



CITY OF DALLAS

BOARD OF ADJUSTMENT, PANEL B

**WEDNESDAY, JANUARY 20, 2021
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 November 18, 2020 Board of Adjustment Panel B Public Hearing Minutes	M1
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UNCONTESTED CASE(S)

BDA201-006(OA)

2808 Greenville Ave. Ste. 200-203

REQUEST: Application of Pegasus Ablon Properties, LLC represented by Santos Martinez of La Sierra Planning Group to restore a nonconforming use.

1

BDA201-009(OA) 4611 N. Lindhurst Ave. 2
REQUEST: Application of Deborah S. Thomas represented by Robert Reeves and Associates for a special exception to the fence height regulations.

REGULAR CASE(S)

BDA190-103(OA) 6749 Hillbriar Dr. 3
REQUEST: Application of Jeff Saba for a special exception to the fence height regulations, and a special exception to the fence standards regulations.

BDA201-004(OA) 5707 Williamstown Rd. 4
REQUEST: Application of Eric Messer for a special exception to the visibility obstruction regulations.

HOLDOVER CASE(S)

BDA190-090(JM) 3016 Greenville Ave. 5
REQUEST: Application of Thomas Shields, represented by Steven Dimitt, for a special exception to the Modified Delta Overlay District No. 1 regulations.

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

BDA190-092(JM) 3018 Greenville Ave. 7
REQUEST: Application of Thomas Shields represented by Steven Dimitt to appeal the decision of an administrative official.

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

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: BDA201-006(OA)

BUILDING OFFICIAL'S REPORT: Application of Pegasus Ablon Properties, LLC represented by Santos Martinez of La Sierra Planning Group to restore a nonconforming use at 2808 Greenville Avenue. This property is more fully described as Lot 24A, Block 8/1918, and is zoned a CR Community Retail District, which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming multifamily use, which will require a special exception to the nonconforming use regulations.

LOCATION: 2808 Greenville Avenue

APPLICANT: Pegasus Ablon Properties, LLC represented by Santos Martinez

REQUEST:

A request for a special exception to restore/reinstate nonconforming use rights for a multifamily use on the subject site that was discontinued for six months or more is made to obtain a Certificate of Occupancy (CO) for this use.

STANDARD FOR A SPECIAL EXCEPTION TO OPERATE A NONCONFORMING USE IF THAT USE IS DISCONTINUED FOR SIX MONTHS OR MORE:

Section 51A-4.704(a)(2) of the Dallas Development Code states that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more and that the board of adjustment may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to operate a nonconforming use if that use is discontinued for six months or more since the basis for this type of appeal is based on whether the board determines that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

Zoning:

Site: CR Community Retail District
North: CR Community Retail District
East: CR Community Retail District
South: CR Community Retail District
West: CR Community Retail District

Land Use:

The subject site is developed with a few structures containing multiple uses according to permit records including apartment units, a retail shop, and several units being remodeled (a restaurant and three apartments). The areas to the north, east, south, and west are developed with single-family uses, multifamily uses, retail stores, and restaurant uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

This request focuses on restoring/reinstating nonconforming use rights for a multifamily use on the subject site that was discontinued for six months or more. The request is made for the applicant to obtain a Certificate of Occupancy (CO) for this use.

The Dallas Development Code defines “nonconforming use” as “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time”.

The nonconforming use regulations state it is the declared purpose of the nonconforming use section of the code that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

The nonconforming use regulations also state that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more and that the board of adjustment may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

The site is zoned a CR Community Retail District which does not permit a multifamily use. According to documentary evidence provided by the representative (**Attachment A**), the multifamily use has been operating since 1986 when the property was originally zoned a GR General Retail District. The district allowed the use by right before the adoption of Chapter 51A. When Chapter 51A was adopted in 1988, the zoning district became a CR Community Retail District which made the use legal nonconforming.

According to the representative and supporting documents found in permit number 8510211071, dated October 21, 1985, the parking of a multifamily unit for three units and a restaurant addition was approved. Currently, the property is being remodeled.

According to DCAD records, the site contains two apartments and two retail units containing 15,250 square feet of floor area.

Building Inspection has stated that these types of special exception requests originate when an owner/officer related to the property applies for a CO and Building Inspection sees that the use is nonconforming. Before a CO can be issued, the City requires the owner/officer related to the property to submit affidavits stating that the use was not abandoned for any period over six months since the issuance of the last valid CO. The owners/officers must submit documents and records indicating continuous uninterrupted use of the nonconforming use, which in this case, they could not.

The applicant has the burden of proof in establishing the following related to the special exception request:

- There was **not** a clear intent to abandon the nonconforming multifamily use on the subject site even though the use was discontinued for six months or more.

Granting this request would reinstate/restore the nonconforming multifamily use rights that were lost when the use was abandoned for six months or more.

If restored/reinstated, the nonconforming use would be subject to compliance with the use regulations of the Dallas Development Code as any other nonconforming use in the city.

Timeline:

November 11, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

December 9, 2020: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel B.

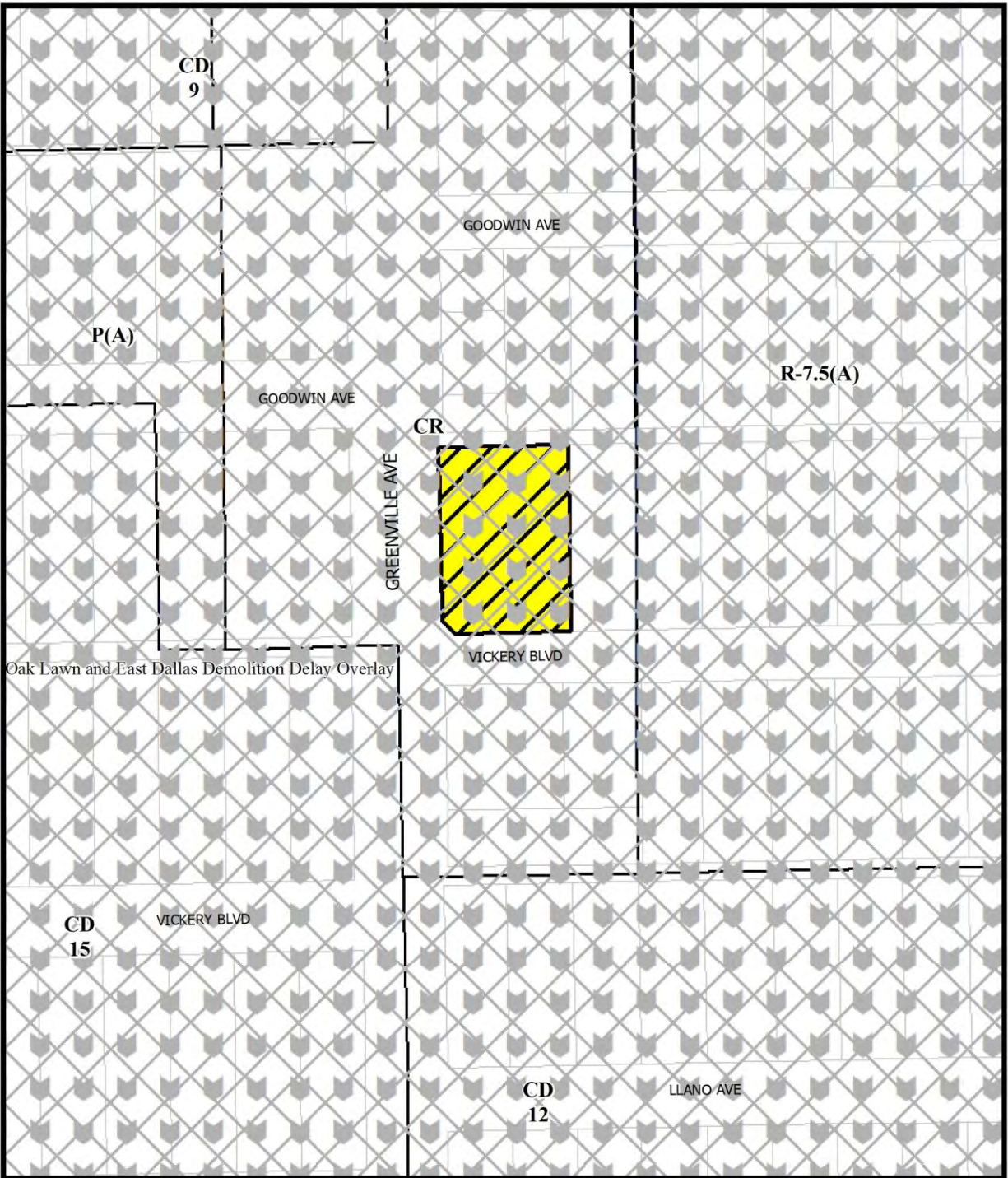
December 11, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant the following information:


- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 29, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the January 8, 2021 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."

December 22, 2020: Additional evidence was submitted by the representative via email—see Exhibits (**Attachment A**).

December 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Sing Specialist, 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.

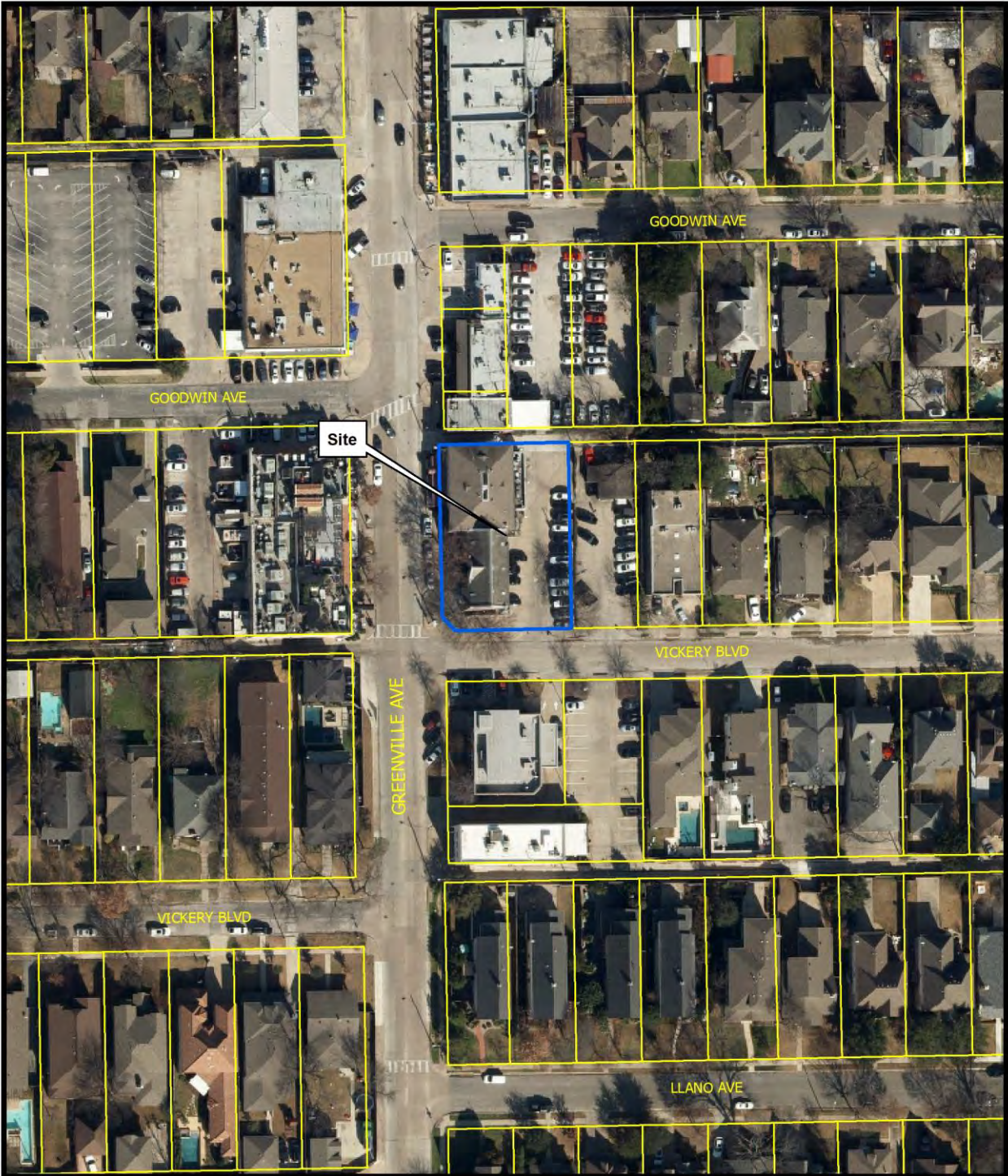
No review comment sheets were submitted in conjunction with this application.




 1:1,200

ZONING MAP

Case no: BDA201-006
 Date: 12/11/2020



1:1,200

AERIAL MAP

Case no: BDA201-006

Date: 12/11/2020



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-006

Data Relative to Subject Property:

Date: 11-20-20

Location address: 2808 Greenville Avenue Suites 200-203 Zoning District: CR (MD)

Lot No.: 24A Block No.: 8/1918 Acreage: .32 Census Tract: 2.02

Street Frontage (in Feet): 1) 143 2) 100 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Pegasus Ablon 2808 Greenville LLC

KL Applicant: Santos T Martinez Telephone: 214-684-2775

Mailing Address: 8222 Douglas Avenue Suite 390 Dallas, TX Zip Code: 75225

E-mail Address:

Represented by: La Sierra Planning Group Telephone: 214 684 2775

Mailing Address: P.O. Box 1275 Angel Fire, NM Zip Code: 87710

E-mail Address: santos@lasierrapp.com

Affirm that an appeal has been made for a Variance , or Special Exception X , of
a special exception to re-instate multifamily use

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:

Applicant did not intentionally seek to vacate these apartments. New property owner has submitted permit plans to remodel these units to market them for lease.

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 Santos T. Martinez
(Affiant/Applicant's name printed)

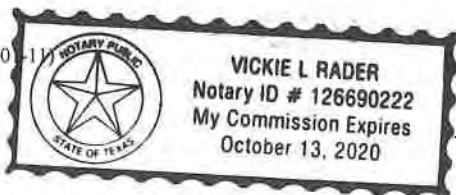
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 18th day of Dec 2020

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

(Rev 08-0-11)



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

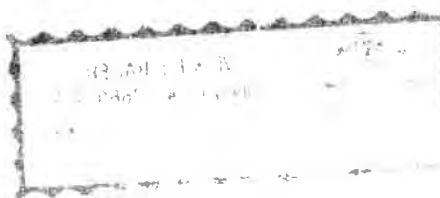
Building Official's Report

I hereby certify that Pegasus Ablon Properties, LLC
represented by Santos Martinez
did submit a request to restore a nonconforming use
at 2808 Greenville Avenue

BDA201-006. Application of Pegasus Ablon Properties, LLC represented by Santos Martinez to restore a nonconforming use at 2808 GREENVILLE AVE. This property is more fully described as Lot 24A, Block 8/1918, and is zoned CR, which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming multi-family use, which will require a special exception to the nonconforming use regulations.

