

ORDINANCE NO. 27390

An ordinance amending the zoning ordinances of the City of Dallas by changing the zoning classification on the following property:

BEING part of Lot 1A in City Block 12/1163, fronting approximately 58 feet on the west line of Holmes Street, and containing approximately 0.180 acres,

from an NC Neighborhood Commercial Subdistrict within Planned Development District No. 595 (the South Dallas/Fair Park Special Purpose District) to an MF-2(A) Multifamily Subdistrict within Planned Development District No. 595; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding the rezoning of the property hereinafter described; and

WHEREAS, the city council finds that it is in the public interest to grant this change in zoning; Now, Therefore,

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

SECTION 1. That the zoning classification is changed from an NC Neighborhood Commercial Subdistrict within Planned Development District No. 595 (the South Dallas/Fair Park Special Purpose District) to an MF-2(A) Multifamily Subdistrict within PD No. 595 on the property described in Exhibit A, which is attached to and made a part of this ordinance ("the Property").

SECTION 2. That, pursuant to Section 51A-4.701 of Chapter 51A of the Dallas City Code, the property description in Section 1 of this ordinance shall be construed as including the area to the centerline of all adjacent streets and alleys.

SECTION 3. That the building official shall not issue a building permit or a certificate of occupancy for a use on the Property until there has been full compliance with the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the City of Dallas.

SECTION 4. That the director of development services shall correct Zoning District Map No. K-8 in the offices of the city secretary, the building official, and the department of development services to reflect the changes in zoning made by this ordinance.

SECTION 5. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 6. That the zoning ordinances of the City of Dallas shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 7. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.


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SECTION 8. That this ordinance shall take effect immediately from and after its passage and publication, in accordance with the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By  \_\_\_\_\_  
Assistant City Attorney

Passed NOV 10 2008

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**Exhibit A  
Legal Description**

**PROPERTY DESCRIPTION  
PART OF LOT 1A, BLOCK 12/1163  
CHESTNUT HILL'S HOLMES STREET ADDITION  
CITY OF DALLAS, DALLAS COUNTY, TEXAS**

**BEING** part of Lot 1A, Block 12/1163, Chestnut Hill's Holmes Street Addition, an Addition to the City of Dallas, Dallas County, Texas, according to the Map thereof recorded in Instrument No. 200503598893, Deed Records, Dallas County, Texas, and being more particularly described as follows:

**BEGINNING** at a 1/2 inch iron rod with yellow plastic cap marked "SHIELDS & LEE" found in the southwest line of Holmes Street (variable width R.O.W.), same being the east corner of said Lot 1A and the north corner of Lot 6, Block 12/1163 of Chestnut Hill Addition, an Addition to the City of Dallas, Texas, according to the Map thereof recorded in Volume 95, Page 588, Map Records, Dallas County, Texas;

**THENCE** South 45 degrees 17 minutes 05 seconds West along the common line of Lot 1A, Block 12/1163 and said Lot 6, a distance of 135.00 feet to a 1/2 inch iron rod found at the south corner of said Lot 1A, Block 12/1163, in the northeast line of a 15 foot wide alley;

