

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, NOVEMBER 18, 2020

Briefing*:	11:00 A.M.	Video Conference
Public Hearing*:	1:00 P.M.	Video Conference

***The Board of Adjustment hearing will be held by videoconference. Individuals who wish to speak in accordance with the Board of Adjustment Rules of Procedure should contact the Sustainable Development and Construction Department at 214-670-4209 by the close of business Tuesday, November 17, 2020. Only registered speakers will be allowed to address the Board during the public hearing.** The following videoconference link is available to the public to listen to the meeting and Public Affairs and Outreach will also stream the public hearing on Spectrum Cable Channel 96 or 99; and bit.ly/cityofdallastv or [YouTube.com/CityofDallasCityHall](https://www.youtube.com/CityofDallasCityHall) and the WebEx link:

<https://dallascityhall.webex.com/dallascityhall/onstage/g.php?MTID=ede2772796b7a9934cd7d44427a29207b>

Purpose: To take action on the attached agenda, which contains the following:

1. Board of Adjustment appeals of cases the Building Official has denied.
2. And any other business which may come before this body and is listed on the agenda.

Handgun Prohibition Notice for Meetings of Governmental Entities

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta."

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

"De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista."



CITY OF DALLAS
BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, NOVEMBER 18, 2020
AGENDA

BRIEFING	Video Conference	11:00 A.M.
PUBLIC HEARING	Video Conference	1:00 P.M.

Neva Dean, Assistant Director
Jennifer Muñoz, Chief Planner/Board Administrator
Oscar Aguilera, Senior Planner
LaTonia Jackson, Board Secretary

PUBLIC TESTIMONY

Minutes

MISCELLANEOUS ITEM

Approval of the October 21, 2020 Board of Adjustment Panel B Public Hearing Minutes	M1
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UNCONTESTED CASE(S)

BDA190-105(OA)

517 N. Denley Dr.

REQUEST: Application of Rob Baldwin of Baldwin Associates for a special exception to the front yard setback regulations, and a special exception to the side yard setback regulations.

1

BDA190-106(OA)	1210 Rev. CBT Smith St. REQUEST: Application of Rob Baldwin of Baldwin Associates for a special exception to the front yard setback regulations, and a special exception to the side yard setback regulations.	2
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REGULAR CASE(S)

BDA190-092(JM)	3018 Greenville Ave. REQUEST: Application of Thomas Shields represented by Steven Dimitt to appeal the decision of an administrative official.	3
BDA190-108(OA)	4714 McKinney Ave. REQUEST: Application of John Hickman represented by Kiesha Kay of Masterplan Consultants for a special exception to the landscaping regulations.	4
BDA190-110(OA)	3844 Blue Ridge Blvd. REQUEST: Application of Shaymah Mahdi represented by S.I. Abed requires mandatory landscaping and tree mitigation.	5

HOLDOVER CASE(S)

BDA190-090(JM)	3016 Greenville Ave. REQUEST: Application of Thomas Shields, represented by Steven Dimitt, for a special exception to the Modified Delta Overlay District No. 1 regulations.	6
BDA190-091(JM)	3018 Greenville Ave. REQUEST: Application of Thomas Shields, represented by Steven Dimitt, for a special exception to the Modified Delta Overlay District No. 1 regulations.	7
BDA190-093(JM)	3024 Greenville Ave. REQUEST: Application of Thomas Shields, represented by Steven Dimitt, for a special exception to the Modified Delta Overlay District No. 1 regulations.	8

EXECUTIVE SESSION NOTICE

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex Govt. Code §551.087]
7. deliberating security assessments or deployments relating to information resources technology, network security information, or the deployment or specific occasions for implementations of security personnel, critical infrastructure, or security devices. [Tex. Govt. Code §551.089]

FILE NUMBER: BDA190-105(OA)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the front yard setback regulations, and a special exception to the side yard setback regulations at 517 N. Denley Drive. This property is more fully described as Part of Lot 10, Block 49/3030, and is zoned Subarea 2 within Planned Development District No. 571, which requires a front yard setback of 22-feet nine-inches and requires a side yard setback of 19-feet two-inches. The applicant proposes to construct a single family residential structure and provide a 20-foot front yard setback, which will require a two-foot nine-inch special exception to the front yard setback regulations, and to provide a three-foot side yard setback, which will require a 16-foot two-inch special exception to the side yard setback regulations.

LOCATION: 517 N. Denley Drive

APPLICANT: Rob Baldwin of Baldwin Associates

REQUESTS:

The following requests have been made to construct and maintain a single-family home on a site that is currently undeveloped:

1. A special exception to the front yard setback regulations of two-feet nine-inches is made to construct and maintain a 1,624 square-foot two-story single family structure located 20 feet from the front property line or two-feet nine-inches into the required 22-foot nine-inch required front yard setback.
2. Special exceptions to the side yard setback regulations of up to 16-feet two-inches are made to construct and maintain the aforementioned single family structure located as close as three feet from both side property lines or as much as 16-feet two-inches into the required 19-foot two-inch side yard setback.

STANDARD FOR A SPECIAL EXCEPTION TO THE FRONT, SIDE, AND REAR SETBACK REQUIREMENTS:

Section 51(P)-571.109(c) of the Dallas Development Code specifies the board of adjustment may grant a special exception to the front, side, and rear yard setback requirements if the board finds, after a public hearing, that the special exception will not adversely affect the neighboring properties, the improvement is within the general building patterns of the neighborhood, and the special exception will preserve the character of the neighborhood. In granting a special exception to the setback requirements, the board may impose any other reasonable condition that would further the purpose and intent of the setback requirements of this article.

STAFF RECOMMENDATION:

No staff recommendation is made on these or any request for a special exception to the front, side, and rear yard setback requirements if the board finds, after a public hearing, that the special exception will not adversely affect the neighboring properties, the improvement is within the general building patterns of the neighborhood, and the special exception will preserve the character of the neighborhood.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 571 (Subdistrict 2)
North: PD No. 571 (Subdistrict 2)
South: PD No. 571 (Subdistrict 2)
East: PD No. 571 (Subdistrict 2)
West: PD No. 571 (Subdistrict 2)

Land Use:

The subject site is undeveloped. The areas to the north and south are undeveloped, and the areas to the east and west are developed with single family uses.

Zoning/BDA History:

- | | |
|---|---|
| 1. BDA189-115, Property at 429 N. Denley Avenue (A property located several lots to the south of the subject property), | On October 21, 2019, the Board of Adjustment Panel C granted requests for a variance to the maximum lot coverage regulations and for special exceptions to the front yard and side yard setback requirements with the condition that the applicant complied with the submitted site plan. |
|---|---|

GENERAL FACTS/STAFF ANALYSIS (special exceptions):

These requests for special exceptions to the front and side yard setback regulations on a site that is currently undeveloped focus on constructing and maintaining:

1. a two-story single family structure with 1,624 square feet of floor area located 20 feet from the front property line or two-feet nine-inches into the required 22-foot nine-inch required front yard setback; and,

2. the aforementioned single family structure located as close as three feet from both side property lines or as much as 16-feet two-inches into the required 19-foot two-inch side yard setback.

The property is zoned Subdistrict 2 within PD No. 571 which states the following:

- Front yard setback. All main buildings must have a front yard setback that is within five percent of the average front yard setback of other main buildings in the same blockface. In the event the blockface consists of all vacant lots, the lot must be developed in accordance with the front yard setback regulations for an R-5(A) Single Family District.
- Side and rear yard setback. (1) Except as provided in Subsection (b)(2) below, rear and side yard setbacks must be within five percent of the average side or rear yard setback of other main buildings in the same blockface. In the event the blockface consists of all vacant lots, the lot must be developed in accordance with the side and rear yard setback regulations for a D(A) Duplex District. (2) There is no minimum side yard if the lot is 30 feet or less in width.

Evidence submitted with the application represents that the front yard setback on the site is proposed to be 20 feet from the front property line. In addition, the evidence identifies that the proposed side yard setbacks will be as close as three feet and up to 10-feet six-inches from the side property lines. Note that the Building Official's report states that the required side yard setback on this site is 19-feet two-inches; therefore, with a minimum setback provided of three feet, the side yard request is for up to 16-feet two-inches.

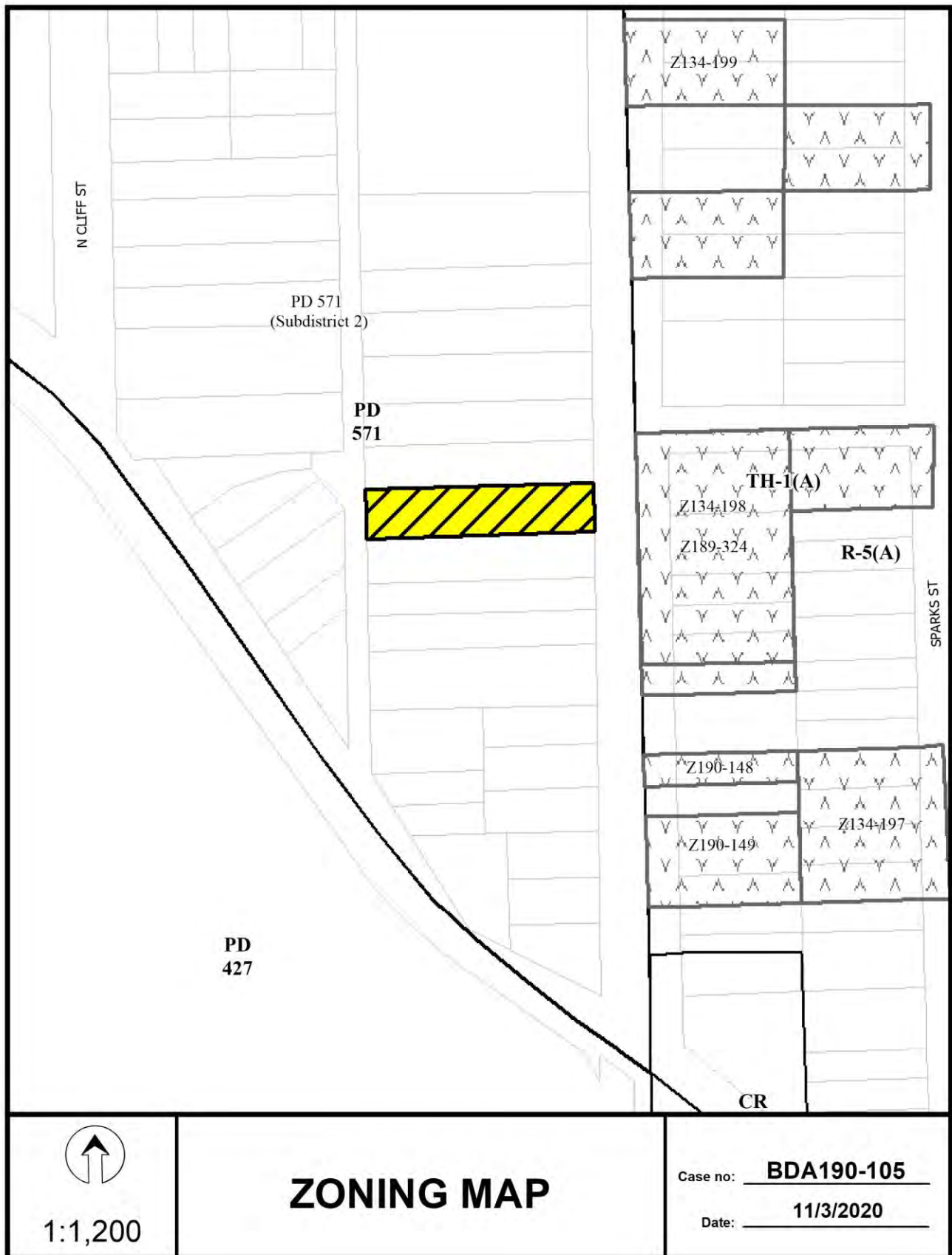
Ultimately, the submitted site plan shows a two-story single family structure with 1,624 square feet of floor area that is located 20 feet from the front property line, three-feet two-inches from the site's northern side property line, and 10-feet six-inches from the site's southern side property line. This is less on the side setbacks than what is requested, but leaves a small margin for error.

The applicant has the burden of proof in establishing that the special exceptions will not adversely affect the neighboring properties, the improvement is within the general building patterns of the neighborhood, and the special exception will preserve the character of the neighborhood.

If the board were to approve these requests, and impose the submitted site plan as a condition, the structure in the front and side yard setbacks would be limited to what is shown on this document.

Timeline:

- September 10, 2020: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 16, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.
- October 16, 2020: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the October 27, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the November 6, 2020 deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- October 29, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.





1:1,200

AERIAL MAP

Case no: **BDA190-105**

Date: **11/3/2020**



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-105

Date: 9-10-20

Data Relative to Subject Property:

Location address: 517 N. Denley Drive Zoning District: PD 571 Sub. 2

Lot No.: Pt. Lot 10 Block No.: 49/3030 Acreage: 6,948 sf Census Tract: 41.00

Street Frontage (in Feet): 1) 36.68 ft 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Texas Heavenly Homes LTD

Applicant: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of front and side setback

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:

The proposed single family home will have a 20' front yard setback. The 3' side yard setbacks are proposed to allow a home with a building width of 23' and a detached garage. The only structure built in the blockface is Lundy Rec Center and a pending home at 429 N. Denley that also needed a special exception for setbacks. The proposed setbacks will be within the building pattern of the neighborhood, to bring homes closer to the street with front porches. The required setbacks are skewed by the rec center's setbacks, which the PD does not treat differently.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

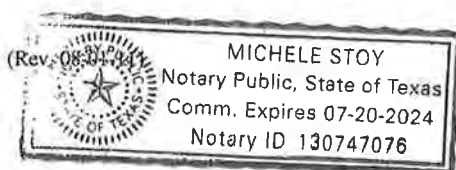
Affidavit

Before me the undersigned on this day personally appeared Robert Baldwin
(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: [Signature]
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 8 day of September, 2020



[Signature]
Notary Public in and for Dallas County, Texas

**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Rob Baldwin

did submit a request for a special exception to the front yard setback regulations, and for a special exception to the side yard setback regulations

at 517 N Denley Drive

BDA190-105. Application of Rob Baldwin for a special exception to the front yard setback regulations, and for a special exception to the side yard setback regulations at 517 N DENLEY DR. This property is more fully described as Part of Lot 10, Block 49/3030, and is zoned PD-571 (Subarea 2), which requires a front yard setback of 22 feet 9 inches and requires a side yard setback of 19 feet 2 inches. The applicant proposes to construct a single family residential structure and provide a 20 foot front yard setback, which will require a 2 foot 9 inch special exception to the front yard setback regulations, and to construct a single family residential structure and provide a 3 foot side yard setback, which will require a 16 foot 2 inch special exception to the side yard setback regulations.

Sincerely,


David Session, Building Official



AFFIDAVIT

Appeal number: BDA 190-105

I, Texas Heavenly Homes LTD, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 517 N. Denley Drive
(Address of property as stated on application)

Authorize: Rob Baldwin, Baldwin Associates
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

 Variance (specify below)

 X Special Exception (specify below)

 Other Appeal (specify below)

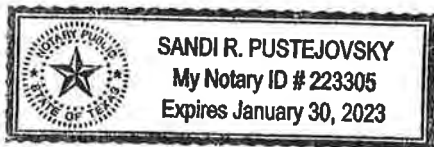
Specify: Front & side yard setbacks

Richard E. LeBlanc, President [Signature]
Print name of property owner or registered agent Signature of property owner or registered agent

Date 09/08/2020

Before me, the undersigned, on this day personally appeared Richard E. LeBlanc, President
of Texas Heavenly Homes, Ltd.
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 8th day of September, 2020
[Signature]
Notary Public for Dallas County, Texas
Commission expires on 01/30/2023



517 N. Denley Dr.**Special Exception Request:**

- 1. Provide a 20' Front Yard Setback where PD 571 Tract 2 requires a 22.8' Front Yard Setback**
- 2. Provide a 3' Side Yard Setback where PD 571 Tract 2 requires a 19.1' Side Yard Setback**

Zoning calculations:

Lot area: 6948 per deed
 Lot boundaries: 36.68x188.5
 N. Denley Dr has 60' ROW
 Proposed front yard: 20'
 Proposed side yard: 3'
 Proposed rear yard: 68'
 PD Lot coverage 45% Proposed lot coverage 23%

1st floor House with porch & patio		1182	
Garage		441	
	Total coverage	1623	

PD front yard setbacks requires a minimum setback that is within 5% of the existing structures in the blockface.
 Lundy Rec Center provides a 22' setback along N. Denley Dr
 429 N. Denley is approved for a 4' front yard setback, pending permit approval

SETBACK AVERAGE 24
 5% of 24 feet is 1.2
 -5% of 24 feet is 22.8 PD Front yard requirement

PD side yard setbacks requires a minimum setback that is within 5% of the existing structures in the blockface.
 Lundy Rec Center provides a 19' side yard setback on the south
 429 N. Denley is approved for a 2'2" side yard setback, pending permit approval

SETBACK AVERAGE 20.1
 5% of 20.1 feet is 1.0
 -5% of 20.1 feet is 19.1 PD Side yard requirement

Required setbacks			Proposed setbacks	
FYS	22.8	836.3	20	146.72
SYS	19.1	3161.7	3	337
SYS	19.1	3161.7	3	337
RYS	5	0*	68	153.4
Total setback area		7159.7		974.12
PD Req. Setbacks/lot area of subject property		103%		14%

*side yards combined are greater than lot width therefore rear yard area cannot be calculated under PD requirements



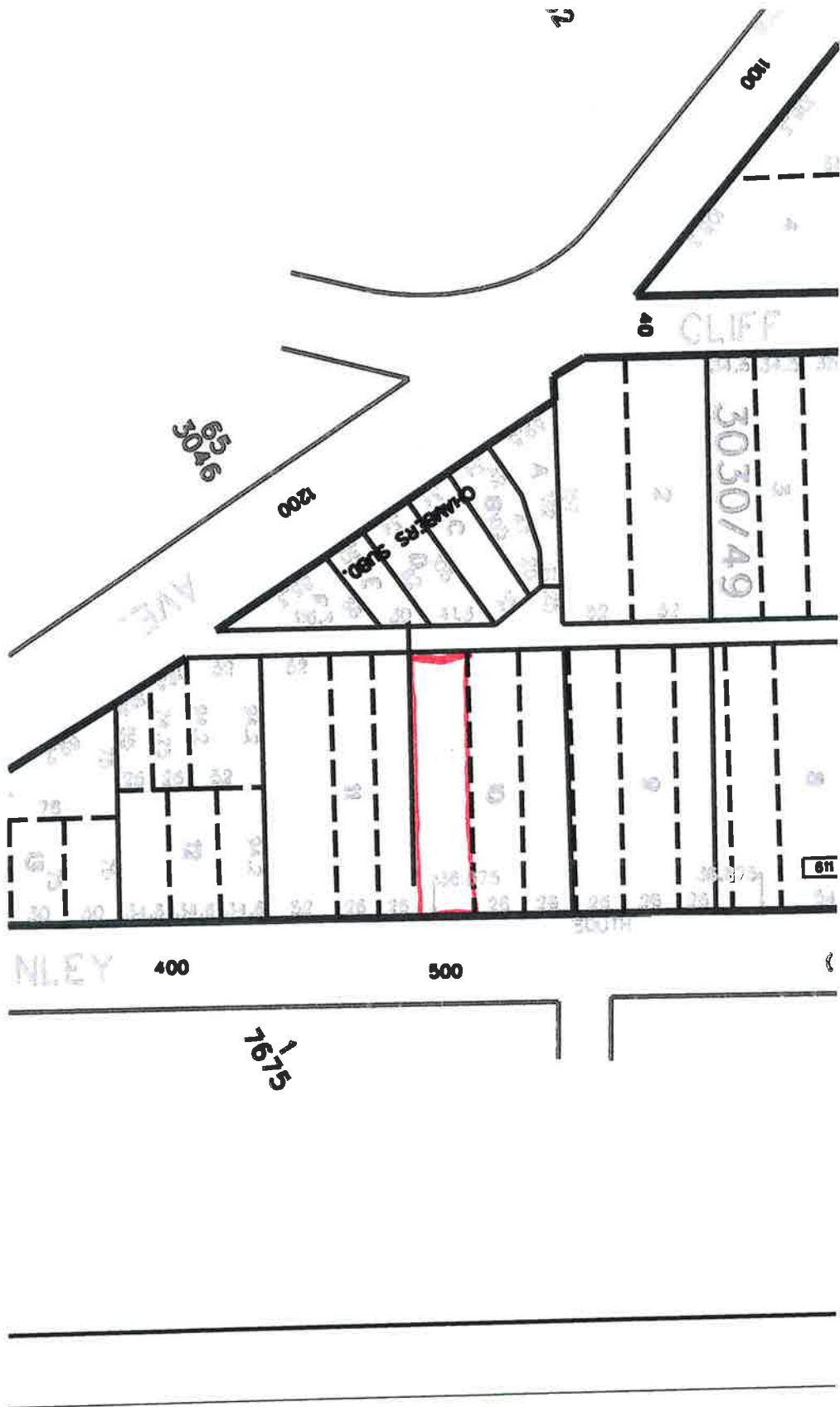
Printed: 5/1/2020

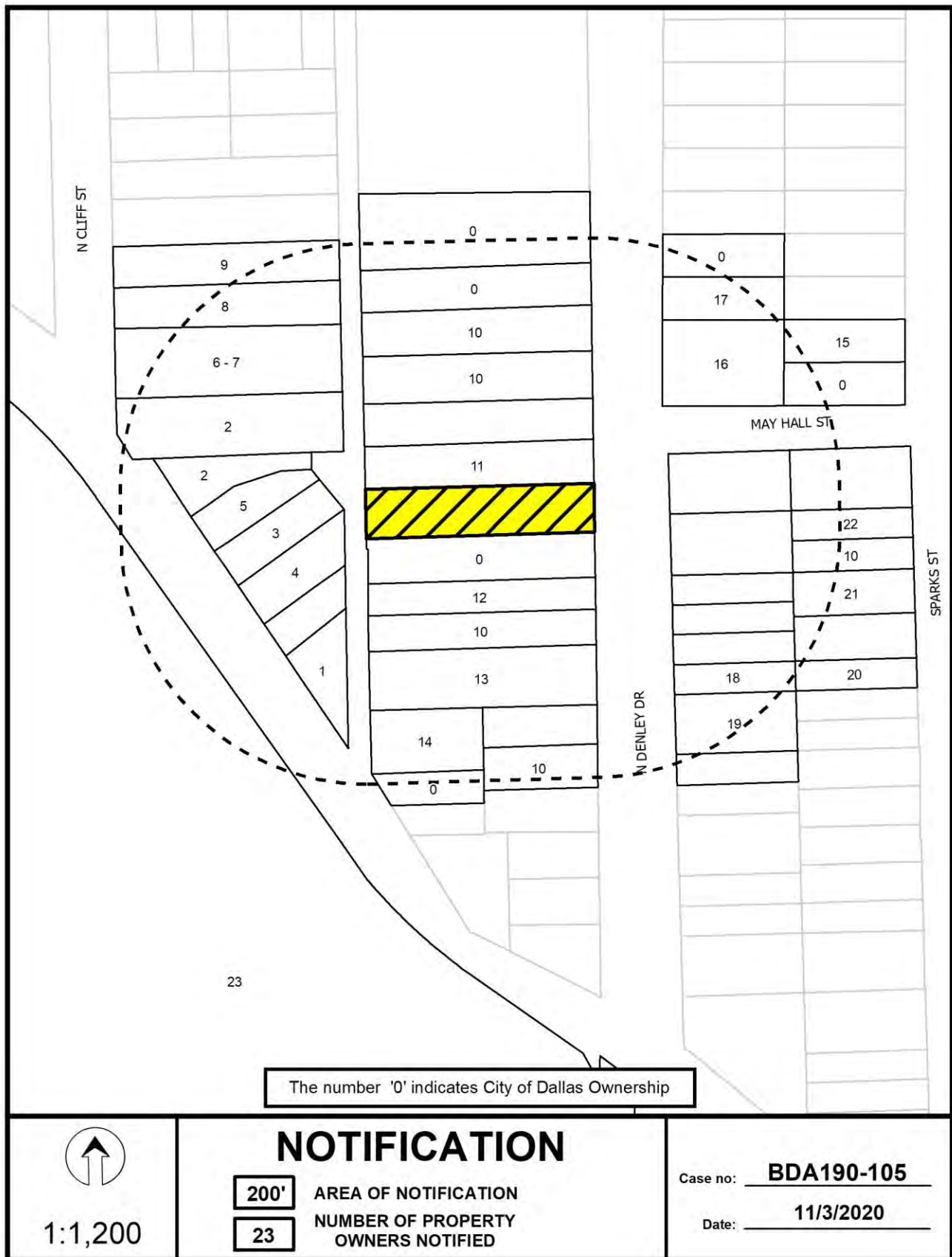
Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood Zone | PD193 Oak Lawn | CP | NSO Subdistricts |
| Mill's Creek | Dallas Environmental Corridors | SP | NSO_Overlay |
| Peak's Branch | SPSP Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | Shop Front Overlay 1-11 |
| | | Height Map Overlay | |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)







11/03/2020

Notification List of Property Owners

BDA190-105

23 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1219 HUTCHINS AVE	GRAY MAE KATHERINE
2	1205 HUTCHINS AVE	HALL DWAIN E
3	1211 HUTCHINS AVE	COLORADO ENRIQUE & MARIA
4	1215 HUTCHINS AVE	MARTINEZ JAVIER LUNA &
5	1209 HUTCHINS AVE	MARQUEZ ENRIQUE & MARTHA L
6	602 N CLIFF ST	HALL DWAIN E
7	602 N CLIFF ST	HALL DWAIN E
8	604 N CLIFF ST	WILLIAMS ADRIAN D
9	606 N CLIFF ST	GOLDEN GATE ADULT REHABILITATION MINISTRY INC
10	603 N DENLEY DR	DALLAS HOUSING ACQUISITION & DEV CORP
11	521 N DENLEY DR	JOHNSON SIRDELLIA EST OF
12	507 N DENLEY DR	GLOBAL HARVESTERS FDN
13	501 N DENLEY DR	SPARKS FANNIE
14	1223 HUTCHINS AVE	EDWARDS NELLA DELOIS
15	503 SPARKS ST	EDWARDS NELLA D
16	604 N DENLEY DR	GRAVES MICHAEL
17	608 N DENLEY DR	HILL VERLINE
18	426 N DENLEY DR	DALLAS HOUSING ACQUISITION & DEV CORP
19	422 N DENLEY DR	NEW DIMENSION HOMES LLC
20	435 SPARKS ST	WACHE LLC
21	439 SPARKS ST	LOWERY TASHA M
22	443 SPARKS ST	JONES CHARLES E
23	1201 E EIGHTH ST	Dallas ISD

FILE NUMBER: BDA190-106(OA)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the front yard setback regulations, and a special exception to the side yard setback regulations at 1210 Reverend CBT Smith Street. This property is more fully described as Part of Lot 5 within Block 49/3030, and is zoned Subarea 2 within Planned Development District No. 571, which requires a requires a front yard setback of 37-feet two-inches and a side yard setback of 19 feet. The applicant proposes to construct a single family residential structure and provide a 13-foot front yard setback, which will require a 24-foot two-inch special exception to the front yard setback regulations, and to provide a five-foot side yard setback, which will require a 14-foot special exception to the side yard setback regulations.

LOCATION: 1210 Reverend CBT Smith Street

APPLICANT: Rob Baldwin of Baldwin Associates

REQUESTS:

The following requests have been made to construct and maintain a single-family home on a site that is currently undeveloped:

1. A special exception to the front yard setback regulations of two-feet nine-inches is made to construct and maintain a 2,515 square-foot two-story single family structure located 13 feet from the front property line or 24-feet two-inches into the required 37-foot two-inch required front yard setback.
2. Special exceptions to the side yard setback regulations of up to 14 feet are made to construct and maintain the aforementioned single family home structure located as close as five feet from both side property lines or as much as 14 feet into the required 19-foot side yard setback.

STANDARD FOR A SPECIAL EXCEPTION TO THE FRONT, SIDE, AND REAR SETBACK REQUIREMENTS:

Section 51(P)-571.109(c) of the Dallas Development Code specifies the board of adjustment may grant a special exception to the front, side, and rear yard setback requirements if the board finds, after a public hearing, that the special exception will not adversely affect the neighboring properties, the improvement is within the general building patterns of the neighborhood, and the special exception will preserve the character of the neighborhood. In granting a special exception to the setback requirements, the board may impose any other reasonable condition that would further the purpose and intent of the setback requirements of this article.

STAFF RECOMMENDATION:

No staff recommendation is made on these or any request for a special exception to the front, side, and rear yard setback requirements if the board finds, after a public hearing, that the special exception will not adversely affect the neighboring properties, the improvement is within the general building patterns of the neighborhood, and the special exception will preserve the character of the neighborhood.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 571 (Subdistrict 2)
North: PD No. 571 (Subdistrict 2)
South: PD No. 571 (Subdistrict 2)
East: PD No. 571 (Subdistrict 2)
West: PD No. 571 (Subdistrict 2)

Land Use:

The subject site is undeveloped. The areas to the north and south are undeveloped, and the areas to the east and west are developed with single family uses.

Zoning/BDA History:

- | | |
|---|---|
| 1. BDA189-115, Property at 429 N. Denley Avenue (A property located several lots to the south of the subject property), | On October 21, 2019, the Board of Adjustment Panel C granted requests for a variance to the maximum lot coverage regulations and for special exceptions to the front yard and side yard setback requirements with the condition that the applicant complied with the submitted site plan. |
|---|---|

GENERAL FACTS/STAFF ANALYSIS (special exceptions):

These requests for special exceptions to the front and side yard setback regulations for a single-family home on a site that is currently undeveloped focus on constructing and maintaining:

1. A special exception to the front yard setback regulations of two-feet nine-inches is made to construct and maintain a 2,515 square-foot two-story single family structure located 13 feet from the front property line or 24-feet two-inches into the required 37-foot two-inch required front yard setback.

2. Special exceptions to the side yard setback regulations of up to 14 feet are made to construct and maintain the aforementioned single family home structure located as close as five feet from both side property lines or as much as 14 feet into the required 19-foot side yard setback.

The property is zoned Subdistrict 2 within PD No. 571 which states the following:

- Front yard setback. All main buildings must have a front yard setback that is within five percent of the average front yard setback of other main buildings in the same blockface. In the event the blockface consists of all vacant lots, the lot must be developed in accordance with the front yard setback regulations for an R-5(A) Single Family District.
- Side and rear yard setback. (1) Except as provided in Subsection (b)(2) below, rear and side yard setbacks must be within five percent of the average side or rear yard setback of other main buildings in the same blockface. In the event the blockface consists of all vacant lots, the lot must be developed in accordance with the side and rear yard setback regulations for a D(A) Duplex District. (2) There is no minimum side yard if the lot is 30 feet or less in width.

Evidence submitted with the application represents that the front yard setback on the site is proposed to be 13 feet from the front property line. In addition, the evidence identifies that the proposed side yard setbacks will be as close as five feet and up to 14 feet from the side property lines. Note that the Building Official's report states that the required side yard setback on this site is 19-feet; therefore, with a minimum setback provided of five feet, the side yard request is for up to 14 feet.

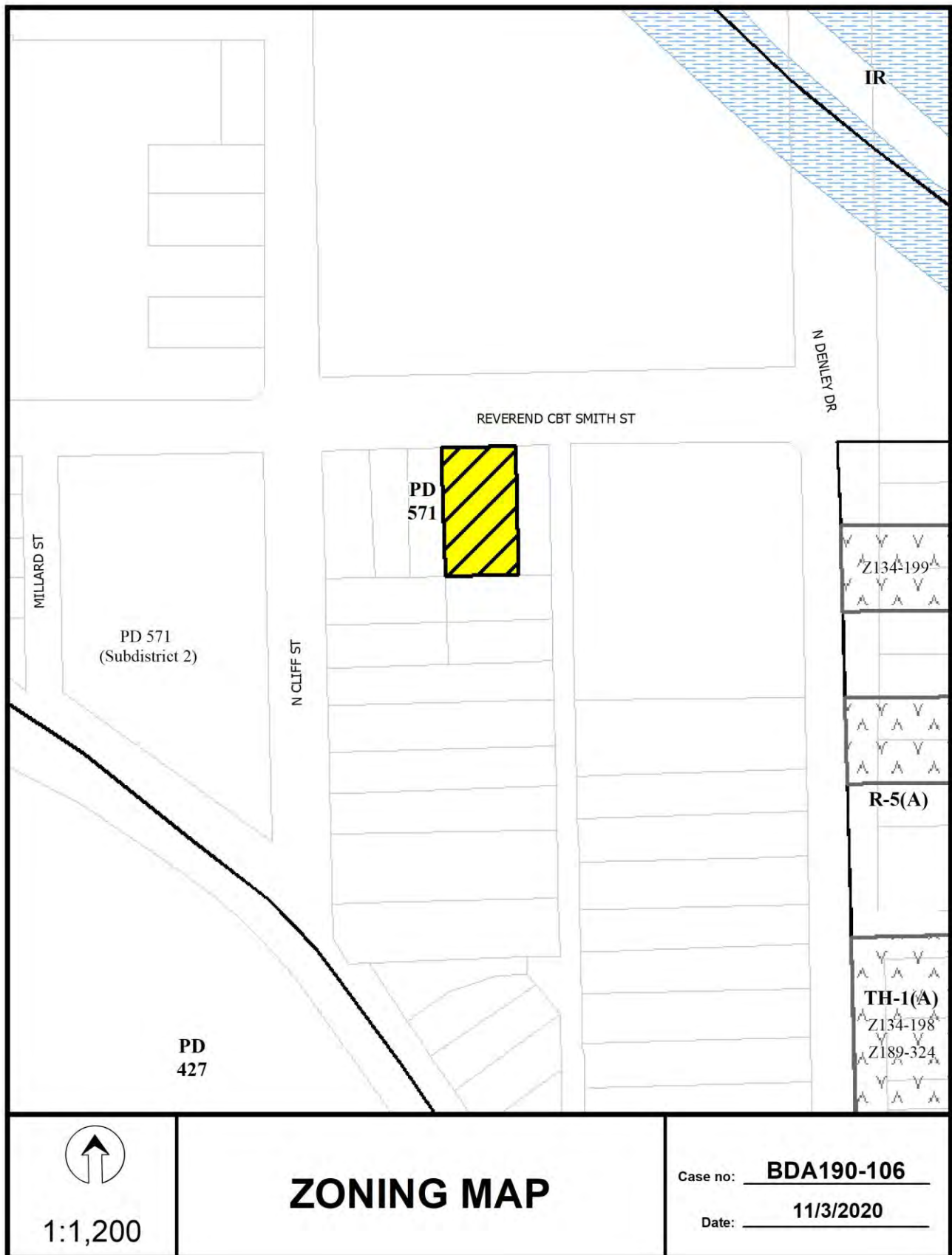
Ultimately, the submitted site plan shows a structure with two-story single family structure with 2,515 square feet of floor area that is located 13 feet from the front property line, five feet from the site's eastern side property line, and 14 feet from the site's western side property line.

The applicant has the burden of proof in establishing that the special exceptions will not adversely affect the neighboring properties, the improvement is within the general building patterns of the neighborhood, and the special exception will preserve the character of the neighborhood.

If the board were to approve these requests, and impose the submitted site plan as a condition, the structure in the front and side yard setbacks would be limited to what is shown on this document.

Timeline:

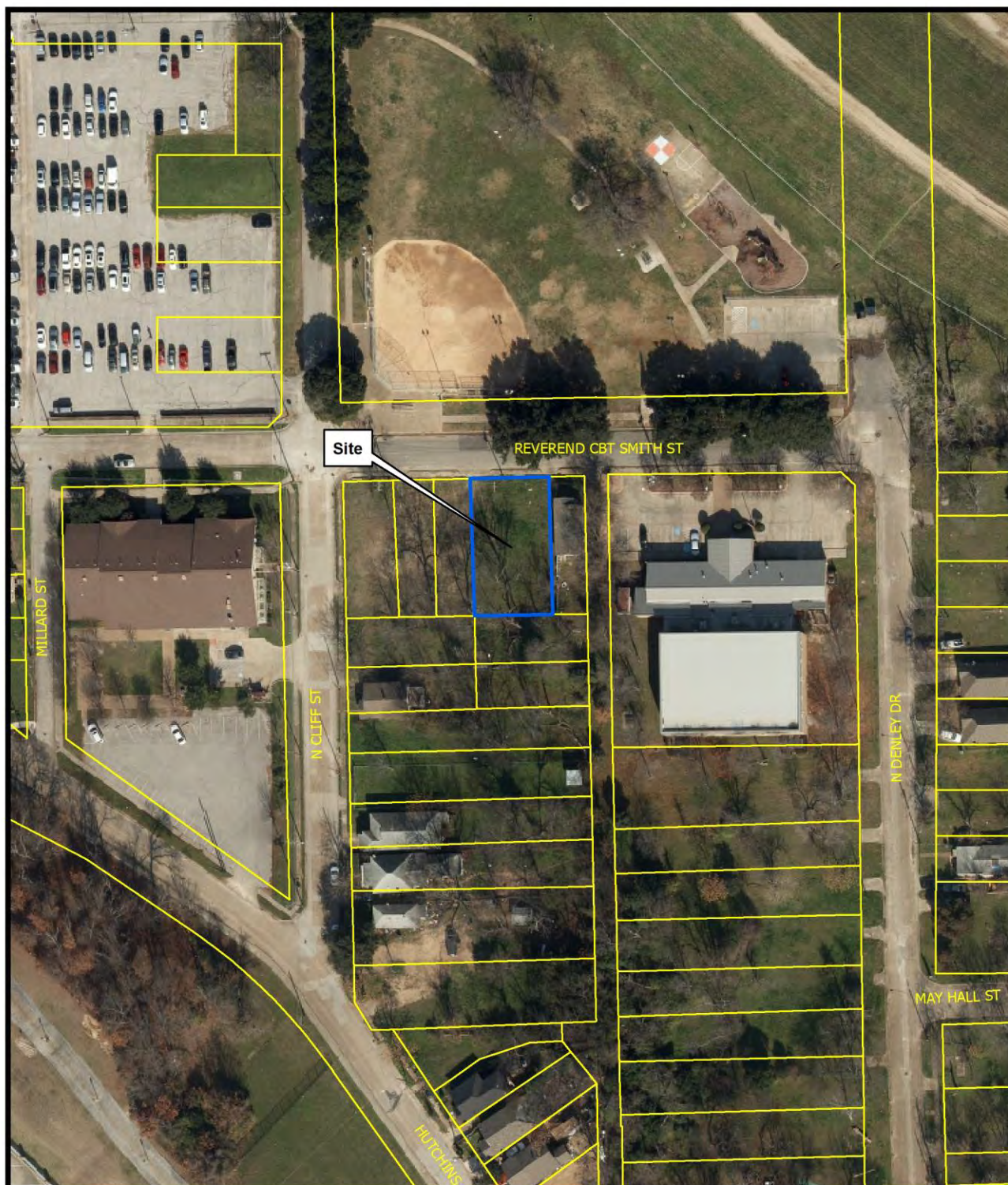
- September 10, 2020: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 16, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.
- October 16, 2020: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the October 27, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the November 6, 2020 deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- October 29, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist the Building Inspection Senior Plans Examiner/Development Sing Specialist, the Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.



1:1,200

ZONING MAP

Case no: **BDA190-106**
Date: **11/3/2020**



1:1,200

AERIAL MAP

Case no: **BDA190-106**

Date: **11/3/2020**



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-106

Date: 9-11-20

Data Relative to Subject Property:

Location address: 1210 Rev. CBT Smith Zoning District: PD 571 Sub. 2

Lot No.: Pt. Lot 5 Block No.: 49/3030 Acreage: 0.143 6,240 sf Census Tract: 41.00

Street Frontage (in Feet): 1) 60 ft 2) 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Texas Heavenly Homes LTD

Applicant: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance , or Special Exception X , of front and side setback

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The proposed single family home will have a 13' front yard setback and 5' side yard setback with a detached garage. The only structure built in the blockface is Lundy Rec Center. The proposed setbacks will be within the building pattern of the neighborhood, to bring homes closer to the street with front porches. The required setbacks are skewed by the rec center's setbacks, which the PD does not treat differently.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

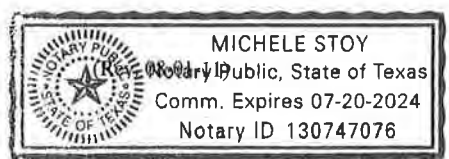
Affidavit

Before me the undersigned on this day personally appeared Robert Baldwin (Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: (Affiant/Applicant's signature)

Subscribed and sworn to before me this 8 day of September, 2020



Michele Stoy Notary Public in and for Dallas County, Texas

**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Rob Baldwin

did submit a request for a special exception to the front yard setback regulations, and for a special exception to the side yard setback regulations

at 1210 Rev CBT Smith Street

BDA190-106. Application of Rob Baldwin for a special exception to the front yard setback regulations, and for a special exception to the side yard setback regulations at 1210 REV CBT SMITH ST. This property is more fully described as Lot Part of Lot 5, Block 49/3030, and is zoned PD-571 (Subarea 2), which requires a 19 foot side yard setback and requires a front yard setback of 37 feet 2 inch. The applicant proposes to construct a single family residential structure and provide a 13 foot front yard setback, which will require a 24 foot 2 inch special exception to the front yard setback regulations, and to construct a single family residential structure and provide a 5 foot side yard setback, which will require a 14 foot special exception to the side yard setback regulations.

Sincerely,


David Session, Building Official



AFFIDAVIT

Appeal number: BDA 190-106

I, Texas Heavenly Homes LTD, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 1210 Rev. CBT Smith Street
(Address of property as stated on application)

Authorize: Rob Baldwin, Baldwin Associates
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

- ☐ Variance (specify below)
- ☒ Special Exception (specify below)
- ☐ Other Appeal (specify below)

Specify: Front, side yard setbacks

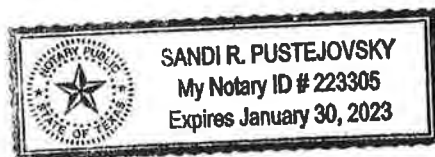
Richard E. LeBlanc, President
Print name of property owner or registered agent

[Signature]
Signature of property owner or registered agent

Date 09/08/2020

Before me, the undersigned, on this day personally appeared Richard E. LeBlanc, President
of Texas Heavenly Homes, Ltd.
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 8th day of September, 2020



[Signature]
Notary Public for Dallas County, Texas

Commission expires on 01/30/2023

1210 Reverend CBT Smith Street**Special Exception Request:**

- 1. Provide a 13' Front Yard Setback where PD 571 Tract 2 requires a 37.1' Front Yard Setback**
- 2. Provide a 5' Side Yard Setback where PD 571 Tract 2 requires a 19' Side Yard Setback**

Zoning calculations:

Lot area:	6,240 SF			
Lot boundaries:	60	104	1st floor House with porch & patio	2077
			Garage	441
Proposed front yard:	13		Total coverage	2518
Proposed side yard:	5	14		
Proposed rear yard:	27			
PD Lot coverage 45%		Proposed lot coverage	40%	

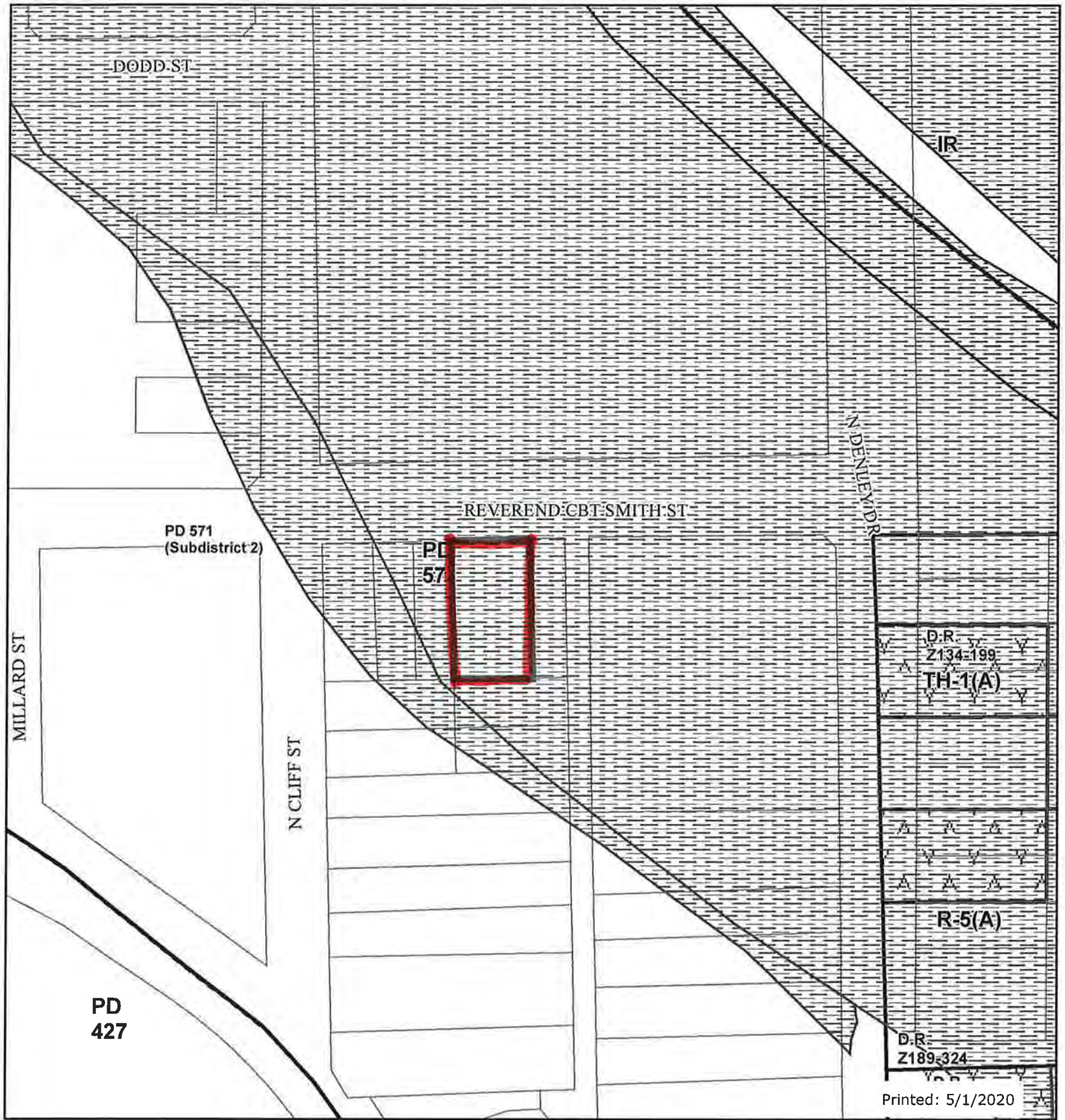
PD front yard setbacks requires a minimum setback that is within 5% of the existing structures in the blockface.
Lundy Rec Center provides a 39' setback along Rev. CBT Smith

SETBACK AVERAGE	39	
5% of 39 feet is	1.95	
-5% of 24 feet is	37.1	PD Front yard requirement

PD side yard setbacks requires a minimum setback that is within 5% of the existing structures in the blockface.
Lundy Rec Center provides a 20' side yard setback on the south

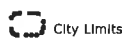
SETBACK AVERAGE	20.0	
5% of 20 feet is	1.0	
-5% of 20 feet is	19.0	PD Side yard requirement

	Required setbacks		Proposed setbacks	
FYS	37.1	2223.0	13	780
SYS	19.0	1272.1	5	455
SYS	19.0	1272.1	14	1274
RYS	5	110	27	1107
Total setback area		4877.10		3616
PD Req. Setbacks/lot area of subject property		78%		58%

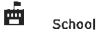


Printed: 5/1/2020

Legend

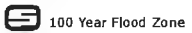


City Limits



School

Floodplain



100 Year Flood Zone



Mill's Creek



Peak's Branch



X Protected by Levee



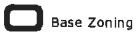
Parks



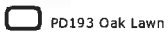
railroad



Certified Parcels



Base Zoning



PD193 Oak Lawn



Dallas Environmental Corridors



SPSD Overlay



Deed Restrictions



SUP

Dry Overlay



D



D-1



CP



SP



MD Overlay



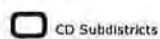
Historic Subdistricts



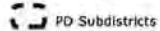
Historic Overlay



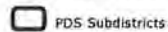
Height Map Overlay



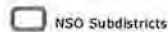
CD Subdistricts



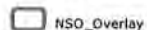
PD Subdistricts



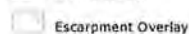
PDS Subdistricts



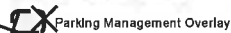
NSO Subdistricts



NSO Overlay



Escarpment Overlay



Parking Management Overlay



Shop Front Overlay
2-11

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)



1:1,200



1:1,200

NOTIFICATION

200'

AREA OF NOTIFICATION

12

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-106**

Date: **11/3/2020**

11/03/2020

Notification List of Property Owners

BDA190-106

12 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	703 N CLIFF ST	GOLDEN GATE MISSIONARY
2	604 N CLIFF ST	WILLIAMS ADRIAN D
3	606 N CLIFF ST	GOLDEN GATE ADULT REHABILITATION MINISTRY INC
4	612 N CLIFF ST	HERRING DOLLIE
5	618 N CLIFF ST	ARTIS DONALD & DOROTHY
6	616 N CLIFF ST	KEMP FREDDIE JR & SHARON
7	1202 REVEREND CBT SMITH ST	GOLDEN GATE MISSIONARY
8	1204 REVEREND CBT SMITH ST	JENKINS MARY BELL
9	1212 REVEREND CBT SMITH ST	MERCADO FRANCISCA
10	1206 REVEREND CBT SMITH ST	JONES JAMES E
11	1101 REVEREND CBT SMITH ST	GOLDEN GATE MISSIONARY
12	1128 REVEREND CBT SMITH ST	GOLDEN GATE BAPT CHURCH

FILE NUMBER: BDA190-092(JM)

BUILDING OFFICIAL'S REPORT: Application of Thomas Shields, represented by Steven Dimitt for a special exception to the Modified Delta Overlay District No. 1 regulations at 3018 Greenville Avenue. This property is more fully described as Lot 11, Block 2168, and is zoned Conservation District No. 11 with Modified Delta Overlay District No.1, which requires that the building official shall revoke a certificate of occupancy if the building official determines that the certificate of occupancy was issued in error. The applicant proposes to appeal the decision of an administrative official in the revocation of a certificate of occupancy.

LOCATION: 3018 Greenville Avenue

APPLICANT: Thomas Shields
Represented by Steven Dimitt

REQUEST:

A request is made to appeal the decision of the administrative official, more specifically, the Building Official's authorized representative, the Chief Planner in the Building Inspection Division, revocation of a certificate of occupancy for a restaurant use located at 3018 Greenville Avenue.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

BACKGROUND INFORMATION:

Zoning:

Site: CD No. 11 with an MD Overlay District No. 1

North: CD Nos. 9 and 11 with an MD Overlay District No. 1

South: CD No. 11 with an MD Overlay District No. 1

East: CD No. 11 with an MD Overlay District No. 1

West: CD Nos. 9 with an MD Overlay District No. 1

Land Use:

The subject site is developed with a commercial structure. The areas to the north, south, and west are developed with residential uses; and the area to the east is developed with commercial uses.

