

**NOTICE RELATING TO DEED RESTRICTIONS SUMMARY  
FOR  
SOUTHGATE NEIGHBORHOOD**

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THE STATE OF TEXAS     §  
  §  
COUNTY OF HARRIS     §

This Notice Relating to Deed Restrictions Summary for Southgate Neighborhood is made by the Southgate Civic Club, a Texas non-profit corporation (referred to herein as “**Declarant**”), for the purpose of providing information relating to the covenants, conditions and restrictions (“**Restrictions**”) applicable to the property within Southgate Addition (“**Southgate Section 1**”), Southgate Addition Section No. 2 (“**Southgate Section 2**”), Southgate Addition Section No. 3 (“**Southgate Section 3**”), and “**Southgate Annex**”, all subdivisions located in Houston, Harris County, Texas (the four sections of the subdivision, together “**Southgate**”).

**RECITALS:**

A. Southgate was platted pursuant to the following plats (each sometimes referred to herein, respectively, regarding the specific Section (1, 2, 3 or Annex) as the “**original plat**”): Southgate Section 1 according to the plat recorded at volume 10, pages 49-50, Southgate Section 2 according to the plat recorded at volume 18, page 33, Southgate Section 3 according to the plat recorded at volume 26, page 16, in each case, of the Harris County Map Records, and Southgate Annex according to the plat recorded at volume 998, page 177 of the Harris County Deed Records (see **Exhibit A** with an illustration of all four plats of the respective sections and a summary map showing the boundaries for the entire neighborhood).

B. The Restrictions were adopted and declared pursuant to the following instruments:

- i. For Southgate Section 1, by resolution of University Place Realty Company adopted August 16, 1938 and recorded in Volume 1102, Page 484, Deed Records of Harris County, Texas;
- ii. For Southgate Section 2, by resolution of University Place Realty Company adopted October 1, 1941 and recorded in Volume 1196, Page 214, Deed Records of Harris County, Texas;
- iii. For Southgate Section 3, by resolution of A.J. Sheffield and C. Mike Murphy adopted September 1, 1945 and recorded in Volume 1386, Page 550, Deed Records of Harris County, Texas.
- iv. For Southgate Annex, by various other deeds from University Place Realty Company, all of the other lots or sites in Southgate Annex were deeded subject to substantially the same restrictive covenants as Southgate Section 1.

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B. Since the 1940s, Declarant has administered and enforced the Restrictions for the benefit of the owners of property within Southgate; current property values in Southgate are attributable in major part to Declarant's successful efforts in maintaining, clarifying, and seeking judicial enforcement of the Restrictions when required.

C. Southgate has obtained judicial interpretation of the Restrictions through lawsuits filed in the district courts of Harris County, including, *Burge v. Groves* in the 152<sup>nd</sup> Judicial District Court of Harris County in 1983, which was resolved in favor of the neighborhood and confirmed the validity of the Restrictions.

D. Since 1938, the Texas legislature has enacted numerous statutes substantially liberalizing the rules of law governing residential restrictive covenants and enhancing their enforceability. In 1987, the Texas legislature required that: "A restrictive covenant shall be liberally construed to give effect of its purposes and intent." TEX. PROPERTY CODE § 202.003(a).

E. Builders, architects, owners, and other persons dealing with property in Southgate have requested notice of Declarant's policies and procedures relating to the Restrictions.

F. TEX. PROPERTY CODE §202.006 provides in part that a "property owners' association shall file all dedicatory instruments in the real property records of each county in which the property to which the dedicatory instruments relate is located," and such requirement may be applicable to Declarant.

G. The following Deed Restrictions Summary was adopted and approved by the Board of Directors (Executive Committee) of Declarant at its July 31, 2020 meeting.

