

6-6-07

ORDINANCE NO. **26791**

An ordinance changing the zoning classification on the following property:

BEING the northerly 160 feet of Lot 1 in Block 2/799 1/2, located at the east corner of the intersection of Reiger Avenue and Colson Street;

by establishing Historic Overlay District No. 132 (Shiels House); providing procedures, regulations, and preservation criteria for structures and property in the 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 hereinafter described; and

WHEREAS, the city council finds that the Property is an area of historical, cultural, and architectural importance and significance to the citizens of the city; and

WHEREAS, the city council finds that it is in the public interest to establish this historic overlay district; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the zoning classification is changed by establishing Historic Overlay District No. 132 on the property described in Exhibit A ("the Property"), which is attached to and made a part of this ordinance.

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SECTION 2. That the establishment of this historic overlay district shall not affect the existing underlying zoning classification of the Property, which shall remain subject to the regulations of the underlying zoning district. If there is a conflict, the regulations in this ordinance control over the regulations of the underlying zoning district.

SECTION 3. That a person shall not alter the Property, or any portion of the exterior of a structure on the Property, or place, construct, maintain, expand, demolish, or remove any structure on the Property without first obtaining a certificate of appropriateness or certificate for demolition or removal in accordance with the Dallas Development Code, as amended, and this ordinance. All alterations to the Property must comply with the preservation criteria attached to and made a part of this ordinance as Exhibit B.

SECTION 4. 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 this ordinance, the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the City of Dallas.

SECTION 5. That the director of development services shall correct Zoning District Map No. J-8 in the offices of the city secretary, the building official, and the department of development services to reflect the changes in zoning made by this ordinance.

SECTION 6. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000. In addition to punishment by fine, the City may, in accordance with state law, provide civil penalties for a violation of this ordinance, and institute any appropriate action or proceedings to prevent, restrain, correct, or abate the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, demolition, or removal of a building, structure, or land on the Property.

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SECTION 7. That the zoning ordinances of the City of Dallas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8. 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 9. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By Walter Zabelich
Assistant City Attorney

Passed JUN 13 2007

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**Exhibit A Property Description
Zoning Case Z067-206
LEGAL DESCRIPTION**

BEING the northerly 160.00 feet of Lot 1, Block 2/7991/2 of the E.R. RAY ADDITION, an Addition to the City of Dallas, DALLAS County, Texas, according to the Map thereof recorded in Volume 283, Page 17, of the Deed Records of DALLAS County, Texas, described by metes and bounds as:

BEGINNING at a $\frac{3}{4}$ iron pipe found as the most northerly corner of said Lot 1;

THENCE Southeasterly with the fence on the line common to Lots 1 and 2 of said Block 2/7991/2, 160.0 feet to a point for corner;

THENCE Southwesterly with the fence 80.0 feet to a 1 inch rebar found for corner, same being on the North line of Colson Street (platted Annex Avenue 10 foot right of way);

THENCE Northwesterly with the fence on the Southwest line of said Lot 1 and the North line of Colson Street, 160.0 feet to a 1 inch rebar found as the most Westerly North corner of said Lot 1;

THENCE Northeasterly 80.0 feet to the POINT OF BEGINNING;

and being the same property conveyed in Deed from Jaffie J. Massey, a single woman, to Jonathan Patrick Hughes, dated August 28, 1985, filed September 3, 1985, recorded in Volume 85172, Page 2431, Deed Records, DALLAS County, Texas.

