

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY OF DENTON DENYING JEFFREY BARR AND JOHN BARR'S PETITION FOR REMOVAL OF PROPERTY FROM THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF DENTON AND DENYING THE CITY'S CONSENT TO THE REDUCTION OF THE CITY'S EXTRATERRITORIAL JURISDICTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 21, 2024, Jeffrey Barr and John Barr (the "Petitioner") submitted a petition for the release of property from the extraterritorial jurisdiction of the City of Denton (the "ETJ"), a copy of which is attached hereto as Exhibit A (the "Petition"); and

WHEREAS, the property sought to be released is located at 5094 Johnson Lane, Argyle, TX 76226 and described by metes and bounds in Exhibit A (the "Property"); and

WHEREAS, pursuant to Section 42.023 of the Texas Local Government Code, the ETJ of the City may only be reduced if the City Council has exercised its legislative authority to consent to the reduction of the City's ETJ; and

WHEREAS, pursuant to Article II, Section 1 of the Texas Constitution, landowners may not be delegated the legislative authority to remove their property from the City's ETJ without the consent of the City Council; and

WHEREAS, Subchapter D of the Texas Local Government Code Chapter 42 is an unconstitutional delegation of legislative authority and conflicts with the City's grant of legislative discretion under Local Government Code section 42.023; and

WHEREAS, the Property is subject to restrictive covenants, a copy of which is attached hereto as Exhibit B, requiring involuntary annexation of the Property into the City under certain conditions; and

WHEREAS, the City Council finds that it is in the best interest of the City to deny its consent to the Petition, the removal of the Property from the City's ETJ, and to the reduction in size of the City's ETJ; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The above recitals are adopted as findings of the City Council.

SECTION 2. The Petition for release of the Property from the City's ETJ is hereby denied.

SECTION 3. The City denies consent to the removal of the Property from the City's ETJ and the reduction in size of the City's ETJ.

SECTION 4. If any section, subsection, paragraph, sentence, clause, phrase, or word in this resolution is held invalid or ineffective by any court of competent jurisdiction, such holding shall

not affect the validity or effectiveness of the remaining portions of this resolution, and the City Council of the City of Denton, Texas hereby declares that it would have adopted such remaining portions despite any such holding.

SECTION 5. This resolution shall become effective immediately upon its passage and approval.

The motion to approve this resolution was made by \_\_\_\_\_ and seconded by \_\_\_\_\_, the resolution was passed and approved by the following vote [\_\_\_\_ - \_\_\_\_]:

|  | <b>Aye</b> | <b>Nay</b> | <b>Abstain</b> | <b>Absent</b> |
|--|------------|------------|----------------|---------------|
| Mayor Gerard Hudspeth:                 | _____      | _____      | _____          | _____         |
| Vicki Byrd, District 1:                | _____      | _____      | _____          | _____         |
| Brian Beck, District 2:                | _____      | _____      | _____          | _____         |
| Paul Meltzer, District 3:              | _____      | _____      | _____          | _____         |
| Joe Holland, District 4:               | _____      | _____      | _____          | _____         |
| Brandon Chase McGee, At Large Place 5: | _____      | _____      | _____          | _____         |
| Chris Watts, At Large Place 6:         | _____      | _____      | _____          | _____         |

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
GERARD HUDSPETH, MAYOR

ATTEST:  
JESUS SALAZAR, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

BY:  \_\_\_\_\_  
Scott Bray  
2024.02.26 15:52:18  
-06'00'

**Development Services**

401 N Elm St., Denton, TX 76201 • (940) 349-8600

**Petition for Release from Extraterritorial Jurisdiction**

The undersigned does hereby petition for release of 5.01 acres located at 5094 Johnson Lane, Argyle, TX 76226; A0586A WM Hudson, TR 7, Doc # 2023-593 in the extraterritorial jurisdiction of the City of Denton, Texas. The property is more particularly described in the attached survey description and shown on the attached map. The undersigned also certifies that the following required information concerning the land and its inhabitants is reasonably accurate and assumes responsibility for the completion of said information prior to scheduled action on the request of the City of Denton.

