

9-10-18

ORDINANCE NO. 30970

An ordinance changing the zoning classification on the following property:

BEING a tract of land in City Block 8823 located at the south corner of Beltline Road and Fish Road; fronting approximately 715.84 feet on the southwest line of Beltline Road; and containing approximately 11.5519 acres,

from an R-10(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-10(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.

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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.

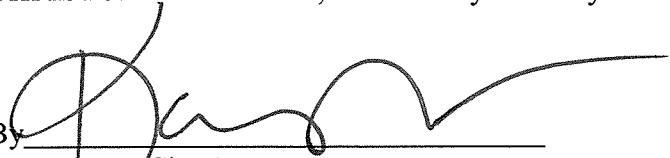
SECTION 5. That the zoning ordinances of the City of Dallas shall remain in full force and effect, save and except as amended by this ordinance.

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:

CHRISTOPHER J. CASO, Interim City Attorney

By   
Assistant City Attorney

SEP 12 2018

Passed \_\_\_\_\_

**EXHIBIT A**  
**RETAIL TRACT**

BEING a 11.5519 acre tract of land situated in the Robert Kleberg Survey, Abstract Number 716, City of Dallas, Dallas County, Texas, and being part of that called 34.447 acre tract of land described in deed to William L. and Catherine A. Cooper, as recorded in Volume 3589, Page 544 of the Deed Records of Dallas County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 3/8-inch iron rod found, (Northing: 6941867.5730, Easting: 2557864.6090), for the most easterly corner of said 34.447 acre tract on the westerly right-of-way line of Belt Line Road (a 100' right-of-way), said corner also being the northerly corner of a tract of land described in deed to Randy Batch as recorded in Volume 80179, Page 2997;

THENCE Southwesterly, departing said Belt Line Road, along the common southeasterly line of said 34.447 acre tract and the northwesterly line of said Randy Batch tract, South 45 degrees 00 minutes 00 seconds West, along said southeasterly line, a distance of 195.35 feet to a point for corner, from which a 3/8-inch iron rod found bears North 71 degrees 23 minutes East, a distance of 0.26 feet, said point being the west corner of said Batch tract and the north corner of a tract of land described in deed to Harry Lee as recorded in Document Number 201600358206, of the Official Records of Dallas County, Texas;

THENCE South 44 degrees 47 minutes 40 seconds West, continuing along said common line, and the northwesterly line of said Harry Lee tract a distance of 359.84 feet to a point for corner; from which a found 1/2-inch iron rod with cap stamped "RPLS3688" bears North 87 degrees 11 minutes 43 seconds East, a distance of 0.49 feet, said point being the west corner of said Lee tract and the north corner of a tract of land described in deed to Ronnie D. and Grace Chaves as recorded in Document Number 201600161488, of the Official Records of Dallas County, Texas;

THENCE South 44 degrees 48 minutes 49 seconds West, continuing along said common line, and the northwesterly line of said Chaves tract, a distance of 65.62 feet to a point for corner;

THENCE North 44 degrees 59 minutes 20 seconds West, departing said common line and over and across said 34.447 acre tract, a distance of 703.59 feet to a point for corner, said corner being on the common line of a tract of land described in deed to Arnulfo Perez as recorded in Document Number 2010000171575, of the Official Records of Dallas County, Texas, and the northwesterly line of said 34.447 acre;

THENCE North 45 degrees 00 minutes 41 seconds East, along the common northwesterly line of said 34.447 acre tract and southeasterly line of the Perez tract a distance of 306.14 feet to a point for corner;

THENCE North 45 degrees 37 minutes 07 seconds East, continuing along the northwesterly line of said 34.447 acre tract, and the southeasterly line of Fish Road a distance of 548.57 feet to a point for corner, said point being the north corner of a corner clip;

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THENCE South 45 degrees 13 minutes 45 seconds East, departing the northwesterly line of said 34.447 acre tract, and continuing along said corner clip, a distance of 13.41 feet to a point for corner, said point being the angle point of said corner clip;