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EXHIBIT B
PRESERVATION CRITERIA
The Shiels House
4602 Reiger Avenue

1. GENERAL.

- 1.1 All demolition, maintenance, new construction, public works, renovations, repairs, and site work in this district must comply with these preservation criteria.
- 1.2 Any alterations to property within this district must comply with the regulations in Chapter 51A of the Dallas City Code, as amended. In the event of a conflict, these preservation criteria control.
- 1.3 Certificate of appropriateness.
 - a. A person may not alter a site within this district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
 - b. The certificate of appropriateness review procedure outlined in Section 51A-4.501 of the Dallas Development Code, as amended, applies to this district.
 - c. Any work done under a certificate of appropriateness must comply with any conditions imposed in the certificate of appropriateness.
 - d. After the work authorized by the certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The Director may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.
- 1.4 A person may not demolish or remove any structure in this district without first obtaining a certificate for demolition or removal in accordance with Section 51A-4.501 of the Dallas Development Code, as amended.
- 1.5 Preservation and restoration materials and methods used must comply with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.

- 1.6 No person shall allow a structure in this district to deteriorate through demolition by neglect. Demolition by neglect is neglect in the maintenance of a structure that results in deterioration of the structure and threatens preservation of the structure. All structures in this district must be preserved against deterioration and kept free from structural defects. See Section 51A-4.501 of the Dallas Development Code, as amended, for regulations concerning demolition by neglect.
- 1.7 Consult Article XI, "Development Incentives," of the Dallas Development Code, as amended, for tax incentives that may be available in this district.
- 1.8 The period of historic significance for this district is the period from 1906 to 1927.

2. DEFINITIONS.

- 2.1 Unless defined below, the definitions contained in Chapter 51A of the Dallas City Code, as amended, apply.
- 2.2 APPROPRIATE means typical of the historic architectural style, compatible with the character of this district, and consistent with these preservation criteria.
- 2.3 CERTIFICATE OF APPROPRIATENESS means a certificate required by Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
- 2.4 CORNERSIDE FACADE means a facade facing a side street.
- 2.5 CORNERSIDE FENCE means a fence adjacent to a side street.
- 2.6 CORNERSIDE YARD means a side yard abutting a street.
- 2.7 DIRECTOR means the Director of the Department of Development Services or the Director's representative.
- 2.8 DISTRICT means Historic Overlay District No. 132, the Shiels House Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit C.
- 2.9 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.10 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 2.11 INTERIOR SIDE FACADE means a facade not facing a street or alley.

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- 2.12 INTERIOR SIDE FENCE means a fence not adjacent to a street or alley.
- 2.13 INTERIOR SIDE YARD means a side yard not abutting a street or alley.
- 2.14 MAIN BUILDING means the Shiels House, as shown on Exhibit C.
- 2.15 NO-BUILD ZONE means that part of this district in which no new construction may take place.
- 2.16 PROTECTED means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.17 REAL ESTATE SIGN means a sign that advertises the sale or lease of an interest in real property.

3. BUILDING SITE AND LANDSCAPING.

- 3.1 New construction is prohibited in the no-build zone shown on Exhibit C.
- 3.2 The main building is protected.
- 3.3 New driveways may be constructed in the yard abutting Reiger Avenue. New driveways may be constructed in the yard abutting Colson Street if they are located in the rear 50 percent of the cornerside yard. New driveways must be constructed of brush finish concrete.
- 3.4 New sidewalks, steps, and leadwalk in the front yard, cornerside yard, and front 50 percent of the interior side yard must be constructed of brush finish concrete. Artificial grass, artificially-colored concrete, asphalt, exposed aggregate, and outdoor carpet are not permitted.
- 3.5 Circular driveways and parking areas are not permitted in the front yard.
- 3.6 Any new mechanical equipment may not be erected in the front yard or front 50 percent of the cornerside yard, and must be screened.
- 3.7 Landscaping.
 - a. Outdoor lighting must be appropriate and enhance the structure.
 - b. Landscaping must be appropriate, enhance the structure and surroundings, and not obscure significant views of protected facades.

- c. Existing trees are protected, except that unhealthy or damaged trees may be removed.