1. Is this petition being initiated by either (please indicate yes or no):
  - a. A majority of registered voters in the area of request? \_\_\_\_\_, or
  - b. A majority in value of the holders of title of land in the area? Yes.
2. How many dwelling units are located within the area requested for release? Two
3. Does the area of request include any territory within the city limits or extra-territorial jurisdiction of another city? No If yes, which city? \_\_\_\_\_
4. Estimated population of the area in request:
  - a. Total: Four
  - b. Number of Registered Voters: N/A
5. Is any part of the area subject to a non-annexation agreement or strategic partnership agreement with the City of Denton or any other City? Yes

**Please provide the additional items below:**

- ☒ Map of the land to be released.
- ☒ Legal description by metes and bounds or lot and block number.
- ☒ Attached petition signatures of the owners of a majority of value of land in the area (based on tax rolls) or of a majority of the registered voters of the area.

RESPECTFULLY SUBMITTED this 19 day of February, 2024.

**PETITIONER**

Jeffrey Barr

By: [Signature]

Name: Jeffrey Barr

Date of Birth: 03/16/84

Address: 10 Box 1382 Arroyo, TX 76226

Date of Signing: 2/19/2024

THE STATE OF TEXAS

§

COUNTY OF Denton

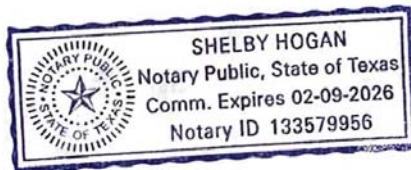
§

This instrument was acknowledged before me on this day, February 19<sup>th</sup>, 2024, by Jeffrey Barr.

[Signature]

Notary Public, State of Texas

(SEAL)



RESPECTFULLY SUBMITTED this 19 day of February, 2024.

**PETITIONER**

John Barr

By: 

Name: John Barr

Date of Birth: 4/13/1976

Address: 3001 S. Hardin Blvd, #110-427, McKinney, TX 75070

Date of Signing: 2/19/2024

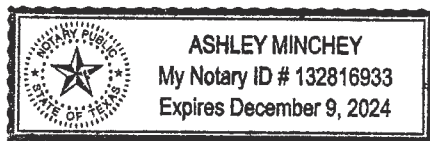
THE STATE OF TEXAS  
COUNTY OF Collin

§  
§

This instrument was acknowledged before me on this day, February 19, 2024, by John Barr.

  
Notary Public, State of Texas

(SEAL)



LEGAL DESCRIPTION OF PROPERTY TO BE RELEASED

5094 Johnson Lane  
A0586A WM HUDSON, TR 7, 5.01 ACRES  
Argyle, TX 76226

Legal Description:

All that certain tract or parcel of land situated in the William Hudson Survey, Abstract Number 586, Denton County, Texas, and being a part of a called Second Tract of land described in a deed to Millard Taft Smith recorded in Volume 4267, Page 1280, Real Property Records of Denton County, Texas, and being more particularly described as follows:

Beginning at a 1/2" capped iron rod set in the west line of said Second Tract and in the east line of a called 133.5 acre tract of land described in a deed to L.Z. Brown as recorded in Volume 290, Page 382, Deed Records of Denton County, Texas and also in the west line of Johnson Lane;

Thence North 89 Degrees 36 Minutes 51 Seconds East with a north line of the herein described tract, a distance of 252.60 feet to a 1/2" capped iron rod set for the northern northeast corner of the herein described tract;

Thence South 01 Degrees 01 Minutes 51 Seconds West with or near a fence line, a distance of 304.44 feet to a 1/2" capped iron rod set for corner in or near the center of said Johnson Lane and at the start of a curve to the right having a radius of 216.90 feet;

