

7-26-17

ORDINANCE NO. 30578

An ordinance changing the zoning classification on the following property:

BEING Lots 2 and 3 in City Block H/8870; fronting approximately 302.5 feet on the southeast line of St. Augustine Road southwest of Haymarket Road; and containing approximately 2.276 acres,

from an R-1/2ac(A) Single Family District to a CS Commercial Services 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-1/2ac(A) Single Family District to a CS Commercial Services District on the following property (“the Property”):

BEING Lots 2 and 3 in City Block H/8870; fronting approximately 302.5 feet on the southeast line of St. Augustine Road southwest of Haymarket Road; and containing approximately 2.276 acres.

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:

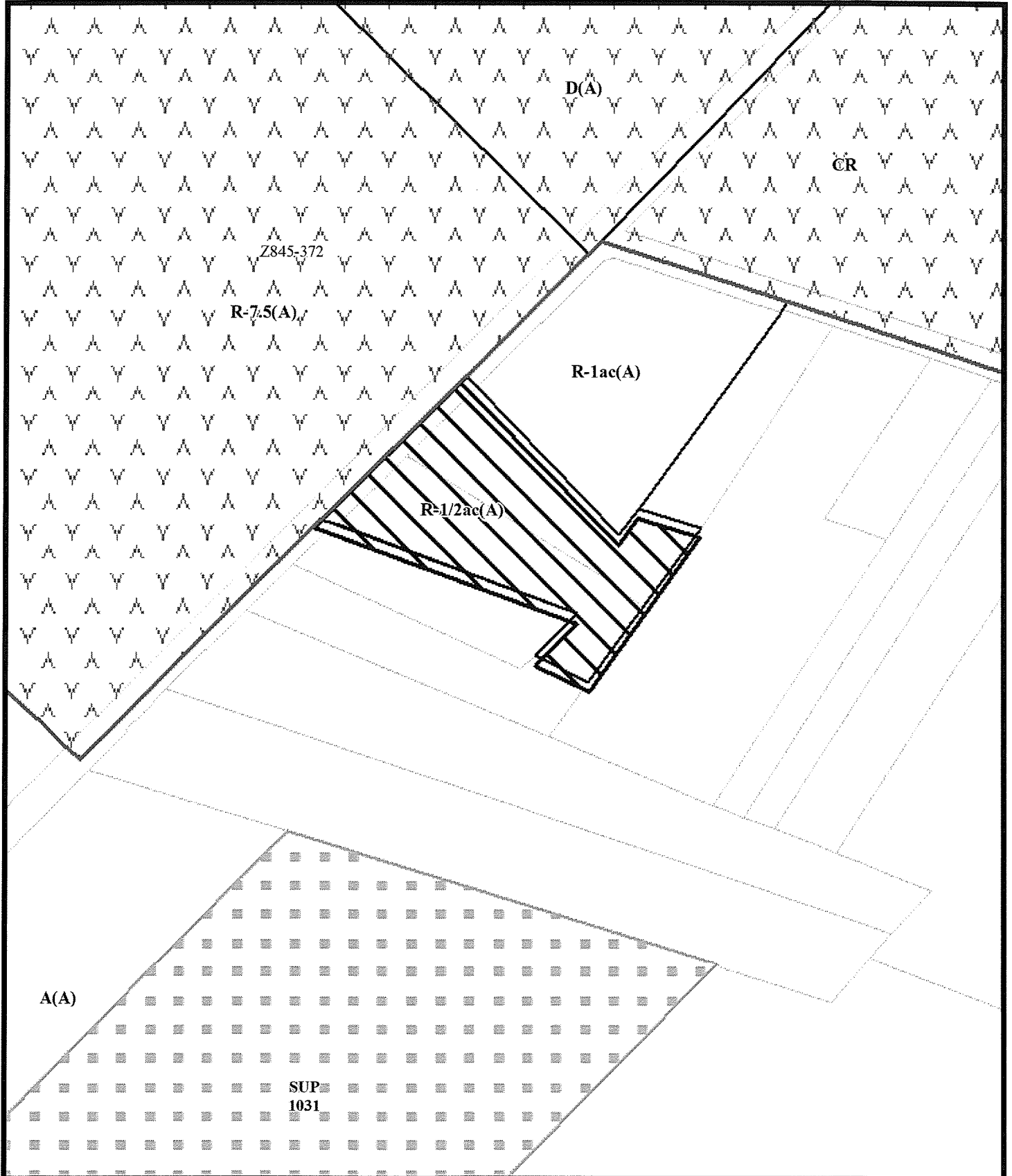
LARRY E. CASTO, City Attorney

By 
Assistant City Attorney

Passed AUG 9 2017

30578

171211



1:2,400

ZONING MAP

Case no: Z167-265

Date: 4/19/2017



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL AUG 9 2017

ORDINANCE NUMBER 30578

DATE PUBLISHED AUG 12 2017

ATTESTED BY:

171211

COUNCIL CHAMBER

August 9, 2017

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located on the southeast line of St. Augustine Road southwest of Haymarket Road, which is the subject of Zoning Case No. Z167-265(OTH); 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. Z167-265(OTH).