**WITNESSETH:**

NOW, THEREFORE, Declarant hereby gives notice of the following:

1. COMPLIANCE PROCEDURES

a. *A Detailed Summary of the Restrictions Is Maintained at the Information Site.* Declarant maintains and regularly posts Restrictions updates on an internet website, <https://houstonsouthgate.org> (the "Information Site") in which written interpretive and enforcement information is provided. No construction work should proceed without consulting the Information Site (or such other internet or public electronic source as may later be established in place thereof). The Information Site also provides contact information for Declarant's representatives.

b. *Written Approval of Plans Required.* Any plans for new construction, additions to existing construction, exterior remodeling, and interior remodeling of a multi-family building (2+ units) to add additional units or increase the number of bedrooms, must, in each case, be approved

in writing by the Declarant's Architectural Review Committee ("ARC"), following the procedures set forth on the Information Site. Take note that the grant of a building permit is a separate process enforced by the City of Houston, after ARC approval is received, and it does not abate or affect the enforceability of the Restrictions. It would be fraudulent to certify to the City of Houston that plans do not violate the Southgate deed restrictions without first receiving ARC approval for such plans. The Declarant has plan approval authority pursuant to an assignment by the original developer to the Declarant on April 6, 1965, and recorded in the Harris County Official Public Records of Real Property under file number sequence RP-2020-89404.

## 2. RESTRICTIONS SUMMARY

a. *Introduction.* The pace of redevelopment in recent years, which includes a trend to construction of larger, taller, and more complex structures, has given rise to questions that cannot be answered by examining the face of Southgate's Restrictions. Consequently, evaluation of proposed construction in some cases has required significant legal and factual research, analysis, and litigation before Texas courts. Among other things, the Declarant has evaluated the general plan and scheme of the subdivision; the text of Southgate's restrictive covenants; historic practice interpreting both the general plan and specific restrictive covenants; court decisions in Southgate and neighboring deed restricted communities, including cases brought by Southampton neighborhood; and, statutes passed by the legislature since 1938. The pace of change continues to pose unanticipated questions. However, based on issues presented to date, the following summary reflects the Declarant's current interpretation of the Restrictions. This summary is subject to review and revision from time to time, which revisions will be posted in the form of an updated summary on the Southgate Civic Club website.

### *Use Restrictions*

b. *Residential Use.* All the building sites and buildings constructed in Southgate (all sections) shall be used for residential purposes only, except for the Business Sites referenced in 2.f. below (north side of Holcombe Blvd. east of Montclair Dr.).

c. *Single Family Use.* The main building on any lot restricted to single family use must be of the single family type, and no building on any lot restricted to residential use (including multi-family buildings with 2+ units) may be used for student housing, for communal housing, or as a rooming house; pursuant to Texas court cases, and as used herein, "**single family**" means one person; or two or more persons related by blood, marriage, or adoption; or a maximum of two persons unrelated by blood or marriage; *provided, however*, that the following building sites may be used for duplexes, fourplexes, or multi-family use:

i. **Southgate Section 1:** Lots 1 to 7 inclusive in Block 5, Lots 1 to 11 inclusive in Block 6, Lots 9 and 10 in Block 13, and Lots 16 and 17 in Block 21, may be used for building a duplex, or a building with up to the number of residential units of the existing structure as of the

date hereof (similar in scope and scale to the existing structure, i.e. you can't replace a two unit duplex with two bedrooms per unit with a 14 bedroom "duplex").

ii. **Southgate Section 2:** Lots 16, 17, and 18, Block 23 may be used for a duplex, or a building with up to the number of residential units of the existing structure as of the date hereof, with the same limitations on scope/scale as 2.c.i. above.

iii. **Southgate Section 3:** Lots 3, 4 and 5, Block 1, Two-family building; Lots 11 and 12, Block 3, Two-family building; Lots 2 to 7 inclusive, Block 4, Two-family building; Lots 3 to 22 inclusive, Block 7, Two-family building; Lots 1 to 7 inclusive, Block 10, Two-family building; Lots 1 and 2, Block 1, Four-family building; Lots 13, 14 and 15, Block 3, Four-family building; Lots 1 and 8, Block 4, Four-family building; Lots 1 and 2, Block 7, Four-family building; Lots 8 to 15 inclusive, Block 10, Multiple-family building, in each case, with the same limitations on scope/scale as 2.c.i. above.

iv. **Southgate Annex:** See individual deeds for each of lots 1 to 17 for more information, but typically these lots allow a single family residence, duplex, or four-family building.

v. For all of Southgate, each unit of a building consisting of two or more units (i.e. duplex, four-family building or larger) can only be occupied by a single family as defined in 2.c. above (i.e. no more than 2 unrelated persons); as used in this document, "**unit**" means a room or group of rooms providing complete, independent living facilities and entry, including permanent provisions for living, sleeping, eating, cooking and sanitation for a single family, as used herein. For all of Southgate, duplexes (two units) may contain a maximum of four bedrooms in each unit, and larger multi-family properties (greater than two units) may contain a maximum of two bedrooms in each unit.