Sincerely,


David Session, Building Official



Board of Adjustment

**Appeal to establish a compliance date for a nonconforming use.
Sec. 51A-4.704(a)(1)(A)**

or

Appeal to restore a nonconforming use. Sec. 51A-4.704(a)(2)

SEC. 51A-4.704. NONCONFORMING USES AND STRUCTURES.

(a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

(1) Amortization of nonconforming uses.

(A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use. Upon receiving such a request, the board shall hold a public hearing to determine whether continued operation of the nonconforming use will have an adverse effect on nearby properties. If, based on the evidence presented at the public hearing, the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use; otherwise, it shall not.

(2) The right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. The board may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

Property address: 2808 Greenville

1. The nonconforming use being appealed/restored: multifamily (permit number: 8510211071)
(The land use as stated on the Certificate of Occupancy. Attach a copy of the C.O.)

2. Reason the use is classified as nonconforming: zoning change from GR-MD-1 to CR-MD-1
transition from Chapter 51 to Chapter 51A
(Was there a change in the zoning or in the use requirements?)

3. Current zoning of the property on which the use is located: CR-MD-1

4. Date the nonconforming use was discontinued: February 2020

5. Date that the nonconforming use became nonconforming: July 18, 1989
(Date the property zoning or use requirements changed.)

6. Previous zoning of the property on which the use is located: GR-MD-1
(Applies if a zoning district change caused the use to become nonconforming.)

(Rev. 04/04/14)



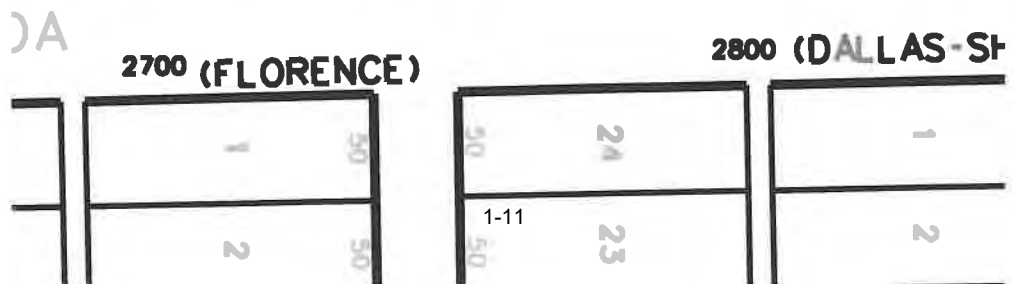
Printed: 11/24/2020

Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Sub districts |
| 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 | SPSPD Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | 50 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)





LE

826
1926

22

50

2700

2800

40

VICKERY

5700

1010/0

NORTH

SOUTH

24A
0.3203 ACS.

1918/8

1/2 DUPLEX WEST SIDE 5721

1/2 DUPLEX EAST SIDE 5723

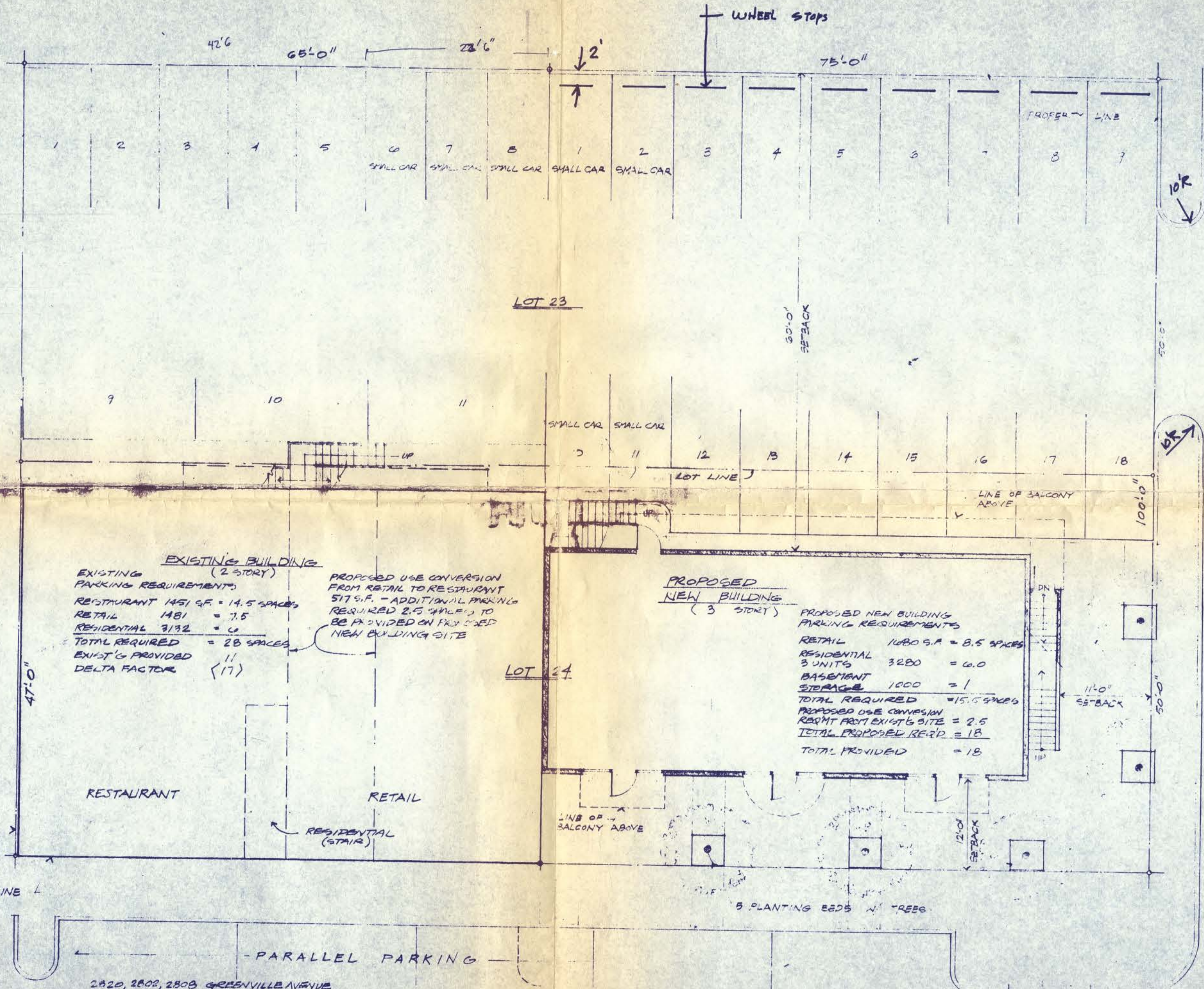
2700 (FLORENCE)

2800 (DALLAS-ST)

1-11

1985 AGREEMENT

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 3-22-85
 TRAFFIC DESIGN - PUBLIC WORKS
 By TOM RARD



EXISTING BUILDING
 (2 STORY)
 EXISTING PARKING REQUIREMENTS
 RESTAURANT 1451 SF. = 14.5 SPACES
 RETAIL 1481 = 7.5
 RESIDENTIAL 3132 = 6
 TOTAL REQUIRED = 28 SPACES
 EXIST'G PROVIDED 11
 DELTA FACTOR <17>

PROPOSED USE CONVERSION FROM RETAIL TO RESTAURANT 517 SF. - ADDITIONAL PARKING REQUIRED 2.5 SPACES TO BE PROVIDED ON PROPOSED NEW BUILDING SITE

PROPOSED NEW BUILDING
 (3 STORY)

PROPOSED NEW BUILDING PARKING REQUIREMENTS
 RETAIL 1680 S.F. = 8.5 SPACES
 RESIDENTIAL 3 UNITS 3280 = 6.0
 BASEMENT STORAGE 1000 = 1
 TOTAL REQUIRED = 15.5 SPACES
 PROPOSED USE CONVERSION REQMT FROM EXIST'G SITE = 2.5
 TOTAL PROPOSED REQ'D = 18
 TOTAL PROVIDED = 18

RESTAURANT

RETAIL

RESIDENTIAL (STAIR)

LINE OF BALCONY ABOVE

5 PLANTING BEDS W/ TREES

PARALLEL PARKING

2820, 2802, 2808 GREENVILLE AVENUE
 LOTS 23 & 24 BLOCK 8/1918
 DELMAR HEIGHTS ADDITION
 DALLAS, DALLAS COUNTY, TEXAS

GREENVILLE AVENUE

SITE PLAN
 1/8" = 1'-0"
 8.12.85



MULLEN ARCHITECTS
 2814 CEDAR SPR. V33 DALLAS TX

VICKERS BOULEVARD

COUNTY CLERK'S MEMO
FORGONE OF THIS
DOCUMENT NOT
REPRODUCIBLE
WHEN RECORDED

REMOTE PARKING AGREEMENT
(including church uses)

STATE OF TEXAS)
COUNTY OF DALLAS

KNOW ALL PERSONS BY THESE PRESENTS:

240524

Deed 07/31/98 1120160 \$89.00

I.

GRAPE BUILDING JOINT VENTURE

("Owner A") is the owner of the below described property ("Tract A"), which is the recipient of parking spaces:
Street Address 2800, 2802, 2804, 2808
Property Description: Lot 24A PREVIOUSLY LOTS 2525 Block 8/1918
Addition DELMAR HEIGHTS, Zoning District CRMD1
more particularly described in Volume 1, Page 186
in the Deed Records of DALLAS County, Texas. The below described use ("Use A") is located on Tract A: RETAIL / RESTAURANT / RESIDENTIAL
Floor area of Use A: 12,024. Total number of off-street parking spaces required for Use A: 52. Number of off-street parking spaces on Tract A provided for Use A to meet parking requirement: 26 EXISTING / 14 DELTA = 40 TOTAL SPACES

II.

GRAPE BUILDING JOINT VENTURE

("Owner B") is the owner of the below described property ("Tract B"), which is providing the parking spaces:
Street Address 5711 VICKERY
Property Description: Lot 22, Block 8/1918
Addition DELMAR HEIGHTS, Zoning District CRMD1, more particularly described in Volume 1, Page 186, in the Deed Records of DALLAS County, Texas. The below described use ("Use B") is located on Tract B: OFFICE / PARKING
Floor area of Use B: 608. Total number of off-street parking spaces required for Use B: 2. Total number of off-street parking spaces located on Tract B providing special parking for Use A: 12 OF 15

III.

In order that all uses governed by this agreement may operate in compliance with the off-street parking regulations in the Dallas Development Code of the Dallas City Code ("Code"), as amended, and derive all the benefits from such compliance, and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, as Owner A and Owner B have agreed upon, Owner A and Owner B agree to enter into this Agreement.

IV.

Owner A and Owner B agree that Tract B shall be used to provide 12 required off-street parking spaces for Use A to comply with the Code. The walking distance between Tract A and Tract B is 2800 feet.

* ADDING PROPERTIES

98149 06811

7.
Owner A and Owner B agree to comply with the off-street parking regulations in the Code.

VI.

The location of the off-street parking spaces on Tract B is shown on a site plan that is attached to and made a part of this agreement. The site plan must provide sufficient information to demonstrate compliance with the Code and all other applicable ordinances and regulations of the City of Dallas ("City").

VII.

This agreement may be amended or terminated only upon the filing, in the Deed Records of the county or counties in which Tracts A and B are located, of an instrument approved by the building official of the City and approved as to form by the city attorney. The building official shall approve an instrument amending or terminating this agreement if:

- (1) all uses providing parking and all uses on the property for which parking is provided under this agreement fully comply with the off-street parking regulations in the Code, as amended, by a means other than this parking agreement; or
- (2) all uses on the property for which parking is provided under this agreement cease to operate and terminate their certificates of occupancy.

Owner A or Owner B shall file the amending or terminating instrument in the Deed Records of the county or counties in which Tract A and Tract B are located at the sole cost and expense of Owner A or Owner B. After filing the amending or terminating instrument in the Deed Records, Owner A or Owner B shall file two copies of the instrument with the building official. No amendment or termination of this agreement is effective until the amending or terminating instrument is filed in accordance with this paragraph.

VIII.

This agreement inures to the benefit of, and is enforceable by, the parties to the agreement and the City. If a use is being operated in violation of this agreement, the building official shall revoke the certificate of occupancy for that use. Owner A and Owner B acknowledge that the City has the right to enforce this agreement by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against any person violating or attempting to violate this agreement, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce this agreement against a person, Owner A and Owner B agree that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs from that person.

IX.

Owner A and Owner B agree to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in conjunction with this agreement and the City granting, revoking, or withholding a building permit and/or certificate of occupancy by reason of this agreement.

X.

Owner A and Owner B understand and agree that this agreement shall be governed by the laws of the State of Texas.

XI.

Prior to the issuance of the building permit and/or certificate of occupancy for Use A, Owner A or Owner B shall file this agreement in the Deed Records of the county or counties in which Tracts A and B are located at the sole cost and expense of Owner A or Owner B. After filing this agreement in the Deed Records, Owner A or Owner B shall file two copies of this agreement with the building official.

XII.

Owner A and Owner B understand and agree that this agreement shall be a covenant running with the land with respect to both Tract A and Tract B, and that this agreement shall fully bind any and all successors, heirs, and assigns of Owner A or Owner B who acquire any right, title, or interest in or to Tract A or Tract B, or any part of those tracts. Any person who acquires any right, title, or interest in or to Tract A or Tract B, or any part of those tracts, thereby agrees and covenants to abide by and fully perform this agreement.

XIII.

Unless stated otherwise in this agreement, the definitions and provisions of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, apply and are incorporated into this agreement as if recited in this agreement.

XIV.

In the event that Tract A and Tract B are or ever become owned by the same person or entity, then this person or entity intends this agreement to be construed as a deed restriction, and that the Doctrine of Merger not apply.

XV.

If the building official places any conditions upon the approval of this parking agreement, those conditions shall be attached to and made a part of this agreement. If conditions are placed upon the approval of this agreement, Owner A and Owner B agree that they shall comply with each condition and understand that a failure to so comply shall constitute a violation of this agreement.

XVI.

Owner A and Owner B each certify and represent that there are no liens or mortgages, other than liens for ad valorem taxes, against their respective tracts if there are no signatures of lienholders or mortgagors subscribed below.

XVII.

