2-26-19

ORDINANCE NO. 31129

An ordinance changing the zoning classification on the following property:

BEING two tracts of land in City Block A/4414; fronting approximately 224 feet along the northwest line of Garland Road southwest of Buckner Boulevard; and containing approximately 3.962 acres,

from an MU-1 Mixed Use District and a CR Community Retail District with a D-1 Liquor Control Overlay to Planned Development District No. 1011 with retention of the D-1 Liquor Control Overlay; amending Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code by creating a new Article 1011; establishing use regulations and development standards for this planned development 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 establish this planned development district; Now, Therefore,

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

SECTION 1. That the zoning classification is changed from an MU-1 Mixed Use District and a CR Community Retail District with a D-1 Liquor Control Overlay to Planned Development District No. 1011 with retention of the D-1 Liquor Control Overlay on the property described in Exhibit A, which is attached to and made a part of this ordinance ("the Property").

Z178-382(JM)(PD No. 1011) - Page 1

SECTION 2. That Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended by adding a new Article 1011 to read as follows:

"ARTICLE 1011.

PD 1011.

SEC. 51P-1011.101. LEGISLATIVE HISTORY.

PD 1011 was established by Ordinance No._____, passed by the Dallas City Council on February 27, 2019.

SEC. 51P-1011.102. PROPERTY LOCATION AND SIZE.

PD 1011 is established on property located along the northwest line of Garland Road, southwest of Buckner Boulevard. The size of PD 1011 is approximately 3.962 acres.

SEC. 51P-1011.103. DEFINITIONS AND INTERPRETATIONS.

- (a) Unless otherwise stated, the definitions and interpretations in Chapter 51A apply to this article.
- (b) Unless otherwise stated, all references to articles, divisions, or sections in this article are to articles, divisions, or sections in Chapter 51A. In this district, LEGACY BUILDING means the existing chapel building built before 1951 as identified on the development plan.
 - (c) This district is considered to be a nonresidential zoning district.

SEC. 51P-1011.104. EXHIBITS.

The following exhibits are incorporated into this article:

- (1) Exhibit 1011A: development plan.
- (2) Exhibit 1011B: legacy building elevation.

SEC. 51P-1011.105. DEVELOPMENT PLAN.

- (a) Except as provided in this section, development and use of the Property must comply with the development plan (Exhibit 1011A). If there is a conflict between the text of this article and the development plan, the text of this article controls.
- (b) Accessory structures, including but not limited to carports, generators less than eight feet in height, and dumpsters, are not required to be shown on the development plan.

SEC. 51P-1011.106. MAIN USES PERMITTED.

The only main uses permitted are those main uses permitted in the MU-1 Mixed Use District, subject to the same conditions applicable in the MU-1 Mixed Use District, as set out in Chapter 51A. For example, a use permitted in the MU-1 Mixed Use District only by specific use permit (SUP) is permitted in this district only by SUP; a use subject to development impact review (DIR) in the MU-1 Mixed Use District is subject to DIR in this district; etc.

SEC. 51P-1011.107. ACCESSORY USES.

As a general rule, an accessory use is permitted in any district in which the main use is permitted. Some specific accessory uses, however, due to their unique nature, are subject to additional regulations in Section 51A-4.217. For more information regarding accessory uses, consult Section 51A-4.217.

SEC. 51P-1011.108. YARD, LOT, AND SPACE REGULATIONS.

(Note: The yard, lot, and space regulations in this section must be read together with the yard, lot, and space regulations in Division 51A-4.400. If there is a conflict between this section and Division 51A-4.400, this section controls.)

- (a) <u>In general</u>. Except as provided in this section, the yard, lot, and space regulations for the MU-1 Mixed Use District apply.
- (1) <u>Side and rear yard</u>. Minimum side and rear yard is 20 feet. Accessory structures, including but not limited to carports, generators less than eight feet in height, and dumpsters, may be located within a side or rear yard.
- (2) <u>Height</u>. Except as provided in this paragraph, maximum structure height is 80 feet.
- (A) Maximum height between 100 feet and 200 feet of Garland Road is 54 feet.

