

ORDINANCE NO. 29013

An ordinance changing the zoning classification on the following property:

BEING a tract of land in City Block 8/827; located on the southwest line of Hill Avenue between Simpson Street and Race Street; and containing approximately 1.59 acres,

from an MF-2(A) Multifamily District and a P(A) Parking District to an MF-3(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 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 MF-2(A) Multifamily District and a P(A) Parking District to an MF-3(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, 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.

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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 Casim B. Bui
Assistant City Attorney

Passed MAY 22 2013

29013

BEING a 1.59 acre tract of land situated in City Block 8/827, and being all of Lots 3 through 7, and a portion of Lot 2, Block 8/827 of Fairview Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof, recorded in Volume 93, Page 23, Deed Records, Dallas County, Texas and being more particularly described as follows:

BEGINNING at a 1/2" iron rod found for corner in the southeasterly right-of-way line of Simpson Street (an 80' R.O.W.) and being the west corner of said Lot 3, also being the north corner of Lot 2 of said Block 8/827 and being the north corner of that tract of land conveyed by deed to The Baptist General Convention of Texas, recorded in Volume 2000079, Page 2383, Deed Records, Dallas County, Texas;

THENCE N 45 deg. 00 min. 00 sec. E, along the southeasterly right-of-way line of said Simpson Street, a distance of 275.00 feet to a 1/2" iron rod found for corner being the north corner of said Lot 6 and the west corner of said Lot 7 and also being the beginning of a curve to the right having a central angle of 90 deg. 00 min. 00 sec., a radius of 70.00 feet and a chord which bears S 90 deg. 00 min. 00 sec. E, a distance of 98.99 feet;

THENCE westerly, along the southeasterly right-of-way line of said Simpson Street and along the said curve, an arc distance of 109.96 feet to a 1/2" iron rod set for corner in the southwesterly right-of-way line of North Hill Avenue (a 60' R.O.W.);

THENCE S 45 deg. 00 min. 00 sec. E along the southwesterly right-of-way line of said North Hill Avenue, a distance of 132.00 feet to a 1/2" iron rod set for corner in the northwesterly right-of-way line of a 15' alley (Race Street) and being the east corner of said Lot 7;

THENCE S 45 deg. 00 min. 00 sec. W, along the northwesterly right-of-way of said alley, a distance of 358.00 feet to a 5/8" iron rod found for corner being the east corner of said The Baptist General Convention of Texas tract of land;

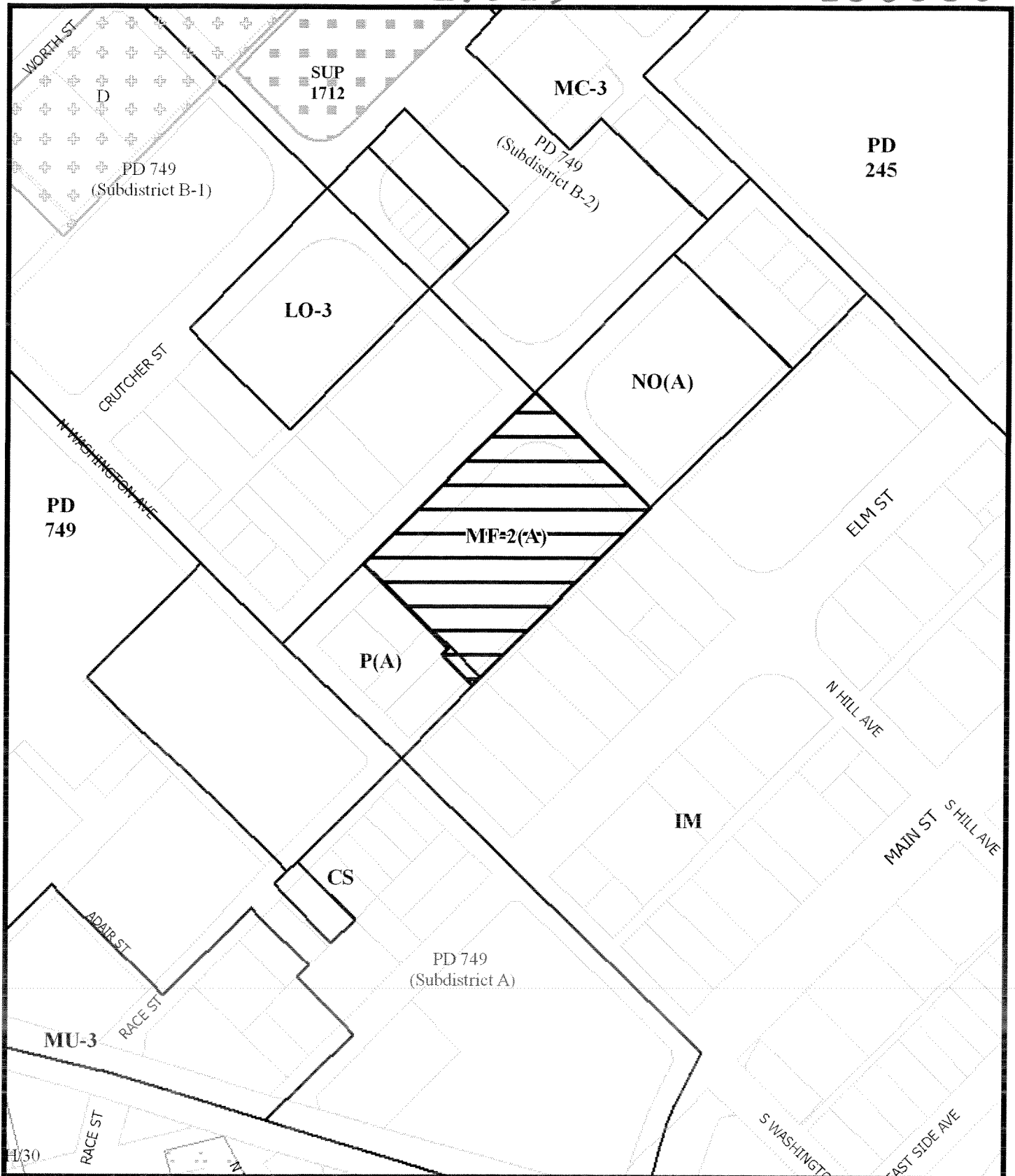
THENCE N 45 deg. 00 min. 00 sec. W, along the northeast line of said The Baptist General Convention of Texas tract of land, a distance of 54.50 feet to a 1/2" iron rod set for corner being an inner ell corner of said The Baptist General Convention of Texas tract of land;

