

3-28-12

ORDINANCE NO. 28605

An ordinance amending Article 619, "PD 619," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code; amending the exhibits, development plan, subdistricts, main use, restrictions on uses, and street level facade requirements in Sections 51P-619.103.0, 51P-619.104, 51P-619.105, 51P-619.106.1, 51P-619.106.4, and 51P-619.112 of Article 619; 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 this amendment to the Dallas City Code; and

WHEREAS, the city council finds that it is in the public interest to amend Article 619 as specified in this ordinance; Now, Therefore,

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

SECTION 1. That Section 51P-619.103.0, "Exhibits," of Article 619, "PD 619," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended to read as follows:

"SEC. 51P-619.103.0. EXHIBITS.

The following exhibits are incorporated into this article:

- (1) Exhibit 619A: Subdistrict D and E property description.

- (2) Exhibit 619B: Subdistrict F property description.
- (3) Exhibit 619C: Subdistrict G, H, and I property description.
- (4) Exhibit 619D: Metes and bounds description and drawing of Building Site
- 1.
- (5) Exhibit 619E: Metes and bounds description and drawing of Building Site
- 2.
- (6) Exhibit 619F: Subdistrict J development plan.
- (7) Exhibit 619G: Subdistrict J property description.
- (8) Exhibit 619H: Subdistrict K property description.

SECTION 2. That Subsection (a), “Subdistricts A, B, C, D, E, F, G, H, and I,” of Section 51P-619.104, “Development Plan,” of Article 619, “PD 619,” of Chapter 51P, “Dallas Development Code: Planned Development District Regulations,” of the Dallas City Code is retitled as Subsection (a), “Subdistricts A, B, C, D, E, F, G, H, I, and K.”

SECTION 3. That Subsection (a) of Section 51P-619.105, “Subdistricts,” of Article 619, “PD 619,” of Chapter 51P, “Dallas Development Code: Planned Development District Regulations,” of the Dallas City Code is amended to read as follows:

“(a) Subdistrict A is street level Property, except Property in Subdistricts F, G, ~~and~~ J, and K. In general terms, this is all street level Property except Property adjacent to the south side of Pegasus Plaza; Property bounded by Field Street, Commerce Street, Jackson Street, and Browder Street; ~~and~~ Property bounded by Pacific Avenue, Griffin Place, Elm Street, and Griffin Street; and approximately 2,500 square feet of land on the south side of Elm Street between Stone Place and Ervay Street.”

SECTION 4. That Section 51P-619.105, “Subdistricts,” of Article 619, “PD 619,” of Chapter 51P, “Dallas Development Code: Planned Development District Regulations,” of the Dallas City Code is amended by adding a new Subsection (k) to read as follows:

“(k) Subdistrict K is street level Property in the area described on Exhibit 619H. In general terms, this is approximately 2,500 square feet of land on the south side of Elm Street between Stone Place and Ervay Street.”

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SECTION 5. That Section 51P-619.106.1, “Main Uses Permitted in Subdistricts A, F, G, and J (Street Level),” of Article 619, “PD 619,” of Chapter 51P, “Dallas Development Code: Planned Development District Regulations,” of the Dallas City Code is retitled as Section 51P-619.106.1, “Main Uses Permitted in Subdistricts A, F, G, J, and K (Street Level).”

SECTION 6. That Subsection (g), “Office Uses,” of Section 51P-619.106.1, “Main Uses Permitted in Subdistricts A, F, G, J, and K (Street Level),” of Article 619, “PD 619,” of Chapter 51P, “Dallas Development Code: Planned Development District Regulations,” of the Dallas City Code is amended to read as follows:

“(g) Office uses.

- Alternative financial establishment. [By SUP only in Subdistrict K.] [See Section 51P-619.106.4.]
- Financial institution without drive-in window. [See Section 51P-619.106.4.]
- Medical clinic or ambulatory surgical center. [See Section 51P-619.106.4.]
- Office. [See Section 51P-619.106.4.]”

SECTION 7. That Section 51P-619.106.4, “Restrictions on Uses in Subdistrict A,” of Article 619, “PD 619,” of Chapter 51P, “Dallas Development Code: Planned Development District Regulations,” of the Dallas City Code is amended to read as follows:

“SEC. 51P-619.106.4. RESTRICTIONS ON USES IN SUBDISTRICTS A AND K.

(a) Pedestrian-oriented uses.

(1) Subdistrict A. Any use that is not a retail and personal service use, a financial institution without drive-in window, or a transportation use, and is located in a building in Subdistrict A is not permitted if, at the time of the request for a certificate of occupancy, less than 75 percent of the frontage of that building at street level (excluding docking and loading areas, driveways, exit ramps, and entrance ramps) is occupied by, or is made available exclusively for use by, retail and personal service uses, financial institution without drive-in window, and/or transportation uses that extend at least 50 feet into the building.