3.8 Fences.

- a. Fences are not permitted in the front yard.
- b. Interior side fences.
 - 1. Fences may be constructed of a solid material.
 - 2. Fences must be located a minimum of ten feet back from the front facade of the structure, except that a fence may be placed up to three feet back from the front facade of the main building if more screening is required for additional security. This portion of the fence may not exceed eight feet in height.
 - 3. Fence returns must be at least 70 percent open.
- c. Cornerside fences.
 - 1. Fences may be constructed of a solid material in the rear 50 percent of the cornerside yard; fences located anywhere else in the cornerside yard must be at least 70 percent open.
 - 2. Fences must be located a minimum of ten feet back from the front facade of the structure, except that a fence may be located three feet back from the front facade of the main building measured from the back wall of the front porch if:
 - A. more screening or security is necessary to ensure privacy due to high pedestrian or vehicular traffic, and
 - B. the fence does not screen any portion of a significant architectural feature of the main building.
 - 3. Fences may not exceed eight feet in height.
 - 4. Fences must be constructed of materials with dimensions no greater than two inches in width and depth, except for structural supports.
- d. Chain link fences do not qualify as a 70 percent open fence.

4. FACADES.

4.1 Protected facades.

- a. The facades shown on Exhibit C are protected.
- b. Reconstruction, renovation, repair, or maintenance of protected facades must be appropriate and must employ materials similar to the historic materials in texture, color, pattern, grain, and module size.
- c. Historic solid-to-void ratios of protected facades must be maintained.

4.2 Wood trim and detailing must be restored wherever practical.

4.3 All exposed wood must be painted, stained, or otherwise preserved.

4.4 Historic materials must be repaired if possible; they may be replaced only when necessary.

4.5 Paint must be removed in accordance with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, prior to refinishing.

4.6 Aluminum siding, vinyl cladding, and exterior insulated finish systems (EIFS) are not permitted.

4.7 Colors appropriate to the period of historic significance are recommended. No florescent or metallic colors are permitted of the exterior of any structure.

4.8 The main building must have a dominant body color and no more than three trim colors, including any accent colors. The color of the front porch floor and ceiling do not count as one of these colors. Colors on the main building must complement each other.

4.9 Cleaning of the exterior of a structure must be in accordance with the Secretary of Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library. Sandblasting and other mechanical abrasive cleaning processes are not permitted.

5. FENESTRATION AND OPENINGS.

5.1 Historic doors and windows on protected facades must remain intact except when replacement is necessary due to damage or deterioration.

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- 5.2 Replacement of doors and windows that have been altered or replaced and no longer match the historic appearance is recommended.
- 5.3 Replacement doors and windows must express profile, muntin and mullion size, light configuration, and material to match the historic or be appropriate to the style of the main building.
- 5.4 Storm doors and windows are permitted if they are sensitive additions and match the existing doors and windows in profile, width, height, proportion, glazing material, and color. Painted or factory-finished aluminum storm doors, storm windows, or screens are permitted. Mill-finished aluminum is not permitted.
- 5.5 Burglar bars are not permitted over doors or windows of protected facades. Interior mounted burglar bars are permitted on protected facades if appropriate.
- 5.6 Glass and glazing on protected facades must be clear. Films and tinted or reflective glazings are not permitted on glass on protected facades.
- 5.7 New door and window openings in protected facades are permitted only where there is evidence that historic openings have been filled or the safety of life is threatened.
- 5.8 The existing non-historic rear dormer window may be removed or replaced with a new dormer.
- 5.9 The Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, should be referred to for acceptable techniques to improve the energy efficiency of historic fenestration.

6. ROOFS.

- 6.1 The historic slope, massing, and configuration of the roof must be preserved and maintained.
- 6.2 The following roofing materials are allowed: composition shingles and wood shingles. The following roofing materials are not allowed: slate tiles, clay tiles, and standing metal seam.
- 6.3 Historic eaves and roof trim must be retained, and should be repaired with material matching in size, finish, and module.

- 6.4 Mechanical equipment, skylights, and solar panels on the roof must be set back or screened so that they are not visible to a person standing at ground level on the opposite side of Reiger Avenue or Colson Street.
- 6.5 Satellite dishes visible from a street are permitted if they are appropriate.

