

COUNCIL CHAMBER

January 9, 2002

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located at 7342 La Vista Drive, which is the subject of Zoning Case No. Z001-264/11531-NE(JC); 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. Z001-264/11531-NE(JC).

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:

MADELEINE B. JOHNSON, City Attorney

By *Christine Lunn*
Assistant City Attorney

APPROVED _____
HEAD OF DEPARTMENT

APPROVED _____
DIRECTOR OF FINANCE

APPROVED _____
CITY MANAGER

DEED RESTRICTIONS

STATE OF TEXAS)
)
 COUNTY OF DALLAS) **KNOW ALL PERSONS BY THESE PRESENTS:**

The undersigned, the Greenery, a Texas Corporation ("Owner"), is the owner of the following described property ("property") being in particular a tract of land out of the Lakeside Hills Survey, Abstract Number 2731, City Block A, City of Dallas ("City"), Dallas County, Texas and being that same tract of land conveyed to the Owner by Roy Bozeman et alli, by deed dated 5/23/1996, and recorded in Volume 96108, Page 02154, in the Deed Records of Dallas County, Texas and being more particularly described as follows:

7342 La Vista Drive, Dallas, Texas 75214
 Lot 33, Block A/2731 Lakeside Hills

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

Use of property is limited to a Nursery, garden shop and plant sales only

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.

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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.

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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.

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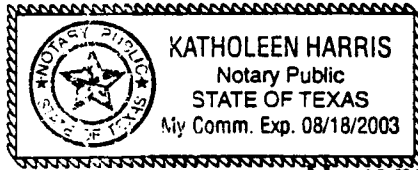
STATUTORY FORMS OF ACKNOWLEDGMENT

Form for a natural person acting in his or her own right

STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on November 28, 2001 by
Pamela A. Finlan, Pres The Greenery, INC.



Katholeen Harris

My commission expires: _____

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EXECUTED this the 28 day of November, 2001, 199.

The Greenery, Inc
Owner

By: [Signature]
Printed Name: Pamela A. Fiolan
Title: Pres

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

N/A
Property Lienholder or Mortgagee

By: _____
Printed Name: _____
Title: _____

APPROVED AS TO FORM:

MADELEINE B. JOHNSON
City Attorney

By: [Signature]
Assistant City Attorney

[ATTACH THE APPROPRIATE ACKNOWLEDGMENT FOR EACH SIGNER]

(Rev. 9-26-95)

DEED RESTRICTIONS

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