The invalidation of any provision of this agreement by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED at Dallas, Dallas County, Texas, this 15 day of April, 1998.

Owner A / GRAPE BUILDING JOINT VENTURE
By: Charlotte Parker
Printed Name: CHARLOTTE PARKER
Title: JOINT VENTURER

Owner B / GRAPE BUILDING JOINT VENTURE
By: Charlotte Parker
Printed Name: CHARLOTTE PARKER
Title: JOINT VENTURER

CONSENT AND CONCURRENCE OF LIENHOLDERS OR MORTGAGORS:

COMPASS BANK

Tract A Lienholder/Mortgagor
By: James A. Murphy
Printed Name: JAMES A. MURPHY
Title: J.P. COMPASS BANK

SWISS AVENUE STATE BANK

Tract B Lienholder/Mortgagor
By: Clara Johnson
Printed Name: CLARA JOHNSON
Title: V.P. SWISS AVENUE STATE BANK

APPROVED:

By: [Signature]
City of Dallas Building Official
(or authorized representative)

APPROVED AS TO FORM:
SAM A. LINDSAY, City Attorney

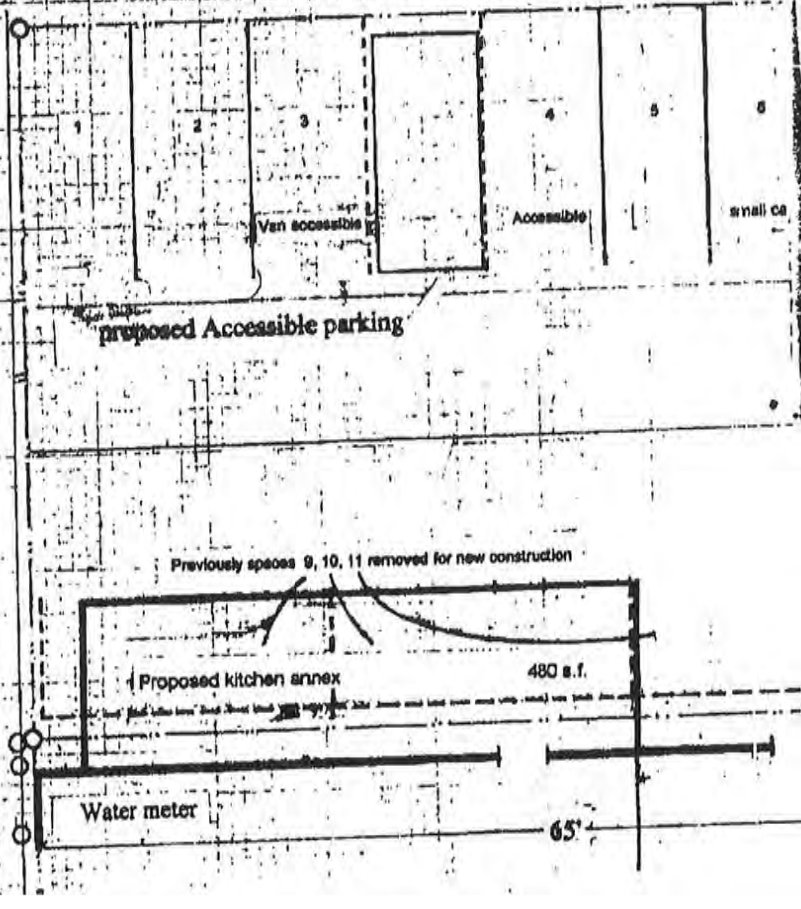
By: [Signature]
Assistant City Attorney

ATTACH THE APPROPRIATE ACKNOWLEDGMENTS FOR ALL SIGNATORIES, INCLUDING OWNER A, OWNER B, AND LIENHOLDERS/MORTGAGORS (IF APPLICABLE).

Revised 5/24/96
JPC/00230

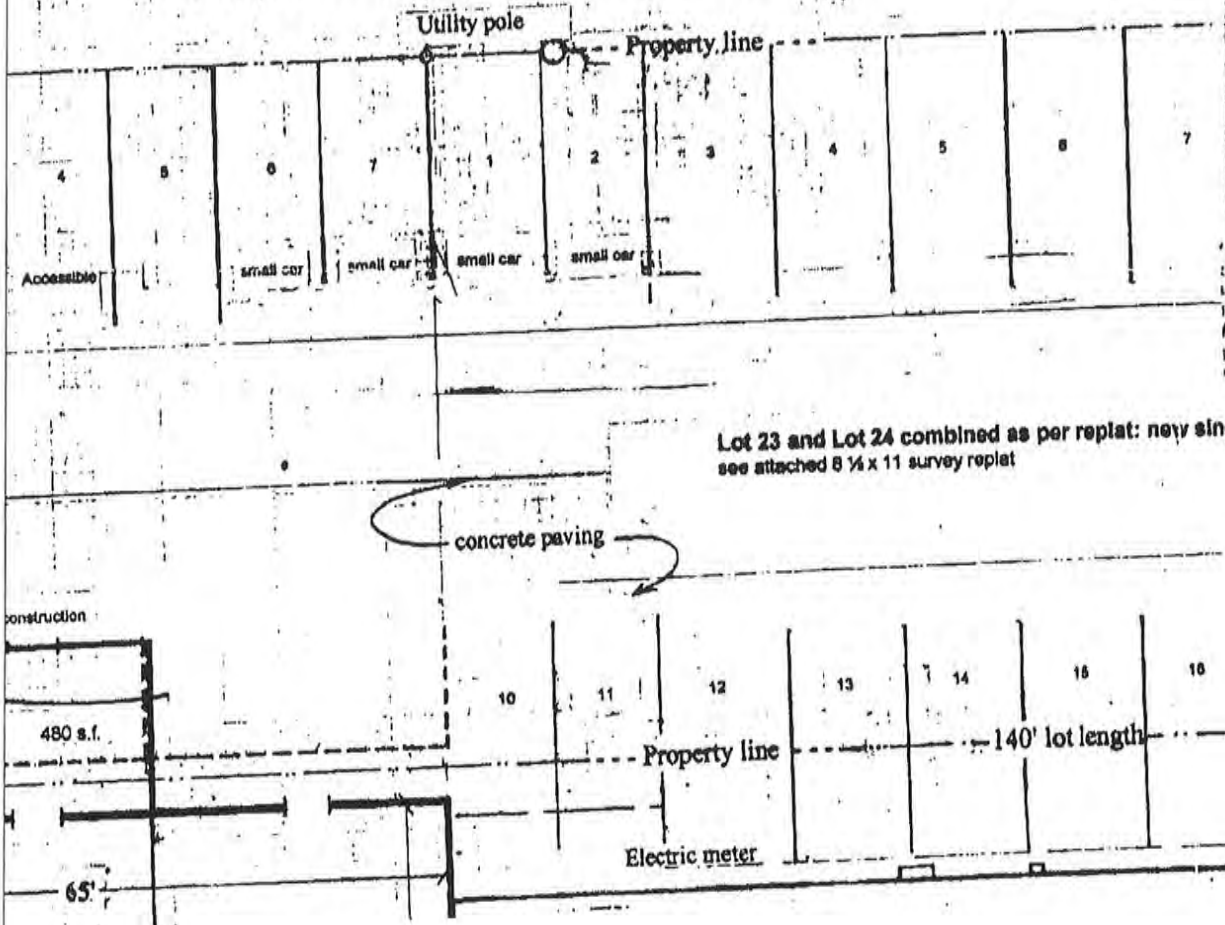
20890.8-195

a confirm location of subsurface electrical, fiber-optic, telephone
 secondary Sewer
 star
 e verify subsurface utility main location and size

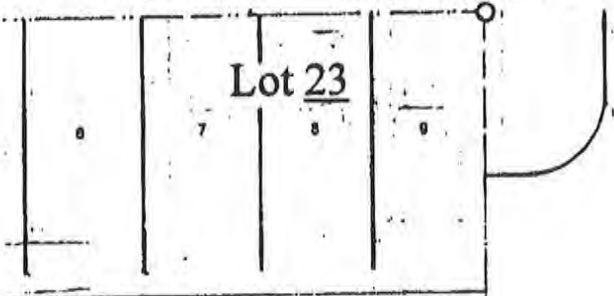


77890 64186

Delmar Heights Block 6/1918

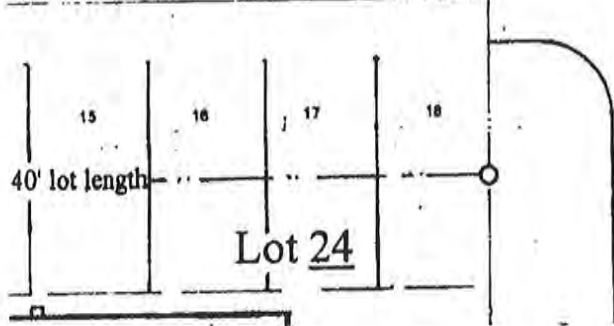


8



Lot 23

as per replat: new single lot 24A



Lot 24

Parking analysis

Existing buildings on lot 24A (previously agreement: *Parking Agreement* 1985 mar. Site Plan including parking calc.)
 The proposed construction of a kitchen as part of the 1985 agreement. Complies accessible spaces and the required aisle 1985 agreement. One space designated was never used (no basement).

Proposed kitchen annex
 Covered waiting and outdoor seating
 Total new footage requiring parking

Parking spaces lost to new bldg.
 Parking spaces lost to accessibility aisle
 New parking spaces req'd.
 Parking space not used for basement etc
 Total new parking spaces required

New parking to be provided at 5711 Vick proposed parking agreement. Of 20 total 12 parking spaces to the applicant, the C,

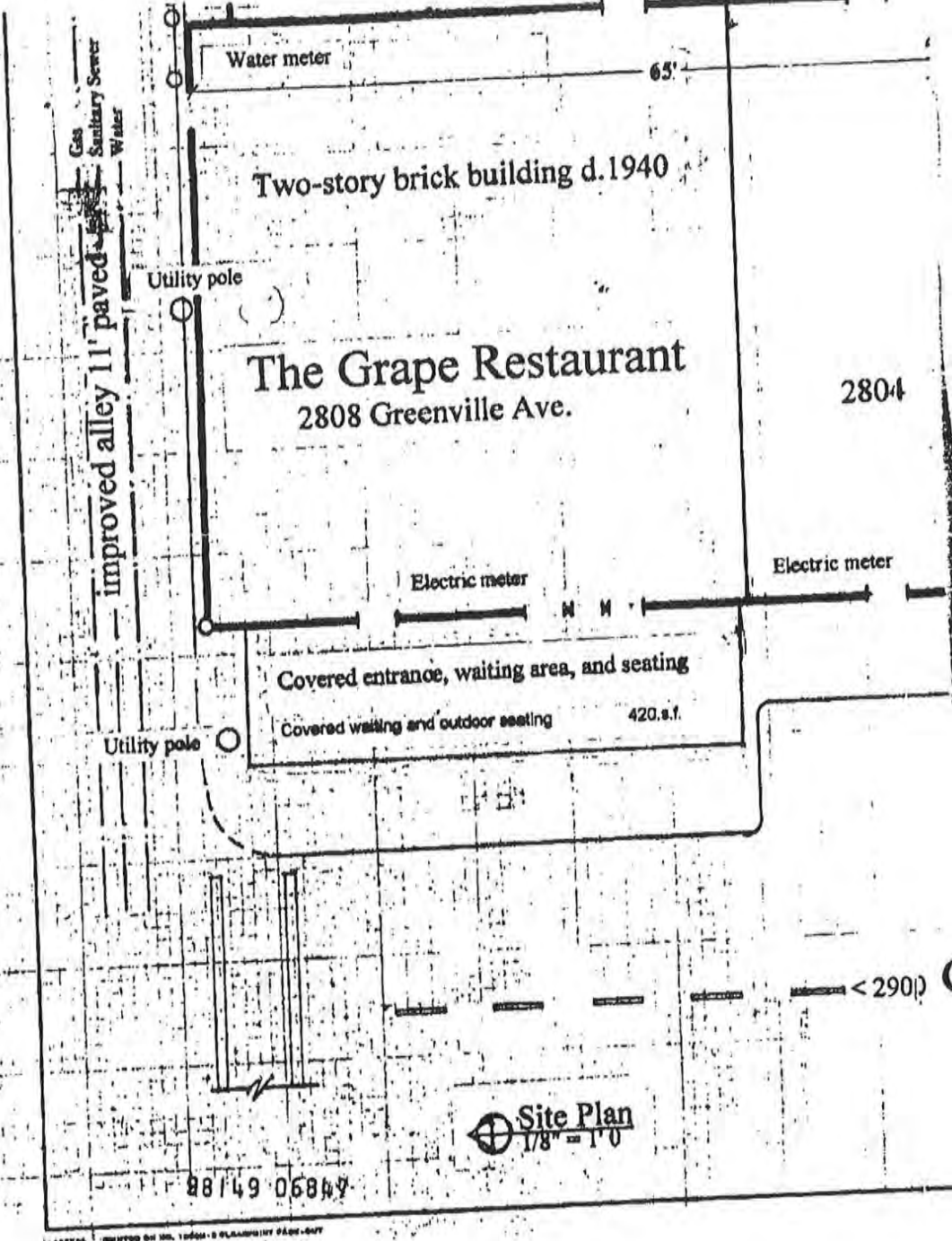
9/18/90 6/1/86

Lot 24A (previously lot 23 and lot 24) covered by previous parking Agreement 25 March 1985
 In including parking calculations used in parking agreement d. 1985
 Inclusion of a kitchen annex will eliminate three parking spaces used in agreement. Compliance with accessibility standards to provide (2) and the required aisle has eliminated one more space used in the same space designated in the 1985 agreement for basement storage (basement).

Annex	480 s.f.	
Outdoor seating	420 s.f.	
Requiring parking	900 s.f.	= 9 spaces
to new bldg.		3 spaces
to accessibility aisle		1 space
req'd.		13 spaces
req'd for basement sto.		<1 space>
spaces required		12 spaces

provided at 5711 Vickery (adjoining lot), Lot 22, Block 8/1918 as per agreement. Of 20 total available spaces, 5711 Vickery will provide the applicant, the Grape Building Joint Venture.