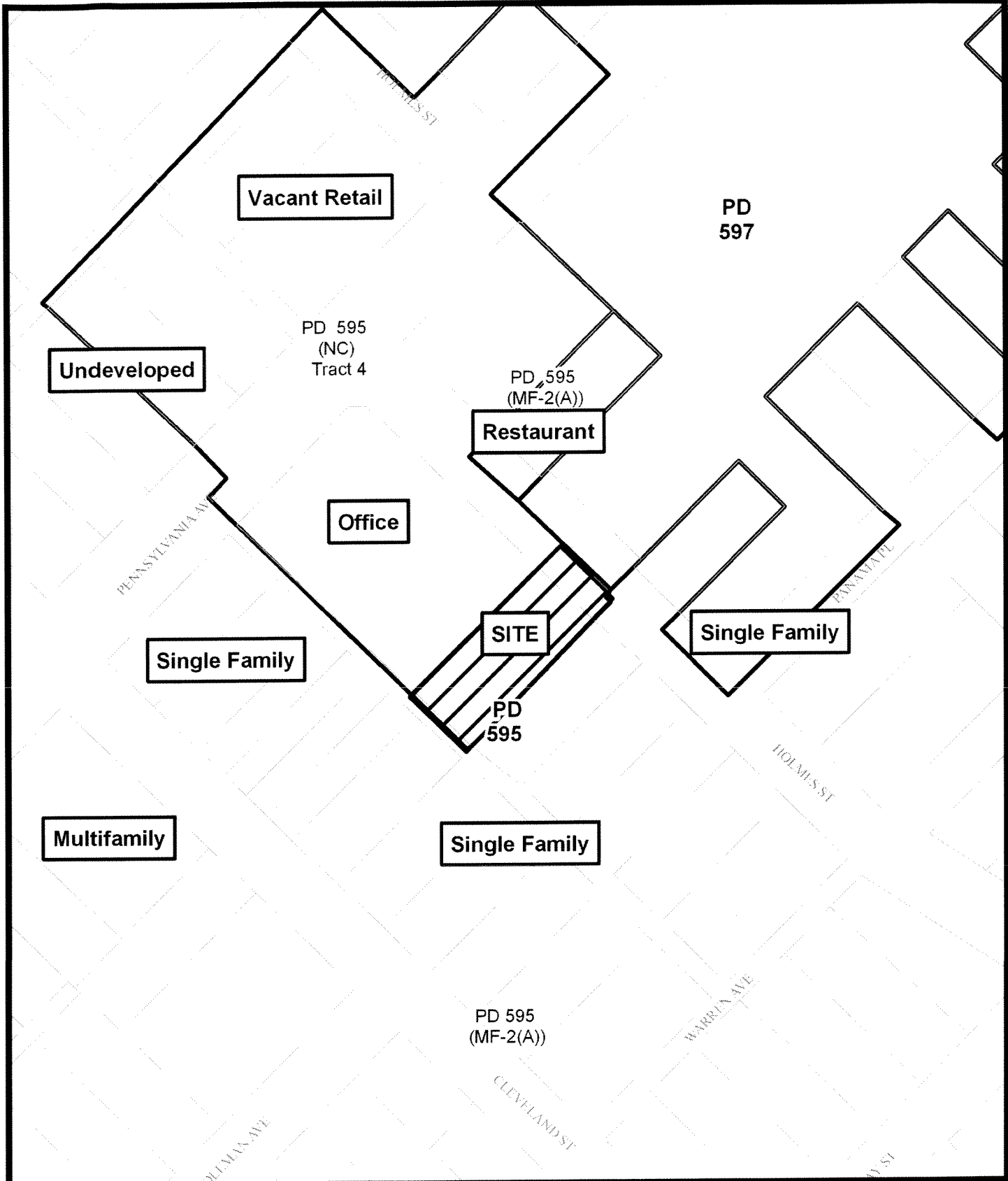
**THENCE** North 44 degrees 42 minutes 55 seconds West along the northeast line of said alley, same being the southwest line of said Lot 1A, Block 12/1163, a distance of 57.42 feet for corner;

**THENCE** North 44 degrees 48 minutes 35 seconds East passing through Lot 1A, Block 12/1163, and part of the way along the southeast edge of concrete pavement, a distance of 135.00 feet for corner in the northeast line of said Lot 1A, Block 12/1163, same being in the southwest line of Holmes Street;

**THENCE** South 44 degrees 42 minutes 35 seconds East along the southwest line of Holmes Street and the northeast line of said Lot 1A, Block 12/1163, a distance of 58.54 feet to the **PLACE OF BEGINNING** and containing 7,827 square feet or 0.180 acre of land, more or less.

