

ORDINANCE NO. 28263

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

BEING Lot 4 in City Block B/6463; fronting approximately 200 feet on the west line of Gemini Lane; and containing approximately 42,410 square feet of land,

from an IR Industrial Research District to an IM Industrial Manufacturing 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 described in this ordinance; 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 IR Industrial Research District to an IM Industrial Manufacturing District on the following property (“the Property”):

BEING Lot 4 in City Block B/6463; fronting approximately 200 feet on the west line of Gemini Lane; and containing approximately 42,410 square feet of land.

SECTION 2. That, pursuant to Section 51A-4.701 of Chapter 51A of the Dallas City Code, as amended, 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 a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 5. 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 6. 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.

SECTION 7. 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 JUN 22 2011

28263

111774

PD
447

LEO LN

IR

GEMINI LN

ZODIAC LN

VIRGO LN

PD
498



1:2,400

ZONING AND LAND USE

Map no: E-5

Case no: Z101-223

DATE: April 21, 2011

111774

COUNCIL CHAMBER

June 22, 2010

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located on the west line of Gemini Lane, south of Royal Lane, which is the subject of zoning case No. Z101-223; 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. Z101-223.

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

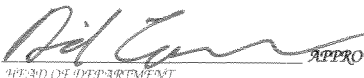

Assistant City Attorney

APPROVED BY
CITY COUNCIL

JUN 22 2011


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, Fryar Realty. 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 William Mooneyham Survey, Abstract No. 946, City Block B/6463, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Betty Barton Thomas and Fredna Barton Mahaffey, by deed dated April 18, 1994, and recorded in Volume 84082, Page 4151, in the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEING Lot 4 in City Block B/6463 of ROYAL LANE INDUSTRIAL PARK REVISED, an Addition to the City of Dallas, Texas, according to the revised map recorded in Volume 813, Page 22 of the Map Records of Dallas County, Texas.

II.

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

The following main uses are prohibited:

Industrial uses.

- Metal salvage facility.
- Organic compost recycling facility.
- Outside salvage or reclamation.

Retail and personal service uses.

- Drive-in theater.

Transportation uses.

- Railroad yard, roundhouse, or shops.

Utility or public service uses.

- Electrical generating plant
- Refuse transfer station.
- Sanitary landfill.
- Sewage treatment plant.

Wholesale, distribution, and storage uses.

- Auto auction.
- Building mover's temporary storage yard.
- Contractor's maintenance yard.
- Livestock auction pens or sheds.
- Outside storage (without visual screening).
- Petroleum product storage and wholesale.
- Sand, gravel, or earth sales and storage.
- Vehicle storage lot.

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 cost. 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.

111774

EXECUTED this the 16th day of May, 2011.

FRYAR REALTY, LLC,
a Texas Limited Liability Company

By: [Signature]
Scott M. Fryar
Managing Partner and General Counsel

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

Property Lienholder or Mortgagee

By: _____
Printed Name: _____
Title: _____

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

By: [Signature]
Assistant City Attorney

[Attach an acknowledgment for each signer]

STATE OF TEXAS
COUNTY OF Collin

This instrument was acknowledged before me on May 16, 11 by Scott M. Fryar, Managing Partner and General Counsel, of Fryar Realty, LLC, a Texas limited liability company, on behalf of said limited liability company.

[Signature]
NOTARY PUBLIC

[NOTARY PUBLIC STAMP]