7. PORCHES.

- 7.1 The front porch facing Reiger Avenue and Colson Street is protected and may not be enclosed or altered by the addition of awnings or other permanent coverings.
- 7.2 A new balustrade and hand rail are permitted on the front porch, if appropriate.

8. EMBELLISHMENTS AND DETAILING.

- 8.1 The following architectural and site elements are considered important features and are protected:
 - a. Historic window configuration and patterning on protected facades.
 - b. Historic windows, including lintels, sills, and screens on protected facades.
 - c. Wide eaves and cornices on protected facades.
 - d. Brick chimneys.
 - e. Wood shingles below cornice line.
 - f. Cutaway corners and their windows.
 - g. Historic porch.
 - h. Horizontal banding and shingles at cornice level.

9. NEW CONSTRUCTION AND ADDITIONS.

- 9.1 Stand-alone new construction is permitted only in the areas shown on Exhibit C.
- 9.2 Vertical additions to the main building are not permitted.
- 9.3 Horizontal additions to the main building are not permitted on protected facades.
- 9.4 The color, details, form, materials, and general appearance of new construction and additions must be compatible with the character of the main building.

- 9.5 The height of new construction and additions must not exceed the height of the main building.
- 9.6 Aluminum siding, vinyl cladding, and exterior insulated finish systems (EIFS) are not permitted.
- 9.7 The setback of new construction and additions must conform to the setback of the main building.
- 9.8 New accessory buildings must be compatible with the main building.
- 9.9 New construction and additions must be designed so that connections between new construction or additions and the historic structure are clearly discernable as suggested by the Secretary of the Interior in Preservation Brief No. 14. A clear definition of the transition between new construction or additions and the historic structure must be established and maintained. Historic details in the coping, eaves, and parapet of the historic structure must be preserved and maintained at the point where the historic structure abuts new construction or additions.

10. SIGNS.

- 10.1 Signs may be erected if appropriate.
- 10.2 Signs must be located in the front yard and may not exceed four feet in height.
- 10.3 All signs must comply with the provisions of the Dallas City Code, as amended.
- 10.4 Temporary political campaign signs and temporary real estate signs may be erected without a certificate of appropriateness.

11. ENFORCEMENT.

- 11.1 A person who violates these preservation criteria is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.
- 11.2 A person is criminally responsible for a violation of these preservation criteria if:
 - a. the person knowingly commits the violation or assists in the commission of the violation;
 - b. the person owns part or all of the property and knowing allows the violation to exist;