THENCE N 45 deg. 00 min. 00 sec. E, along an southeast line of said The Baptist General Convention of Texas tract of land, a distance of 13.00 feet to a 1/2" iron rod set for corner in the southwest line of said Lot 3 and the northeast line of said Lot 2 and The Baptist General Convention of Texas tract of land;

THENCE N 45 deg. 00 min. 00 sec. W, along the southwest line of said Lot 3 and the northeast line of said Lot 2 and The Baptist General Convention of Texas tract of land, a distance of 147.50 feet to the POINT OF BEGINNING and containing 69,347 sq. ft. or 1.59 acres of land.

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ZONING AND LAND USE

Case no: Z123-136

Date: 2/11/2013

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COUNCIL CHAMBER

May 22, 2013

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located on the southwest line of Hill Avenue between Simpson Street and Race Street, which is the subject of Zoning Case No. Z123-136(RB); 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. Z123-136(RB).

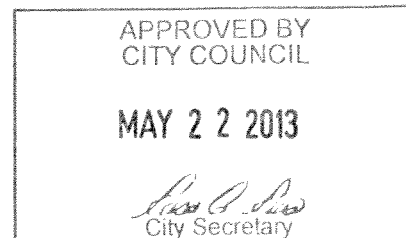
Section 2. That these deed restrictions must be filed in the Deed Records of Dallas County, Texas.


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 _____
CITY CLERK CITY MANAGER CITY CLERK

DEED RESTRICTIONS

THE STATE OF TEXAS)
)
COUNTY OF DALLAS)

KNOW ALL PERSONS BY THESE PRESENTS:

1.

The undersigned, Dallas Housing Corporation ("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. 495, City Block 8/827, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Red Bird Investors, Ltd., by deed dated October 8, 1982, and recorded in Volume 82207, Page 2024, in the Deed Records of Dallas County, Texas, and being more particularly described in Exhibit A, which is attached hereto and incorporated herein for all purposes.

11.

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

For all permitted uses other than convalescent and nursing homes, hospice care, or related institutions, maximum structure height is 36 feet.

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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 14 day of May, 2013.

DALLAS HOUSING CORPORATION

By: 
Troy Broussard, Vice President

**CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE**

NA
Property Lienholder or Mortgagee

By: _____
Printed Name: _____
Title: _____

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

By: 
Assistant City Attorney

[Attach an acknowledgment for each signer]

130889

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on May 14, 2013 by
Troy Broussard, Vice President of Dallas Housing Corporation, on behalf of said corporation.

Delbra K. Henderson
NOTARY PUBLIC

[NOTARY PUBLIC STAMP]



Exhibit A

BEING a 1.59 acre tract of land situated in City Block 8/827, and being all of Lots 3 through 7, and a portion of Lot 2, Block 8/827 of Fairview Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof, recorded in Volume 93, Page 23, Deed Records, Dallas County, Texas and being more particularly described as follows:

BEGINNING at a 1/2" iron rod found for corner in the southeasterly right-of-way line of Simpson Street (an 80' R.O.W.) and being the west corner of said Lot 3, also being the north corner of Lot 2 of said Block 8/827 and being the north corner of that tract of land conveyed by deed to The Baptist General Convention of Texas, recorded in Volume 2000079, Page 2383, Deed Records, Dallas County, Texas;

THENCE N 45 deg. 00 min. 00 sec. E, along the southeasterly right-of-way line of said Simpson Street, a distance of 275.00 feet to a 1/2" iron rod found for corner being the north corner of said Lot 6 and the west corner of said Lot 7 and also being the beginning of a curve to the right having a central angle of 90 deg. 00 min. 00 sec., a radius of 70.00 feet and a chord which bears S 90 deg. 00 min. 00 sec. E, a distance of 98.99 feet;

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