Contractor : **Cerebral Builders**
 (214) 824-5113 Office (214) 887-0936 Fax
Design-Build and Construction Management



Site Plan
1/8" = 1'-0"

98149 06847

DESIGN: PREPARED BY MR. TERRY S. CLARKE CIVIL ENGINEER

Lot 2

Electric meter

Two-story brick building d.1985

2804

2802

47' 5"

Electric meter

Stre

< 2900 Greenville Avenue 2800 >

Site Plan and General Notes

98149 06848

Lot 24

985

50' lot width

Streetlight

<5600 Vickery Boulevard 5700>

FOR
 RECORD AGREEMENT
 ZONING ONLY APPROVED
 (subject to corrections noted)
 By *[Signature]*

98149 06849

ONLY

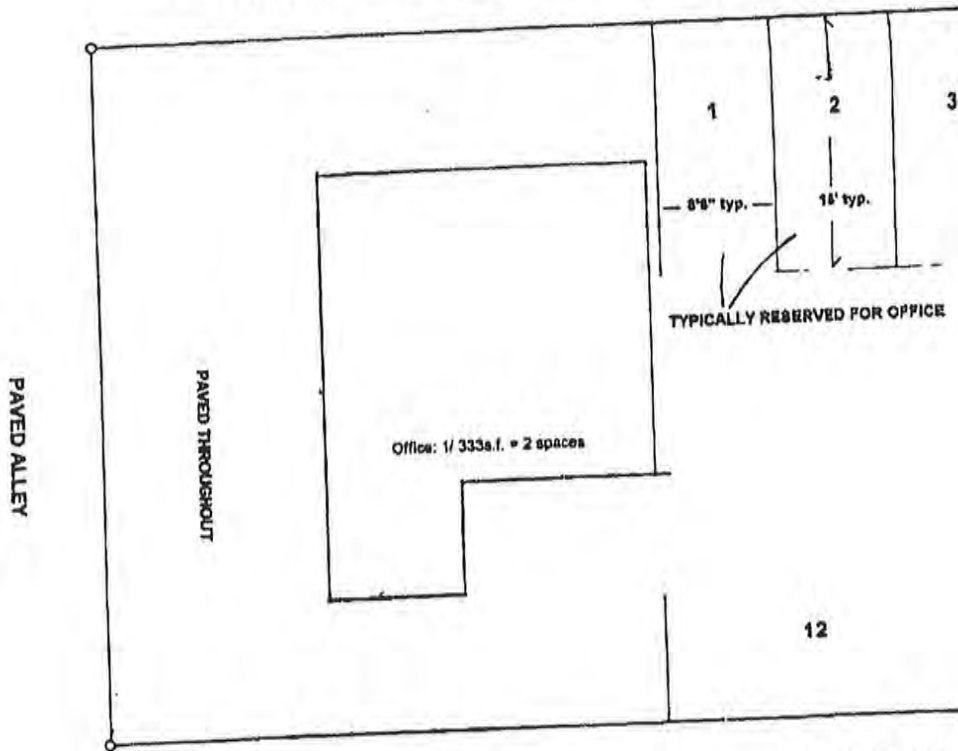
98149 06850

Date 11/12/97
 Revisions 5/1/96
 Page A1 of 2

The Grape Restaurant
 2808 Greenville Avenue Dallas Texas
 Construction Drawings Phase 1

5711 Vickery Boulevard
 Lot no. 22 Block 8/1918 of Delmar Heights
 an addition to the City of Dallas, Dallas County
 recorded in Volume 1 at page 188

571



Site Plan 1/8" = 1' 0"

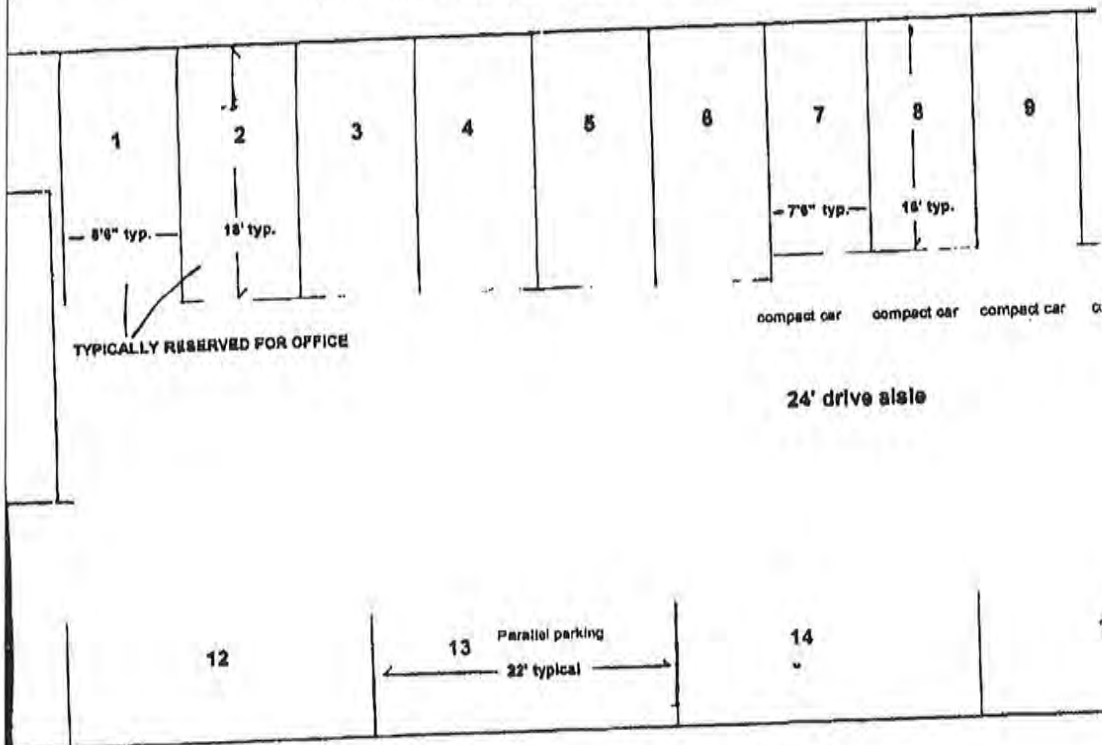
5711 VICKERY,
 VENTURE CAN
 THE LOT) TO L
 VENTURE.

*FORMERLY LOT

98149 06851

Heights
Dallas County

5711 Vickery with one story frame office 548 s.f.



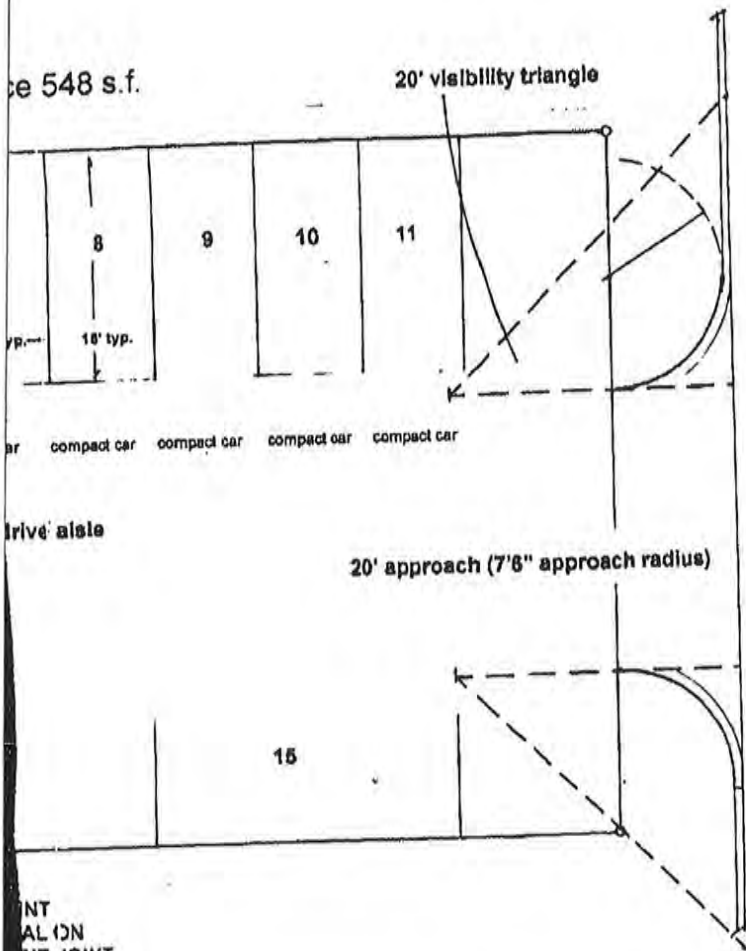
5711 VICKERY, LOT 22 OWNED BY THE GRAPE RESTAURANT JOINT VENTURE CAN PROVIDE UP TO 13 PARKING SPACES (OF 18 TOTAL ON THE LOT) TO LOT 24A* ALSO OWNED BY THE GRAPE RESTAURANT JOINT VENTURE.

*FORMERLY LOTS 22 AND 23; REPLATTED TO A SINGLE LOT; "S" NUMBER S 978-107

98149 06852

ce 548 s.f.

20' visibility triangle



18' typ.

compact car compact car compact car compact car

drive aisle

20' approach (7'6" approach radius)

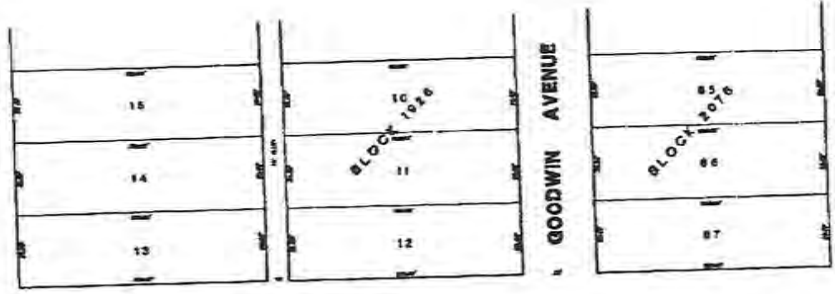
15

VICKERY BOULEVARD

INT
AL (DN
INT JOINT

973-107

98149 06853



GREENVILLE AVENUE



STATE OF TEXAS
COUNTY OF DALLAS

Know all men by these presents that the undersigned, the City of Dallas, Texas, do hereby certify that the above and foregoing plat of Greenville Avenue, Block 8/1918, is a true and correct copy of the original plat on file in the office of the City Clerk of Dallas, Texas, and that the same has been duly recorded in the public records of the County of Dallas, Texas, in Book 10, Page 10, of the Public Records of said County.

Witness my hand and the seal of the City of Dallas, Texas, this 10th day of August, 1918.

City Clerk

STATE OF TEXAS
COUNTY OF DALLAS

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City Clerk

PRELIMINARY PLAN
THE GRAPE BUILDING
LOT 24A IN BLOCK 8/1918
 BEING A REPLAT OF 24 LOTS 23 AND 24 - BLOCK 8/1918
 GREENLAND HEIGHTS
CITY OF DALLAS
DALLAS COUNTY, TEXAS
CITY PLAN NO.

98149 06854



December 23, 2020

Ms. Jennifer Munoz
Chief Planner
City of Dallas
1500 Marilla, 5BN
Dallas, TX 75201

RE: BDA 201-206; 2808 Greenville Avenue Suite 200-203

Dear Ms. Munoz,

The owner of the property listed above seeks the reinstatement of non-conforming rights for multifamily uses on the second floor.

The property listed above was developed under GR zoning standards. A permit is listed on record (permit number 8510211071) to create three apartments on the second floor of this commercial property. Chapter 51 GR zoning standards allowed multifamily uses as well as commercial uses on the same property.

The transition of zoning districts from Chapter 51 to Chapter 51A included the conversion of GR zoning district into a CR zoning district. Chapter 51A CR zoning districts do not permit multifamily uses. This transition occurred in 1988, three years after the original permit was issued for construction.

The new property owner seeks to remodel the existing three dwelling units on the second floor. We submitted permits for review, affidavits from surrounding property owners acknowledging the apartments on the second floor, and a copy of a lease from the same tenants that ran from 1996-2020. It is our understanding that the tenants listed in this lease also worked for the restaurant on the first floor.

A record search for this use at this property has been hampered by a third party contractor with the City of Dallas archives. All archives for this address have been sent to Houston, Texas to be digitized. City staff and the applicant have been unable to secure any other records regarding this address since they are not available. It is unclear when these records will be returned to archives.

The proposed remodel of the existing apartments will provide updated electrical and water utilities. It will also reconfigure access that does not conflict with the commercial space on the first floor. The original stairwell to Greenville Avenue impacted the layout of the restaurant on the first floor. It will now be configured to be located on the southside of the building.



Please accept the following exhibits for consideration with this request:

- Exhibit A: Original permit to construct the three apartments.
- Exhibit B: Original floor plan of existing apartments
- Exhibit C: Proposed floor plan of apartments
- Exhibit D1-D2: Affidavits from surrounding property owners acknowledging apartments on the second floor.
- Exhibit E: 1996 Lease
- Exhibit F: Termination of 1996 Lease
- Exhibit G: 1998 City of Dallas Parking Agreement

The evidence submitted with these exhibits demonstrate apartments on the second floor. Two tenants on the second floor used the same apartments for almost 25 years (Exhibit E and F). The affidavits acknowledge that apartments had been utilized on the second floor over time. The City of Dallas acknowledges residential use of the property in their 1998 parking agreement for the property. The property owner seeks to retain this use and remodel the units. They are not expanding the number of units. They only seek to remodel the existing three units with updated utilities and new configuration.

This use has not intentionally been vacated by the previous or current owner. Again, archive record searches have been hindered by the fact that records are not available to the property owner or city staff.

Please feel free to contact my office if you have any questions regarding these items.

Sincerely,

Santos T. Martinez
Authorized representative for
Property owner



Dallas Home Building Inspection Home Offices Records Newsletter Government

Master Permit - 8510211071

Details Trades Documents Zoning Info

Property

Street Address

View 2802 GREENVILLE AVE

Status: Work Completed

Application Date: Oct 21, 1985

Issue Date: Oct 21, 1985

Completed Date: Jul 10, 1986

Applicant

GRAY-BILT CONSTRUCTION
5622 DYER ST
225
DALLAS, TX 75206
()-

Contractor

GRAY-BILT CONSTRUCTION
5622 DYER ST
225
DALLAS, TX 75206
()-

Owner Category: PRIVATE

Fee Web Contractor:

Work Description: CONSTRUCT ADDITIONS TO BLDG

Land Use Description: MULTI-FAMILY DWELLING

Project

Doing business as:

Activity: (B) Alteration or Reconstruction or Renovation

Occupancy: R1 Selling Alcohol: [] Dwelling Units: 0

Constr. Type: V1HR Dance Floor: [] Stories: 0

Bedrooms: 0

Bathrooms: 0

Sprinkler: None

Required Parking: 17

Proposed Parking: 18

Sq Ft

Cost

New: 0

New: \$0.00

Remodel:

Remodel: \$350,000.00

Total: 6,064

Job Value: \$350,000.00

CA Not Required: []

Subdivision not Required: []

City of Dallas Permit Stamps



GENERAL NOTES

- GENERAL**
- CONTRACTOR SHALL DELIVER SALVAGED ITEMS TO DESIGNATED ON-SITE LOCATION AS INSTRUCTED BY OWNER, TYPICAL.
 - CONTRACTOR IS TO RETAIN HISTORIC MATERIAL UNCOVERED DURING SELECTIVE DEMOLITION FOR ARCHITECT AND OWNER TO REVIEW.
 - OWNER ABATED HAZARDOUS MATERIALS UNDER A SEPARATE CONTRACT.
 - REMOVE EXISTING FASTENERS, STRAPS, PIPING, CONDUIT, WIRE, ETC. THAT ARE NOT BEING USED FROM EXISTING FINISH SURFACES.