(2) Subdistrict K. Any use that is not a retail and personal service use, an office use, a transportation use, or a hotel or motel, and is located in a building in Subdistrict K is not permitted if, at the time of the request for a certificate of occupancy, less than 75 percent of the frontage of that building at street level (excluding docking and loading areas, driveways, exit ramps, and entrance ramps) is occupied by, or is made available exclusively for use by, a retail and personal service use, an office use, a transportation use, and/or a hotel or motel that extends at least 50 feet into the building.

(3) Measurement. The 50-foot measurement is made perpendicularly from the facade of the building having the frontage. For the purpose of this subsection, "frontage" means the length of property between property or lease boundary lines along one side of a street that is: (1) at least 35 feet wide; or (2) a closed street that has not been abandoned by the city.

(b) Special exception.

(1) The board may grant a special exception to reduce the minimum 75 percent requirement in Subsection (a) to no less than 50 percent upon making a special finding from the evidence presented that:

(A) strict compliance with the requirements of this section will unreasonably burden the use of the property;

(B) the special exception will not adversely affect neighboring property; and

(C) the proposed use will not discourage street level activity.

(2) In determining whether to grant a special exception under Paragraph (1), the board shall consider the following factors: the location of the site, and the extent to which existing or proposed amenities will compensate for the reduction of retail and personal service uses, office uses, hotel or motel, financial institution without drive-in window, and/or permitted transportation uses in these [this] subdistricts, as applicable.

(3) The board may waive the filing fee for a special exception under Paragraph (1) when the board finds that payment of the fee would result in financial hardship to the applicant. The applicant may either pay the fee and request reimbursement as part of his appeal or request that the matter be placed on the board's miscellaneous docket for predetermination. If the matter is placed on the miscellaneous docket, the applicant may not file his appeal until the merits of the request for waiver have been determined by the board."

SECTION 8. That Section 51P-619.112, "Street Level Facade Requirements in Subdistricts A and J," of Article 619, "PD 619," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended to read as follows:

"SEC. 51P-619.112. STREET LEVEL FACADE REQUIREMENTS IN SUBDISTRICTS A, ~~AND~~ J, AND K.

The following provisions apply to all uses in Subdistricts A, ~~and~~ J, and K except church uses and residential uses. All street level frontage ("street level facade") of a building in this district must have windows and primary entrances facing the street, pedestrian way, or plaza. For the purpose of this subsection, "frontage" means the length of property between property or lease boundary lines along one side of a street that is: (1) at least 35 feet wide; or (2) a closed street that has not been abandoned by the city. No more than 10 continuous linear feet of street level facade may lack a transparent surface (e.g. a window or a transparent door). Corner lot structures must have corner entrances in compliance with the visibility triangle standards set by the department of public works and transportation. Street level facade windows must:

- (1) be clear, unpainted, or made of similarly treated glass allowing visibility into street level uses;
 - (2) cover 50 percent or more of street level frontage;
 - (3) not have a bottom edge higher than three feet above the base of building;
- and
- (4) be less than 10 feet high."

SECTION 9. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 10. That Chapter 51P of the Dallas City Code, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 11. 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 12. 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 Casey Burgess
Assistant City Attorney

Passed MAR 28 2012

GIS_Approved

Legal Description

BEING a 0.0574 acre tract of land situated in the John Grigsby Survey, Abstract No. 495, Dallas County, Texas, said tract being the west 25.00 feet of Lot 4 in the City Block 128/76-1/2, of the Smith, Murphy and Martin Addition, an addition to the City of Dallas, Dallas County, Texas, according to the Plat thereof recorded in Volume 143, Page 403, Deed Records of Dallas County, Texas, said 0.0574 acre tract being more particularly describes as follows:

BEGINNING at a point on an existing building, in the southeast right-of-way line of Elm Street (80' public R.O.W.), said point being North 76°00'00" East, a called distance of 148.20 feet from the intersection of the southeast right-of-way line of Elm Street with the northeast right-of-way line of Stone Place (40' public R.O.W.), said point being the northeast corner of a called 0.115 acre tract of land conveyed to 1610 ELM STREET, LLC by Instrument No. 201100056229, Official Public Records, Dallas County, Texas, same also being southeasterly and 0.60 feet from the exterior face of the common seam of the northeasterly building corner located on said 1610 ELM STREET, LLC tract, which has an address of 1610 Elm Street, and the northwesterly corner of the building located on the herein described tract, which has an address of 1612 Elm Street;

THENCE North 76°00'00" East, with the southeast line of said Elm Street, a distance of 25.00 feet to the northwest corner of the remainder of Lot 4, Block 128/76-1/2 of said Smith, Murphy and Martin Addition, same being the northwest corner of that certain tract of land conveyed to ELM AT STONEPLACE HOLDINGS, LLC by deed recorded in instrument No. 201000094232, Official Public Records, Dallas County, Texas, same also being southeasterly and 0.60 feet from the exterior face of the common seam of the northeasterly corner of the building located on the herein described tract, which has an address of 1612 Elm Street and the northwesterly corner of the building located on said ELM AT STONEPLACE HOLDINGS, LLC tract, which has an address of 1614 Elm Street;