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1:1,200

# ZONING AND LAND USE

Map no:                     K-8                      
 Case no:                     Z078-207 MAW

November 10, 2008

**WHEREAS**, the deed restrictions in the attached instrument have been volunteered in connection with property located on the west line of Holmes Street south of Pennsylvania Avenue, which is the subject of zoning case No. Z078-207(MAW); 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 are accepted by the City Council of the City of Dallas to be used in conjunction with the development of property that is the subject of Zoning Case No. No. Z078-207(MW).

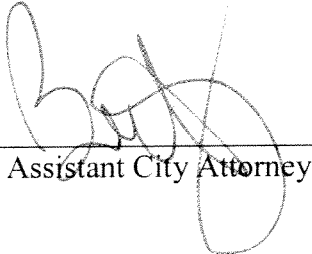
**Section 2.** That these deed restrictions must be filed in the Deed Records of Dallas County, Texas.

**Section 3.** That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By


  
Assistant City Attorney

APPROVED BY  
CITY COUNCIL

NOV 10 2008

  
City Secretary

APPROVED

  
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, St. Phillips Neighborhood Development Corporation, a Texas Corporation (the "Owner"), is the owner of the following described property (the "Property"), being in particular a 7,827 square foot tract of land located in City Block 12/1163, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Sheriff Jim Bowles, by deed dated December 30, 2004, and recorded as Dallas County Instrument Number 200403189609 in the Deed Records of Dallas County, Texas, and being more particularly described in the attached Exhibit A.

II.

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

1. The maximum number of dwelling units on the Property is limited to three.
2. Multifamily residential uses are prohibited on the Property.

III.

These restrictions shall continue in full force and effect for a period of 20 years from the date of execution, and shall automatically be extended for additional periods of 10 years unless amended or terminated in the manner specified in this document.

IV.

These restrictions may be amended or terminated as to any portion of the Property, upon application to the City of Dallas by the current owner of that portion of the Property, without the concurrence of the owners of the remaining portion of the Property. 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, 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 1<sup>st</sup> day of November, 2008.

Owner Forest Heights Neighborhood  
development corp

By: David W. Coker  
Printed Name: David W. Coker  
Title: President

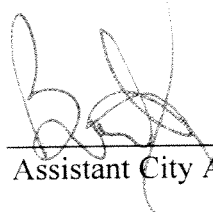
CONSENT AND CONCURRENCE OF  
LIENHOLDER OR MORTGAGEE:

\_\_\_\_\_  
Property Lienholder or Mortgagee

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

THOMAS P. PERKINS, City Attorney

By:  \_\_\_\_\_  
Assistant City Attorney

[ATTACH AN ACKNOWLEDGMENT FOR EACH SIGNER]

Officer signing for a corporation

STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on November 4, 2008 by DAVID W. GLEESON, \_\_\_\_\_ of Forest Heights Neighborhood a Development corporation, on behalf of said corporation.

[Handwritten Signature]  
NOTARY PUBLIC

[NOTARY PUBLIC STAMP]

EXECUTED this the 4 day of November, 2008.

\_\_\_\_\_  
Owner

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

CONSENT AND CONCURRENCE OF  
LIENHOLDER OR MORTGAGEE:

Northrup Trust, NA  
\_\_\_\_\_  
Property Lienholder or Mortgagee

By: Brent Richardson

Printed Name: Brent J Richardson

Title: Vice President

APPROVED AS TO FORM:

THOMAS P. PERKINS, City Attorney

By: [Signature]  
\_\_\_\_\_  
Assistant City Attorney

[ATTACH AN ACKNOWLEDGMENT FOR EACH SIGNER]

Officer signing for a corporation

STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on Nov. 4, 2008 by Brent J. Nicholson, Vice President of Northern Trust, a Financial corporation, on behalf of said corporation.



Lola O. Shaddinger  
NOTARY PUBLIC

[NOTARY PUBLIC STAMP]

**Exhibit A**  
**Legal Description**

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