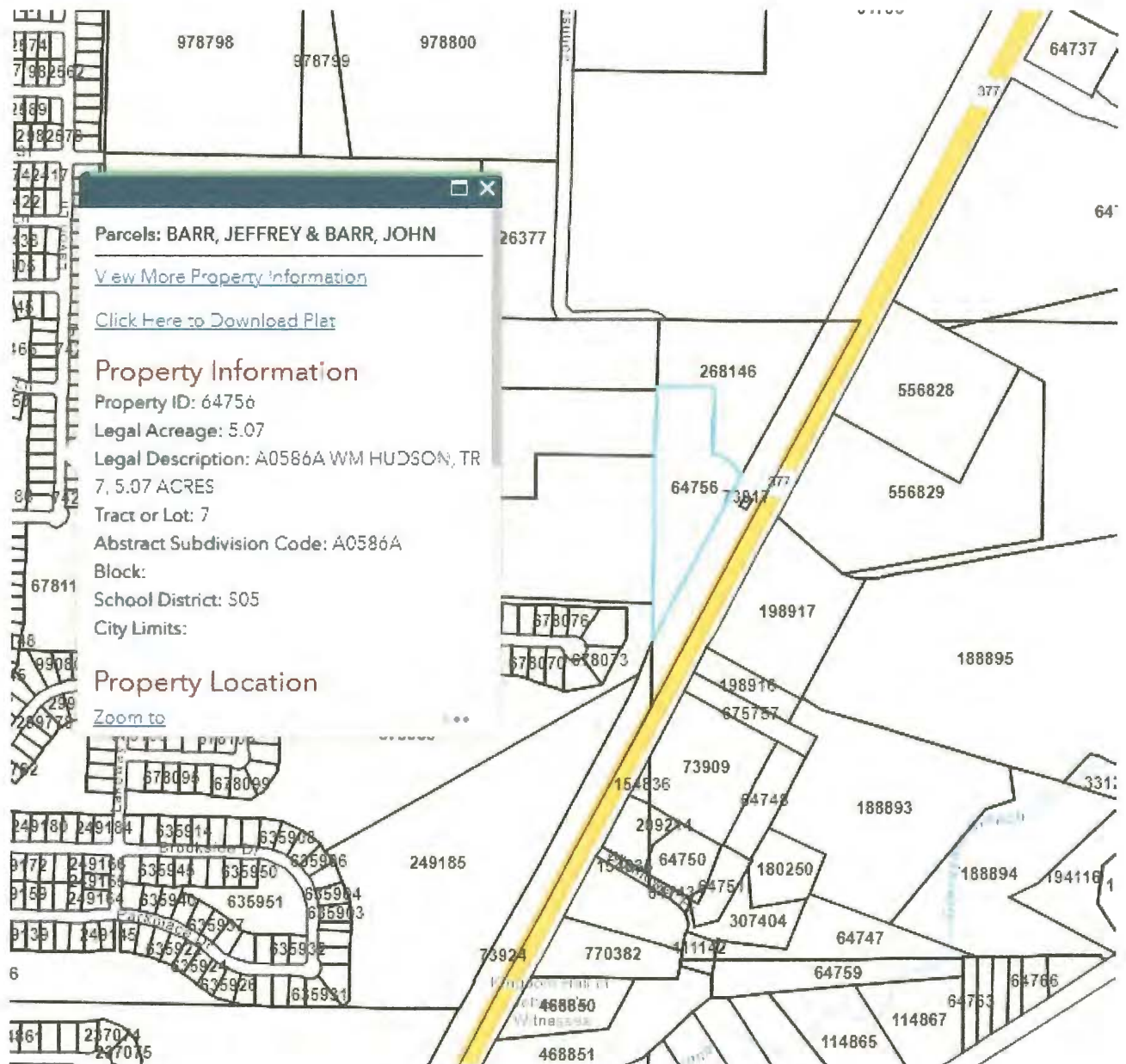
Thence with the said curve to the right and with said Johnson Lane an arc length of 132.57 feet and having a chord bearing of South 52 Degrees 57 Minutes 05 Seconds East, 130.52 feet to a 1/2" capped iron rod set for corner in the intersection of said Johnson Lane and with the west right-of-way line of Texas and Pacific Railroad;

Thence South 28 Degrees 12 Minutes 43 Seconds West with the said west right-of-way line, a distance of 754.61 feet to a 2" pipe found for the south corner of said Second Tract;

Thence North 00 Degrees 17 Minutes 52 Seconds East with west line of said Second Tract, a distance of 1046.31 feet to the POINT OF BEGINNING and containing 5.01 acre of land, more or less.