d. *Auxiliary Buildings.* Garage or housekeeper's separate quarters can only be occupied as a residence by domestic help or immediate family of the homeowner, and only after construction of main building on the building site (no garage apartment rentals allowed).

e. *Other Use Restrictions.* In Southgate Section 3, no livestock or dog kennels are allowed, and no housing of poultry or rabbits or guinea pigs or similar animals.

f. *No Commercial Use.* No lot in Southgate or any part thereof may be used for business or commercial purposes, except for Lots 23 to 36 of Block 7 in Southgate Section 3 (north side of Holcombe Blvd., which is already commercial use), which are shown as "Business Sites" on the original plat. This restriction does not preclude the reasonable use of a home office or studio to engage in literary, scholarly, artistic, professional, or similar activities, including work utilizing internet and telephone connections. These are considered an aspect of residential use. On the other hand, activities such as those in which clients, customers, or employees physically come to the residence would be inconsistent with residential use and therefore would constitute a prohibited business use. Southgate has enforced this restriction in the past through court action.

g. *No Short-Term Rentals (<30 days).* No building, residence or residential unit shall be leased, licensed, or rented for short-term or transient purposes, which for purposes of this

section means the use and enjoyment of a residence or residential unit or any part thereof, by one or more persons, for a period of less than thirty consecutive days, in exchange for money, commodities, services, or other performances.

### ***Construction Restrictions***

h. *Only one Residence per Building Site.* Only one structure may be constructed on a building site (a building site may consist of contiguous portions of two lots from the original plat, as some platted lots or parts of platted lots were combined by the original developer before being sold as a single building site).

i. *Exterior Construction.*

i. **Southgate Section 1:** A substantial portion of the main exterior walls (greater than 50%) shall be brick, stone or stucco; the exterior walls of garage/housekeeper's quarters may be of frame (wood)

ii. **Southgate Section 2:** At least 51% of the main exterior walls of a residence shall be brick, stone, stucco or fireproof masonry; the exterior walls of garage/housekeeper's quarters may be of frame (wood). The ground floor area of main structure, exclusive of one-story open porches and garages, shall be  $\geq 1,100$  sq. ft. for a one-story structure, and  $\geq 750$  sq. ft. ground area for a 1.5 or two-story structure.

iii. **Southgate Section 3:** The exterior walls of any building shall contain at least 50% brick, stone, stucco or fireproof masonry.

iv. **Southgate Annex:** See individual deeds, at least some of the deeds require 51% of exterior to be brick, stone, stucco or fireproof masonry.

j. *Front and Side Setback Lines.*

i. **Southgate Sections 1:** Front and side setback lines are shown on the original plat. The typical front setback line is 25 ft. (some shallow lots it is less), and there are typically no side setbacks except for corner lots (10 ft. typically to a side street), which means the city's 3 ft. side setback would apply for most building sites; provided, that open porches may extend beyond the front setback line by up to 8 ft., and for corner lots, by up to 5 ft. beyond the side setback line.

ii. **Southgate Sections 2:** Residences must comply with the front setback line on the original plat of 25 ft., and there is also a 5 ft. side setback for the main residence (more than 5 ft. for some corner lots), provided, that open porches may extend beyond the front setback line by up to eight ft., and for corner lots, by up to five feet beyond the side setback line.

iii. **Southgate Section 3:** The front setback line is 20 ft. For interior lots, the side setback is 5 ft., and for corner lots, the side setback to the side street is 20 ft. and to the adjoining lot is 5 ft. For outbuildings (i.e. garages) there is a 5 ft. rear setback and 3 ft. side setback. The main residence shall front or present a good frontage, on the street on which the lot or building site in question fronts.

iv. **Southgate Annex:** See setback lines in individual deeds for lots.

v. **All Sections:** The ARC generally allows sidewalks, walkways, driveways, and stairs, steps or ramps to be located beyond the front setback line.

k. *Height Restrictions.* Based on the prevailing height of structures in the neighborhood and the general plan and scheme, no building shall exceed three stories in height, nor be of more than (a) 40 ft. in height at the highest ridge line for a sloped roof or (b) 36 ft. in height for a flat roof, in each case as measured from the Minimum Flood Protection Elevation (MFPE) as defined by the City of Houston. For the avoidance of doubt, this height restriction applies to all multi-family properties, including, without limitation, duplexes, four-family buildings, and buildings with more than four units.

