

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 October 24, 1990, on Zoning Case #Z890-201/3550-E on property on the east side of McMillan Avenue, north of Henderson Avenue; 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 20769.

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.

cc: Building Inspection - 2  
Planning and Development - 2

90-14/tr

APPROVED BY  
CITY COUNCIL

OCT 24 1990

*Robert S. Lowe*  
City Secretary

Approved as to form:  
ANGELIE MINOY, City Attorney

By: *Chris Bowers*  
Assistant City Attorney

APPROVED *Michael R. Cooper*  
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.

A

6475

2

9.00 DEED  
1 10/31/90

The undersigned, Dave Andres ("Owner") is the owner of the following described property ("the Property"), being in particular Lot 24 in City Block A/1976 of Ross Avenue Annex, an Addition to the City of Dallas, Texas, according to the Map recorded in Volume 1, page 310 of the Map Records of Dallas County, Texas, and being that same particular lot conveyed to Dave Andres by deed dated February 13, 1990, and recorded in Volume 90030, page 541 in the Deed Records of Dallas County, Texas.

II.

The Owner does hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

- (1) Landscaping of the Property must be provided in accordance with the landscaping requirements in the Dallas Development Code for property in a Community Retail (CR) Zoning District.
- (2) No liquor store, bar, lounge or tavern, or any other use for the sale, service or consumption of alcoholic beverages is permitted on the Property.
- (3) A screening fence or wall shall be erected and maintained along the north property line of the Property. This fence shall be at least two feet in height and no greater than four feet in height in the front yard (approximately twenty-five (25) feet in length) and it shall be at least six feet in height and no greater than eight feet in height in the rear yard.
- (4) Either one front curb cut not to exceed twenty feet in width or two curb cuts not to exceed twelve feet each in width and spaced a minimum of twenty feet apart along McMillan Avenue may be constructed. The design of any curb cut must be approved by the Director of Public Works of the City of Dallas.
- (5) No structure on the Property may exceed 30 feet in height.

30213 2297

Z 90-201/3550-E

## III.

These restrictions shall continue in full force and effect for a period of twenty (20) years for 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, and/or to require its correction. If the City substantially prevails in a legal proceeding to enforce these restrictions, the City is entitled to recover damages, attorney's fees, and court costs. For further remedy, the City may withhold the 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 these restrictions.

## VIII.

These restrictions are hereby declared covenants running with the land and are fully binding on any successors, heirs, and assigns of 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 foregoing restrictions.

## IX.

Unless stated otherwise in this document, the definitions and provision of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, apply and are incorporated into this document as if recited herein.

## X.

Owner understands and agrees that these restrictions 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 to be severable.

903437

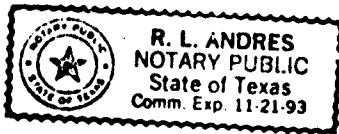
EXECUTED at the City of Dallas, Dallas County, Texas, on this the 24<sup>th</sup> day of August, 1990.

[Signature]  
Owner

THE STATE OF TEXAS }  
                                  }  
COUNTY OF DALLAS }

BEFORE ME, the undersigned authority, on this day personally appeared Russel Andres, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 24<sup>th</sup> day of August, 1990.



[Signature]  
Notary Public, State of Texas

My commission expires 11-21-93.

Approved as to form:  
ANALEGLIE MURPHY, City Attorney

By: Chris Bowers  
Assistant City Attorney

DEED RESTRICTIONS - PAGE 4

90213 2300

1082 8120C

903437

RECEIVED  
Earl Buisch  
COUNTY CLERK  
DALLAS COUNTY  
90 OCT 31 AM 9:06

Any instrument hereto not a record, or use of the  
same for any purpose, or any other purpose is void and  
of no effect. This instrument is a record.  
STATE OF TEXAS COUNTY OF DALLAS  
I hereby certify this instrument was filed on the date and time  
stamped herein by me, and that it is a record in the office and  
file of the County Clerk of Dallas County, Texas as stamped  
hereon by me.

OCT 31 1990



Earl Buisch  
COUNTY CLERK, Dallas County, Texas

No. 90-3437  
Return to City Secretary  
City Hall  
Dallas, Texas 75201

Cave Andres Properties  
5037 Dracy St.  
Dallas Tx 75205