DENTON CAD WEB MAP OF PROPERTY TO BE RELEASED



ABST. 586  
W. HUDSON SUR.

[illegible]

200°

AB. 586  
Date: 21 Sep 86  
z-f-91 Q2



Exhibit ☐**RESTRICTIVE COVENANTS**

STATE OF TEXAS }

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF DENTON }

**021907**

THESE Restrictive Covenants ("Restrictive Covenants") are made and entered into as of the 7<sup>th</sup> day of February, 2001, by and between the CITY OF DENTON, TEXAS (the "City") and the hereinafter mentioned owners of the hereinafter described real property in Denton County, Texas:

- a. ALBERT R. HUGHES ("Hughes"), owner of an approximate 92.382 acre parcel or tract of land located in the B.B.B. & C.R.R. Survey, Abstract No. A-159 in Denton County, Texas as more particularly described in that certain Warranty Deed dated December 20, 1991 from American Bank, N.A. to Hughes and recorded in Volume 3129, Pages 752-757 of the Deed Records of Denton County, Texas ("Hughes Property").
- b. ANGELA DOMINGUEZ AND MICHAEL JOHN BARBER ("Dominguez & Barber"), owners of two parcels or tracts of land approximately 2.000 acres and 32.390 acres, respectively, located in the B.B.B. & C.R.R. Survey, Abstract No. A-159 in Denton County, Texas as more particularly described in that certain Warranty Deed dated June 12, 1998 from Linda Alred Fox as Trustee of the Marie Alred Stinchcomb Testamentary Trust to Dominguez & Barber recorded in Volume 4357, Pages 240-242 of the Deed Records of Denton County, Texas ("Dominguez Property").
- c. JERRY A. MCCUTCHIN ("McCutchin"), owner of an approximate 147.580 acre parcel or tract of land located in the B.B.B. & C.R.R. Survey, Abstract No. A-159 in Denton County, Texas as more particularly described in that certain Warranty Deed dated July 20, 1994 from Real Property Exchange, L.C. to McCutchin recorded in Denton County Clerk Certificate No. 94-R0057622 of the Deed Records of Denton County, Texas ("McCutchin Property").
- d. JERRY L. BLOCKER ("Blocker"), owner of two parcels or tracts of land approximately 10.108 acres and 3.550 acres, respectively, located in the B.B.B. & C.R.R. Survey, Abstract No. A-159 in Denton County, Texas as more particularly described in those certain two Warranty Deeds from Mary Lucile Alred, Individually and as the Independent Executrix of the Estate of Claud C. Alred, James Robert Alred, Linda Janell Fox, Sherry Alred, Weldon M. Alred, and Susie Alred Henderson to the Veterans Land Board of Texas dated October 4, 1979 and recorded in Volume 987, Pages 825-830 of the Deed Records of Denton County, Texas and from Mary Lucile Alred, Individually and as the Independent Executrix of the Estate of Claud C. Alred, James Robert Alred, Linda Janell Fox, Sherry Alred, Weldon M. Alred, and Susie Alred Henderson to Jerry L. Blocker dated March 21, 1978 and recorded in Volume 882, Pages 465-468 of the Deed Records of Denton County, Texas ("Blocker Property").

- e. MILLARD TAFT SMITH, TRUSTEE OF THE WILLIAM TAFT SMITH FAMILY TRUST, and MILLARD TAFT SMITH, NONA G. SMITH and PEGGY OLENE SMITH BASSHAM, Individually ("Smith"), owner of two parcels or tracts of land approximately 88.430 acres and 10.530 acres, respectively located in the H. Haygood Survey, Abstract No. A-517 in Denton County, Texas as more particularly described in that certain Executor's Deed dated January 29, 1999 from Millard Taft Smith, as Independent Executor of the Estate of WILLIAM TAFT SMITH, Deceased, to MILLARD TAFT SMITH, SUCCESSOR TRUSTEE of the WILLIAM TAFT SMITH FAMILY TRUST recorded in Volume 4267, Pages 1280-1283 of the Deed Records of the Denton County, Texas ("Smith Property").
- f. PATRICIA A. BROWN, FRANCES BROWN DOBY, AND BETTY FANNING ("Brown"), owner of two parcels or tracts of land approximately 9.000 acres and 124.500 acres, respectively located in the H. Haygood Survey, Abstract No. A-517 and the Wm. Smith Survey, Abstract No. 1187 in Denton County, Texas as more particularly described in that certain Warranty Deed dated May 31, 1941 from Southwestern Life Insurance Company to L.Z. Brown recorded in Volume 290, Pages 382-383 of the Deed Records of Denton County, Texas ("Brown Property").

(Hughes, Dominguez & Barber, McCutchin, Blocker, Smith, and Brown are hereinafter collectively called the "Property Owners". The term Property Owners or Property Owner includes their heirs, successors and assigns, and all future owners of any portion of the Property. The Hughes Property, Dominguez & Barber Property, McCutchin Property, Blocker Property, Smith Property, and Brown Property are hereinafter collectively called the "Property".)

WHEREAS, the City has initiated the involuntary annexation of certain real property including the Property, pursuant to Annexation Case A-102, "US 377-35W Annexation Area (the "Annexation Case"); and

WHEREAS, the Property Owners have requested that the Property be deleted from the Annexation Case, in exchange for which they have agreed to enter into these Restrictive Covenants for the benefit of each other and the City.

NOW THEREFORE, in consideration of the covenants contained in these Restrictive Covenants, the City and Property Owners agree as follows:

1. The Property Owners hereby declare that all of the Property shall be held, sold and conveyed subject to these Restrictive Covenants, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Property Owner and the City.

2. The Property Owners covenant and agree with each other and the City that they will not file for plat approval on their respective properties until such property has been annexed into the City. Such annexations shall be considered voluntary requests for annexation. The Property Owners and all of their heirs, successors and assigns covenant and agree that such annexation is voluntarily made and shall be considered to be by petition of the owners of the Property at the time of such annexation. Plat approval is defined as any plat approval authorized by Chapters 212 or 232 of the Texas Local Government Code, or their successor statutes. The City is a third party beneficiary of the covenants between the Property Owners.

3. Based on these Restrictive Covenants the City has agreed to delete the Property from the Annexation Case.

4. Any person who sells or conveys any portion of the Property shall prior to such sale or conveyance give separate written notice of these Restrictive Covenants to the prospective purchaser or grantee, along with a separate notice to the City including a copy of such written notice. Notice to the City shall be addressed as follows:

City Manager  
City of Denton  
215 E. McKinney  
Denton, Texas 76201

5. These Restrictive Covenants are to run with the land described herein as the Property and shall be binding on all parties and all persons claiming under them, and any future owners of the Property for a period of thirty years from the date these Restrictive Covenants are recorded. These Restrictive Covenants shall not be amended without the prior written consent of the City.

6. These Restrictive Covenants may be enforced by any Property Owner or the City by any proceeding at law or in equity. Failure by any Property Owner or the City to enforce any covenant shall in no event be deemed a waiver of the right to do so thereafter.

7. Invalidity of any of the covenants or provisions contained in this instrument by judgment or court order shall not in any manner affect any of the other covenants or provisions herein set forth and all such remaining provisions shall remain in full force and effect.

8. No subsequent change in the law shall in anyway affect the validity or enforceability of these Restrictive Covenants.

9. This instrument may be separately executed in any number of individual counterparts, and such counterpart signatures, when assembled together, shall constitute one and the same instrument.

The parties hereto have executed these Restrictive Covenants as of the date first above written.

## CITY OF DENTON, TEXAS

BY: Euline Brock  
Euline Brock, Mayor

ATTEST:

Jennifer K. Walters  
Jennifer K. Walters  
City Secretary

APPROVED AS TO FORM:

HERBERT L. PROUTY, CITY ATTORNEY

BY: Herbert L. Prouty

Albert R. Hughes  
ALBERT R. HUGHES

Angela Dominguez  
ANGELA DOMINGUEZ

Michael John Barber  
MICHAEL JOHN BARBER

J. A. McCutchin  
JERRY A. MCCUTCHIN

Jerry L. Blocker  
JERRY L. BLOCKER

WILLIAM TAFT SMITH FAMILY TRUST

BY: Millard T. Smith  
MILLARD TAFT SMITH, TRUSTEE

Millard T. Smith  
MILLARD TAFT SMITH

Peggy Olene Smith Bassham  
PEGGY OLENE SMITH BASSHAM,

Nona G. Smith  
NONA G. SMITH

Patricia A. Brown  
PATRICIA A. BROWN

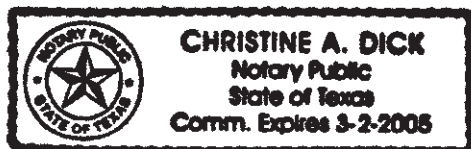
Frances Brown Doby  
FRANCES BROWN DOBY

Betty Fanning  
BETTY FANNING

ACKNOWLEDGMENTS

STATE OF TEXAS       )  
COUNTY OF DENTON   )

This instrument was acknowledged before me on the 12<sup>th</sup> day of January, 2001  
by Albert R. Hughes.



Christine A. Dick  
Notary Public, in and for the State of Texas

My Commission expires: 3-2-2001

STATE OF TEXAS       )  
COUNTY OF DENTON   )

This instrument was acknowledged before me on the 16<sup>th</sup> day of January, 2001  
by Angela Dominguez.

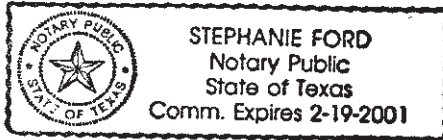


Christine A. Dick  
Notary Public, in and for the State of Texas

My Commission expires: 3-2-2001

STATE OF TEXAS )  
COUNTY OF DENTON )

This instrument was acknowledged before me on the 17<sup>th</sup> day of January, 2001  
by Michael John Barber.

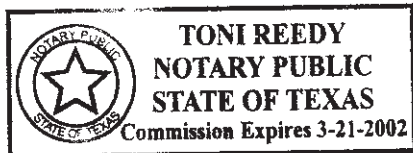


Stephanie Ford  
Notary Public, in and for the State of Texas

My Commission expires: 2-19-01

STATE OF TEXAS )  
COUNTY OF DENTON )

This instrument was acknowledged before me on the 11<sup>th</sup> day of January, 2001  
by Jerry A. McCutchin.

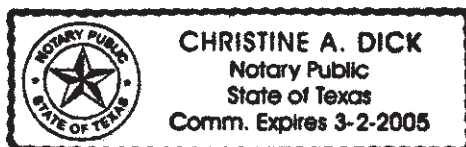


Toni Reedy  
Notary Public, in and for the State of Texas

My Commission expires: 3/21/02

STATE OF TEXAS )  
COUNTY OF DENTON )

This instrument was acknowledged before me on the 2<sup>nd</sup> day of January, 2001  
by Jerry L. Blocker.

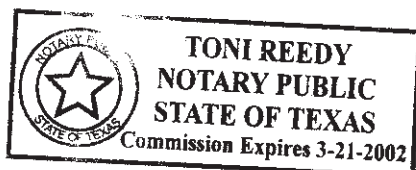


Christine A. Dick  
Notary Public, in and for the State of Texas

My Commission expires: 3-2-2005

STATE OF TEXAS )  
COUNTY OF DENTON )

This instrument was acknowledged before me on the 11<sup>th</sup> day of January, 2001  
by Millard Taft Smith, Trustee of the William Taft Smith Trust, on behalf of said trust.



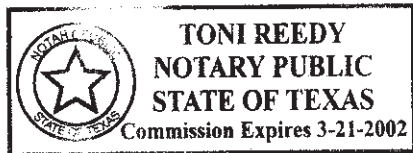
Toni Reedy  
Notary Public, in and for the State of Texas

My Commission expires: 3/21/02



STATE OF TEXAS )  
COUNTY OF DENTON )

This instrument was acknowledged before me on the 11<sup>th</sup> day of January, 2001  
by Millard Taft Smith, Individually.

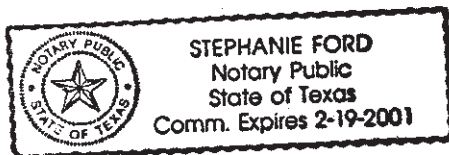


Toni Reedy  
Notary Public, in and for the State of Texas

My Commission expires: 3/21/2002

STATE OF TEXAS )  
COUNTY OF DENTON )

This instrument was acknowledged before me on the 15<sup>th</sup> day of January, 2001  
by Peggy Olene Smith Bassham, Individually.

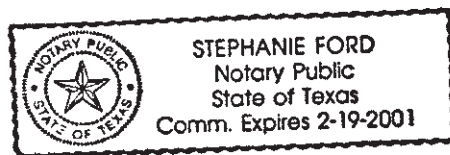


Stephanie Ford  
Notary Public, in and for the State of Texas

My Commission expires: 2-19-01

STATE OF TEXAS )  
COUNTY OF DENTON )

This instrument was acknowledged before me on the 15<sup>th</sup> day of January, 2001  
by Nona G. Smith.



Stephanie Ford  
Notary Public, in and for the State of Texas

My Commission expires: 2-19-01

STATE OF TEXAS )  
COUNTY OF DENTON )

This instrument was acknowledged before me on the 13 day of January, 2001  
by Patricia A. Brown.

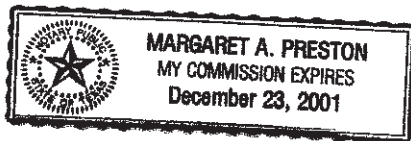


Margaret A. Preston  
Notary Public, in and for the State of Texas

My Commission expires: Dec 23, 2001

STATE OF TEXAS           )  
COUNTY OF DENTON       )

This instrument was acknowledged before me on the 13 day of January, 2001  
by Frances Brown Doby.



Margaret A. Preston  
Notary Public, in and for the State of Texas

My Commission expires: 12-31-01

STATE OF TEXAS           )  
COUNTY OF DENTON       )

This instrument was acknowledged before me on the 13 day of January, 2001  
by Betty Fanning.

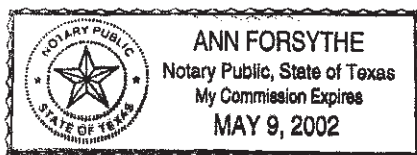


Margaret A. Preston  
Notary Public, in and for the State of Texas

My Commission expires: 12-31-01

STATE OF TEXAS           )  
COUNTY OF DENTON       )

This instrument was acknowledged before me on the 17 day of January, 2000 by Euline Brock, Mayor of the City of Denton, Texas, on behalf of said city.



Ann Forsythe  
Notary Public, in and for the State of Texas

My Commission expires: 050902

RETURN TO:  
City of Denton  
City Attorney's Office  
215 E. McKinney  
Denton, Texas 76201

The map displays various land use designations and zoning districts in the City of Dallas. Key features include:

- Designations:** PRIVATE, MPC ETJ, A, CM-G, PD, RCC-D, ALLRED, ETJ, JOHNSON, TAWAKONI, BALMORHEA, BROOKSIDE, GREENMEADOW, PARKPLACE, CREEKWAY, COUNTRY CLUB, FORT WORTH, CLUB VIEW, NR-1, NR-2, NR-4, NR-6, NRMU, and ETJ.
- Color-Coding:** Green for PD, Yellow for NR-1, NR-2, NR-4, NR-6, and NRMU, and Red for RCC-D.
- Thick Black Line:** Outlines a specific area of interest, primarily following the Johnson and Allred streets.