THENCE North 89 degrees 46 minutes 18 seconds East, continuing along said corner clip, a distance of 14.32 feet to a found 1/2-inch iron rod with cap stamped "BG&A5569", said point also being on the beginning of a curve to the right having a central angle of 3 Degrees 14 Minutes 51 Seconds, a radius of 7589.44 feet, and a chord bearing of South 26 degrees 07 minutes 20 seconds East, and a chord distance of 430.11 feet;

THENCE along said curve to the right and the southwesterly right-of-way line of Belt Line Road (a 100' right-of-way), an arc length of 430.17 feet to a point for corner;

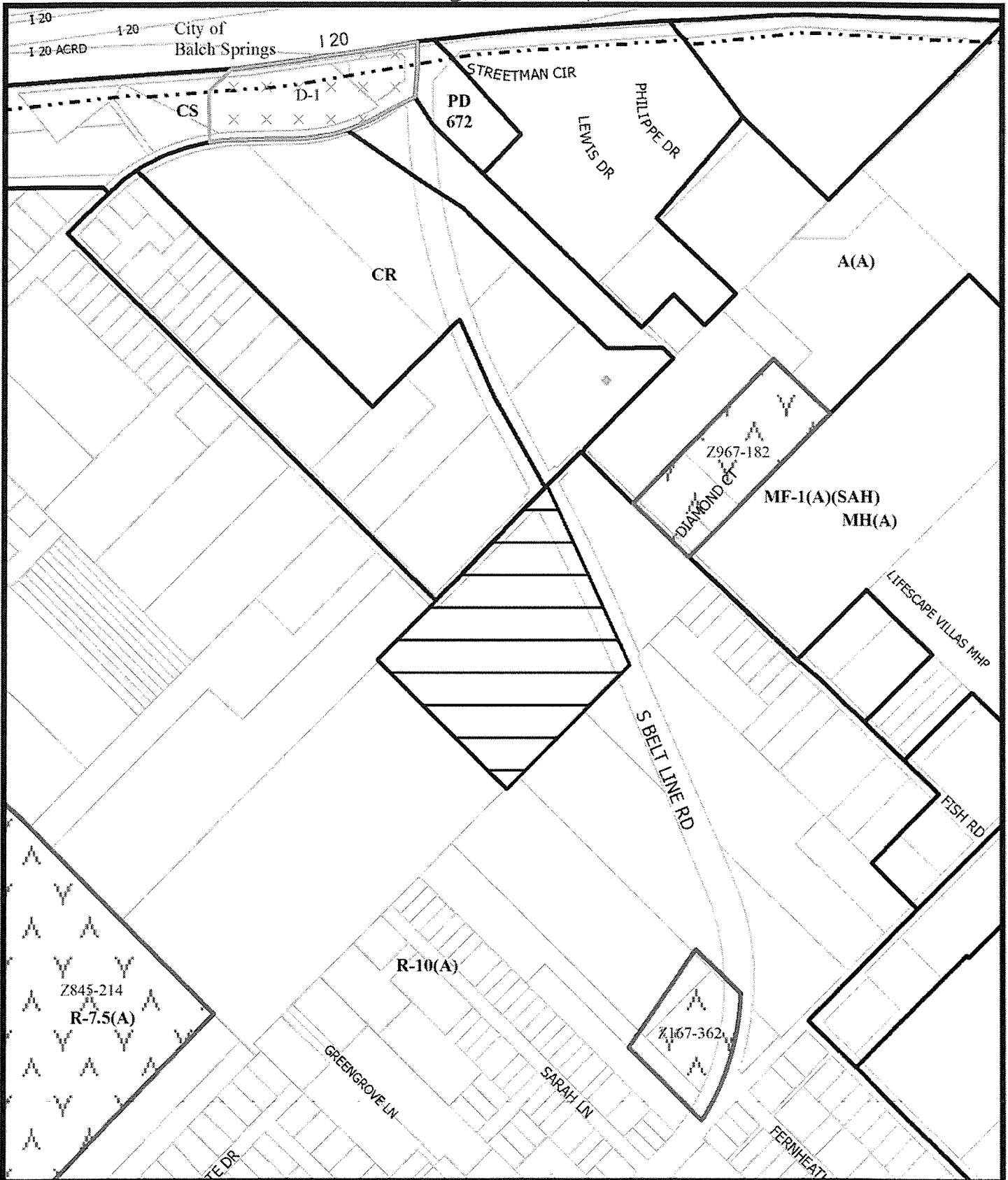
THENCE Southwesterly, departing said Belt Line Road, and along the lines of a 0.7 acre tract of land reserved and set apart as a cemetery, as described in deed as recorded in Volume 3589, Page 544 of the Deed Records of Dallas County, Texas, the following courses and distances;

