

ORDINANCE NO. 28851

An ordinance changing the zoning classification on the following property:

BEING Lots 2 through 4 in City Block A/1057; fronting approximately 150 feet on the northwest line of Birch Street; fronting approximately 150 feet on the southeast line of Willow Street; and containing approximately 0.4889 acre,

from Subarea A within Planned Development District No. 134 to a CS Commercial Service District; amending Ordinance No. 17271, as amended, passed by the Dallas City Council on January 27, 1982, by providing a new property description; amending Article 134, "PD 134," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code; amending the property location and size in Section 51P-134.102; providing a new subarea map; 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 this amendment to the Dallas City Code; and

WHEREAS, the city council finds that it is in the public interest to change the zoning classification and amend Article 134 as specified in this ordinance; Now, Therefore,

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

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SECTION 1. That the zoning classification is changed from Subarea A within Planned Development District No. 134 to a CS Commercial Service District on the following property (“the Property”):

BEING Lots 2 through 4 in City Block A/1057; fronting approximately 150 feet on the northwest line of Birch Street; fronting approximately 150 feet on the southeast line of Willow Street; and containing approximately 0.4889 acre.

SECTION 2. That the property description in Section 1 of Ordinance No. 17271, as amended, is replaced with the property description in Exhibit A, which is attached to and made a part of this ordinance.

SECTION 3. That Section 51P-134.102, “Property Location and Size,” of Article 134, “PD 134,” of Chapter 51P, “Dallas Development Code: Planned Development District Regulations,” of the Dallas City Code is amended to read as follows:

“SEC. 51P-134.102. PROPERTY LOCATION AND SIZE.

PD 134 is established on property generally bounded by G.C. & S.F. Railroad, Cristler Avenue, East Grand Avenue, Philip Avenue, Fairview Avenue, Gurley Avenue, East R.L. Thornton Freeway, and Carroll Avenue. The size of PD 134 is approximately 313.7504 [314.2393] acres.”

SECTION 4. That the subarea map, Exhibit 134C of Article 134, “PD 134,” of Chapter 51P of the Dallas City Code is replaced by the Exhibit 134C attached to this ordinance.

SECTION 5. 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 6. 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.

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SECTION 7. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 8. That the zoning ordinances of the City of Dallas and 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 9. 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 10. 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 DEC 12 2012

PD 134 Overall

BEING all of City Block 31/1615 bounded by Cristler Avenue, Ash Lane, Glasgow Drive and Santa Fe Avenue;

BEING all of City Block 23/1615 bounded by Cristler Avenue, Linsdley Avenue, Glasgow Drive and Ash Lane;

BEING all of City Block 15/1614 bounded by Cristler Avenue, Linsdley Avenue, Gurley Avenue and Glasgow Avenue;

BEING all of City Block 38/1614 bounded by Cristler Avenue, Gurley Avenue, Glasgow Drive and East Grand Avenue;

BEING all of City Block 30/1615 bounded by Glasgow Drive, Ash Lane, Martinique Avenue, and Santa Fe Avenue;

BEING all of City Block 22/1615 bounded by Glasgow Drive, Ash Lane, Martinique Avenue, and Lindsley Avenue;

BEING all of City Block 14/1614 bounded by Glasgow Drive, Lindsley Avenue, Martinique Avenue, and Gurley Avenue;

BEING all of City Block 7/1614 bounded by Gurley Avenue, Glasgow Drive, East Grand Avenue and Martinique Avenue;

BEING all of City Block 29/1615 bounded by Santa Fe Avenue, Martinique Avenue, Ash Lane and Mt. Auburn Avenue;

BEING all of City Block 21/1615 bounded by Ash Lane, Martinique Avenue, Lindsley Avenue and Mt. Auburn Avenue;

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BEING all of City Block 13/1614 bounded by Lindsley Avenue, Martinique Avenue, Gurley Avenue and Mt. Auburn Avenue;

BEING all of City Block 6/1614 bounded by Gurley Avenue, Martinique Avenue, East Grand Avenue and Mt. Auburn Avenue;

BEING all of City Block 28/1613 bounded by Santa Fe Avenue, Mt. Auburn Avenue, Ash Lane, and Grandview Avenue;

BEING all of City Block 20/1613 bounded by Ash Lane, Mt. Auburn Avenue, Lindsley Avenue and Grandview Avenue;

BEING all of City Block 12/1612 bounded by Lindsley Avenue, Mt. Auburn Avenue, Gurley Avenue, and Grandview Avenue;

BEING all of City Block 5/1612 bounded by Gurley Avenue, Mt. Auburn Avenue, East Grand Avenue and Grandview Avenue;