- (B) Maximum height within 100 feet of Garland Road is 30 feet and maximum story height is 15 feet measured from the floor to the ceiling. Accessory structures located on a rooftop may not exceed 15 feet in height.
- (3) <u>Stories</u>. Except as provided in this subsection, maximum number of stories above grade is five. Maximum number of stories within 100 feet of Garland Road is one.
 - (4) Nonresidential floor area ratio. Maximum floor area ratio is 0.03.
 - (b) <u>Increased development standards</u>.
- (1) <u>In general</u>. This subsection is only applicable to projects complying with Section 51P-1011.112.
- (2) <u>Multifamily</u>. Maximum number of dwelling units is 220. No maximum floor area.

SEC. 51P-1011.109. OFF-STREET PARKING AND LOADING.

- (a) Except as provided in this section, consult the use regulations in Division 51A-4.200 for the specific off-street parking and loading requirements for each use.
- (b) For all non-residential uses in a legacy building, one off-street parking space per 220 square feet is required.

SEC. 51P-1011.110. ENVIRONMENTAL PERFORMANCE STANDARDS.

See Article VI.

SEC. 51P-1011.111. LANDSCAPING.

- (a) Except as provided in this section, landscaping must be provided in accordance with Article X.
 - (b) For a multifamily use, residential adjacency does not apply.
 - (c) Plant materials must be maintained in a healthy, growing condition.

SEC. 51P-1011.112. MIXED-INCOME HOUSING.

(a) <u>Applicability</u>. For a project to qualify for the increased development standards described in Section 51P-1011.108(b), it must comply with all the requirements in this section.

(b) Definitions. In this section:

- (1) AFFIRMATIVE FAIR HOUSING MARKETING PLAN means a marketing strategy designed to attract renters of all majority and minority groups, regardless of race, color, national origin, religion, sex, age, disability, or other protected class under Title VIII of the Civil Rights Act of 1964 and all related regulations, executive orders, and directives.
- (2) AFFORDABLE UNITS means five percent of the rental units within a development that are available to be leased to or occupied by eligible households during the rental affordability period. Affordable units rented to eligible households shall be subject to the Monthly Maximum Rents per unit type listed for families at 80 percent of Adjusted Median Family Income in the Intown Housing Program Income and Rent Limits for Affordable Housing Unit Tenants published annually by the City of Dallas.
- (3) AREA MEDIAN INCOME means the median income for the Dallas area Standard Metropolitan Statistical Area, adjusted for household size, as determined annually by the Department of Housing and Urban Development.
- (4) DEVELOPER means the owner or operator of the Property during the rental affordability period.
- (5) DIRECTOR means the director of the Office of Fair Housing or the director's representative.
- (6) ELIGIBLE HOUSEHOLDS means households earning up to 80 percent of area median income.
- (7) RENTAL AFFORDABILITY PERIOD means the period of time that the affordable units are available to be leased to and occupied by eligible households.

(c) Qualification requirements.

- (1) Affordable units must be dispersed throughout the residential floor area of each building but may not be fixed to specific dwelling units and must float within each dwelling unit type.
- (2) Affordable units must be of identical finish-out and materials as the market rate dwelling units and must be made available to eligible households on identical lease terms, except rent amount, as are available to market rate dwelling unit tenants.
- (3) Except as provided in Subsection (f), affordable units must be dispersed substantially pro-rata among the affordable unit types so that not all the affordable units are efficiency or one-bedroom units. For example, if five percent of the multifamily dwelling units are affordable units, five percent of the efficiency units, five percent of the one-bedroom units, five percent of the two-bedroom units (and so on, if applicable) must be affordable units. A maximum of three specialty units such as club suites and penthouse suites are not required to be part of the dispersal of affordable units by type; however, the overall five percent requirement is calculated based on the total number of all units.
- (4) Affordable units must be marketed in accordance with an affirmative fair housing marketing plan provided by the developer in coordination with the Office of Fair Housing.

