

ORDINANCE NO. 27398

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

BEING a tract of land in City Block 6756, fronting approximately 907.10 feet on the east side of St. Augustine Road and containing approximately 6.39 acres,

from an MF-2(A) Multifamily District and an R-7.5(A) Single Family District to an MF-1(A) Multifamily District; 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 from an MF-2(A) Multifamily District and an R-7.5(A) Single Family District to an MF-1(A) Multifamily District 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-11 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.

27398

083102

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

EXHIBIT A
LEGAL DESCRIPTION

2078-115-2 closes
08310

27398

BEING a 278,579 square feet or a 6.3953 acre tract of land situated in the James B. Masters Survey, Abstract No. 935, City of Dallas, Dallas County, Texas and in City Block 6756, said tract being part of a called 12.8436 acre tract of land conveyed to St. Augustine Estates Apartments II, L.L.C. by deed recorded in Volume 2005159, Page 5253, Deed Records of Dallas County, Texas and being more particularly described as follows (the bearing basis for its description bearing of N 00°00'00" E for the east line of St. Augustine Road as indicated on the map of St. Augustine Manor Addition, as recorded in Instrument No. 200600229552, Deed Records of Dallas County, Texas):

BEGINNING at a set 5/8 inch iron rod for a corner in the east line of St. Augustine Road (a 60 foot right of way), said point being the most westerly northwest corner of Lot 21, Block H/6756, St. Augustine Manor Addition, as recorded in Instrument No. 200600229552, Deed Records of Dallas County, Texas, said point being in the west line of the said 12.8436 acre tract and said point being N 00°00'00" E, with the east line of St. Augustine Road, a distance of 820.39 feet from the the intersection of the east line of St. Augustine Road with the north line of Bruton Road (a 100 foot right of way);

THENCE, N 00°00'00" E, with the east line of St. Augustine Road, a distance of 907.10 feet to a set 5/8 inch iron rod for a corner, said point being in the south line of a 15 foot Alley right of way as dedicated by the map of Bruton Terrace No. 18, as recorded in Volume 402, Page 1460, Deed Records of Dallas County, Texas;

THENCE, the following courses and distances with the south and southwest line of the said Alley right of way:

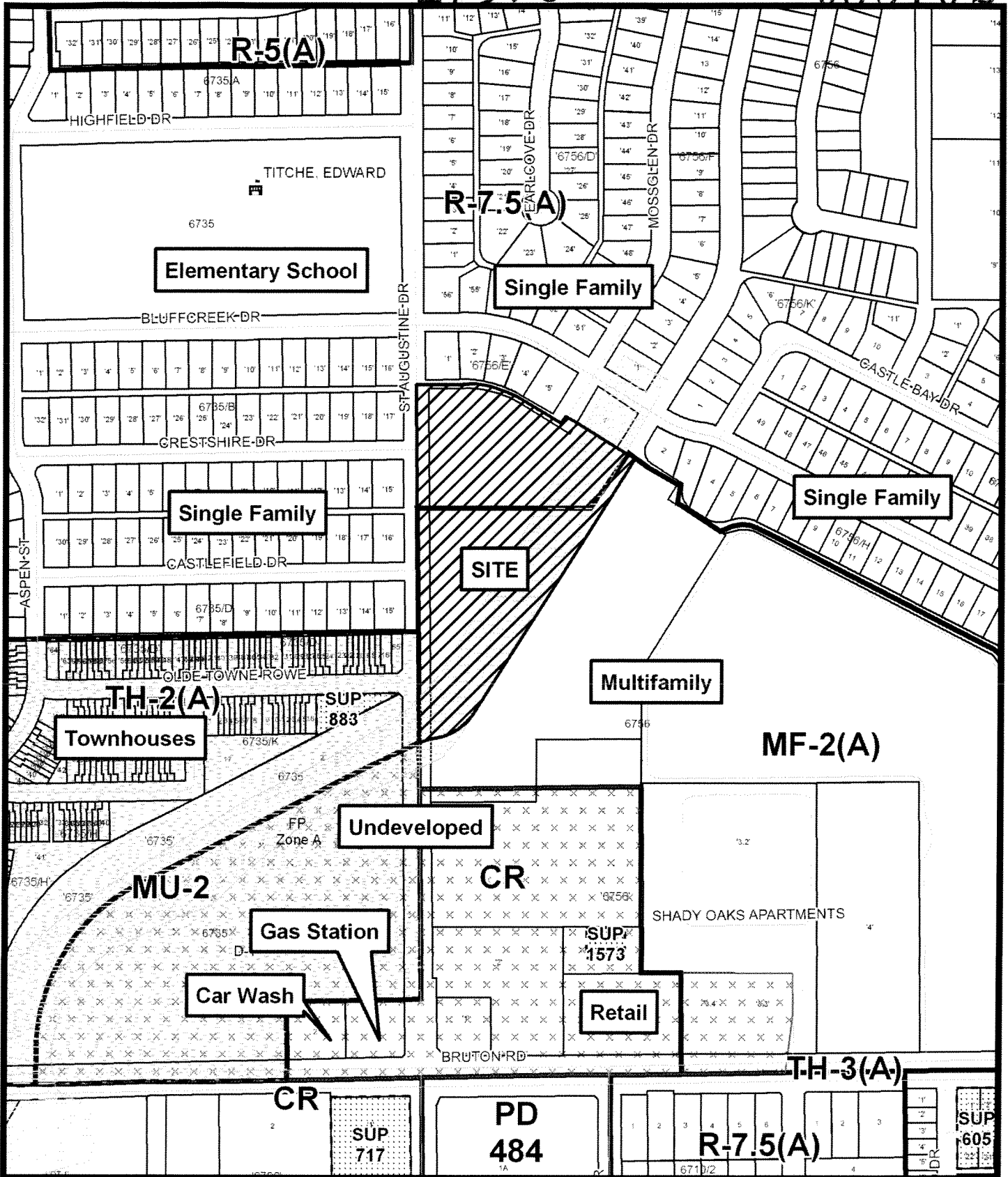
- N 90°00'00" E, a distance of 94.67 feet to a found 1/2 inch iron at the beginning of a tangent curve to the right with a central angle of 32°30'00", a radius of 265.00 feet, a chord bearing of S 73°45'00" E and a chord distance of 148.31 feet;
- Southeasterly, along the said curve, an arc distance of 150.32 feet to a found 1/2 inch iron rod at the point of tangency;
- S 57°30'00" E, a distance of 146.45 feet to a set 5/8 inch iron rod for a corner at the southeast corner of Moss Glen Drive;