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:

LARRY E. CASTO, City Attorney

By 
Assistant City Attorney

APPROVED BY
CITY COUNCIL

AUG 09 2017


City Secretary

APPROVED _____ APPROVED _____ APPROVED _____
HEAD OF DEPARTMENT DIRECTOR OF FINANCE CITY MANAGER

DEED RESTRICTIONS

THE STATE OF TEXAS)
)
COUNTY OF DALLAS) KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, Gustavo Guerrero ("the Owner"), is the owner of the following described property ("the Property"), being Lot 3, Block H/8770, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by David Raofpur, by deed dated April 2, 2015, and recorded in Instrument Number 201500084601, in the Deed Records of Dallas County, Texas and Lot 2, Block H/8770, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Edward Guthrie and Linda Guthrie, by deed dated April 20, 2007, and recorded in Instrument Number 20070160386, in the Deed 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 not permitted:

Commercial and business service uses:

- Building repair and maintenance shop.
- Bus or rail transit vehicle maintenance or storage facility.
- Catering service.
- Commercial bus station and terminal.
- Commercial cleaning or laundry plant.
- Electronics service center.
- Job or lithographic printing.
- Labor hall.
- Machinery, heavy equipment, or truck sales and services.
- Medical or scientific laboratory.
- Technical school.
- Tool or equipment rental.
- Vehicle or engine repair or maintenance.

Industrial uses:

- Gas drilling and production.
- Industrial (inside) for light manufacturing.
- Temporary concrete or asphalt batching plant.

Institutional and community service uses:

- Adult day care facility.
- Cemetery or mausoleum.
- Child-care facility.
- College, university, or seminary.
- Community service center.
- Convent or monastery.
- Halfway house.
- Hospital.
- Open-enrollment charter school or private school.
- Public school other than an open-enrollment charter school.

Lodging uses:

- Extended stay hotel or motel.
- Hotel or motel.
- Lodging or boarding house.
- Overnight general purpose shelter.

Miscellaneous uses:

- Attached non-premise sign.
- Carnival or circus (temporary).
- Temporary construction or sales office.

Office Uses:

- Alternative financial establishment.
- Financial institution without drive-in window.
- Financial institution with drive-in window.
- Medical clinic or ambulatory surgical center.

Residential uses:

- College dormitory, fraternity, or sorority house.

Retail and personal services:

- Alcoholic beverage establishments.
- Ambulance service.
- Animal shelter or clinic without outside runs.
- Auto service center.
- Business school.
- Car wash.
- Commercial amusement (inside).

- Commercial amusement (outside).
- Commercial motor vehicle parking.
- Commercial parking lot or garage.
- Convenience store with drive-through.
- Drive-in theater.
- Dry cleaning or laundry store.
- Furniture store.
- General merchandise or food store 3,500 square feet or less.
- General merchandise or food store greater than 3,500 square feet.
- General merchandise or food store 100,000 square feet or more.
- Home improvement center, lumber, brick or building materials sales yard.
- Household equipment and appliance repair.
- Liquefied natural gas fueling station.
- Liquor store.
- Mortuary, funeral home, or commercial wedding chapel.
- Motor vehicle fueling station.
- Outside sales.
- Pawn shop.
- Personal service uses.
- Restaurant without drive-in or drive-through service.
- Restaurant with drive-in or drive-through service.
- Swap or buy shop.
- Taxidermist.
- Temporary retail use.
- Theater.
- Truck stop.
- Vehicle display, sales, and service.

Transportation uses:

- Commercial bus station and terminal.
- Heliport.
- Helistop.
- Railroad passenger station.
- Transit passenger shelter.
- Transit passenger station or transfer center.

Utility and public service uses:

- Commercial radio or television transmitting station.
- Electrical substation.
- Police or fire station.
- Post office.
- Radio, television, or microwave tower.
- Tower/antenna for cellular communication.
- Utility or government installation other than listed.

Wholesale, distribution, and storage uses:

- Auto auction.
- Building mover's temporary storage yard.
- Freight terminal.
- Manufactured building sales lot.
- Mini-warehouse.
- Office showroom/warehouse.
- Petroleum product storage and wholesale.
- Recycling buy-back center.
- Recycling collection center.
- Recycling drop-off container.
- Recycling drop-off for special occasion collection.
- Sand, gravel, or earth sales and storage.
- Trade center.
- Vehicle storage lot.
- 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.

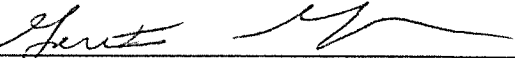
X.

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.

EXECUTED this the 8 day of August, 2017.

By: 
Gustavo Guerrero

APPROVED AS TO FORM:
LARRY CASTO, City Attorney

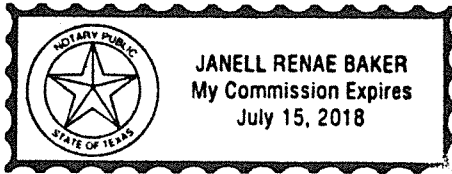
By: 
Assistant City Attorney

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on 8-7-17 (date of acknowledgment) by Gustavo Guerrero (name of person who signed the deed restrictions).

(Notary's stamp here)



(Notary's signature)
Notary Public in and for
the State of Texas

Janell R. Baker

NOTARY PUBLIC