- (5) A household's status as an eligible household must be established no more than 30 days before the household's execution of a lease for an affordable unit and each lease must not exceed one year. All eligible tenants must recertify their household income for each subsequent lease renewal.
- (6) The rent charged for affordable units must include all expenses that are mandatory for all tenants, but may not include optional reserved parking expenses, or other optional expenses approved by the director.
- (7) Eligible households occupying affordable units may not be restricted from common areas and amenities, unless the restrictions apply to all dwelling unit occupants.
- (8) The rental affordability period is 15 years beginning on the date the first affordable unit is leased to an eligible household. The modifications to the MU-1 Mixed Use District yard, lot, space regulations survives expiration of the rental affordability period.
- (9) The affordable units must not be segregated or concentrated in any one floor or area of any buildings but must be dispersed throughout all residential buildings.
- (10) Developer must execute deed restrictions, prior to approval of the certificate of occupancy, in a form acceptable to the city, in the city's sole discretion, and record the executed deed restrictions in the Deed Records of Dallas County, Texas to ensure that the Property will comply with all conditions.
- (11) Developer shall not discriminate against holders of any housing vouchers, including vouchers directly or indirectly funded by the federal government, in accordance with Section 20A-4 of the Dallas City Code.

(d) Request process.

- (1) <u>Building permit</u>. If a permit for a multifamily structure that meets the increased development standards described in Section 51P-1011.108 is requested by the developer, an incentive zoning affordable housing plan must be submitted with the application for the building permit and must include:
- (A) The date, names, addresses, and telephone numbers of the developer and the person preparing the incentive zoning affordable housing plan, if different;
- (B) Lot and block descriptions, zoning classification, and census tracts of the lots for which the increased development standards are requested;
- (C) The percentage of total dwelling units that will be affordable units and the actual number of dwelling units that will be affordable units; and
- (D) The total number of one-bedroom dwelling units, two-bedroom dwelling units, etc. being proposed.

(2) Affirmative fair housing marketing plan.

(A) The affirmative fair housing marketing plan must be in writing and must be submitted to, and receive written approval from, the director at least three months prior to the start of pre-leasing.

31129

- (B) The affirmative fair housing marketing plan must describe the advertising, outreach, community contacts, and other marketing activities that informs potential renters of the existence of the affordable units.
- (C) The director must approve or deny the affirmative fair housing marketing plan within 60 days after a complete plan is submitted.
- (i) <u>Approval</u>. The director shall approve the affirmative fair housing marketing plan if it complies with the requirements of this section and meets the purpose of the marketing requirements.
- (ii) <u>Denial</u>. The director shall deny the affirmative fair housing marketing plan if it does not comply with the requirements of this section or does not meet the purpose of the marketing requirements. If the director denies the affirmative fair housing marketing plan, he or she shall state in writing the specific reasons for denial. If denied, a new affirmative fair housing marketing plan may be submitted.
- (3) <u>Certificate of occupancy</u>. Before the issuance of a certificate of occupancy for a multifamily use that modifies the MU-1 Mixed Use District yard, lot, and space regulations, the developer must submit to the building official an incentive zoning affordable housing plan that must include:
 - (A) The approved affirmative fair housing marketing plan.
- (B) A statement that all signatories agree to defend, indemnify, and hold harmless the City of Dallas from and against all claims or liabilities arising out of or in connection with a multifamily structure that modifies the MU-1 Mixed Use District yard, lot, and space regulations.
- (C) A statement and acknowledgement from the developer that the qualifications in Subsection (c) will be continuously met.
- (D) The signature of the director verifying that the developer has informed the Office of Fair Housing that the developer intends to apply for a certificate of occupancy.

(e) Annual report.