THENCE, N 32°30'00" E, with the southeast line of Moss Glen Drive, a distance of 34.12 feet to a set 5/8 inch iron rod for a corner, said point being the southwest corner of Lot 1, Block H/6756 of St. Augustine Highlands, an addition to the City of Dallas, Texas recorded in the Deed Records of Dallas County, Texas;

THENCE, S 57°30'00" E, with the southwest line of the said St. Augustine Highlands addition, passing at a called distance of 125.00 feet the southeast corner of said Lot 1, passing at a called distance of 165.00 feet the southwest corner of a 15 foot Alley right of way as dedicated by the map of the said St. Augustine Highland addition, continuing in all a distance of 177.50 feet to a set 5/8 inch iron rod for a corner, said point being the most easterly northwest corner of said Lot 21, Block H/6756;

THENCE, S 32°30'00" W, with the southeast line of said Lot 21, a distance of 773.42 feet to a set 5/8 inch iron rod at the beginning of a tangent curve to the right with a central angle of 52°55'49", a radius of 148.02 feet, a chord bearing of S 58°57'54" W and a chord distance of 131.93 feet;

THENCE, Southwesterly, an arc distance of 136.74 feet to the Point of Beginning.



 1:4,000	<h1 style="margin: 0;">ZONING AND LAND USE</h1>	Map no: <u> K-11 </u> Case no: <u> Z078-115 MW </u>
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083102

COUNCIL CHAMBER

November 10, 2008

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located in City Block 6756, fronting approximately 907.10 feet on the east side of St. Augustine Road, which is the subject of zoning case No. Z078-115(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. Z078-115(MAW).

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  APPROVED  APPROVED 
HEAD OF DEPARTMENT DIRECTOR OF FINANCE CITY MANAGER

DEED RESTRICTIONS

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

I.

The undersigned St Augustine Estate Apartments II, LLC., a Texas limited liability company ("the Owner"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the James B Masters Survey, Abstract No. 935, a tract of land in City Block 6756, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Texas Trees Foundation, by deed dated August 10, 2005, and recorded in Volume 2005159, Page 5504, in the Deed Records of Dallas County, Texas, and being more particularly described in Exhibit A attached hereto

See Exhibit A

II.