Zoning/BDA History:

While there have been no zoning/BDA cases within the area in the last five years, there are three other BDA cases at the subject site currently.

GENERAL FACTS/STAFF ANALYSIS:

The board shall have all the powers of the administrative official on the action appealed. The board may in whole or in part affirm, reverse, or amend the decision of the official.

Timeline:

August 4, 2020 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

September 18, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 18, 2020 The Board Administrator emailed the applicant's representative the public hearing date and panel that will consider the application; the September 30, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the October 9, 2020 deadline to submit additional evidence to be incorporated into the board's docket materials and the following information:

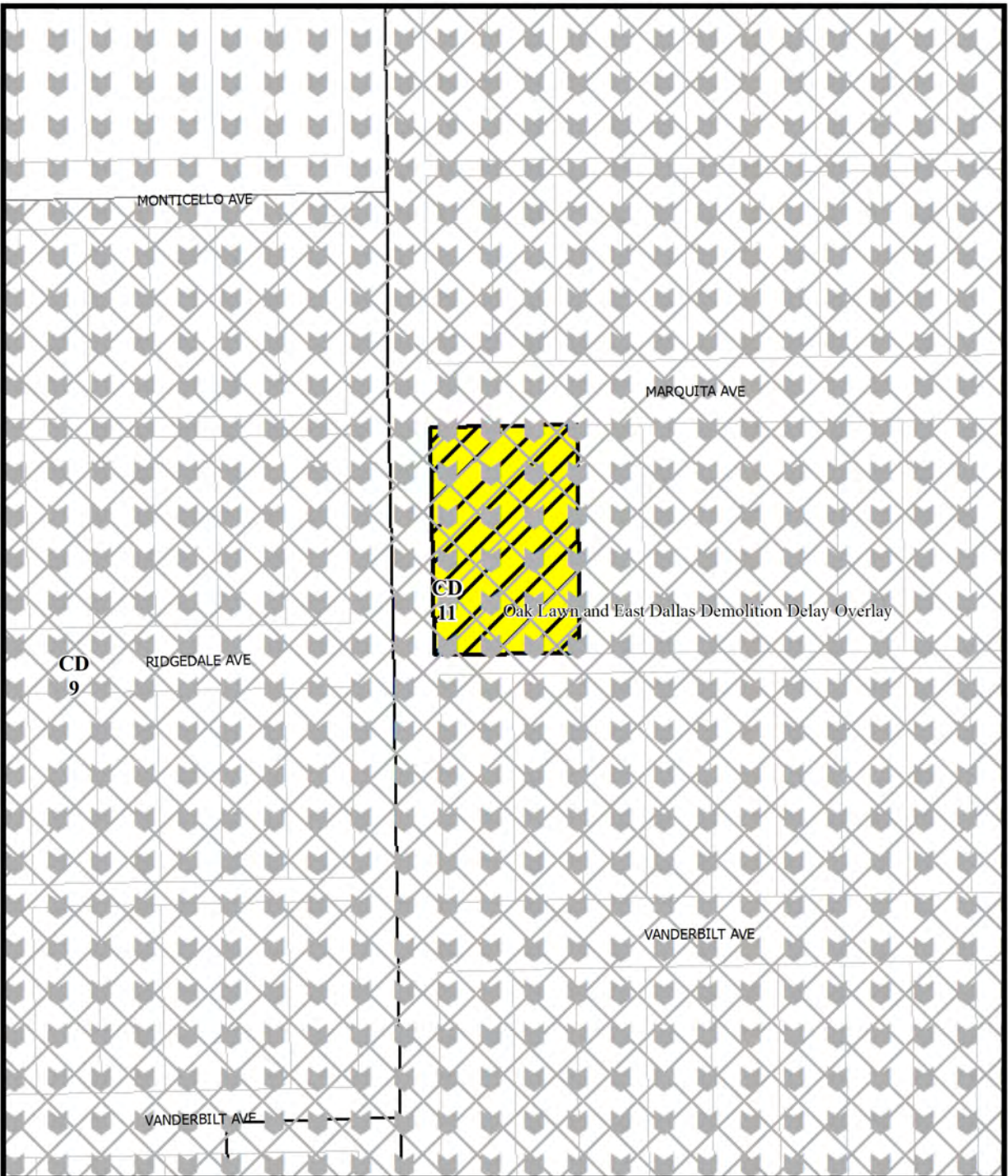
- a copy of the application materials including the Building Official's report on the application.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

October 5, 2020: The applicant's representative requested a postponement to the November docket (**Attachment A**).

October 29,2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Sing Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

No review comment sheets with comments were submitted in conjunction with this application.

November 6. 2020: Additional evidence was submitted by the city attorney for the administrative official (**Attachment B**).

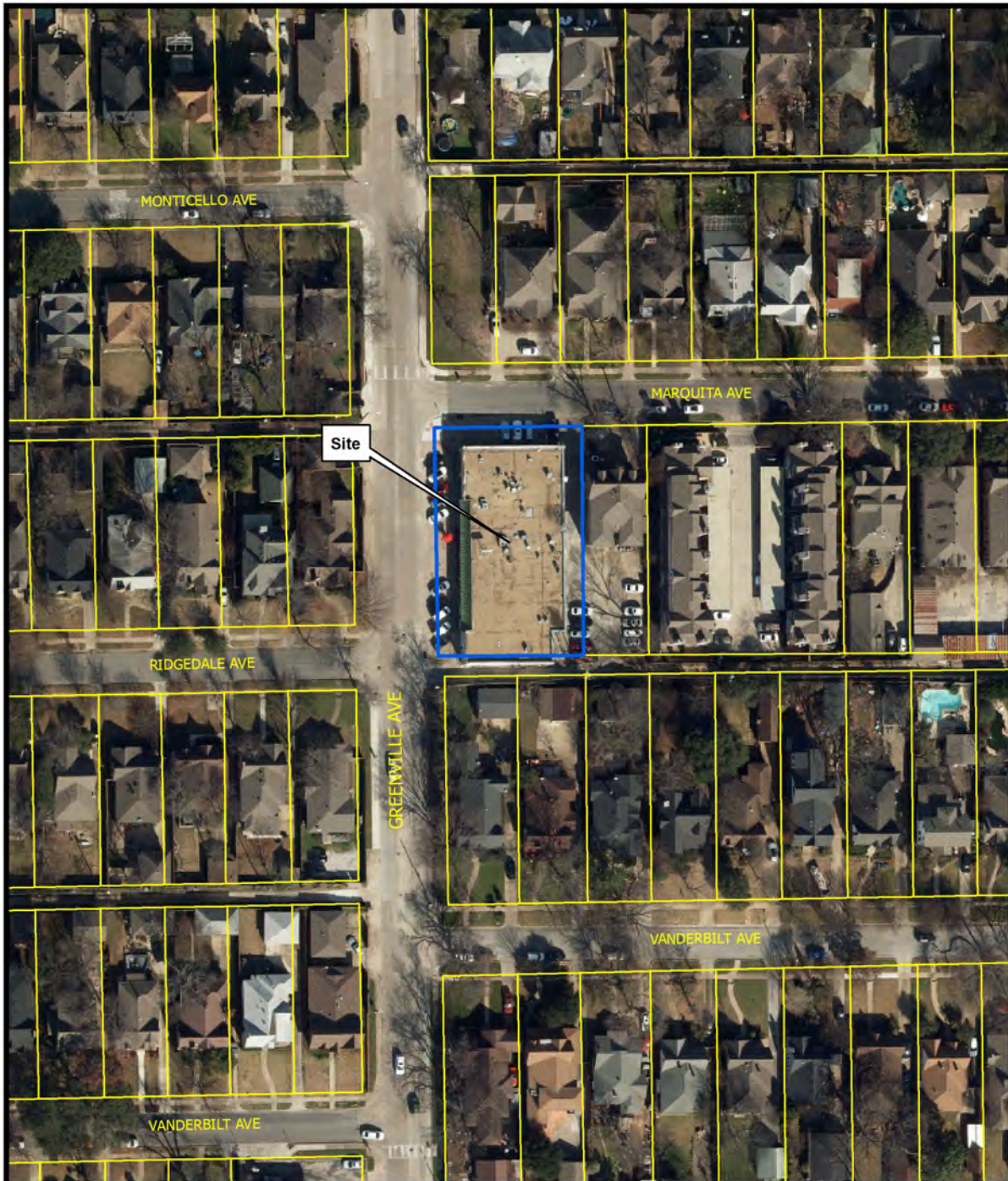


1:1,200

ZONING MAP

Case no: **BDA190-092**

Date: **11/4/2020**



1:1,200

AERIAL MAP

Case no: BDA190-092

Date: 11/4/2020



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-092

Data Relative to Subject Property:

Date: 8/4/2020

Location address: 3018 Greenville Avenue, Dallas, TX 75206

Zoning District: CD-11

Lot No.: 11

Block No.: 2168

Acreage: 0.51

Census Tract: 0002.02

Street Frontage (in Feet): 1) 179.16

2) 124.00

3) _____

4) _____

5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Shields Ltd. P.S.

Applicant: Thomas Shields

Telephone: 281-635-4250

Mailing Address: 418 E. Shore Drive, Kemah, TX

Zip Code: 77565

E-mail Address: tom.shields@shields-lagniappe.com

Represented by: Steven Dimitt/Rob Baldwin

Telephone: 214-559-2700

Mailing Address: 1201 N. Riverfront Blvd., Suite 150, Dallas, TX

Zip Code: 75207

E-mail Address: sdimitt@pcrfirm.com / rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance __, or Special Exception __, of

Appeal building official's revocation of certificate of occupancy.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:
Certificate of occupancy was not issued in error.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Thomas Shields

(Affiant/Applicant's name printed)

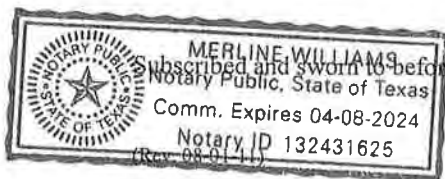
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted:

Thomas Shields
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 3 day of August

2020



[Signature]
Notary Public in and for Dallas County, Texas

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that THOMAS SHIELDS
represented by Steven Dimitt
did submit a request to appeal the decision of an administrative official
at 3018 Greenville Avenue

BDA190-092. Application of THOMAS SHIELDS represented by Steven Dimitt to appeal the decision of an administrative official at 3018 GREENVILLE AVE. This property is more fully described as Lot 11, Block 2168, and is zoned CD-11 (MD-1), which requires that the building official shall revoke a certificate of occupancy if the building official determines that the certificate of occupancy was issued in error. The applicant proposes to appeal the decision of an administrative official in the revocation of a certificate of occupancy.

Sincerely,


David Session, Building Official



AFFIDAVIT

Appeal number: BDA 190-092

I, Shields Limited Partnership, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 3018 Greenville Avenue, Dallas, Texas 75206
(Address of property as stated on application)

Authorize: Thomas Shields
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

 Variance (specify below)

 Special Exception (specify below)

X Other Appeal (specify below)

Appeal building official's revocation of certificate of occupancy.

Shields Ltd. P.S./Thomas Shields

Print name of property owner/agent

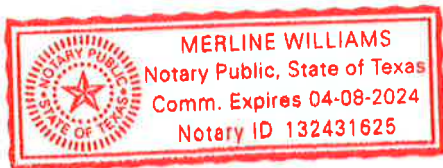
Thomas Shields
Signature of property owner/agent

8/3/2020
Date

Before me, the undersigned, on this day personally appeared Thomas Shields

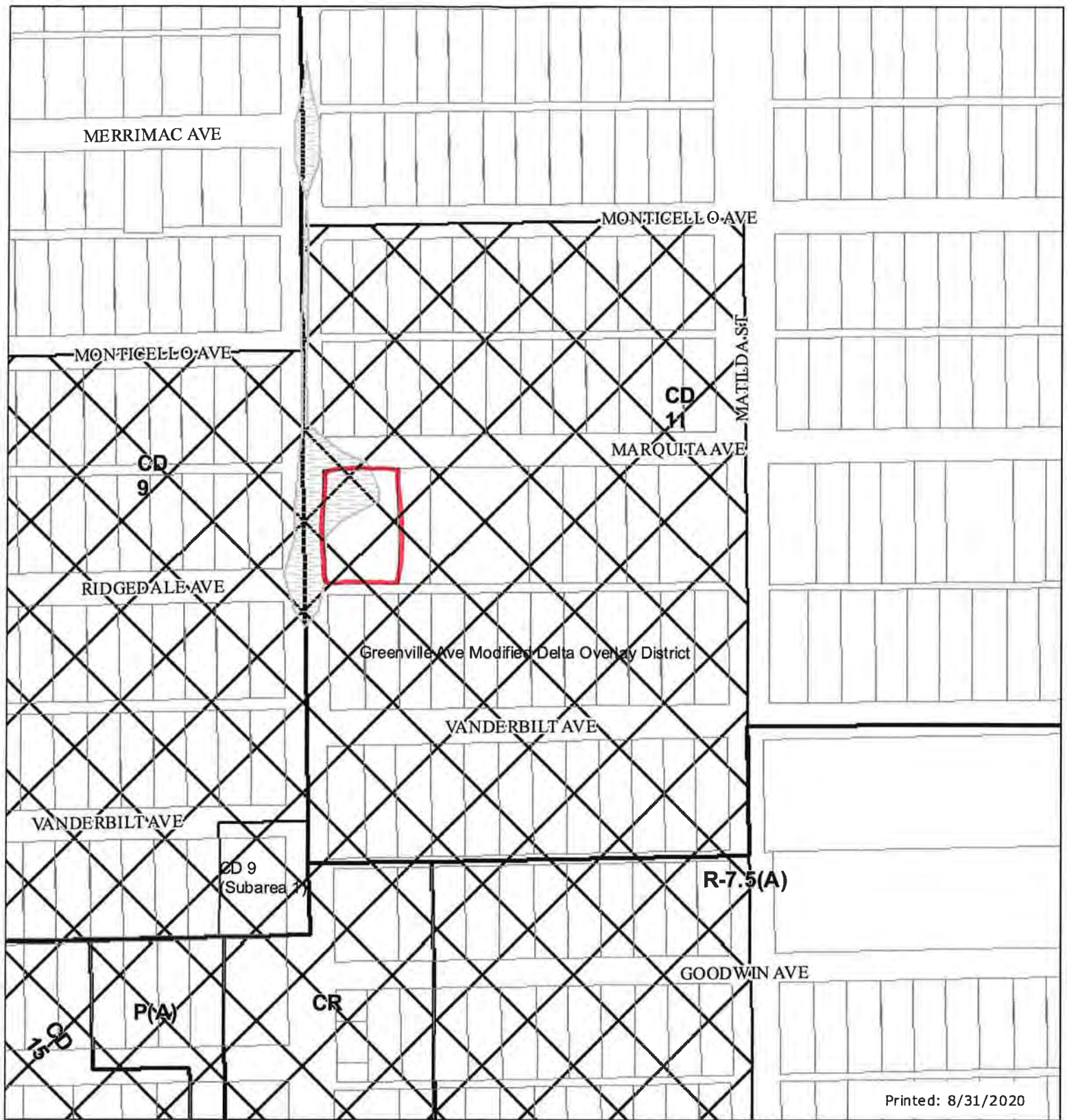
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 3 day of August, 2020



Merline Williams
Notary Public for Dallas County, Texas

Commission expires on 04-08-2024



Legend

	City Limits		railroad		Dry Overlay		CD Subdistricts
	School		Certified Parcels		D		PD Subdistricts
	Floodplain		Base Zoning		D-1		PDS Subdistricts
	100 Year Flood Zone		PD193 Oak Lawn		CP		NSO Subdistricts
	Mill's Creek		Dallas Environmental Corridors		SP		NSO Overlay
	Peak's Branch		SPSD Overlay		MD Overlay		Escarpment Overlay
	X Protected by Levee		Deed Restrictions		Historic Subdistricts		Parking Management Overlay
	Parks		SUP		Historic Overlay		Shop Front Overlay
					Height Map Overlay		

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)





CITY OF DALLAS

July 14, 2020

CERTIFIED MAIL No. 7019 1640 0001 6327 1312

Drew M. Martin
PO Box 470007
Fort Worth, Texas 76147

CERTIFIED MAIL No. 7019 1640 0001 6327 1305

Tom Shields
Shields Ltd. P.S.
418 E Shore Dr
Kemah, Texas 77565-2525

RE: Revocation of Certificate of Occupancy No. 1906071094 for a *Restaurant Without Drive-In or Drive-Through Service* use at 3018 Greenville Avenue, Dallas, Texas 75206

Dear Mr. Martin and Mr. Shields:

The above-referenced certificate of occupancy was approved based, in part, on compliance with off-street parking requirements which had been presumed to be met, in part, with eight delta credits. However, because the above application was to convert from a *general merchandise or food store 3,500 square feet or less* use to a *restaurant without drive-in or drive-through service* use, which has a greater parking requirement, rights to any nonconforming parking cannot be used to meet parking requirements pursuant to Section 3 of Ordinance No. 19726 for the Modified Delta Overlay No. 1 (Exhibit A).

The building official is required to revoke a certificate of occupancy if the building official determines that the use or occupancy authorized by the certificate of occupancy has been issued in error.¹ Therefore, the above-referenced certificate of occupancy is hereby revoked.

Further, based upon the attached noticed to vacate (Exhibit B), the use discontinued and the suite became vacant on or by November 30, 2017. Since the previous use had been discontinued for more than 12 months by the time the above-referenced certificate of occupancy application was submitted on June 7, 2019, eight delta credits for the previous occupancy had been lost pursuant to Section 1 of Ordinance No. 22472 for the Modified Delta Overlay No. 1 (Exhibit C). Fortunately, this ordinance allows the owner to make an appeal to the Board of Adjustment for a special exception to the provision that terminates delta credits as described in the attached ordinance.

¹ Section 306.13(1) of Chapter 52, "Administrative Procedures for the Construction Codes."



CITY OF DALLAS

Any determination made by the building official is final unless appealed before the 15th day after written notice of the action or determination is given in accordance with Section 306.15 of Chapter 52 and Section 51A-4.703 of the Dallas Development Code. Questions about the appeal process should be directed to the building official at 214-948-4625 and questions about the Board of Adjustments should be directed to Charles Trammell at 214-948-4618.

Sincerely,

Sarah May
Chief Planner
Building Inspection
Sustainable Development and Construction Department

cc: Kris Sweckard, Director, Sustainable Development and Construction
Carl Simpson, Director, Code Compliance
David Session, CBO, Interim Building Official
Megan Wimer, CBO, Assistant Building Official
Tammy Palomino, Executive Assistant City Attorney
Casey Burgess, Executive Assistant City Attorney
Charles Trammell, Board of Adjustment Development Code Specialist
Kim Haynie, Development Project Coordinator



City of Dallas

Certificate of Occupancy

Address: **3018 GREENVILLE AVE 75206** Issued: **03/03/2020**

Owner: **SHIELDS LTD. P.S.
3040 GREENVILLE AVE
DALLAS, TX 75206**

DBA: **WINDOW SEAT**

Land Use: **(5811) RESTAURANT WITHOUT DRIVE-IN SERVICE**

Occupied Portion:

C.O.#: **1906071094**

Lot: 11	Block: 2168	Zoning: CD-11	PDD:	SUP:
Historic Dist:	Consrv Dist: M Streets E	Pro Park: 109	Req Park: 109	Park Agrmt: Y
Dwlg Units:	Stories: 1	Occ Code: B	Lot Area: 20620	Total Area: 1435
Type Const: IIIB	Sprinkler: None	Occ Load:	Alcohol: N	Dance Floor:N

Remarks: ALL WORK SUBJECT TO FIELD INSPECTOR APPROVAL. PARKING IS FOR THE ENTIRE SITE. 2 DELTA CREDITS HAVE BEEN LOST. PARKING AGREEMENT EXCEED THE NUMBER OF PARKING REQUIRED BY TWO SPACES. 3018 GREENVILLE AVE ONLY RETAINS 6 DELTA CREDITS MOVING FORWARD.10/11/19 KH NO EXTERIOR HAS BEEN APPROVED.KH

Philip Sikes

Philip Sikes, Building Official

This certificate shall be displayed on the above premise at all times.

Sustainable Development and Construction

| Building Inspection Division | 214/948-4480 | www.dallascityhall.com

10/21/87

ORDINANCE NO. 19726

An ordinance amending CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended; establishing Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) for the following described property, to wit:

Tract I is generally located south of Ellsworth Avenue, west of Matilda Street, north of Mercedes Avenue and east of Worcola Street.

Tract II is generally located south of Monticello Avenue, west of Matilda Street, north of Velasco Avenue and east of Worcola Street.

Tract III is generally located south of Belmont Avenue, west of Matilda Street, north of Ross Avenue and east of Summit Avenue;

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 provisions of the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to Article IV, "Zoning Regulations," of CHAPTER 51, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended; Now Therefore,

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

CHECKED BY

JCX

19726

SECTION 1. That CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, is amended by establishing Modified Delta Overlay District No. 1 ("this district") on the following described Property, to-wit:

Tract I: Being all of City Block B/2906 bounded by Ellsworth Avenue, Greenville Avenue, Matalee Street and Worcola Street; all of City Blocks C/2907, E/2907 and A/2908 bounded by Matalee Street, Greenville Avenue, Martel Avenue and Worcola Street; all of City Block B/2909 bounded by Martel Avenue, Greenville Avenue, Longview Street and Worcola Street; all of City Blocks H/2912 and A/2913 bounded by Longview Street, Greenville Avenue, McCommas Boulevard and Worcola Street; all of City Block 1/2193 bounded by McCommas Boulevard, Greenville Avenue, Morningside Avenue and Worcola Street; all of City Block 2/2194 bounded by Morningside Avenue, Greenville Avenue, Mercedes Avenue, and Worcola Street; all of City Block 3/2890 bounded by Ellsworth Avenue, Matilda Street, Kenwood Avenue and Greenville Avenue; all of City Block 2/2889 bounded by Kenwood Avenue, Matilda Street, Penrose Avenue and Greenville Avenue; all of City Block 1/2888 bounded by Penrose Avenue, Matilda Street, Martel Street and Greenville Avenue; all of City Blocks A/2894 and 2895 bounded by Martel Avenue, Matilda Street, McCommas Boulevard and Greenville Avenue; all of City Blocks 2896 and 4/2149 bounded by McCommas Boulevard, Matilda Street, Morningside Avenue and Greenville Avenue; and all of City Block 3/2148 bounded by Morningside Avenue, Matilda Street, Mercedes Avenue and Greenville Avenue.

Tract II: Being all of City Block B/2170 bounded by Monticello Avenue, Greenville Avenue, Ridgedale Avenue and Worcola Street; all of City Block C/2171 bounded by Ridgedale Avenue, Greenville Avenue, Vanderbilt Avenue and Worcola Street; all of City Blocks D/2172 and 1/2076 bounded by Vanderbilt Avenue, Greenville Avenue, Goodwin Avenue and Worcola Street; all of City Block 8/1926 bounded by Goodwin Avenue, Greenville Avenue, Vickery Boulevard and Worcola Street; all of City Block 9/1927 bounded by Vickery Boulevard, Greenville Avenue, Miller Avenue and Worcola Street; all of City Block 1/2146 bounded by Monticello Avenue, Matilda Street, Marquita Avenue, and Greenville Avenue; all of City Blocks 1/2168 and 5/2166 bounded by Marquita Avenue, Matilda Street, Vanderbilt Avenue and Greenville Avenue; all of City Blocks 1/2164 and 1/2162 bounded by Vanderbilt Avenue, Matilda Street, Goodwin Street and Greenville Avenue; all of City Block 8/1918 bounded by Goodwin

19726

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Avenue, Matilda Street, Vickery Boulevard and Greenville Avenue; all of City Block 9/1919 bounded by Vickery Boulevard, Matilda Street, Llano Street and Greenville Avenue; and all of City Block 1/1885 bounded by Llano Street, Matilda Street, Velasco Avenue and Greenville Avenue.

Tract III:

Being all of City Block 8/2012 bounded by Belmont Avenue, Greenville Avenue, Richmond Avenue, and Summit Avenue; all of City Block 7/2071 and part of City Block 1982 bounded by Richmond Avenue, Greenville Avenue, Bell Avenue and Summit Avenue; part of City Block 1982 and all of City Block D/1982 bounded by Bell Avenue, Greenville Avenue, Sears Street and Summit Avenue; all of City Block C/1983 bounded by Sears Street, Greenville Avenue, Alta Street and Summit Avenue; all of City Block B/1988 bounded by Alta Street, Greenville Avenue, Lewis Street and Summit Avenue, part of City Block 1472 bounded by Lewis Street, Greenville Avenue, Ross Avenue and the westward prolongation of the centerline of Ross Avenue from Greenville Avenue to Summit Avenue, and Summit Avenue; all of City Block 17/1901 bounded by Belmont Avenue, Matilda Street, Richmond Street and Greenville Avenue; all of City Block 24/1904 bounded by Richmond Avenue, Matilda Street, Prospect Avenue and Greenville Avenue; all of City Block 1/1905 bounded by Prospect Avenue, Matilda Street, Oram Street and Greenville Avenue; all of City Block 1907 and part of City Block 1908 bounded by Oram Street, Matilda Street, LaVista Street and Greenville Avenue, all of City Blocks A/1473 and B/1474 bounded by LaVista Street, Matilda Street, Lewis Street and Greenville Avenue; and all of City Blocks F/1473 and G/1474 bounded by Lewis Street, Matilda Street, Ross Avenue and Greenville Avenue.

SECTION 2. That no nonconforming parking spaces may be carried forward by a use under the delta theory, as defined in Section 51-4.704 of CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, when a use located in this district is expanded.

SECTION 3. That when a use located in this district is converted to a new use having greater parking or loading requirements, the rights to any nonconforming parking or

19726

loading under the delta theory may not be used to meet the new parking requirements.

SECTION 4. That when a use located in this district is converted to a new use having lesser parking or loading requirements, the rights to any portion of the nonconforming parking or loading not needed to meet the new requirements are lost.

SECTION 5. That the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can state an extreme circumstance that demonstrates that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more.

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That CHAPTER 51 of the Dallas City Code, 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.

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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:

ANALES LIE MUNCY, City Attorney

BY *Cynthia M. de Steener*
Assistant City Attorney

Passed and correctly enrolled OCT 21 1987.

Zoning File No. Z867-228/6254-E

5623I

HOOVER SLOVACEK LLP
A REGISTERED LIMITED LIABILITY PARTNERSHIP

JOSEPH O. SLOVACEK, P.C.
PARTNER

slovacek@hooverslovacek.com
www.hooverslovacek.com

ATTORNEYS AT LAW
GALLERIA TOWER II
5051 WESTHEIMER, SUITE 1200
HOUSTON, TEXAS 77056
(713) 977-8686
FAX (713) 977-5395

REPLY TO:
P.O. BOX 4547
HOUSTON, TEXAS 77210

October 3, 2017

Via Certified Mail, Return Receipt Requested
and U.S. Mail

H.D.'s, Inc.

Attn: Harry E. Demarco, its President and Registered Agent
3018 Greenville Avenue
Dallas, Texas 75206

Via Certified Mail, Return Receipt Requested
and U.S. Mail

H.D.'s, Inc. and any and all occupants
3018 Greenville Avenue
Dallas, Texas 75206

RE: Month-to-Month Tenancy related to a certain Lease Agreement dated April 28, 1992 (the "Lease"), by and between SHIELDS LIMITED PARTNERSHIP, as successor-in-interest to Bernard E. Shields, a Texas limited partnership (the "Landlord"), and H.D.'S, INC., a Texas corporation (the "Tenant"), covering certain premises as further described within the Lease and commonly known as 3018 Greenville Avenue, Dallas, Texas 75206 (the "Premises")

Dear H.D.'s, Inc. and Any and All Occupants of the Premises:

Please be advised that the undersigned attorney and law firm represent Landlord with respect to the above-referenced matter. Capitalized terms used, but not defined, herein shall have the same meaning as in the Lease. Effective immediately, all communications regarding the matters addressed herein should be directed to me.

As Tenant is aware, the Lease expired by its own terms and Tenant has been occupying the Premises on a month-to-month basis. The purpose of this letter is to notify Tenant that Landlord is exercising its right, under Texas law, to terminate Tenant's month-to-month tenancy and Tenant's right to occupy the Premises **effective November 30, 2017** (the "Termination Date"). Tenant is expected to fulfill all rental obligations for the months of both October and November 2017 as well as return the Premises to Landlord in a clean and rentable condition on or before the Termination Date. Tenant will be responsible for any and all damages done to the

Premises above and beyond normal wear and tear or as otherwise required under the Lease and Texas law.

Tenant and all occupants are hereby given written notice to vacate the Premises. Unless Tenant and all occupants have vacated the Premises **on or before November 30, 2017**, Landlord fully intends to file suit to evict any and all parties in possession of the Premises. In addition, the Landlord intends to file suit against Tenant and any other parties liable under the Lease, if any, for collection of all delinquent amounts, interest, late fees, attorneys' fees, and any other damages and amounts due under the Lease and in connection with the month-to-month tenancy.

Any delay or postponement of any of Landlord's actions shall not constitute a waiver. This letter should not be interpreted by Tenant as an election of remedies. Landlord reserves and preserves all rights and remedies available to it pursuant to the Lease and as otherwise granted by Texas law. Additionally, this letter shall not constitute a waiver of any other Tenant default that might exist at the present.

This letter is being sent to Tenant in accordance with the notice provisions of the Lease and the requirements of Texas law. No further communication will necessarily be sent to Tenant from Landlord or from this law firm prior to the time that suit is instituted in the event that Tenant and any and all occupants fail to vacate the Premises by the Termination Date indicated herein.

Sincerely yours,

HOOVER SLOVACEK LLP

Joseph O. Slovacek

JOS:AJB

bcc: client (via email)

6-21-95

ORDINANCE NO. 22472

An ordinance amending Ordinance No. 19726, which established Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District); amending Section 5 of that ordinance; providing that the board of adjustment may not grant a special exception for required parking; providing an extension of the walking distance for remote parking; providing that more than 50 percent of required parking may consist of special parking; providing that the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, shall govern this 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 of the City of Dallas, in accordance with the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to Ordinance No. 19726; and

WHEREAS, the city council finds that it is in the public interest to amend Modified Delta Overlay District No. 1 as specified in this ordinance; Now, Therefore,

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

SECTION 1. That Section 5 of Ordinance No. 19726 is amended to read as follows:

"SECTION 5. That the right to carry forward nonconforming parking and loading

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spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can ~~demonstrate~~state an extreme circumstance that demonstrates that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more, by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:

(a) A decline in the rental rates for the area which has affected the rental market.

(b) An unusual increase in the vacancy rates for the area which has affected the rental market.

(c) Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties, affecting the marketability of property."

SECTION 2. That a new Section 5A is added to Ordinance No. 19726 to read as follows:

"SECTION 5A. That the board of adjustment may not grant a special exception for required off-street parking in this district."

SECTION 3. That a new Section 5B is added to Ordinance No. 19726 to read as follows:

"SECTION 5B. That the walking distances contained in Paragraphs (1) and (2)(A) of Section 51A-4.324(d) of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, are extended to 600 and 900 feet, respectively, for remote parking in this district."

SECTION 4. That a new Section 5C is added to Ordinance No. 19726 to read as follows:

"SECTION 5C. That special parking, as defined in Section 51A-4.321 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, may account for more than 50 percent of the off-street parking required for any use."

SECTION 5. That a new Section 5D is added to Ordinance No. 19726 to read

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as follows:

"SECTION 5D. That the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, govern this district."

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

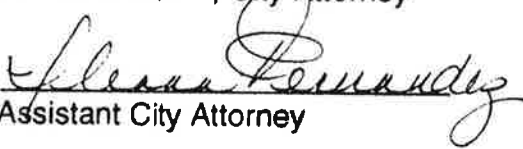
SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 shall remain in full force and effect, save and except as amended by this ordinance.

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:

SAM A. LINDSAY, City Attorney

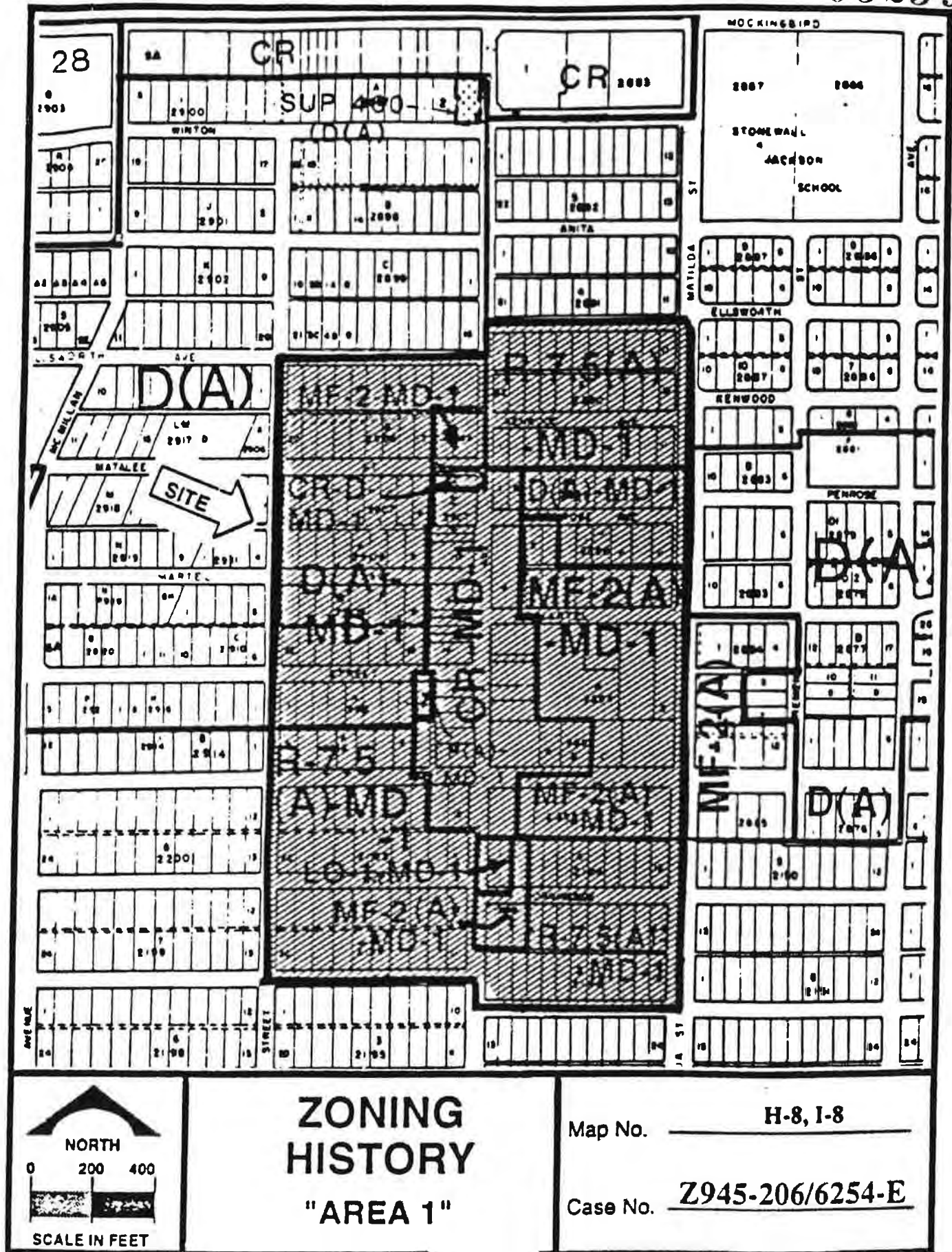
By 
Assistant City Attorney

JUN 28 1995

Passed _____

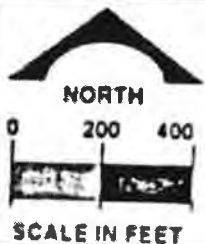
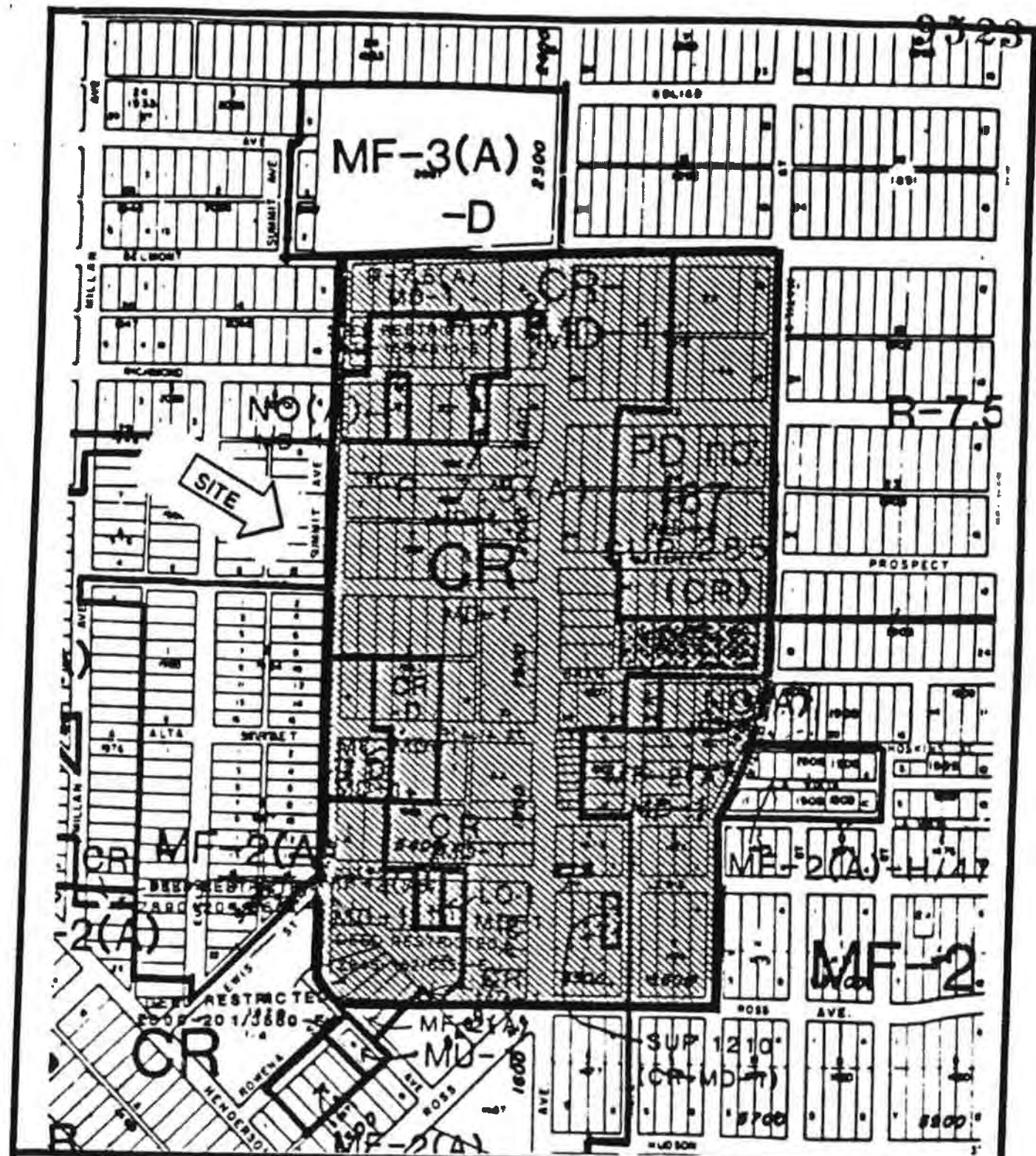
File No. Z945-206/6254-E

952395





232395



ZONING HISTORY "AREA 3"

Map No. H-8, I-8

Case No. Z945-206/6254-E

PARKING AGREEMENT

STATE OF TEXAS }
COUNTY OF DALLAS }

DEED RECORD

I. A 0835 2 23.00 DEED
1 05/11/87

Bernard E. Shields

("Owner A") is the owner of the below described property ("Tract A"):

Street Address 3020, 3022 and 3024 Greenville Avenue

Property Description: Lot 11 Block 2168

Addition Tucker Heights

more particularly described in Volume 1358, page 114

of the Deed Records of Dallas County, Texas.

II.

Fickling/Patterson Properties, a Texas general partnership

("Owner B") is the owner of the below described property ("Tract B"):

Street Address 5710 Marquita

Property Description: Lot 10 Block 2168

Addition Tucker Heights

more particularly described in Volume 82204, page 2192

of the Deed Records of Dallas County, Texas.

III.

Owner A and Owner B for the consideration of the City of Dallas granting a building permit and/or a certificate of occupancy for Tract A, agree that Tract B shall be used to provide 18 required off-street parking spaces for Tract A to comply with the Dallas Development Code of the City of Dallas.

IV.

The location of the off-street parking spaces provided on Tract B for Tract A shall be shown on a site plan that is attached to and made a part of this parking agreement. The site plan shall provide sufficient information to demonstrate compliance with the Dallas Development Code and all other applicable ordinances and regulations. The site plan may be amended only by filing in the deed records a revised site plan approved by the building official in accordance with Paragraph V.

1.

87090 5558

V.

This agreement may be amended or terminated only upon the filing in the Deed Records of Dallas County, Texas, of an instrument signed by the building official of the City of Dallas, Texas, or his designee, authorizing the amendment or termination of this agreement, because the required off-street parking has been provided in accordance with the Dallas Development Code of the City of Dallas and all other applicable ordinances and regulations. Owner A or Owner B shall file the amending or terminating instrument in the Deed Records of Dallas County, Texas, at the sole cost and expense of Owner A or Owner B.

VI.

If for any reason the required off-street parking for Tract A is not provided in accordance with this agreement, the City of Dallas may revoke Owner A's certificate of occupancy for Tract A, and Owner A shall have no right to use Tract A for any use until required off-street parking is provided.

VII.

This agreement shall be recorded in the deed records, Dallas County, Texas and shall be a covenant running with Tract A and Tract B. Owner A and Owner B agree that this agreement shall bind their successors, heirs and assigns, if any.

EXECUTED at Dallas, Texas this the 27th day of June 1986.

Rm Gindley
Owner A.

Swca Hill
Owner B.

Attach acknowledgments for both
Owner A and Owner B

90588/th

APPROVED BY
ANNE L. MUNCY, City Attorney

By Cynthia Foster Skinner
Assistant City Attorney

2

87090 5559

(3) Attorney in Fact

THE STATE OF TEXAS

COUNTY OF DALLAS

Before me, the undersigned authority, on this day personally appeared R.M. Lindsay, known to me to be the person whose name is subscribed to the foregoing instrument, as the attorney in fact of Bernard E. Shields, and acknowledged to me that he subscribed the name of Bernard E. Shields thereto as principal and his own name as attorney in fact, and executed the same for the purposes and consideration therein expressed and in the capacity therein set forth.

Given under my hand and seal of office on this 27th day of June, 19 86.



J.W. Lindsay III
Notary Public, State of Texas
Notary's name printed:
J.W. LINDSLEY III
My commission expires: 11-30-88

(4) Partnership (By Member of)

THE STATE OF TEXAS

COUNTY OF DALLAS

Before me, the undersigned authority, on this day personally appeared Scott Fickling, a member of the partnership firm of Fickling/Patterson Properties, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act of Fickling/Patterson Properties, a partnership, for the purposes and consideration therein expressed and in the capacity therein stated.

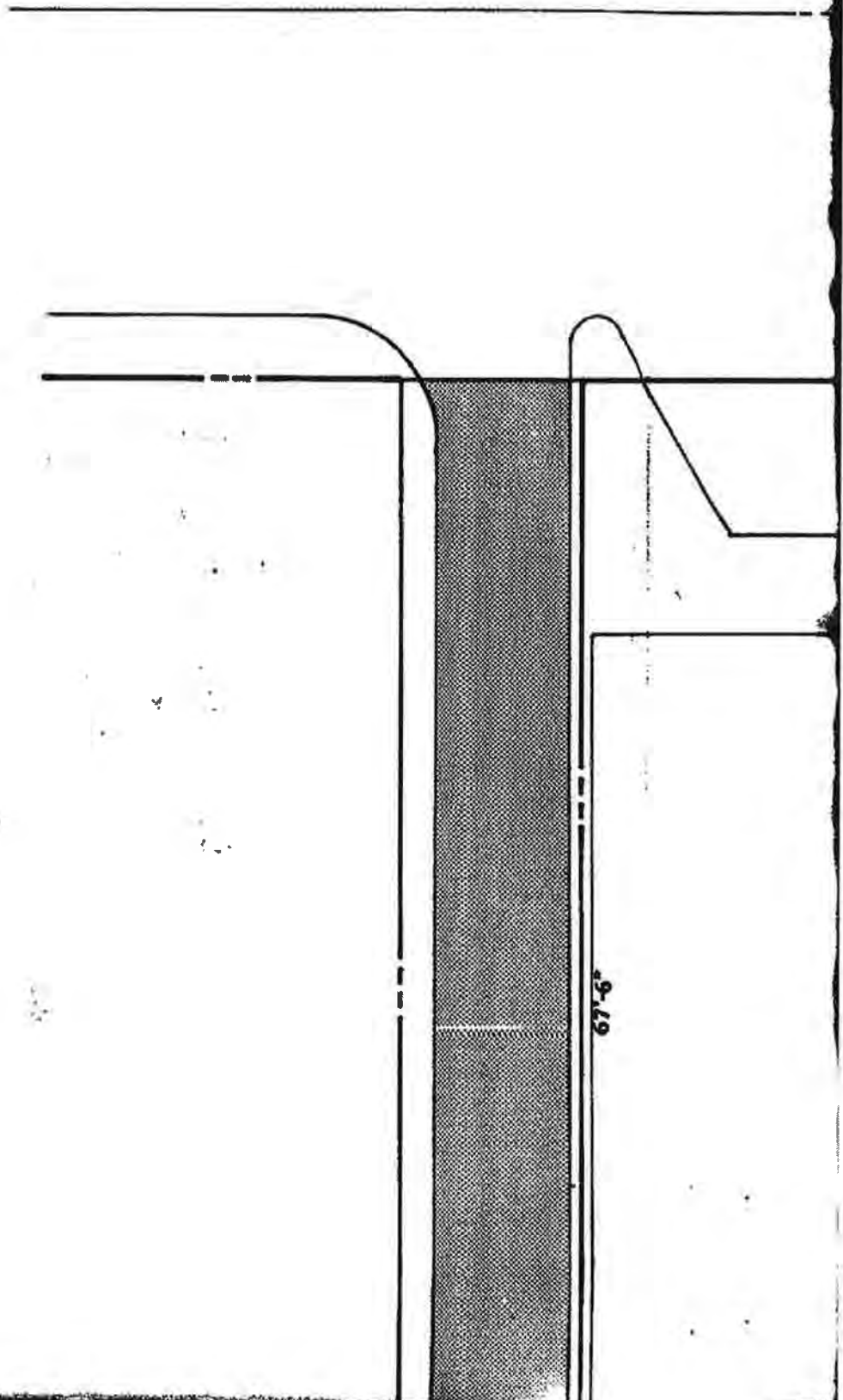
Given under my hand and seal of office on this 29th day of June, 19 86.