- (1) An annual report must be submitted to the director in writing and must include the following:
 - (A) a rent roll;
 - (B) a list of dwelling units deemed affordable units;
 - (C) a list of the affordable units currently offered for lease;
 - (D) the income and household size for each eligible household;
- (E) a signed statement by the developer acknowledging compliance with Subsection (c); and

- (F) any other reasonable and pertinent information the director deems necessary to demonstrate compliance with Subsection (c).
- (2) The first annual report must be submitted to the director on the one year anniversary of the beginning of the affordability period. After the first annual report, the developer shall submit annual reports on subsequent anniversary dates.
- (3) The final annual report must be signed by the director verifying that the rental affordability period has ended and must be filed with the building official.

(f) Consent to substitute.

- (1) Notwithstanding the pro-rata distribution requirements in this section, if the developer cannot locate eligible households to lease two-bedroom or larger dwelling units, and if the director is satisfied that the developer has made best efforts to lease the two-bedroom or larger dwelling units, if applicable, including full compliance with the affirmative fair housing marketing plan, with written consent from the director, developer may from time to time substitute on a two-for-one basis additional one bedroom dwelling units or on a three-to-one basis additional efficiency units to meet the pro rata distribution requirements described in this subsection.
- (2) Before granting written consent, the director shall review and approve an amended affirmative fair housing marketing plan detailing how the developer will target marketing to larger households who could qualify to lease the two-bedroom dwelling units (and larger dwelling units, if applicable). The director's written consent shall include a time period during which the agreed-upon substitutions satisfy the pro rata distribution requirements.

(g) Audit and income verification.

- (1) The annual report may be audited by the director to verify the information provided in the annual report.
- (2) The director may also randomly, regularly, and periodically select a sample of tenants occupying affordable units for the purpose of income verification. Any information received pursuant to this subsection remains confidential and may only be used for the purpose of verifying income to determine eligibility for occupation of the affordable units. All prospective tenants of an affordable unit must agree to provide or to allow the director to obtain sufficient information to enable income verification as contemplated in this section as a condition to leasing the unit.

SEC. 51P-1011.113. SIGNS.

- (a) Except as provided in this section, signs must comply with the provisions for business zoning districts in Article VII.
 - (b) The existing pole sign shown on the development plan is a permitted detached sign.
- (c) In addition to the existing pole sign, one detached monument sign is permitted as shown on the development plan.

SEC. 51P-1011.114. LEGACY BUILDING.

- (a) The building official shall not issue a certificate of occupancy for a multifamily use until a building permit to authorize work for a non-residential use within the legacy building has been issued.
- (b) The legacy building must be maintained as shown on the legacy building elevation (Exhibit 1011B) and must retain the following building features. These building features may be maintained, remodelled, and repaired. If there is a conflict between the legacy building elevation and the text of this article, the text of this article controls.
- (1) <u>Entrance</u>. The main entrance must face Garland Road. The entry feature must be maintained.
- (2) <u>Street-facing facade</u>. The street-facing facade must have windows and door openings consistent with the existing facade area as shown on the legacy building elevation. The area of street-facing openings may not increase or decrease more than 10 percent from the amount shown on the legacy building elevation. The oval window feature must be maintained or replaced with a similar shape (oval or round) window.
- (3) <u>Wraparound</u>. The wraparound area of 44 feet on each side from the street-facing facade must maintain the massing and architectural details as noted on the legacy building elevation. A minimum of 80 percent of the windows within the wraparound area must be maintained. Windows may be replaced, but the size and trimming must be maintained or replicated. Mullions are not required on replacement windows. Window openings on the wraparound area may be replaced with doors.
- (4) <u>Facade material</u>. Building materials on the facades may be replaced. Building material may be whitewashed, be painted, or be replaced with stucco or masonry materials.

(5) Roof.

- (A) Roofing material may be replaced with composition shingles.
- (B) The roof pitch must be maintained.
- (C) The cupola must be maintained or replaced with similar vertical architectural element. The existing cross may be removed.

