

Denton County
Cynthia Mitchell
County Clerk
Denton, Tx 76202



70 2012 00003565

Instrument Number: 2012-3565

As
Declaration

Recorded On: January 12, 2012

Parties: MARLUC LLC

To

Billable Pages: 5

Number of Pages: 5

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Declaration	32.00
Total Recording:	32.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2012-3565

Receipt Number: 863256

Recorded Date/Time: January 12, 2012 03:38:37P

User / Station: J Morris - Cash Station 1

Record and Return To:

MARLUC LLC

50 REMINGTON TERRACE

JIM ATTRELL

HIGHLAND VILLAGE TX 75077



THE STATE OF TEXAS }
COUNTY OF DENTON }

I hereby certify that this Instrument was FILED in the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Cynthia Mitchell

County Clerk
Denton County, Texas

MEMORANDUM

TO: Claude King, City Manager

FROM: Nika Reinecke, Director of Economic Development & Planning

DATE: November 16, 2011

SUBJECT: **Consideration of an Ordinance for a Zone Change Request From Light Industrial to Warehouse on 1.029 Acres, Located Immediately South of Stonewall Drive and West of Huffines Boulevard; Further Identified as Lot 10R, Block A of the Riverview Industrial Park Addition, as Requested by Marluc LLC, the Property Owner (Case No. PZ20111009).**

BACKGROUND

The 1.029-acre undeveloped property is located immediately south of Stonewall Drive and west of Huffines Boulevard within the Riverview Industrial Park Addition. Land surrounding the site to the east, west, and south is zoned Specific Use (SU), while property to the north is designated as Heavy Industrial (HI). Areas further to the east are generally classified as Light Industrial (LI) and Agricultural Open Space (AO).

On July 2, 2001, the Lewisville City Council approved a request to change the zoning from Heavy Industrial (HI) to Specific Use (SU) to allow for three radio towers on 49.36 acres of land including the subject property. In February of 2003, approval of a final plat for lots 8R-11R, Block A, created three small parcels along the northern property boundary that were not needed for the tower fall zone radiuses. These remainder lots were rezoned to Light Industrial (LI) on April 7, 2003 in conjunction with a request to modify the Specific Use (SU) zoning for the radio tower site to permit four towers instead of three. The subject property is lot 10R, the easternmost and smallest of the three remainder parcels. The owner had recently submitted a request for zoning change from Light Industrial (LI) to Heavy Industrial (HI). On August 2, 2011 the Planning and Zoning Commission recommended denial of the applicant's request to change the zoning to Heavy Industrial (HI). The applicant chose to not move forward to the City Council and withdrew the case.

ANALYSIS

The applicant is now proposing to change the zoning of the subject property from Light Industrial (LI) to Warehouse (WH) in order to accommodate a storage facility and unlimited outdoor storage for vehicles and mobile/modular buildings. Light Industrial zoning limits outside storage to ten percent of the lot area, while the Warehouse classification does not impose any restrictions. In addition the owner provided voluntary deed restrictions to limit the types of uses permitted for outside storage. In discussion with staff, the owner volunteered deed restrictions to limit the outside storage to "Vehicles" only, however when he submitted the deed restrictions for filing, he had included the mobile/modular homes in the definition of "Vehicle". Although the

Riverview Industrial Park Block A, Lot 10R
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unlimited storage of motorized vehicles may not have a significant negative impact in the area, allowing for storage of stationary items including mobile and modular buildings is not recommended by staff

Staff explained at the P&Z meeting on October 18, 2011 that the definition of "Vehicles" in the deed restrictions is not the same as originally discussed. The Planning and Zoning Commission recommended approval of the zoning change request and accepted the deed restrictions as submitted by the owner including the owner's definition of "Vehicle".

RECOMMENDATION

Staff recommends that the City Council consider the proposed ordinance amending Chapter 17 of the Lewisville City Code, the Comprehensive Zoning Ordinance, as set forth in the caption above.

DECLARATION OF RESTRICTIONS

THE STATE OF TEXAS

§

§ KNOW ALL MEN BY THESE PRESENTS THAT:

COUNTY OF DENTON

§

THIS DECLARATION OF RESTRICTIONS is made and executed on this 21st day of November 2011, by Marluc, LLC, a Texas corporation ("Declarant").

