

8-30-19

ORDINANCE NO. 31311

An ordinance changing the zoning classification on the following property:

BEING a tract of land in City Block 1/8570; fronting approximately 156 feet along the south line of Mississippi Avenue southwest of Gretna Street; and containing approximately 0.238 acres, from an IR Industrial/Research District to an MU-3 Mixed Use 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 IR Industrial/Research District to an MU-3 Mixed Use 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.

31311

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.

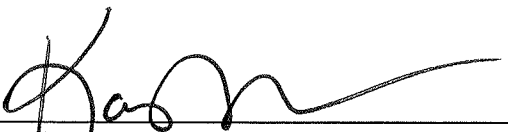
SECTION 5. That the zoning ordinances of the City of Dallas shall remain in full force and effect, save and except as amended by this ordinance.

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

Passed SEP 11 2019

31311

EXHIBIT A

BEING all of that certain lot, tract or parcel of land situated in the G.W. Dooley Survey, A-390, and being parts of Lots 9, 10 & 11, Block 1/8570 of HAMPTON & INDUSTRIAL ADDITION, an addition to the City of Dallas, Dallas County, Texas, recorded in Volume 8, Page 185 of the Map Records of Dallas County, Texas, and being all of that same tract of land described in General Warranty Deed to Prescott Interests, Ltd., recorded in Instrument Number 201100337934 of the Official Public Records of Dallas County, Texas, and said parcel being more particularly described as follows:

BEGINNING at a 3/4" iron rod found at the common north corner of Lot 12 and the east corner of Lot 11 of the aforementioned addition; said point being in the southwest R.O.W. line of Mississippi Avenue (a 50' R.O.W.);

THENCE S 20°38'40" W, 67.00' along the common line of said Lots 11 & 12 to a 5/8" iron rod found for corner in the northeast line of that same tract of land described in deed to the City of Dallas, recorded in Instrument Number 200900184476 of the Official Public Records of Dallas County, Texas;

THENCE N 69°47'27" W, 102.33' along the northeast line of said City of Dallas property to a 3/4" iron rod found for corner;

THENCE N 71°42'13" W, 51.17' along the northeast line of said City of Dallas property to a 3/4" iron rod found for corner in the common line of Lots 8 & 9 of the aforementioned addition;

THENCE N 18°29'55" E, 67.00' along the common line of said Lots 8 & 9 to a 3/4" iron rod found for corner in the southwest line of Mississippi Avenue and at the beginning of a curve to the right having a central angle of 02°08'46" and a radius of 4164.83', bearing S 18°29'55" W (Chord Bearing S 70°25'42" E, 155.99');

THENCE around said curve and along the southwest line of Mississippi Avenue, a distance of 155.99' to the POINT OF BEGINNING and containing 10,354 square feet or 0.238 acre of land.

31311

191427

MU-1

MEMPHIS ST

VICKSBURG ST

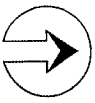
IR

WINDSOR AVE

GRETNA ST

MU-3

A(A)



1:1,200

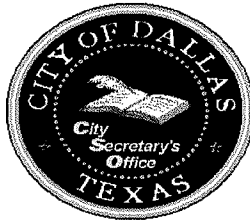
ZONING MAP

Case no:

Z189-269

Date:

6/20/2019



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 11 2019

ORDINANCE NUMBER 31311

DATE PUBLISHED SEP 14 2019

ATTESTED BY:

191427

COUNCIL CHAMBER

September 11, 2019

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property located along the south line of Mississippi Avenue southwest of Gretna Street, which is the subject of Zoning Case No. Z189-269(CY); 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:

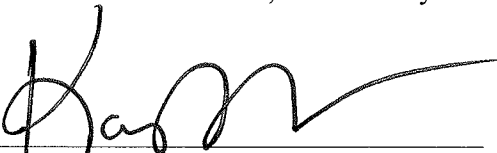
Section 1. That the deed restrictions in the attached instrument are accepted by the City Council of the City of Dallas to be used in conjunction with the development of property that is the subject of Zoning Case No. Z189-269(CY).