SEC. 51P-1011.115. ADDITIONAL PROVISIONS.

(a) <u>Maintenance</u>. The Property must be properly maintained in a state of good repair and neat appearance.

- (b) <u>Compliance</u>. Development and use of the Property must comply with all federal and state laws and regulations, and with all ordinances, rules, and regulations of the city.
- (c) <u>Garland Road sidewalk</u>. A minimum sidewalk width of six feet is required along Garland Road.

SEC. 51P-1011.116. COMPLIANCE WITH CONDITIONS.

- (a) All paved areas, permanent drives, streets, and drainage structures, if any, must be constructed in accordance with standard city specifications, and completed to the satisfaction of the city.
- (b) The building official shall not issue a building permit to authorize work, or a certificate of occupancy to authorize the operation of a use, until there has been full compliance with this article, the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the city."

SECTION 3. 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 4. That development of this district must comply with the full-scale version of Exhibit 1011A (development plan) attached to this ordinance. A reduced-sized version of this plan shall be provided in Chapter 51P. Permits shall be issued based on information provided on the full-scale version of the plan.

- SECTION 5. That the city attorney is authorized to insert the enrolled number of this ordinance in the legislative history section of Article 1011 in Chapter 51P.
- SECTION 6. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.
- SECTION 7. That the zoning ordinances of the City of Dallas and Chapter 51P of the Dallas City Code, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8. 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 9. 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 L CASO, Interim City Attorney

Assistant City Attorney

FEB 2 7 2019

Passed _____

EXHIBIT A

WHEREAS, Doctor Brothers, LTD., a Texas limited partnership is the owner of two tracts of land situated in the C.A. Lovejoy Survey, Abstract No. 829, Dallas County, Texas in City Block A/4414, Official City Number, and said two tracts of land are described by Special Warranty Deed with Vendor's Lien to Doctor's Brothers, LTD, as recorded in Instrument No. 201800046207, Official Public Records, Dallas County, Texas, and by Special Warranty Deed to Doctor Brothers, LTD, as recorded in Instrument No. 200600055009, Official Public Records, Dallas County, Texas, and together being more particularly described by metes and Bounds as follows:

BEGINNING a 1/2 inch iron found lying on the northwesterly right-of-way Garland Road (100 foot right-of-way) and also being the easterly corner of Gaston Parkway (50 foot right-of-way) and same being the southerly corner of said Doctor Brothers, LTD, (201800046207) tract;

THENCE North 45 degrees 58 minutes 07 seconds West, along the southwesterly line of said Doctor Brothers, LTD. (200600055009) tract, common with the northeasterly right-of-way line of said Gaston Parkway, passing at 50.08 feet a 3/8 inch iron rod found for the easterly corner of a said Lot 6, Block A/4414 of Isaminger Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 28, Page 105, Map Records, Dallas County, Texas and passing at 249.97 feet a 4 inch metallic disk found for the easterly corner of Lot 1, Block C/4414, of Isaminger Addition No. 2, and revision of Lot No. 3, Isaminger Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 29, Page 225, Map Records, Dallas County, Texas, and passing at 281.45 feet a mag nail found for the southwesterly corner of said Doctor Brothers, LTD. (201800046207) tract and the southeasterly corner of said Doctor Brothers, LTD. (200600055009) tract, and passing at 400.03 feet to a point and being the easterly corner of Lot 1-D, Block A/4414, of Reserve at White Rock II, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 99227, Page 17, Deed Records, Dallas County, Texas, and continuing a total distance of 622.10 feet to a 1/2 inch iron rod with an orange cap stamped "PIBURN" found lying on the northeasterly line of said Lot 1-D, Block A/4414, and also being a southerly corner of Lot 1B, Block D/4414, The Doctors Hospital Addition No. 3, an addition to the City of Dallas, Dallas County, Texas, according to the map thereof recorded in Volume 94072, Page 3162, Deed Records, Dallas County, Texas;