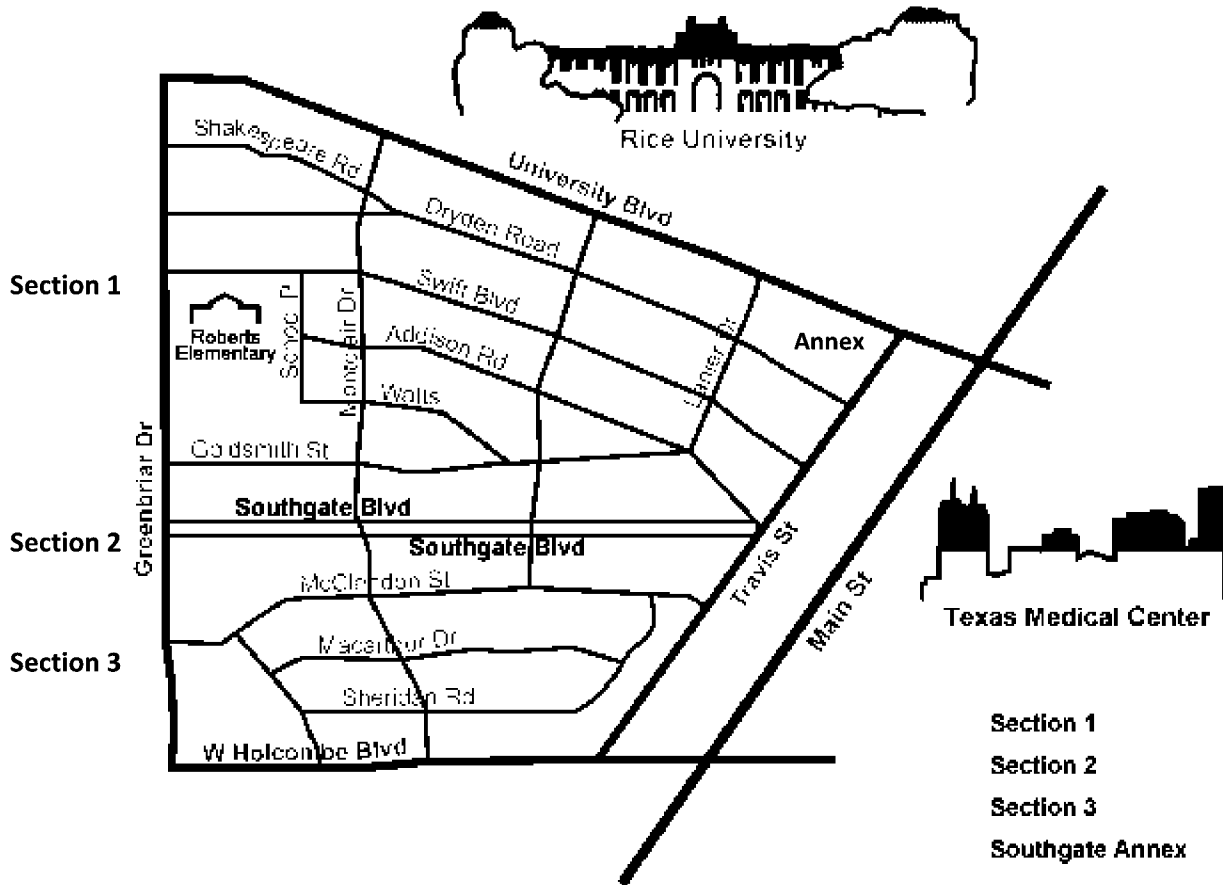
l. *Minimum Lot Size.* With rare exceptions, nearly all of the blocks in Southgate are subject to a minimum lot size that prohibits the subdividing of lots into smaller lots. This was put in place by the City of Houston, which determines the minimum lot size, at the request of the lot owners of each block in the neighborhood. The minimum lot size varies from block to block, but in most cases, it is at least 6,000 sq. ft.