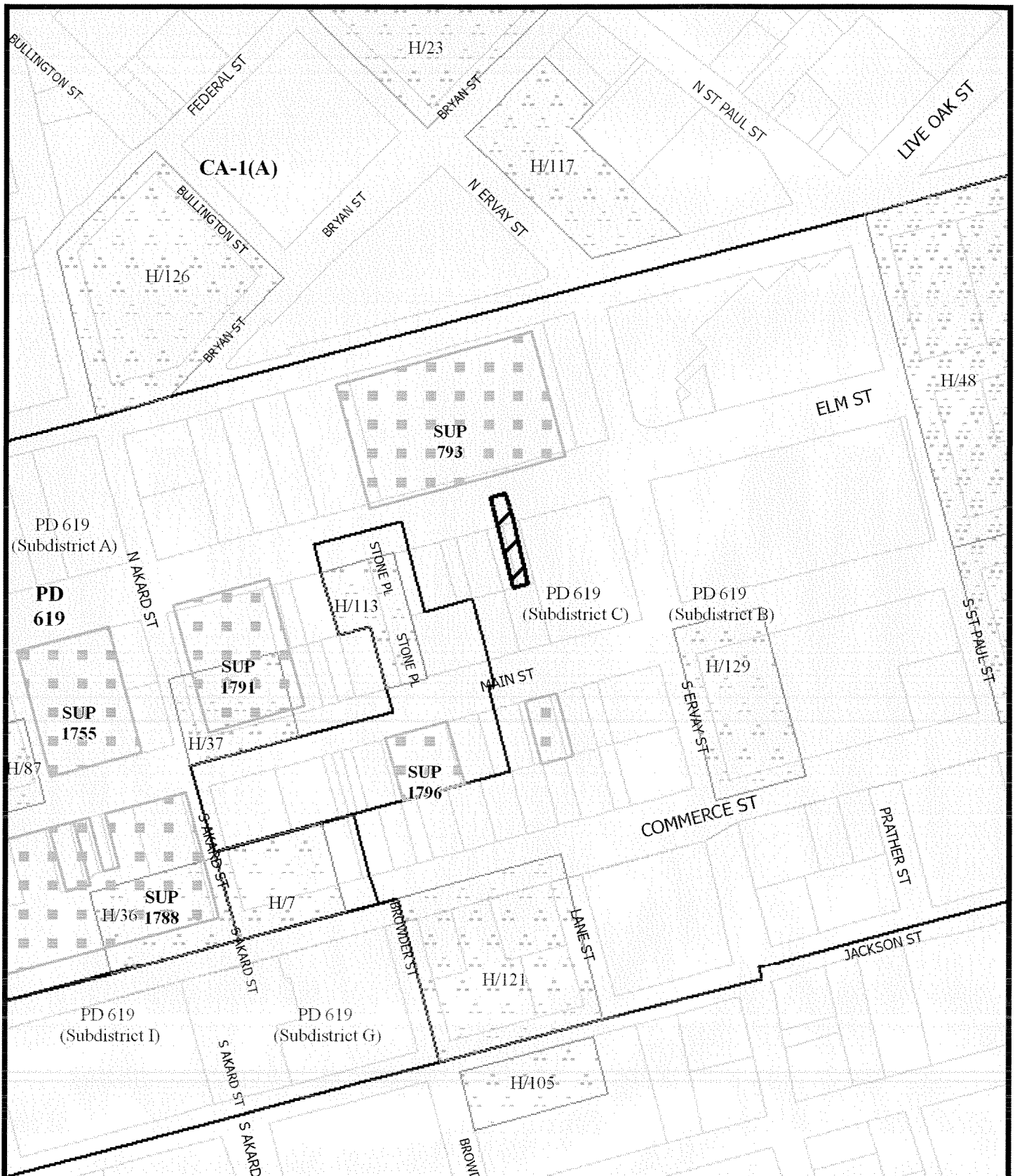
THENCE South 14°00'00" East, departing said right-of-way line and along the common seam of said buildings, a distance of 100.00 feet to the north line of Lot 7, Block 128/76-1/2 of said Smith, Murphy and Martin Addition, same being the northerly line of a tract of land conveyed to ELM AT STONEPLACE HOLDINGS, LLC by Instrument No. 201000094232, Official Public Records, Dallas County, Texas;

THENCE South 76°00'00" West, a distance of 25.00 feet to the southeast corner of the aforementioned tract to 1610 ELM STREET, LLC by instrument No. 201100056229, Official Public Records, Dallas County, Texas, same being on the seam of the aforementioned buildings at 1610 Elm Street and 1612 Elm Street;

THENCE North 14°00'00" West, with the northeast line of said tract and along the said seam line, a distance of 100.00 feet to the POINT OF BEGINNING, and containing 2,500 square feet or 0.0574 acres of land.

Z112-177

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1:2,400

ZONING AND LAND USE

Case no: **Z112-177**

Date: 2/16/2012