Cynthia Widener
Notary Public, State of Texas
Notary's name printed:
Cynthia Widener
My commission expires: 9-19-87

Notary Public, State of Texas
My commission expires: 9-19-87

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1995 06028



GREENVILLE

179.33' PROPERTY L

14 SPACES

8' WALK

141'-11"

67'-6"

LOT 11 ONE STO

BLOCK 2168

AVENUE

PROPERTY LINE

ACES

ALK

141'-11"

ONE STORY BRICK

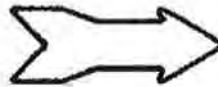
SAN FRANCISCO ROSE CAFE

77'-9"

115.33'
6 SPACES

OCK 2168

1100 2208



AVENUE

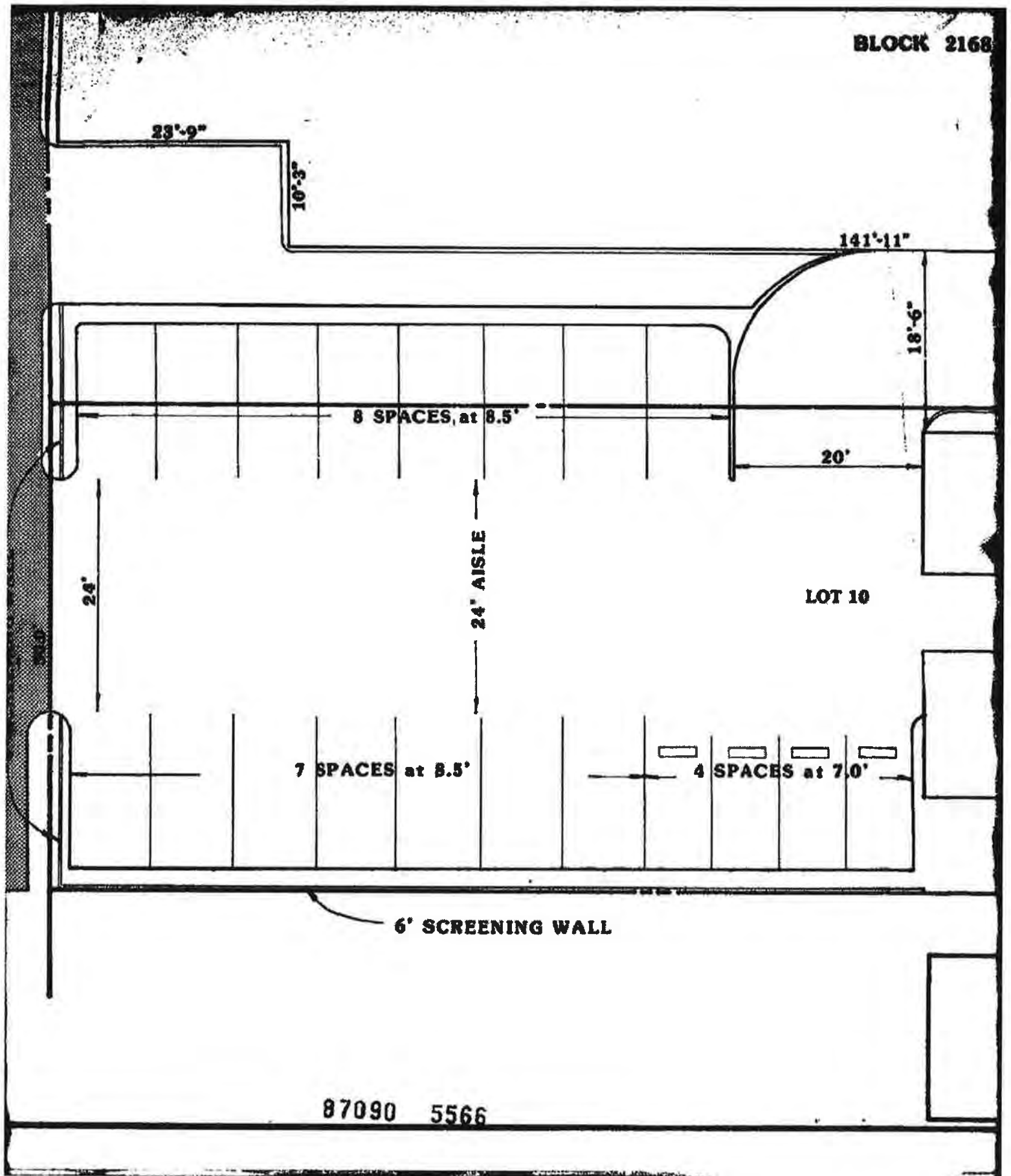
115.33'

6 SPACES

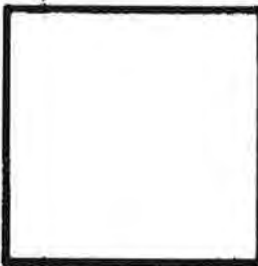
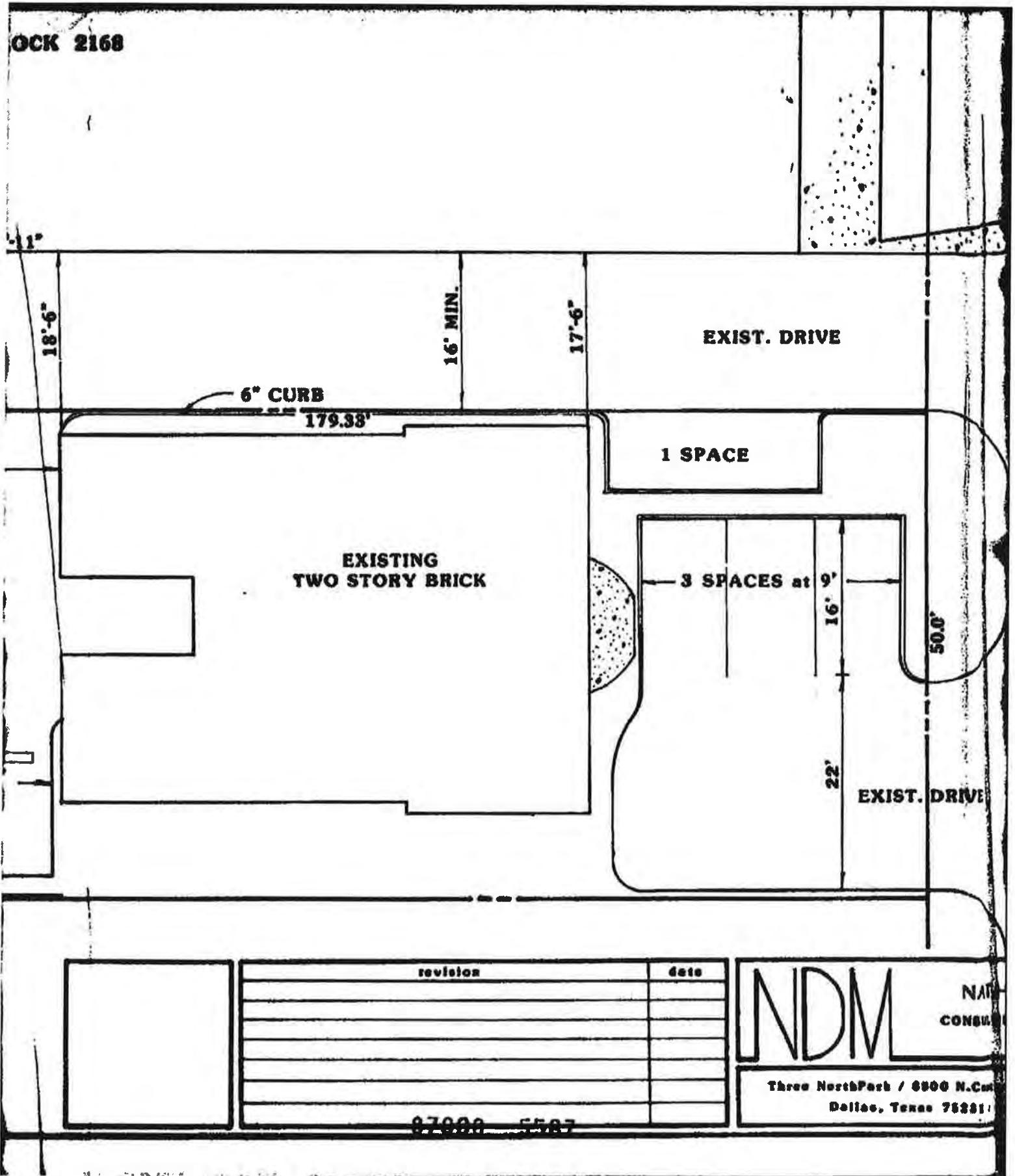
IS ALLEY

U.S. DEPARTMENT OF JUSTICE

87090 5565



OCK 2168

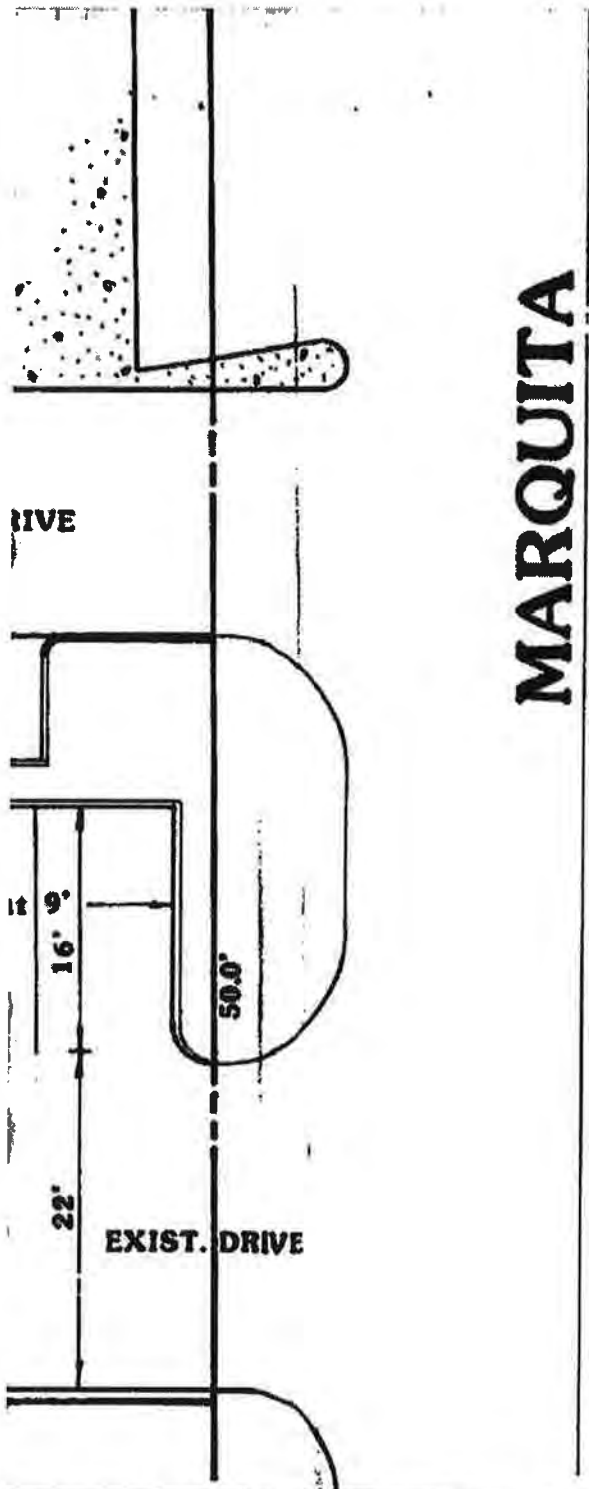


revision	date

NDM NAT CONSUM

Three NorthPark / 8900 N. Central
Dallas, Texas 75231

07000 5587



MARQUITA

REQUIRED NUMBER OF PARKING STALLS, AISLE AREA AND DRIVEWAYS SHALL BE FREE OF ALL TREES, UTILITY POLES, TRAFFIC CONTROL DEVICES, OR ANY OTHER OBJECTS.
 APPROVED: Date: 6/27/86
 TRAFFIC DESIGN PUBLIC WORKS
 By: TOM PASCO

COMPACTS ONLY
 23 PARKING SPACES TOTAL

	NATHAN D. MAIER CONSULTING ENGINEERS, INC.	SAN FRANCISCO ROSE PARKING LAYOUT				sheet 007090 5568
	NorthPark / 8800 N. Central Expwy. / Suite 200 Dallas, Texas 75231 / (214) 739-6741	design AM	drawn LCG	scale 1"-10'	date 6-1986	notes

Barry R. Knight
Dallas, Texas 75201

BARRY R. KNIGHT

After filing return to:

COUNTY CLERK, DALLAS COUNTY, TEXAS
Eugene B. Smith
MAY 11 1987
I hereby certify that the instrument was filed on the date and time shown on the record and that the same is a true and correct copy of the original as shown to me.
COUNTY OF DALLAS

FILED
Eugene B. Smith
COUNTY CLERK
DALLAS COUNTY
87 MAY 11 PM 3:07

PROVISIONS CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR ARE INVALID UNDER FEDERAL LAW AND ARE UNENFORCEABLE.
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.

87090 5569

From: Kay, Kiesha <kiesha.kay@dallascityhall.com>
Sent: Tuesday, September 11, 2018 12:05 PM
To: Rob Baldwin <rob@baldwinplanning.com>
Subject: Re: 3014 Greenville

Rob,

Yes, this is correct.

Thank you,

Kiesha Kay

Get [Outlook for Android](#)

From: Rob Baldwin <rob@baldwinplanning.com>
Sent: Tuesday, September 11, 2018 10:49:40 AM
To: Kay, Kiesha
Subject: 3014 Greenville

Good afternoon Kiesha

I am working with the owner of the property known as 3014 Greenville. We are processing building permits and a CA review to allow us to renovate this building. This building is in the Modified Delta District and we want to make sure that we do not lose our delta credits while we are going through the renovation process. Would you please confirm my understanding that if we have an active building permit in place and are regularly calling in our inspections, we will not lose our delta credits while we are under construction and while we are actively marketing the spaces for lease.

Thanks for your help.

Rob

Rob Baldwin
Baldwin Associates, LLC
(214) 729-7949
rob@baldwinplanning.com



CITY OF DALLAS

September 6, 2019

Michele Stoy
Baldwin Associates
3904 Elm Street, STE: B
Dallas, TX 75226

RE: Zoning Determination Request; 3014-3024 Greenville

Dear Ms. Stoy:

As detailed in your letter dated February 27, 2019 and attached, you have requested a written determination pertaining to the non-conforming rights, or "delta credits" for the property referenced above.

The above stated property is located within CD 11, the M Streets East Conservation District, and located within the MD-1 Overlay, Greenville Ave Modified Delta Overlay District (Tract 2). The MD-1 Overlay ordinance states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. Based on our research and the attached floor plan used to verify the floor area of each suite, information on the most recent certificate of occupancy and delta credits is provided for each address.

3014 Greenville Avenue - (5999) General merchandise, CO#1807251124, - 1,559 square feet - 8 delta credits.

3016 Greenville Avenue - (5999) General merchandise, CO#1207091020, - 1,707 square feet - 9 delta credits.

3018 Greenville - (5999), General merchandise, CO#8111172414, - 1,526 square feet - 8 delta credits.

3020 Greenville - (5811) Restaurant, CO#9702141024, - 3,913 square feet, 39 delta credits.

3024 Greenville - (5821) Alcohol Beverage Establishment, CO#1604221106, - 3,846 square, 9 spaces obtained via a parking agreement, 29 delta credits remaining.

Therefore, based on this research, the possible non-conforming parking rights afforded per Section 51A-4.704(b)(4)(A) of the Dallas Development code could be 93 delta credits.

The delta credits for this property need to be considered per tenant when located in the MD Overlay to verify if the deltas have been lost due to vacancy. Per the parking ordinance parking must be met for the entire site, but deltas may be allocated to a specific tenant due to an adjacent tenant losing their rights to delta credits.



CITY OF DALLAS

Please note that when a use is converted to a new use having lesser parking requirements, the rights to any portion of the nonconforming parking that is not needed to meet the new requirement are lost.

Also, per Sec.51A-4.704(b)(4)(A), a person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional required off-street parking and loading spaces are provided.

This letter does not constitute a building permit or certificate of occupancy, nor does it imply that a building permit or certificate of occupancy will be approved without complying with all applicable rules and regulations. The City of Dallas does not provide letters certifying that a property or development complies with all applicable rules and regulations.

If you have any further questions, please contact me at 214-948-4501 or megan.wimer@dallascityhall.com.

Respectfully,

Megan Wimer, AICP, CBO
Assistant Building Official
Building Inspection Division

cc: Phil Sikes, CBO, Building Official

From: [Munoz, Jennifer](#)
To: [REDACTED]

Good Evening,

Yes, we can hold this case to November. It has not yet been advertised.

Thank you,



Jennifer Muñoz

Chief Planner/Board Administrator

City of Dallas | www.dallascityhall.com

Current Planning Division

Sustainable Development and Construction

1500 Marilla Street, 5BN

Dallas, TX 75201

O: 214-670-4208

jennifer.munoz@dallascityhall.com



****OPEN RECORDS NOTICE:** *This email and responses may be subject to the Texas Open Records Act and may be disclosed to the public upon request. Please respond accordingly.***

From: Jennifer Hiromoto [REDACTED]

Sent: Monday, October 5, 2020 1:34 PM

To: Munoz, Jennifer <jennifer.munoz@dallascityhall.com>

Cc: Rob Baldwin [REDACTED]

Subject: RE: Letter of support for the Window Seat to be allowed to remain open

External Email!

Good afternoon Jennifer,

We would like to ask that case BDA190-092 for the BO Appeal be on the November docket. There is potential that this case is not needed if the other cases are successful. Please let us know if you can accommodate this request.

Thanks,
Jennifer

Jennifer Hiromoto
Baldwin Associates
3904 Elm Street Suite B
Dallas, TX 75226
Office: 214-824-7949
Cell: 469-275-2414



November 6, 2020

Via Email to BDA Secretary

Board of Adjustment, Panel B
1500 Marilla St., 5BN
Dallas, Texas 75201

Re: City Staff's Brief in Response to the Appeal of the Building Official's Decision as to 3018 Greenville, BDA 190-092

Dear Board Members:

Below is a summary the of key points that will be addressed by City staff in response to the appeal of the building official's decision in BDA 190-092.

I. Facts

A certificate of occupancy (No. 8111172414) was issued for 3018 Greenville Avenue, Dallas, Texas 75206 in November 1981. (Exhibit A). The property had 8 delta credits (these are credits that can be used to offset the required number of parking spaces for a property) for its use at that time. A new certificate of occupancy (No. 1906071094) ("CO") was issued in March 2020 which changed the use from a *general merchandise or food store 3,500 square feet or less* use to a *restaurant without drive-in or drive-through service* use. (Exhibit B).

On July 14, 2020, Sarah May, Chief Planner, Building Inspection Division, sent a letter to the Property owners, Drew M. Martin and Tom Shields, informing them that the CO was being revoked because it had been issued in error. (Exhibit C).

The applicant has appealed the building official's decision to revoke the CO.

II. Reason for Revocation

A. Change in Use – Greater Parking Requirement

Under Chapter 52, Section 306.13 of the Dallas City Code, the building official is required to revoke a certificate of occupancy if she determines that “the certificate of occupancy is issued in error” or “the use or occupancy authorized by the certificate of occupancy has been discontinued for six months or more.” (Ex. D). Section 3 of Ordinance No. 19726 for the Modified Delta Overlay No. 1, which covers 3018 Greenville Avenue, states: “That when a use located in this district is converted to a new use having greater parking or loading requirements, the rights to any nonconforming parking or loading under the delta theory may not be used to meet the new parking requirements.” (Exhibit E).

Initially the CO was approved based, in part, on compliance with off-street parking requirements which had been presumed to be met, in part, with the eight delta credits. (Exhibit C). However, because the application for the CO was to convert from a *general merchandise or food store 3,500 square feet or less* use to a *restaurant without drive-in or drive-through service* use, which has a greater parking requirement, rights to any nonconforming parking cannot be used to meet parking requirements pursuant to Section 3 of Ordinance No. 19726 for the Modified Delta Overlay No 1. (Id. and Exhibit F). When the use at 3018 Greenville Avenue was converted to a restaurant use, the delta credits were not available and the parking requirements for the property were no longer met and so the CO should not have been issued. Therefore, the building official properly revoked the CO as required by Chapter 52, Section 306.13 of the Dallas City Code.

B. Loss of Delta Credits Due to Discontinued Use/Vacancy

Dallas City Ordinance 22472 amended Dallas City Ordinance 19726, which established Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) for the area where the Property is located. Section 1 of Ordinance No. 22472 states that Section 5 of Ordinance No. 19726 is amended to read: “That the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more.” (Exhibit G). It further provides “The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more, by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following: (a) A decline in the rental rates for the area which has affected the rental market, (b) An unusual increase in the vacancy rates for the area which has affected the rental market, or (c) Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties, affecting the marketability of property.” (Id.).

The building official relied upon a termination notice sent to the former tenant with an effective termination date of November 30, 2017, to conclude that the previous use had been discontinued for more than 12 months by the time the CO application was submitted on June 7, 2019. (Exhibit C and Exhibit H). Based on Section 1 of Ordinance No. 22472 she informed the owners that the eight delta credits had been lost and, therefore, this was an additional reason they could not be used to meet the parking requirements for the new restaurant use. This too supports the decision to revoke the CO. It is up to the board of adjustment to determine if a basis for a special exception has been established for the discontinued use. However, the restoration of the

Board of Adjustment, Panel B

November 6, 2020

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delta credits due to a special exception does not have any bearing on the primary basis for the revocation of the CO which was the change in use as discussed above.

III. Relief Requested

The building official's decision was proper, and the City requests that the decision be affirmed. The panel should sustain the building official's decision to revoke the March 2020 certificate of occupancy at the Property and her finding that the 8 delta credits have been lost.

Respectfully,

Christopher C. Gunter
Assistant City Attorney
214-670-4288
christopher.gunter@dallascityhall.com

On behalf of the building official

Exhibit A

Certificate of Occupancy

This Certificate of Occupancy is a reprint from Building Inspection files

Address: 3018 GREENVILLE AVE 75206

Owner: VICKI & HARRY DEMARCO
000000

DBA:

Land Use: (5610) Men's and boys' clothing and furnishings - retail

C.O.#: 8111172414

Issued Date: 11/20/1981

Lot:	Block:	Zoning:	PDD:	0	SUP:
Historic Dist:	Consrv Dist:	Pro Park:	0	Req Park:	0
Dwlg Units: 0	Stories: 0	Occ Code: B2	Lot Area:	0	Total Area: 0
Type Const:	Sprinkler:	Occ Load:	Alcohol:	N	Dance Floor: N

Remarks:

This certificate shall be displayed on the above premise at all times.

Exhibit B



City of Dallas

Certificate of Occupancy

Address: **3018 GREENVILLE AVE 75206** Issued: 03/03/2020

Owner: **SHIELDS LTD. P.S.
3040 GREENVILLE AVE
DALLAS, TX 75206**

DBA: **WINDOW SEAT**

Land Use: **(5811) RESTAURANT WITHOUT DRIVE-IN SERVICE**

Occupied Portion:

C.O.#: **1906071094**

Lot: 11	Block: 2168	Zoning: CD-11	PDD:	SUP:
Historic Dist:	Consrv Dist: M Streets E	Pro Park: 109	Req Park: 109	Park Agrmt: Y
Dwlg Units:	Stories: 1	Occ Code: B	Lot Area: 20620	Total Area: 1435
Type Const: IIIB	Sprinkler: None	Occ Load:	Alcohol: N	Dance Floor:N

Remarks: ALL WORK SUBJECT TO FIELD INSPECTOR APPROVAL. PARKING IS FOR THE ENTIRE SITE. 2 DELTA CREDITS HAVE BEEN LOST. PARKING AGREEMENT EXCEED THE NUMBER OF PARKING REQUIRED BY TWO SPACES. 3018 GREENVILLE AVE ONLY RETAINS 6 DELTA CREDITS MOVING FORWARD.10/11/19 KH NO EXTERIOR HAS BEEN APPROVED.KH

Philip Sikes

Philip Sikes, Building Official

This certificate shall be displayed on the above premise at all times.

Sustainable Development and Construction

| Building Inspection Division | 214/948-4480 | www.dallascityhall.com

EXHIBIT C



CITY OF DALLAS

July 14, 2020

CERTIFIED MAIL No. 7019 1640 0001 6327 1312

Drew M. Martin

PO Box 470007

Fort Worth, Texas 76147

CERTIFIED MAIL No. 7019 1640 0001 6327 1305

Tom Shields

Shields Ltd. P.S.

418 E Shore Dr

Kemah, Texas 77565-2525

RE: Revocation of Certificate of Occupancy No. 1906071094 for a *Restaurant Without Drive-In or Drive-Through Service* use at 3018 Greenville Avenue, Dallas, Texas 75206

Dear Mr. Martin and Mr. Shields:

The above-referenced certificate of occupancy was approved based, in part, on compliance with off-street parking requirements which had been presumed to be met, in part, with eight delta credits. However, because the above application was to convert from a *general merchandise or food store 3,500 square feet or less* use to a *restaurant without drive-in or drive-through service* use, which has a greater parking requirement, rights to any nonconforming parking cannot be used to meet parking requirements pursuant to Section 3 of Ordinance No. 19726 for the Modified Delta Overlay No. 1 (Exhibit A).

The building official is required to revoke a certificate of occupancy if the building official determines that the use or occupancy authorized by the certificate of occupancy has been issued in error.¹ Therefore, the above-referenced certificate of occupancy is hereby revoked.

Further, based upon the attached noticed to vacate (Exhibit B), the use discontinued and the suite became vacant on or by November 30, 2017. Since the previous use had been discontinued for more than 12 months by the time the above-referenced certificate of occupancy application was submitted on June 7, 2019, eight delta credits for the previous occupancy had been lost pursuant to Section 1 of Ordinance No. 22472 for the Modified Delta Overlay No. 1 (Exhibit C). Fortunately, this ordinance allows the owner to make an appeal to the Board of Adjustment for a special exception to the provision that terminates delta credits as described in the attached ordinance.

¹ Section 306.13(1) of Chapter 52, "Administrative Procedures for the Construction Codes."



CITY OF DALLAS

Any determination made by the building official is final unless appealed before the 15th day after written notice of the action or determination is given in accordance with Section 306.15 of Chapter 52 and Section 51A-4.703 of the Dallas Development Code. Questions about the appeal process should be directed to the building official at 214-948-4625 and questions about the Board of Adjustments should be directed to Charles Trammell at 214-948-4618.

Sincerely,

Sarah May
Chief Planner
Building Inspection
Sustainable Development and Construction Department

cc: Kris Sweckard, Director, Sustainable Development and Construction
Carl Simpson, Director, Code Compliance
David Session, CBO, Interim Building Official
Megan Wimer, CBO, Assistant Building Official
Tammy Palomino, Executive Assistant City Attorney
Casey Burgess, Executive Assistant City Attorney
Charles Trammell, Board of Adjustment Development Code Specialist
Kim Haynie, Development Project Coordinator

10/21/87

ORDINANCE NO. 19726

An ordinance amending CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended; establishing Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) for the following described property, to wit:

Tract I is generally located south of Ellsworth Avenue, west of Matilda Street, north of Mercedes Avenue and east of Worcola Street.

Tract II is generally located south of Monticello Avenue, west of Matilda Street, north of Velasco Avenue and east of Worcola Street.

Tract III is generally located south of Belmont Avenue, west of Matilda Street, north of Ross Avenue and east of Summit Avenue;

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 provisions of the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to Article IV, "Zoning Regulations," of CHAPTER 51, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended; Now Therefore,

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

CHECKED BY

JCX

19726

SECTION 1. That CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, is amended by establishing Modified Delta Overlay District No. 1 ("this district") on the following described Property, to-wit:

Tract I: Being all of City Block B/2906 bounded by Ellsworth Avenue, Greenville Avenue, Matalee Street and Worcola Street; all of City Blocks C/2907, E/2907 and A/2908 bounded by Matalee Street, Greenville Avenue, Martel Avenue and Worcola Street; all of City Block B/2909 bounded by Martel Avenue, Greenville Avenue, Longview Street and Worcola Street; all of City Blocks H/2912 and A/2913 bounded by Longview Street, Greenville Avenue, McCommas Boulevard and Worcola Street; all of City Block 1/2193 bounded by McCommas Boulevard, Greenville Avenue, Morningside Avenue and Worcola Street; all of City Block 2/2194 bounded by Morningside Avenue, Greenville Avenue, Mercedes Avenue, and Worcola Street; all of City Block 3/2890 bounded by Ellsworth Avenue, Matilda Street, Kenwood Avenue and Greenville Avenue; all of City Block 2/2889 bounded by Kenwood Avenue, Matilda Street, Penrose Avenue and Greenville Avenue; all of City Block 1/2888 bounded by Penrose Avenue, Matilda Street, Martel Street and Greenville Avenue; all of City Blocks A/2894 and 2895 bounded by Martel Avenue, Matilda Street, McCommas Boulevard and Greenville Avenue; all of City Blocks 2896 and 4/2149 bounded by McCommas Boulevard, Matilda Street, Morningside Avenue and Greenville Avenue; and all of City Block 3/2148 bounded by Morningside Avenue, Matilda Street, Mercedes Avenue and Greenville Avenue.

Tract II: Being all of City Block B/2170 bounded by Monticello Avenue, Greenville Avenue, Ridgedale Avenue and Worcola Street; all of City Block C/2171 bounded by Ridgedale Avenue, Greenville Avenue, Vanderbilt Avenue and Worcola Street; all of City Blocks D/2172 and 1/2076 bounded by Vanderbilt Avenue, Greenville Avenue, Goodwin Avenue and Worcola Street; all of City Block 8/1926 bounded by Goodwin Avenue, Greenville Avenue, Vickery Boulevard and Worcola Street; all of City Block 9/1927 bounded by Vickery Boulevard, Greenville Avenue, Miller Avenue and Worcola Street; all of City Block 1/2146 bounded by Monticello Avenue, Matilda Street, Marquita Avenue, and Greenville Avenue; all of City Blocks 1/2168 and 5/2166 bounded by Marquita Avenue, Matilda Street, Vanderbilt Avenue and Greenville Avenue; all of City Blocks 1/2164 and 1/2162 bounded by Vanderbilt Avenue, Matilda Street, Goodwin Street and Greenville Avenue; all of City Block 8/1918 bounded by Goodwin

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Avenue, Matilda Street, Vickery Boulevard and Greenville Avenue; all of City Block 9/1919 bounded by Vickery Boulevard, Matilda Street, Llano Street and Greenville Avenue; and all of City Block 1/1885 bounded by Llano Street, Matilda Street, Velasco Avenue and Greenville Avenue.

Tract III:

Being all of City Block 8/2012 bounded by Belmont Avenue, Greenville Avenue, Richmond Avenue, and Summit Avenue; all of City Block 7/2071 and part of City Block 1982 bounded by Richmond Avenue, Greenville Avenue, Bell Avenue and Summit Avenue; part of City Block 1982 and all of City Block D/1982 bounded by Bell Avenue, Greenville Avenue, Sears Street and Summit Avenue; all of City Block C/1983 bounded by Sears Street, Greenville Avenue, Alta Street and Summit Avenue; all of City Block B/1988 bounded by Alta Street, Greenville Avenue, Lewis Street and Summit Avenue, part of City Block 1472 bounded by Lewis Street, Greenville Avenue, Ross Avenue and the westward prolongation of the centerline of Ross Avenue from Greenville Avenue to Summit Avenue, and Summit Avenue; all of City Block 17/1901 bounded by Belmont Avenue, Matilda Street, Richmond Street and Greenville Avenue; all of City Block 24/1904 bounded by Richmond Avenue, Matilda Street, Prospect Avenue and Greenville Avenue; all of City Block 1/1905 bounded by Prospect Avenue, Matilda Street, Oram Street and Greenville Avenue; all of City Block 1907 and part of City Block 1908 bounded by Oram Street, Matilda Street, LaVista Street and Greenville Avenue, all of City Blocks A/1473 and B/1474 bounded by LaVista Street, Matilda Street, Lewis Street and Greenville Avenue; and all of City Blocks F/1473 and G/1474 bounded by Lewis Street, Matilda Street, Ross Avenue and Greenville Avenue.

SECTION 2. That no nonconforming parking spaces may be carried forward by a use under the delta theory, as defined in Section 51-4.704 of CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, when a use located in this district is expanded.

SECTION 3. That when a use located in this district is converted to a new use having greater parking or loading requirements, the rights to any nonconforming parking or

loading under the delta theory may not be used to meet the new parking requirements.

SECTION 4. That when a use located in this district is converted to a new use having lesser parking or loading requirements, the rights to any portion of the nonconforming parking or loading not needed to meet the new requirements are lost.

SECTION 5. That the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can state an extreme circumstance that demonstrates that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more.

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That CHAPTER 51 of the Dallas City Code, 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.

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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:

ANALES LIE MUNCY, City Attorney

BY *Christopher M. du Sautoy*
Assistant City Attorney

Passed and correctly enrolled OCT 21 1987.

Zoning File No. Z867-228/6254-E

5623I

HOOVER SLOVACEK LLP

A REGISTERED LIMITED LIABILITY PARTNERSHIP

JOSEPH O. SLOVACEK, P.C.
PARTNER

slovacek@hooverslovacek.com
www.hooverslovacek.com

ATTORNEYS AT LAW
GALLERIA TOWER II
5051 WESTHEIMER, SUITE 1200
HOUSTON, TEXAS 77056
(713) 977-8686
FAX (713) 977-5395

REPLY TO:
P.O. BOX 4547
HOUSTON, TEXAS 77210

October 3, 2017

Via Certified Mail, Return Receipt Requested
and U.S. Mail

H.D.'s, Inc.

Attn: Harry E. Demarco, its President and Registered Agent
3018 Greenville Avenue
Dallas, Texas 75206

Via Certified Mail, Return Receipt Requested
and U.S. Mail

H.D.'s, Inc. and any and all occupants
3018 Greenville Avenue
Dallas, Texas 75206

RE: Month-to-Month Tenancy related to a certain Lease Agreement dated April 28, 1992 (the "Lease"), by and between SHIELDS LIMITED PARTNERSHIP, as successor-in-interest to Bernard E. Shields, a Texas limited partnership (the "Landlord"), and H.D.'S, INC., a Texas corporation (the "Tenant"), covering certain premises as further described within the Lease and commonly known as 3018 Greenville Avenue, Dallas, Texas 75206 (the "Premises")

Dear H.D.'s, Inc. and Any and All Occupants of the Premises:

Please be advised that the undersigned attorney and law firm represent Landlord with respect to the above-referenced matter. Capitalized terms used, but not defined, herein shall have the same meaning as in the Lease. Effective immediately, all communications regarding the matters addressed herein should be directed to me.

As Tenant is aware, the Lease expired by its own terms and Tenant has been occupying the Premises on a month-to-month basis. The purpose of this letter is to notify Tenant that Landlord is exercising its right, under Texas law, to terminate Tenant's month-to-month tenancy and Tenant's right to occupy the Premises **effective November 30, 2017** (the "Termination Date"). Tenant is expected to fulfill all rental obligations for the months of both October and November 2017 as well as return the Premises to Landlord in a clean and rentable condition on or before the Termination Date. Tenant will be responsible for any and all damages done to the

Notice to Vacate

H.D.'s, Inc.

October 3, 2017

Page 2

Premises above and beyond normal wear and tear or as otherwise required under the Lease and Texas law.

Tenant and all occupants are hereby given written notice to vacate the Premises. Unless Tenant and all occupants have vacated the Premises **on or before November 30, 2017**, Landlord fully intends to file suit to evict any and all parties in possession of the Premises. In addition, the Landlord intends to file suit against Tenant and any other parties liable under the Lease, if any, for collection of all delinquent amounts, interest, late fees, attorneys' fees, and any other damages and amounts due under the Lease and in connection with the month-to-month tenancy.

Any delay or postponement of any of Landlord's actions shall not constitute a waiver. This letter should not be interpreted by Tenant as an election of remedies. Landlord reserves and preserves all rights and remedies available to it pursuant to the Lease and as otherwise granted by Texas law. Additionally, this letter shall not constitute a waiver of any other Tenant default that might exist at the present.

This letter is being sent to Tenant in accordance with the notice provisions of the Lease and the requirements of Texas law. No further communication will necessarily be sent to Tenant from Landlord or from this law firm prior to the time that suit is instituted in the event that Tenant and any and all occupants fail to vacate the Premises by the Termination Date indicated herein.

Sincerely yours,

HOOVER SLOVACEK LLP

Joseph O. Slovacek

JOS:AJB

bcc: client (via email)

6-21-95

ORDINANCE NO. 22472

An ordinance amending Ordinance No. 19726, which established Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District); amending Section 5 of that ordinance; providing that the board of adjustment may not grant a special exception for required parking; providing an extension of the walking distance for remote parking; providing that more than 50 percent of required parking may consist of special parking; providing that the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, shall govern this 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 of the City of Dallas, in accordance with the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to Ordinance No. 19726; and

WHEREAS, the city council finds that it is in the public interest to amend Modified Delta Overlay District No. 1 as specified in this ordinance; Now, Therefore,

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

SECTION 1. That Section 5 of Ordinance No. 19726 is amended to read as follows:

"SECTION 5. That the right to carry forward nonconforming parking and loading

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spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can ~~demonstrate~~state an extreme circumstance that demonstrates that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more, by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:

(a) A decline in the rental rates for the area which has affected the rental market.

(b) An unusual increase in the vacancy rates for the area which has affected the rental market.

(c) Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties, affecting the marketability of property."

SECTION 2. That a new Section 5A is added to Ordinance No. 19726 to read as follows:

"SECTION 5A. That the board of adjustment may not grant a special exception for required off-street parking in this district."

SECTION 3. That a new Section 5B is added to Ordinance No. 19726 to read as follows:

"SECTION 5B. That the walking distances contained in Paragraphs (1) and (2)(A) of Section 51A-4.324(d) of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, are extended to 600 and 900 feet, respectively, for remote parking in this district."

SECTION 4. That a new Section 5C is added to Ordinance No. 19726 to read as follows:

"SECTION 5C. That special parking, as defined in Section 51A-4.321 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, may account for more than 50 percent of the off-street parking required for any use."

SECTION 5. That a new Section 5D is added to Ordinance No. 19726 to read

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as follows:

"SECTION 5D. That the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, govern this district."

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 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:

SAM A. LINDSAY, City Attorney

By

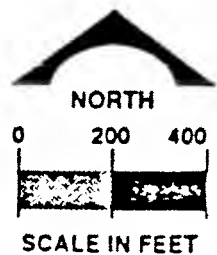
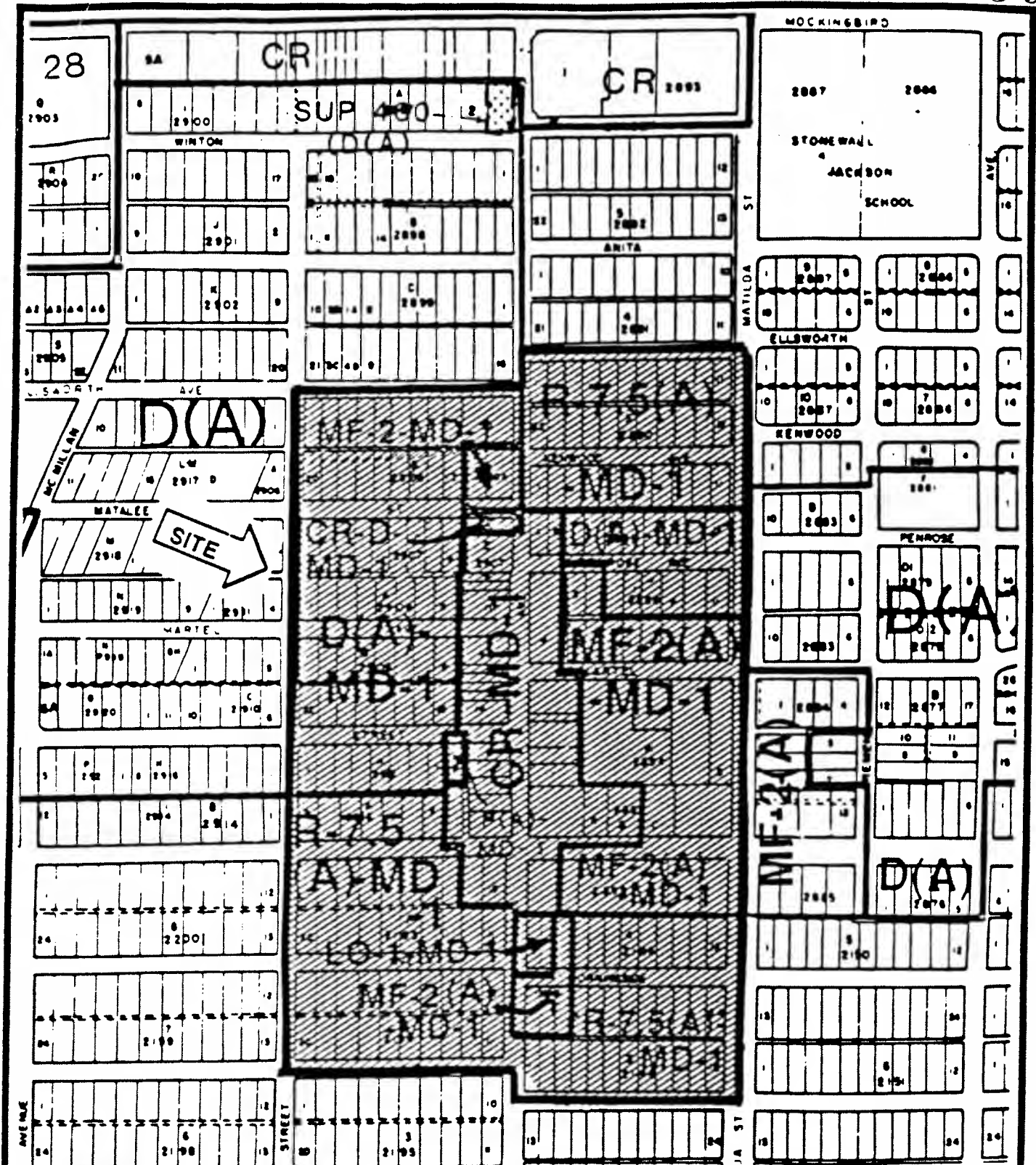

Assistant City Attorney

JUN 28 1995

Passed _____

File No. Z945-206/6254-E

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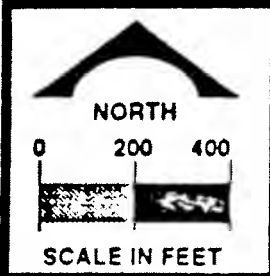
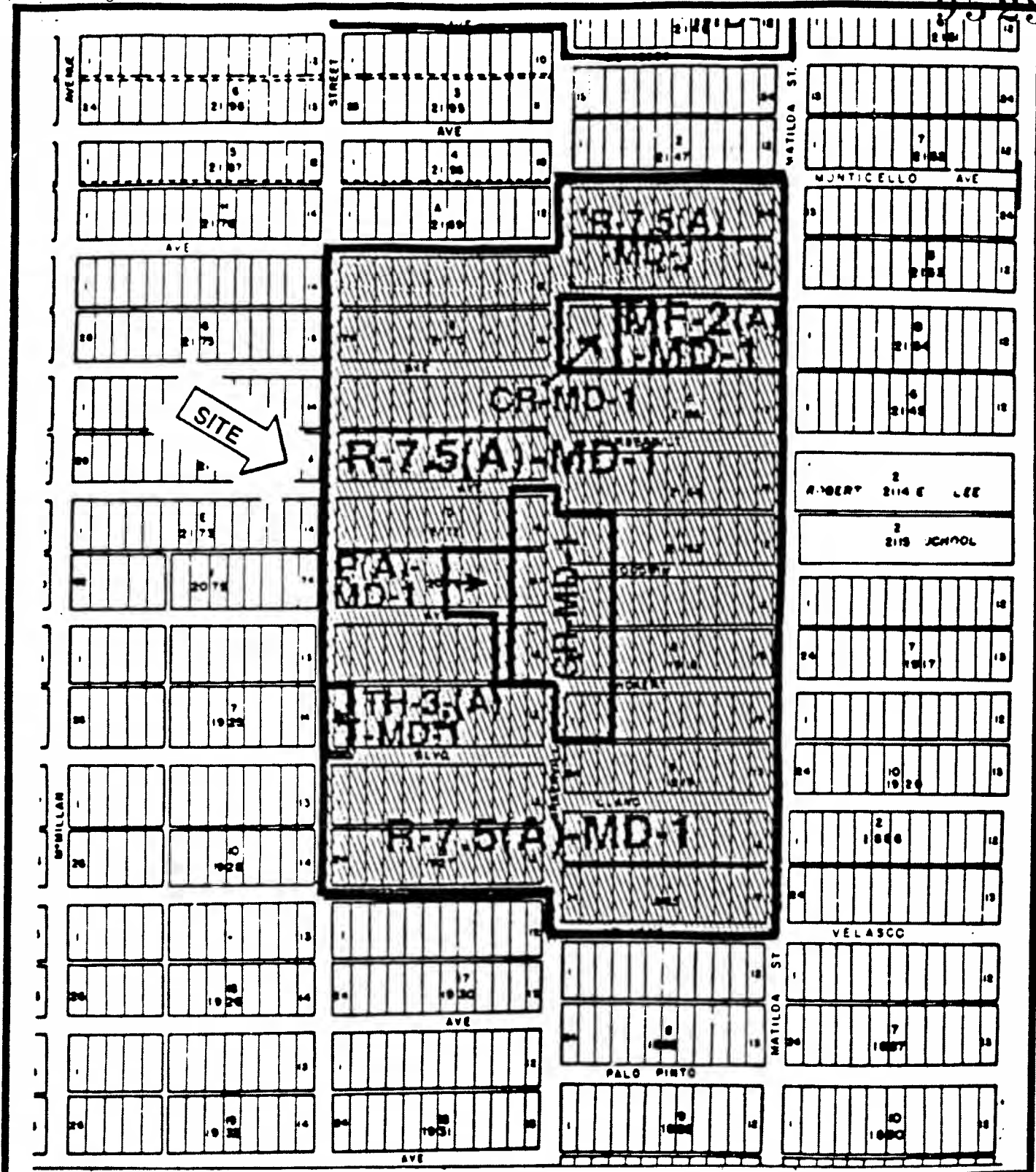


ZONING HISTORY "AREA 1"

Map No. H-8, I-8

Case No. Z945-206/6254-E

2523 95

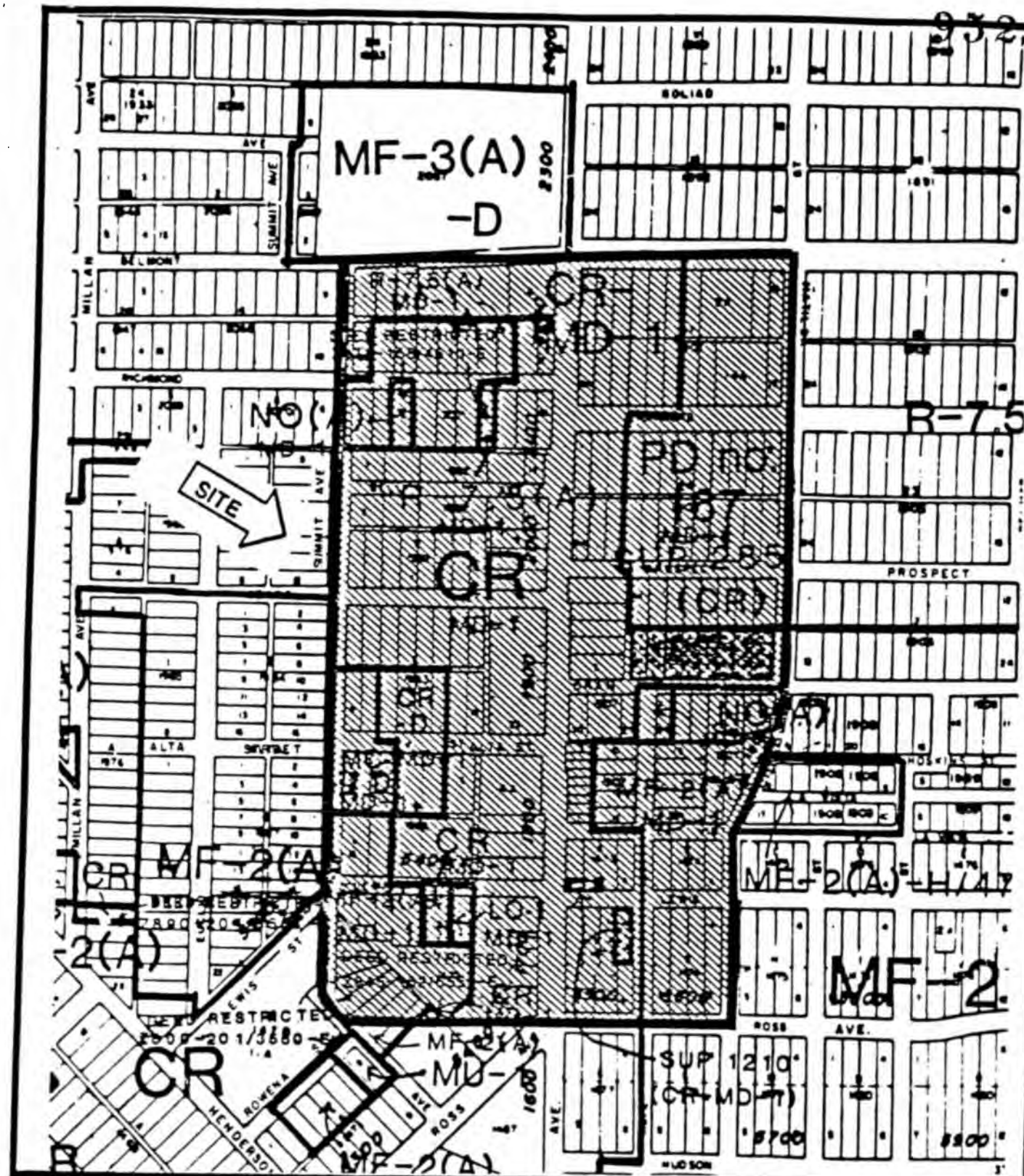


ZONING HISTORY **"AREA 2"**

Map No. H-8, I-8

Case No. Z945-206/6254-E

232395



ZONING HISTORY "AREA 3"

Map No. H-8, I-8

Case No. Z945-206/6254-E

EXHIBIT D

306.12 Voiding of certificate of occupancy.

306.12.1 Void *ab initio*. A certificate of occupancy shall be void *ab initio* if the use or occupancy authorized by that certificate of occupancy is not commenced before the 120th day after the date of its issuance unless one or more extensions are granted under Subsection 306.12.2, in which case the certificate of occupancy shall be void *ab initio* if the use or occupancy is not commenced during the extended time period(s). (Ord. 26029; 26579)

306.12.2 Extensions of time. The building official may grant one or more extensions of time for periods not exceeding 120 days each if the building official finds that circumstances beyond the control of the holder of the certificate of occupancy have prevented the use or occupancy from being commenced. If a request for extension is made by the applicant or the applicant's agent, the request must be in writing and made within the time period sought to be extended. (Ord. 26029; 26579)

306.12.3 Void. A certificate of occupancy shall be void if:

1. A specific use permit required by the *Dallas Development Code* to operate the use or occupancy expires; or
2. A compliance date for the use or occupancy set by ordinance or the board of adjustment in accordance with the *Dallas Development Code* has passed. (Ord. 26579)

306.13 Revocation of certificate of occupancy. The building official shall revoke a certificate of occupancy if the building official determines that:

1. the certificate of occupancy is issued in error;
2. the certificate of occupancy is issued on the basis of false, incomplete, or incorrect information supplied;
3. a use or occupancy is being operated in a manner that is a substantial danger of injury or an adverse health impact to any person or property and is in violation of the codes, the *Dallas Development Code*, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations;
4. the structure or portion of the structure is a substantial danger of injury or an adverse health impact to any person or property and is in violation of the codes, the *Dallas Development Code*, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations;
5. a required city, county, state, or federal license, permit, or registration to operate the use or occupancy has not been issued, has been revoked, or has expired;

6. the holder of the certificate of occupancy has refused, upon request, to supply the building official with records needed to document the percentage of gross revenue on a quarterly (three-month) basis derived from the sale or service of alcoholic beverages within the required time period; or
7. the use or occupancy authorized by the certificate of occupancy has been discontinued for six months or more. (Ord. 26029; 26579)

306.14 Written notice. Written notice of any action taken or determination made by the building official under this section must be given to the owner of the structure and land and to the operator of the use or occupancy at the address shown on the certificate of occupancy by certified mail with a five-day return receipt requested or by hand-delivery. Except when a compliance date has been set in accordance with the *Dallas Development Code*, the notice must state that the action taken or determination made by the building official is final unless appealed. The fact that the notice is returned undelivered or that the return receipt is not signed by the addressee shall not affect the validity of the notice. (Ord. 26579)

306.15 Appeal of actions and determinations. Any action taken or determination made by the building official under this section shall be final unless appealed as follows:

1. If the action taken or determination made was pursuant to the codes, an appeal must be made to the building inspection advisory, examining, and appeals board in accordance with Section 208 before the 15th day after written notice of the action taken or determination made is given in accordance with Section 306.14; or
2. Except as provided in Paragraph 3, if the action taken or determination made was pursuant to the *Dallas Development Code*, an appeal must be made to the board of adjustment in accordance with the *Dallas Development Code*.
3. A certificate of occupancy that is void because a compliance date for the use or occupancy set by ordinance or the board of adjustment in accordance with the *Dallas Development Code* has passed may not be appealed under this subsection. (Ord. 26029; 26579)

306.16 Stay pending appeal. An appeal of an action taken or determination made by the building official under this section stays all proceedings in furtherance of the action taken or determination made that is appealed unless the building official certifies in writing to the appropriate board facts supporting the building official's opinion that a stay would cause imminent peril to life or property. Then, the proceedings may be stayed only by a restraining order granted by the district court, after notice to the building official, if due cause is shown. (Ord. 26579)

EXHIBIT E

10/21/87

ORDINANCE NO. 19726

An ordinance amending CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended; establishing Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) for the following described property, to wit:

Tract I is generally located south of Ellsworth Avenue, west of Matilda Street, north of Mercedes Avenue and east of Worcola Street.

Tract II is generally located south of Monticello Avenue, west of Matilda Street, north of Velasco Avenue and east of Worcola Street.

Tract III is generally located south of Belmont Avenue, west of Matilda Street, north of Ross Avenue and east of Summit Avenue;

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 provisions of the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to Article IV, "Zoning Regulations," of CHAPTER 51, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended; Now Therefore,

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

CHECKED BY

JCX

19726

SECTION 1. That CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, is amended by establishing Modified Delta Overlay District No. 1 ("this district") on the following described Property, to-wit:

Tract I: Being all of City Block B/2906 bounded by Ellsworth Avenue, Greenville Avenue, Matalee Street and Worcola Street; all of City Blocks C/2907, E/2907 and A/2908 bounded by Matalee Street, Greenville Avenue, Martel Avenue and Worcola Street; all of City Block B/2909 bounded by Martel Avenue, Greenville Avenue, Longview Street and Worcola Street; all of City Blocks H/2912 and A/2913 bounded by Longview Street, Greenville Avenue, McCommas Boulevard and Worcola Street; all of City Block 1/2193 bounded by McCommas Boulevard, Greenville Avenue, Morningside Avenue and Worcola Street; all of City Block 2/2194 bounded by Morningside Avenue, Greenville Avenue, Mercedes Avenue, and Worcola Street; all of City Block 3/2890 bounded by Ellsworth Avenue, Matilda Street, Kenwood Avenue and Greenville Avenue; all of City Block 2/2889 bounded by Kenwood Avenue, Matilda Street, Penrose Avenue and Greenville Avenue; all of City Block 1/2888 bounded by Penrose Avenue, Matilda Street, Martel Street and Greenville Avenue; all of City Blocks A/2894 and 2895 bounded by Martel Avenue, Matilda Street, McCommas Boulevard and Greenville Avenue; all of City Blocks 2896 and 4/2149 bounded by McCommas Boulevard, Matilda Street, Morningside Avenue and Greenville Avenue; and all of City Block 3/2148 bounded by Morningside Avenue, Matilda Street, Mercedes Avenue and Greenville Avenue.