- PROTECTION**
- PROTECT INTERIOR FINISHES AND ELEMENTS SCHEDULED TO REMAIN DURING SELECTIVE DEMOLITION PROCESS. DAMAGE TO EXISTING FINISH SURFACES BY THE CONTRACTOR SHALL BE CORRECTED IN KIND AT NO ADDITIONAL EXPENSE TO THE OWNER.
 - REMOVE DEBRIS FROM DEMOLITION AT THE END OF EACH WORK DAY AND MAINTAIN BUILDING IN A SAFE MANNER CLEAR OF DEMOLITION AND CONSTRUCTION DEBRIS AND EQUIPMENT.
 - PROVIDE TEMPORARY WEATHERTIGHT CLOSURES FOR EXTERIOR OPENINGS TO PROVIDE ACCEPTABLE INTERIOR WORKING CONDITIONS, TO ALLOW FOR TEMPORARY HEATING AND MAINTENANCE OF AMBIENT TEMPERATURES REQUIRED IN INDIVIDUAL SPECIFICATION SECTIONS, TO PROTECT THE WORK, AND TO PREVENT ENTRY OF UNAUTHORIZED PERSONS.

- WALLS**
- REMOVE AND DISCARD MASONRY AND STUD WALLS AND ASSOCIATED FASTENERS WHERE INDICATED ON THE DRAWINGS.
 - EXISTING PLASTER SURFACES:
 - REMOVE LOOSE AND FLAKING PAINT FROM PLASTER WALL SURFACES.
 - REMOVE DAMAGED AND LOOSE PLASTER TO SOUND SUBSTRATE.
 - CAREFULLY TRENCH EXISTING PLASTER/MASONRY WALLS AS REQUIRED TO INSTALL CONCEALED MEP INFRASTRUCTURE. MEP COMPONENTS MAY BE SURFACE MOUNTED BACKSTAGE ONLY, COORDINATE LOCATIONS WITH ARCHITECT.
 - REPAIR ORIGINAL SUBSTRATE AND APPLY SKIM COAT TO FINISH SURFACE AS REQUIRED TO MATCH ORIGINAL PLASTER SURFACE.

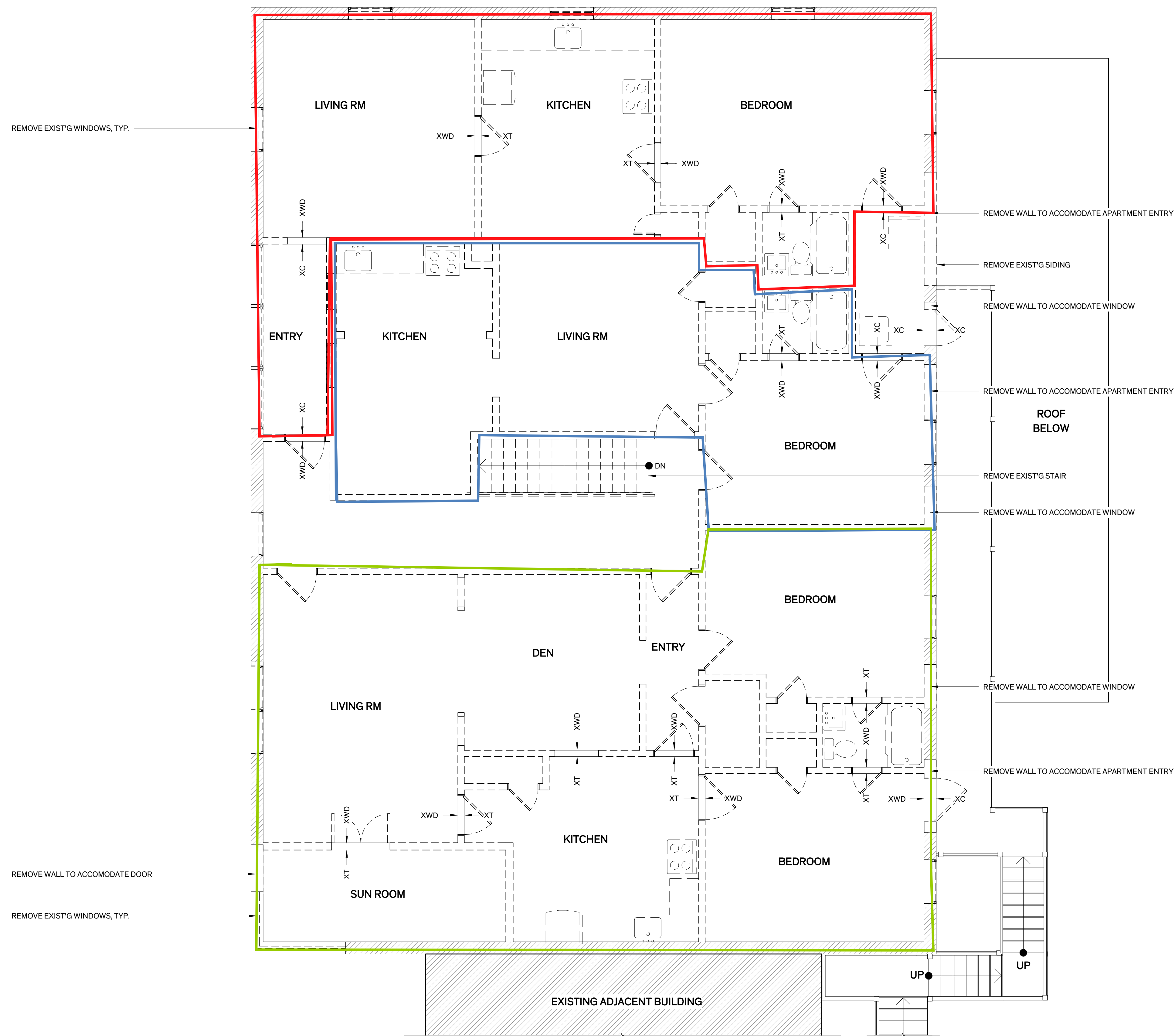
- FLOORS**
- EXISTING TILE FLOORING:
 - REMOVE TILE FLOORING THROUGHOUT LEVELS 1 & 2 EXCEPT FOR THE KITCHEN.
 - EXISTING WOOD AND VCT FLOORING:
 - REMOVE ALL WOOD AND VCT FLOORING THROUGHOUT LEVELS 1 & 2.

- DOORS & WINDOWS**
- REMOVE AND DISCARD NON-ORIGINAL DOORS AND WINDOWS (INCLUDING FRAMES, ASSOCIATED CASINGS, WINDOW TREATMENTS, TRIM, AND HARDWARE) AS INDICATED ON DRAWINGS.

- MEP**
- REMOVE EXISTING CONDUIT, OUTLETS, RACEWAYS, SWITCHES, SLEEVES, STRAPS, ANCHORS, NAILS, BOLTS, SCREWS, ETC. WHICH ARE EXPOSED OR UNCOVERED DURING SELECTIVE DEMOLITION, WHETHER OR NOT THEY ARE INDICATED ON THE DRAWINGS.
 - REMOVE AND DISCARD EXISTING PLUMBING FIXTURES, ACCESSORIES, AND INTEGRAL PIPING UNLESS NOTED OTHERWISE.
 - DEMO AND REINFORCE EXISTING CONSTRUCTION FOR INSTALLATION OF NEW MEP SYSTEMS (REF. STRUCTURAL AND MEP DRAWINGS).
 - REMOVE NON-ORIGINAL LIGHT FIXTURES, ELECTRICAL SUPPLY & DISTRIBUTION ELEMENTS.
 - REMOVE AND DISCARD EXISTING FIRE / SMOKE DETECTION SYSTEMS AND TELEPHONE / DATA LINES.
 - WHERE ELEMENTS ARE EMBEDDED IN FINISH SURFACES, CUT BACK ITEM A MINIMUM OF 1 INCH BEHIND FINISHED SURFACE TO ENSURE PROPER FINISHING DURING RESTORATION.

LEGEND

- EXIST'G WALL TO REMAIN
- EXIST'G WALL TO BE REMOVED
- FLOOR AREA TO BE REMOVED
- WALLS, FURNISHINGS, & OTHER MISC. ITEMS TO BE REMOVED (SHOWN DASHED)
- EXIST'G DOOR TO BE REMOVED & DISCARDED
- EXIST'G CONCRETE
- EXIST'G TILE
- EXIST'G VCT
- EXIST'G WOOD



1 DEMO LEVEL 2 FLOOR PLAN
1/4" = 1'-0"
N
TRUE NORTH
1-32

2808 Greenville Ave
Dallas, TX 75219

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REVISION HISTORY

PERMIT SET



#9409 6/5/2020

Architexas No. 2001 Date 6/5/2020

Sheet Name DEMO LEVEL 2 FLOOR PLAN

Sheet Number

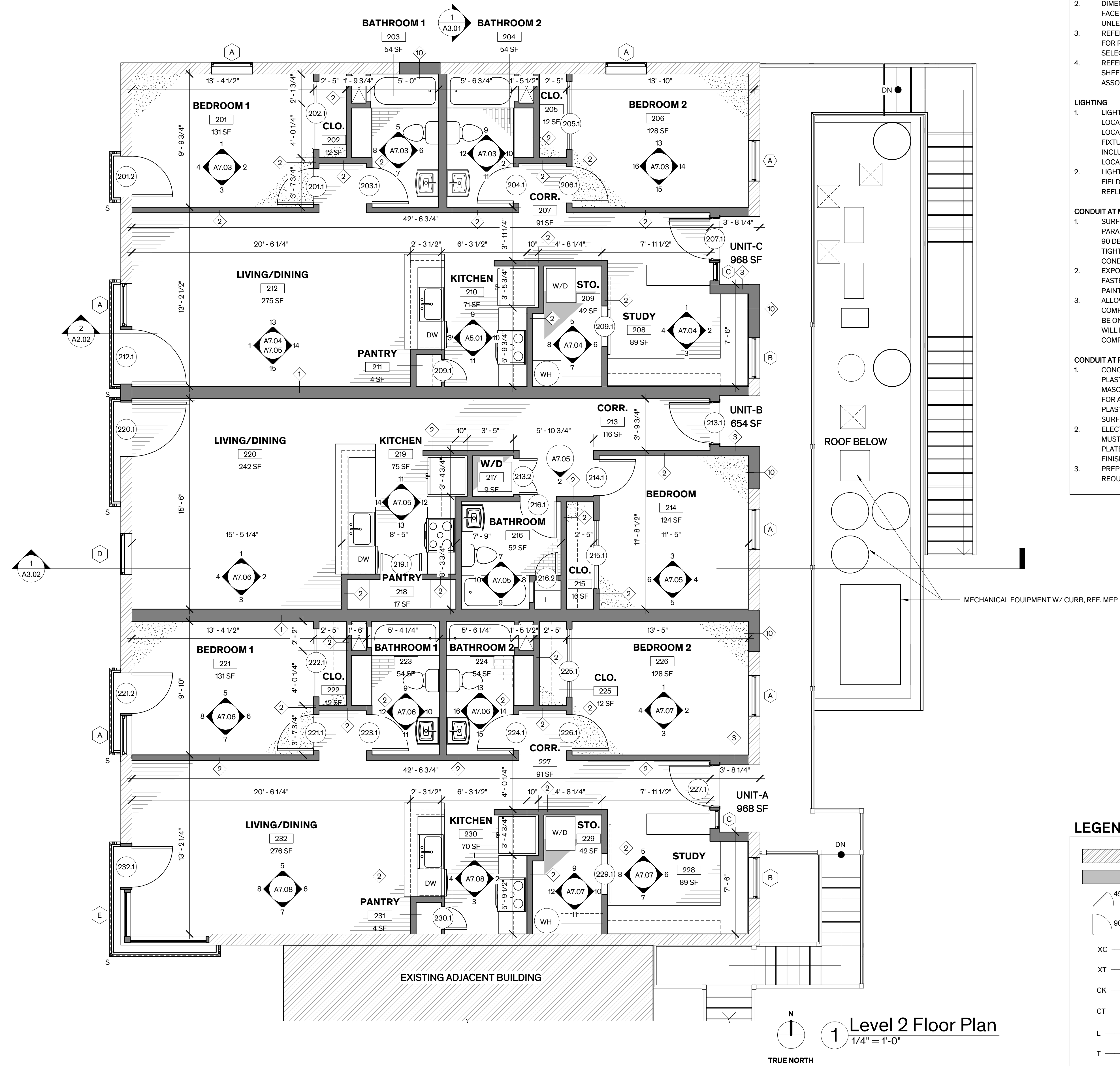
GENERAL NOTES

- GENERAL**
- FINISH EXPOSED SURFACES UNLESS NOTED OTHERWISE. THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR THE COORDINATION OF THE COMPLETE FINISH-OUT OF THE PROJECT. ANY SURFACES WHICH DO NOT HAVE A SPECIFIC FINISH NOTED, NOR ARE NOTED TO REMAIN UNFINISHED SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT AND FINISHED PER THE ARCHITECT'S INSTRUCTION.
 - DIMENSIONING AT WALLS SHOWN IS FINISHED FACE OF WALL TO FINISHED FACE OF WALL UNLESS NOTED OTHERWISE.
 - REFERENCE FINISH SCHEDULE ON SHEET A6.02 FOR ROOM FINISH AND PAINT COLOR SELECTIONS.
 - REFERENCE DOOR AND WINDOW SCHEDULES ON SHEETS A6.02 THRU A6.03 FOR SCOPE OF WORK ASSOCIATED WITH DOORS AND WINDOWS.