BEING all of City Block 27/1613 bounded by Santa Fe Avenue, Grandview Avenue, Ash Lane and Parkview Avenue;

BEING all of City Block 19/1613 bounded by Ash Lane, Grandview Avenue, Lindsley Avenue and Parkview Avenue;

BEING all of City Block 11/1612 bounded by Lindsley Avenue, Grandview Avenue, Gurley Avenue and Parkview Avenue ;

BEING all of City Block 4/1612 bounded by Gurley Avenue, Grandview Avenue, East Grand Avenue and Parkview Avenue;

BEING all of City Block 26/1613 bounded by Santa Fe Avenue, Parkview Avenue, Ash Lane and Wayne Street;

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BEING all of City Block 18/1613 bounded by Ash Lane, Parkview Avenue, Lindsley Avenue and Wayne Street;

BEING all of City Block 10/1612 bounded by Lindsley Avenue, Parkview Avenue, Gurley Avenue and Wayne Street;

BEING the remainder of Lots 8 through 9 and all of Lots 10 through 16 and Lots 18 through 27 in City Block 3/1612 bounded by Wayne Street, Gurley Avenue, Parkview Avenue and Philip Avenue;

BEING all of City Block 25/1613 bounded by Santa Fe Avenue, Wayne Street, Ash Lane and Beacon Street;

BEING all of City Block 17/1613 bounded by Ash Lane, Wayne Street, Lindsley Avenue and Beacon Street;

BEING all of City Block 9/1612 bounded by Lindsley Avenue, Wayne Street, Gurley Avenue and Beacon Street;

BEING all of Lots 12 through 17 and 22 through 28 in City Block 2/1612 bounded by Gurley Avenue, Wayne Street, Philip Avenue and Beacon Street;

BEING all of the remnants of City Block 24/1613 bounded by Santa Fe Avenue, Beacon Street, Graham Avenue and Ash Lane;

BEING all of City Block 16/1613 bounded by Ash Lane, Beacon Street, Lindsley Avenue and Graham Avenue;

BEING all of City Block 8/1612 bounded by Lindsley Avenue, Beacon Street, Gurley Avenue, and Graham Avenue;

EXHIBIT A

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GIS Approved

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BEING all of Lots 12 through 17 and 23 through 28 in City Block 1/1612 bounded by Gurley Avenue, Beacon Street Philip Avenue and Graham Avenue;

BEING all of City Block O/1611 bounded by Santa Fe Avenue, Graham Avenue, Terry Street and Fairview Avenue;

BEING all of City Block M/1611 bounded by Terry Street, Graham Avenue, Ash Lane and Fairview Avenue;

BEING all of City Block K/1611 bounded by Ash Lane, Graham Avenue, Garland Avenue and Fairview Avenue;

BEING all of City Block I/1611 bounded by Garland Avenue, Graham Avenue, Lindsley Avenue and Fairview Avenue;

BEING all of Lot H and Lots 11 through 20 in City Block G/1610 fronting on the south line of Lindsley Avenue between Graham Avenue and Fairview Avenue;

BEING all of Lot E and Lots 1 through 10 in City Block E/1610 fronting on the north line of Gurley Avenue between Graham Avenue and Fairview Avenue;

BEING all City Block C/1610 bounded by Gurley Avenue, Graham Avenue, Philip Avenue and Fairview Avenue;

BEING all of City Block P/1611 bounded by Santa Fe Avenue, Fairview Avenue, Terry Street, and Henderson Avenue;

BEING all of City Block N/1611 bounded by Terry Street, Fairview Avenue, Ash Land and Henderson Avenue;

BEING all of City Block L/1611 bounded by Ash Lane, Fairview Avenue, Garland Avenue and Henderson Avenue;

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BEING all of City Block J/1611 bounded by Garland Avenue, Fairview Avenue, Lindsley Avenue and Henderson Avenue;

BEING all of Lots 11 through 20 in City Block H/1610 fronting on the south line of Lindsley Avenue between Fairview Avenue and Henderson Avenue;

BEING all of Lots 1 through 10 in City Block F/1610 fronting on the north line of Gurley Avenue between Fairview Avenue and Henderson Avenue;

BEING all of City Block 8/1245 bounded by Santa Fe Avenue, Henderson Avenue, Terry Street and St. Marys Street;

BEING all of City Block 7/1247 bounded by Terry Street, Henderson Avenue, Ash Lane and St. Marys Street;

BEING all of City Block 6/1249 bounded by Ash Lane, Henderson Avenue, Garland Avenue and St. Marys Street;

