' iron rod set for corner;

(12) THENCE, S 85 deg. 18 min. 00 sec. E, a distance of 146.65 feet to a ½' iron rod set for corner;

(13) THENCE, N 53 deg. 32 min. 00 sec. E, a distance of 134.80 feet to a ½' iron rod set for corner;

(14) THENCE, S 46 deg. 40 min. 00 sec. E, a distance of 164.00 feet to a ½' iron rod set for corner;

(15) THENCE, N 79 deg. 17 min. 00 sec. E, a distance of 18.55 feet to a ½' iron rod set for corner said point also being the northwest corner of a tract of land conveyed to the City of Dallas;

THENCE, S 31 deg. 56 min. 10 sec. E, departing said CASA LINDA FOREST ADDITION, and along the southwest line of said City of Dallas tract, a distance of 68.66 feet to a ½' iron rod set for corner in the northwesterly right-of-way line of said Ferguson Road;

THENCE, S 58 deg. 03 min. 50 sec. W, departing the southwest line of said City of Dallas tract, and along the northwesterly right-of-way line of said Ferguson Road, a distance of 94.36 feet to a ½' iron rod found for corner, said point being the beginning of a non-tangent curve to the right having a central angle of 11 deg. 46 min. 32 sec. a radius of 2866.68 feet, and a chord which bears S 63 deg. 34 min. 14 sec. W, a distance of 588.14 feet;

THENCE, southwesterly, along the northwesterly right-of-way line of said Ferguson Road, and along the said curve, an arc distance of 589.17 feet to a ½' iron rod found for corner;

THENCE, S 69 deg. 27 min. 30 sec. W, continuing along the northwesterly right-of-way line of said Ferguson Road, a distance of 288.55 feet to a ½' iron rod set for corner, said point being the beginning of a curve to the left having a central angle of 08 deg. 04 min. 09 sec., a radius of 2345.72 feet, and a chord which bears S 65 deg. 13 min. 55 sec. W, a distance of 330.09 feet;

THENCE, southwesterly, continuing along the northwesterly right-of-way line of said Ferguson Road, and along the said curve, an arc distance of 330.36 feet to the POINT OF BEGINNING, and containing 352.963 square feet or 8.1029 acres of land.