

6-6-17

ORDINANCE NO. 30590

An ordinance changing the zoning classification on the following property:

BEING a tract of land in City Block 6966 located at the northeast corner of Kiest Boulevard and Walton Walker Boulevard; fronting approximately 1,104.37 feet on the north line of Kiest Boulevard; and containing approximately 9.665 acres,

from an RR Regional Retail District to a CS Commercial Service 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 RR Regional Retail District to a CS Commercial Service 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.

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

EXHIBIT A

Being a tract of land lying and situated in the William Pearson Survey, Abstract No. 1127, City of Dallas, Dallas County, Texas and being part of Block 6966, said tract being part of a certain called 10.489 acres tract as described in a deed to ASTA, Inc. recorded in County Clerk Instrument Number 201200163464, Official Public Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a "X" found in concrete for corner at the intersection of the north right-of-way line of W. Kiest Boulevard (a variable width right of way at this location) with the southeast right-of-way line of the C.C. & S.F. Railroad (a 100 foot right of way), GPS Northing (Y): 6943457.63 Easting (X): 2459826.19, said point beginning of a non-tangent curve to the right with a central angle of 29° 25' 01", a radius of 1,382.69 feet, a chord bearing of N 39° 49' 35" E and a chord distance of 702.13 feet.

THENCE, Northeasterly, with the southeast line of the said C.C. & S.F. Railroad and along said curve, passing at an arc distance of 147.21 feet the north line of a street easement to the City of Dallas by document recorded in Volume 76021, Page 767, Deed Records of the Dallas County, Texas, continuing in all an arc distance of 709.90 feet to a found concrete monument (broken) for corner at the southwest corner of a called 2.59 acre tract of land conveyed to Quanset Corporation by deed recorded in Volume 95218, Page 1716, Deed Records of Dallas County, Texas;

THENCE, S 71° 05' 04" E, departing the southeast line of the said C.C. & S.F. Railroad and with the common line of the herein described tract and the said 2.59 acre tract, a distance of 430.96 feet to a ½" iron rod found for corner, said point being the most westerly northwest corner of Lot 1, Clock G/6966 of Dollar General Kiest Boulevard addition as recorded in the County Clerk Instrument Number 201100035697, Official Public Records Dallas County, Texas:

THENCE, the following courses and distances with the common lines of the herein described tract and said Lot 1:

-S 18° 54' 56" W, a distance of 20.00 feet to a ½" iron rod found for corner;

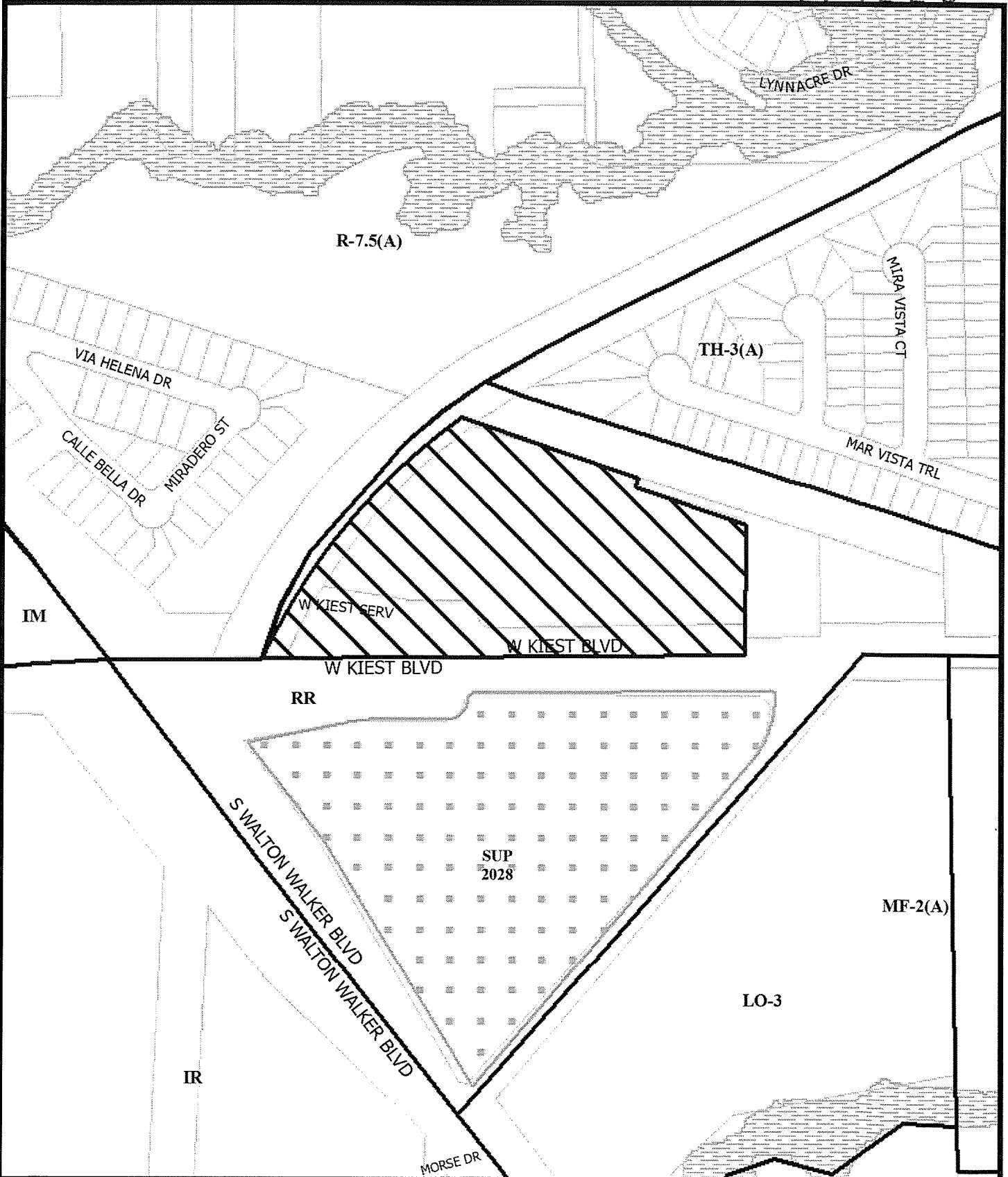
-S 71° 05' 04" E, a distance of 269.97 feet to a ½" iron rod found for corner;