BEING all of City Block 5/1251 bounded by Garland Avenue, Henderson Avenue, Lindsley Avenue and St. Marys Street;

BEING all of Lots 10 through 18 in City Block 4/1253 fronting on the south line of Lindsley Avenue between Henderson Avenue and St. Marys Street;

BEING all of Lots 1 through 9 in City Block 3/1255 fronting on the north line of Gurley Avenue between Henderson Avenue and St. Marys Street;

BEING all of City Blocks 9A/1244 and 9B/1244 bounded by Santa Fe Avenue, St. Marys Street, Terry Street and Munger Boulevard;

BEING all of City Block 10/1246 bounded Terry Street, St. Marys Street, Ash Lane and

Munger Boulevard;

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BEING all of City Block 11/1248 bounded by Ash Lane, St. Marys Street, Garland Avenue and Munger Boulevard;

BEING all of City Block 12/1250 bounded by Garland Avenue, St. Marys Street, Lindsey Avenue and Munger Boulevard;

BEING the remainder of Lots 13 through 14 and all of Lots 15 through 22 in City Block 13/1252 fronting on Lindsley Avenue between St. Marys Street and Munger Boulevard;

BEING all of Lots 1 through 9 and Lots 15 through 22 in City Block 24/1237 bounded by Santa Fe Avenue, Munger Boulevard and Terry Street;

BEING all of Lots 15 through 22 and Lots 1 through 10 and the southeastern 100 feet of Lot 11 in City Block 23/1238 bounded by Terry Street, Munger Boulevard and Ash Lane;

BEING all of City Block 22/1227 bounded by Ash Lane, Munger Boulevard, Garland Avenue and Fitzhugh Avenue;

BEING all of the remnants of City Block 21/1239 bounded by Garland Avenue, Munger Boulevard, Lindsley Avenue and East R.L.Thornton Freeway;

BEING all of Lots 4 through 11 and all of Lots 12 through 19 in City Block 25/1063 bounded by Santa Fe Avenue, Caldwell Street and Terry Street;

BEING all of Lots 1 through 19 in City Block 26/1064 bounded by Terry Street, Caldwell Street and Ash Lane;

BEING the remnants of City Block 27/1065 bounded by Ash Lane, East R.L. Thornton Freeway and Fitzhugh Avenue;

BEING all of Lots 11 through 20 in City Block 40/1059 fronting on the south line of Santa Fe Avenue between Bank Street and Caldwell Street;

BEING all of Lots 5 through 11 in City Block A/1057 fronting on the north line of Birch Street between Bank Street and Carroll Avenue;

BEING all of Lots 4 through 11 in City Block B/1057 fronting on the south line of Birch Street between Bank Street and Carroll Avenue;

BEING the remnants of Lots 16 through 18 in City Block B/1057 fronting on the north line of East R.L.Thornton Freeway, west of Bank Street.

This Planned Development District is generally bounded by the G.C. & S.F. Railroad, Cristler Avenue, East Grand Avenue, Philip Avenue, Fairview Avenue, Gurley Avenue, East R.L.Thornton Freeway and Carroll Avenue.

Subarea A

Subarea A is all of PD 134 save and except Subareas A-1, B and C (Subarea C is described in two tracts).

Subarea A-1

BEING all of Lot 13 and part of Lot 14 in Block 19/1613 of Mount Auburn Addition, an Addition to the City of Dallas, Dallas County, Texas, as recorded in Volume 1, Page 276 of the Map Records, Dallas County, Texas and being the same tract of land conveyed to Church of God by deed recorded in Instrument No. 20070181507, Official Public Records, Dallas County, and being the same tract of land conveyed to Parkview Church of God by deed recorded in Instrument No. 20070278817, Official Public Records, Dallas County, Texas and being more particularly described as follows:

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Beginning at a 1/2" capped iron pin set for the east corner of said Lot 13 and the east corner of said Church of God tract and for the intersection of the southwest right-of-way line of Grandview Avenue (50' R.O.W.) and the northwest right-of-way line of Lindsley Avenue (60' R.O.W.);

THENCE, South 41°55'28" West, along the northwest right-of-way line of Lindsley Avenue (60' R.O.W.), the southeast line of said Lot 13 and the southeast line of said Church of God tract, a distance of 145.21 feet to a 1/2" capped iron pin set on the northeast line of a 10' alley for the south corner of said Lot 13;