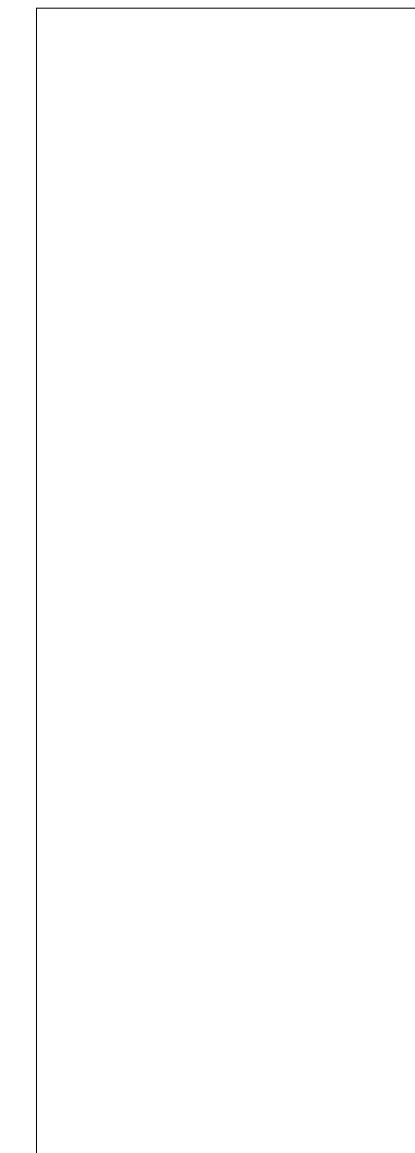
- LIGHTING**
- LIGHT FIXTURE LOCATIONS HAVE PRIORITY OVER LOCATION OF MEP SYSTEMS. COORDINATE LOCATION OF MEP SYSTEMS AWAY FROM LIGHT FIXTURES. MEP SHOP DRAWINGS ARE TO INCLUDE AN OVERLAY OF LIGHT FIXTURE LOCATIONS.
 - LIGHT FIXTURES ARE TO BE LOCATED IN THE FIELD AS DIMENSIONED ON THE ARCHITECTURAL REFLECTED CEILING PLANS.

- CONDUIT AT MASONRY WALLS**
- SURFACE MOUNT CONDUIT AND J-BOXES PARALLEL TO FLOOR AND WALLS. PROVIDE TIGHT 90 DEGREE BENDS AT CORNERS AND GANG TIGHT AND PARALLEL TO OTHER PIPING AND CONDUIT WHERE POSSIBLE.
 - EXPOSED CONDUIT, PIPING, WIRING, ASSOCIATED FASTENERS, ETC. ARE TO BE PRIMED AND PAINTED.
 - ALLOW FOR (3) PAINT COLORS ON MEP COMPONENTS. MECHANICAL COMPONENTS WILL BE ONE COLOR, ELECTRICAL COMPONENTS WILL BE A SECOND COLOR, AND PLUMBING COMPONENTS WILL BE A THIRD COLOR.

- CONDUIT AT PLASTER WALLS**
- CONCEAL CONDUIT BEHIND FINISH FACE OF PLASTER. ROUT PLASTER AND UNDERLYING MASONRY TO ACCEPT CONDUIT AND TO ALLOW FOR A FULL APPLICATION OF LATH AND PLASTER. PLASTER IS TO MATCH EXISTING ADJACENT SURFACES.
 - ELECTRICAL BOXES AND ASSOCIATED ELEMENTS MUST BE RECESSED INTO WALLS SO THAT COVER PLATES AND DEVICES ARE FLUSH WITH THE FINISH SURFACE OF THE WALL.
 - PREPARE AND FINISH PLASTER WALLS AS REQUIRED TO MATCH ORIGINAL PLASTER FINISH.



City of Dallas Permit Stamps



2808 Greenville Ave
Dallas, TX 75219

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REVISION HISTORY

PERMIT SET



#9409 6/5/2020

Architexas No. 2001 Date 6/5/2020

Sheet Name LEVEL 2 FLOOR PLAN

Sheet Number

EXHIBIT D1

September 8, 2020

To Whom it May Concern:

I am resident of 5530 Goodwin Avenue since 1992. Over this time, I have patronized the Grape restaurant (and the adjacent restaurants and businesses as well) and have known The Grape to have apartments above it the entire time I have resided at this address.

I do remember in 1993, the tenants of these apartments placed their speakers on their windows to play "The Boys are Back in Town" when the Dallas Cowboys won the Super Bowl as people celebrated on Greenville Avenue. Gosh that was a long time ago! In the mid-1990s, I also went inside one of the units.

And let the record show that I have no financial interest in these properties, neither with the past nor present owners, nor with any real estate transactions.

Sincerely,

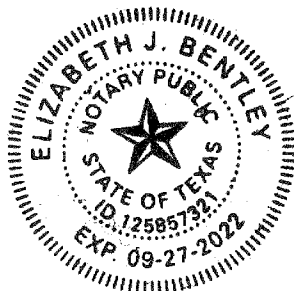


9/8/2020

Mark Rieves
5530 Goodwin Ave
Dallas, TX 75206
214-707-8285
mark@rieves.net

State of Texas
County of Dallas

Before me, on this 8th day of September, 2020, personally appeared Mark Rieves known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.



 Sept 8, 2020
Notary Public Signature

EXHIBIT D2

August 31, 2020

Ken Dawkins
5315 Vickery Boulevard
Dallas, Texas 75206
Cell: 214-762-4003
Email: Kendawkins77@gmail.com

Re: 2808 Greenville Avenue

To whom it may concern:

One of the main reasons I purchased my home at 5315 Vickery in 2000 was the proximity to the entertainment districts on Lower Greenville. Over that span of time, I have enjoyed frequenting restaurants there and building relationships with my neighbors and the leadership of Vickery Place Neighborhood Association. Now that I'm married with two children, we still enjoy our neighborhood and neighbors immensely with walks down to Lower Greenville a regular part of our routine.

Due to my interest in income generating properties and because I've got a friend who was a chef at The Grape, I've been interested in the 2nd floor apartments at the building for the entire time I've lived on Vickery. My interest was keen enough in fact to have made several attempts to locate the past ownership about buying the property but was never successful in setting up a meeting. Over the past 20 years, I've noticed outdoor furniture and residents on the patios facing Greenville Avenue as well as residents parking behind the building.

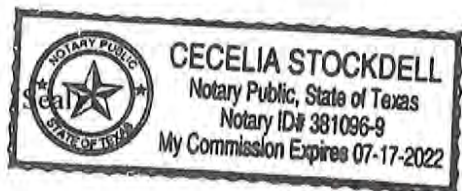
Please let me know if I can answer any other questions.



Ken Dawkins

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on August 31, 2020 by Ken Dawkins.





Notary Public Signature

My commission expires: 7-17-2022

EXHIBIT E

Form A310

RESIDENTIAL LEASE Apartment — Condominium — House

BY THIS AGREEMENT made and entered into on JUNE 10, 1996, between GRAPE BUILDING JOINT VENTURE, herein referred to as Lessor, and PETER LARSEN AND CARLOS TAFUR, herein referred to as Lessee, Lessor leases to Lessee the premises situated at 2808 GREENVILLE APT B, in the City of DALLAS, County of DALLAS, State of TEXAS, and more particularly described as follows: A TWO-BEDROOM APARTMENT FOR RESIDENCE ONLY, together with all appurtenances, for a term of ONE year, to commence on JUNE 10, 1996, and to end on MAY 31ST, 1997, at 6 o'clock p.m.

1. **Rent.** Lessee agrees to pay, without demand, to Lessor as rent for the demised premises the sum of EIGHTY SEVEN HUNDRED AND FIFTY Dollars (\$ 8750) per month in advance on the 1ST day of each calendar month beginning JUNE 10, 1996, at 2808 GREENVILLE AVE City of DALLAS, State of TEXAS, or at such other place as Lessor may designate.

2. **Security Deposit.** On execution of this lease, Lessee deposits with Lessor Dollars (\$ 750.00), receipt of which is acknowledged by Lessor, as security for the faithful performance by Lessee of the terms hereof, to be returned to Lessee, without interest, on the full and faithful performance by him of the provisions hereof.

3. **Quiet Enjoyment.** Lessor covenants that on paying the rent and performing the covenants herein contained, Lessee shall peacefully and quietly have, hold, and enjoy the demised premises for the agreed term.

4. **Use of Premises.** The demised premises shall be used and occupied by Lessee exclusively as a private single family residence, and neither the premises nor any part thereof shall be used at any time during the term of this lease by Lessee for the purpose of carrying on any business, profession, or trade of any kind, or for any purpose other than as a private single family residence. Lessee shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the demised premises, and the sidewalks connected thereto, during the term of this lease.

5. **Number of Occupants.** Lessee agrees that the demised premises shall be occupied by no more than 2 persons, consisting of 2 adults and 0 children under the age of years, without the written consent of Lessor.

6. **Condition of Premises.** Lessee stipulates that he has examined the demised premises, including the grounds and all buildings and improvements, and that they are, at the time of this lease, in good order, repair, and a safe, clean, and tenantable condition.

7. **Assignment and Subletting.** Without the prior written consent of Lessor, Lessee shall not assign this lease, or sublet or grant any concession or license to use the premises or any part thereof. A consent by Lessor to one assignment, subletting, concession, or license shall not be deemed to be a consent to any subsequent assignment, subletting, concession, or license. An assignment, subletting, concession, or license without the prior written consent of Lessor, or an assignment or subletting by operation of law, shall be void and shall, at Lessor's option, terminate this lease.

8. **Alterations and Improvements.** Lessee shall make no alterations to the buildings on the demised premises or construct any building or make other improvements on the demised premises without the prior written consent of Lessor. All alterations, changes, and improvements built, constructed, or placed on the demised premises by Lessee, with the exception of fixtures removable without damage to the premises and movable personal property, shall, unless otherwise provided by written agreement between Lessor and Lessee, be the property of Lessor and remain on the demised premises at the expiration or sooner termination of this lease.

9. **Damage to Premises.** If the demised premises, or any part thereof, shall be partially damaged by fire or other casualty not due to Lessee's negligence or willful act or that of his employee, family, agent, or visitor, the premises shall be promptly repaired by Lessor and there shall be an abatement of rent corresponding with the time during which, and the extent to which, the leased premises may have been untenable; but, if the leased premises should be damaged other than by Lessee's negligence or willful act or that of his employee, family, agent, or visitor to the extent that Lessor shall decide not to rebuild or repair, the term of this lease shall end and the rent shall be prorated up to the time of the damage.



10. Dangerous Materials. Lessee shall not keep or have on the leased premises any article or thing of a dangerous, inflammable, or explosive character that might unreasonably increase the danger of fire on the leased premises or that might be considered hazardous or extra hazardous by any responsible insurance company.

11. Utilities. Lessee shall be responsible for arranging for and paying for all utility services required on the premises, except that shall be provided by Lessor.

12. Maintenance and Repair. Lessee will, at his sole expense, keep and maintain the leased premises and appurtenances in good and sanitary condition and repair during the term of this lease and any renewal thereof. In particular, Lessee shall keep the fixtures in the house or on or about the leased premises in good order and repair; keep the furnace clean; keep the electric bells in order; keep the walks free from dirt and debris; and, at his sole expense, shall make all required repairs to the plumbing, range, heating, apparatus, and electric and gas fixtures whenever damage thereto shall have resulted from Lessee's misuse, waste, or neglect or that of his employee, family, agent, or visitor. Major maintenance and repair of the leased premises, not due to Lessee's misuse, waste, or neglect or that of his employee, family, agent, or visitor, shall be the responsibility of Lessor or his assigns.

Lessee agrees that no signs shall be placed or painting done on or about the leased premises by Lessee or at his direction without the prior written consent of Lessor.

13. Animals. Lessee shall keep no domestic or other animals on or about the leased premises without the written consent of Lessor.

14. Right of Inspection. Lessor and his agents shall have the right at all reasonable times during the term of this lease and any renewal thereof to enter the demised premises for the purpose of inspecting the premises and all building and improvements thereon.

15. Display of Signs. During the last 30 days of this lease, Lessor or his agent shall have the privilege of displaying the usual "For Sale" or "For Rent" or "Vacancy" signs on the demised premises and of showing the property to prospective purchasers or tenants.

16. Subordination of Lease. This lease and Lessee's leasehold interest hereunder are and shall be subject, subordinate, and inferior to any liens or encumbrances now or hereafter placed on the demised premises by Lessor, all advances made under any such liens or encumbrances, the interest payable on any such liens or encumbrances, and any and all renewals or extensions of such liens or encumbrances.

17. Holdover by Lessee. Should Lessee remain in possession of the demised premises with the consent of Lessor after the natural expiration of this lease, a new month-to-month tenancy shall be created between Lessor and Lessee which shall be subject to all the terms and conditions hereof but shall be terminated on 15 days' written notice served by either Lessor or Lessee on the other party.

18. Surrender of Premises. At the expiration of the lease term, Lessee shall quit and surrender the premises hereby demised in as good state and condition as they were at the commencement of this lease, reasonable use and wear thereof and damages by the elements excepted.

19. Default. If any default is made in the payment of rent, or any part thereof, at the times hereinbefore specified, or if any default is made in the performance of or compliance with any other term or condition hereof, the lease, at the option of Lessor, shall terminate and be forfeited, and Lessor may re-enter the premises and remove all persons therefrom. Lessee shall be given written notice of any default or breach, and termination and forfeiture of the lease shall not result if, within 3 days of receipt of such notice, Lessee has corrected the default or breach or has taken action reasonably likely to effect such correction within a reasonable time.

20. Abandonment. If at any time during the term of this lease Lessee abandons the demised premises or any part thereof, Lessor may, at his option, enter the demised premises by any means without being liable for any prosecution therefor, and without becoming liable to Lessee for damages or for any payment of any kind whatever, and may, at his discretion, as agent for Lessee, relet the demised premises, or any part thereof, for the whole or any part of the then unexpired term, and may receive and collect all rent payable by virtue of such reletting, and, at Lessor's option, hold Lessee liable for any difference between the rent that would have been payable under this lease during the balance of the unexpired term, if this lease had continued in force, and the net rent for such period realized by Lessor by means of such reletting. If Lessor's right of re-entry is exercised following abandonment of the premises by Lessee, then Lessor may consider any personal property belonging to Lessee and left on the premises to also have been abandoned, in which case Lessor may dispose of all such personal property in any manner Lessor shall deem proper and is hereby relieved of all liability for doing so.

21. Binding Effect. The covenants and conditions herein contained shall apply to and bind the heirs, legal representatives, and assigns of the parties hereto, and all covenants are to be construed as conditions of this lease.

22. Other Terms: PARKING: ONE CAR PER PERSON - NO PARKING MADE AVAILABLE FOR GUESTS AT ANY TIME;

IN WITNESS WHEREOF, the parties have executed this lease at 2808 GREENVILLE, the day and year first above written.