Tract II: Being all of City Block B/2170 bounded by Monticello Avenue, Greenville Avenue, Ridgedale Avenue and Worcola Street; all of City Block C/2171 bounded by Ridgedale Avenue, Greenville Avenue, Vanderbilt Avenue and Worcola Street; all of City Blocks D/2172 and 1/2076 bounded by Vanderbilt Avenue, Greenville Avenue, Goodwin Avenue and Worcola Street; all of City Block 8/1926 bounded by Goodwin Avenue, Greenville Avenue, Vickery Boulevard and Worcola Street; all of City Block 9/1927 bounded by Vickery Boulevard, Greenville Avenue, Miller Avenue and Worcola Street; all of City Block 1/2146 bounded by Monticello Avenue, Matilda Street, Marquita Avenue, and Greenville Avenue; all of City Blocks 1/2168 and 5/2166 bounded by Marquita Avenue, Matilda Street, Vanderbilt Avenue and Greenville Avenue; all of City Blocks 1/2164 and 1/2162 bounded by Vanderbilt Avenue, Matilda Street, Goodwin Street and Greenville Avenue; all of City Block 8/1918 bounded by Goodwin

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Avenue, Matilda Street, Vickery Boulevard and Greenville Avenue; all of City Block 9/1919 bounded by Vickery Boulevard, Matilda Street, Llano Street and Greenville Avenue; and all of City Block 1/1885 bounded by Llano Street, Matilda Street, Velasco Avenue and Greenville Avenue.

Tract III:

Being all of City Block 8/2012 bounded by Belmont Avenue, Greenville Avenue, Richmond Avenue, and Summit Avenue; all of City Block 7/2071 and part of City Block 1982 bounded by Richmond Avenue, Greenville Avenue, Bell Avenue and Summit Avenue; part of City Block 1982 and all of City Block D/1982 bounded by Bell Avenue, Greenville Avenue, Sears Street and Summit Avenue; all of City Block C/1983 bounded by Sears Street, Greenville Avenue, Alta Street and Summit Avenue; all of City Block B/1988 bounded by Alta Street, Greenville Avenue, Lewis Street and Summit Avenue, part of City Block 1472 bounded by Lewis Street, Greenville Avenue, Ross Avenue and the westward prolongation of the centerline of Ross Avenue from Greenville Avenue to Summit Avenue, and Summit Avenue; all of City Block 17/1901 bounded by Belmont Avenue, Matilda Street, Richmond Street and Greenville Avenue; all of City Block 24/1904 bounded by Richmond Avenue, Matilda Street, Prospect Avenue and Greenville Avenue; all of City Block 1/1905 bounded by Prospect Avenue, Matilda Street, Oram Street and Greenville Avenue; all of City Block 1907 and part of City Block 1908 bounded by Oram Street, Matilda Street, LaVista Street and Greenville Avenue, all of City Blocks A/1473 and B/1474 bounded by LaVista Street, Matilda Street, Lewis Street and Greenville Avenue; and all of City Blocks F/1473 and G/1474 bounded by Lewis Street, Matilda Street, Ross Avenue and Greenville Avenue.

SECTION 2. That no nonconforming parking spaces may be carried forward by a use under the delta theory, as defined in Section 51-4.704 of CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, when a use located in this district is expanded.

SECTION 3. That when a use located in this district is converted to a new use having greater parking or loading requirements, the rights to any nonconforming parking or

loading under the delta theory may not be used to meet the new parking requirements.

SECTION 4. That when a use located in this district is converted to a new use having lesser parking or loading requirements, the rights to any portion of the nonconforming parking or loading not needed to meet the new requirements are lost.

SECTION 5. That the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can state an extreme circumstance that demonstrates that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more.

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That CHAPTER 51 of the Dallas City Code, 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.

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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:

ANALES LIE MUNCY, City Attorney

BY *Christopher M. du Sautoy*
Assistant City Attorney

Passed and correctly enrolled OCT 21 1987.

Zoning File No. Z867-228/6254-E

5623I

EXHIBIT F

SEC. 51A-4.210. RETAIL AND PERSONAL SERVICE USES.

(a) General provisions. Except as otherwise provided in this article, the following general provisions apply to all uses listed in this section:

(1) All uses must be retail or service establishments dealing directly with consumers. No person may produce goods or perform services on the premises unless those goods or services are principally sold on the premises to individuals at retail.

(2) Outside sales, outside display of merchandise, and outside storage may be classified as either main or accessory uses. Accessory outside sales, accessory outside display of merchandise, and accessory outside storage are limited to five percent of the lot. If these uses occupy more than five percent of the lot, they are only allowed in districts that permit them as a main use.

(3) In a GO(A) district, a retail and personal service use:

(A) must be contained entirely within a building; and

(B) may not have a floor area that, in combination with the floor areas of other retail and personal service uses in the building, exceeds 10 percent of the total floor area of the building.

(b) Specific uses.

(13) General merchandise or food store 3,500 square feet or less.

(A) Definition: A retail store with a floor area of 3,500 square feet or less for the sale of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, drugs, auto parts and accessories, and similar consumer goods. The term “food store”

includes a grocery store, delicatessen, convenience store without drive-through, and specialty foods store. This use does not include other uses in this article that are specifically listed.

(B) Districts permitted: By right in GO(A)*, retail, CS, industrial, central area, mixed use, multiple commercial, and urban corridor districts. By right as a limited use only in MF-3(A), MF-4(A), LO(A), and MO(A) districts. *Note: This use is subject to restrictions in the GO(A) district. See Subsection (a)(3).

(C) Required off-street parking: One space per 200 square feet of floor area.

(D) Required off-street loading: One space.

(E) Additional provisions:

(i) If this use has a drive-through facility, a minimum of two stacking spaces must be provided. See Section [51A-4.304](#) for more information regarding off-street stacking spaces generally.

(ii) The outside sale, display, or storage of furniture is permitted if the furniture is:

(aa) customarily used outside; and

(bb) made of a material that is resistant to damage or deterioration from exposure to the outside environment.

(iii) The outside sale, display, or storage of furniture, other than the furniture described in Section [51A-4.210\(b\)\(13\)\(E\)\(ii\)](#), is permitted only on Saturday and Sunday.

(24) Restaurant without drive-in or drive-through service.

(A) Definition: An establishment principally for the sale and consumption of food on the premises. (This use does not include a restaurant with drive-in or drive-through service.)

(B) Districts permitted: By right in GO(A)*, retail, CS, industrial, central area, mixed use, multiple commercial, and urban corridor districts. By right as a limited use only in MF-4(A), LO(A), and MO(A) districts. By SUP only in the NO(A) district. RAR required in MF-4(A), LO(A), MO(A), GO(A), retail, CS, industrial, mixed use, and multiple commercial districts. *Note: This use is subject to restrictions in the GO(A) district. See Subsection (a)(3).

(C) Required off-street parking:

(i) As a main use: except as otherwise provided, one space per 100 square feet of floor area.

(ii) As a limited or accessory use: except as otherwise provided, one space per 200 square feet of floor area.

(iii) One space per 500 square feet of floor area used for the manufacture of alcoholic beverages as an accessory use to the restaurant without drive-in or drive-through service use.

(D) Required off-street loading:

SQUARE FEET OF FLOOR AREA IN STRUCTURE	TOTAL REQUIRED SPACES
0 to 5,000	NONE
5,000 to 25,000	1
25,000 to 50,000	2
Each additional 50,000 or fraction thereof	1 additional

(E) Additional provisions:

(i) The sale and service of alcoholic beverages in conjunction with the operation of this use is allowed generally, but may be prohibited if this use is located in a liquor control overlay district. See Section [51A-4.503](#).

EXHIBIT G

6-21-95

ORDINANCE NO. 22472

An ordinance amending Ordinance No. 19726, which established Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District); amending Section 5 of that ordinance; providing that the board of adjustment may not grant a special exception for required parking; providing an extension of the walking distance for remote parking; providing that more than 50 percent of required parking may consist of special parking; providing that the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, shall govern this 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 of the City of Dallas, in accordance with the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to Ordinance No. 19726; and

WHEREAS, the city council finds that it is in the public interest to amend Modified Delta Overlay District No. 1 as specified in this ordinance; Now, Therefore,

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

SECTION 1. That Section 5 of Ordinance No. 19726 is amended to read as follows:

"SECTION 5. That the right to carry forward nonconforming parking and loading

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spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can ~~demonstrate~~state an extreme circumstance that demonstrates that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more, by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:

(a) A decline in the rental rates for the area which has affected the rental market.

(b) An unusual increase in the vacancy rates for the area which has affected the rental market.

(c) Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties, affecting the marketability of property."

SECTION 2. That a new Section 5A is added to Ordinance No. 19726 to read as follows:

"SECTION 5A. That the board of adjustment may not grant a special exception for required off-street parking in this district."

SECTION 3. That a new Section 5B is added to Ordinance No. 19726 to read as follows:

"SECTION 5B. That the walking distances contained in Paragraphs (1) and (2)(A) of Section 51A-4.324(d) of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, are extended to 600 and 900 feet, respectively, for remote parking in this district."

SECTION 4. That a new Section 5C is added to Ordinance No. 19726 to read as follows:

"SECTION 5C. That special parking, as defined in Section 51A-4.321 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, may account for more than 50 percent of the off-street parking required for any use."

SECTION 5. That a new Section 5D is added to Ordinance No. 19726 to read

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as follows:

"SECTION 5D. That the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, govern this district."

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 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:

SAM A. LINDSAY, City Attorney

By

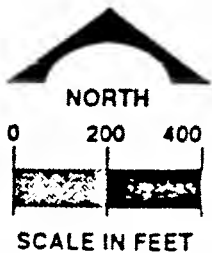
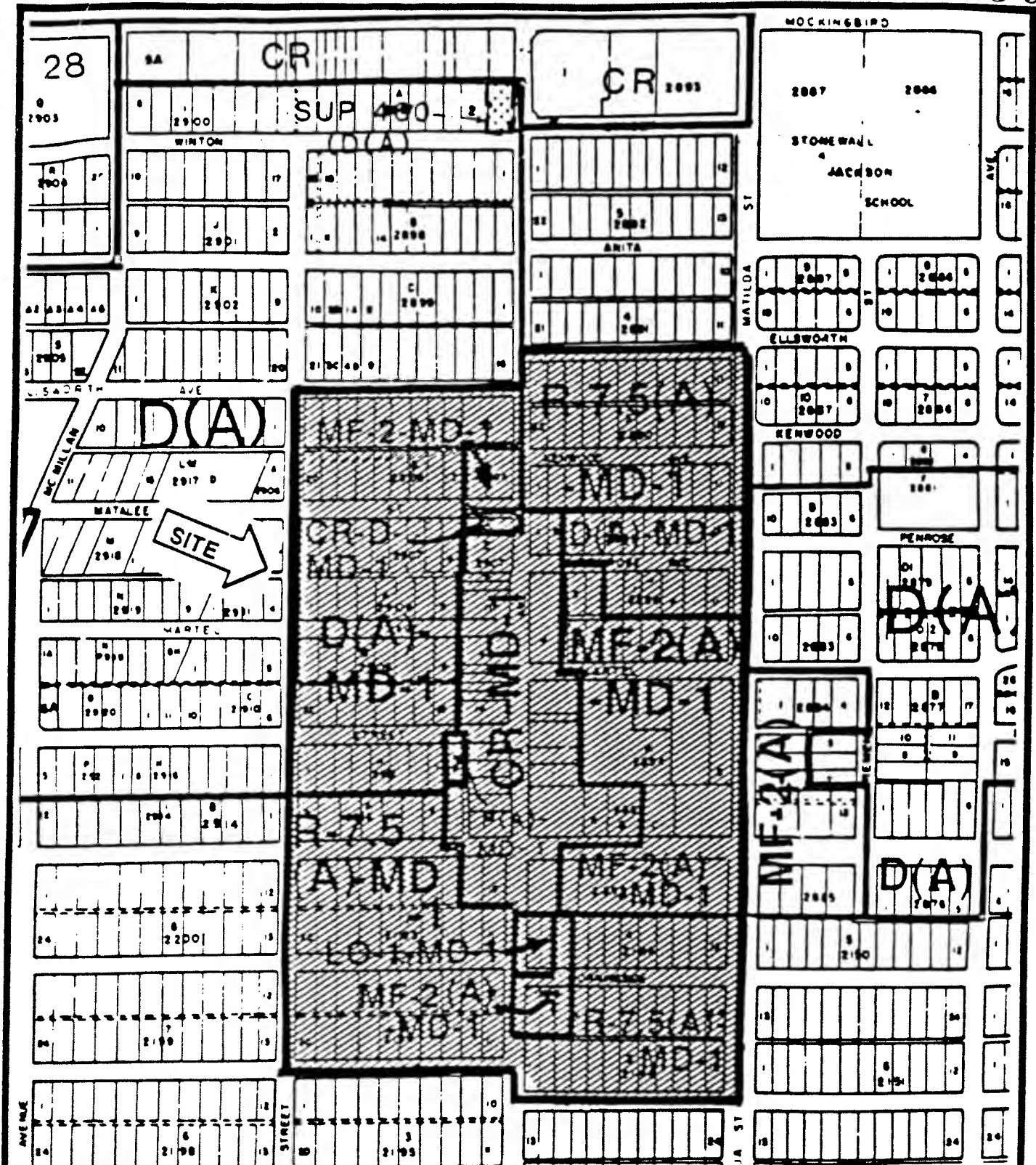

Assistant City Attorney

JUN 28 1995

Passed _____

File No. Z945-206/6254-E

952395



ZONING HISTORY "AREA 1"

Map No. H-8, I-8

Case No. Z945-206/6254-E

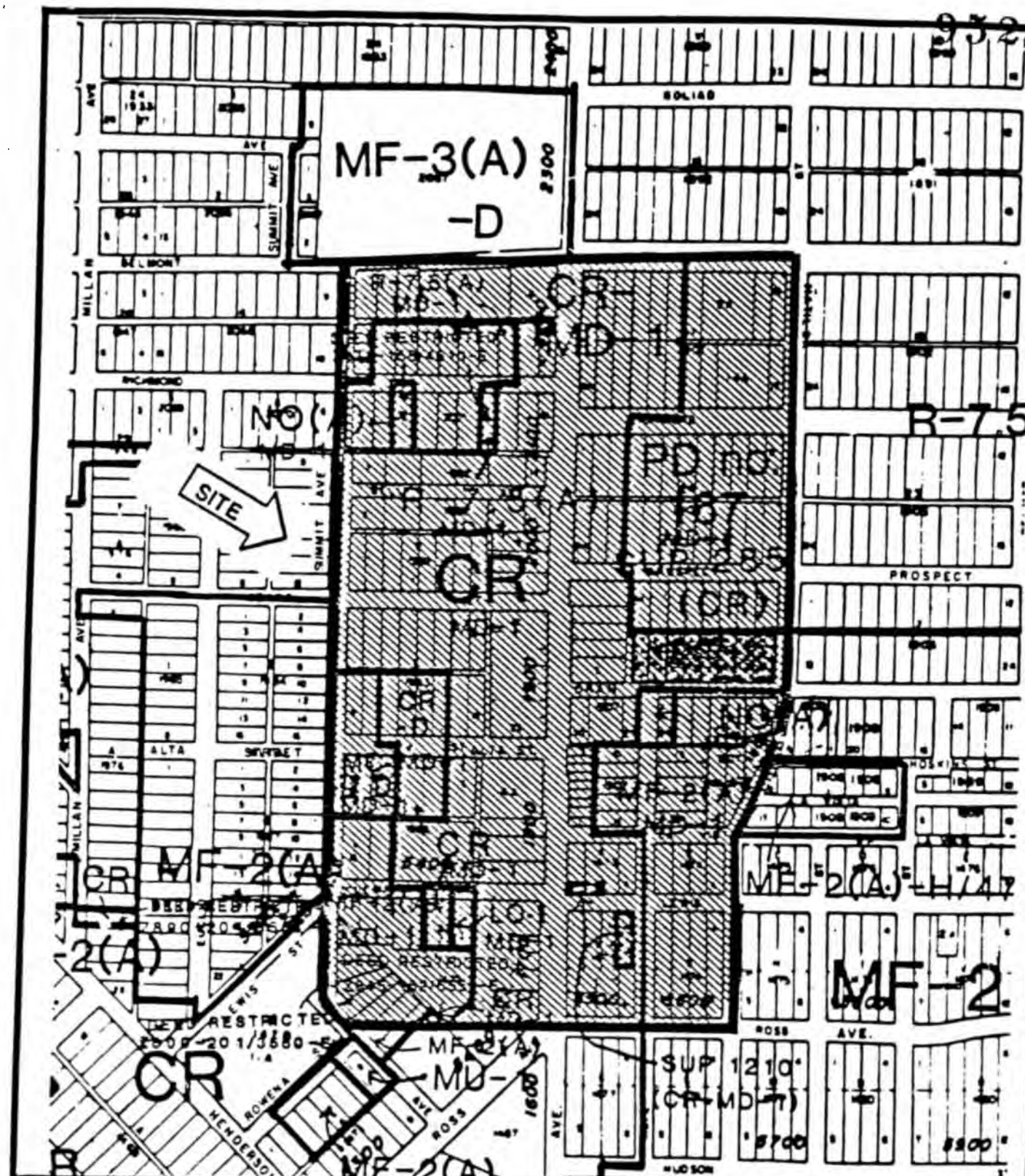


ZONING HISTORY

"AREA 2"

Case No. Z945-206/6254-E

232395



ZONING HISTORY "AREA 3"

Map No. H-8, I-8

Case No. Z945-206/6254-E

EXHIBIT H

HOOVER SLOVACEK LLP

A REGISTERED LIMITED LIABILITY PARTNERSHIP

JOSEPH O. SLOVACEK, P.C.
PARTNER

slovacek@hooverslovacek.com
www.hooverslovacek.com

ATTORNEYS AT LAW
GALLERIA TOWER II
5051 WESTHEIMER, SUITE 1200
HOUSTON, TEXAS 77056
(713) 977-8686
FAX (713) 977-5395

REPLY TO:
P.O. BOX 4547
HOUSTON, TEXAS 77210

October 3, 2017

Via Certified Mail, Return Receipt Requested
and U.S. Mail

H.D.'s, Inc.

Attn: Harry E. Demarco, its President and Registered Agent
3018 Greenville Avenue
Dallas, Texas 75206

Via Certified Mail, Return Receipt Requested
and U.S. Mail

H.D.'s, Inc. and any and all occupants
3018 Greenville Avenue
Dallas, Texas 75206

RE: Month-to-Month Tenancy related to a certain Lease Agreement dated April 28, 1992 (the "Lease"), by and between SHIELDS LIMITED PARTNERSHIP, as successor-in-interest to Bernard E. Shields, a Texas limited partnership (the "Landlord"), and H.D.'S, INC., a Texas corporation (the "Tenant"), covering certain premises as further described within the Lease and commonly known as 3018 Greenville Avenue, Dallas, Texas 75206 (the "Premises")

Dear H.D.'s, Inc. and Any and All Occupants of the Premises:

Please be advised that the undersigned attorney and law firm represent Landlord with respect to the above-referenced matter. Capitalized terms used, but not defined, herein shall have the same meaning as in the Lease. Effective immediately, all communications regarding the matters addressed herein should be directed to me.

As Tenant is aware, the Lease expired by its own terms and Tenant has been occupying the Premises on a month-to-month basis. The purpose of this letter is to notify Tenant that Landlord is exercising its right, under Texas law, to terminate Tenant's month-to-month tenancy and Tenant's right to occupy the Premises **effective November 30, 2017** (the "Termination Date"). Tenant is expected to fulfill all rental obligations for the months of both October and November 2017 as well as return the Premises to Landlord in a clean and rentable condition on or before the Termination Date. Tenant will be responsible for any and all damages done to the

Notice to Vacate

H.D.'s, Inc.

October 3, 2017

Page 2

Premises above and beyond normal wear and tear or as otherwise required under the Lease and Texas law.

Tenant and all occupants are hereby given written notice to vacate the Premises. Unless Tenant and all occupants have vacated the Premises **on or before November 30, 2017**, Landlord fully intends to file suit to evict any and all parties in possession of the Premises. In addition, the Landlord intends to file suit against Tenant and any other parties liable under the Lease, if any, for collection of all delinquent amounts, interest, late fees, attorneys' fees, and any other damages and amounts due under the Lease and in connection with the month-to-month tenancy.

Any delay or postponement of any of Landlord's actions shall not constitute a waiver. This letter should not be interpreted by Tenant as an election of remedies. Landlord reserves and preserves all rights and remedies available to it pursuant to the Lease and as otherwise granted by Texas law. Additionally, this letter shall not constitute a waiver of any other Tenant default that might exist at the present.

This letter is being sent to Tenant in accordance with the notice provisions of the Lease and the requirements of Texas law. No further communication will necessarily be sent to Tenant from Landlord or from this law firm prior to the time that suit is instituted in the event that Tenant and any and all occupants fail to vacate the Premises by the Termination Date indicated herein.

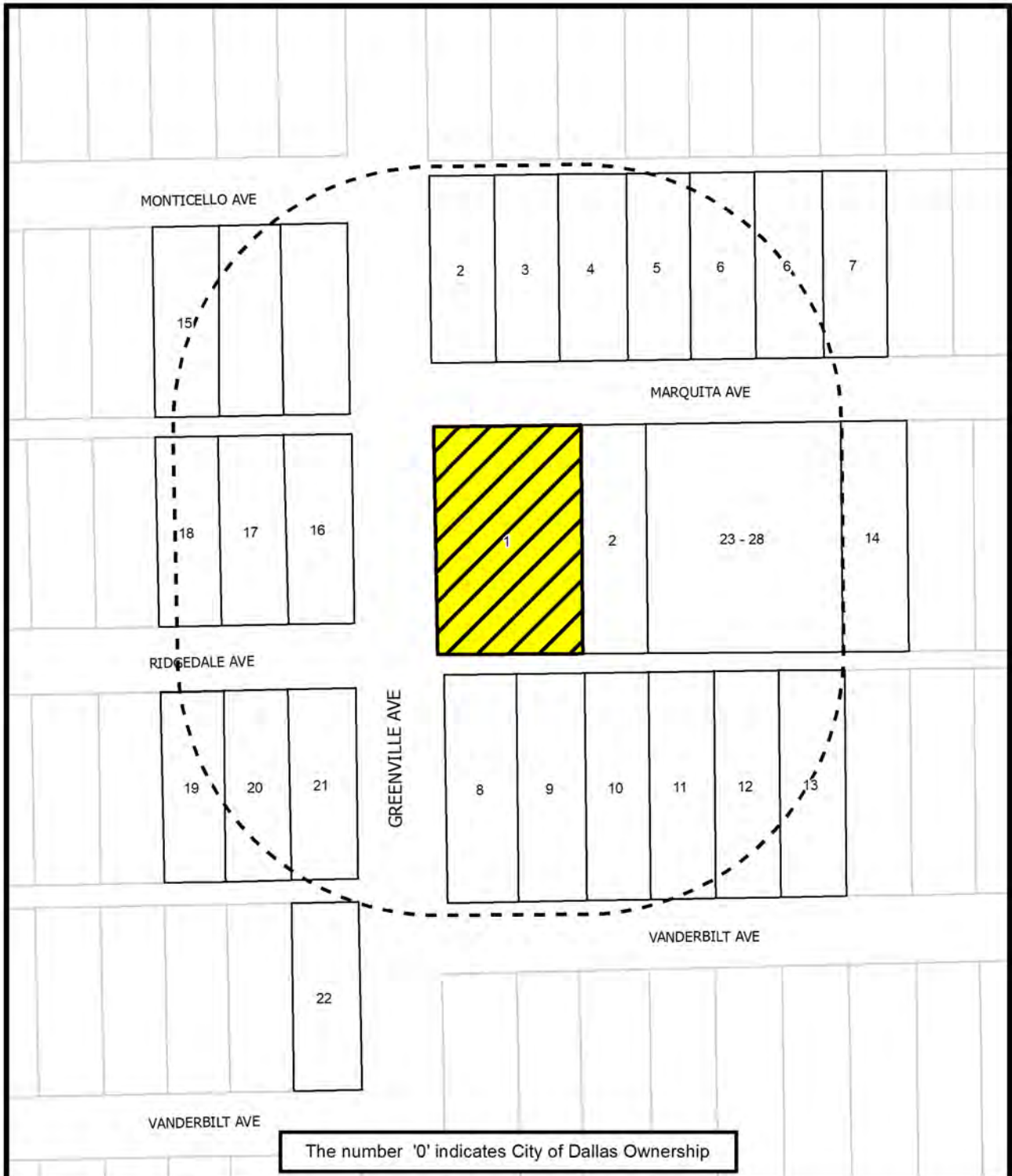
Sincerely yours,

HOOVER SLOVACEK LLP

Joseph O. Slovacek

JOS:AJB

bcc: client (via email)



1:1,200

NOTIFICATION

200'

AREA OF NOTIFICATION

28

NUMBER OF PROPERTY
OWNERS NOTIFIED

Case no: **BDA190-092**

Date: **11/4/2020**

11/04/2020

Notification List of Property Owners

BDA190-092

28 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3014 GREENVILLE AVE	SHIELDS LTD PS
2	5701 MARQUITA AVE	PASHA & SINA INC
3	5707 MARQUITA AVE	RENTZ BAILEY
4	5711 MARQUITA AVE	VAHDANI CHRISTOPHER &
5	5715 MARQUITA AVE	NUNNALLY HARVEY W III
6	5719 MARQUITA AVE	BOLGER DOROTHY E
7	5727 MARQUITA AVE	LAWSON CLIFFORD J & JANE G
8	5703 VANDERBILT AVE	WIENECKE AMY K
9	5707 VANDERBILT AVE	OROZCO RICHARD & RUFINA
10	5711 VANDERBILT AVE	MOORE HARRY E & SAMMIE S
11	5715 VANDERBILT AVE	ANTHONY JOHN ROSS
12	5719 VANDERBILT AVE	MILLER EMILY
13	5723 VANDERBILT AVE	KALMBACH ERIC W
14	5726 MARQUITA AVE	O B A INC
15	5638 MONTICELLO AVE	BASU NEIL K
16	5647 RIDGEDALE AVE	BELL PHILIP
17	5643 RIDGEDALE AVE	KONKEL RICHARD ARTHUR
18	5639 RIDGEDALE AVE	BATTAGLIA SCOTT &
19	5640 RIDGEDALE AVE	BARNETT JAMES C
20	5642 RIDGEDALE AVE	PLATTS DOUGLAS &
21	5644 RIDGEDALE AVE	SCHUCK CORD BRITTON
22	5647 VANDERBILT AVE	SU STUART
23	5720 MARQUITA AVE	PATTON JEFF
24	5720 MARQUITA AVE	TATE CHRISTINE M
25	5720 MARQUITA AVE	WILLINGHAM KIRK R
26	5720 MARQUITA AVE	BURKE GARY A
27	5720 MARQUITA AVE	BIRNBAUM MARC A &
28	5720 MARQUITA AVE	XOCHOTL LARA

FILE NUMBER: BDA190-108(OA)

BUILDING OFFICIAL'S REPORT: Application of John Hickman represented by Kiesha Kay of Masterplan Consultants for a special exception to the landscaping regulations at 4714 McKinney Avenue. This property is more fully described as Lots 1-11, Block F/1623, and is zoned Planned Development Subdistrict No. 144 within Planned Development District No. 193, which requires mandatory landscaping. The applicant proposes to construct and maintain a multifamily residential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 4714 McKinney Avenue

APPLICANT: John Hickman
represented by Kiesha Kay, Masterplan Consultants

REQUESTS:

A request for a special exception to the landscape regulations is made to construct and maintain a multifamily use and not fully meet the landscape regulations or, more specifically, to not provide the required plantings for garage screening.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS IN OAK LAWN:

Section 51P-193-126(a) (4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property complies with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION:

Denial.

Rationale:

- The chief arborist recommends denial of the request for a special exception in that it would compromise the spirit and intent of PD 193 and the specific PDS No. 144 provisions.

BACKGROUND INFORMATION

Site: PD No. 193 PDS-144
North: PD No. 193 PDS-144
South: PDS No. 71 within PD No. 193
East: O-2 Office Subdistrict within PD No. 193
West: MF-2 Multifamily Subdistrict within PD No. 193

Land Use:

The site is being developed with a multifamily use. The areas to the north, east, south, and west are developed with multifamily and retail.

Zoning/BDA History:

There have not been any recent board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/ STAFF ANALYSIS:

This request for a special exception to the landscape regulations focuses on constructing and maintaining a multifamily use and not fully meet the landscape regulations or, more specifically, to not provide the required plantings for garage screening.

PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.

The City of Dallas chief arborist submitted a memo regarding the applicant's request (Attachment A).

The chief arborist's memo states the following with regard to "request":

The applicant is seeking a special exception to the landscaping requirements of PD 193, Part 1 landscaping regulations, and PDS 144 landscaping regulations. The request is to seek a special exception for the placement of required plant materials in the garage screening and landscaping along the alley frontage, and in so doing approve an alternative landscape plan for building completion.

The chief arborist's memo states the following with regard to "provision":

The applicant has provided a landscape plan that complies with PDS 144 requirements with the exception of the alley frontage. As the applicant has described, adjustments had occurred to the development plan with the short fire lane and loading areas. The

linear garage screening buffer had been reduced to a 7.5-foot-wide strip (per the PDS ordinance and development plan) and with a utility easement encroaching into that space. The plan was approved with required trees and shrubs.

The chief arborist's memo states the following with regard to "deficiencies":

PD 193 requires the following:

Aboveground parking structures must have a 10-foot landscaping buffer on any side facing a public right-of-way, residential district, residential subdistrict, or residential use. This landscape buffer must contain one tree for every 25 feet of frontage and evergreen shrubs planted three feet on center. Initial plantings must be capable of obtaining a solid appearance within three years. (193.126(b)(3)(D)).

PDS 144 amends those conditions with the following:

(c) Required plantings for garage screening must be provided in accordance with Section 51P-193.126(b)(3)(D). The minimum landscape buffer is seven-and-one-half feet.

Required fire lanes are permitted in the required garage screening.

The removal of all trees from along the alley frontage contradicts the PD 193 and PDS 144 requirements. The approved development plan authorized the fire lane and loading dock locations.

The chief arborist's revised memo states the following with regard to the "recommendation":

The chief arborist recommends denial of the request for a special exception in that it would compromise the spirit and intent of PD 193 and the specific PDS 144 district provisions.

If the board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted an exception from full compliance to the requirements of the PD 193 landscape ordinance.

Timeline:

September 17, 2020: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

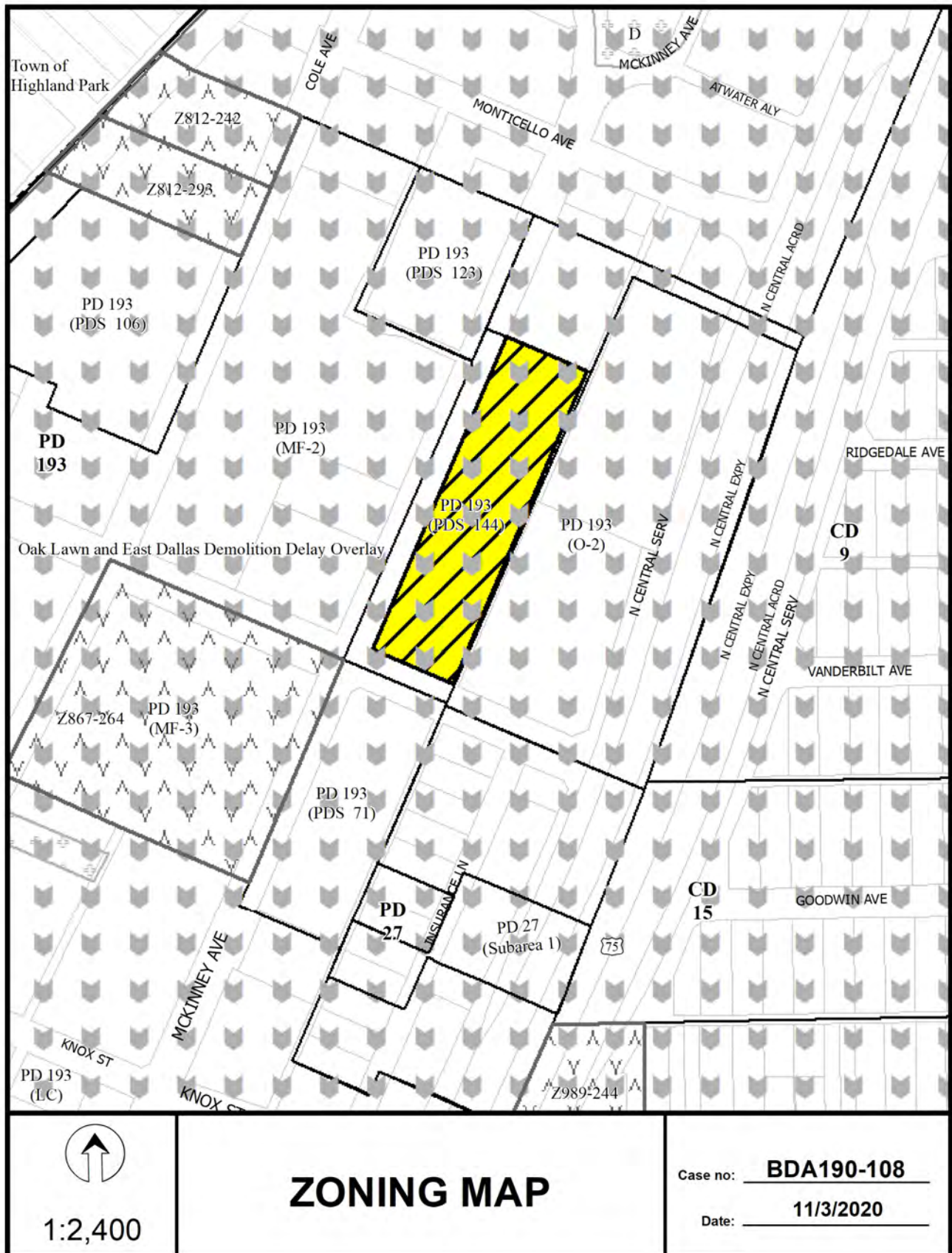
October 16, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

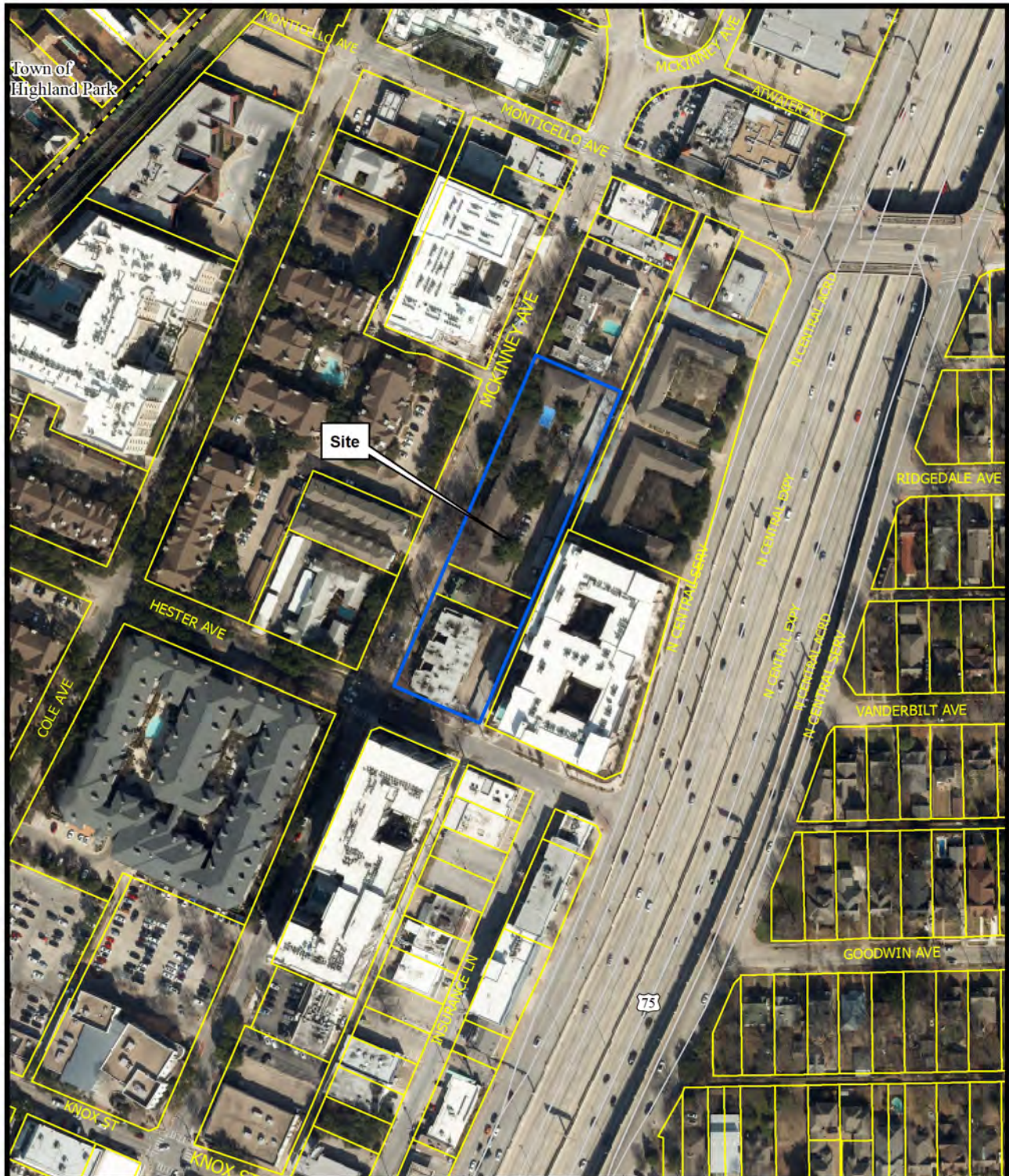
October 16, 2020: The Board Administrator emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 27, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the November 6, 2020 deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

October 29, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist the Building Inspection Senior Plans Examiner/Development Sing Specialist, the Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

October 30, 2020: The City of Dallas Chief Arborist submitted a memo regarding this request (Attachment A).





1:2,400

AERIAL MAP

Case no: **BDA190-108**

Date: **11/3/2020**



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-108

Date: 08/10/2020 9-17-20

Data Relative to Subject Property:

Location address: 4714 McKinney Zoning District: PD193 (PDS144)

Lot No.: 144/A Block No.: F/1623 Acreage: 1.839 Census Tract: 33

Street Frontage (in Feet): 1) 143' - Hester 2) 560' - McKinney 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): 4714 McKinney Ave LP

Applicant: John Hickman Telephone: 972-385-4100

Mailing Address: 10210 N. Central Expressway, Dallas TX Zip Code: 75231

E-mail Address: jhickman@providentrealty.net

Represented by: Kiesha Kay Telephone: 214.790.1707

Mailing Address: 2201 Main St., STE:1280, Dallas, TX Zip Code: 75201

E-mail Address: kiesha@masterplantexas.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of _____

landscape regulations

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:

request of special exception to landscape ordinance

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

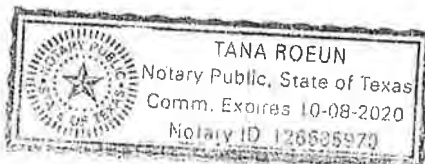
Before me the undersigned on this day personally appeared JOHN HICKMAN
(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: [Signature]
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 28 day of August, 2020

(Rev. 08-01-11)



[Signature]
Notary Public in and for Dallas County, Texas

**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that John Hickman
 represented by Masterplan Consultants-Kiesha Kay
 did submit a request for a special exception to the landscaping regulations
 at 4714 McKinney Avenue

BDA190-108. Application of John Hickman represented by Masterplan Consultants-Kiesha Kay for a special exception to the landscaping regulations at 4714 MCKINNEY AVE. This property is more fully described as Lots 1-11, Block F/1623, and is zoned PD-193 (PDS-144), which requires mandatory landscaping. The applicant proposes to construct and maintain a multi-family residential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

Sincerely,


 David Session, Building Official



CITY OF DALLAS

BDA Case Number: 190-108


I, Julian Hawes, Jr., Owner of property at 4714 McKinney Ave,
(Address of Subject Property)
 authorize Kiesha Kay, MASTERPLAN to pursue an appeal to the City of Dallas Board
(Applicant)
 of Adjustment for the following request(s):

 Variance (please specify type(s)) _____

 X Special Exception (please specify type(s)) _____

 Other (please specify) _____

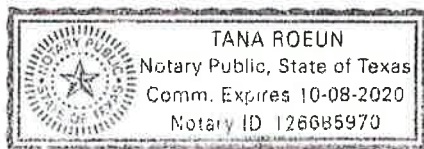
4714 McKinney Ave LP
Printed Name of Property Owner

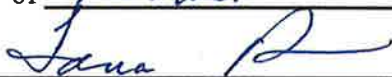
Julian Hawes, Jr.
VP of GP

Signature of Property Owner

8/28/2020
Date

Before me the undersigned on this day personally appeared JULIAN HAWES
 who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 28 day of AUGUST,





 Notary Public in and for
 Dallas County, Texas

Commission expires on 10-8-20



Memorandum



Date October 30, 2020

To Oscar Aguilera, Sr. Planner
Jennifer Munoz, Board Administrator

Subject BDA #190-108 4714 McKinney Avenue

Request

The applicant is seeking a special exception to the landscaping requirements of PD 193, Part 1 landscaping regulations and PDS 144 landscaping regulations. The request is to seek a special exception for the placement of required plant materials in the garage screening and landscaping along the alley frontage, and in so doing approve an alternative landscape plan for building completion.

Provision

The applicant has provided a landscape plan that complies with PDS 144 requirements with the exception of the alley frontage. As the applicant has described, adjustments had occurred to the development plan with the short fire lane and loading areas. The linear garage screening buffer had been reduced to a 7.5 feet wide strip (per the PDS ordinance and development plan) and with a utility easement encroaching into that space. The plan was approved with required trees and shrubs.

Deficiency

PD 193 requires the following:

Aboveground parking structures must have a 10-foot landscaping buffer on any side facing a public right-of-way, residential district, residential subdistrict, or residential use. This landscape buffer must contain one tree for every 25 feet of frontage and evergreen shrubs planted three feet on center. Initial plantings must be capable of obtaining a solid appearance within three years. (193.126(b)(3)(D)).

PDS 144 amends those conditions with the following:

(c) Required plantings for garage screening must be provided in accordance with Section 51P-193.126(b)(3)(D). The minimum landscape buffer is seven-and-one-half feet. Required fire lanes are permitted in the required garage screening.

The removal of all trees from along the alley frontage contradicts the PD 193 and PDS 144 requirements. The approved development plan authorized the fire lane and loading dock locations.

Recommendation

The chief arborist recommends denial of the request for a special exception in that it would compromise the spirit and intent of PD 193 and the specific PDS 144 district provisions.

Philip Erwin
Chief Arborist
Building Inspection

26 October 2020

Mr. Oscar Aguilera
Senior Planner
Current Planning - Sustainable Development and Construction
1500 Marilla, 5BN
Dallas, TX 75201

RE: BDA190-108; 4714 McKinney Avenue

Mr. Aguilera,

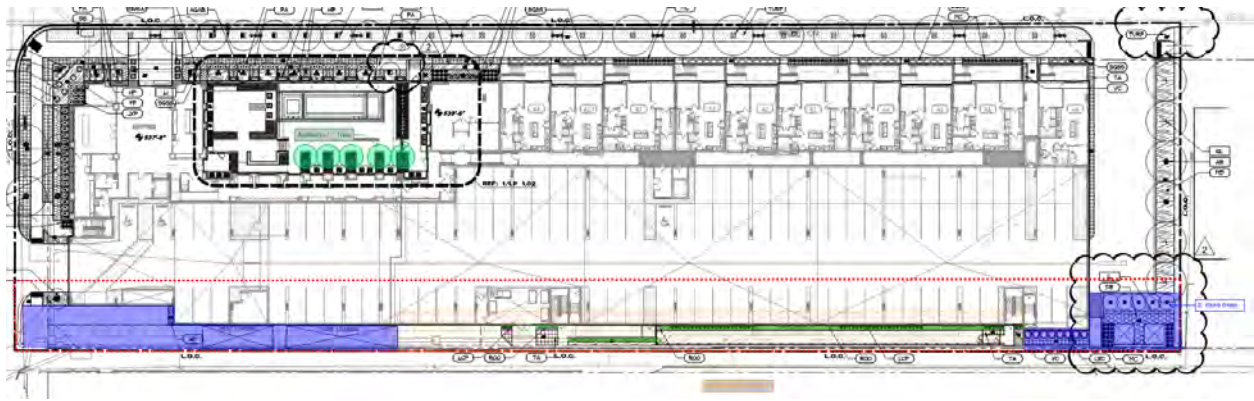
The area of request is located at the northeast corner of McKinney Avenue and Hester Avenue. The site is surrounded on three sides by right-of-way, one being an alley. There are additional overhead utility constraints along the alley side of the property. The area of request is zoned Subdistrict 144 of PD 193 and is surrounded by other subdistricts of PD193. The property across the alley is zoned Subdistrict O-2 of PD193.

The history of the site is as follows; the area of request was rezoned and approved by City Council on November 28, 2018. The developer received building permits on the property that were issued in February of 2020 to construct 198 mixed income multifamily dwelling units. The special exception being applied for is due to compliance issues with Sec.S-144.113(c) which states, "Required plantings for garage screening must be provided in accordance with Section 51P-193.126(b)(3)(D). The minimum landscape buffer is seven-and-one-half feet. Required fire lanes are permitting in the required garage screening."

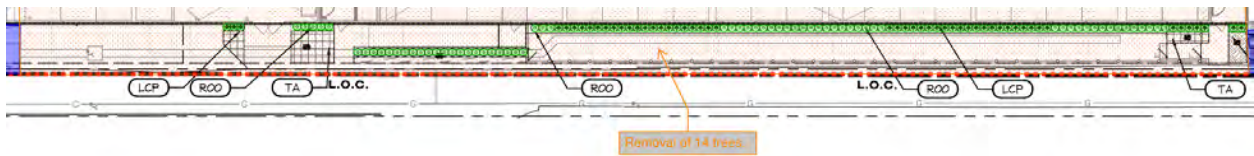
Please see the landscape plan below that was approved with the building permits that were issued in February of 2020. This shows the required 14 trees adjacent to the alley, these trees are highlighted in green. The purple area shows the area that is unchanged from the permitting landscape plan to the special exception landscape plan and the fire lane access that is allowed to encroach into the garage buffer zone. Throughout the permit review it was discovered that a 1.5' alley utility easement was required. This left a 5' wide planting area for the trees adjacent to the alley that were to be located in the garage buffer zone. This reduced area is not conducive to the required plant material of a medium or large tree. The species provided and approved on the construction landscape plan are Japanese Zelkova, *Zelkova serrata*. These are medium to large deciduous trees; their estimated typical growth height is 50 to 80 feet. This species is a spreading, generally up-ward branching vase shaped crown. They are typically a short truck that divides into multiple stems. These types of trees create weaker connections to the truck and can be more prone to breaking branches due to these weak connections. These trees prefer deep, moist, well drained soils. The proposed planting area does not provide this type of environment and may cause a stunted growth or decline in the proposed trees. These types of species, nor any medium or large tree, should not be planted within a 5' wide planting strip for optimum growth success.



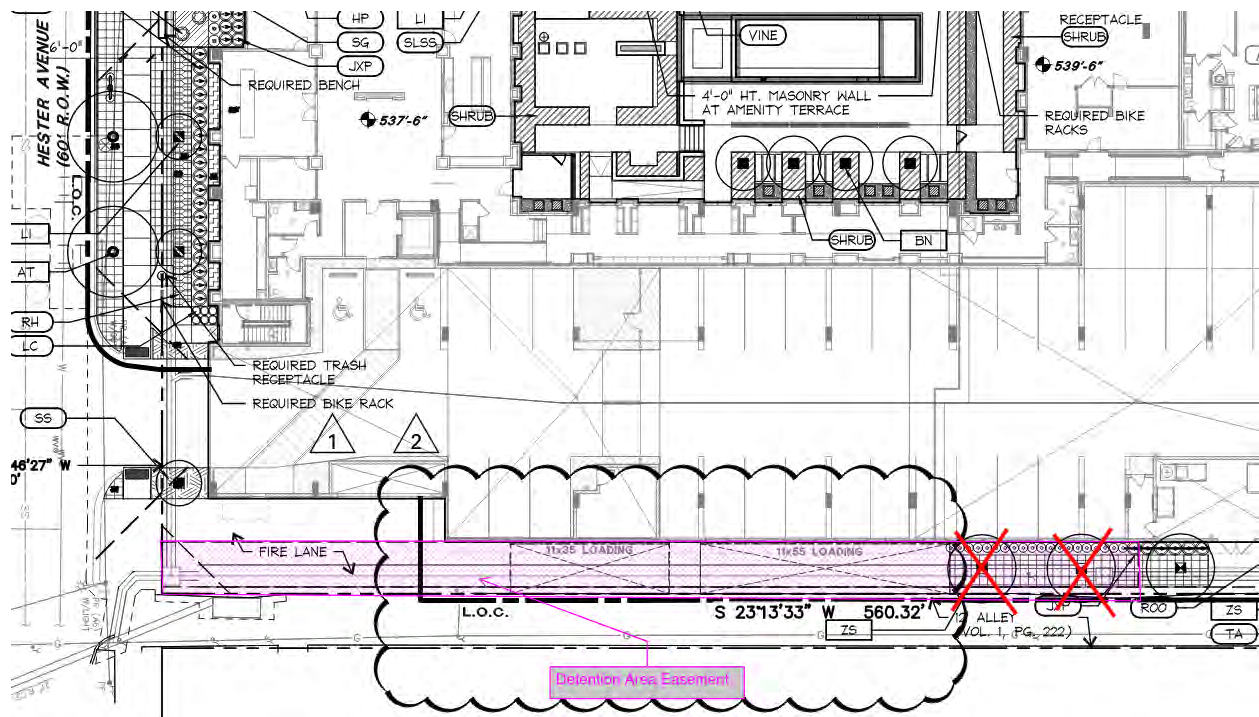
The special exception landscape plan is detailed below.



The area of change is further highlighted below. You will note all of the large trees have been removed from the garage buffer zone, three were relocated on-site. The shrubbery is proposed to stay.