-S 00° 22' 08" W, passing at a distance of 270.21 feet a 5/8" Iron rod found for reference at the southwest corner of said Lot 1, the north line of the above said street easement, continuing in all a distance of 300.21 feet to a point for a corner in the north line of W. Kiest Boulevard;

THENCE, N° 89 37' 52" W. with the north line of W. Kiest Boulevard, a distance of 1,104.37 feet to the POINT OF BEGINNING and containing 9.665 acres (421,021 square feet) of land.

30590

171226



1:3,600

ZONING MAP

Case no: Z167-171

Date: 2/1/2017



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 30590

DATE PUBLISHED AUG 12 2017

ATTESTED BY:

171226

COUNCIL CHAMBER

August 9, 2017

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located near the northeast corner of Kiest Boulevard and Walton Walker Boulevard, which is the subject of Zoning Case No. Z167-171(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. Z167-171(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:

LARRY E. CASTO, City Attorney

By 
Assistant City Attorney

APPROVED BY
CITY COUNCIL

AUG 09 2017


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, FLC Commercial Properties, LLC, a Texas Corporation (“the Owner”), is the owner of the following described property (“the Property”), being in particular a tract of land out of the William Pearson Survey, Abstract No. 1127, City Block 6966, City of Dallas (“City”), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Nicholas Q. Lee, by deed dated June 2, 2017, and recorded in Instrument Number 201700157732, in the Deed Records of Dallas County, Texas, and being more particularly described as follows:

See Attached Exhibit A.

II.

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

1. Contractor’s maintenance yard and outside storage.
 - a. Stacking height. Stacking of outside storage may not exceed 30 feet in height or three stacked containers, whichever is greater.
 - b. Location. Contractor’s maintenance yard and outside storage must comply with the attached site plan (Exhibit B).
2. Fencing. An eight-foot-high masonry fence must be constructed along the entire northern boundary of the Property, adjacent to the D.P. & L. Easement, and along the entire western boundary of the Property, adjacent to C.C.&S.F. Railroad. An eight-foot-high metal ornamental fence must be constructed along the southern boundary of the Property, adjacent to West Kiest Boulevard.
3. Lighting. Maximum height for perimeter lights is 10 feet. Perimeter light poles may exceed the height of the light by two feet for a maximum height of 12 feet. Maximum height of interior lights is 13 feet. Interior light poles may exceed the height of the light by two feet for a maximum height of 15 feet. All lights must be directed down and away from adjacent residential areas.
4. Malodorous materials prohibited. Other than landscaping materials to be used on the Property, noxious and malodorous materials, including but not limited to fertilizer, mulch and compost waste, may not be stored on the Property.