Charlotte Parker, joint venturer Lessor
[Signature] Lessee

EXHIBIT F

Pegasus Ablon Greenville 2808, LLC

c/o The S.F. Waranch Company
5720 LBJ Freeway, Suite 560
Dallas, Texas, 75240
214-526-5800

Notice to Vacant

Sent by Regular Mail and Hand Delivered to Premises.

January 13th, 2020

Peter Larson & Carlos Tafur
2808 Greenville Avenue 2nd Floor
Dallas, Texas 75206

Pegasus Ablon Greenville 2808, LLC ("Pegasus") purchased the property at 2808 Greenville Avenue, Dallas, Texas on January 7th, 2021. We have begun the renovations of the entire property. Pegasus plans to renovate and update your residence in February.

This is a notice that you must vacant the premises by February 15th, 2020.

Please contact me if you require any additional information.

Michael Zevallos



Property Manager
Authorized Agent for
Pegasus Ablon Greenville 2808, LLC

EXHIBIT G

COUNTY CLERK'S MEMO
FOR FRONT OF THIS
DOCUMENT NOT
REPRODUCIBLE
WHEN RECORDED

REMOTE PARKING AGREEMENT
(including church uses)

STATE OF TEXAS)
COUNTY OF DALLAS

KNOW ALL PERSONS BY THESE PRESENTS:

240524

Deed 07/31/98 1120160 489.00

I.

GRAPE BUILDING JOINT VENTURE

("Owner A") is the owner of the below described property ("Tract A"), which is the recipient of parking spaces:
Street Address 2800, 2802, 2804, 2808
Property Description: Lot 24A PREVIOUSLY LOTS 2528 Block 8/1918
Addition DELMAR HEIGHTS, Zoning District CRMD1
more particularly described in Volume 1, Page 186
in the Deed Records of DALLAS County, Texas. The below described use ("Use A") is located on Tract A: RETAIL / RESTAURANT / RESIDENTIAL
Floor area of Use A: 12,024. Total number of off-street parking spaces required for Use A: 52. Number of off-street parking spaces on Tract A provided for Use A to meet parking requirement: 26 EXISTING / 14 DELTA = 40 TOTAL SPACES

II.

GRAPE BUILDING JOINT VENTURE

("Owner B") is the owner of the below described property ("Tract B"), which is providing the parking spaces:
Street Address 5711 VICKERY
Property Description: Lot 22, Block 8/1918
Addition DELMAR HEIGHTS, Zoning District CRMD1, more particularly described in Volume 1, Page 186, in the Deed Records of DALLAS County, Texas. The below described use ("Use B") is located on Tract B: OFFICE / PARKING
Floor area of Use B: 608. Total number of off-street parking spaces required for Use B: 2. Total number of off-street parking spaces located on Tract B providing special parking for Use A: 12 OF 15

III.

In order that all uses governed by this agreement may operate in compliance with the off-street parking regulations in the Dallas Development Code of the Dallas City Code ("Code"), as amended, and derive all the benefits from such compliance, and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, as Owner A and Owner B have agreed upon, Owner A and Owner B agree to enter into this Agreement.

IV.

Owner A and Owner B agree that Tract B shall be used to provide 12 required off-street parking spaces for Use A to comply with the Code. The walking distance between Tract A and Tract B is ZERO feet.

* ADDING PROPERTIES

98149 06811

7.
Owner A and Owner B agree to comply with the off-street parking regulations in the Code.

VI.

The location of the off-street parking spaces on Tract B is shown on a site plan that is attached to and made a part of this agreement. The site plan must provide sufficient information to demonstrate compliance with the Code and all other applicable ordinances and regulations of the City of Dallas ("City").

VII.

This agreement may be amended or terminated only upon the filing, in the Deed Records of the county or counties in which Tracts A and B are located, of an instrument approved by the building official of the City and approved as to form by the city attorney. The building official shall approve an instrument amending or terminating this agreement if:

- (1) all uses providing parking and all uses on the property for which parking is provided under this agreement fully comply with the off-street parking regulations in the Code, as amended, by a means other than this parking agreement; or
- (2) all uses on the property for which parking is provided under this agreement cease to operate and terminate their certificates of occupancy.

Owner A or Owner B shall file the amending or terminating instrument in the Deed Records of the county or counties in which Tract A and Tract B are located at the sole cost and expense of Owner A or Owner B. After filing the amending or terminating instrument in the Deed Records, Owner A or Owner B shall file two copies of the instrument with the building official. No amendment or termination of this agreement is effective until the amending or terminating instrument is filed in accordance with this paragraph.

VIII.

This agreement inures to the benefit of, and is enforceable by, the parties to the agreement and the City. If a use is being operated in violation of this agreement, the building official shall revoke the certificate of occupancy for that use. Owner A and Owner B acknowledge that the City has the right to enforce this agreement by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against any person violating or attempting to violate this agreement, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce this agreement against a person, Owner A and Owner B agree that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs from that person.

IX.

Owner A and Owner B agree to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in conjunction with this agreement and the City granting, revoking, or withholding a building permit and/or certificate of occupancy by reason of this agreement.

X.

Owner A and Owner B understand and agree that this agreement shall be governed by the laws of the State of Texas.

XI.

Prior to the issuance of the building permit and/or certificate of occupancy for Use A, Owner A or Owner B shall file this agreement in the Deed Records of the county or counties in which Tracts A and B are located at the sole cost and expense of Owner A or Owner B. After filing this agreement in the Deed Records, Owner A or Owner B shall file two copies of this agreement with the building official.

XII.

Owner A and Owner B understand and agree that this agreement shall be a covenant running with the land with respect to both Tract A and Tract B, and that this agreement shall fully bind any and all successors, heirs, and assigns of Owner A or Owner B who acquire any right, title, or interest in or to Tract A or Tract B, or any part of those tracts. Any person who acquires any right, title, or interest in or to Tract A or Tract B, or any part of those tracts, thereby agrees and covenants to abide by and fully perform this agreement.

XIII.

Unless stated otherwise in this agreement, the definitions and provisions of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, apply and are incorporated into this agreement as if recited in this agreement.

XIV.

In the event that Tract A and Tract B are or ever become owned by the same person or entity, then this person or entity intends this agreement to be construed as a deed restriction, and that the Doctrine of Merger not apply.

XV.

If the building official places any conditions upon the approval of this parking agreement, those conditions shall be attached to and made a part of this agreement. If conditions are placed upon the approval of this agreement, Owner A and Owner B agree that they shall comply with each condition and understand that a failure to so comply shall constitute a violation of this agreement.

XVI.

Owner A and Owner B each certify and represent that there are no liens or mortgages, other than liens for ad valorem taxes, against their respective tracts if there are no signatures of lienholders or mortgagors subscribed below.

XVII.

The invalidation of any provision of this agreement by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED at Dallas, Dallas County, Texas, this 15 day of April, 1998.

Owner A: GRAPE BUILDING JOINT VENTURE
By: Charlotte Parker
Printed Name: CHARLOTTE PARKER
Title: JOINT VENTURER

Owner B: GRAPE BUILDING JOINT VENTURE
By: Charlotte Parker
Printed Name: CHARLOTTE PARKER
Title: JOINT VENTURER

CONSENT AND CONCURRENCE OF LIENHOLDERS OR MORTGAGORS:

COMPASS BANK

Tract A Lienholder/Mortgagor
By: James A. Murphy
Printed Name: JAMES A. MURPHY
Title: J.A.P. COMPASS BANK

SWISS AVENUE STATE BANK

Tract B Lienholder/Mortgagor
By: Glen Jenkins
Printed Name: Glen Jenkins
Title: V.P. SWISS AVE STATE BANK

APPROVED:

By: [Signature]
City of Dallas Building Official
(or authorized representative)

APPROVED AS TO FORM:
SAM A. LINDSAY, City Attorney

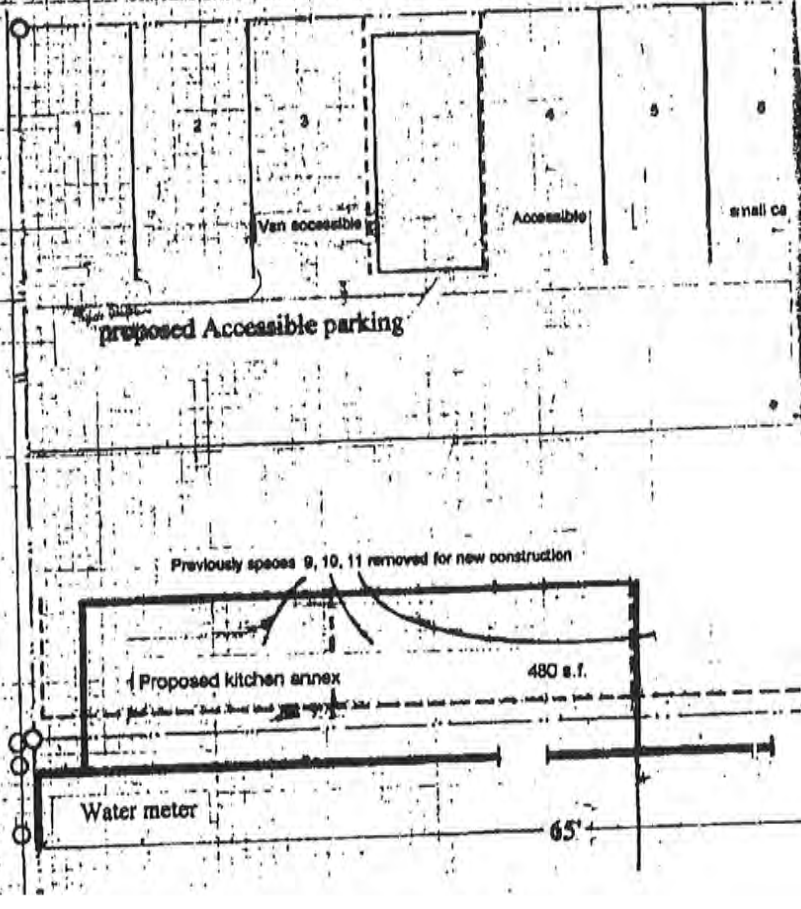
By: [Signature]
Assistant City Attorney

ATTACH THE APPROPRIATE ACKNOWLEDGMENTS FOR ALL SIGNATORIES, INCLUDING OWNER A, OWNER B, AND LIENHOLDERS/MORTGAGORS (IF APPLICABLE).

Revised 5/24/96
JPC/00230

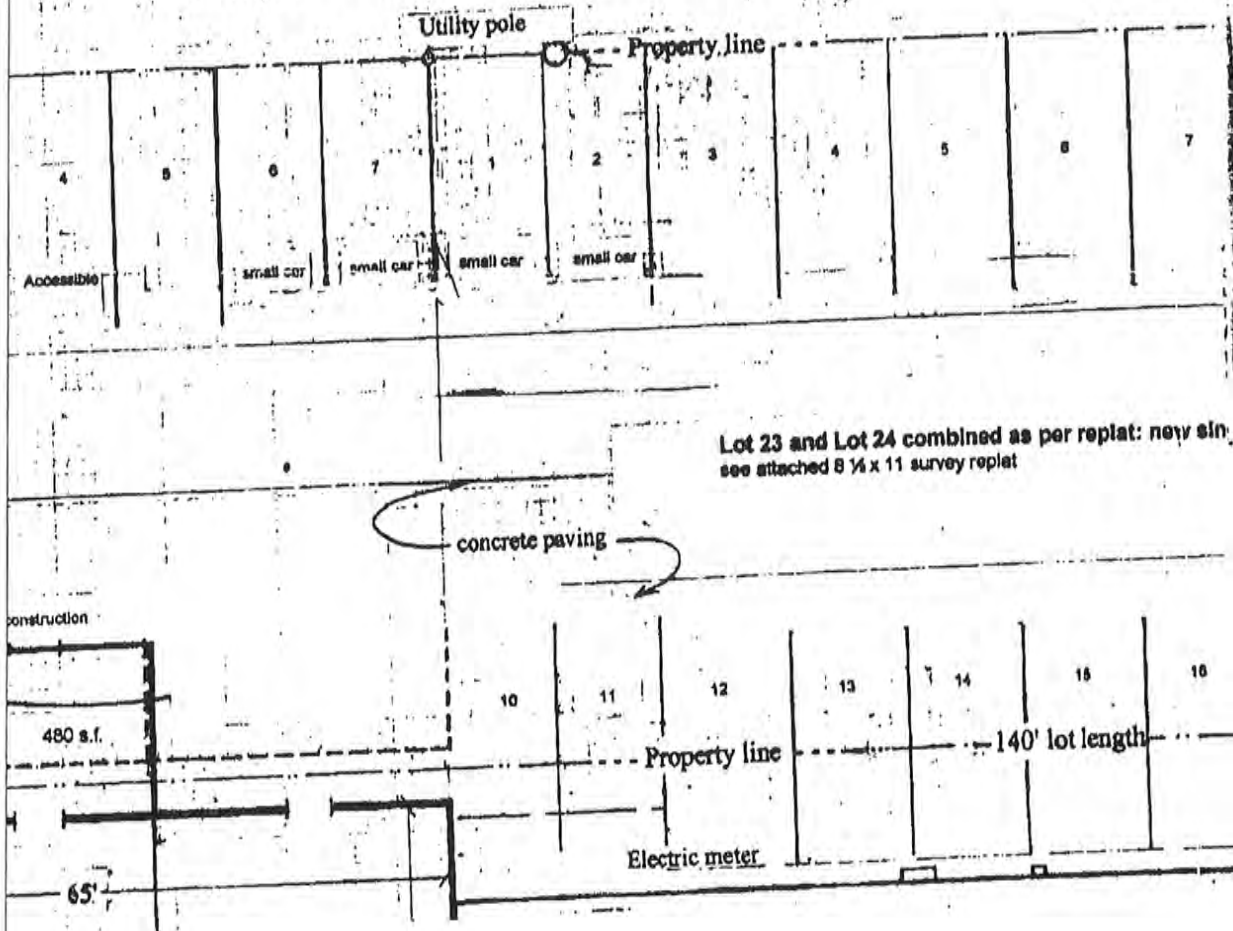
21890.8-185

• confirm location of subsurface electrical, fiber-optic, telephone
 • verify subsurface utility main location and size

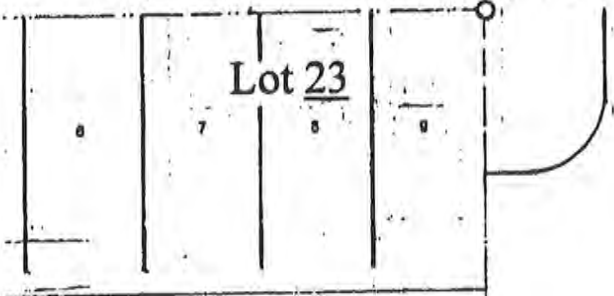


77890 64186

Delmar Heights Block 6/1918

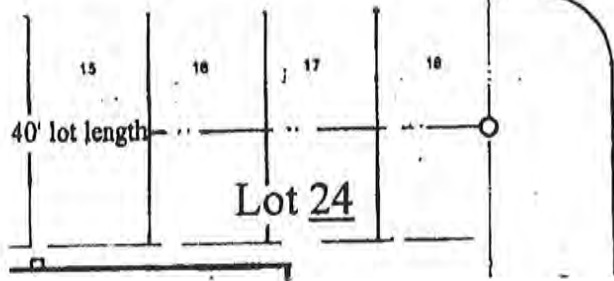


8



Lot 23

as per replat: new single lot 24A



Lot 24

Parking analysis

Existing buildings on lot 24A (previously agreement: *Parking Agreement* 1985 mar. Site Plan including parking calc.)
 The proposed construction of a kitchen as part of the 1985 agreement. Complies accessible spaces and the required aisle 1985 agreement. One space designated was never used (no basement).