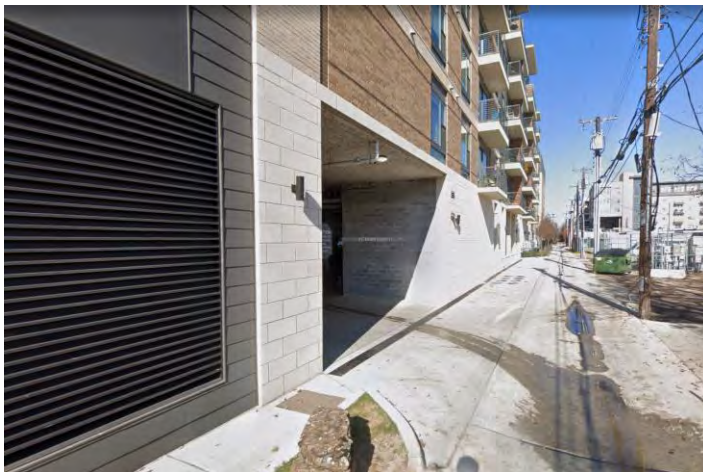
The image below shows the location of the detention area easement that is highlighted in pink. The City of Dallas Engineering Department required on-site detention along the alley which impacts the placement of the trees. The on-site detention area encompasses 214' of linear footage adjacent to the parking garage. This easement location prohibits the installation of two of the proposed trees.



The neighbor directly to the east of the area of request provided the garage buffer trees adjacent to the alley. This site received their Certificate of Occupancy in September of 2012. In the picture below you will see the large trees branches extend out to the alley. There is concern of the health of adding additional medium to large trees into this environment.



The neighbor directly to the south did not provide a garage buffer and installed additional pavement to create the feel of a wider right-of-way environment. This site obtained their Certificate of Occupancy in June of 2015.



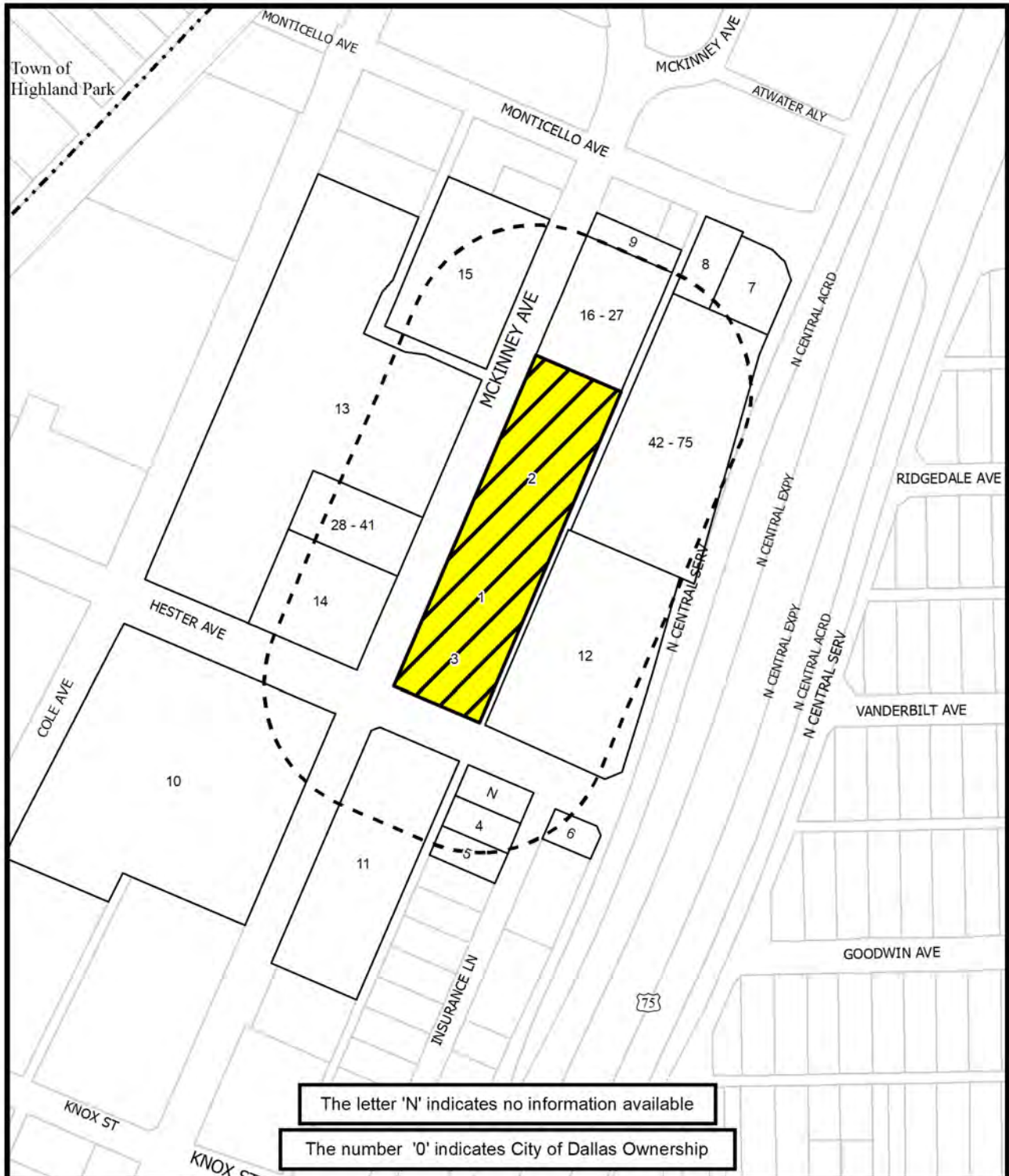
Please see the map below showing the sites that have provided their written support of the case:



In May of 2020, the developer received approval from the Oak Lawn Committee to continue with the application submittal process with the City of Dallas.

In closing, 14 trees are required to be in the garage buffer zone adjacent to the alley, three of these trees have been relocated on-site. Two of the remaining trees cannot be installed per the previously permit approved plan due to their location within the detention area easement. The client is asking for relief of 9, 4" trees that cannot be located elsewhere on the site via the approval of a special exception landscape plan. All other aspects of the special exception landscape plan comply with the requirements of PD193. The developer will be burying all electrical lines in the alley; while this benefits the area, it also creates utility restrictions while attempting to plant trees adjacent to the alley. The developer has added a gated dog park to the site to create additional open space area. With no trees being planted adjacent to the alley, this will not be required alley tree protection provided. This will provide for a wider feel throughout the alley by having the ability to provide a curb-less right-of-way. Lastly, this allows ONCOR to place their transformers in a centralized location on the property versus spread across the alley.

Regards,
Kiesha M. Kay
Sr. Consultant
Masterplan Texas



1:2,400

NOTIFICATION

200'

AREA OF NOTIFICATION

75

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-108**

Date: **11/3/2020**

11/03/2020

Notification List of Property Owners

BDA190-108

75 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4714 MCKINNEY AVE	4714 MCKINNEY AVE LP
2	4728 MCKINNEY AVE	4714 MCKINNEY AVE LP
3	4708 MCKINNEY AVE	4714 MCKINNEY AVE LP
4	4649 INSURANCE LN	ROBERT E LUNA FAMILY
5	4647 INSURANCE LN	4645 NORTH CENTRAL LLC
6	4655 N CENTRAL EXPY	ZANDER JAMES P
7	4855 N CENTRAL EXPY	BLACK VALLEY LLC
8	3017 MONTICELLO AVE	NICHOLS MELVIN
9	4826 MCKINNEY AVE	HANCE RANDA THE LIVING TRUST
10	4650 COLE AVE	MIRAMAR KNOX LP
11	4646 MCKINNEY AVE	KNOX HEIGHTS SDF LLC &
12	3030 HESTER AVE	BELL FUND V KNOX HENDERSON LLC
13	4712 COLE AVE	KNOXBRIDGE PPTY HOLDINGS LLC
14	4701 MCKINNEY AVE	4701 MCKINNEY AVE LLC
15	4805 MCKINNEY AVE	MIRAMAR MCKINNEY PTNR LP
16	4810 MCKINNEY AVE	FALCONE A WAYNE &
17	4810 MCKINNEY AVE	FALCONE A WAYNE
18	4810 MCKINNEY AVE	FALCONE A W FAMILY LTD PS THE
19	4810 MCKINNEY AVE	FALCONE A W FAMILY LTD PS THE
20	4810 MCKINNEY AVE	A W FALCONE FAMILY LTD PS THE
21	4810 MCKINNEY AVE	BOLES MARGARET
22	4810 MCKINNEY AVE	FALCONE A W FAMILY LTD PS
23	4810 MCKINNEY AVE	BEASLEY NORMA L
24	4810 MCKINNEY AVE	FALCONE A W FAMILY LTD PS THE
25	4810 MCKINNEY AVE	B & W INVESTMENTS
26	4810 MCKINNEY AVE	VICK BURNICE JIM

FILE NUMBER: BDA190-110(OA)

BUILDING OFFICIAL'S REPORT: Application of Shaymah Mahdi represented by S.I. Abed requires mandatory landscaping and tree mitigation at 3844 Blue Ridge Blvd. This property is more fully described as Tract 3, Block 6960, and is zoned an R-10(A) Single Family District, in which all replacement trees must be planted within 30 days of removal. The applicant requests an unspecified time extension for tree mitigation, which will require a special exception to the landscape and tree preservation regulations.

LOCATION: 3844 Blue Ridge Blvd.

APPLICANT: Shaymah Mahdi
represented by S.I. Abed

REQUEST:

A special exception to the urban forest conservation requirements to ask for a time extension to complete all required tree replacement on a property that is being developed as a residential subdivision.

STANDARD FOR A SPECIAL EXCEPTION TO THE TREE PRESERVATION REGULATIONS:

The board may grant a special exception to the tree preservation regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

In determining whether to grant a special exception, the board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

STAFF RECOMMENDATION:

The chief arborist recommends denial of the request for a timing extension to complete tree mitigation unless a time-period is proposed and a purpose for the extended period is given. I have understood why the project was delayed but there is no conclusion in the statements as to why the majority of the tree mitigation, which is more than a year past due per the ordinance, could not be provided for to date.

If the board should wish to grant the applicant a time extension, I recommend that the time -period should be provided with an end date and any conditions noted. The board should 1) authorize the landscape plan for the Property with any amendments, and 2) specify maintenance conditions for homeowners within the subdivision with provisions as stated for planting trees on other property in Section 51A-10.135(g)(2).

BACKGROUND INFORMATION:

Zoning:

Site: R-10(A) (Single Family District)
North: R-10(A) (Single Family District)
South: R-10(A) (Single Family District)
East: R-10(A) (Single Family District)
West: R-7.5(A) (Single Family District)

Land Use:

The subject is developed with a single family residential subdivision. The areas to the north, south, east, and west are developed with single family uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the urban forest conservation requirements focuses on asking for an unspecified time extension to complete all required tree replacement on a property that is being developed as a residential subdivision.

The City of Dallas chief arborist submitted a memo regarding the applicant's request (Attachment A).

The chief arborist's memo states the following with regard to "request":

The applicant is seeking a special exception to the urban forest conservation requirements of Article X, Section 51A-10.134(c)(5), Timing. The request is to ask for a

timing extension in which to complete all required tree replacement (mitigation) for the development project. The applicant has not provided a specific time-period for completion.

The chief arborist's memo states the following with regard to "provision":

The trees on the 3844 Blue Ridge site were removed without an issued tree removal application in the process of grading the property about November/December 2018. The tree ordinance amendments of June 2018 became applicable to the property with the violation. According to tree survey data and verification by the district arborist, the total potential tree removal amounted to 133 protected trees and 1,589 diameter inches with the adjustments for classification of the trees and accounting for engineering amendments brought to our attention during the project.

Timing. Article X ordinance requires the completion of tree mitigation within 30 days or an extension to 180 days with a request by the owner. All residential subdivisions may seek an extension beyond 180 days for all trees to be planted within the development when a landscape architect can provide a reliable landscape plan to indicate the number of trees with replacement inches that will be planted within the development by the completion of the project. After approval of the plan, the trees designated for the site landscape plan are extended to the time of planting but all additional mitigation exceeding the inches of trees planted in the development must be provided for within the 180 days of tree removal. This has not been accomplished.

A landscape plan was provided by the developer and a landscape architect dated September 17, 2020. The plan is considered a part of the request for the time extension as provided for in Article X. The plan identifies the following: 47 trees x 4 inches = 188 inches; 112 trees x 3 inches = 336 inches; Total on-site = 524 inches.

Total mitigation remaining: 1,065 inches

355 trees x 3 inches to be planted within five miles of site (Article X provided)

Total mitigation off-site = 1,065 inches

Total mitigation = 1,589 inches.

The locations and timing for planting the 355 trees additional trees are not given. Article X Section 51A-10.135(g) has stated requirements applicable to all parties for the placement of trees on other properties.

The twenty lots will require some trees as standard landscaping. The minimum landscape requirement for single family lots is scaled by the size of the property. Lots between 4,000 square feet and 7,500 square feet are required two large trees. Less than 4,000 square feet require one tree, and greater than 7,500 square feet require three trees. The homeowner is required to maintain these as general maintenance requirements under the Article X general division. However, Article X urban forest

conservation division does not apply to residential lots under two acres in size with single family uses. The future survival of trees on single family lots, aside from the minimum required for landscaping, is typically subject to the desire of the homeowner.

The chief arborist's memo states the following with regard to "deficiencies":

Final confirmation of the landscape plan, if approved, will be made with the final inspections to assure the planting locations comply with Section 51A-10.104, Soil and Planting Area Requirements.

A total of 1,589 caliper inches must be mitigated. Trees are currently being planted on lots as they are completed. The Reforestation Value under Article X is \$215,948 if fully paid into the Reforestation Fund. It is reduced by the same percentage of caliper inches replaced. If 33 percent is planted on site (per the above list), then \$144,735 would remain.

In determining whether to grant a special exception under Paragraph (1), the board shall consider the following factors:

- (A) The extent to which there is residential adjacency.
- (B) The topography of the site.
- (C) The extent to which landscaping exists for which no credit is give under this article.
- (D) The ability to plant replacement trees safely on the property.
- (E) The extent to which alternative methods of replacement will compensate for a reduction of tree mitigation or extended time for tree replacement.

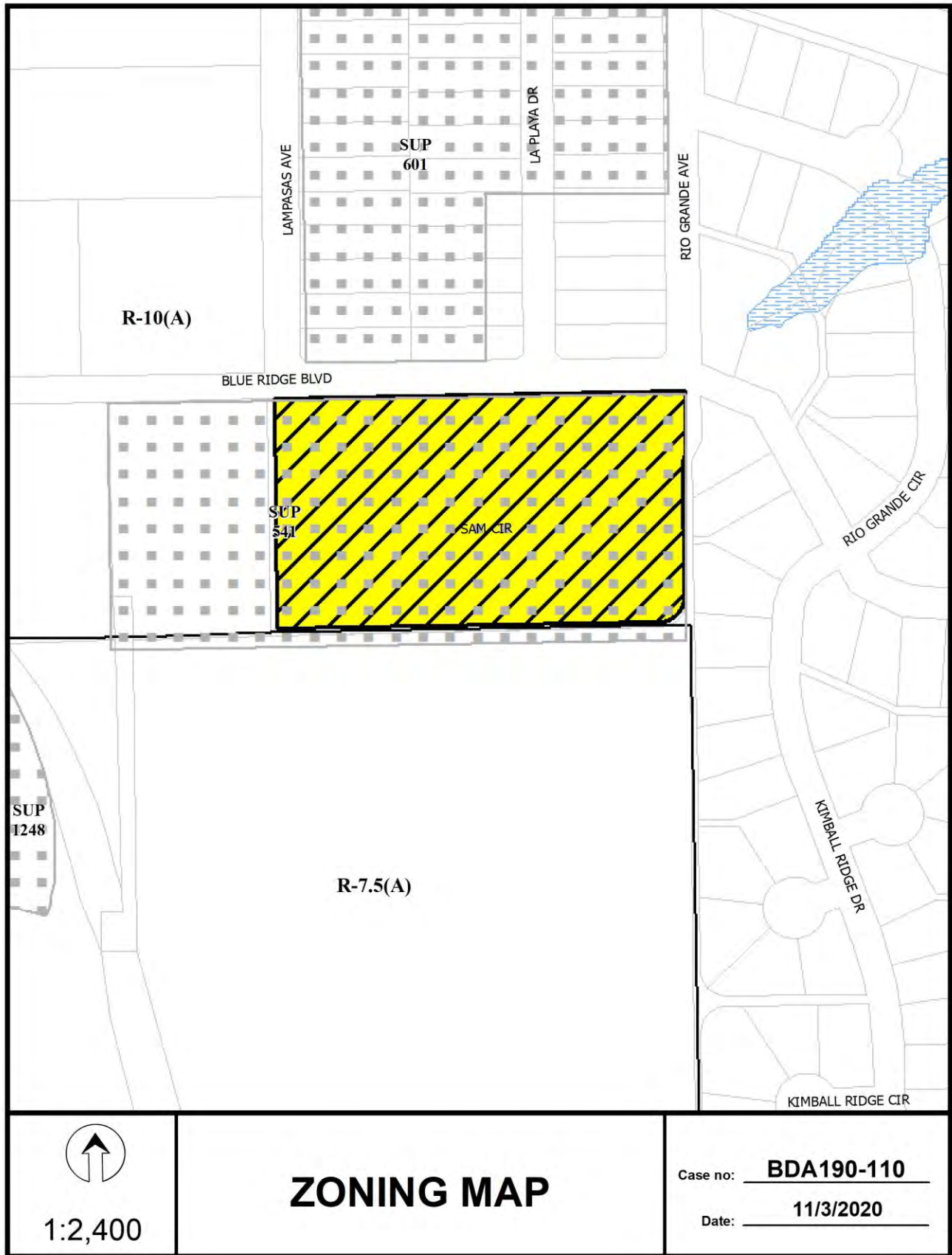
The chief arborist's revised memo states the following with regard to the "recommendation":

The chief arborist recommends denial of the request for a timing extension to complete tree mitigation unless a time period is proposed and a purpose for the extended period is given. I have understood why the project was delayed but there is no conclusion in the statements as to why the majority of the tree mitigation, which is more than a year past due per the ordinance, could not be provided for to date.

If the board should wish to grant the applicant a time extension, I recommend that the time period should be provided with an end date and any conditions noted. The board should 1) authorize the landscape plan for the Property with any amendments, and 2) specify maintenance conditions for homeowners within the subdivision with provisions as stated for planting trees on other property in Section 51A-10.135(g)(2).

Timeline:

- September 29, 2020: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 16, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.
- October 16, 2020: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the October 27, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the November 6, 2020 deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- October 29, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.
- October 30, 2020: The City of Dallas Chief Arborist submitted a memo regarding this request (Attachment A).





1:2,400

AERIAL MAP

Case no: **BDA190-110**

Date: **11/3/2020**



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-110

Date: 9-29-2020

Data Relative to Subject Property:

Location address: 3844 Blue Ridge Blvd.

Zoning District: R-10

Lot No.: 1-15/ 1-5 & Common Area Block No.: B/6960 & C/6960 Acreage: 6.11

Census Tract: 108.03

Street Frontage (in Feet): 1) 670.89' 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): AAA Home Builder, LLC/ Shaymah Mahdi

Applicant: Shaymah Mahdi

Telephone: 469-422-5944

Mailing Address: 3930 Black Gold Dr Zip Code: 75247

E-mail Address: AAAPROSERVICES@hotmail.com

Represented by: S.I.Abed

Telephone: 214-868-9320

Mailing Address: 400 Chisholm Place # 410, Plano, TX

Zip Code: 75075

E-mail Address: abed.ddc@gmail.com

Affirm that an appeal has been made for a Variance , or Special Exception , of

Extension of time for Tree Mitigation as large number of trees to be planted.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:

Requesting for Extension of Tree Mitigation due to unexpected delays caused by Plan Changes, Revisions, hostile activities from Neighbors and most importantly a long delay (Stop Order) for 9+ months, due to a new Flood Plain study by Half Associates showing the development area is under the newly revised flood plain. Please find next page for detail and explanation:

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Shaymah Mahdi

Shaymah Mahdi
(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Shaymah Mahdi

(Affiant/Applicant's signature)

Subscribed and sworn to before me this 24 day of September, 2020



RAY P BULGER
Notary ID #11670541
My Commission Expires
July 9, 2023

Notary Public in and for Dallas County, Texas

**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Shaymah Mahdi
represented by S.I. Abed
did submit a request requires mandatory landscaping and tree mitigation
at 3844 Blue Ridge Blvd.

BDA190-110. Application of Shaymah Mahdi represented by S.I. Abed requires mandatory landscaping and tree mitigation at 3844 BLUE RIDGE BLVD. This property is more fully described as Tract 3, Block 6960, and is zoned R-10(A), which all replacement trees must be planted within 30 days of removal. The applicant proposes to request time extension for tree mitigation, which will require a special exception to the landscape and tree preservation regulations.

Sincerely,


David Session, Building Official



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 190-110

I, AAA Home Builder LLC / Shaymah Mahdi, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 3844 Blue Ridge Ave, Dallas, Texas 75233
(Address of property as stated on application)

Authorize: Hassan Naser
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

 Variance (specify below)

 Special Exception (specify below)

 x Other Appeal (specify below)

Specify: x Extension of time for Tree Mitigation as large number of trees to be planted.

Shaymah Mahdi / Hassan Naser
Print name of property owner or registered agent

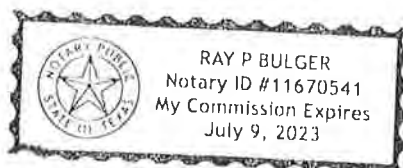
[Signature]
Signature of property owner or registered agent

Date 09/24/2020

Before me, the undersigned, on this day personally appeared SHAYMAH MAHDI

Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 24 day of September, 2020



[Signature]
Notary Public for Dallas County, Texas

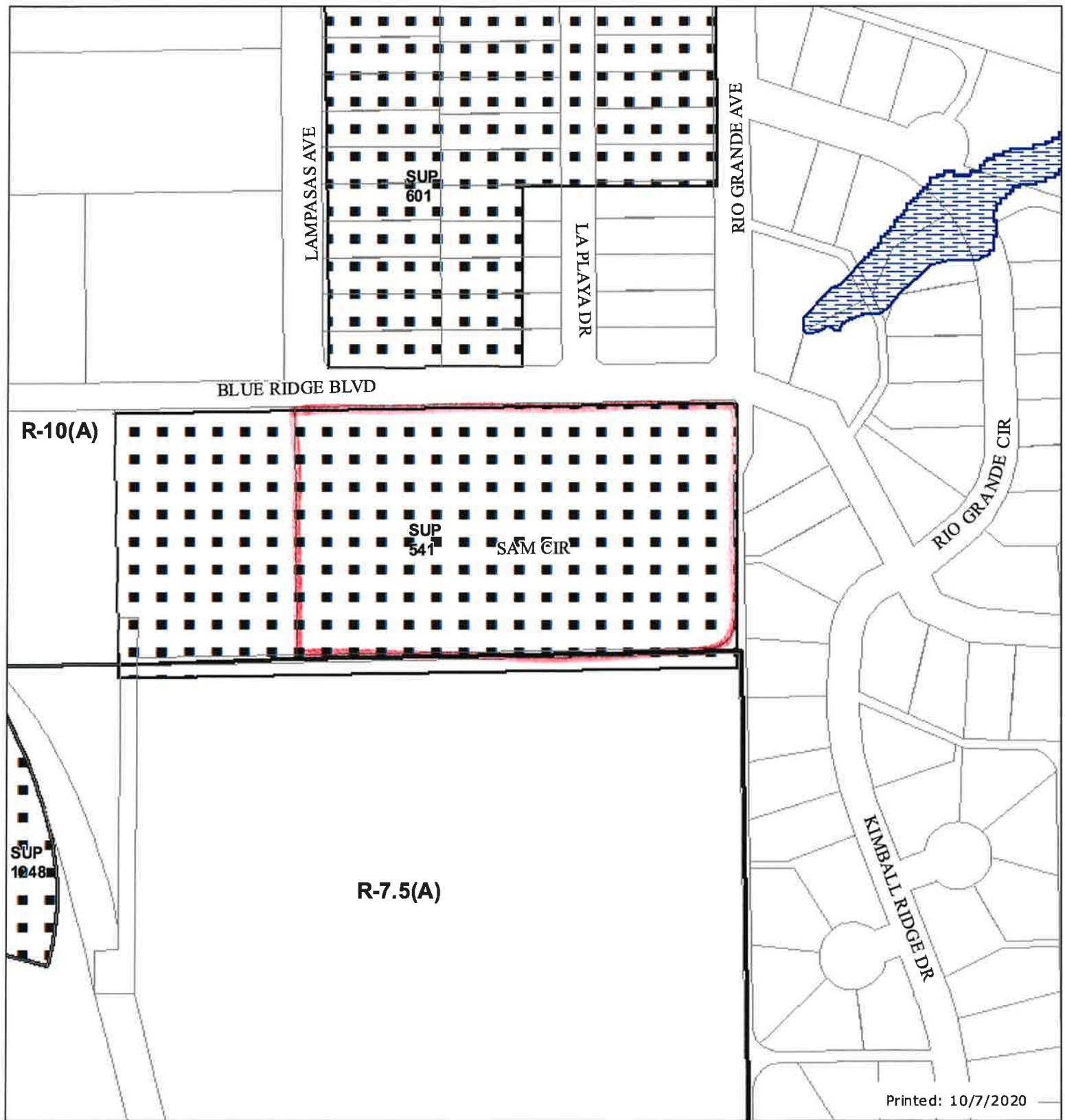
Commission expires on July 9 2023

Application/ Appeal To The Board Of Adjustment

Requesting for Extension of Tree Mitigation due to unexpected delays caused by Plan Changes, Revisions, hostile activities from Neighbors and most importantly a long delay (Stop Order) for 9+ months due to a new Flood Plain study by Halff Associates.

The project suffered construction delays due to following reasons:

- a. Project Started in November 2018.
- b. Dec-2018 Hold for Tree permit.
- c. All underground work completed by March -2019.
- d. Applied for Flood Way Easement abandonment. Nov -2018.
- e. Meanwhile, Trinity Wastewatershed Management (TWM) was running parallel Flood Study for City Creeks and found that new flood study by Halff Associates showing the area is affected by revised flood study. TWM stopped Floodway Easement abandonment as new Flood Study may cause changes to abandonment and asked to work to resolve the flood issue. Both City and Consultants hired third party expertise to work on possible alternate solutions.
- f. Construction stopped from March-2019 and resumed Nov. 2019 (9 months) until City and Consultants resolved the Flood issue.
- g. Construction plan revised for new storm pipes. Work completed Dec-2019
- f. Restarted Floodway abandonment easement (Needs P&Z and Council Approval) on Nov-2019. Took 4 months as City revised Exhibits few times. Received approval March 2020.
- g. Final Plat release was on 05-20-20.
- h. Plat filed in June -2020.
- i. DWU department hold the project from water, sewer connection and sidewalk construction until plat was filed.
- j. Home construction resumed June -2020 after DWU department released flowed by the recorded plat.
- k. Currently all houses except one is built. GC is planting trees on finished lots.



Printed: 10/7/2020

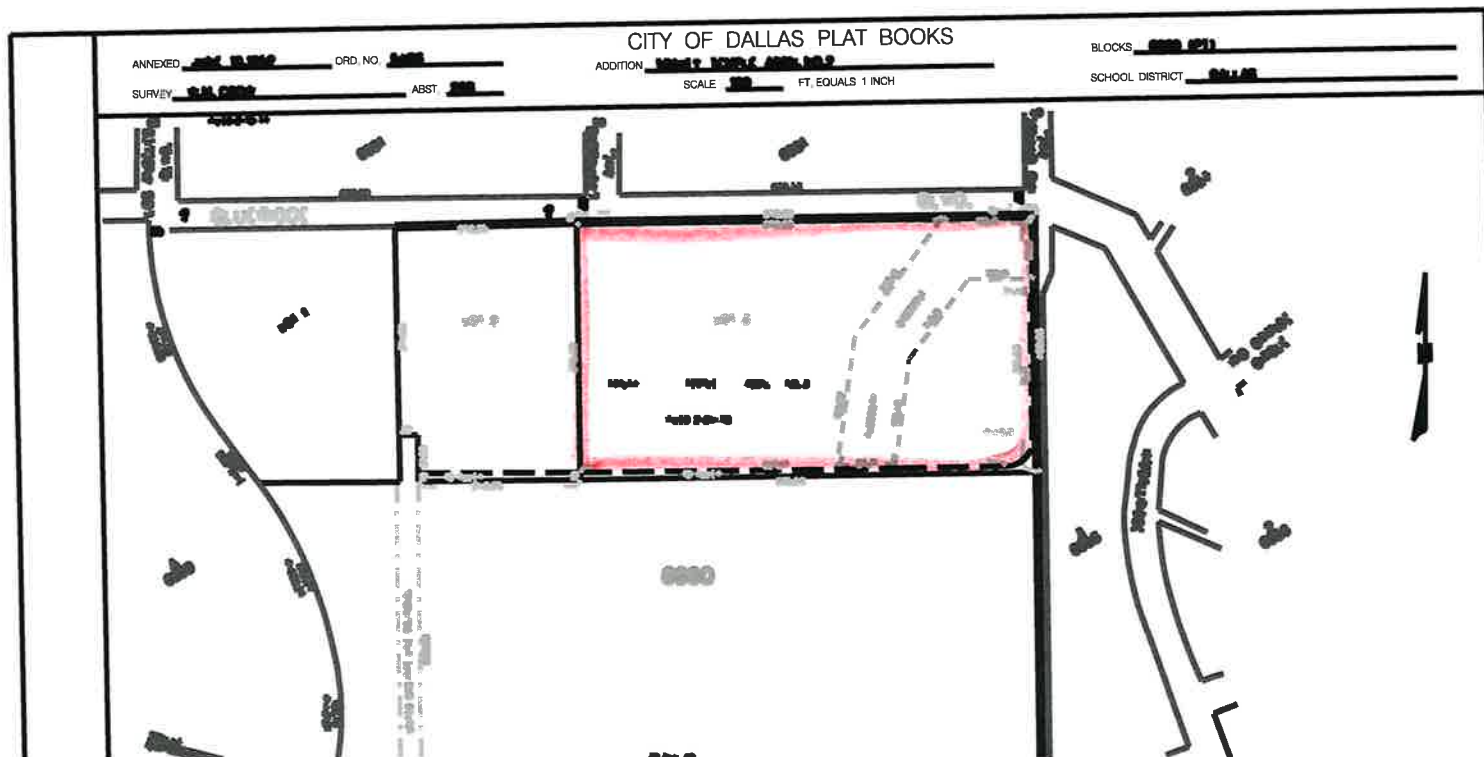
Legend

City Limits	railroad	Dry Overlay	CD Subdistricts
School	Certified Parcels	D	PD Subdistricts
Floodplain	Base Zoning	D-1	PDS Subdistricts
100 Year Flood Zone	PD193 Oak Lawn	CP	NSO Subdistricts
Mill's Creek	Dallas Environmental Corridors	SP	NSO_Overlay
Peak's Branch	SPSP Overlay	MD Overlay	Escarpment Overlay
X Protected by Levee	Deed Restrictions	Historic Subdistricts	Parking Management Overlay
Parks	SUP	Historic Overlay	Shop Front Overlay 5-12
		Height Map Overlay	

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)



1:2,400



Memorandum



Date October 30, 2020

To Oscar Aguilera, Sr. Planner
Jennifer Munoz, Board Administrator

Subject BDA #190-110 3844 Blue Ridge

Request

The applicant is seeking a special exception to the urban forest conservation requirements of Article X, Section 51A-10.134(c)(5), Timing. The request is to ask for a timing extension in which to complete all required tree replacement (mitigation) for the development project. The applicant has not provided a specific time period for completion.

Provision

The trees on the 3844 Blue Ridge site were removed without an issued tree removal application in the process of grading the property about November/December 2018. The tree ordinance amendments of June 2018 became applicable to the property with the violation. According to tree survey data and verification by the district arborist, the total potential tree removal amounted to 133 protected trees and 1,589 diameter inches with the adjustments for classification of the trees and accounting for engineering amendments brought to our attention during the project.

Timing. Article X ordinance requires the completion of tree mitigation within 30 days or an extension to 180 days with a request by the owner. All residential subdivisions may seek an extension beyond 180 days for all trees to be planted within the development when a landscape architect can provide a reliable landscape plan to indicate the number of trees with replacement inches that will be planted within the development by the completion of the project. After approval of the plan, the trees designated for the site landscape plan are extended to time of planting but all additional mitigation exceeding the inches of trees planted in the development must be provided for within the 180 days of tree removal. This has not been accomplished.

A landscape plan was provided by the developer and a landscape architect dated September 17, 2020. The plan is considered a part of the request for the time extension as provided for in Article X. The plan identifies the following: 47 trees x 4" = 188"; 112 trees x 3" = 336"; Total on site = **524"**.

Total mitigation remaining: **1,065"**

355 trees x 3" to be planted within 5 miles of site (Article X provided)

Total mitigation off site = 1,065"

Total mitigation = **1,589"**.

The locations and timing for planting the 355 trees additional trees are not given. Article X Section 51A-10.135(g) has stated requirements applicable to all parties for the placement of trees on other properties.

The twenty lots will require some trees as standard landscaping. The minimum landscape

requirement for single family lots are scaled by the size of the property. Lots between 4000 square feet and 7500 square feet are required two large trees. Less than 4000 square feet require one tree, and greater than 7500 square feet require three trees. The homeowner is required to maintain these as general maintenance requirements under the Article X general division. However, the Article X urban forest conservation division does not apply to residential lots under 2 acres in size with single family uses. The future survival of trees on single family lots, aside from the minimum required for landscaping, is typically subject to the desire of the homeowner.

Deficiency

A final confirmation of the landscape plan, if approved, will be made with the final inspections to assure the planting locations are in compliance with Section 51A-10.104, Soil and Planting Area Requirements.

A total of 1,589 caliper inches must be mitigated. Trees are currently being planted on lots as they are completed. The Reforestation Value under Article X is \$215,948 if fully paid into the Reforestation Fund. It is reduced by the same percentage of caliper inches replaced. If 33% is planted on site (per the above list), then \$144,735 would remain.

In determining whether to grant a special exception under Paragraph (1), the board shall consider the following **factors**:

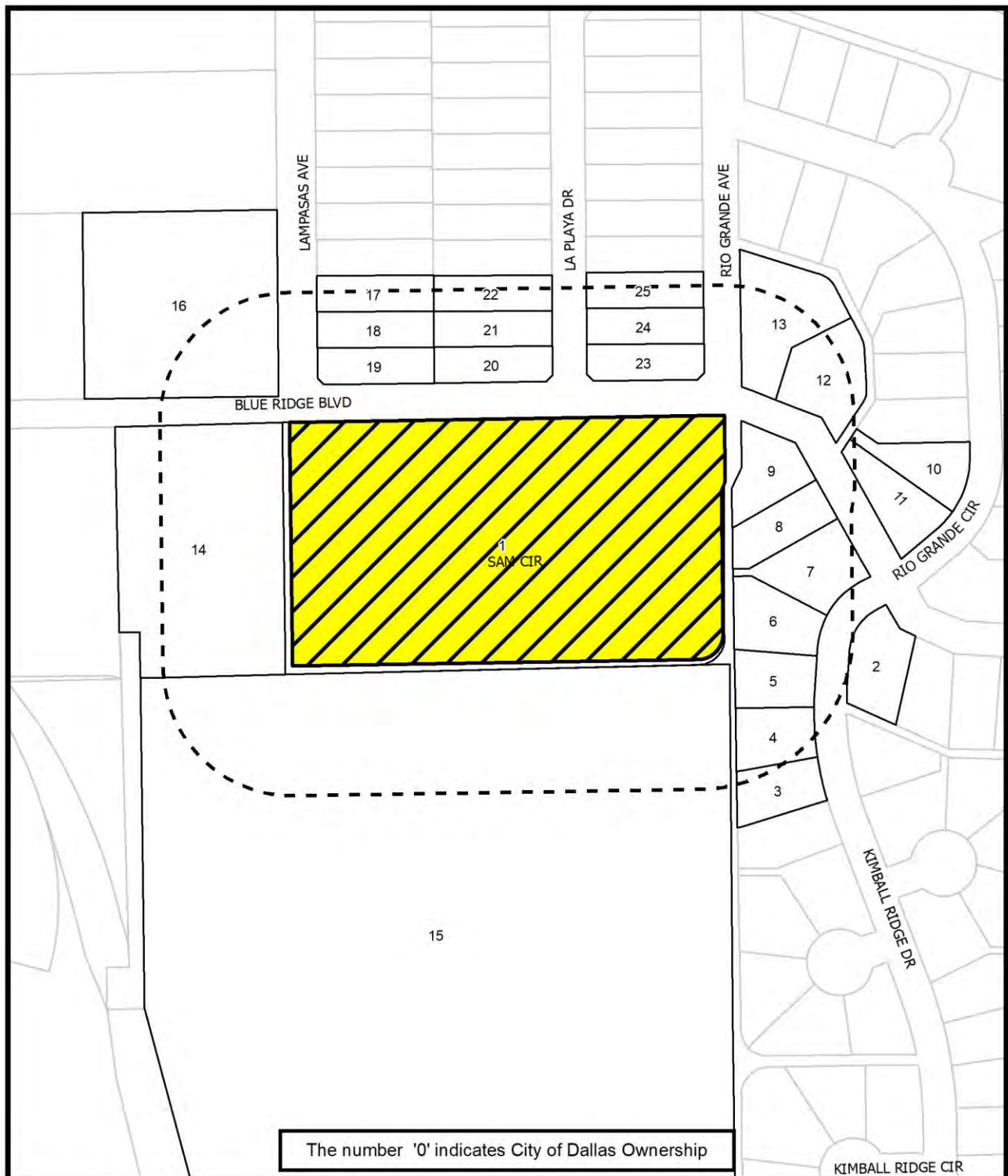
- (A) The extent to which there is residential adjacency.
- (B) The topography of the site.
- (C) The extent to which landscaping exists for which no credit is given under this article.
- (D) The ability to plant replacement trees safely on the property.
- (E) The extent to which alternative methods of replacement will compensate for a reduction of tree mitigation or extended time for tree replacement.

Recommendation

The chief arborist recommends denial of the request for a timing extension to complete tree mitigation unless a time period is proposed and a purpose for the extended period is given. I have understood why the project was delayed but there is no conclusion in the statements as to why the majority of the tree mitigation, that is more than a year past due per ordinance, could not be provided for to date.

If the board should wish to grant the applicant a time extension, I recommend that the time period should be clearly provided with an end date and any conditions noted. The board should 1) authorize the landscape plan for the Property with any amendments, and 2) specify maintenance conditions for homeowners within the subdivision with provisions as stated for planting trees on other property in Section 51A-10.135(g)(2).

Philip Erwin
Chief Arborist
Building Inspection



1:2,400

NOTIFICATION

200'

AREA OF NOTIFICATION

25

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-110**

Date: **11/3/2020**

11/03/2020

Notification List of Property Owners

BDA190-110

25 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3844 BLUE RIDGE BLVD	AAA HOME BUILDER LLC
2	3656 BLUE RIDGE BLVD	EJIKE TERRA L
3	3625 KIMBALL RIDGE DR	FARIAS JORGE &
4	3621 KIMBALL RIDGE DR	CLARK HELLEN M
5	3615 KIMBALL RIDGE DR	BLAIR BRENDA
6	3611 KIMBALL RIDGE DR	DELAROSA RAYMOND
7	3605 KIMBALL RIDGE DR	MARILLO JOSE & IRENE
8	3714 BLUE RIDGE BLVD	DARDEN VIRGINIA A
9	3720 BLUE RIDGE BLVD	MEDINA FRANCISCO J
10	3549 RIO GRANDE CIR	LOFTIS FANNIE MAE P EST OF
11	3555 RIO GRANDE CIR	DURON ANTONIO B
12	3721 BLUE RIDGE BLVD	JOVE JAIME A
13	3536 RIO GRANDE AVE	SUESS ROBERT RAYMOND &
14	3902 BLUE RIDGE BLVD	ZION APOSTOLIC TEMPLE INC
15	4000 SHADY HOLLOW LN	SHADY HOLLOW DEVELOPMENT LLC
16	3921 BLUE RIDGE BLVD	MITCHELL YARA
17	3534 LAMPASAS AVE	OROPESA MALELI
18	3538 LAMPASAS AVE	MACK ROBERT J
19	3542 LAMPASAS AVE	MORA VERONICA
20	3547 LA PLAYA DR	SALAS JEHU
21	3543 LA PLAYA DR	CAMACHO GERARDO & ELIZA G
22	3539 LA PLAYA DR	CERDA MARGARITO
23	3546 LA PLAYA DR	VEGA ANTONIO & SILVIA
24	3542 LA PLAYA DR	GARZA ARTURO
25	3538 LA PLAYA DR	SOLIS FAUSTINO L &

FILE NUMBER: BDA190-090(JM)

BUILDING OFFICIAL'S REPORT: Application of Thomas Shields, represented by Steven Dimitt for a special exception to the Modified Delta Overlay District No. 1 regulations at 3016 Greenville Avenue. This property is more fully described as Lot 11, Block 2168, and is zoned Conservation District No. 11 with Modified Delta Overlay District No.1, which states that the rights to nonconforming delta parking credits are lost if the use is vacant for 12 months or more. The applicant proposes to restore the lost delta parking credits, which will require a special exception to the Modified Delta Overlay District No. 1 regulations.

LOCATION: 3016 Greenville Avenue

APPLICANT: Thomas Shields
Represented by Steven Dimitt

UPDATE:

On October 21, 2020, the Board of Adjustment Panel B conducted a public hearing on this application and delayed action per applicant's request until the next public hearing to be held on November 18, 2020.

REQUEST:

A request for a special exception to the Modified Delta Overlay District No. 1 regulations to carry forward nonconforming parking spaces under the delta theory that were terminated since the use on the site was discontinued or remained vacant for 12 months or more is made in order for the applicant to obtain a Certificate of Occupancy for a retail use for the vacant commercial structure on the subject site.

STANDARD FOR SPECIAL EXCEPTION TO THE MODIFIED DELTA OVERLAY DISTRICT No. 1 REGULATIONS TO CARRY FORWARD NONCONFORMING PARKING AND LOADING SPACES UNDER THE DELTA THEORY WHEN A USE IS DISCONTINUED OR REMAINS VACANT FOR 12 MONTHS OR MORE:

The Modified Delta Overlay District No. 1 states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include *but not be limited* to the following:

1. A decline in the rental rates for the area which has affected the rental market.

2. An unusual increase in the vacancy rates for the area which has affected the rental market.
3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

STAFF RECOMMENDATION:

Approval

Rationale:

- Staff concluded that the applicant had demonstrated that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of the following extreme circumstances:

The applicant documented how extensive renovation or remodeling was necessary because the structure on the site was in poor condition. Construction was ongoing from December 2018 through approximately February 2020.

BACKGROUND INFORMATION:

Zoning:

Site: CD No. 11 with an MD Overlay District No. 1
North: CD Nos. 9 and 11 with an MD Overlay District No. 1
South: CD No. 11 with an MD Overlay District No. 1
East: CD No. 11 with an MD Overlay District No. 1
West: CD Nos. 9 with an MD Overlay District No. 1

Land Use:

The subject site is developed with a commercial structure. The areas to the north, south, and west are developed with residential uses; and the area to the east is developed with commercial uses.

Zoning/BDA History:

While there have been no zoning/BDA cases within the area in the last five years, there are three other BDA cases at the subject site currently.

GENERAL FACTS/STAFF ANALYSIS:

This request focuses on carrying forward nonconforming parking spaces under the delta theory terminated because a part of the structure/use on the site was discontinued or

remained vacant for 12 months or more. Reinstating the delta credits would allow for the applicant to maintain a Certificate of Occupancy for a general merchandise or food store use [Uptown Dog] which is currently in question due to the period of vacancy discovered since the prior tenant.

The subject site is zoned Conservation District No. 11 with Modified Delta Overlay District No.1. According to DCAD, the property at 3016 Greenville Avenue is developed with a “retail strip” with over 12,210 square feet of floor area built in 1930.

The Dallas Development Code provides the following relating to nonconformity of parking or loading:

- Increased requirements. A person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional off-street parking and loading spaces are provided.
- Delta theory. In calculating required off-street parking or loading, the number of nonconforming parking or loading spaces may be carried forward when the use is converted or expanded. Nonconforming rights as to parking or loading are defined in the following manner: required parking or loading spaces for existing use minus the number of existing parking or loading spaces for existing use equals nonconforming rights as to parking or loading.
- Decreased requirements. When a use is converted to a new use having less parking or loading requirement, the rights to any portion of the nonconforming parking or loading that are not needed to meet the new requirements are lost.

In 1987, the City Council created “Modified Delta Overlay Districts” in those areas where it has determined that a continued operation of the delta theory is not justified because there is no longer a need to encourage redevelopment and adaptive reuse of existing structures, or a continued application of the delta theory will create traffic congestion and public safety problems and would not be in the public interest.

In a modified delta overlay district, the city council may limit the number of percentages of nonconforming parking or loading spaces that may be carried forward by a use under the delta theory. An ordinance establishing a modified delta overlay district may not increase the number of nonconforming parking or loading spaces that may be carried forward under the delta theory when a use is converted or expanded.

An ordinance establishing a modified delta overlay district must provide that when a use located in the district is converted to a new use having less parking or loading requirements, the rights to **any portion** of the nonconforming parking or loading **not needed** to meet the new requirements **are lost**.

An ordinance establishing a modified delta overlay district may provide that rights under the delta theory terminate when a use for which the delta theory has been applied is discontinued.

In 1987, the City Council established Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- That no nonconforming parking spaces may be carried forward by a use under the delta theory when a use in the Community Retail District with an MD Overlay District No. 1a is expanded.

In 1995, the City Council amended Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- The right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:
 1. A decline in the rental rates for the area which has affected the rental market.
 2. An unusual increase in the vacancy rates for the area which has affected the rental market.
 3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

Timeline:

August 4, 2020 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

September 18, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 18, 2020 The Board Administrator emailed the applicant's representative the public hearing date and panel that will consider the application; the September 30, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the October 9, 2020 deadline to submit additional evidence to be incorporated into the board's docket materials and the following information:

- a copy of the application materials including the Building Official's report on the application.
- the criteria/standard that the board will use in their decision to approve or deny the request; and

- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

September 30, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

October 2, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. The review team members in attendance included the Sustainable Development and Construction: Assistant Director, Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Building Inspection Senior Plans Examiner/Development Sign Code Specialist, Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

October 21, 2020: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant’s request until the next public hearing to be held on November 18, 2020.

October 26, 2020: The Board Administrator wrote the applicant a letter of the board’s action; the deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the board’s docket materials.

October 29, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Sing Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

No review comment sheets with comments were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: October 21, 2020

APPEARING IN FAVOR:

Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX

Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100
Richardson, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: **Shouse**

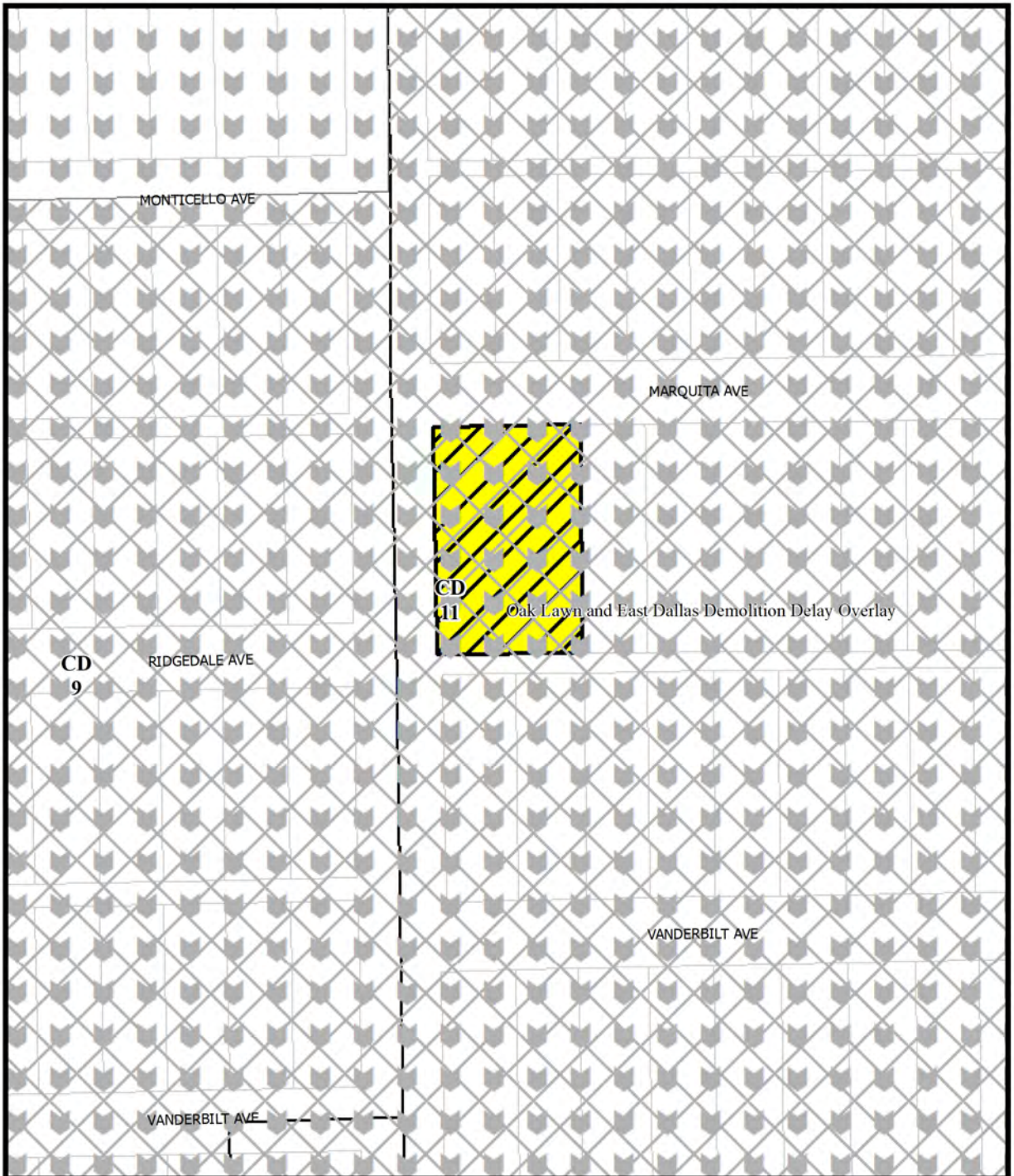
I move that the Board of Adjustment in Appeal No. BDA 190-090, **hold** this matter under advisement until **November 18, 2020**.