m. *Limitations on Multi-Family Construction.* For any non-single family building (duplexes or larger) constructed in the future, such building must not exceed the size and scale of the building or buildings demolished (see also 2.c.i.-iii. above), and any proposed expansion of existing buildings would also have to be approved by the ARC. Lots designated in the original plats for non-single family buildings (duplexes or larger) may not be combined with other lots by re-plat; *provided, however*, that if a lot owner succeeds in re-platting multiple such lots into one lot, it will not increase the number of units that can be built on such re-platted lot (for illustrative purposes, if two four-family lots are re-platted into one lot, the re-platted lot shall remain a four-family lot).

n. *Utility Easements.* The original plats show a 5 ft. utility easement at the rear of most lots, and even if not shown on the original plats, when property was conveyed by the original developer, it was subject to easements granted to the City of Houston.

Exhibit A

Illustration of Overall Map and Original Plats for Southgate Sections 1, 2, 3 and Annex



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UNOFFICIAL COPY

Section 1, Page 1

SOUTHGATE  
IN THE PIN-ROSE SURVEY, HARRIS COUNTY, TEXAS.  
SCALE 1"=100'

Nov. 1929

T. C. Edinger, Eng'r  
Houston, Tex.  
William M. Rice, Justice  
of Peace  
of Precinct 49

NOTE: Building line shown on this plat refers to the center line of the building. The building line shown on this plat is not to be construed as a warranty of title. It is to be used only as a guide in the location of buildings. THE ONLY LINES SHOWN ON THIS PLAT INDICATE THE BUILDING LINES.

UNIVERSITY BLVD

SHAKESPEARE RD

DRYDEN ROAD

SWIFT BLVD

ADDISON ROAD

WATTS ROAD

GOLDSMITH ROAD

NOYES ROAD



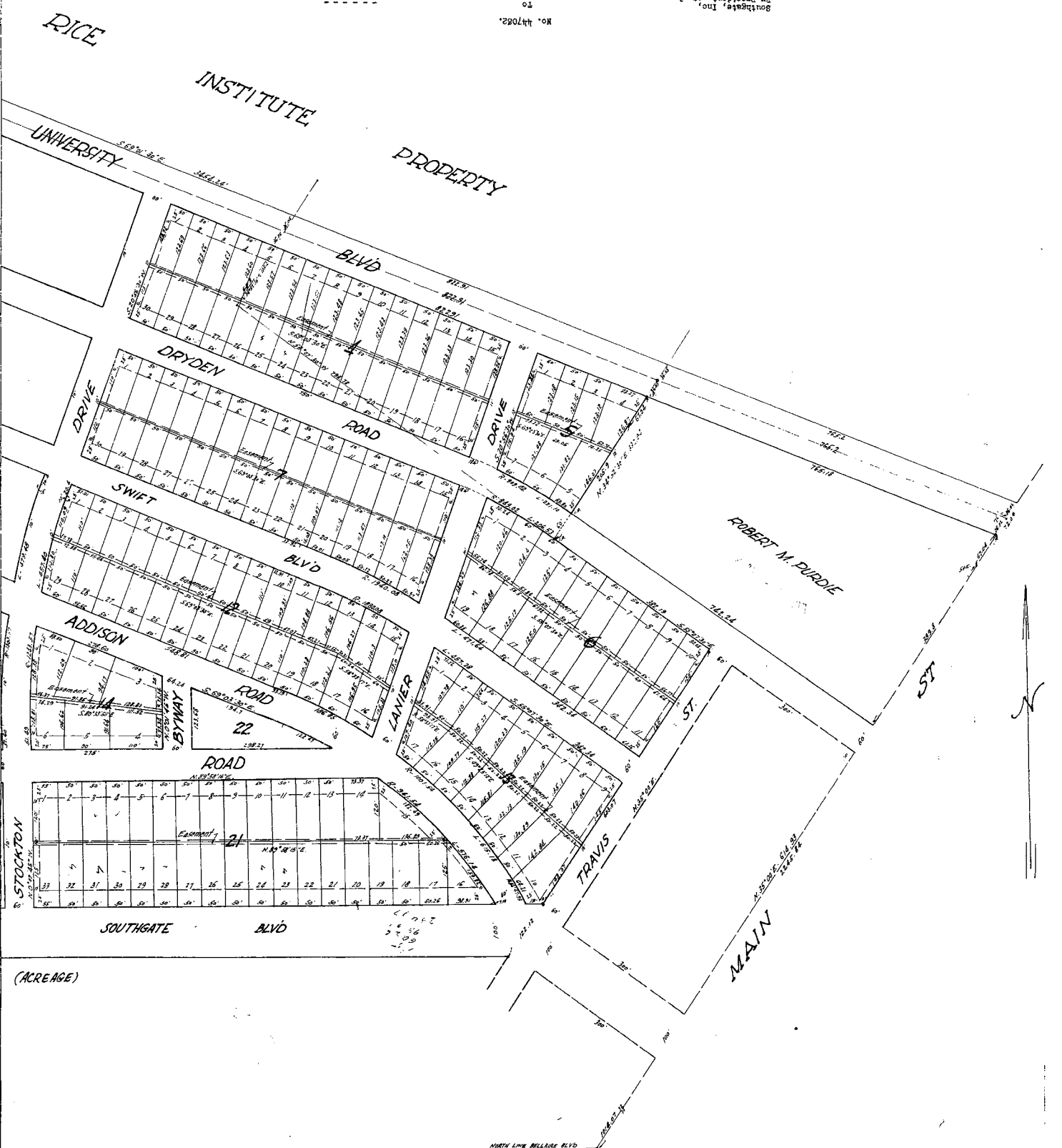
SOUTHGATE  
S. 83° 28' 15" W. 2616.93  
(ACREAGE)