THENCE North 41 degrees 50 minutes 20 seconds East, departing said Lot 1-D, Block A/4414, Reserve at White Rock II and along the northwesterly line of said Doctor Brothers, LTD. (200600055009) tract, common with a southeasterly line of said Lot 1B, Block D/4414, The Doctors Hospital Addition No. 3, a distance of 200.01 feet to a 1/2 inch iron rod with an orange cap stamped "PIBURN" found for an angle point;

THENCE South 83 degrees 32 minutes 33 seconds East, continuing along the Northerly line of said Doctor Brothers, LTD. (200600055009) tract, common with a southerly line of said Lot 1B, Block D/4414, The Doctors Hospital Addition No. 3, a distance of 199.69 feet to a 1/2 inch iron rod with an orange cap stamped "PIBURN" found for an angle point;

THENCE South 46 degrees 08 minutes 57 seconds East, continuing along the northeasterly line of said Doctor Brothers, LTD. (200600055009) tract, common with a southwesterly line of said

31129

Lot 1B, Block D/4414, The Doctors Hospital Addition No. 3, a distance of 53.62 feet to a 1/2 inch iron rod found for corner;

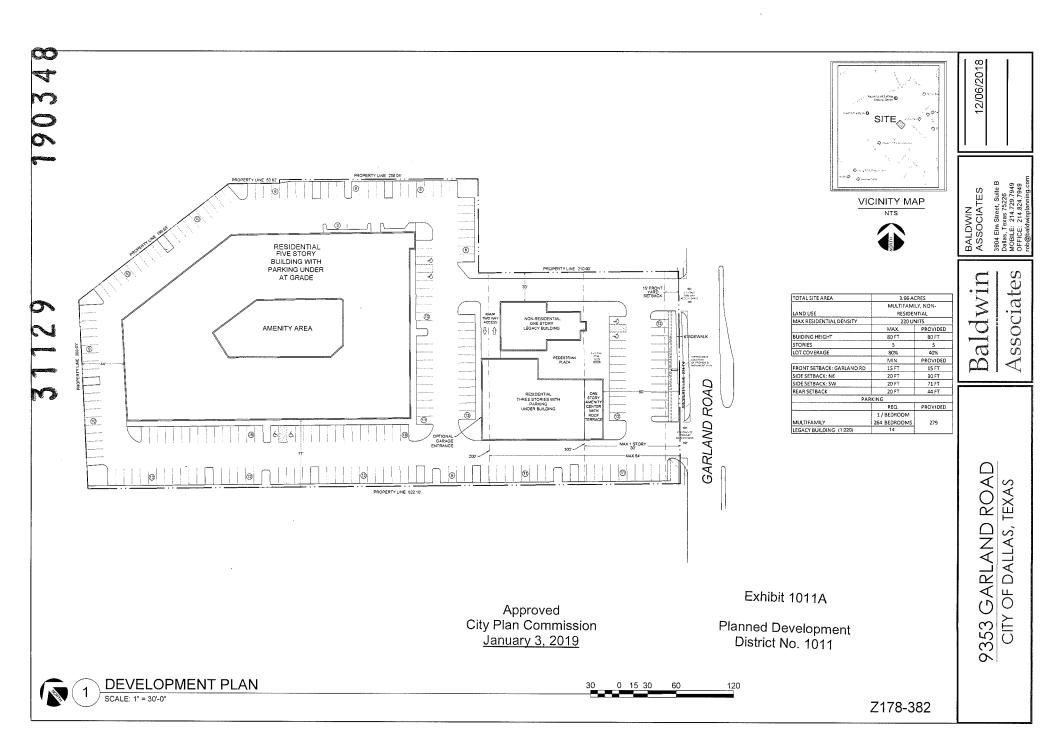
THENCE North 43 degrees 51 minutes 03 seconds East, along a northwesterly line of said Doctor Brothers, LTD. (200600055009) tract, common with a southeasterly line of said Lot 1B, Block D/4414, The Doctors Hospital Addition No. 3, a distance of 3.84 feet to a 3-1/4 inch metallic disk stamped "CKA & RPLS 5299" set on 1/2 inch iron rod, and also being the westerly corner of a tract of land as described by Warranty Deed to Texas Commerce Bank-Casa Linda, National Association, as recorded in Volume 80238, Page 2396, Deed Records, Dallas County, Texas, from which a 1/2 inch iron rod found bears North 44 degrees 44 minutes 27 seconds West, a distance of 0.30 feet;