SECONDED: **Vermillion**

AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

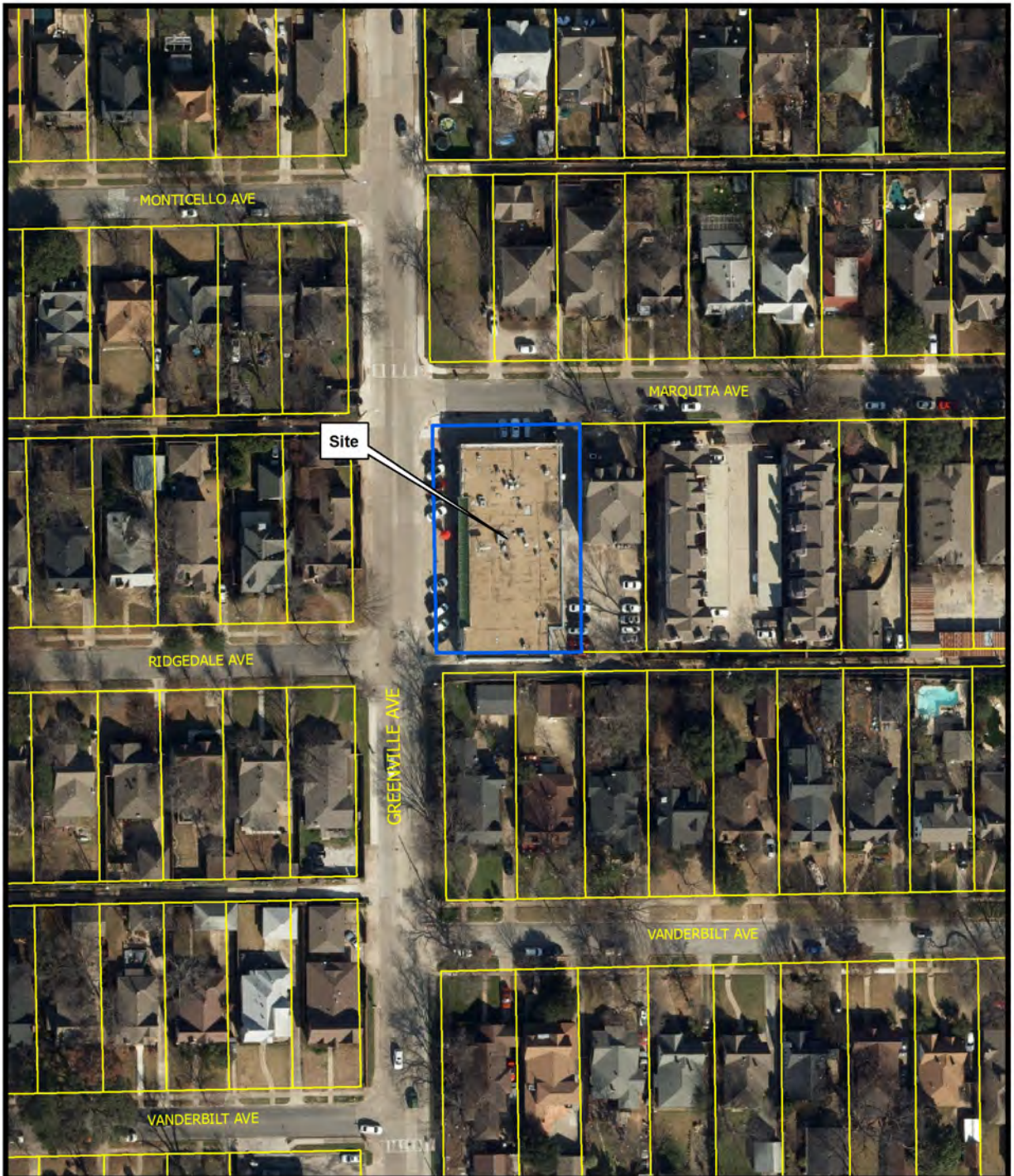


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ZONING MAP

Case no: BDA190-090

Date: 10/1/2020



1:1,200

AERIAL MAP

Case no: BDA190-090

Date: 10/1/2020



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-090

Data Relative to Subject Property:

Date: 8/4/2020

Location address: 3016 Greenville Avenue, Dallas, TX 75206 Zoning District: CD-11

Lot No.: 11 Block No.: 2168 Acreage: 0.51 Census Tract: 0002.02

Street Frontage (in Feet): 1) 179.16 2) 124.00 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Shields Limited Partnership

Applicant: Thomas Shields Telephone: 281-635-4250

Mailing Address: 418 E. Shore Drive, Kemah, TX Zip Code: 77565

E-mail Address: tom.shields@shields-lagniappe.com

Represented by: Steven Dimitt/Rob Baldwin Telephone: 214-559-2700

Mailing Address: 1201 N. Riverfront Blvd., Suite 150, Dallas, TX Zip Code: 75207

E-mail Address: sdimitt@pcrfirm.com / rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance , or Special Exception X, of Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:

Owner can state an extreme circumstance that demonstrates that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more, including but not limited to, extensive renovations and remodeling of the property.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

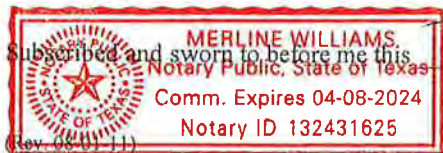
Before me the undersigned on this day personally appeared Thomas Shields

(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Thomas Shields

(Affiant/Applicant's signature)



3 day of August

2020

[Signature]
Notary Public in and for Dallas County, Texas

Chairman

David Session
David Session, Building Official



AFFIDAVIT

Appeal number: BDA 190-090

I, Shields Limited Partnership, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 3016 Greenville Avenue, Dallas, Texas 75206
(Address of property as stated on application)

Authorize: Thomas Shields
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

 Variance (specify below)

X Special Exception (specify below)

 Other Appeal (specify below)

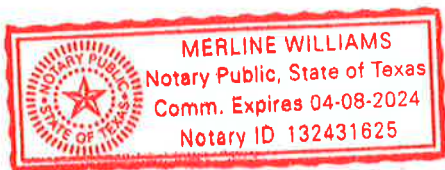
Special exception under Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

Shields Ltd. P.S./Thomas Shields Thomas Shields 8/3/2020
Print name of property owner/agent Signature of property owner/agent Date

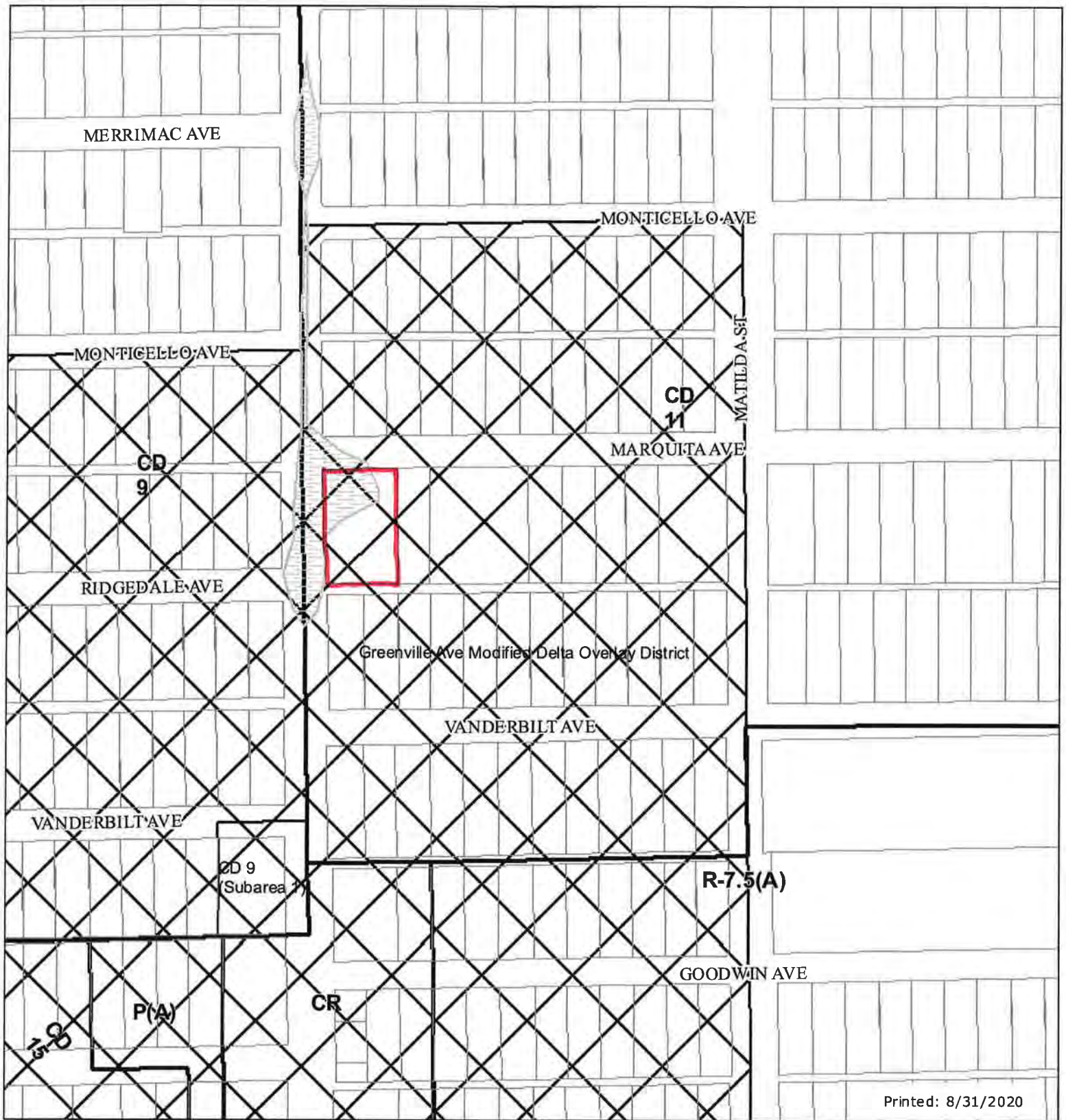
Before me, the undersigned, on this day personally appeared Thomas Shields

Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 3 day of August, 2020



[Signature]
Notary Public for Dallas County, Texas
Commission expires on 04-08-2024



Printed: 8/31/2020

Legend

City Limits	Railroad	Dry Overlay	CD Subdistricts
School	Certified Parcels	D	PD Subdistricts
Floodplain	Base Zoning	D-1	PDS Subdistricts
100 Year Flood Zone	PD193 Oak Lawn	CP	NSO Subdistricts
Mill's Creek	Dallas Environmental Corridors	SP	NSO Overlay
Peak's Branch	SPD Overlay	MD Overlay	Escarpment Overlay
X Protected by Levee	Deed Restrictions	Historic Subdistricts	Parking Management Overlay
Parks	SUP	Historic Overlay	Shop Front Overlay
		Height Map Overlay	

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1:2,400



City of Dallas

Certificate of Occupancy

Address: 3016 GREENVILLE AVE 75206

Issued: 02/13/2020

Owner: BRIAN ODZER
3014 GREENVILLE AVE
DALLAS, TX 75206

DBA: UPTOWN DOG

Land Use: (5999) GEN MERCHANDISE OR FOOD STORE < 3500 SQ. FT.

Occupied Portion:

C.O.#: 2002061080

Lot: 11	Block: 2168	Zoning: CD-11	PDD:	SUP:
Historic Dist:	Consv Dist: M Streets E	Pro Park: 8	Req Park: 8	Park Agrmt: N
Dwlg Units:	Stories:	Occ Code: M	Lot Area: 20620	Total Area: 1515
Type Const: UNK	Sprinkler:	Occ Load:	Alcohol: N	Dance Floor:N

Remarks: SUBJECT TO FIELD INSPECTORS APPROVAL. RETAIL ONLY

Philip Sikes, Building Official

This certificate shall be displayed on the above premise at all times.



CITY OF DALLAS

July 14, 2020

CERTIFIED MAIL No. 7019 1640 0001 6327 1299

Brian Odzer
Uptown Dog Grooming, LLC
5135 Ridgedale Ave
Dallas, TX 75206

CERTIFIED MAIL No. 7019 1640 0001 6327 1305

Tom Shields
Shields Ltd. P.S.
418 E Shore Dr
Kemah, Texas 77565-2525

RE: Warning of revocation of Certificate of Occupancy No. 2002061080 for *general merchandise or food store 3,500 square feet or less* use at 3016 Greenville Avenue, Dallas, Texas 75206

Dear Mr. Odzer and Mr. Shields:

The above-referenced certificate of occupancy was approved based, in part, on compliance with off-street parking requirements which had been presumed to be met, in part, with eight delta credits. However, based upon the attached notice to vacate (Exhibit A), the use discontinued and the suite became vacant on or by September 30, 2017. Since the previous occupancy had been discontinued for more than 12 months by the time the above-referenced certificate of occupancy application was submitted on June 10, 2020, nine delta credits had been lost pursuant to Section 1 in Ordinance No. 22472 for the Modified Delta Overlay No. 1 (Exhibit B). Fortunately, this ordinance allows the owner to make an appeal to the Board of Adjustment for a special exception to the provision that terminates delta credits as described in the attached ordinance.

The above-referenced certificate of occupancy will be revoked unless one of the two following items are submitted by August 21, 2020:

1. An application to the Board of Adjustment for a special exception to reinstate the lost delta credits. Questions about the Board of Adjustments should be directed to Charles Trammell at 214-948-4618
2. A compliant plan to the building official to provide nine parking spaces with a remote parking agreement for the above-referenced certificate of occupancy. Questions about this process should be directed to Kim Haynie at 214-948-4625.



CITY OF DALLAS

Any determination made by the building official is final unless appealed before the 15th day after written notice of the action or determination is given in accordance with Section 306.15 of Chapter 52, "Administrative Procedures for the Construction Codes," and Section 51A-4.703 of the Dallas Development Code. Questions about the appeal process should be directed to the building official at 214-948-4625.

Sincerely,

Sarah May
Chief Planner
Building Inspection
Sustainable Development and Construction Department

cc: Kris Sweckard, Director, Sustainable Development and Construction
Carl Simpson, Director, Code Compliance
David Session, CBO, Interim Building Official
Megan Wimer, CBO, Assistant Building Official
Tammy Palomino, Executive Assistant City Attorney
Casey Burgess, Executive Assistant City Attorney
Charles Trammell, Board of Adjustment Development Code Specialist
Kim Haynie, Development Project Coordinator

9/12/17

Dallas Beast Fitness
3016 Greenville Ave.
Dallas, TX 75203
Attn: Sandra Pittman, Lavell Roberson, and Jason Benjamin
Via email & USPS 1st class

Re: September Rent Default and Final Inspection Requirements

Dear Sandra, Lavell and Jason;

Notwithstanding your intent to vacate the premises at the end of the month, September rent is still due. Therefore, please see the notice of default below.

In addition, we need to arrange a time for a final inspection. Per Section 20 of the lease; you are required, among many other things; to deliver the premises in broom clean condition with all improvements located therein in good repair and condition, surrender all keys to the premises, and remove any unattached trade fixtures, furniture, and personal property placed in the premises.

Please advise as to the date and time you would like to meet for the final inspection.

Sincerely,

Tom Shields
Shields Ltd / Lagniappe LLC
(c) 281-635-4250

cc: Scott Covington (S.E. Covington & Co.)
Dylan Russell - Hoover Slovacek

NOTICE TO TENANT OF RENT DEFAULT

Date: September 12th, 2017

To: Dallas BEAST Fitness, LLC, Lavell Roberson, Sandra Pittman and Jason Benjamin

RE: Notice of Rent Default

Dear Lavell, Sandra and Jason;

This notice is in reference to the following described lease:

Shields Limited Partnership lease of 1,579 rentable square feet of retail space commonly known as 3016 Greenville Avenue Dallas, Texas 75206 to Dallas BEAST Fitness, LLC, Lavell Roberson, Sandra Pittman and Jason Benjamin (jointly and severally), as executed on June 25th, 2012.

We received your notice of intent to vacate the premises on 9/30/2017, however, per the terms of the lease September rent must still be paid. Therefore, as of September 12th, 2017 you are in **DEFAULT IN YOUR PAYMENT OF RENT**. The total amount due is **\$4,073.56** which includes a 5% late fee. Past due balances are also subjected to a 12% interest rate from the date due until paid. Please see the breakdown below:

Monthly Rent	\$3,289.58
CAM	\$590.00
sub-total	\$3,879.58
Late Fee (5%)	\$193.98
Total	\$4,073.56

If this breach of lease is not corrected within five (5) days of this notice, we will take further action to protect our rights. This notice is made under all applicable laws. All of our rights are reserved under this notice.

2926 Maple & 3014 Greenville Managed by:
Lagniappe LLC
418 E. Shore Dr.
Clear Lake Shores, TX 77565
email: lagniappellc@earthlink.net

Building emergencies & maintenance requests:
(214)-261-5561

Property leasing/general inquiries:
SE Covington & Co
Suite 800
Houston, TX 77027
(713)-974-7600

6-21-95

ORDINANCE NO. 22472

An ordinance amending Ordinance No. 19726, which established Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District); amending Section 5 of that ordinance; providing that the board of adjustment may not grant a special exception for required parking; providing an extension of the walking distance for remote parking; providing that more than 50 percent of required parking may consist of special parking; providing that the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, shall govern this 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 of the City of Dallas, in accordance with the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to Ordinance No. 19726; and

WHEREAS, the city council finds that it is in the public interest to amend Modified Delta Overlay District No. 1 as specified in this ordinance; Now, Therefore,

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

SECTION 1. That Section 5 of Ordinance No. 19726 is amended to read as follows:

"SECTION 5. That the right to carry forward nonconforming parking and loading

spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can ~~demonstrate~~~~state an extreme circumstance that demonstrates~~ that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more, by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:

(a) A decline in the rental rates for the area which has affected the rental market.

(b) An unusual increase in the vacancy rates for the area which has affected the rental market.

(c) Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties, affecting the marketability of property."

SECTION 2. That a new Section 5A is added to Ordinance No. 19726 to read as follows:

"SECTION 5A. That the board of adjustment may not grant a special exception for required off-street parking in this district."

SECTION 3. That a new Section 5B is added to Ordinance No. 19726 to read as follows:

"SECTION 5B. That the walking distances contained in Paragraphs (1) and (2)(A) of Section 51A-4.324(d) of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, are extended to 600 and 900 feet, respectively, for remote parking in this district."

SECTION 4. That a new Section 5C is added to Ordinance No. 19726 to read as follows:

"SECTION 5C. That special parking, as defined in Section 51A-4.321 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, may account for more than 50 percent of the off-street parking required for any use."

SECTION 5. That a new Section 5D is added to Ordinance No. 19726 to read

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as follows:

"SECTION 5D. That the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, govern this district."

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 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:

SAM A. LINDSAY, City Attorney

By

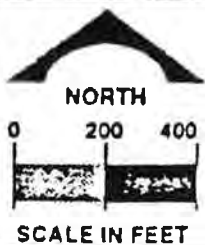
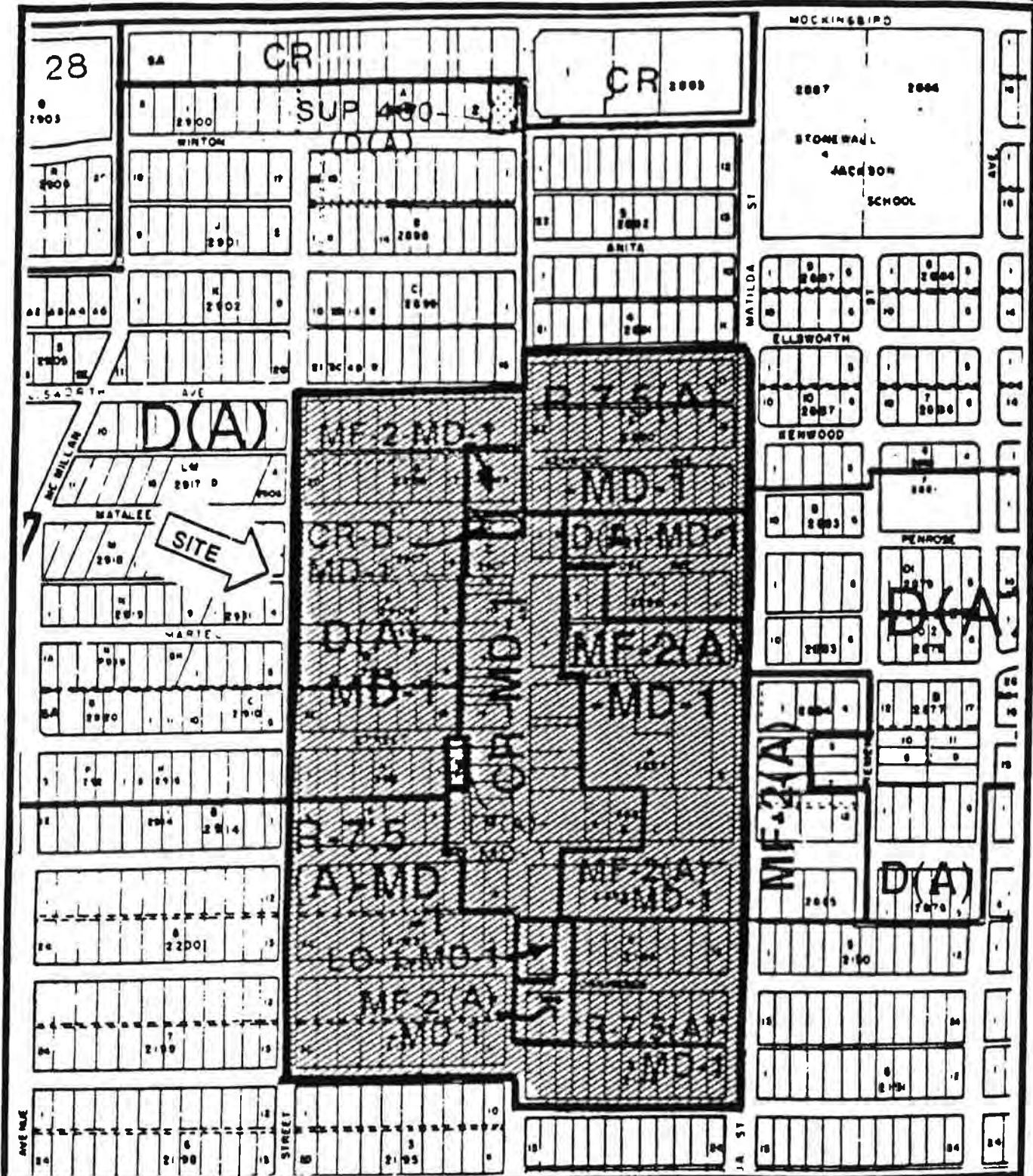

Assistant City Attorney

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Passed _____

File No. Z945-206/6254-E

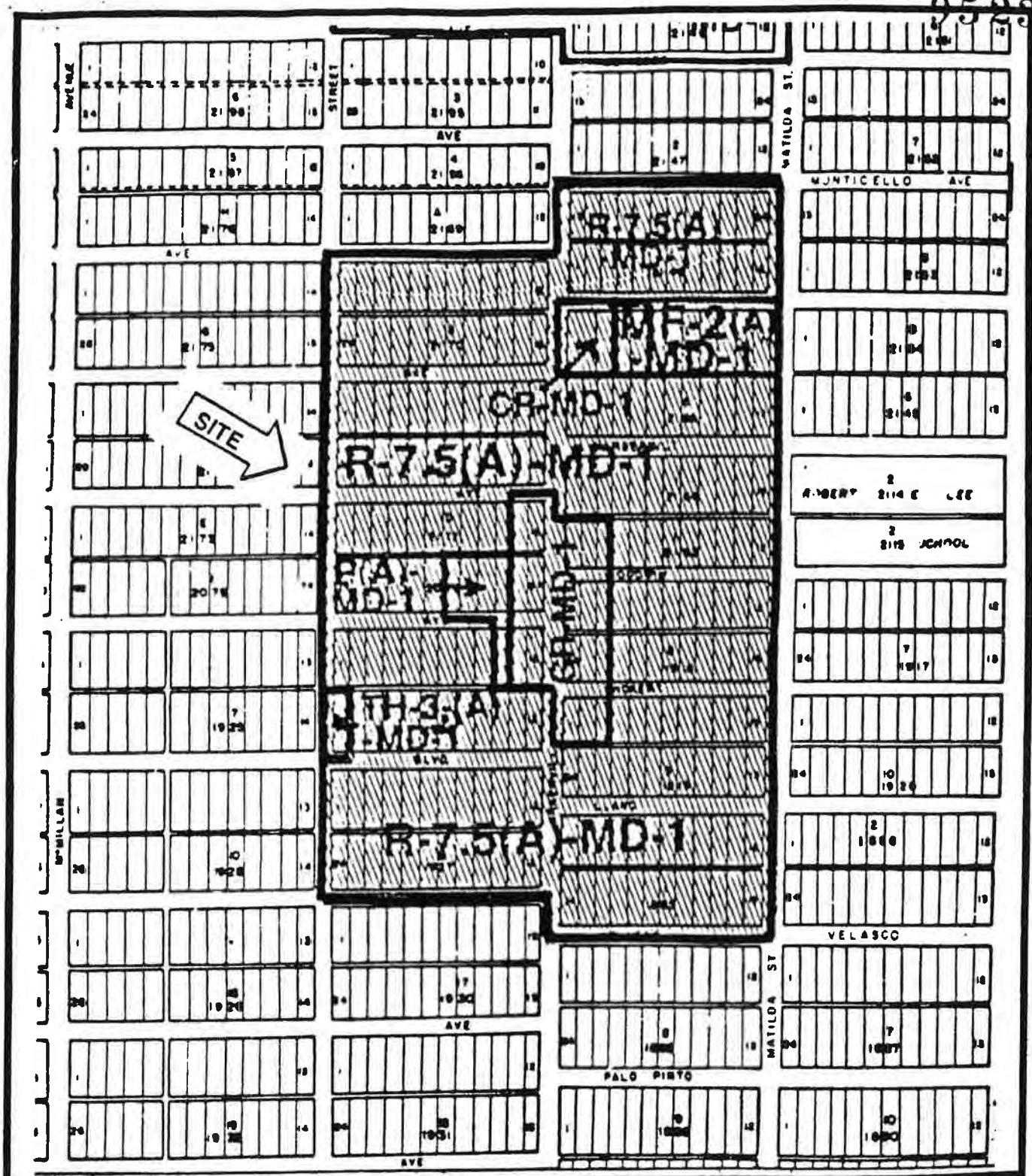
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ZONING HISTORY "AREA 1"

Map No. H-8, I-8

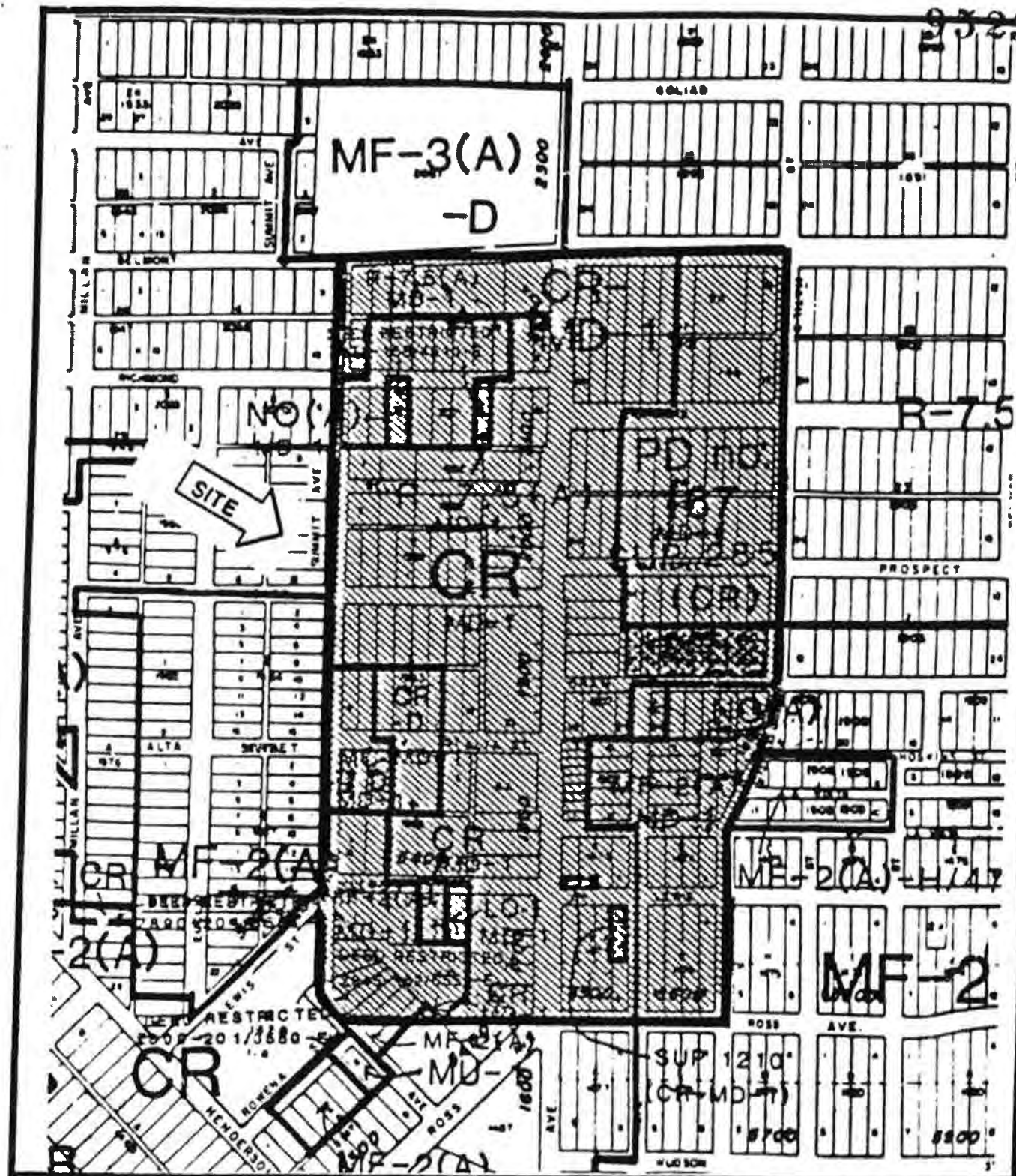
Case No. Z945-206/6254-E



ZONING HISTORY "AREA 2"

Map No. H-8, I-8
Case No. Z945-206/6254-E

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ZONING HISTORY

"AREA 3"

Map No. H-8, I-8
Case No. Z945-206/6254-E

ATTACHMENT A
BDA190-090

3016 Greenville Avenue

Summary:

Below is a summary of the activities which demonstrate that the property owner, Shields Limited Partnership, did not intend to abandon the use even if the use was discontinued or remained vacant for 12 months or more. The 3016 Greenville Avenue space was continuously occupied by Dallas Beast Fitness from June 6, 2012 through September 30, 2017. Lease renewal negotiations began in May 2016; however, the tenant declined to sign a renewal, and became a month-to-month tenant as of November 1, 2016. They continued to occupy the space through September 30, 2017. The property owner has continuously worked to improve and renovate the building and this specific space since that time, which is evidenced in the timeline below:

1. Lease dated 6/20/12 to 8/14/16.
2. Email dated 5/16/16 to tenant with the amended lease.
3. Letter dated 11/1/16 notifying the tenant that they would now be considered month-to-month effective 11/1/16.
4. Email dated 9/1/17 from tenant notifying the landlord of intent to vacate the premises as of 9/30/17.
5. Proposal signed with +One Design/Construction on 12/5/2017 for building renovation.
6. Confirmation from Texas Dept. of Licensing and Regulation for ADA ramp portion of building renovation - 3/12/2018.
7. First drawings received from +One Design/Construction for building renovation - 3/29/18.
8. Construction permit for building renovation applied for on 4/26/18 (#1804261024).
9. Drawings for building renovation submitted to CD-11 on 7/10/18 for review (#CD18071003).

10. Construction permit for electrical work applied for and issued on 9/27/18 (#1809276015).
11. CD-11 review completed on 9/12/18. (#CD18071003)
12. Construction permit for building renovation issued by the City of Dallas on 10/8/18 (#1804261024).
13. Contract signed with Highland Builders, Inc. on 11/15/18.
14. Building demolition work commences in December 2018.
15. Construction was ongoing from December 2018 through approximately February 2020.
16. Submitted building permit for interior construction on January 23, 2019.
17. Submitted Conservation District Work Review Form to relocate electrical meter on April 2, 2019.
18. Submitted Conservation District Work Review Form for improvements to paving and sidewalk on June 5, 2019.
19. Submitted building permit for the installation of drive approach and city walk on June 5, 2019 with completion date of December 13, 2019.
20. Submitted building permit for interior remodel on October 25, 2019 with completion date of February 6, 2020.
21. Certificate of Occupancy issued for tenant Uptown Dog on February 6, 2020.

From: Kay, Kiesha <kiesha.kay@dallascityhall.com>
Sent: Tuesday, September 11, 2018 12:05 PM
To: Rob Baldwin <rob@baldwinplanning.com>
Subject: Re: 3014 Greenville

Rob,

Yes, this is correct.

Thank you,

Kiesha Kay

Get [Outlook for Android](#)

From: Rob Baldwin <rob@baldwinplanning.com>
Sent: Tuesday, September 11, 2018 10:49:40 AM
To: Kay, Kiesha
Subject: 3014 Greenville

Good afternoon Kiesha

I am working with the owner of the property known as 3014 Greenville. We are processing building permits and a CA review to allow us to renovate this building. This building is in the Modified Delta District and we want to make sure that we do not lose our delta credits while we are going through the renovation process. Would you please confirm my understanding that if we have an active building permit in place and are regularly calling in our inspections, we will not lose our delta credits while we are under construction and while we are actively marketing the spaces for lease.

Thanks for your help.

Rob

Rob Baldwin
Baldwin Associates, LLC
(214) 729-7949
rob@baldwinplanning.com



CITY OF DALLAS

September 6, 2019

Michele Stoy
Baldwin Associates
3904 Elm Street, STE: B
Dallas, TX 75226

RE: Zoning Determination Request; 3014-3024 Greenville

Dear Ms. Stoy:

As detailed in your letter dated February 27, 2019 and attached, you have requested a written determination pertaining to the non-conforming rights, or "delta credits" for the property referenced above.

The above stated property is located within CD 11, the M Streets East Conservation District, and located within the MD-1 Overlay, Greenville Ave Modified Delta Overlay District (Tract 2). The MD-1 Overlay ordinance states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. Based on our research and the attached floor plan used to verify the floor area of each suite, information on the most recent certificate of occupancy and delta credits is provided for each address.

3014 Greenville Avenue - (5999) General merchandise, CO#1807251124, - 1,559 square feet - 8 delta credits.

3016 Greenville Avenue - (5999) General merchandise, CO#1207091020, - 1,707 square feet - 9 delta credits.

3018 Greenville - (5999), General merchandise, CO#8111172414, - 1,526 square feet - 8 delta credits.

3020 Greenville - (5811) Restaurant, CO#9702141024, - 3,913 square feet, 39 delta credits.

3024 Greenville - (5821) Alcohol Beverage Establishment, CO#1604221106, - 3,846 square, 9 spaces obtained via a parking agreement, 29 delta credits remaining.

Therefore, based on this research, the possible non-conforming parking rights afforded per Section 51A-4.704(b)(4)(A) of the Dallas Development code could be 93 delta credits.

The delta credits for this property need to be considered per tenant when located in the MD Overlay to verify if the deltas have been lost due to vacancy. Per the parking ordinance parking must be met for the entire site, but deltas may be allocated to a specific tenant due to an adjacent tenant losing their rights to delta credits.



CITY OF DALLAS

Please note that when a use is converted to a new use having lesser parking requirements, the rights to any portion of the nonconforming parking that is not needed to meet the new requirement are lost.

Also, per Sec.51A-4.704(b)(4)(A), a person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional required off-street parking and loading spaces are provided.

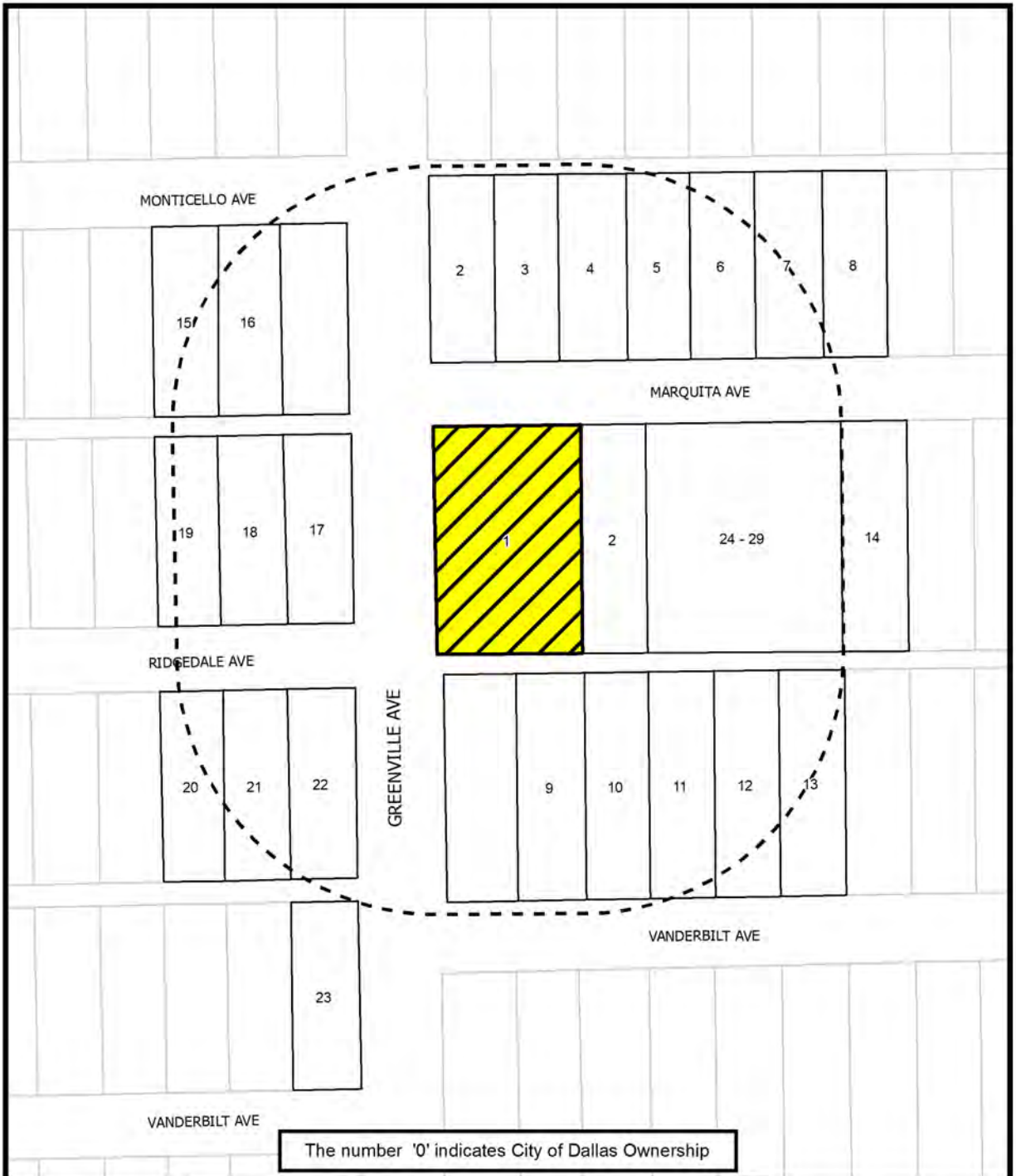
This letter does not constitute a building permit or certificate of occupancy, nor does it imply that a building permit or certificate of occupancy will be approved without complying with all applicable rules and regulations. The City of Dallas does not provide letters certifying that a property or development complies with all applicable rules and regulations.

If you have any further questions, please contact me at 214-948-4501 or megan.wimer@dallascityhall.com.

Respectfully,

Megan Wimer, AICP, CBO
Assistant Building Official
Building Inspection Division

cc: Phil Sikes, CBO, Building Official



1:1,200

NOTIFICATION

200'

AREA OF NOTIFICATION

29

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-090**

Date: **10/1/2020**

09/30/2020

Notification List of Property Owners

BDA190-090

29 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3014 GREENVILLE AVE	SHIELDS LTD PS
2	5701 MARQUITA AVE	PASHA & SINA INC
3	5707 MARQUITA AVE	RENTZ BAILEY
4	5711 MARQUITA AVE	VAHDANI CHRISTOPHER &
5	5715 MARQUITA AVE	NUNNALLY HARVEY W III
6	5719 MARQUITA AVE	BOLGER DOROTHY E
7	5723 MARQUITA AVE	VELIS BILL D
8	5727 MARQUITA AVE	LAWSON CLIFFORD J & JANE G
9	5707 VANDERBILT AVE	OROZCO RICHARD & RUFINA
10	5711 VANDERBILT AVE	MOORE HARRY E & SAMMIE S
11	5715 VANDERBILT AVE	ANTHONY JOHN ROSS
12	5719 VANDERBILT AVE	MILLER EMILY
13	5723 VANDERBILT AVE	KALMBACH ERIC W
14	5726 MARQUITA AVE	O B A INC
15	5638 MONTICELLO AVE	BASU NEIL K
16	5642 MONTICELLO AVE	ASKEW ANTONINA M VENTURA
17	5647 RIDGEDALE AVE	BELL PHILIP
18	5643 RIDGEDALE AVE	KONKEL RICHARD ARTHUR
19	5639 RIDGEDALE AVE	BATTAGLIA SCOTT &
20	5640 RIDGEDALE AVE	BARNETT JAMES C
21	5642 RIDGEDALE AVE	PLATTS DOUGLAS &
22	5644 RIDGEDALE AVE	SCHUCK CORD BRITTON
23	5647 VANDERBILT AVE	SU STUART
24	5720 MARQUITA AVE	PATTON JEFF
25	5720 MARQUITA AVE	WILLINGHAM KIRK R
26	5720 MARQUITA AVE	BURKE GARY A

09/30/2020

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	5720 MARQUITA AVE	LOBO VINAY J
28	5720 MARQUITA AVE	BIRNBAUM MARC A &
29	5720 MARQUITA AVE	XOCHOTL LARA

FILE NUMBER: BDA190-091(JM)

BUILDING OFFICIAL'S REPORT: Application of Thomas Shields, represented by Steven Dimitt for a special exception to the Modified Delta Overlay District No. 1 regulations at 3018 Greenville Avenue. This property is more fully described as Lot 11, Block 2168, and is zoned Conservation District No. 11 with Modified Delta Overlay District No.1, which states that the rights to nonconforming delta parking credits are lost if the use is vacant for 12 months or more. The applicant proposes to restore the lost delta parking credits, which will require a special exception to the Modified Delta Overlay District No. 1 regulations.

LOCATION: 3018 Greenville Avenue

APPLICANT: Thomas Shields
Represented by Steven Dimitt

UPDATE:

On October 21, 2020, the Board of Adjustment Panel B conducted a public hearing on this application and delayed action per applicant's request until the next public hearing to be held on November 18, 2020.

REQUEST:

A request for a special exception to the Modified Delta Overlay District No. 1 regulations to carry forward nonconforming parking spaces under the delta theory that were terminated since the use on the site was discontinued or remained vacant for 12 months or more is made in order for the applicant to obtain a Certificate of Occupancy for a retail use for the vacant commercial structure on the subject site.

STANDARD FOR SPECIAL EXCEPTION TO THE MODIFIED DELTA OVERLAY DISTRICT No. 1 REGULATIONS TO CARRY FORWARD NONCONFORMING PARKING AND LOADING SPACES UNDER THE DELTA THEORY WHEN A USE IS DISCONTINUED OR REMAINS VACANT FOR 12 MONTHS OR MORE:

The Modified Delta Overlay District No. 1 states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include *but not be limited* to the following:

1. A decline in the rental rates for the area which has affected the rental market.

2. An unusual increase in the vacancy rates for the area which has affected the rental market.
3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

STAFF RECOMMENDATION:

Approval

Rationale:

- Staff concluded that the applicant had demonstrated that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of the following extreme circumstances:

The applicant documented how extensive renovation or remodeling was necessary because the structure on the site was in poor condition. Construction was ongoing from December 2018 through approximately February 2020.

BACKGROUND INFORMATION:

Zoning:

Site: CD No. 11 with an MD Overlay District No. 1
North: CD Nos. 9 and 11 with an MD Overlay District No. 1
South: CD No. 11 with an MD Overlay District No. 1
East: CD No. 11 with an MD Overlay District No. 1
West: CD Nos. 9 with an MD Overlay District No. 1

Land Use:

The subject site is developed with a commercial structure. The areas to the north, south, and west are developed with residential uses; and the area to the east is developed with commercial uses.

Zoning/BDA History:

While there have been no zoning/BDA cases within the area in the last five years, there are three other BDA cases at the subject site currently.

GENERAL FACTS/STAFF ANALYSIS:

This request focuses on carrying forward nonconforming parking spaces under the delta theory terminated because a part of the structure/use on the site was discontinued or

remained vacant for 12 months or more. Reinstating the delta credits would allow for the applicant to maintain a Certificate of Occupancy for a restaurant without drive-in service use [Window Seat] which is currently in question due to the period of vacancy discovered since the prior tenant.

The subject site is zoned Conservation District No. 11 with Modified Delta Overlay District No.1. According to DCAD, the property at 3018 Greenville Avenue is developed with a “retail strip” with over 12,210 square feet of floor area built in 1930.

The Dallas Development Code provides the following relating to nonconformity of parking or loading:

- Increased requirements. A person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional off-street parking and loading spaces are provided.
- Delta theory. In calculating required off-street parking or loading, the number of nonconforming parking or loading spaces may be carried forward when the use is converted or expanded. Nonconforming rights as to parking or loading are defined in the following manner: required parking or loading spaces for existing use minus the number of existing parking or loading spaces for existing use equals nonconforming rights as to parking or loading.
- Decreased requirements. When a use is converted to a new use having less parking or loading requirement, the rights to any portion of the nonconforming parking or loading that are not needed to meet the new requirements are lost.

In 1987, the City Council created “Modified Delta Overlay Districts” in those areas where it has determined that a continued operation of the delta theory is not justified because there is no longer a need to encourage redevelopment and adaptive reuse of existing structures, or a continued application of the delta theory will create traffic congestion and public safety problems and would not be in the public interest.

In a modified delta overlay district, the city council may limit the number of percentages of nonconforming parking or loading spaces that may be carried forward by a use under the delta theory. An ordinance establishing a modified delta overlay district may not increase the number of nonconforming parking or loading spaces that may be carried forward under the delta theory when a use is converted or expanded.

An ordinance establishing a modified delta overlay district must provide that when a use located in the district is converted to a new use having less parking or loading requirements, the rights to **any portion** of the nonconforming parking or loading **not needed** to meet the new requirements **are lost**.

An ordinance establishing a modified delta overlay district may provide that rights under the delta theory terminate when a use for which the delta theory has been applied is discontinued.

In 1987, the City Council established Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- That no nonconforming parking spaces may be carried forward by a use under the delta theory when a use in the Community Retail District with an MD Overlay District No. 1a is expanded.

In 1995, the City Council amended Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- The right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:
 1. A decline in the rental rates for the area which has affected the rental market.
 2. An unusual increase in the vacancy rates for the area which has affected the rental market.
 3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

Timeline:

August 4, 2020 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

September 18, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 18, 2020 The Board Administrator emailed the applicant's representative the public hearing date and panel that will consider the application; the September 30, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the October 9, 2020 deadline to submit additional evidence to be incorporated into the board's docket materials and the following information:

- a copy of the application materials including the Building Official's report on the application.
- the criteria/standard that the board will use in their decision to approve or deny the request; and

- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

September 30, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

October 2, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. The review team members in attendance included the Sustainable Development and Construction: Assistant Director, Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Building Inspection Senior Plans Examiner/Development Sign Code Specialist, Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

October 21, 2020: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant’s request until the next public hearing to be held on November 18, 2020.

October 26, 2020: The Board Administrator wrote the applicant a letter of the board’s action; the deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the board’s docket materials.

October 29, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Sing Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

No review comment sheets with comments were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: October 21, 2020

APPEARING IN FAVOR:

Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX
Kristen Boyd 6801 Lochwood Garland, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100
Richardson, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: Vermillion

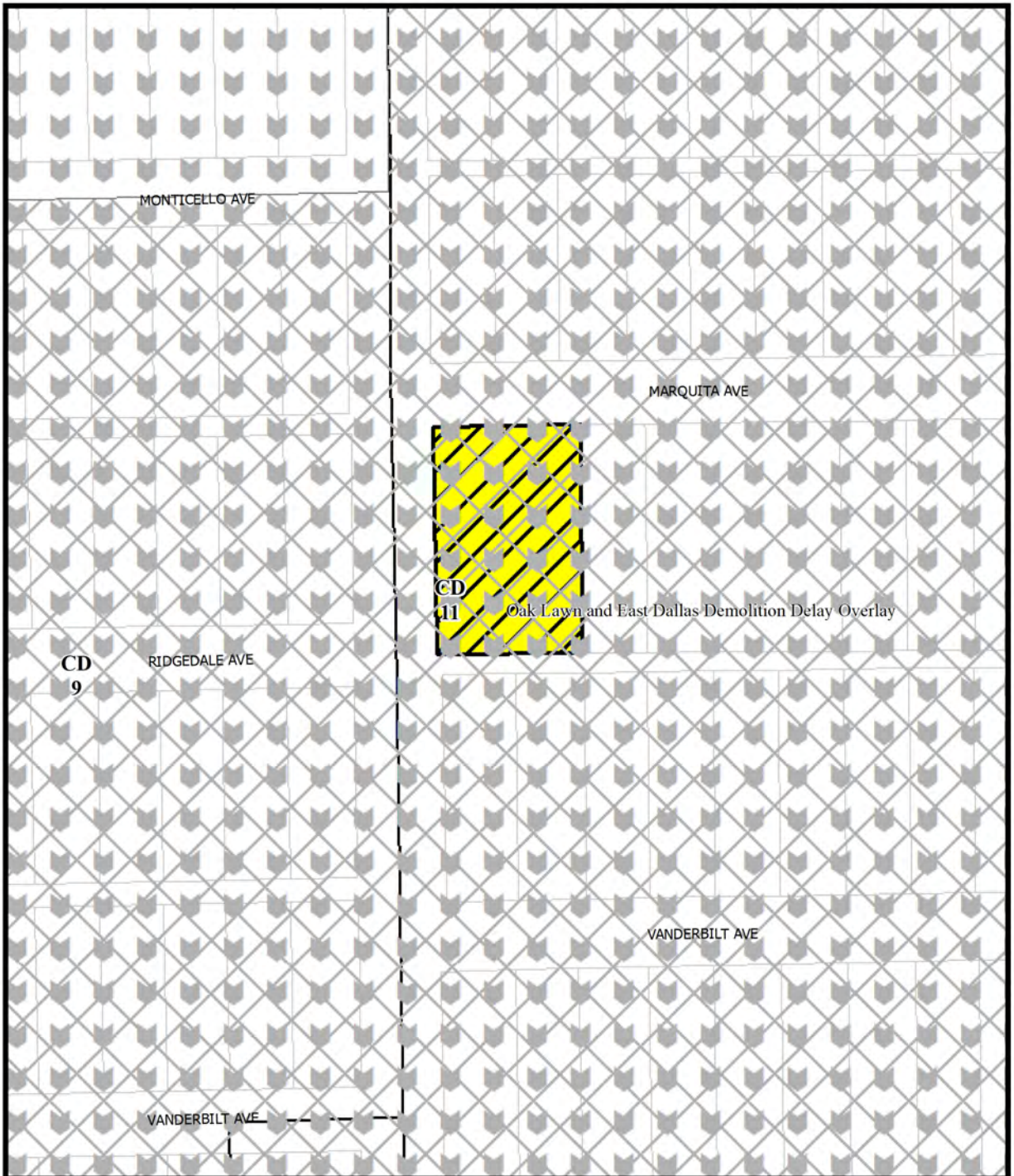
I move that the Board of Adjustment in Appeal No. BDA 190-091, **hold** this matter under advisement until **November 18, 2020**.