THENCE, North 45°00'00" West, along the northeast line of said 10' alley, the southwest line of said Lot 13 and Lot 14, the southwest line of said Church of God tract and the southwest line of said Parkview Church of God tract, a distance of 120.61 feet to a 1/2" capped iron pin set for the west corner of said Parkview Church of God tract and the south corner of a tract of land conveyed to Inocencio Castillo by deed recorded in Volume 98077, Page 4728, Deed Records, Dallas County, Texas;

THENCE, North 45°00'00" East, along northwest line of said Parkview Church of God tract and the southeast line of said Castillo tract, a distance of 145.00 feet to a 1/2" capped iron pin set on the southwest right-of-way line of Grandview Avenue (50' R.O.W.) and on the northeast line of said Lot 14 for the east corner of said Castillo tract and the north corner of said Parkview Church of God tract;

THENCE, South 45°00'00" East, along the southwest right-of-way line of Grandview Avenue (50' R.O.W.), the northeast line of said Lot 14 and Lot 13, the northeast line of said Parkview Church of God tract and the northeast line of said Church of God tract, a distance of 112.82 feet to the Point of Beginning and containing 16,924 square feet or 0.388 acres of land.

Subarea B

BEING all of Lots 1 through 3 in City Block 17/1613;

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BEING all of Lots 11 through 12 in City Block 9/1612;

BEING all of Lots 1 through 3 and Lots 14 through 17 in City Block 16/1613;

BEING all of Lot 24 in City Block 8/1612.

Subarea C, Tract 1

BEING all of Lots 1 through 4 and Lots 13 through 16 in City Block 21/1615.

Subarea C, Tract 2

BEING part of Lot 11 in City Block H/1610 and further described as follows:

Beginning at the intersection of the southwest Line of Fairview Avenue and the southeast line of Lindsley Avenue;

THENCE, South 45°00'00" East, along the southwest right-of-way line of Fairview Avenue, a distance of 100' to a point for a corner;

THENCE, South 42°15'00" West, along a line parallel to the southeast right-of-way line of Lindsley Avenue, a distance of 50' to a point for a corner;

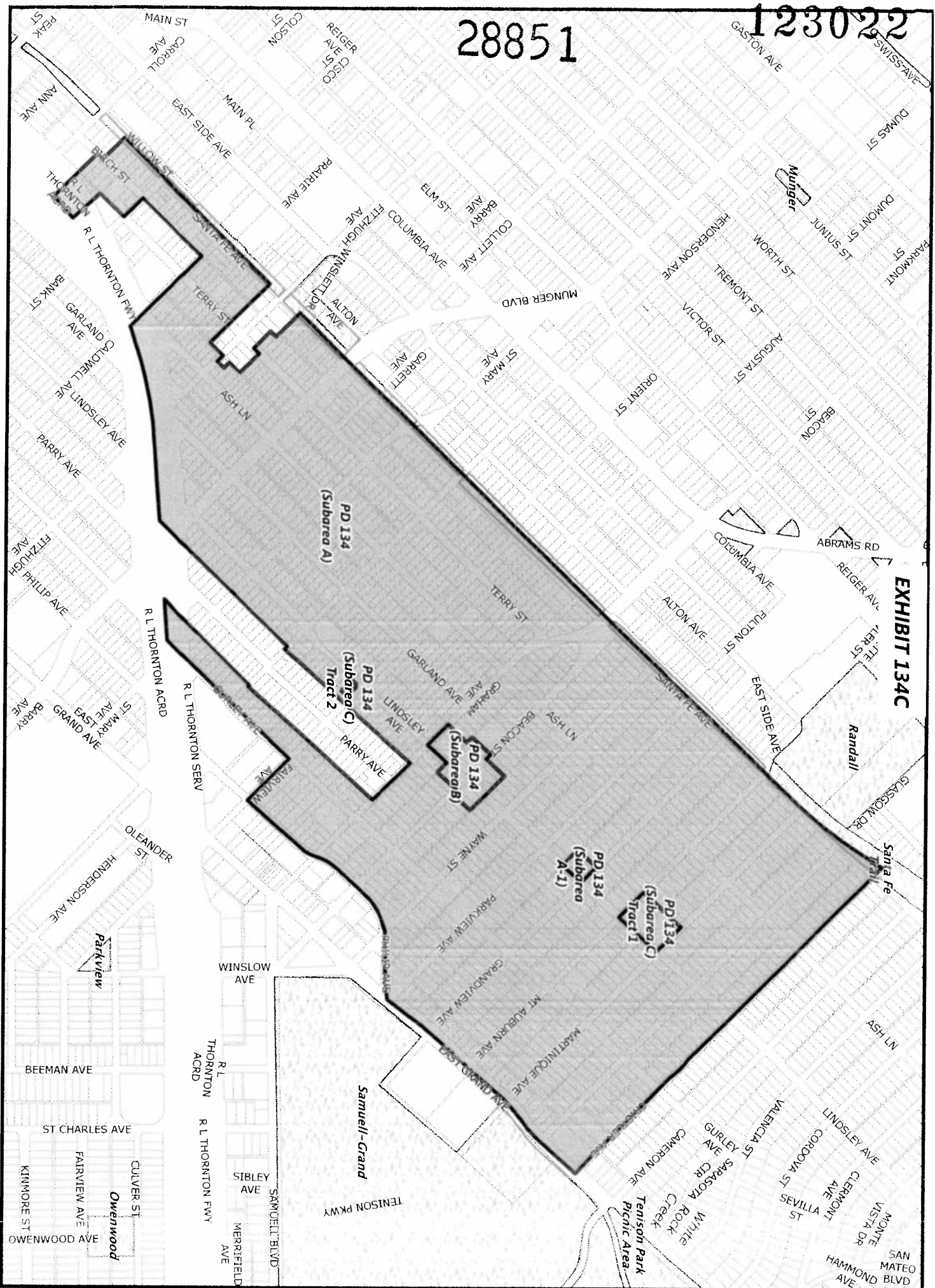
THENCE, North 45°00'00" West, along a line parallel to the southwest right-of-way line of Fairview Avenue, a distance of 100' to a point for a corner;