PROBUCIYV COBA

# Section 1, Page 2

No. 447082.  
 To  
 Southgate, Inc.  
 Dedication & Map.  
 For Instrument see Vol. 725, Page 635, Deed Records, Harris County, Texas.  
 Filed for record Feb. 12, 1930, at 4:25 o'clock P.M.; Recorded Feb. 19, 1930, at 1:55 o'clock P.M.  
 Clerk County Court, Harris County, Texas, by  
*Walter M. ...*



RP-2020-348753

(ACREAGE)

UNOFFICIAL COPY  
SECTION 2

No. 57709  
To  
Dedication & Map

University Place Realty Co.,  
By Vice-Pres.

State of Texas, County of Harris. We, the University Place Realty Company, owners of the property subdivided in the above and foregoing plat of Southgate Addition, Section No. 2, do hereby make subdivision of said property according to the lines, streets, lots, and easements therein shown and dedicate to public use, the streets and easements forever, and do hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets dedicated or occasioned by the alteration of of any portion of the streets to conform to such grades.

Witness our hands at Houston, Harris County, Texas, this the 20th day of August, 1941.

K. O. Hall, Vice-President.

Attest: Frank C. Smith, Secretary. (Seal)

State of Texas, County of Harris. Before me, the undersigned, a Notary Public in and for Harris County, Texas, on this day personally appeared K. O. Hall, Vice-President and Frank C. Smith, Secretary, of the University Place Realty Co., known to me to be the persons whose names are subscribed to the foregoing instrument, and and respectively acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 20th day of August, 1941.

Bernice Beutel, Notary Public in and for Harris County, Texas. (Seal)

This is to certify that the Planning Commission of Houston, Texas, has approved this plat of Southgate Addition, Second Section, as shown hereon in testimony, whereof witness the official signature of the Secretary and Chairman of the Planning Commission hereto affixed on this this the 24th day of September, 1941.

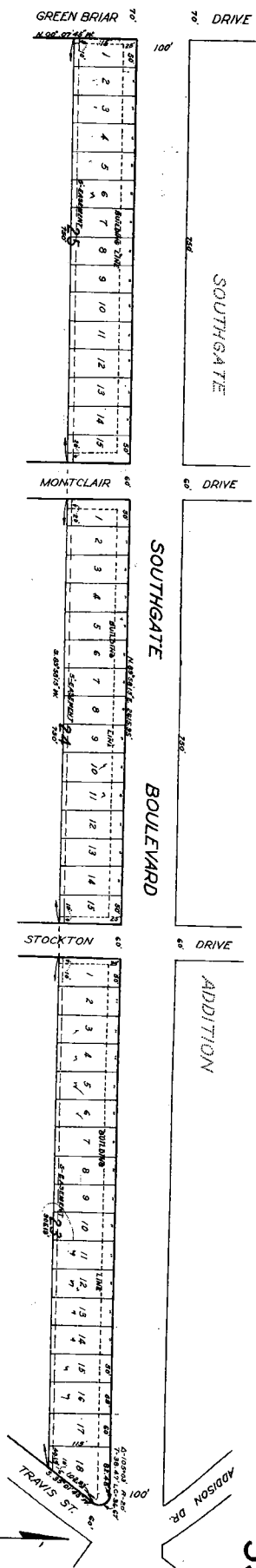
M. E. Walter, Acting Chairman  
Attest: Ralph S. Ellifrit, Eng.-Secretary. --  
Approved: J. G. Turney, Director of Public Works.