SECONDED: Williams

AYES: 5 - Schwartz, Shouse, Johnson, Vermillion, Williams

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

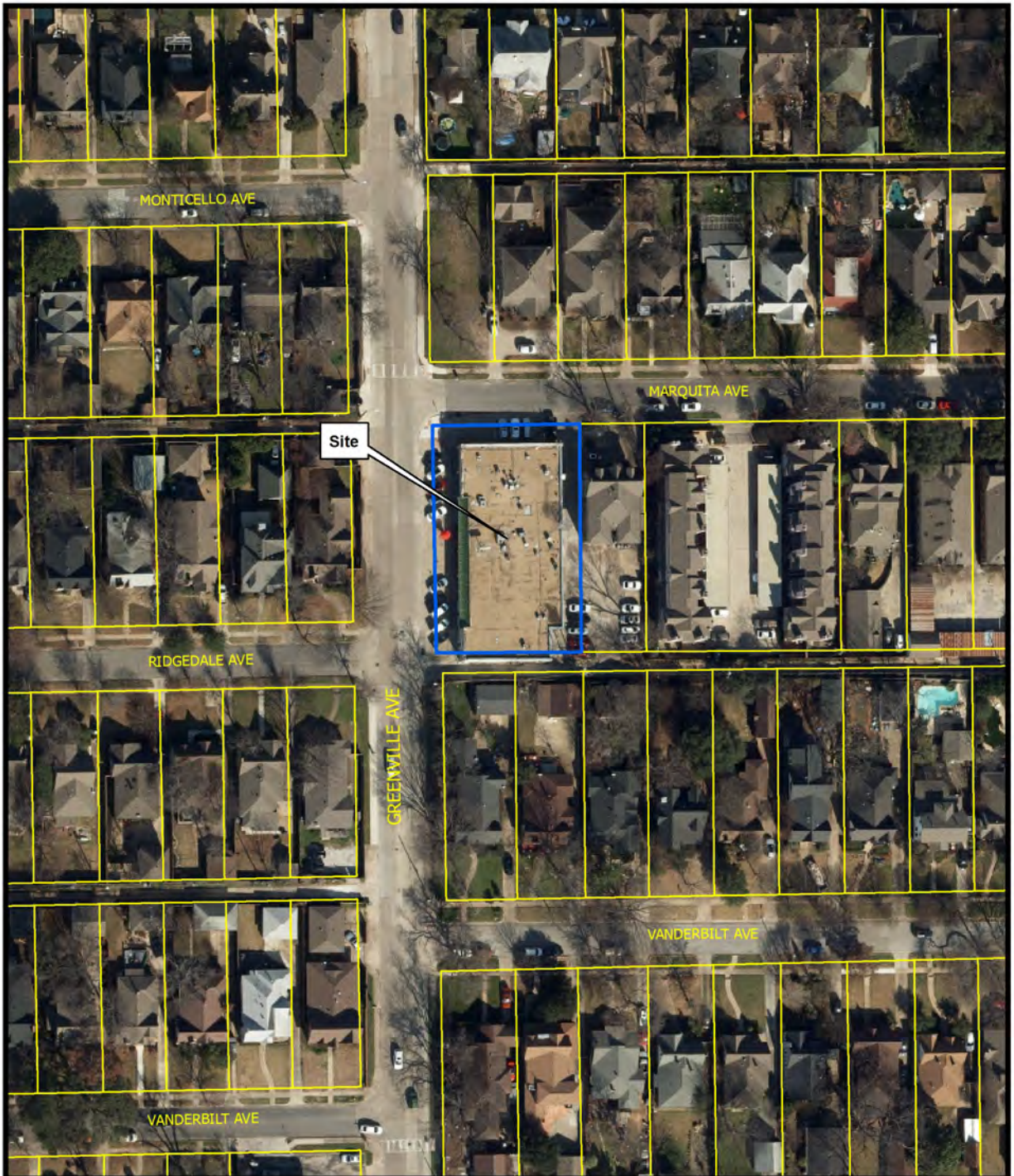


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ZONING MAP

Case no: BDA190-091

Date: 10/1/2020



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AERIAL MAP

Case no: BDA190-091

Date: 10/1/2020



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-091

Data Relative to Subject Property:

Date: 8/4/2020

Location address: 3018 Greenville Avenue, Dallas, TX 75206 Zoning District: CD-11

Lot No.: 11 Block No.: 2168 Acreage: 0.51 Census Tract: 0002.02

Street Frontage (in Feet): 1) 179.16 2) 124.00 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Shields Limited Partnership

Applicant: Thomas Shields Telephone: 281-635-4250

Mailing Address: 418 E. Shore Drive, Kemah, TX Zip Code: 77565

E-mail Address: tom.shields@shields-lagniappe.com

Represented by: Steven Dimitt/Rob Baldwin Telephone: 214-559-2700

Mailing Address: 1201 N. Riverfront Blvd., Suite 150, Dallas, TX Zip Code: 75207

E-mail Address: sdimitt@pcrfirm.com / rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:

Owner can state an extereme circumstance that demonstrates that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more, including but not limited to, extensive renovations and remodeling of the property.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Thomas Shields

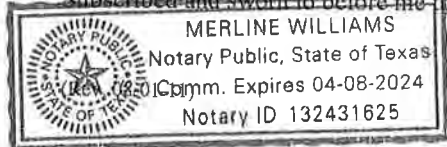
(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Thomas Shields

(Affiant/Applicant's signature)

Subscribed and sworn to before me this 3 day of August, 2020



[Signature]
Notary Public in and for Dallas County, Texas

Date of Hearing	
Appeal was--Granted OR Denied	
Remarks	

Chairman

I hereby certify that	THOMAS SHIELDS
represented by	Steven Dimitt
did submit a request	to restore lost delta credits
at	3018 Greenville Avenue

BDA190-091. Application of THOMAS SHIELDS represented by Steven Dimitt to restore delta parking credits at 3018 GREENVILLE AVE. This property is more fully described as Lot 11, Block 2168, and is zoned CD-11(MD-1), which states that the right to nonconforming delta parking credits are lost if the use is vacant for twelve months or more. The board may grant a special exception to this provision only if the owner can demonstrate there was not an intent to abandon the use. The applicant proposes to restore the lost delta parking credits, which will require a special exception to the Modified Delta Overlay-1 regulation.

Sincerely,

David Session
David Session, Building Official



AFFIDAVIT

Appeal number: BDA 190-091

I, Shields Limited Partnership, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 3018 Greenville Avenue, Dallas, Texas 75206
(Address of property as stated on application)

Authorize: Thomas Shields
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

 Variance (specify below)

X Special Exception (specify below)

 Other Appeal (specify below)

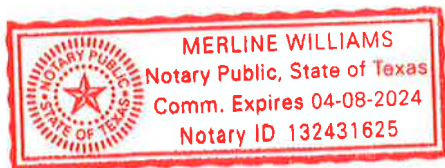
Special exception under Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

Shields Ltd. P.S./Thomas Shields Thomas Shields 8/3/2020
Print name of property owner/agent Signature of property owner/agent Date

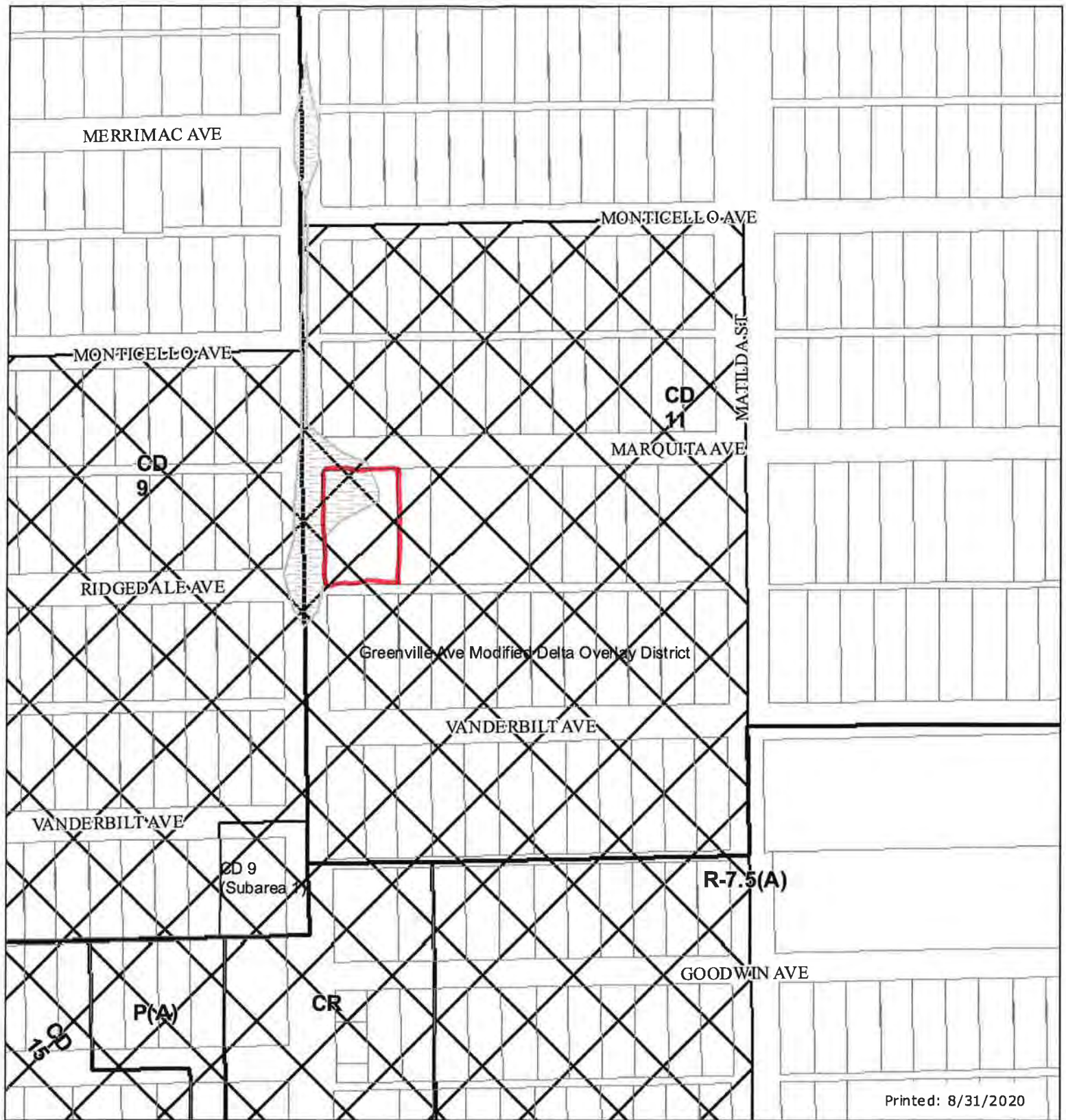
Before me, the undersigned, on this day personally appeared Thomas Shields

Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 3 day of August, 2020



Merline Williams
Notary Public for Dallas County, Texas
Commission expires on 04-08-2024



Legend

City Limits	railroad	Dry Overlay	CD Subdistricts
School	Certified Parcels	D	PD Subdistricts
Floodplain	Base Zoning	D-1	PDS Subdistricts
100 Year Flood Zone	PD193 Oak Lawn	CP	NSO Subdistricts
Mill's Creek	Dallas Environmental Corridors	SP	NSO Overlay
Peak's Branch	SPD Overlay	MD Overlay	Escarpment Overlay
X Protected by Levee	Deed Restrictions	Historic Subdistricts	Parking Management Overlay
Parks	SUP	Historic Overlay	Shop Front Overlay
		Height Map Overlay	

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)





City of Dallas

Certificate of Occupancy

Address: 3018 GREENVILLE AVE 75206 Issued: 03/03/2020

Owner: SHIELDS LTD. P.S.
3040 GREENVILLE AVE
DALLAS, TX 75206

DBA: WINDOW SEAT

Land Use: (5811) RESTAURANT WITHOUT DRIVE-IN SERVICE

Occupied Portion:

C.O.#: 1906071094

Lot: 11	Block: 2168	Zoning: CD-11	PDD:	SUP:
Historic Dist:	Consv Dist: M Streets E	Pro Park: 109	Req Park: 109	Park Agrmt: Y
Dwlg Units:	Stories: 1	Occ Code: B	Lot Area: 20620	Total Area: 1435
Type Const: IIIB	Sprinkler: None	Occ Load:	Alcohol: N	Dance Floor:N

Remarks: ALL WORK SUBJECT TO FIELD INSPECTOR APPROVAL. PARKING IS FOR THE ENTIRE SITE. 2 DELTA CREDITS HAVE BEEN LOST. PARKING AGREEMENT EXCEED THE NUMBER OF PARKING REQUIRED BY TWO SPACES. 3018 GREENVILLE AVE ONLY RETAINS 6 DELTA CREDITS MOVING FORWARD.10/11/19 KH NO EXTERIOR HAS BEEN APPROVED.KH

Philip Sikes, Building Official

This certificate shall be displayed on the above premise at all times.



CITY OF DALLAS

July 14, 2020

CERTIFIED MAIL No. 7019 1640 0001 6327 1312

Drew M. Martin

PO Box 470007

Fort Worth, Texas 76147

CERTIFIED MAIL No. 7019 1640 0001 6327 1305

Tom Shields

Shields Ltd. P.S.

418 E Shore Dr

Kemah, Texas 77565-2525

RE: Revocation of Certificate of Occupancy No. 1906071094 for a *Restaurant Without Drive-In or Drive-Through Service* use at 3018 Greenville Avenue, Dallas, Texas 75206

Dear Mr. Martin and Mr. Shields:

The above-referenced certificate of occupancy was approved based, in part, on compliance with off-street parking requirements which had been presumed to be met, in part, with eight delta credits. However, because the above application was to convert from a *general merchandise or food store 3,500 square feet or less* use to a *restaurant without drive-in or drive-through service* use, which has a greater parking requirement, rights to any nonconforming parking cannot be used to meet parking requirements pursuant to Section 3 of Ordinance No. 19726 for the Modified Delta Overlay No. 1 (Exhibit A).

The building official is required to revoke a certificate of occupancy if the building official determines that the use or occupancy authorized by the certificate of occupancy has been issued in error.¹ Therefore, the above-referenced certificate of occupancy is hereby revoked.

Further, based upon the attached noticed to vacate (Exhibit B), the use discontinued and the suite became vacant on or by November 30, 2017. Since the previous use had been discontinued for more than 12 months by the time the above-referenced certificate of occupancy application was submitted on June 7, 2019, eight delta credits for the previous occupancy had been lost pursuant to Section 1 of Ordinance No. 22472 for the Modified Delta Overlay No. 1 (Exhibit C). Fortunately, this ordinance allows the owner to make an appeal to the Board of Adjustment for a special exception to the provision that terminates delta credits as described in the attached ordinance.

¹ Section 306.13(1) of Chapter 52, "Administrative Procedures for the Construction Codes."



CITY OF DALLAS

Any determination made by the building official is final unless appealed before the 15th day after written notice of the action or determination is given in accordance with Section 306.15 of Chapter 52 and Section 51A-4.703 of the Dallas Development Code. Questions about the appeal process should be directed to the building official at 214-948-4625 and questions about the Board of Adjustments should be directed to Charles Trammell at 214-948-4618.

Sincerely,

Sarah May
Chief Planner
Building Inspection
Sustainable Development and Construction Department

cc: Kris Sweckard, Director, Sustainable Development and Construction
Carl Simpson, Director, Code Compliance
David Session, CBO, Interim Building Official
Megan Wimer, CBO, Assistant Building Official
Tammy Palomino, Executive Assistant City Attorney
Casey Burgess, Executive Assistant City Attorney
Charles Trammell, Board of Adjustment Development Code Specialist
Kim Haynie, Development Project Coordinator

873376

10/21/87

ORDINANCE NO. 19726

An ordinance amending CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended; establishing Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) for the following described property, to wit:

Tract I is generally located south of Ellsworth Avenue, west of Matilda Street, north of Mercedes Avenue and east of Worcola Street.

Tract II is generally located south of Monticello Avenue, west of Matilda Street, north of Velasco Avenue and east of Worcola Street.

Tract III is generally located south of Belmont Avenue, west of Matilda Street, north of Ross Avenue and east of Summit Avenue;

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 provisions of the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to Article IV, "Zoning Regulations," of CHAPTER 51, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended; Now Therefore,

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

CHECKED BY

JCX

19726

SECTION 1. That CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, is amended by establishing Modified Delta Overlay District No. 1 ("this district") on the following described Property, to-wit:

Tract I: Being all of City Block B/2906 bounded by Ellsworth Avenue, Greenville Avenue, Matalee Street and Worcola Street; all of City Blocks C/2907, E/2907 and A/2908 bounded by Matalee Street, Greenville Avenue, Martel Avenue and Worcola Street; all of City Block B/2909 bounded by Martel Avenue, Greenville Avenue, Longview Street and Worcola Street; all of City Blocks H/2912 and A/2913 bounded by Longview Street, Greenville Avenue, McCommas Boulevard and Worcola Street; all of City Block 1/2193 bounded by McCommas Boulevard, Greenville Avenue, Morningside Avenue and Worcola Street; all of City Block 2/2194 bounded by Morningside Avenue, Greenville Avenue, Mercedes Avenue, and Worcola Street; all of City Block 3/2890 bounded by Ellsworth Avenue, Matilda Street, Kenwood Avenue and Greenville Avenue; all of City Block 2/2889 bounded by Kenwood Avenue, Matilda Street, Penrose Avenue and Greenville Avenue; all of City Block 1/2888 bounded by Penrose Avenue, Matilda Street, Martel Street and Greenville Avenue; all of City Blocks A/2894 and 2895 bounded by Martel Avenue, Matilda Street, McCommas Boulevard and Greenville Avenue; all of City Blocks 2896 and 4/2149 bounded by McCommas Boulevard, Matilda Street, Morningside Avenue and Greenville Avenue; and all of City Block 3/2148 bounded by Morningside Avenue, Matilda Street, Mercedes Avenue and Greenville Avenue.

Tract II: Being all of City Block B/2170 bounded by Monticello Avenue, Greenville Avenue, Ridgedale Avenue and Worcola Street; all of City Block C/2171 bounded by Ridgedale Avenue, Greenville Avenue, Vanderbilt Avenue and Worcola Street; all of City Blocks D/2172 and 1/2076 bounded by Vanderbilt Avenue, Greenville Avenue, Goodwin Avenue and Worcola Street; all of City Block 8/1926 bounded by Goodwin Avenue, Greenville Avenue, Vickery Boulevard and Worcola Street; all of City Block 9/1927 bounded by Vickery Boulevard, Greenville Avenue, Miller Avenue and Worcola Street; all of City Block 1/2146 bounded by Monticello Avenue, Matilda Street, Marquita Avenue, and Greenville Avenue; all of City Blocks 1/2168 and 5/2166 bounded by Marquita Avenue, Matilda Street, Vanderbilt Avenue and Greenville Avenue; all of City Blocks 1/2164 and 1/2162 bounded by Vanderbilt Avenue, Matilda Street, Goodwin Street and Greenville Avenue; all of City Block 8/1918 bounded by Goodwin

19726

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Avenue, Matilda Street, Vickery Boulevard and Greenville Avenue; all of City Block 9/1919 bounded by Vickery Boulevard, Matilda Street, Llano Street and Greenville Avenue; and all of City Block 1/1885 bounded by Llano Street, Matilda Street, Velasco Avenue and Greenville Avenue.

Tract III:

Being all of City Block 8/2012 bounded by Belmont Avenue, Greenville Avenue, Richmond Avenue, and Summit Avenue; all of City Block 7/2071 and part of City Block 1982 bounded by Richmond Avenue, Greenville Avenue, Bell Avenue and Summit Avenue; part of City Block 1982 and all of City Block D/1982 bounded by Bell Avenue, Greenville Avenue, Sears Street and Summit Avenue; all of City Block C/1983 bounded by Sears Street, Greenville Avenue, Alta Street and Summit Avenue; all of City Block B/1988 bounded by Alta Street, Greenville Avenue, Lewis Street and Summit Avenue, part of City Block 1472 bounded by Lewis Street, Greenville Avenue, Ross Avenue and the westward prolongation of the centerline of Ross Avenue from Greenville Avenue to Summit Avenue, and Summit Avenue; all of City Block 17/1901 bounded by Belmont Avenue, Matilda Street, Richmond Street and Greenville Avenue; all of City Block 24/1904 bounded by Richmond Avenue, Matilda Street, Prospect Avenue and Greenville Avenue; all of City Block 1/1905 bounded by Prospect Avenue, Matilda Street, Oram Street and Greenville Avenue; all of City Block 1907 and part of City Block 1908 bounded by Oram Street, Matilda Street, LaVista Street and Greenville Avenue, all of City Blocks A/1473 and B/1474 bounded by LaVista Street, Matilda Street, Lewis Street and Greenville Avenue; and all of City Blocks F/1473 and G/1474 bounded by Lewis Street, Matilda Street, Ross Avenue and Greenville Avenue.

SECTION 2. That no nonconforming parking spaces may be carried forward by a use under the delta theory, as defined in Section 51-4.704 of CHAPTER 51, "PART I OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, when a use located in this district is expanded.

SECTION 3. That when a use located in this district is converted to a new use having greater parking or loading requirements, the rights to any nonconforming parking or

19726

loading under the delta theory may not be used to meet the new parking requirements.

SECTION 4. That when a use located in this district is converted to a new use having lesser parking or loading requirements, the rights to any portion of the nonconforming parking or loading not needed to meet the new requirements are lost.

SECTION 5. That the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can state an extreme circumstance that demonstrates that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more.

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That CHAPTER 51 of the Dallas City Code, 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.

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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:

ANALESLIE MUNCY, City Attorney

BY *Christopher Alden Steiner*
Assistant City Attorney

Passed and correctly enrolled OCT 21 1987

Zoning File No. Z867-228/6254-E

5623I

HOOVER SLOVACEK LLP

A REGISTERED LIMITED LIABILITY PARTNERSHIP

JOSEPH O. SLOVACEK, P.C.
PARTNER

slovacek@hooverslovacek.com
www.hooverslovacek.com

ATTORNEYS AT LAW
GALLERIA TOWER II
5051 WESTHEIMER, SUITE 1200
HOUSTON, TEXAS 77056
(713) 977-8686
FAX (713) 977-5395

REPLY TO:
P.O. BOX 4547
HOUSTON, TEXAS 77210

October 3, 2017

**Via Certified Mail, Return Receipt Requested
and U.S. Mail**

H.D.'s, Inc.

Attn: Harry E. Demarco, its President and Registered Agent
3018 Greenville Avenue
Dallas, Texas 75206

**Via Certified Mail, Return Receipt Requested
and U.S. Mail**

H.D.'s, Inc. and any and all occupants
3018 Greenville Avenue
Dallas, Texas 75206

RE: Month-to-Month Tenancy related to a certain Lease Agreement dated April 28, 1992 (the "Lease"), by and between SHIELDS LIMITED PARTNERSHIP, as successor-in-interest to Bernard E. Shields, a Texas limited partnership (the "Landlord"), and H.D.'S, INC., a Texas corporation (the "Tenant"), covering certain premises as further described within the Lease and commonly known as 3018 Greenville Avenue, Dallas, Texas 75206 (the "Premises")

Dear H.D.'s, Inc. and Any and All Occupants of the Premises:

Please be advised that the undersigned attorney and law firm represent Landlord with respect to the above-referenced matter. Capitalized terms used, but not defined, herein shall have the same meaning as in the Lease. Effective immediately, all communications regarding the matters addressed herein should be directed to me.

As Tenant is aware, the Lease expired by its own terms and Tenant has been occupying the Premises on a month-to-month basis. The purpose of this letter is to notify Tenant that Landlord is exercising its right, under Texas law, to terminate Tenant's month-to-month tenancy and Tenant's right to occupy the Premises **effective November 30, 2017** (the "Termination Date"). Tenant is expected to fulfill all rental obligations for the months of both October and November 2017 as well as return the Premises to Landlord in a clean and rentable condition on or before the Termination Date. Tenant will be responsible for any and all damages done to the

Premises above and beyond normal wear and tear or as otherwise required under the Lease and Texas law.

Tenant and all occupants are hereby given written notice to vacate the Premises. Unless Tenant and all occupants have vacated the Premises **on or before November 30, 2017**, Landlord fully intends to file suit to evict any and all parties in possession of the Premises. In addition, the Landlord intends to file suit against Tenant and any other parties liable under the Lease, if any, for collection of all delinquent amounts, interest, late fees, attorneys' fees, and any other damages and amounts due under the Lease and in connection with the month-to-month tenancy.

Any delay or postponement of any of Landlord's actions shall not constitute a waiver. This letter should not be interpreted by Tenant as an election of remedies. Landlord reserves and preserves all rights and remedies available to it pursuant to the Lease and as otherwise granted by Texas law. Additionally, this letter shall not constitute a waiver of any other Tenant default that might exist at the present.

This letter is being sent to Tenant in accordance with the notice provisions of the Lease and the requirements of Texas law. No further communication will necessarily be sent to Tenant from Landlord or from this law firm prior to the time that suit is instituted in the event that Tenant and any and all occupants fail to vacate the Premises by the Termination Date indicated herein.

Sincerely yours,

HOOVER SLOVACEK LLP

Joseph O. Slovacek

JOS:AJB

bcc: client (via email)

6-21-95

ORDINANCE NO. 22472

An ordinance amending Ordinance No. 19726, which established Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District); amending Section 5 of that ordinance; providing that the board of adjustment may not grant a special exception for required parking; providing an extension of the walking distance for remote parking; providing that more than 50 percent of required parking may consist of special parking; providing that the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, shall govern this 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 of the City of Dallas, in accordance with the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to Ordinance No. 19726; and

WHEREAS, the city council finds that it is in the public interest to amend Modified Delta Overlay District No. 1 as specified in this ordinance; Now, Therefore,

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

SECTION 1. That Section 5 of Ordinance No. 19726 is amended to read as follows:

"SECTION 5. That the right to carry forward nonconforming parking and loading

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spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate~~[state an extreme circumstance that demonstrates]~~ that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more, by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:

(a) A decline in the rental rates for the area which has affected the rental market.

(b) An unusual increase in the vacancy rates for the area which has affected the rental market.

(c) Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties, affecting the marketability of property."

SECTION 2. That a new Section 5A is added to Ordinance No. 19726 to read as follows:

"SECTION 5A. That the board of adjustment may not grant a special exception for required off-street parking in this district."

SECTION 3. That a new Section 5B is added to Ordinance No. 19726 to read as follows:

"SECTION 5B. That the walking distances contained in Paragraphs (1) and (2)(A) of Section 51A-4.324(d) of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, are extended to 600 and 900 feet, respectively, for remote parking in this district."

SECTION 4. That a new Section 5C is added to Ordinance No. 19726 to read as follows:

"SECTION 5C. That special parking, as defined in Section 51A-4.321 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, may account for more than 50 percent of the off-street parking required for any use."

SECTION 5. That a new Section 5D is added to Ordinance No. 19726 to read

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as follows:

"SECTION 5D. That the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, govern this district."

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 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:

SAM A. LINDSAY, City Attorney

By

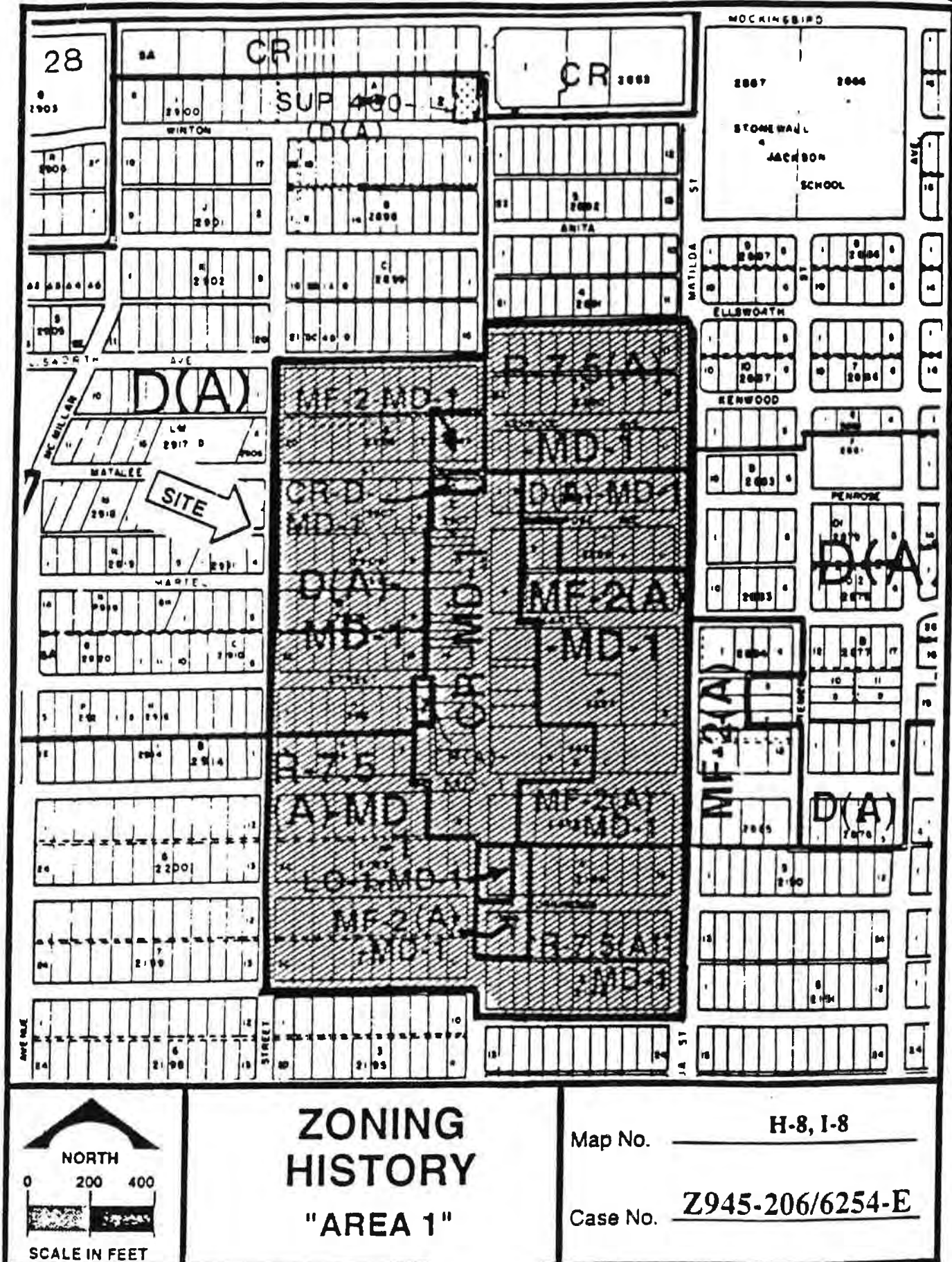

Assistant City Attorney

JUN 28 1995

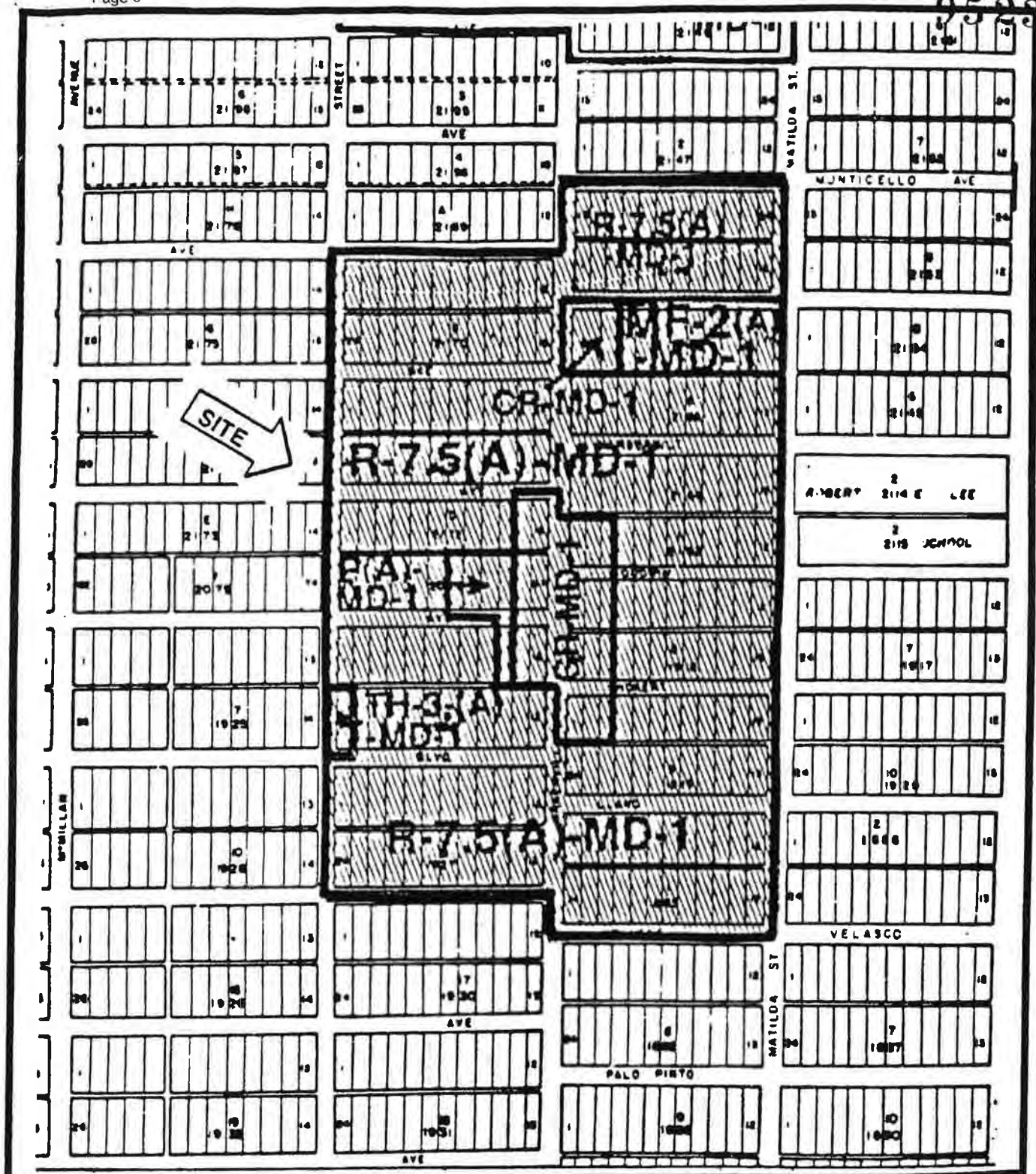
Passed _____

File No. Z945-206/6254-E

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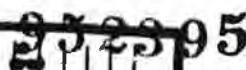


2523 95



ZONING HISTORY "AREA 2"

Map No. H-8, I-8
Case No. Z945-206/6254-E



SCALE IN FEET

ZONING HISTORY

Map No. H-8, I-8

Case No Z945-206/6254-E

3018 Greenville Avenue

Summary:

Below is a summary of the activities which demonstrate that the property owner, Shields Limited Partnership, did not intend to abandon the use even if the use was discontinued or remained vacant for 12 months or more. The 3018 Greenville Avenue space was continuously occupied by H.D. Men's Clothing from November 1981 to November 30, 2017. The lessees were Harry & Vicki Demarco. The lease expired on April 30, 1995 and the tenant continued to occupy the premises on a month-to-month basis and refused to negotiate a new lease. On October 30, 2017, the property owner exercised its right to terminate the month-to-month tenancy effective November 30, 2017, and a notice to vacate was sent to the tenant by the landlord's attorney. The tenant complied and vacated the space on or about November 30, 2017. The property owner has continuously worked to improve and renovate the building and this specific space since that time, which is evidenced in the timeline below:

1. Lease dated 5/1/1992 to 4/30/1995. The lease expired in 1995, and the tenant continued on a month-to-month basis until November 30th, 2017. We do not have any older documents as the business was operated by our father and managed by Bill Lindsley of J.W Lindsley Co., Inc., both now deceased.
2. Notice to vacate letter from landlord's attorney sent on 10/03/17.
3. Email sent to landlord on 11/24/17 by Vicki Demarco confirming they would be out by November 30th, 2017.
4. News article from the Lakewood Observer dated 11/15/2017 confirming "H.D.'s Clothing Company, a men's and women's boutique that occupied two of the spaces at the strip, is

moving after 37 years.” This demonstrates that this single tenant continuously occupied the space dating back to November 1981.

5. Proposal signed with +One Design/Construction on 12/5/2017 for building renovation.
6. Confirmation from Texas Dept. of Licensing and Regulation for ADA ramp portion of building renovation - 3/12/2018.
7. First drawings received from +One Design/Construction for building renovation - 3/29/18.
8. Construction permit for building renovation applied for on 4/26/18 (#1804261024).
9. Drawings for building renovation submitted to CD-11 on 7/10/18 for review (#CD18071003).
10. CD-11 review completed on 9/12/18. (#CD18071003)
11. Construction permit for building renovation issued by the City of Dallas on 10/8/18 (#1804261024).
12. Contract signed with Highland Builders, Inc. on 11/15/18.
13. Building demolition work commences in December 2018.
14. Construction was ongoing from December 2018 through March 3, 2020.
15. Entered into lease agreement with Dorky Lab LLC d/b/a Window Seat on February 12, 2019.
16. Submitted Conservation District Work Review Form to relocate electrical meter on April 2, 2019.
17. Submitted permit for interior finish out on June 7, 2019.
18. Submitted application for work on sewer relay on September 13, 2019.
19. Window Seat submits permit application for installation of signage on December 18, 2019.

20. Entered into First Amendment to Lease Agreement with Window Seat on January 18, 2020.
21. Submitted Conservation District Work Review Form for exterior signage on January 27, 2020.
22. Certificate of Occupancy obtained for Window Seat on March 3, 2020.

From: Kay, Kiesha <kiesha.kay@dallascityhall.com>
Sent: Tuesday, September 11, 2018 12:05 PM
To: Rob Baldwin <rob@baldwinplanning.com>
Subject: Re: 3014 Greenville

Rob,

Yes, this is correct.

Thank you,

Kiesha Kay

Get [Outlook for Android](#)

From: Rob Baldwin <rob@baldwinplanning.com>
Sent: Tuesday, September 11, 2018 10:49:40 AM
To: Kay, Kiesha
Subject: 3014 Greenville

Good afternoon Kiesha

I am working with the owner of the property known as 3014 Greenville. We are processing building permits and a CA review to allow us to renovate this building. This building is in the Modified Delta District and we want to make sure that we do not lose our delta credits while we are going through the renovation process. Would you please confirm my understanding that if we have an active building permit in place and are regularly calling in our inspections, we will not lose our delta credits while we are under construction and while we are actively marketing the spaces for lease.

Thanks for your help.

Rob

Rob Baldwin
Baldwin Associates, LLC
(214) 729-7949
rob@baldwinplanning.com



CITY OF DALLAS

September 6, 2019

Michele Stoy
Baldwin Associates
3904 Elm Street, STE: B
Dallas, TX 75226

RE: Zoning Determination Request; 3014-3024 Greenville

Dear Ms. Stoy:

As detailed in your letter dated February 27, 2019 and attached, you have requested a written determination pertaining to the non-conforming rights, or "delta credits" for the property referenced above.

The above stated property is located within CD 11, the M Streets East Conservation District, and located within the MD-1 Overlay, Greenville Ave Modified Delta Overlay District (Tract 2). The MD-1 Overlay ordinance states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. Based on our research and the attached floor plan used to verify the floor area of each suite, information on the most recent certificate of occupancy and delta credits is provided for each address.

3014 Greenville Avenue - (5999) General merchandise, CO#1807251124, - 1,559 square feet - 8 delta credits.

3016 Greenville Avenue - (5999) General merchandise, CO#1207091020, - 1,707 square feet - 9 delta credits.

3018 Greenville - (5999), General merchandise, CO#8111172414, - 1,526 square feet - 8 delta credits.

3020 Greenville - (5811) Restaurant, CO#9702141024, - 3,913 square feet, 39 delta credits.

3024 Greenville - (5821) Alcohol Beverage Establishment, CO#1604221106, - 3,846 square, 9 spaces obtained via a parking agreement, 29 delta credits remaining.

Therefore, based on this research, the possible non-conforming parking rights afforded per Section 51A-4.704(b)(4)(A) of the Dallas Development code could be 93 delta credits.

The delta credits for this property need to be considered per tenant when located in the MD Overlay to verify if the deltas have been lost due to vacancy. Per the parking ordinance parking must be met for the entire site, but deltas may be allocated to a specific tenant due to an adjacent tenant losing their rights to delta credits.



CITY OF DALLAS

Please note that when a use is converted to a new use having lesser parking requirements, the rights to any portion of the nonconforming parking that is not needed to meet the new requirement are lost.

Also, per Sec.51A-4.704(b)(4)(A), a person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional required off-street parking and loading spaces are provided.

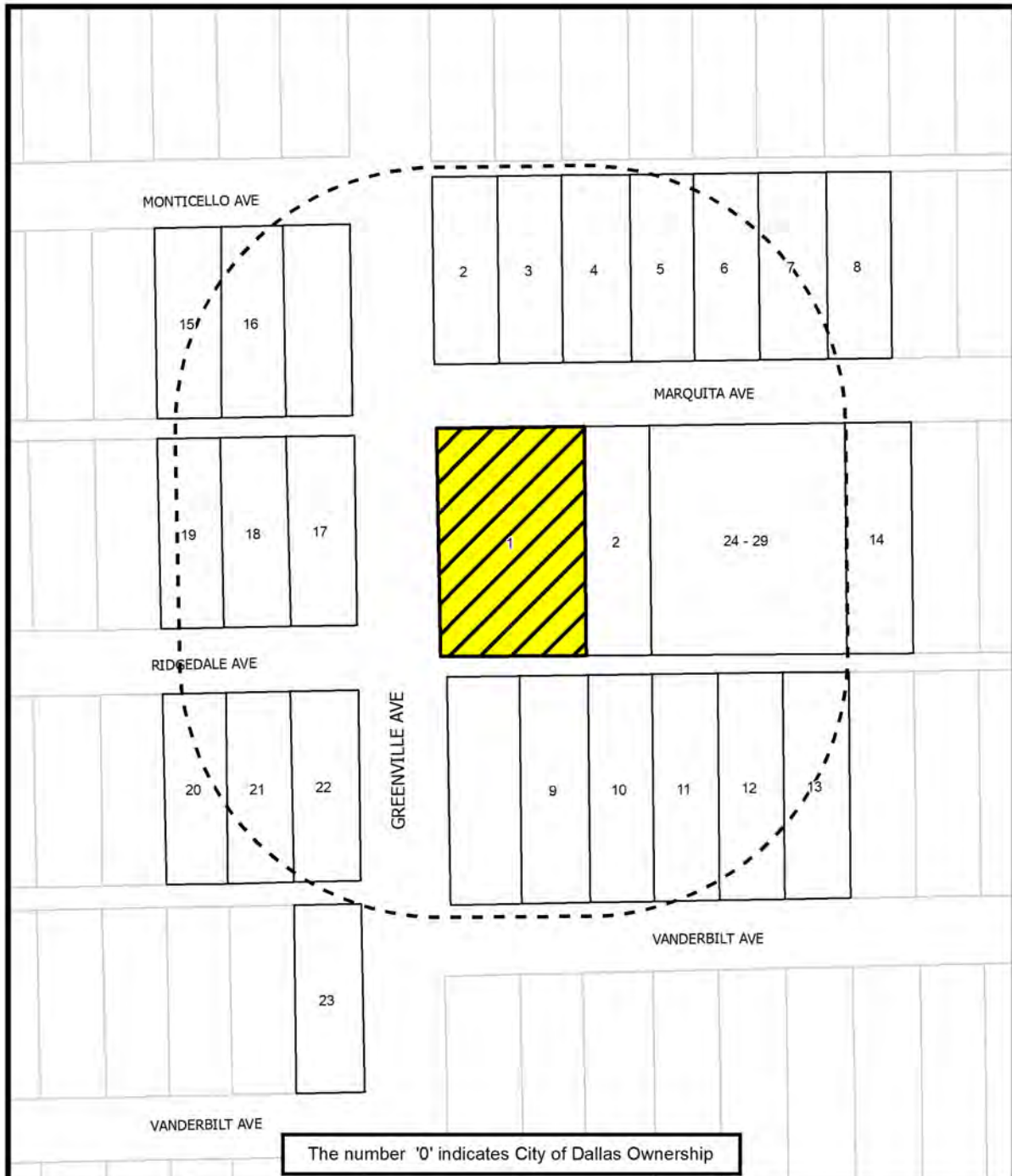
This letter does not constitute a building permit or certificate of occupancy, nor does it imply that a building permit or certificate of occupancy will be approved without complying with all applicable rules and regulations. The City of Dallas does not provide letters certifying that a property or development complies with all applicable rules and regulations.

If you have any further questions, please contact me at 214-948-4501 or megan.wimer@dallascityhall.com.

Respectfully,

Megan Wimer, AICP, CBO
Assistant Building Official
Building Inspection Division

cc: Phil Sikes, CBO, Building Official



1:1,200

NOTIFICATION

200'

AREA OF NOTIFICATION

29

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-091**

Date: **10/1/2020**

09/30/2020

Notification List of Property Owners

BDA190-091

29 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3014 GREENVILLE AVE	SHIELDS LTD PS
2	5701 MARQUITA AVE	PASHA & SINA INC
3	5707 MARQUITA AVE	RENTZ BAILEY
4	5711 MARQUITA AVE	VAHDANI CHRISTOPHER &
5	5715 MARQUITA AVE	NUNNALLY HARVEY W III
6	5719 MARQUITA AVE	BOLGER DOROTHY E
7	5723 MARQUITA AVE	VELIS BILL D
8	5727 MARQUITA AVE	LAWSON CLIFFORD J & JANE G
9	5707 VANDERBILT AVE	OROZCO RICHARD & RUFINA
10	5711 VANDERBILT AVE	MOORE HARRY E & SAMMIE S
11	5715 VANDERBILT AVE	ANTHONY JOHN ROSS
12	5719 VANDERBILT AVE	MILLER EMILY
13	5723 VANDERBILT AVE	KALMBACH ERIC W
14	5726 MARQUITA AVE	O B A INC
15	5638 MONTICELLO AVE	BASU NEIL K
16	5642 MONTICELLO AVE	ASKEW ANTONINA M VENTURA
17	5647 RIDGEDALE AVE	BELL PHILIP
18	5643 RIDGEDALE AVE	KONKEL RICHARD ARTHUR
19	5639 RIDGEDALE AVE	BATTAGLIA SCOTT &
20	5640 RIDGEDALE AVE	BARNETT JAMES C
21	5642 RIDGEDALE AVE	PLATTS DOUGLAS &
22	5644 RIDGEDALE AVE	SCHUCK CORD BRITTON
23	5647 VANDERBILT AVE	SU STUART
24	5720 MARQUITA AVE	PATTON JEFF
25	5720 MARQUITA AVE	WILLINGHAM KIRK R
26	5720 MARQUITA AVE	BURKE GARY A

09/30/2020

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	5720 MARQUITA AVE	LOBO VINAY J
28	5720 MARQUITA AVE	BIRNBAUM MARC A &
29	5720 MARQUITA AVE	XOCHOTL LARA

FILE NUMBER: BDA190-093(JM)

BUILDING OFFICIAL'S REPORT: Application of Thomas Shields, represented by Steven Dimitt for a special exception to the Modified Delta Overlay District No. 1 regulations at 3024 Greenville Avenue. This property is more fully described as Lot 11, Block 2168, and is zoned Conservation District No. 11 with Modified Delta Overlay District No.1, which states that the rights to nonconforming delta parking credits are lost if the use is vacant for 12 months or more. The applicant proposes to restore the lost delta parking credits, which will require a special exception to the Modified Delta Overlay District No. 1 regulations.

LOCATION: 3024 Greenville Avenue

APPLICANT: Thomas Shields
Represented by Steven Dimitt

UPDATE:

On October 21, 2020, the Board of Adjustment Panel B conducted a public hearing on this application and delayed action per applicant's request until the next public hearing to be held on November 18, 2020.

REQUEST:

A request for a special exception to the Modified Delta Overlay District No. 1 regulations to carry forward nonconforming parking spaces under the delta theory that were terminated since the use on the site was discontinued or remained vacant for 12 months or more is made in order for the applicant to obtain a Certificate of Occupancy for a retail use for the vacant commercial structure on the subject site.

STANDARD FOR SPECIAL EXCEPTION TO THE MODIFIED DELTA OVERLAY DISTRICT No. 1 REGULATIONS TO CARRY FORWARD NONCONFORMING PARKING AND LOADING SPACES UNDER THE DELTA THEORY WHEN A USE IS DISCONTINUED OR REMAINS VACANT FOR 12 MONTHS OR MORE:

The Modified Delta Overlay District No. 1 states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include *but not be limited* to the following:

1. A decline in the rental rates for the area which has affected the rental market.

2. An unusual increase in the vacancy rates for the area which has affected the rental market.
3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

STAFF RECOMMENDATION:

Approval

Rationale:

- Staff concluded that the applicant had demonstrated that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of the following extreme circumstances:

The applicant documented how extensive renovation or remodeling was necessary because the structure on the site was in poor condition. Construction was ongoing from December 2018 through approximately February 2020.

BACKGROUND INFORMATION:

Zoning:

Site: CD No. 11 with an MD Overlay District No. 1
North: CD Nos. 9 and 11 with an MD Overlay District No. 1
South: CD No. 11 with an MD Overlay District No. 1
East: CD No. 11 with an MD Overlay District No. 1
West: CD Nos. 9 with an MD Overlay District No. 1

Land Use:

The subject site is developed with a commercial structure. The areas to the north, south, and west are developed with residential uses; and the area to the east is developed with commercial uses.

Zoning/BDA History:

While there have been no zoning/BDA cases within the area in the last five years, there are three other BDA cases at the subject site currently.

GENERAL FACTS/STAFF ANALYSIS:

This request focuses on carrying forward nonconforming parking spaces under the delta theory terminated because a part of the structure/use on the site was discontinued or

remained vacant for 12 months or more. Reinstating the delta credits would allow for the applicant to obtain a Certificate of Occupancy for a proposed new tenant. The previous alcoholic beverage establishment use [San Francisco Rose] Certificate of Occupancy was revoked due to an extended period of vacancy.

The subject site is zoned Conservation District No. 11 with Modified Delta Overlay District No.1. According to DCAD, the property at 3024 Greenville Avenue is developed with a “retail strip” with over 12,210 square feet of floor area built in 1930.

The Dallas Development Code provides the following relating to nonconformity of parking or loading:

- Increased requirements. A person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional off-street parking and loading spaces are provided.
- Delta theory. In calculating required off-street parking or loading, the number of nonconforming parking or loading spaces may be carried forward when the use is converted or expanded. Nonconforming rights as to parking or loading are defined in the following manner: required parking or loading spaces for existing use minus the number of existing parking or loading spaces for existing use equals nonconforming rights as to parking or loading.
- Decreased requirements. When a use is converted to a new use having less parking or loading requirement, the rights to any portion of the nonconforming parking or loading that are not needed to meet the new requirements are lost.

In 1987, the City Council created “Modified Delta Overlay Districts” in those areas where it has determined that a continued operation of the delta theory is not justified because there is no longer a need to encourage redevelopment and adaptive reuse of existing structures, or a continued application of the delta theory will create traffic congestion and public safety problems and would not be in the public interest.

In a modified delta overlay district, the city council may limit the number of percentages of nonconforming parking or loading spaces that may be carried forward by a use under the delta theory. An ordinance establishing a modified delta overlay district may not increase the number of nonconforming parking or loading spaces that may be carried forward under the delta theory when a use is converted or expanded.

