

3-28-13

ORDINANCE NO. 28966

An ordinance changing the zoning classification on the following property:

BEING a tract of land in City Block 8013 located west of the intersection of Illinois Avenue and Knoxville Street; fronting approximately 439 feet on the south line of Illinois Avenue; and containing approximately 6.8839 acres,

from an R-7.5(A) Single Family District to a CR Community Retail 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 change the zoning classification; Now, Therefore,

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

SECTION 1. That the zoning classification is changed from an R-7.5(A) Single Family District to a CR Community Retail 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, 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.

28966

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 APR 10 2013

LEGAL DESCRIPTION

BEING a tract of land situated in the William H. Pearson Survey, Abstract No. 1127, Dallas County, and situated in Block 8013, also being that certain tract of land conveyed to Doug Connell, Inc., by Deed recorded in Volume 4868, Page 201, Deed Records, Dallas County, Texas, and that certain tract of land conveyed to Dough Connell, Inc., by Deed recorded in Volume 4721, Page 516, Deed Record, Dallas County, Texas, and that certain tract of land conveyed to Dough Connell, Inc., by Deed recorded in Volume 84205, Page 3940, Deed Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod set for corner situated in the south line of W. Illinois Avenue (80' R.O.W.) said iron rod being N 89 degrees 48 minutes 17 seconds W, a distance of 419.18 feet from the west line of Knoxville Street;

THENCE SOUTH departing the south line of said W. Illinois Avenue and across said block 8013, a distance of 681.63 feet to a 1/2" iron rod found for corner;

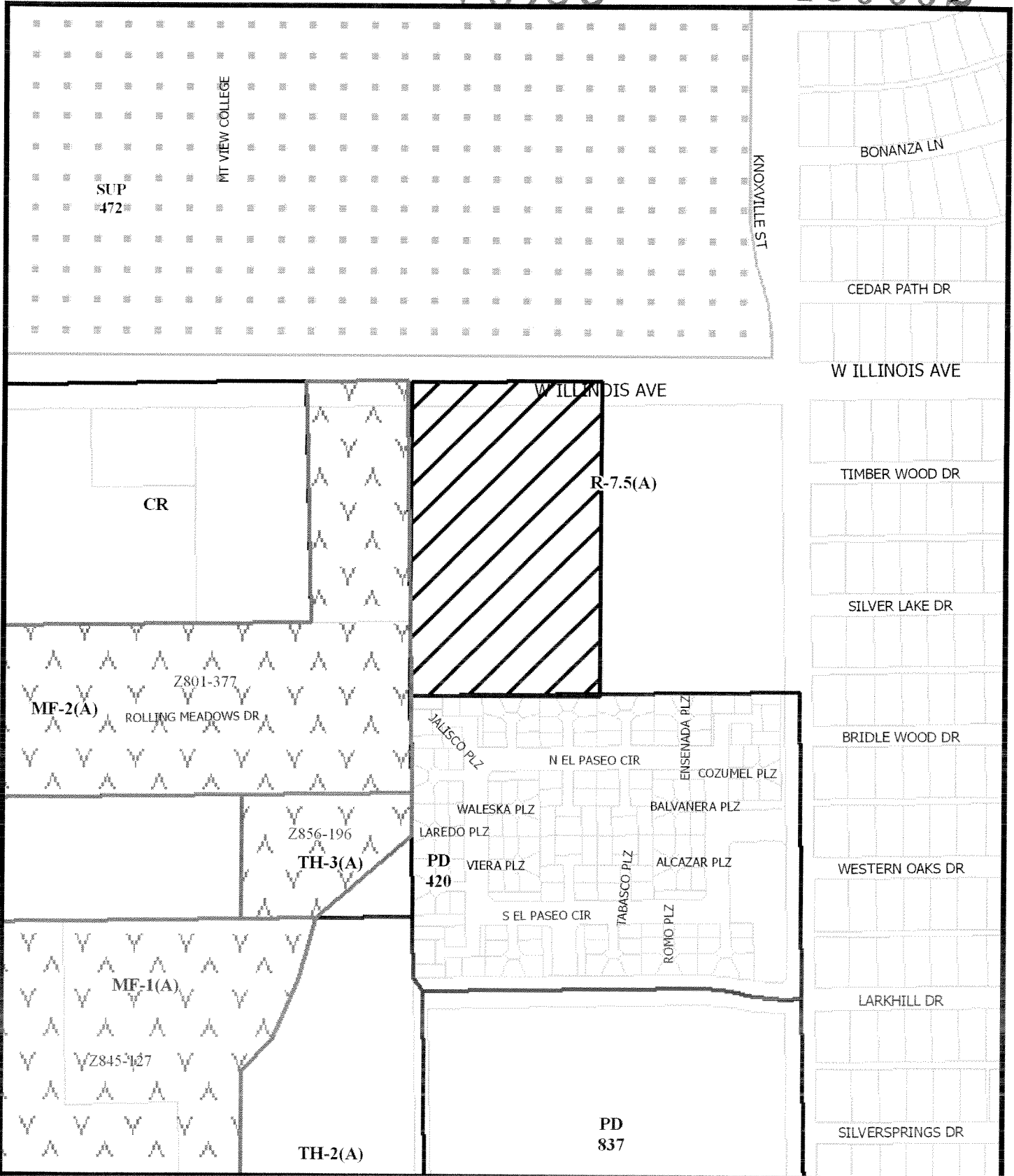
THENCE N 89 degrees 48 minutes 17 seconds W continuing across said Block 8013, a distance of 439.92 feet to a 1/2" iron pipe found for corner situated in the east line of a tract conveyed to R.M. Apartments, Ltd. in Volume 79101, Page 1885;