This is to certify that we, Hays & Donathan, Civil Engineers, have surveyed and platted the above subdivision and all block corners are properly marked with iron pipe, and this plat is a true and correct copy of that survey and plat made by us.

W. G. Hays, Engineer. (Seal)

Filed for record Oct. 10, 1941 at 1.50 o'clock P.M. Recorded Oct. 14, 1941 at 10.20 o'clock A. M.  
H. D. Miller Clerk County Court, Harris County, Texas. Marquette Bohler Deputy.

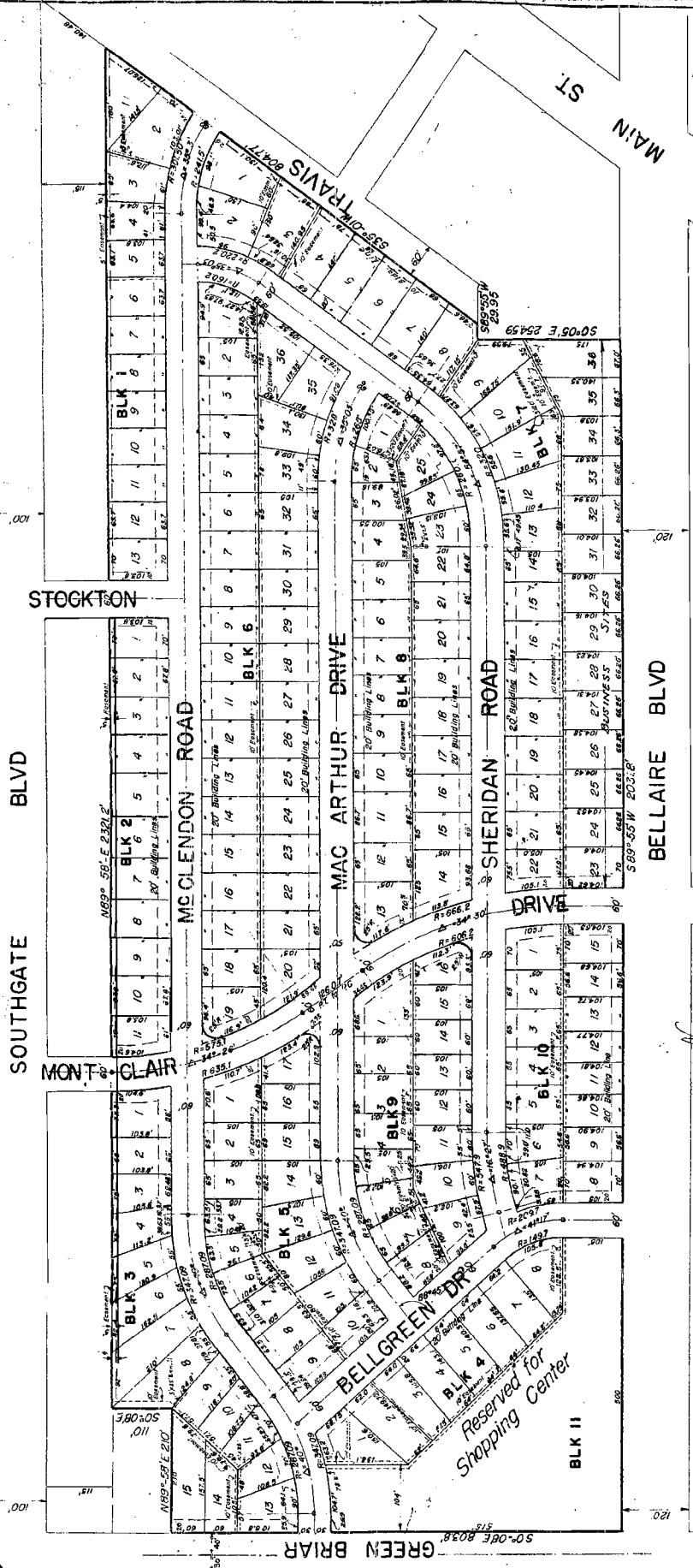
SOUTHGATE ADDITION  
SECTION NO. 2  
A SUBDIVISION OUT OF THE PINKROSE SUBDIVISION  
SCALE: 1"=100'  
AUGUST, 1941.