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

DEED RESTRICTIONS

THE STATE OF TEXAS
COUNTY OF DALLAS

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§
§

KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, Prescott Interests, Ltd., a Texas limited partnership, ("Owner"), is the owner of the following described property (the "Property"), being in particular a tract of land in the G.W. Dooley Survey, Abstract No. 390, and being parts of Lots 9, 10, and 11, Block 1/8570, Hampton & Industrial Addition, an addition to the City of Dallas (the "City"), Dallas County, Texas, and being that same tract of land described in General Warranty Deed to Owner recorded as Instrument No. 201100337934, Deed Records of Dallas County, Texas, and being more particularly described in Exhibit A, hereto.

II.

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

1. Definitions. As used herein:

- A. BAIL BONDS OFFICE means an office for the issuance, brokerage, or procurement of bail bonds as a main use or accessory use.
- A. MASSAGE ESTABLISHMENT means any building, room, place, or establishment, other than a regularly licensed hospital, where manipulated massage or manipulated exercises are practiced upon the human body by anyone not a duly licensed physician or chiropractor whether with or without the use of mechanical, therapeutic, or bathing devices, and includes Turkish bathhouses. This term does not include, however, duly licensed beauty parlors or barbershops or a place wherein registered physical therapists treat only patients recommended by a licensed physician and operated only under such physician's direction. "MASSAGE" means any process consisting of kneading, rubbing, or otherwise manipulating the skin of the body of a human being, either with the hand or by means of electrical instruments or apparatus, or other special apparatus, but does not include massage by duly licensed physicians and chiropractors, and registered physical therapists who treat only patients recommended by a licensed physician and who operate only under such physician's direction, nor massage of the face practiced by beauty parlors or barbershops duly licensed under the penal code of the state.

2. Uses. The following uses are prohibited on the Property:

- Alternative financial establishment.
- Car wash.
- College dormitory, fraternity or sorority house.

- Commercial amusement (inside).
- Convalescent and nursing homes, hospice care, and related institutions.
- Convent or monastery.
- Foster home.
- Gas drilling and production.
- Halfway house.
- Liquor store.
- Mortuary, funeral home, or commercial wedding chapel.
- Motor vehicle fueling station.
- Office uses limited to bail bonds office
- Open-enrollment charter school or private school.
- Paraphernalia shop.
- Personal service uses limited to massage establishments.
- Public school other than an open-enrollment charter school.
- Residential hotel.
- Retirement housing.
- Swap or buy shop.

3. Yard, lot, and space restrictions.

- A. Dwelling unit density. Maximum number of dwelling units is 4.
- B. Floor area ratio. Maximum floor area ratio (FAR) shall be 1.2.
- C. Height. Unless further restricted by operation of Section 51A-4.412, residential proximity slope, maximum structure height is 48 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.

[signature page(s) follow]

EXECUTED this the 5th day of August, 2019.

PRESCOTT INTERESTS, LTD.,
a Texas limited partnership

By: Carlisle Acquisitions, Inc.,
a Texas corporation, its general partner

By: [Signature]
Name: JOHN K PEARCY
Title: OWNER

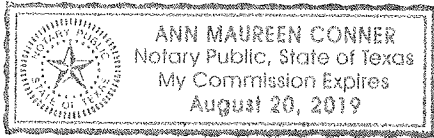
APPROVED AS TO FORM:
CHRISTOPHER J. CASO, Interim City Attorney

By: [Signature]
Assistant City Attorney

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned, a Notary Public, on this day personally appeared John K. Percy, _____, for Carlisle Acquisitions, Inc., a Texas corporation, general partner for Prescott Interests, Ltd., a Texas limited partnership, on behalf of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of August, 2019.

[SEAL] 

[Signature]
Notary Public in and for the State of Texas

EXHIBIT A

BEING all of that certain lot, tract or parcel of land situated in the G.W. Dooley Survey, A-390, and being parts of Lots 9, 10 & 11, Block 1/8570 of HAMPTON & INDUSTRIAL ADDITION, an addition to the City of Dallas, Dallas County, Texas, recorded in Volume 8, Page 185 of the Map Records of Dallas County, Texas, and being all of that same tract of land described in General Warranty Deed to Prescott Interests, Ltd., recorded in Instrument Number 201100337934 of the Official Public Records of Dallas County, Texas, and said parcel being more particularly described as follows:

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