THENCE NORTH along the east line of said R.M. Apartments tract, passing the northeast corner of said R.M. Apartments tract, and along the east line of Cliff Medical Centre, Inc. tract, a distance of 681.63 feet to a 1/2" iron rod found for corner situated in the south line of said W. Illinois Avenue;

THENCE S 89 degrees 48 minutes 17 seconds E departing the east line of said Cliff Medical Centre tract and along the south line of said W. Illinois Avenue, a distance of 439.92 feet to the POINT OF BEGINNING and containing 299,864 square feet or 6.8839 acres of land, more or less.

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1:3,600

ZONING AND LAND USE

Case no: **Z123-154**

Date: **1/25/2013**

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COUNCIL CHAMBER

April 10, 2013

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located located west of the intersection of Illinois Avenue and Knoxville Street, which is the subject of Zoning Case No. Z123-154(MW); 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. Z123-154(MW).

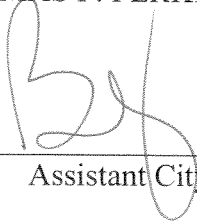
Section 2. That these deed restrictions must be filed in the Deed Records of Dallas County, Texas.

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

APR 10 2013


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 Templo de Alabanza, Inc. ("the Owner"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the William H. Pearson Survey, Abstract No. 1127, City Block 8013, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Doug Connell, Inc., by deed dated June 2, 1994, and recorded in Volume 94105, Page 5320, in the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEING a tract of land situated in the William H. Pearson Survey, Abstract No. 1127, Dallas County, and situated in Block 8013, also being that certain tract of land conveyed to Doug Connell, Inc., by Deed recorded in Volume 4868, Page 201, Deed Records, Dallas County, Texas, and that certain tract of land conveyed to Dough Connell, Inc., by Deed recorded in Volume 4721, Page 516, Deed Record, Dallas County, Texas, and that certain tract of land conveyed to Dough Connell, Inc., by Deed recorded in Volume 84205, Page 3940, Deed Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod set for corner situated in the south line of W. Illinois Avenue (80' R.O.W.) said iron rod being N 89 degrees 48 minutes 17 seconds W, a distance of 419.18 feet from the west line of Knoxville Street;

THENCE SOUTH departing the south line of said W. Illinois Avenue and across said block 8013, a distance of 681.63 feet to a 1/2" iron rod found for corner;

THENCE N 89 degrees 48 minutes 17 seconds W continuing across said Block 8013, a distance of 439.92 feet to a 1/2" iron pipe found for corner situated in the east line of a tract conveyed to R.M. Apartments, Ltd. in Volume 79101, Page 1885;

THENCE NORTH along the east line of said R.M. Apartments tract, passing the northeast corner of said R.M. Apartments tract, and along the east line of Cliff Medical Centre, Inc. tract, a distance of 681.63 feet to a 1/2" iron rod found for corner situated in the south line of said W. Illinois Avenue;

THENCE S 89 degrees 48 minutes 17 seconds E departing the east line of said Cliff Medical Centre tract and along the south line of said W. Illinois Avenue, a distance of 439.92 feet to the POINT OF BEGINNING and containing 299,864 square feet or 6.8839 acres of land, more or less..

II.

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

- 1) Prior to the issuance of a certificate of occupancy for a permitted use, a minimum four-foot-tall hedge screening, capable of achieving a solid appearance and capable of six-foot-tall growth within three years, must be constructed at least 30 feet from the southern property line.
- 2) A 30-foot landscape buffer is required along the southern property line. Parking is prohibited within the landscape buffer.
- 3) No buildings are permitted within sixty feet from the southern property line.
- 4) The following uses are prohibited:

Commercial and business services uses.

- Tool or equipment rental

Lodging uses.

- Hotel or motel
- Lodging or boarding house

Office uses.

- Alternative financial establishments

Retail and personal service uses.

- Alcoholic beverage establishments
- Auto service center
- Carwash
- Commercial amusement (inside)
- Commercial amusement (outside)
- Convenience store with drive-through
- Liquor store
- Pawn shop
- Personal service use [*Massage establishment and tattoo and body piercing studio only*]
- Restaurant with drive-in or drive-through service
- Swap or buy shop

Wholesale, distribution and storage uses.

- Mini-warehouse

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.

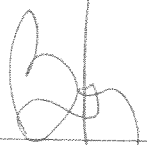
The invalidation of any provision in this document by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

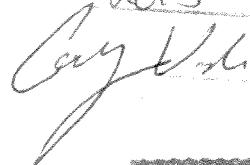
EXECUTED this the 26th day of March, 2013.

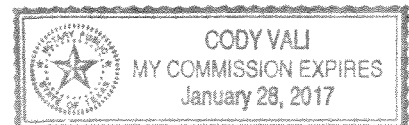


Owner: Templo de Alabanza, Inc.
By: David Sandoval, President

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

By: 
Assistant City Attorney

Dallas
2013 26th




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STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on 3/26/13 by
David Sandoval as President of
Temple of Akhara.

Cody Vali
NOTARY PUBLIC
[NOTARY PUBLIC STAMP]