RECITALS

WHEREAS, the Declarant is the owner of certain real property located in the City of Lewisville, Denton County, Texas, legally described on Exhibit "A" and incorporated herein by reference (the "Property");

WHEREAS, the Declarant desires to hold and from time to time convey the Property, or any portion thereof, subject to certain restrictions hereinafter set forth; and

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following restrictions, which shall run with the Property and be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns; and (ii) that each contract or deed which may hereafter be executed with regard to the Property of any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

ARTICLE I DEFINITIONS

Unless the context otherwise specified or requires the following words and phrases when used in the Declaration shall have the meanings hereinafter specified:

- 1.1 Declarant. "Declarant" shall mean Marluc, LLC., a Texas corporation;
- 1.2 Declaration. "Declaration" shall mean this instrument, as it may be amended from time to time.
- 1.3 Property. "Property" shall mean that real property which is described in Exhibit A which is attached to this Declaration, which is incorporated by reference.
- 1.4 Vehicles. "Vehicles" shall mean boats, travel trailers, recreational vehicles, hobby trailers, motor homes, passenger buses, automobiles, pick-up trucks, motorcycles, mobile and modular buildings but shall not include heavy machinery or construction equipment with continuous tracks.

ARTICLE 2 RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

- 2.1 Office Rental, Sales and Service and Inside Storage. Approximately 4,950 square feet of the Property may be used for the purpose of a commercial warehouse building to be used for the rental of office space, storage, repair, maintenance and operation of equipment related to such uses.

2.2 Outside Vehicle Storage. Those portions of the Property which are not being used for commercial warehouse buildings shall only be used for the outdoor storage of Vehicles.

2.3 Height. In no case shall the height of any Outside Vehicle Storage exceed 20 feet. In addition, Vehicles may not be stacked on top of one another.

ARTICLE 3 MISCELLANEOUS

3.1 Term. The restrictions on the Property shall not be altered, amended, or terminated unless such alteration, amendment, or termination is approved by a majority vote of the City Council of the City of Lewisville, Texas after public hearing thereon and recommendation from the Planning and Zoning Commission. Notice of such public hearing or hearings shall be given as would be required by law for a zoning change on the Property.

The restrictions contained herein are not in any manner intended to restrict the right of the City Council of the City of Lewisville, Texas to exercise its legislative duties and powers insofar as zoning of the property is concerned.

The restrictions inure to the benefit of the City of Lewisville, Texas, and the undersigned owner hereof does grant to the City of Lewisville, Texas the right to prosecute, at law and in equity, against the person violating or attempting to violate such restrictions, whether to prevent him from doing so or to correct such violation and for further remedy, the City of Lewisville may withhold or revoke the Building Permit or the Certificate of Occupancy necessary for the lawful use of the property until such restrictions described herein are fully complied with.

The Declarant, its successors, and assigns have the right to enforce by any proceeding at law or in equity all of the covenants, conditions, and restrictions imposed upon the Property by provisions of this instrument. Failure to enforce any covenant, condition, or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of any one of the covenants, conditions, or restrictions by a judgment or court order shall in no way affect any other provision hereof and all provisions shall remain in full force and effect.

This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until October 18, 2031, unless amended by a written instrument executed by the City Council of Lewisville, Texas after public hearing thereon and recommendation from the Planning and Zoning Commission. Notice of such public hearing or hearings shall be given as would be required by law for a zoning change on the property. After October 18, 2031, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished with approval by the City Council of Lewisville, Texas after public hearing thereon and recommendation from the Planning and Zoning Commission. Notice of such public hearing or hearings shall be given as would be required by law for a zoning change on the property. This Declaration shall be recorded in the Deed Records of Denton County, Texas.

3.2 Interpretation. This Declaration shall be construed and governed under the laws of the State of Texas.

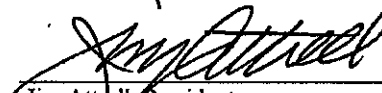
3.3 Construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this 21st day of November, 2011.

DECLARANT:

Marluc, LLC.

By:


Jim Attrell, President

THE STATE OF TEXAS

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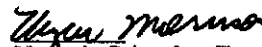
COUNTY OF DENTON

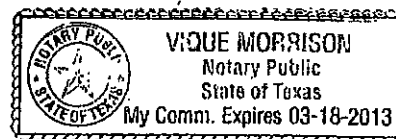
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This instrument was acknowledged before me on the 21st day of November, 2011, by Jim Attrell, President of Marluc, LLC on behalf of such entity.

Notary Public for the State of Texas


Notary's Printed or Typed Name VIQUE MORRISON
My Commission Expires: 3/18/2013



AFTER RECORDING RETURN TO:

Jim Attrell, President

Marluc, LLC

50 Remington Terrace

Highland Village, Texas 75077

EXHIBIT "A"

Riverview Industrial Park, Lot 10R, Block A, Lewisville, Texas 75056

Located west of the Southwest corner of the intersection of Huffines Blvd and Stonewall Drive

THIS STAMP IS FOR SCANNING
PURPOSES ONLY.

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PURPOSES ONLY.