THENCE South 45 degrees 42 minutes 34 seconds East, departing said Lot 1B, Block D/4414, The Doctors Hospital Addition No. 3, and continuing along the northeasterly line of said Doctor Brothers, LTD. (200600055009) tract, passing at 43.94 feet a 1/2 inch iron rod with an orange cap stamped "PIBURN" found at the northerly corner of said Doctor Brothers, LTD. (201800046207) tract, common the with southwesterly line of said Texas Commerce Bank-Casa Linda tract, and continuing a total distance of 208.04 feet to 1/2 iron rod with cap stamped "PACHECO KOCH" found for corner;

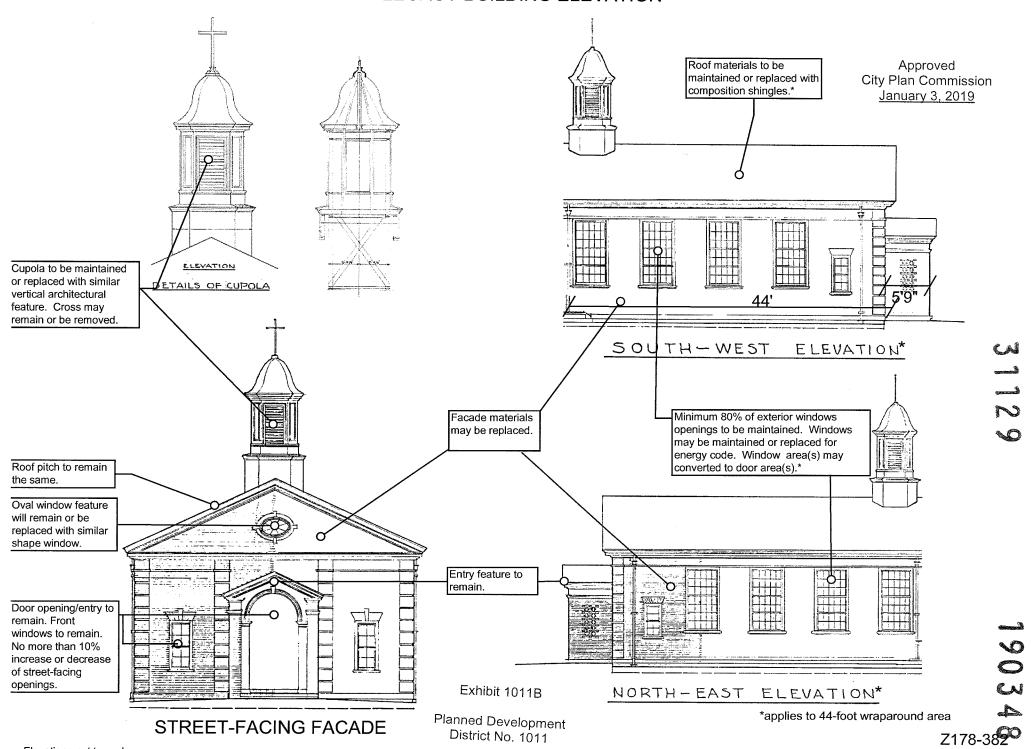
THENCE South 44 degrees 04 minutes 27 seconds West, departing said Texas Commerce Bank-Casa Linda tract, along a southeasterly line of said Doctor Brothers, LTD. (201800046207) tract, common with the northwesterly line of a tract of land as described by Deed to the City of Dallas, as recorded in Volume 2651, Page 258, Deed Records, Dallas County, Texas, a distance of 99.73 feet to a "X" cut in concrete found for corner;