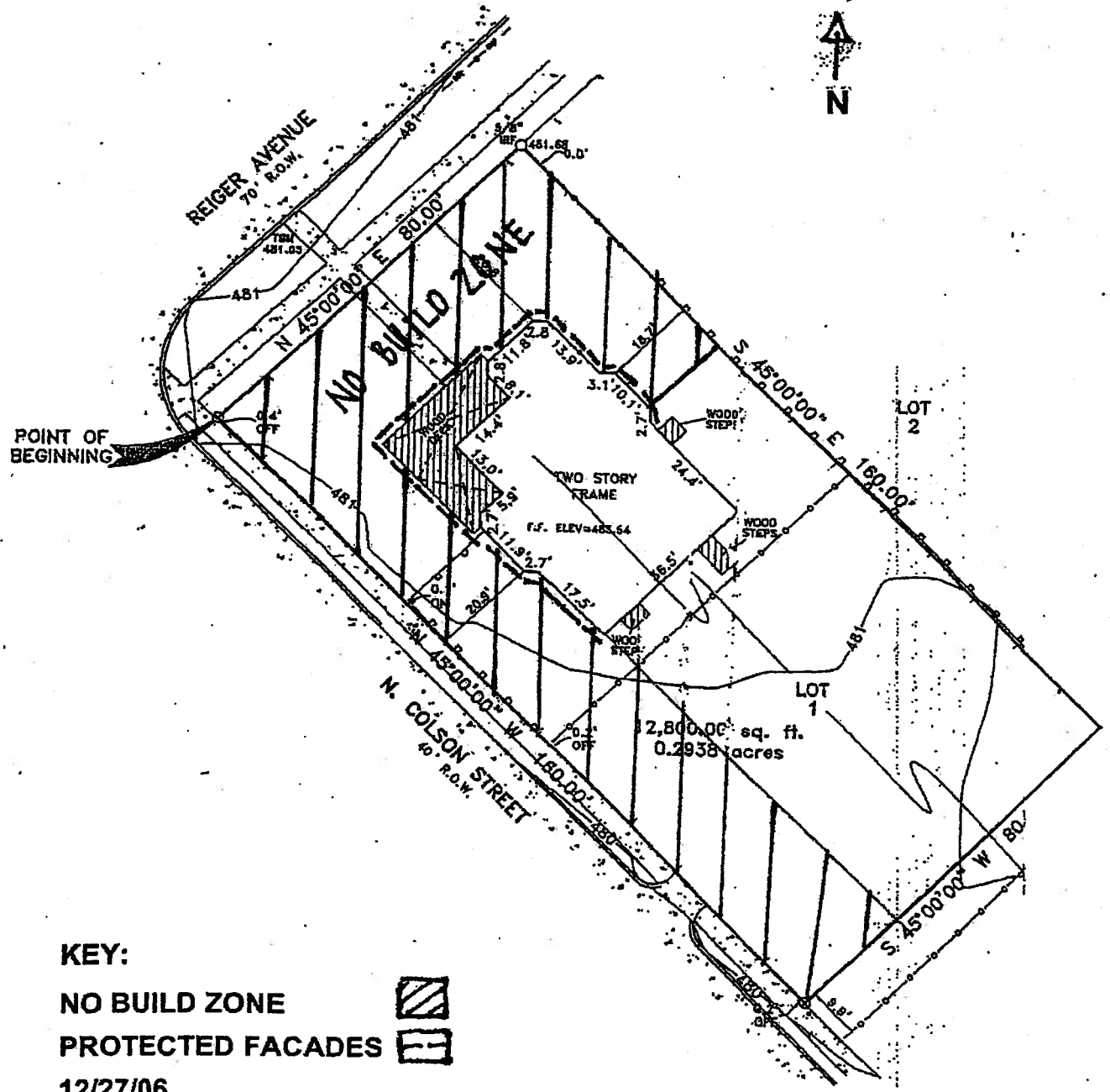
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- c. the person is the agent of the property owner or is an individual employed by the agent or property owner; is in control of the property; knowingly allows the violation to exist; and fails to provide the property owner's name, street address, and telephone number to code enforcement officials; or
 - d. the person is the agent of the property owner or is an individual employed by the agent or property owner, knowingly allows the violation to exist, and the citation relates to the construction or development of the property.
- 11.3 Any person who adversely affects or demolishes a structure in this district in violation of these preservation criteria is liable pursuant to Section 315.006 of the Texas Local Government Code for damages to restore or replicate, using as many of the original materials as possible, the structure to its appearance and setting prior to the violation. No certificates of appropriateness or building permits will be issued for construction on the site except to restore or replicate the structure. When these restrictions become applicable to a site, the Director shall cause to be filed a verified notice in the county deed records and these restrictions shall be binding on future owners of the property. These restrictions are in addition to any fines imposed.
- 11.4 Prosecution in municipal court for a violation of these preservation criteria does not prevent the use of other enforcement remedies or procedures provided by other city ordinances or state or federal laws applicable to the person charged with or the conduct involved in the offense.