5. Prohibited Uses. The following main uses are prohibited:

- a. Bus or rail transit vehicle maintenance or storage facility.
- b. Commercial bus station and terminal.
- c. Commercial cleaning or laundry plant.
- d. Custom woodworking, furniture construction, or repair.
- e. Job or lithographic printing.
- f. Labor hall.
- g. Technical school.
- h. Commercial motor vehicle parking.
- i. Drive-in theater.
- j. Taxidermist.
- k. Truck stop.
- l. Auto auction.
- m. Building mover's temporary storage yard.
- n. Freight terminal.
- o. Manufactured building sales lot.
- p. Office showroom/warehouse.
- q. Petroleum product storage and wholesale.
- r. Trade center.
- s. Vehicle storage lot.

6. Structure height. Maximum structure height is 30 feet.

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.

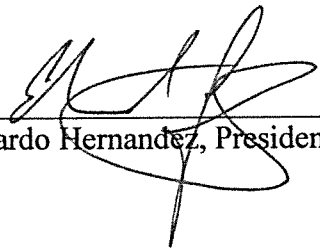
The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

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 10th day of August, 2017.

FLC Commercial Properties, LLC

By: 
Eduardo Hernandez, President

APPROVED AS TO FORM:
LARRY E. CASTO, City Attorney

By: 
Assistant City Attorney

EXHIBIT A**Legal Description**
4601 W. Kiest Boulevard

Being a tract of land lying and situated in the William Pearson Survey, Abstract No. 1127, City of Dallas, Dallas County, Texas and being part of Block 6966, said tract being part of a certain called 10.489 acres tract as described in a deed to ASTA, Inc. recorded in County Clerk Instrument Number 201200163464, Official Public Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a "X" found in concrete for corner at the intersection of the north right-of-way line of W. Kiest Boulevard (a variable width right of way at this location) with the southeast right-of-way line of the C.C. & S.F. Railroad (a 100 foot right of way), GPS Northing (Y): 6943457.63 Easting (X): 2459826.19, said point beginning of a non-tangent curve to the right with a central angle of $29^{\circ} 25' 01''$, a radius of 1,382.69 feet, a chord bearing of $N 39^{\circ} 49' 35'' E$ and a chord distance of 702.13 feet.

THENCE, Northeasterly, with the southeast line of the said C.C. & S.F. Railroad and along said curve, passing at an arc distance of 147.21 feet the north line of a street easement to the City of Dallas by document recorded in Volume 76021, Page 767, Deed Records of the Dallas County, Texas, continuing in all an arc distance of 709.90 feet to a found concrete monument (broken) for corner at the southwest corner of a called 2.59 acre tract of land conveyed to Quanset Corporation by deed recorded in Volume 95218, Page 1716, Deed Records of Dallas County, Texas;

THENCE, $S 71^{\circ} 05' 04'' E$, departing the southeast line of the said C.C. & S.F. Railroad and with the common line of the herein described tract and the said 2.59 acre tract, a distance of 430.96 feet to a $\frac{1}{2}''$ iron rod found for corner, said point being the most westerly northwest corner of Lot 1, Clock G/6966 of Dollar General Kiest Boulevard addition as recorded in the County Clerk Instrument Number 201100035697, Official Public Records Dallas County, Texas:

THENCE, the following courses and distances with the common lines of the herein described tract and said Lot 1:

-S $18^{\circ} 54' 56'' W$, a distance of 20.00 feet to a $\frac{1}{2}''$ iron rod found for corner;

-S $71^{\circ} 05' 04'' E$, a distance of 269.97 feet to a $\frac{1}{2}''$ iron rod found for corner;

-S $00^{\circ} 22' 08'' W$, passing at a distance of 270.21 feet a $\frac{5}{8}''$ Iron rod found for reference at the southwest corner of said Lot 1, the north line of the above said street easement, continuing in all a distance of 300.21 feet to a point for a corner in the north line of W. Kiest Boulevard;

THENCE, $N^{\circ} 89 37' 52'' W$. with the north line of W. Kiest Boulevard, a distance of 1,104.37 feet to the POINT OF BEGINNING and containing 9.665 acres (421,021 square feet) of land.

ACKNOWLEDGEMENT

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on August 10th, 2017
by Eduardo Hernandez, as President of FLC Commercial Properties, LLC, a Texas corporation,
on behalf of said corporation.

Ana Perez
Notary Public in and for
the State of Texas