An ordinance establishing a modified delta overlay district must provide that when a use located in the district is converted to a new use having less parking or loading requirements, the rights to **any portion** of the nonconforming parking or loading **not needed** to meet the new requirements **are lost**.

An ordinance establishing a modified delta overlay district may provide that rights under the delta theory terminate when a use for which the delta theory has been applied is discontinued.

In 1987, the City Council established Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- That no nonconforming parking spaces may be carried forward by a use under the delta theory when a use in the Community Retail District with an MD Overlay District No. 1a is expanded.

In 1995, the City Council amended Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- The right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:
 1. A decline in the rental rates for the area which has affected the rental market.
 2. An unusual increase in the vacancy rates for the area which has affected the rental market.
 3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

Timeline:

August 4, 2020 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

September 18, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 18, 2020 The Board Administrator emailed the applicant's representative the public hearing date and panel that will consider the application; the September 30, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the October 9, 2020 deadline to submit additional evidence to be incorporated into the board's docket materials and the following information:

- a copy of the application materials including the Building Official's report on the application.
- the criteria/standard that the board will use in their decision to approve or deny the request; and

- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

September 30, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

October 2, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. The review team members in attendance included the Sustainable Development and Construction: Assistant Director, Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Building Inspection Senior Plans Examiner/Development Sign Code Specialist, Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

October 21, 2020: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant’s request until the next public hearing to be held on November 18, 2020.

October 26, 2020: The Board Administrator wrote the applicant a letter of the board’s action; the deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the board’s docket materials.

October 29, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Sing Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

No review comment sheets with comments were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: October 21, 2020

APPEARING IN FAVOR:

Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100
Richardson, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: Shouse

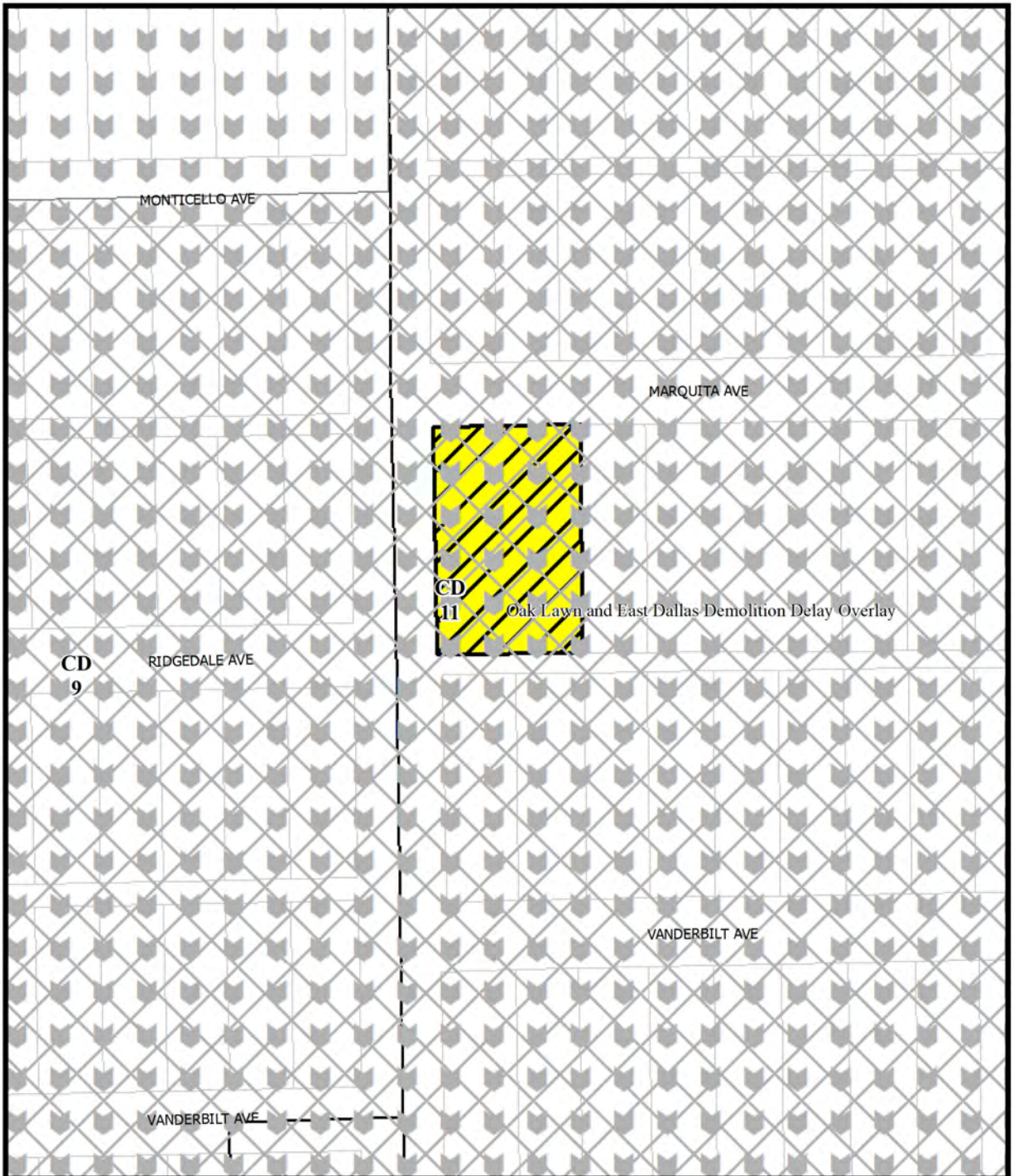
I move that the Board of Adjustment in Appeal No. BDA 190-093, **hold** this matter under advisement until **November 18, 2020**.

SECONDED: Vermillion

AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

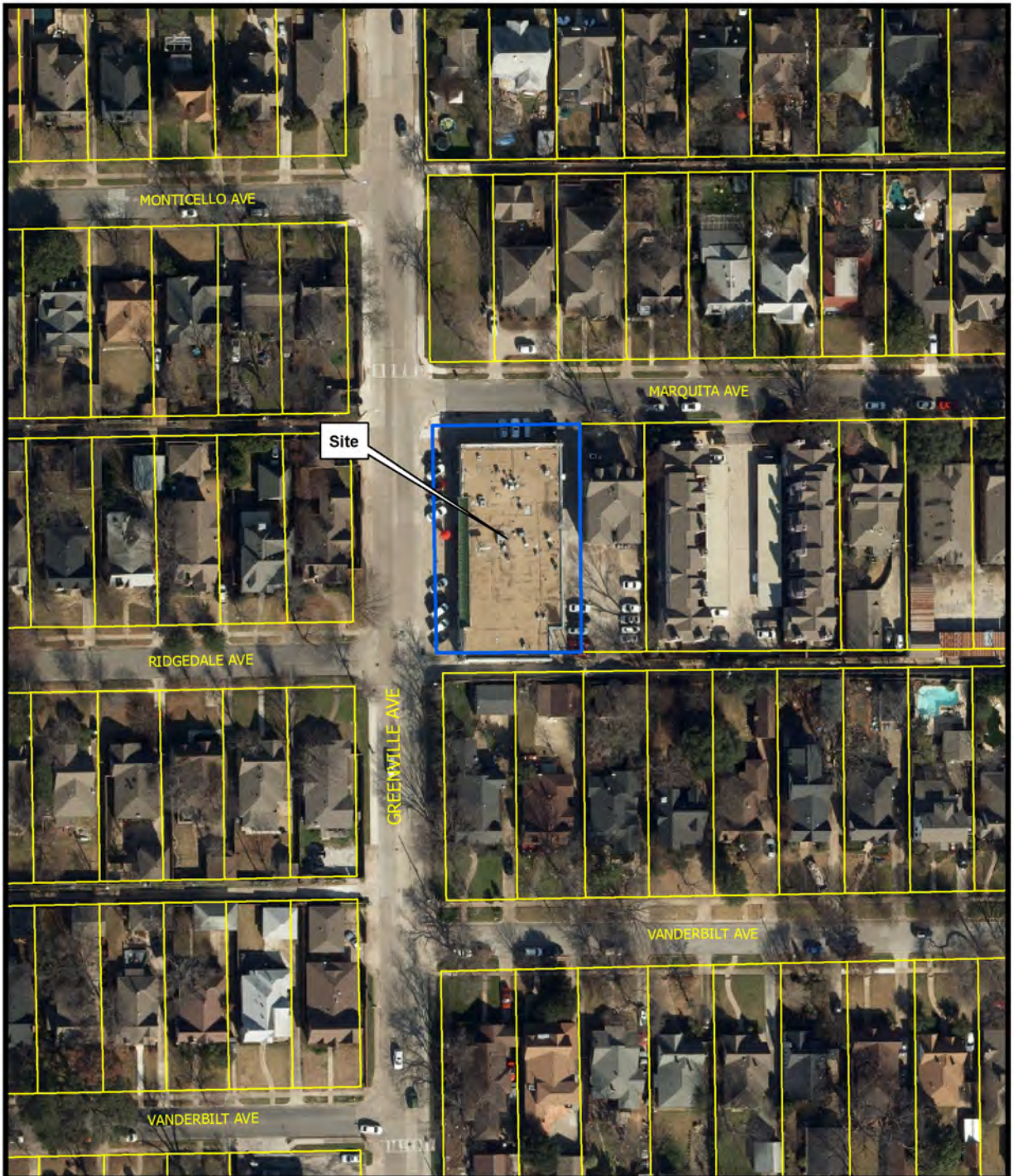


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ZONING MAP

Case no: BDA190-093

Date: 10/1/2020



1:1,200

AERIAL MAP

Case no: BDA190-093

Date: 10/1/2020



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-093

Data Relative to Subject Property:

Date: 8/4/2020

Location address: 3024 Greenville Avenue, Dallas, TX 75206 Zoning District: CD-11

Lot No.: 11 Block No.: 2168 Acreage: 0.51 Census Tract: 0002.02

Street Frontage (in Feet): 1) 179.16 2) 124.00 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Shields Limited Partnership

Applicant: Thomas Shields Telephone: 281-635-4250

Mailing Address: 418 E. Shore Drive, Kemah, TX Zip Code: 77565

E-mail Address: tom.shields@shields-lagniappe.com

Represented by: Steven Dimitt/Rob Baldwin Telephone: 214-559-2700

Mailing Address: 1201 N. Riverfront Blvd., Suite 150, Dallas, TX Zip Code: 75207

E-mail Address: sdimitt@pcrfirm.com / rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance _____, or Special Exception X, of Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:
Owner can state an extreme circumstance that demonstrates that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more, including but not limited to, extensive renovations and remodeling of the property.

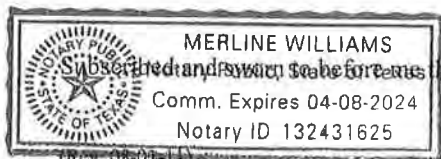
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Thomas Shields
(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Thomas Shields
(Affiant/Applicant's signature)



3 day of August 2020
Notary Public in and for Dallas County, Texas



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 190-093

I, Shields Limited Partnership, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 3024 Greenville Avenue, Dallas, Texas 75206
(Address of property as stated on application)

Authorize: Thomas Shields
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

 Variance (specify below)

X Special Exception (specify below)

 Other Appeal (specify below)

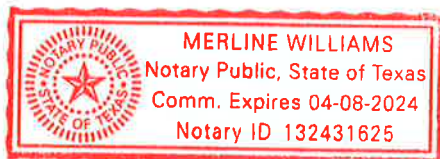
Special exception under Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

Shields Ltd. P.S./Thomas Shields Thomas Shields 8/3/2020
Print name of property owner/agent Signature of property owner/agent Date

Before me, the undersigned, on this day personally appeared Thomas Shields

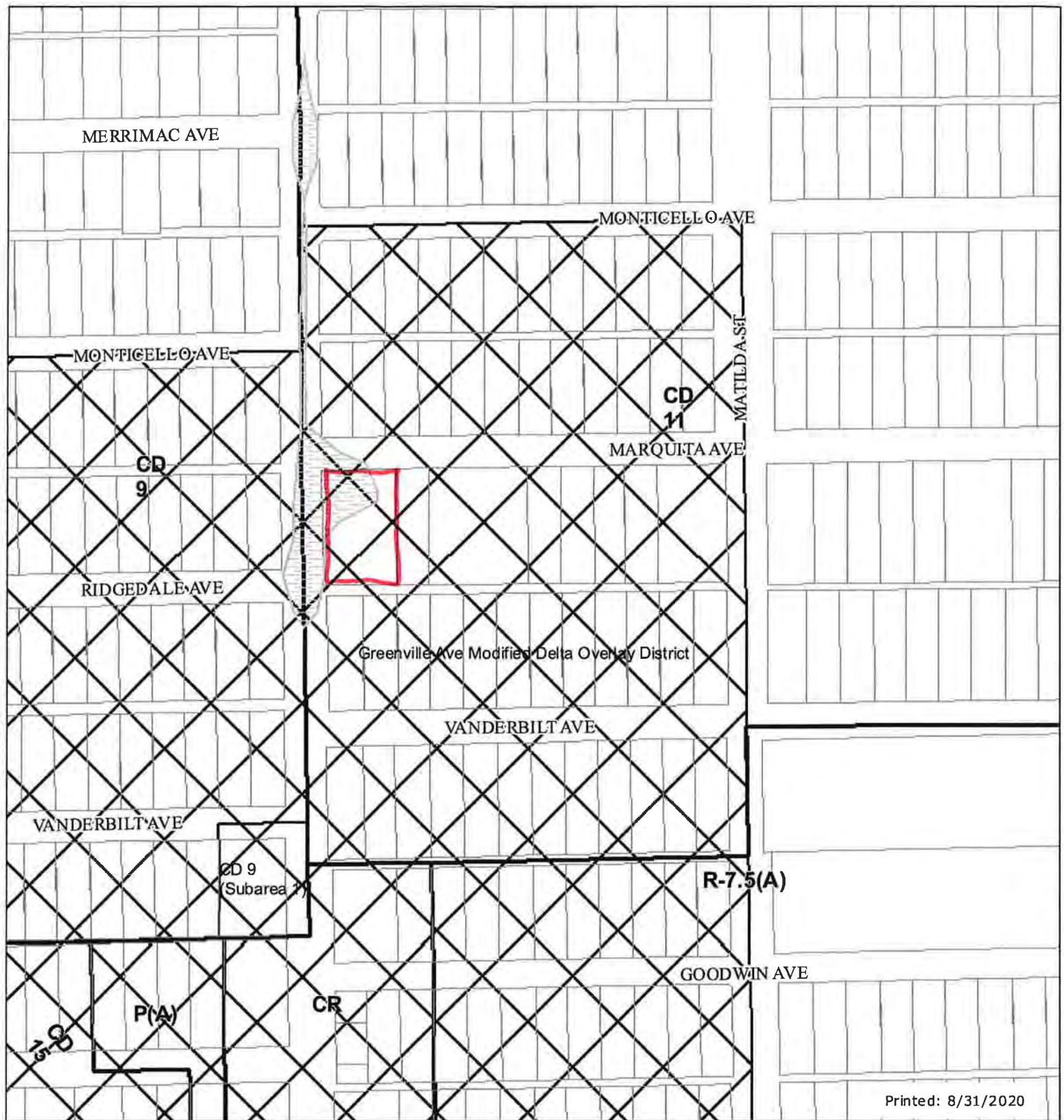
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 3 day of August, 2020



Merline Williams
Notary Public for Dallas County, Texas

Commission expires on 04-08-2024



Printed: 8/31/2020

Legend

City Limits	railroad	Dry Overlay	CD Subdistricts
School	Certified Parcels	D	PD Subdistricts
Floodplain	Base Zoning	D-1	PDS Subdistricts
100 Year Flood Zone	PD193 Oak Lawn	CP	NSO Subdistricts
Mill's Creek	Dallas Environmental Corridors	SP	NSO Overlay
Peak's Branch	SPD Overlay	MD Overlay	Escarpment Overlay
X Protected by Levee	Deed Restrictions	Historic Subdistricts	Parking Management Overlay
Parks	SUP	Historic Overlay	Shop Front Overlay
		Height Map Overlay	

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)





City of Dallas

Certificate of Occupancy

Address: 3024 GREENVILLE AVE 75206 Issued: 01/09/2017

Owner: SHIELDS LTD PS
418 E SHORE DR , KEMAH TEXAS 775652525 UNITED STATES OF AMERICA

DBA: SAN FRANCISCO ROSE

Land Use: (5821) ALCOHOLIC BEVERAGE ESTABLISHMENT

Occupied Portion:

C.O.#: 1604221106

Lot: 11	Block: 2168	Zoning: CD-11	PDD:	SUP:
Historic Dist:	Consv Dist: M Streets E	Pro Park: 36	Req Park: 36	Park Agrmt: N
Dwlg Units:	Stories: 1	Occ Code: A2	Lot Area: 20620	Total Area: 3610
Type Const: IIB	Sprinkler: None	Occ Load: 87	Alcohol: N	Dance Floor:N

Remarks: SUBJECT TO FIELD INSPECTOR APPROVAL / MAX OCC'Y LOAD IN BUILDING = 87; IN OPEN PATIO=30 PERSONS/

Philip Sikes, Building Official

This certificate shall be displayed on the above premise at all times.



CITY OF DALLAS

July 14, 2020

CERTIFIED MAIL No. 7019 1640 0001 6327 1329

Boo Bradberry

40/40 Enterprises, Inc DBA San Francisco Rose
1009 Stoneport Lane
Allen, Texas 75002

CERTIFIED MAIL No. 7019 1640 0001 6327 1305

Tom Shields

Shields Ltd. P.S.
418 E Shore Dr
Kemah, Texas 77565-2525

RE: Revocation of Certificate of Occupancy No. 1604221106 for an *Alcoholic Beverage Establishment* use at 3024 Greenville Avenue, Dallas, Texas 75206

Dear Mr. Bradberry and Mr. Shields:

Based upon articles written in the *Dallas Observer* and the San Francisco Rose Facebook page (Exhibit A), the building official has determined that the above use was discontinued in late 2017, over two years ago. The building official is required to revoke a certificate of occupancy if the building official determines that the use or occupancy authorized by the certificate of occupancy has been discontinued for six months or more.¹ Therefore, the above-referenced certificate of occupancy is hereby revoked.

Additionally, the above-referenced certificate of occupancy was approved based, in part, on compliance with off-street parking requirements which had been met, in part, with delta credits. Since this location has been closed for more than twelve months, all delta credits for this occupancy have been lost pursuant to the provisions of Ordinance No. 22472 for the Modified Delta Overlay No. 1 (Exhibit B). Fortunately, this ordinance allows the owner to make an appeal to the Board of Adjustment for a special exception to the provision that terminates delta credits as described in the attached ordinance. Questions about the Board of Adjustments should be directed to Charles Trammell at 214-948-4618.

¹ Section 306.13(7) of Chapter 52, "Administrative Procedures for the Construction Codes."



CITY OF DALLAS

Finally, since the above-referenced certificate of occupancy was issued for a nonconforming *alcoholic beverage establishment* use, which has been discontinued for more than six months, nonconforming right to open another nonconforming *alcoholic beverage establishment* use has also been lost.²

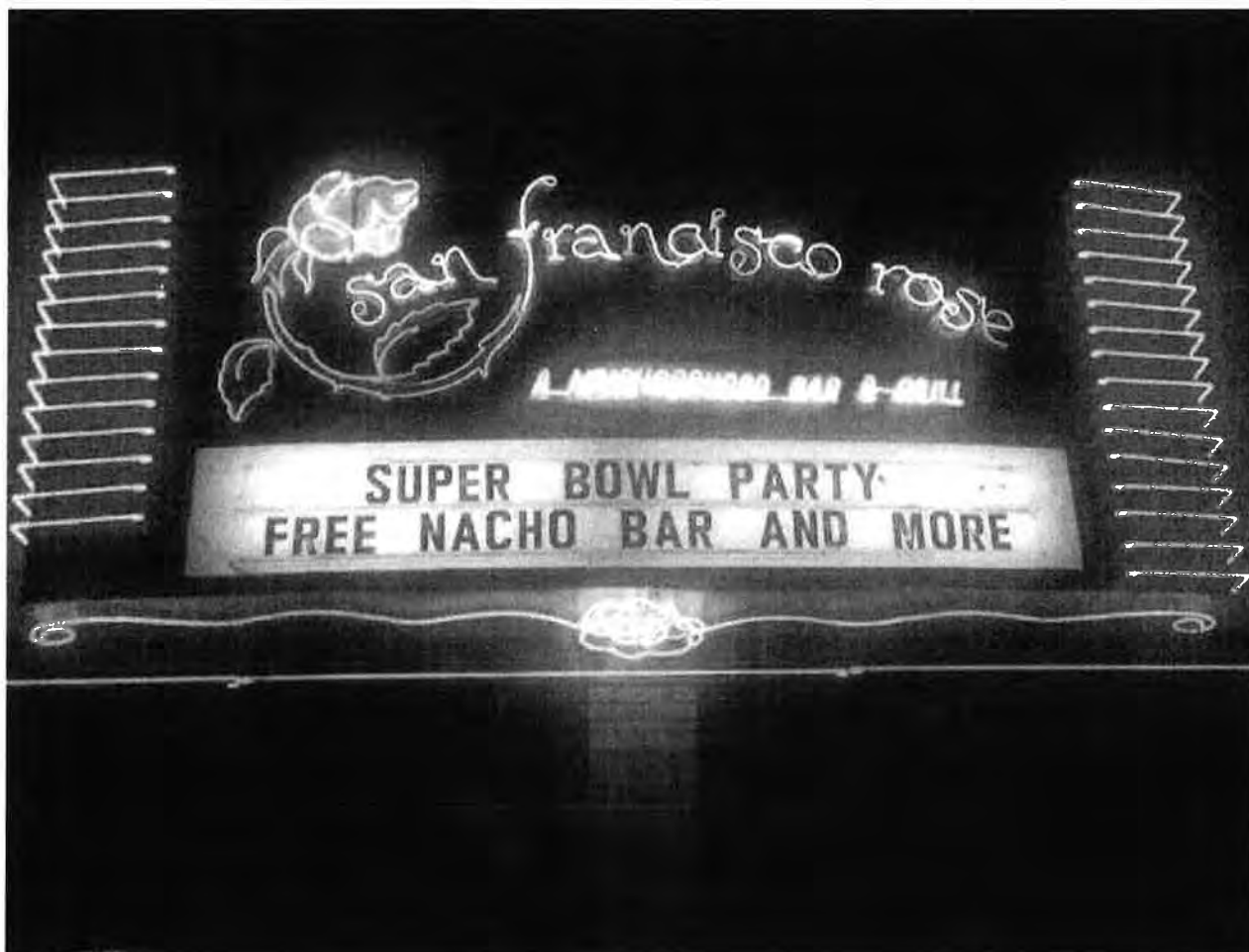
Any determination made by the building official is final unless appealed before the 15th day after written notice of the action or determination is given in accordance with Section 306.15 of Chapter 52, "Administrative Procedures for the Construction Codes." Questions about the appeal process should be directed to the building official at 214-948-4625.

Sincerely,

Sarah May
Chief Planner
Building Inspection
Sustainable Development and Construction Department

cc: Kris Sweckard, Director, Sustainable Development and Construction
Carl Simpson, Director, Code Compliance
David Session, CBO, Interim Building Official
Megan Wimer, CBO, Assistant Building Official
Tammy Palomino, Executive Assistant City Attorney
Casey Burgess, Executive Assistant City Attorney
Charles Trammell, Board of Adjustment Development Code Specialist
Kim Haynie, Development Project Coordinator

² Section 51A-4.704(a)(2) of the Dallas Development Code.



The San Francisco Rose, which opened in '77, is part of a tradition started by the original TGI Fridays in New York City. / [San Francisco Rose on Facebook](#)

Texas Supreme Court Intervention May Doom The San Francisco Rose on Greenville

NICHOLAS BOSTICK | OCTOBER 18, 2017 | 4:00AM

In 1977, Dallas welcomed its first “fern bar,” San Francisco Rose, and thus began the city’s love affair with trendy bars and kitschy cocktails. The fern bar concept was born in the mid-’60s, when the original TGI Fridays opened on 63rd Street in New York City. The only remaining bar of this kind in Dallas is likely to close in the next 90 days.

The venue began as an attraction for younger crowds to an area home to dark and smoky saloons. San Francisco Rose survived the inevitable shift in tastes through the ’80s and ’90s, transitioning into a neighborhood haunt with karaoke Wednesdays and pub quiz Thursdays.

But for the past five years, San Francisco Rose owner Boo Bradberry says he's been locked in a battle with his landlord. Bradberry declined to discuss details but referenced the court case Shields Limited Partnership v. Boo Bradberry 40/40 Enterprises Inc., argued March 23 in the Supreme Court of Texas.



The San Francisco Rose on Greenville Avenue is likely to close in the next 90 days. / Taryn Walker

The property owner, Shields Limited, claims Bradberry paid his rent late numerous times. But according to court documents, Shields Limited had been accepting late rent payments since 2012. Shields Limited would have a better case for eviction had the landlord levied late fees against Bradberry or accepted late payments "under protest."

Since the owner willingly accepted late payment, three courts declared that Shields Limited had no grounds to evict Bradberry. The Texas Court of Appeals affirmed the ruling.

But the Texas Supreme Court disagreed, awarding Shields Limited the right to evict Bradberry a month and a half before Bradberry says his lease was supposed to end. The length of the lease was also a point of contention during subsequent court cases.

Experts point out that the court's intervention is atypical and could signal more involvement, new contracts or laws governing commercial contracts.

"Our Supremes never get involved in eviction cases," Stuart Lautin, a real estate lawyer in Dallas, wrote in an online article for the North Texas Commercial Association of Realtors and Real Estate Professionals. "Certainly not in commercial evictions."

As for the San Francisco Rose, it is unknown whether Bradberry will try to keep his bar alive. The Texas Property Code does not allow for commercial evictions to be appealed past the county court level.

RELATED TOPICS: MUSIC DFW MUSIC NEWS

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**San Francisco Rose**

· November 14, 2017 ·

Turning the marquee off, one last time.

Thank you, EVERYONE. This place has been gutted of tables, chairs, coolers, tv's, lights, etc- but, the love & unity can't ever be taken away. We love you guys. Cheers

779 Views

Nicole Jensen Ivy, Hector Castellanos, Most Relevant
Paul Nelson and 33 others like this.

1 Share

5 Comments



Cassandra Jenkins Thanks for the years
of memories

2y



Anita Gaviria Torres Thanks for the
memories!!!

2y



Shelby Guild Smith Very much so!

952395

6-21-95

ORDINANCE NO. 22472

An ordinance amending Ordinance No. 19726, which established Modified Delta Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District); amending Section 5 of that ordinance; providing that the board of adjustment may not grant a special exception for required parking; providing an extension of the walking distance for remote parking; providing that more than 50 percent of required parking may consist of special parking; providing that the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, shall govern this 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 of the City of Dallas, in accordance with the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding this amendment to Ordinance No. 19726; and

WHEREAS, the city council finds that it is in the public interest to amend Modified Delta Overlay District No. 1 as specified in this ordinance; Now, Therefore,

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

SECTION 1. That Section 5 of Ordinance No. 19726 is amended to read as follows:

"SECTION 5. That the right to carry forward nonconforming parking and loading

22472

952395

spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate~~[state an extreme circumstance that demonstrates]~~ that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more, by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:

(a) A decline in the rental rates for the area which has affected the rental market.

(b) An unusual increase in the vacancy rates for the area which has affected the rental market.

(c) Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties, affecting the marketability of property."

SECTION 2. That a new Section 5A is added to Ordinance No. 19726 to read as follows:

"SECTION 5A. That the board of adjustment may not grant a special exception for required off-street parking in this district."

SECTION 3. That a new Section 5B is added to Ordinance No. 19726 to read as follows:

"SECTION 5B. That the walking distances contained in Paragraphs (1) and (2)(A) of Section 51A-4.324(d) of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, are extended to 600 and 900 feet, respectively, for remote parking in this district."

SECTION 4. That a new Section 5C is added to Ordinance No. 19726 to read as follows:

"SECTION 5C. That special parking, as defined in Section 51A-4.321 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, may account for more than 50 percent of the off-street parking required for any use."

SECTION 5. That a new Section 5D is added to Ordinance No. 19726 to read

22472

952395

as follows:

"SECTION 5D. That the modified delta overlay district regulations contained in Section 51A-4.506 of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, govern this district."

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 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:

SAM A. LINDSAY, City Attorney

By

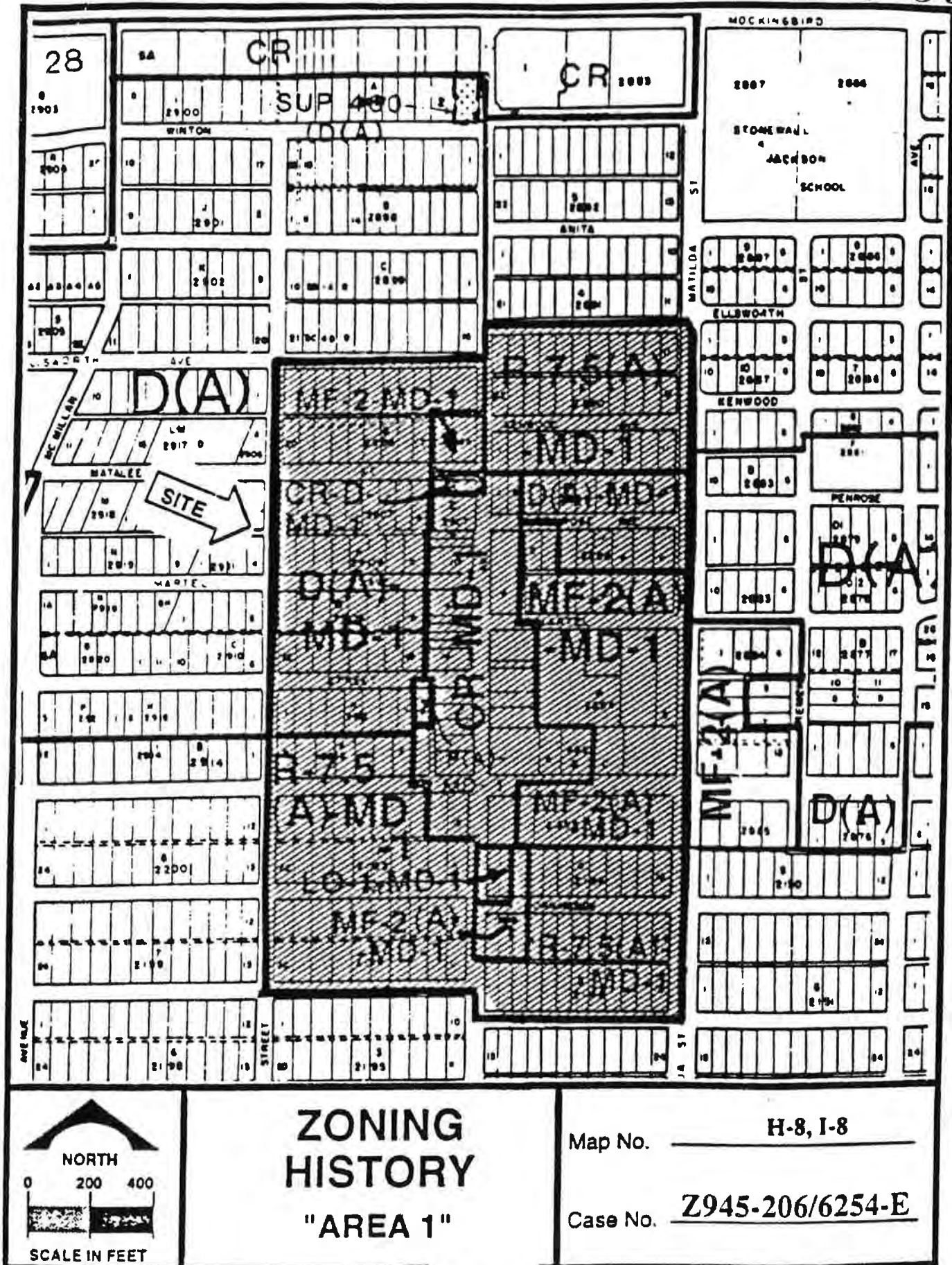

Assistant City Attorney

JUN 28 1995

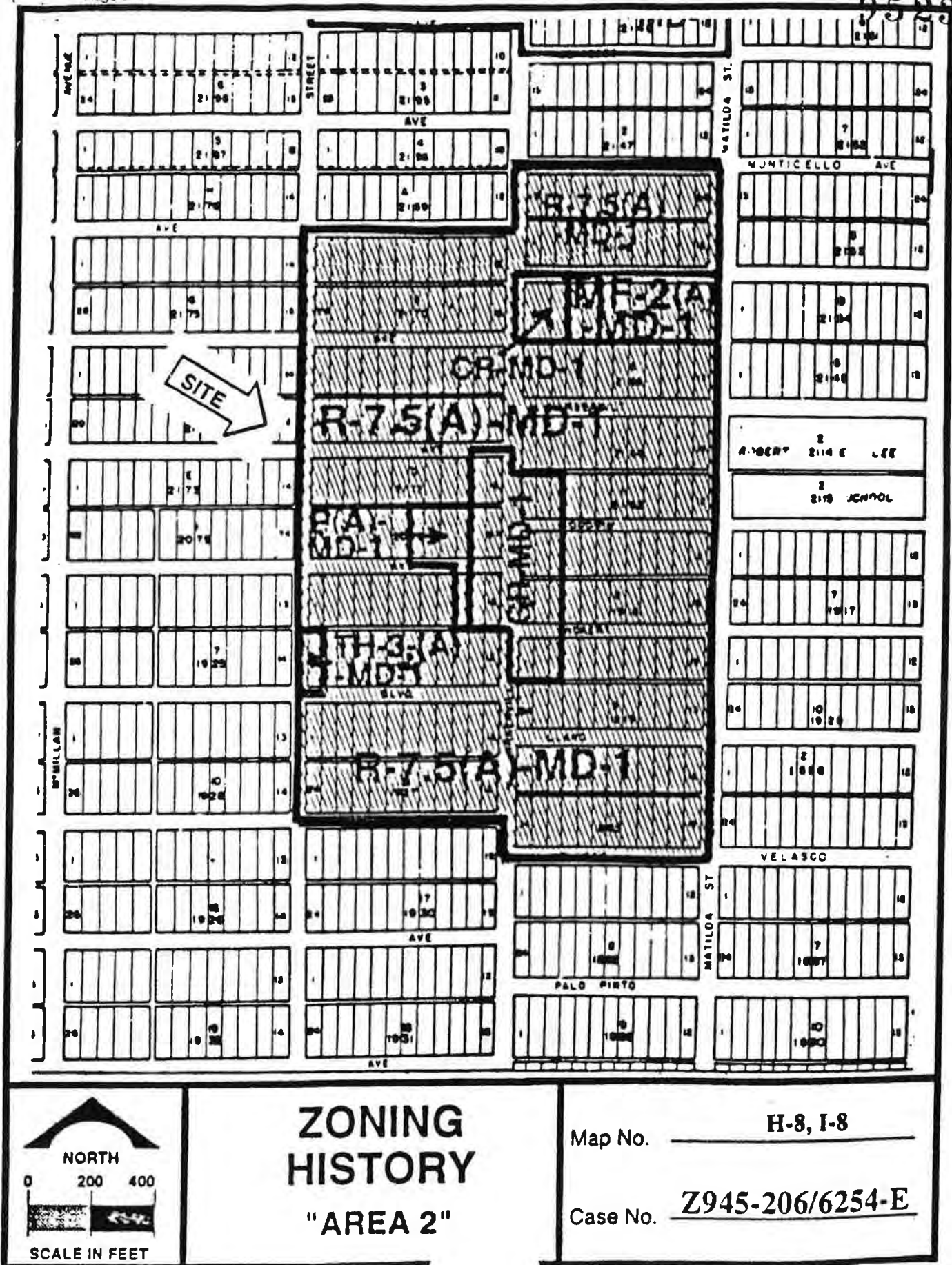
Passed _____

File No. Z945-206/6254-E

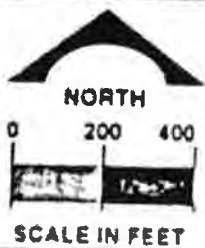
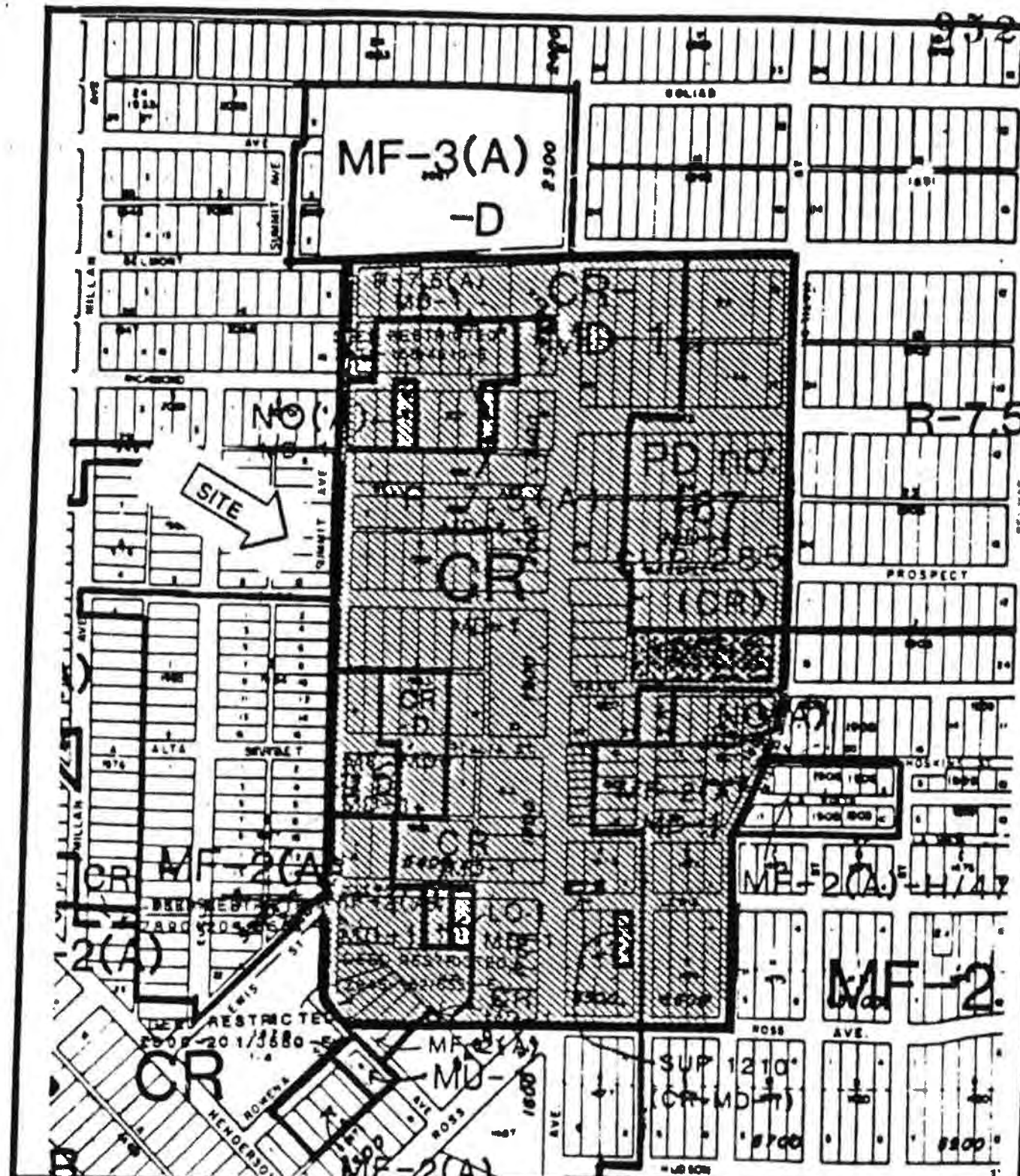
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232395



ZONING HISTORY

"AREA 3"

Map No. H-8, I-8

Case No. Z945-206/6254-E

3024 Greenville Avenue

Summary:

Below is a summary of the activities which demonstrate that the property owner, Shields Limited Partnership, did not intend to abandon the use even if the use was discontinued or remained vacant for 12 months or more. The 3024 Greenville space was continuously occupied by the San Francisco Rose from March 19, 1997 to November 14, 2017. The property owner has continuously worked to improve and renovate the building and this specific space since that time, which is evidenced in the timeline below:

1. Lease dated 3/19/97 to 5/31/12.
2. Amended Lease dated 6/1/12 to 5/31/22.
3. Order compelling debtor (SF Rose) to vacate no later than 11/14/17.
4. Proposal signed with +One Design/Construction on 12/5/2017 for building renovation.
5. San Francisco Rose – Certificate of Occupancy – 01/9/17.
6. Confirmation from Texas Dept. of Licensing and Regulation for ADA ramp portion of building renovation - 3/12/2018.
7. First drawings received from +One Design/Construction for building renovation - 3/29/18.
8. Construction permit for building renovation applied for on 4/26/18 (#1804261024).
9. Submitted building permit for remodel on May 31, 2018 with completion date of February 21, 2020.
10. Drawings for building renovation submitted to CD-11 on 7/10/18 for review (#CD18071003).
11. Construction permit to relocate electrical meter applied for 4/4/19 (#190404600).

12. CD-11 review completed on 9/12/18. (#CD18071003)
13. Construction permit for building renovation issued by the City of Dallas on 10/8/18 (#1804261024).
14. Submitted building permit for interior remodel on November 13, 2018 with completion date of January 25, 2019.
15. Contract signed with Highland Builders, Inc. on 11/15/18.
16. Construction permit to remodel to empty shell applied for on 5/31/18.
17. Submitted building permit for relocation of electrical meter on April 4, 2019.
18. Construction permit for Sewer Relay applied for on 9/13/19 with completion date of 12/23/19.
19. Construction has been ongoing from December 2018 through approximately February 2020.
20. Executed lease agreement with tenant, Meyboom Brasserie, LLC on June 22, 2020.
21. The property owner and Meyboom Brasserie, LLC have been actively working on plans and submittals for additional improvements and the continuation of the use at this location.

From: Kay, Kiesha <kiesha.kay@dallascityhall.com>
Sent: Tuesday, September 11, 2018 12:05 PM
To: Rob Baldwin <rob@baldwinplanning.com>
Subject: Re: 3014 Greenville

Rob,

Yes, this is correct.

Thank you,

Kiesha Kay

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From: Rob Baldwin <rob@baldwinplanning.com>
Sent: Tuesday, September 11, 2018 10:49:40 AM
To: Kay, Kiesha
Subject: 3014 Greenville

Good afternoon Kiesha

I am working with the owner of the property known as 3014 Greenville. We are processing building permits and a CA review to allow us to renovate this building. This building is in the Modified Delta District and we want to make sure that we do not lose our delta credits while we are going through the renovation process. Would you please confirm my understanding that if we have an active building permit in place and are regularly calling in our inspections, we will not lose our delta credits while we are under construction and while we are actively marketing the spaces for lease.

Thanks for your help.

Rob

Rob Baldwin
Baldwin Associates, LLC
(214) 729-7949
rob@baldwinplanning.com



CITY OF DALLAS

September 6, 2019

Michele Stoy
Baldwin Associates
3904 Elm Street, STE: B
Dallas, TX 75226

RE: Zoning Determination Request; 3014-3024 Greenville

Dear Ms. Stoy:

As detailed in your letter dated February 27, 2019 and attached, you have requested a written determination pertaining to the non-conforming rights, or "delta credits" for the property referenced above.

The above stated property is located within CD 11, the M Streets East Conservation District, and located within the MD-1 Overlay, Greenville Ave Modified Delta Overlay District (Tract 2). The MD-1 Overlay ordinance states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. Based on our research and the attached floor plan used to verify the floor area of each suite, information on the most recent certificate of occupancy and delta credits is provided for each address.

3014 Greenville Avenue - (5999) General merchandise, CO#1807251124, - 1,559 square feet - 8 delta credits.

3016 Greenville Avenue - (5999) General merchandise, CO#1207091020, - 1,707 square feet - 9 delta credits.

3018 Greenville - (5999), General merchandise, CO#8111172414, - 1,526 square feet - 8 delta credits.

3020 Greenville - (5811) Restaurant, CO#9702141024, - 3,913 square feet, 39 delta credits.

3024 Greenville - (5821) Alcohol Beverage Establishment, CO#1604221106, - 3,846 square, 9 spaces obtained via a parking agreement, 29 delta credits remaining.

Therefore, based on this research, the possible non-conforming parking rights afforded per Section 51A-4.704(b)(4)(A) of the Dallas Development code could be 93 delta credits.

The delta credits for this property need to be considered per tenant when located in the MD Overlay to verify if the deltas have been lost due to vacancy. Per the parking ordinance parking must be met for the entire site, but deltas may be allocated to a specific tenant due to an adjacent tenant losing their rights to delta credits.



CITY OF DALLAS

Please note that when a use is converted to a new use having lesser parking requirements, the rights to any portion of the nonconforming parking that is not needed to meet the new requirement are lost.

Also, per Sec.51A-4.704(b)(4)(A), a person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional required off-street parking and loading spaces are provided.

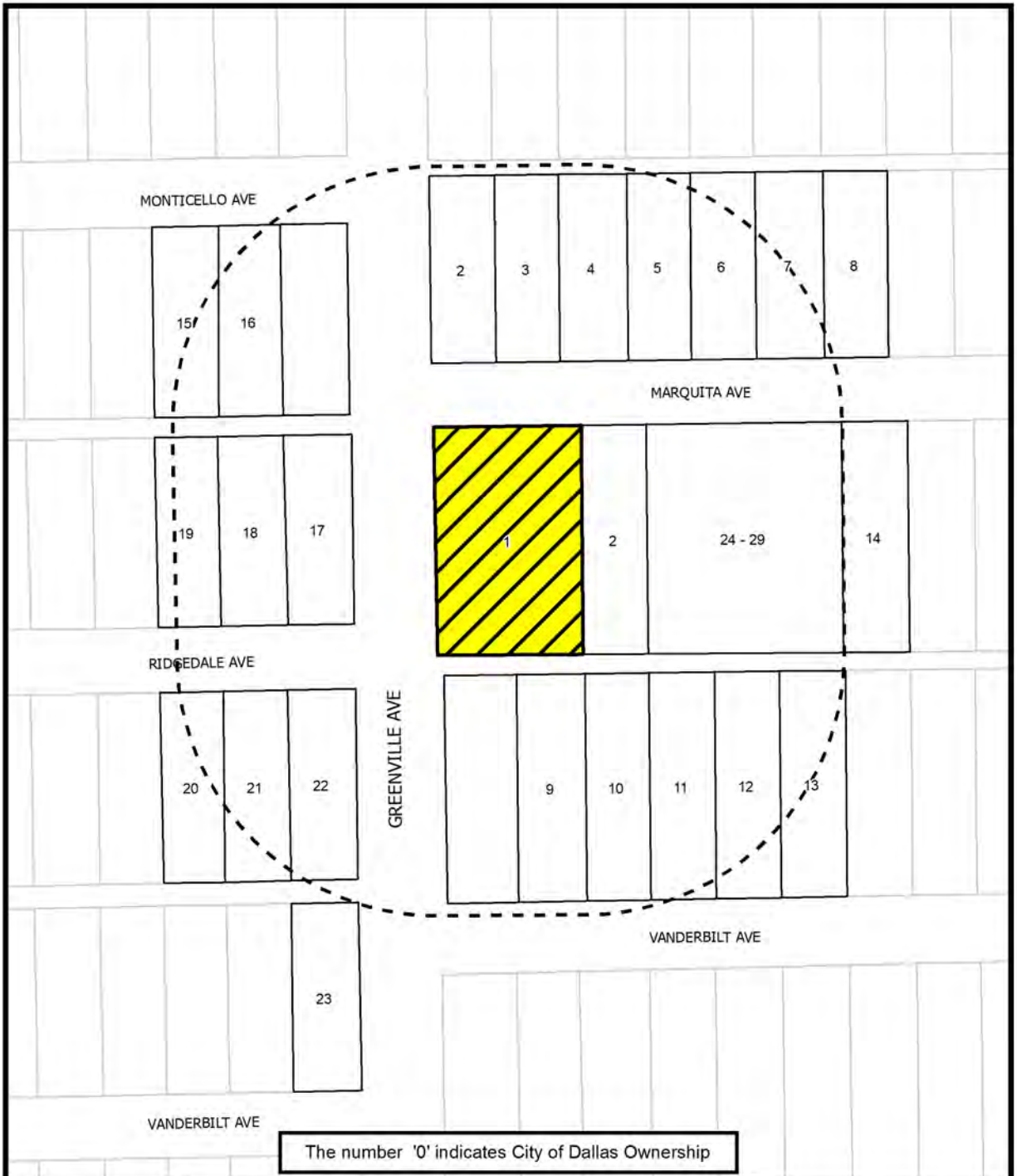
This letter does not constitute a building permit or certificate of occupancy, nor does it imply that a building permit or certificate of occupancy will be approved without complying with all applicable rules and regulations. The City of Dallas does not provide letters certifying that a property or development complies with all applicable rules and regulations.

If you have any further questions, please contact me at 214-948-4501 or megan.wimer@dallascityhall.com.

Respectfully,

Megan Wimer, AICP, CBO
Assistant Building Official
Building Inspection Division

cc: Phil Sikes, CBO, Building Official



1:1,200

NOTIFICATION

200'

AREA OF NOTIFICATION

29

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-093**

Date: **10/1/2020**

10/01/2020

Notification List of Property Owners

BDA190-093

29 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3014 GREENVILLE AVE	SHIELDS LTD PS
2	5701 MARQUITA AVE	PASHA & SINA INC
3	5707 MARQUITA AVE	RENTZ BAILEY
4	5711 MARQUITA AVE	VAHDANI CHRISTOPHER &
5	5715 MARQUITA AVE	NUNNALLY HARVEY W III
6	5719 MARQUITA AVE	BOLGER DOROTHY E
7	5723 MARQUITA AVE	VELIS BILL D
8	5727 MARQUITA AVE	LAWSON CLIFFORD J & JANE G
9	5707 VANDERBILT AVE	OROZCO RICHARD & RUFINA
10	5711 VANDERBILT AVE	MOORE HARRY E & SAMMIE S
11	5715 VANDERBILT AVE	ANTHONY JOHN ROSS
12	5719 VANDERBILT AVE	MILLER EMILY
13	5723 VANDERBILT AVE	KALMBACH ERIC W
14	5726 MARQUITA AVE	O B A INC
15	5638 MONTICELLO AVE	BASU NEIL K
16	5642 MONTICELLO AVE	ASKEW ANTONINA M VENTURA
17	5647 RIDGEDALE AVE	BELL PHILIP
18	5643 RIDGEDALE AVE	KONKEL RICHARD ARTHUR
19	5639 RIDGEDALE AVE	BATTAGLIA SCOTT &
20	5640 RIDGEDALE AVE	BARNETT JAMES C
21	5642 RIDGEDALE AVE	PLATTS DOUGLAS &
22	5644 RIDGEDALE AVE	SCHUCK CORD BRITTON
23	5647 VANDERBILT AVE	SU STUART
24	5720 MARQUITA AVE	PATTON JEFF
25	5720 MARQUITA AVE	WILLINGHAM KIRK R
26	5720 MARQUITA AVE	BURKE GARY A

10/01/2020

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	5720 MARQUITA AVE	LOBO VINAY J
28	5720 MARQUITA AVE	BIRNBAUM MARC A &
29	5720 MARQUITA AVE	XOCHOTL LARA