South 86 degrees 29 minutes 57 seconds West, a distance of 108.44 feet to a point for corner;

South 04 degrees 31 minutes 02 seconds East, a distance of 174.65 feet to a point for corner;

North 86 degrees 29 minutes 57 seconds East, a distance of 169.92 feet to a point for corner, on said Belt Line Road, said point also being on the beginning of a curve to the right having a central angle of 00 Degrees 45 Minutes 04 Seconds, a radius of 7589.44 feet, and a chord bearing of South 22 degrees 43 minutes 03 seconds East, and a chord distance of 99.48 feet;

THENCE along said curve to the right and the southwesterly right-of-way line of Belt Line Road (a 100' right-of-way), an arc length of 99.48 feet to the POINT OF BEGINNING AND CONTAINING 503,199 square feet or 11.5519 acres of land, more or less,

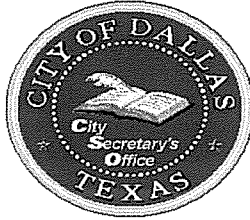


1:6,000

# ZONING MAP

Case no: Z178-215

Date: 7/19/2018



## 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 SEP 12 2018

ORDINANCE NUMBER 30970

DATE PUBLISHED SEP 15 2018

ATTESTED BY:

181258

COUNCIL CHAMBER

September 12, 2018

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located near the southwest corner of Beltline Road and Fish Road, which is the subject of Zoning Case No. Z178-215(SM); 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. Z178-215(SM).

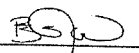
Section 2. That these deed restrictions must be filed in the Deed Records of Dallas County, Texas.

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:

CHRISTOPHER J. CASO, Interim City Attorney

By  Assistant City Attorney

APPROVED BY  
CITY COUNCIL  
SEP 12 2018  
  
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, DFW Projects LLC, a Texas limited liability company ("the Owner"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the Robert Kleberg Survey, Abstract No. 716, City Block 8823, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Rickey Leroy Cooper, Leanna Catherine Boaz, and Crissie Delay McWilliams, by deed dated April 20, 2018, and recorded as Instrument No. 201800105249, in the Deed Records of Dallas County, Texas, and being more particularly described in Exhibit A.

## II.

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

1. Maximum structure height is 50 feet.
2. The following main uses are prohibited:
  - Auto service center.
  - Car wash.
  - Liquor store.
  - Mini-warehouse.
  - Recycling buy-back center
  - Recycling collection center.
  - Recycling drop-off container.
  - Recycling drop-off for special occasion collection.

## 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 21<sup>st</sup> day of August, 2018.

DFW PROJECTS LLC

Owner

By: 

Printed Name: JOHNNY ABUINAGA

Title: Managing Member

CONSENT AND CONCURRENCE OF  
LIENHOLDER OR MORTGAGEE

N/A

\_\_\_\_\_  
Property Lienholder or Mortgagee

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

~~LARRY E. CASTO, City Attorney~~

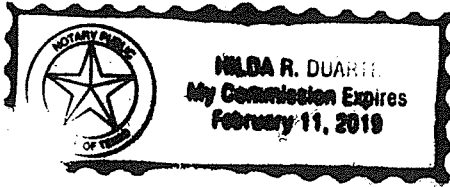
Christopher J. Casq Interim City Attorney

By:   
\_\_\_\_\_  
Assistant City Attorney

[Attach an acknowledgment for each signer]

State of Texas       §  
                                  §  
County of Dallas     §

This instrument was acknowledged before me on this 21<sup>st</sup> day of August, 2018 by  
Johnny Aguinaga, on behalf of DFW Projects LLC.



H. Duarte  
Notary Public in and for  
the State of Texas

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