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EXHIBIT C

The Shields House 4602 Reiger Avenue

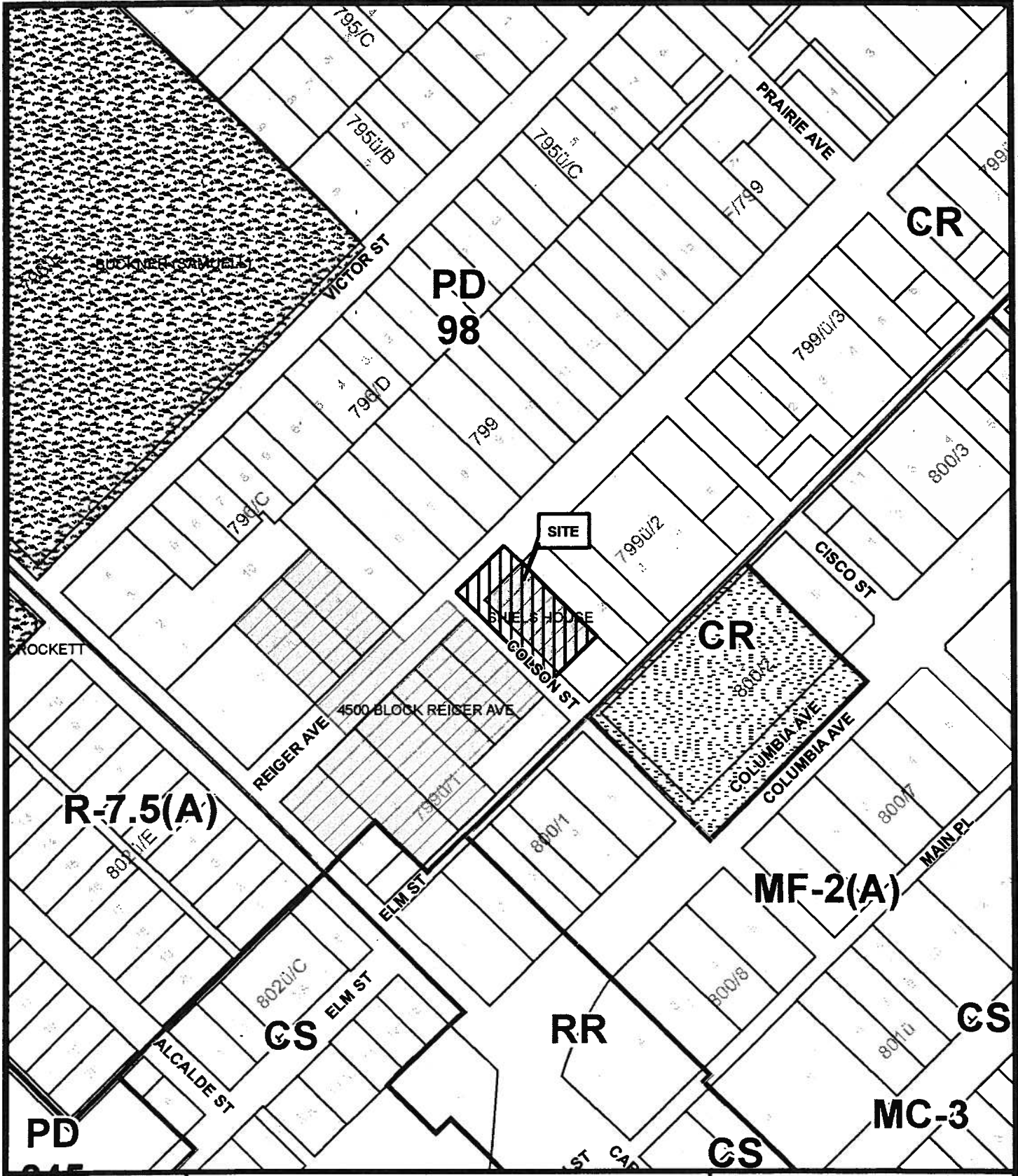


KEY:

NO BUILD ZONE 

PROTECTED FACADES 

12/27/06



1:2,400

ZONING

Map no: J-8
 Case no: Z067-206(MW)