RP-2020-348753

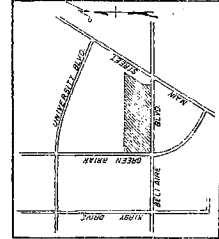
UNOFFICIAL EXCERPT  
SECTION 3

16



A REPLAT OF  
**SOUTHGATE ADDITION**  
Section No. 3

4.3 Acres out of the P. W. ROSE Survey.  
July 1947  
Scale 1" = 100'



475804

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# UNOFFICIAL EXCERPT

## ANNEX

University Place Realty Co.  
By President

RICE INSTITUTE

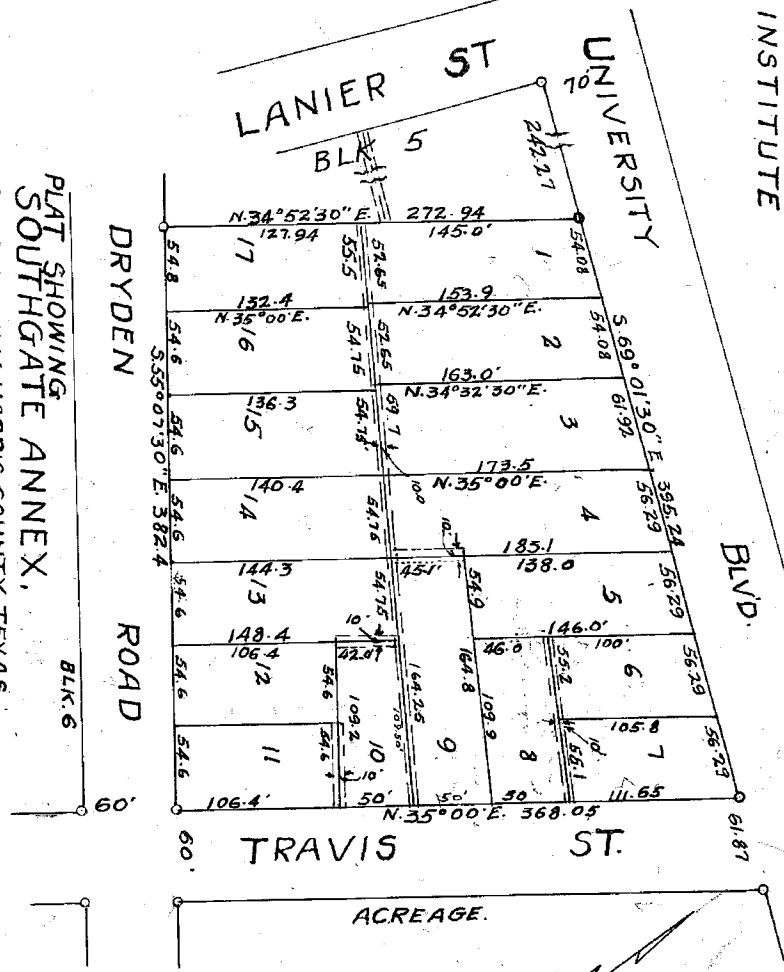
Dedication & Map

No. 88600

To

JOL-998-177

PLAT SHOWING  
SOUTHGATE ANNEX,  
IN THE R.W. ROSE SURVEY, HARRIS COUNTY, TEXAS.  
SCALE 1"=100' T.C. EDMINSTER  
ENGINEER. NOV. 1936



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# Pages 13  
08/03/2020 03:47 PM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
CHRIS HOLLINS  
COUNTY CLERK  
Fees \$62.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

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.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



COUNTY CLERK  
HARRIS COUNTY, TEXAS

RP-2020-348753