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

- 1. Front yard. Minimum front yard on lots along St. Augustine Drive is 20 feet.
2. Density. Maximum number of dwelling units is 110.
3. Stories.

(A) For any portion of a structure along the north Property line within 40 feet of a residential district, maximum number of stories above grade is one.

(B) For any portion of a structure along the north Property line more than 40 feet and 75 feet or less of a residential district, maximum number of stories above grade is two.

- 4. Vehicular access. Vehicular access to the abutting alley is prohibited.

5. Additional provisions. A minimum of 35 percent of the total number of dwelling units permitted must be attached dwelling units. Attached dwelling unit means a minimum of two dwelling units attached together, with at least one enclosed off-street parking space for each dwelling unit, with direct access to the dwelling unit from the enclosed off-street parking space and with no dwelling unit above another dwelling unit. Dwelling units within 50 feet of St Augustine Road must be attached dwelling units.

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 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.

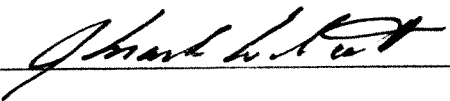
The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

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 16 day of October, 2008.

Owner: St. Augustine Estate Apartments, LLC
A Texas limited liability company

By: 

Printed Name: John Mark Wolcott

Title: Manager

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

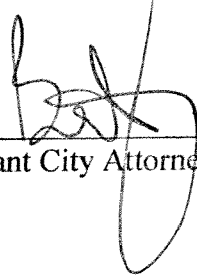
N/A
Property Lienholder or Mortgagee

By: _____

Printed Name: _____

Title: _____

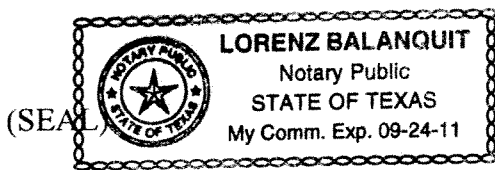
APPROVED AS TO FORM:
THOMAS P. PERKINS, Jr., City Attorney

By: 
Assistant City Attorney

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 16 day of OCTOBER 2008, 2008 by John Mark Wolcott as Manager of St. Augustine Estate Apartments, LLC, a Texas limited liability company, on behalf of said company.



A handwritten signature in cursive script, appearing to read "Greg Palmer", written over a horizontal line.

Notary Public

My commission expires:

09 / 24 / 2011
(date)

EXHIBIT A
LEGAL DESCRIPTION

2078-115 closes
083102

BEING a 278,579 square feet or a 6.3953 acre tract of land situated in the James B. Masters Survey, Abstract No. 535, City of Dallas, Dallas County, Texas and in City Block 6756, said tract being part of a called 12.8436 acre tract of land conveyed to St. Augustine Estates Apartments II, L.L.C. by deed recorded in Volume 2005159, Page 5253, Deed Records of Dallas County, Texas and being more particularly described as follows (the bearing basis for its description bearing of N 00°00'00" E for the east line of St. Augustine Road as indicated on the map of St. Augustine Manor Addition, as recorded in Instrument No. 200600229552, Deed Records of Dallas County, Texas);

BEGINNING at a set 5/8 inch iron rod for a corner in the east line of St. Augustine Road (a 60 foot right of way), said point being the most westerly northwest corner of Lot 21, Block H/6756, St. Augustine Manor Addition, as recorded in Instrument No. 200600229552, Deed Records of Dallas County, Texas, said point being in the west line of the said 12.8436 acre tract and said point being N 00°00'00" E, with the east line of St. Augustine Road, a distance of 820.39 feet from the the intersection of the east line of St. Augustine Road with the north line of Bruton Road (a 100 foot right of way);

THENCE, N 00°00'00" E, with the east line of St. Augustine Road, a distance of 907.10 feet to a set 5/8 inch iron rod for a corner, said point being in the south line of a 15 foot Alley right of way as dedicated by the map of Bruton Terrace No. 18, as recorded in Volume 402, Page 1460, Deed Records of Dallas County, Texas;

THENCE, the following courses and distances with the south and southwest line of the said Alley right of way:

- N 90°00'00" E, a distance of 94.67 feet to a found 1/2 inch iron at the beginning of a tangent curve to the right with a central angle of 32°30'00", a radius of 265.00 feet, a chord bearing of S 73°45'00" E and a chord distance of 148.31 feet;
- Southeasterly, along the said curve, an arc distance of 150.32 feet to a found 1/2 inch iron rod at the point of tangency;
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