THENCE South 45 degrees 54 minutes 22 seconds East, along a northeasterly line of said Doctor Brothers, LTD. (201800046207) tract, common with the southwesterly line of said City of Dallas, tract, passing at 199.46 feet a concrete monument found and being a northwesterly right-of-way line of said Garland Road, and continuing a total distance of 210.00 feet to a mag nail found for corner and lying on a northwesterly right-of-way line of said Garland Road and being the easterly corner of said Doctor Brothers, LTD. (201800046207) tract;

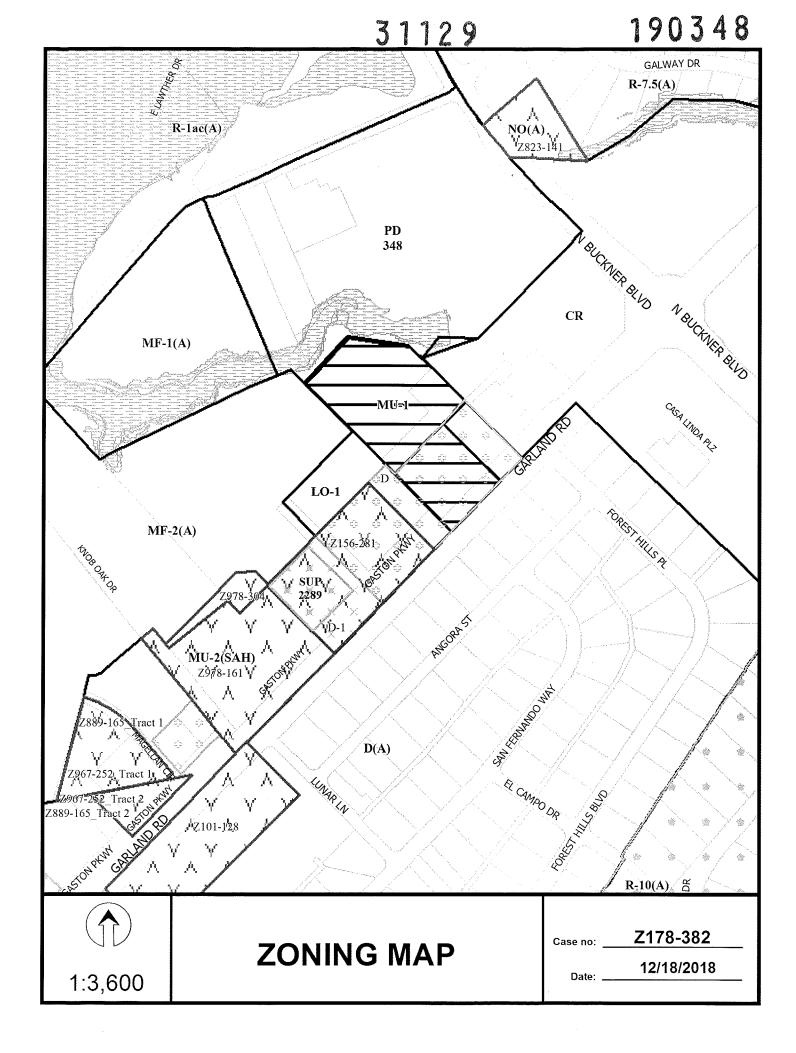
THENCE South 44 degrees 03 minutes 17 seconds West, along a southeasterly line of said Doctor Brothers, LTD. (201800046207) tract, common with the northwesterly right-of-way line of said Garland Road, a distance of 224.74 feet to the POINT OF BEGINNING and containing 172,587 square feet or 3.962 acres of land.



LEGACY BUILDING ELEVATION



Elevations not to scale





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	OUNCIL FEB 2 7 2019
ORDINANCE NUMBER _	31129
DATE PURLISHED	MAR 0 2 2019

ATTESTED BY:

