

MARTIN & DROUGHT, P.C.

Frank B. Burney
Attorney at Law
fburney@mdtlaw.com

November 13, 2008

Councilwoman Diane Cibrian
City Council, District 8
P. O. Box 839966
San Antonio, Texas 78283-3966

Re: Zoning Case #Z2008262
IH-10 West

Dear Councilwoman Cibrian:

As we agreed, enclosed please find a draft of the Deed Restrictions in connection with the above-referenced zoning case. I also attach a copy of my letter to you outlining our agreement at the time of zoning of this case. I believe that these restrictions reflect our agreement.

Two other issues have been raised:

1. Digital Signs: As you are aware, there are very few regulations governing "on-premises" digital signs. As technology changes, all signs may become digital in the future, much like our television sets. I cannot recommend to my client such a provision. While my client would comply with any new ordinance regulating such use, he is reluctant to agree to a deed restriction incorporating such restriction.

2. Inflatables. The issue of inflatables was raised. While I never have seen a Porsche dealership using inflatables, I cannot recommend a deed restriction restricting such use. Ordinances are changed regularly by the City to reflect changing views, while deed restrictions are permanent. I cannot recommend that my client's property be permanently restricted when no other property on IH-10 has such restrictions.

Please review and give me a call with any questions. The only open issue I am aware of is the correct name of the neighborhood entity who will be a party to this agreement.

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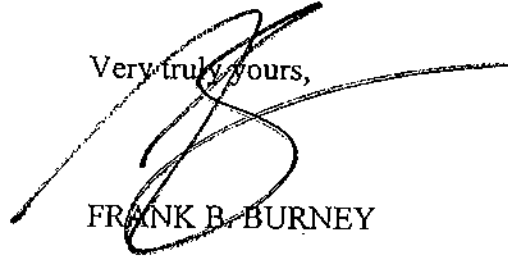
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Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Frank B. Burney', written over the typed name.

FRANK B. BURNEY

FBB:ds

Enclosures

cc: Mr. Dan Briggs

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RESTRICTION AGREEMENT

THIS RESTRICTION AGREEMENT is made as of the _____ day of _____ 2008 (this "Agreement"), by and between **TPC MANAGEMENT, INC.**, a Texas corporation ("TPC") and _____, a Texas _____ (the "Association").

WITNESSETH:

REFERENCE IS HEREBY MADE TO Lot 11, Block 24, New City Block 13559, Colonies North Subdivision Market Place Unit 2, situated in the City of San Antonio, Bexar County, Texas, according to plat thereof recorded in Volume 9524, Page 108, of the Deed and Plat Records of Bexar County, Texas (the "Land"), and as depicted on Exhibit "A," which is attached hereto and incorporated herein for all purposes.

WHEREAS, TPC is the owner of the Land;

WHEREAS, the Association is comprised of residential lot owners in a subdivision to the immediate northeast of the Land and condominium owners located on a lot to the immediate north of the Land; and

WHEREAS, because the Association would be affected by any development of the Land, TPC and the Association have entered into this Agreement whereby certain restrictions shall be placed on the Land for the benefit of the Association.

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises, covenants, conditions, restrictions, and encumbrances contained herein, the sufficiency of which is hereby acknowledged, TPC and the Association do hereby agree as follows:

1. **Restrictions.**

A. Vehicular access to the Land shall solely be from the Interstate 10 West access road. There shall be no vehicular access to the Land from Powhatan Drive.

B. No bar, tavern, microbrewery or sexually-oriented business will be operated on the Land whatsoever. However, for any business whereby alcohol sales for on-premises consumption constitute less than fifty percent (50%) of the gross sales of such business in connection with the sale of food products, such alcohol sales will be permitted therein.

C. All exterior lighting must be arranged or shielded so as to substantially prevent any spillover effects, excessive glare or reflection on any portion of Powhatan Drive or onto any

residential adjacent tract to the Land. Security and safety illumination shall be installed along the eastern border of the Land as more particularly shown on Exhibit "A" hereto.

D. No outdoor public speaker system will be operated on the Land other than music, such broadcast of music not to be at a level that would constitute a legal nuisance to the residential lots located on Powhatan Drive across from the Land.

E. Any and all dumpsters located on the Land shall be located south of the landscape buffer on the northern border of the Land.

The restrictions to the Land (A through E) are collectively referred to herein as the "Restrictions."

2. **Rights of Successors.** The Restrictions, benefits and obligations hereunder shall create mutual benefits and servitudes running with the Land. This Agreement shall bind and inure to the benefit of the parties hereto, their respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

3. **Execution, Modification and Cancellation.** It is understood and agreed that until this Agreement is fully executed by both TPC and the Association, there is not and shall not be an agreement of any kind between the parties hereto upon which any commitment, undertaking or obligation can be founded. This Agreement (including exhibits) may be modified, amended or canceled only by the mutual agreement of the Association and all of the then owner(s) of the Land.

4. **Headings.** The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

5. **Notices.** Any notice hereunder shall be in writing and shall be served by overnight delivery or certified mail, return receipt requested, postage prepaid, addressed to the respective addresses of the parties as follows:

If intended for TPC:

TPC Management, Inc.
c/o Mr. Jack E. Guenther
153 Treeline Park, Suite 300
San Antonio, Texas 78209

With a copy to:

Mr. Frank B. Burney
Martin & Drought, P.C.
300 Convent Street, Suite 2500
San Antonio, Texas 78205

If intended for the Association:

Each party to this Agreement may designate by notice in writing a new or other address to which such notice shall thereafter be so given or served.

6. **Termination.** This Agreement and the Restrictions created hereby shall terminate twenty (20) years after the date hereof and shall be of no further force or effect.

7. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto. The parties do not rely upon any statement, promise or representation not herein expressed, and this Agreement once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this document.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

TPC:

TPC MANAGEMENT, INC.
a Texas corporation

By: _____
Jack E. Guenther, President

The Association:

_____,
a Texas _____

By: _____

THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the _____ day of _____ 2008, by Jack E. Guenther, the President of TPC MANAGEMENT, INC., a Texas corporation, in the capacity therein stated and on behalf of said corporation.

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the _____ day of _____ 2008, by _____, the President of _____, a Texas _____, in its capacity therein stated, on behalf of said _____.

Notary Public, State of Texas

CONSENT AND SUBORDINATION BY LIENHOLDER

Lienholder, as the holder of a lien on the Land, consents to the Agreement, and Lienholder subordinates its lien to the terms and conditions set forth herein so that a subsequent foreclosure of the lien will not extinguish the terms and conditions of the Agreement and its effect on the Land.

LIENHOLDER:

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the ____ day of _____
2008, by _____, the _____ of
_____, a _____, in the capacity
therein stated and on behalf of said _____.

Notary Public, State of Texas

AFTER RECORDING, RETURN TO:
TPC Management, Inc.
c/o Mr. Jack E. Guenther
153 Treeline Park, Suite 300
San Antonio, Texas 78209

MARTIN & DROUGHT, P.C.

Frank B. Burney
Attorney at Law
fburney@mdtlaw.com

September 18, 2008

Hon. Diane Cibrian
City Council, District 8
P. O. Box 839966
San Antonio, Texas 78283-3966

Re: Zoning Case # Z2008262
9455 IH-10 West
Triple JR Limited

Dear Councilwoman Cibrian:

We appreciate you arranging for a meeting with the neighbors surrounding the property at 9455 IH 10 West. As we discussed, the applicant proposes construction of a Porsche dealership on this property. We believe that the requirements of Porsche franchise will result in a property that will be an improvement to the commercial corridor on IH-10.

While there are certain issues that the applicant can agree to relating to this development, issues relating to the height, location on the site, and signage are determined under the franchise operating agreement with Porsche. However, the applicant will insure that it is in full compliance with all COSA regulations.

The issues that we reached agreement on are as follows:

1. Lighting: downward lighting will be installed on the property to prevent any spillover effect on adjoining neighborhood on Powhatan. Lighting shall also be installed to provide security lighting on the eastern buffer.
2. Landscaping: landscaping will be maintained on the eastern existing buffer to screen dealer operations from the neighborhood to the east.
3. Access: entry to the property will only be from the IH-10 frontage.
4. Use: no bar, tavern, microbrewery, or sexually-orientated business will be operated on the property.

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5. Amplification: no outdoor speaker system other than Muzak will be operated on the property
6. Dumpsters: location is still to be determined, but it will be located adjacent to the Type C landscape buffer required by COSA regulations on the northern boundary of the property.

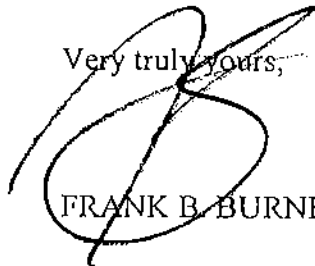
These issues would be codified in deed restrictions enforceable by a group of the neighbors, including those directly impacted and neighborhood association. A draft will be provided to your office for review prior to closing of the property.

We will also notify the neighborhood of proposed operational hours. As to the issue of a landscape buffer to the north, zoning staff has already recommended a Type C landscape buffer, which will be incorporated into the zoning case. Therefore, it has not been added to the proposed deed restrictions.

With this agreement, we would request your support of this rezoning. Please call us with any questions.

Thanks for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Frank B. Burney', written over the typed name.

FRANK B. BURNEY