THENCE, North 42°15'00" East, along the southeast right-of-way line of Lindsley Avenue, a distance of 50' to the Point of Beginning and containing 5,000 square feet or 0.115 acres of land.

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EXHIBIT 134C



1:10,000

Printed Date: 12/12/2012

PD 134 TRACT MAP (Contains 4 Subareas)

Subareas A, A-1, B, C

Subarea C contains 2 separate tracts

28851

RR

MF-2(A)

BANK ST

MC-3

WILLOW ST

PD 134
(Subarea A)

PD
134

Z034-109

SANTA FE AVE

BIRCH ST

S CARROLL AVE

Z967-238

CS

ANN AVE

CH



1:1,200

ZONING AND LAND USE

Case no: Z112-270

Date: 11/2/2012

123022

COUNCIL CHAMBER

December 12, 2012

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located near the north corner of Carroll Avenue and Birch Street, which is the subject of Zoning Case No. Z112-270(WE); 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. Z112-270(WE).

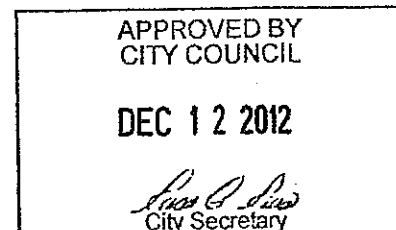
Section 2. That these deed restrictions must be filed in the Deed Records of Dallas County, Texas.

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 	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, Fernando Santos & Maria I. Yolanda Santos, ("the Owner"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the John Grigsby Survey, Abstract No. 0495, City Block A/1057, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Jimmy Lee Redding, by deed dated October 3, 1995, and recorded in Volume 95196, Page 3539, in the Deed Records of Dallas County, Texas, and being more particularly described as follows:

Blenheim Place Addition Block A/1057 Lot No.2, Lot No.3 and Lot No.4 of the City of Dallas, Dallas County, Texas

II.

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

All CS Commercial Service District uses are prohibited on Lot 4 in City Block A/1057, except for surface parking.

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.

123022

EXECUTED this the 12 th. day of September, 2012.

Fernando Santos, Maria I. Yolanda Santos
Owner

By: Fernando Santos, Maria I. Yolanda Santos
Printed Name: Fernando Santos & Maria I.
Yolanda Santos

Title: Owner

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

N. A.

Property Lienholder or Mortgagee

By: N.A.

Printed Name: _____

Title: _____

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

By: Casey Buzo
Assistant City Attorney

[Attach an acknowledgment for each signer]

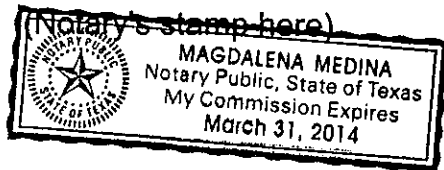
Sample Signature Blocks and Acknowledgments

Form of acknowledgment if the owner is a person.

State of Texas

County of Dallas

This instrument was acknowledged before me on Sept 11, 2012 (date of acknowledgment) by Fernando Santos & Maria I. Yolanda Santos (name of person who signed the deed restrictions).



Magdalena Medina (Notary's signature)
Notary Public in and for
The State of Texas