Proposed kitchen annex
 Covered waiting and outdoor seating
 Total new footage requiring parking

Parking spaces lost to new bldg.
 Parking spaces lost to accessibility aisle
 New parking spaces req'd.
 Parking space not used for basement etc
 Total new parking spaces required

New parking to be provided at 5711 Vick proposed parking agreement. Of 20 total 12 parking spaces to the applicant, the G,

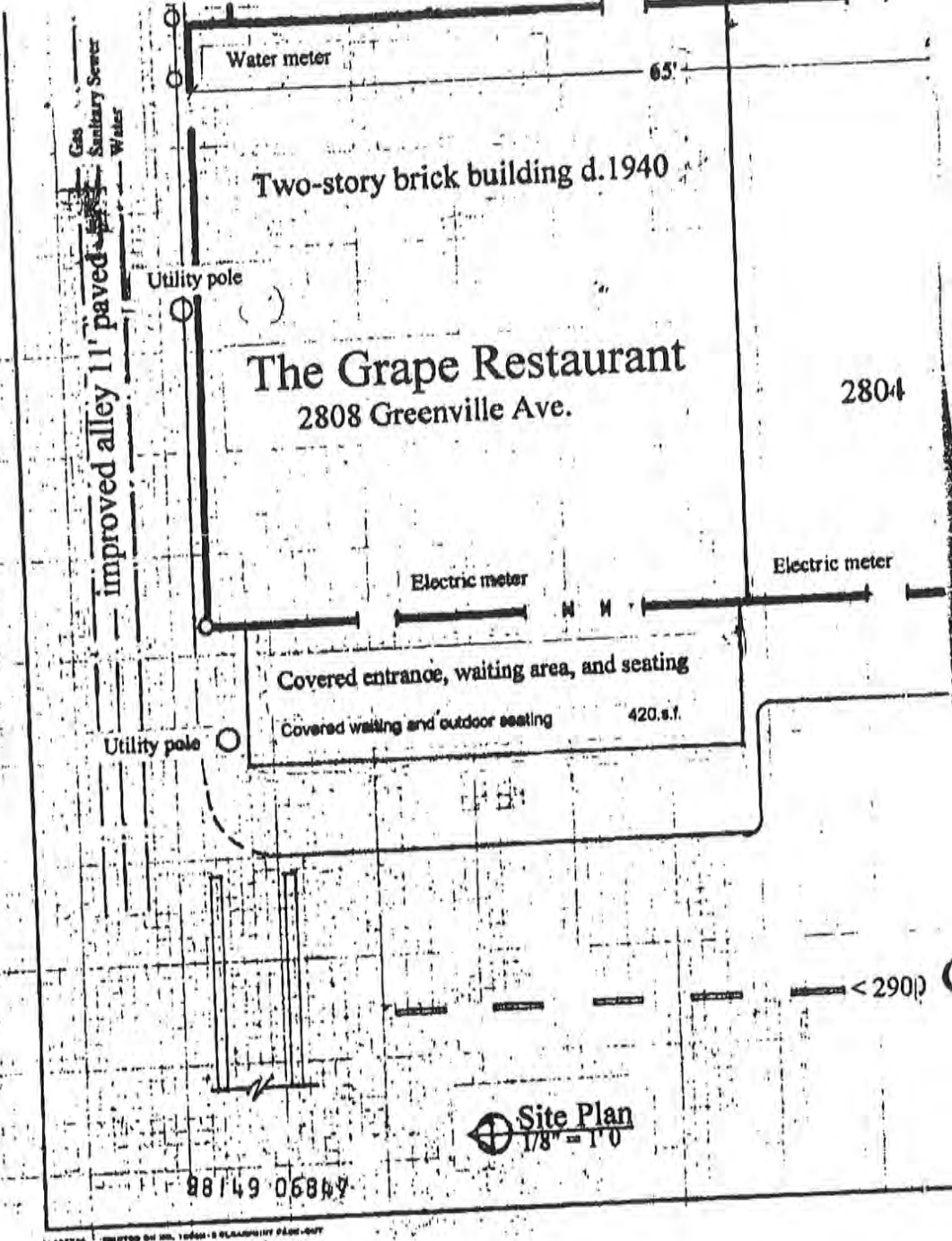
95890 6/1/86

Lot 24A (previously lot 23 and lot 24) covered by previous parking Agreement 25 March 1985
 In including parking calculations used in parking agreement d. 1985
 Inclusion of a kitchen annex will eliminate three parking spaces used in agreement. Compliance with accessibility standards to provide (2) and the required aisle has eliminated one more space used in the same space designated in the 1985 agreement for basement storage (basement).

Annex	480 s.f.	
Outdoor seating	420 s.f.	
Requiring parking	900 s.f.	= 9 spaces
to new bldg.		3 spaces
to accessibility aisle		1 space
req'd.		13 spaces
req'd for basement sto.		<1 space>
spaces required		12 spaces

provided at 5711 Vickery (adjoining lot), Lot 22, Block 8/1918 as per agreement. Of 20 total available spaces, 5711 Vickery will provide the applicant, the Grape Building Joint Venture.

Contractor : **Cerebral Builders**
 (214) 824-5113 Office (214) 887-0936 Fax
Design-Build and Construction Management



98149 06867

Site Plan
1/8" = 1'-0"

Lot 2

Electric meter

Two-story brick building d.1985

2804

2802

47' 5"

Electric meter

Stre

< 2900 Greenville Avenue 2800 >

Site Plan and General Notes

98149 06848

Lot 24

985

50' lot width

Streetlight

<5600 Vickery Boulevard 5700>

FOR
RECORD AGREEMENT
ZONING ONLY APPROVED
(subject to corrections noted)
By *[Signature]*

98149 06849

ONLY

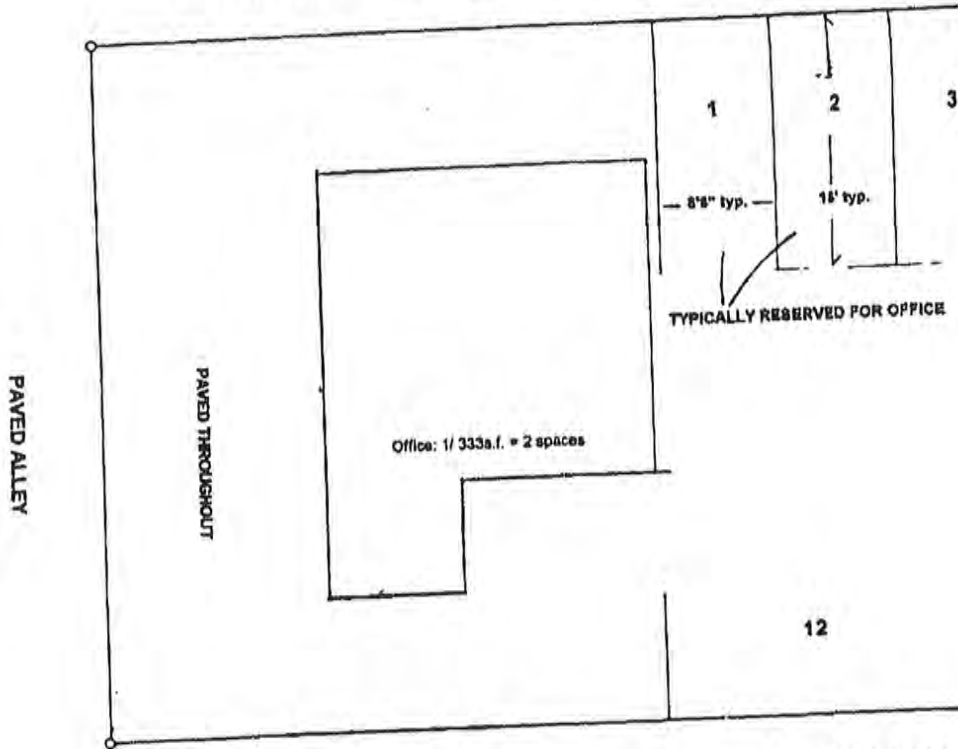
98149 06890

Date 11/12/97
 Revisions 3/7/96
 Page A1 of 2

The Grape Restaurant
 2808 Greenville Avenue Dallas Texas
 Construction Drawings Phase 1

5711 Vickery Boulevard
 Lot no. 22 Block 8/1918 of Delmar Heights
 an addition to the City of Dallas, Dallas County
 recorded in Volume 1 at page 188

571



Site Plan 1/8" = 1' 0"

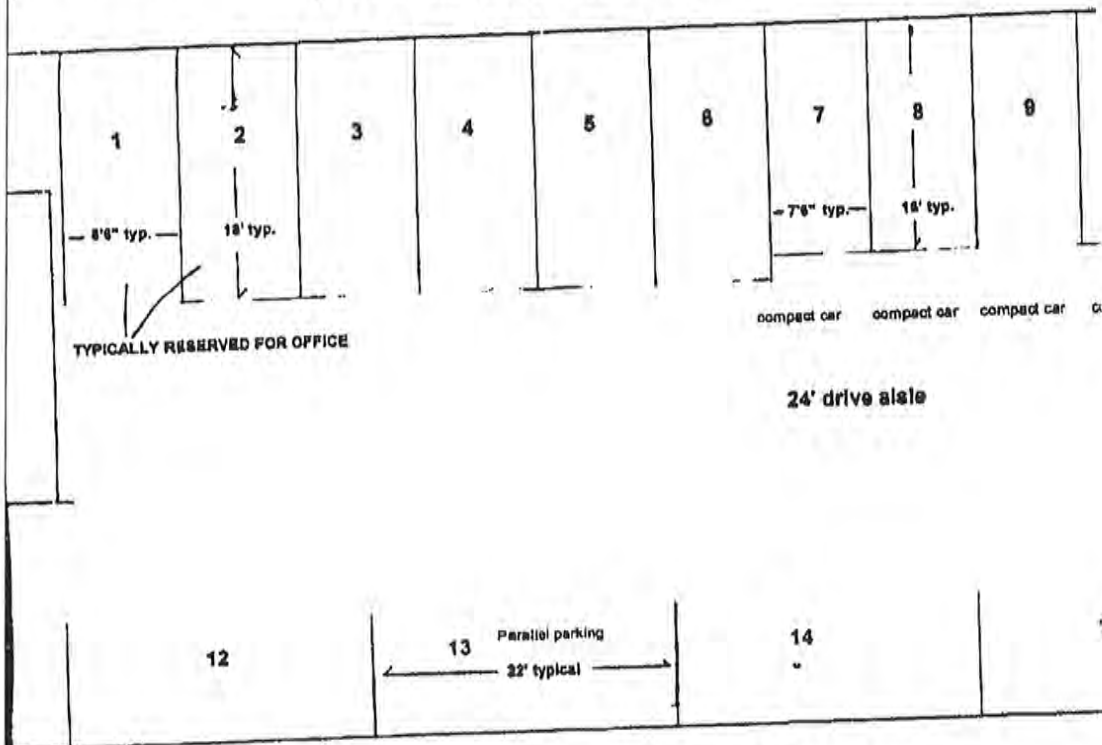
5711 VICKERY,
 VENTURE CAN
 THE LOT) TO LI
 VENTURE.

*FORMERLY LOT

98149 06851

Heights
Dallas County

5711 Vickery with one story frame office 548 s.f.



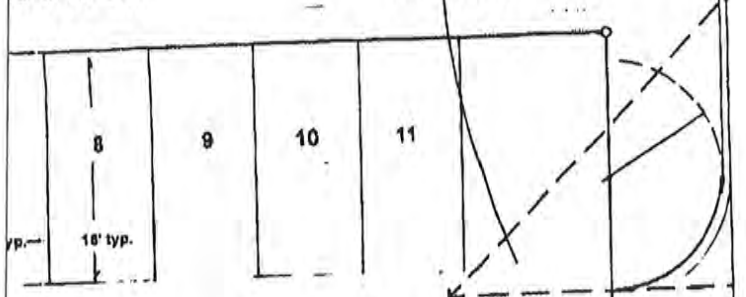
5711 VICKERY, LOT 22 OWNED BY THE GRAPE RESTAURANT JOINT VENTURE CAN PROVIDE UP TO 13 PARKING SPACES (OF 18 TOTAL ON THE LOT) TO LOT 24A* ALSO OWNED BY THE GRAPE RESTAURANT JOINT VENTURE.

*FORMERLY LOTS 22 AND 23; REPLATTED TO A SINGLE LOT; "S" NUMBER S 978-107

98149 06852

ce 548 s.f.

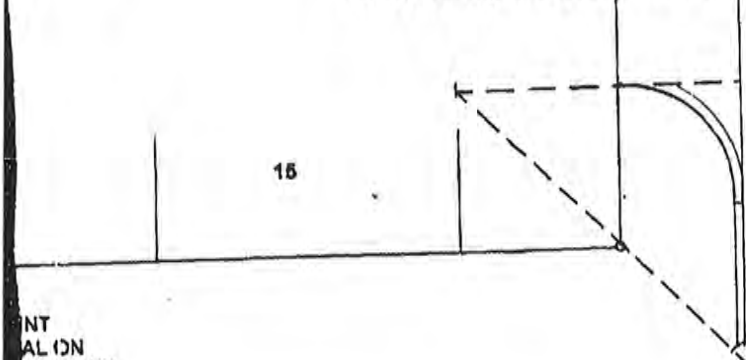
20' visibility triangle



compact car compact car compact car compact car

drive aisle

20' approach (7'6" approach radius)

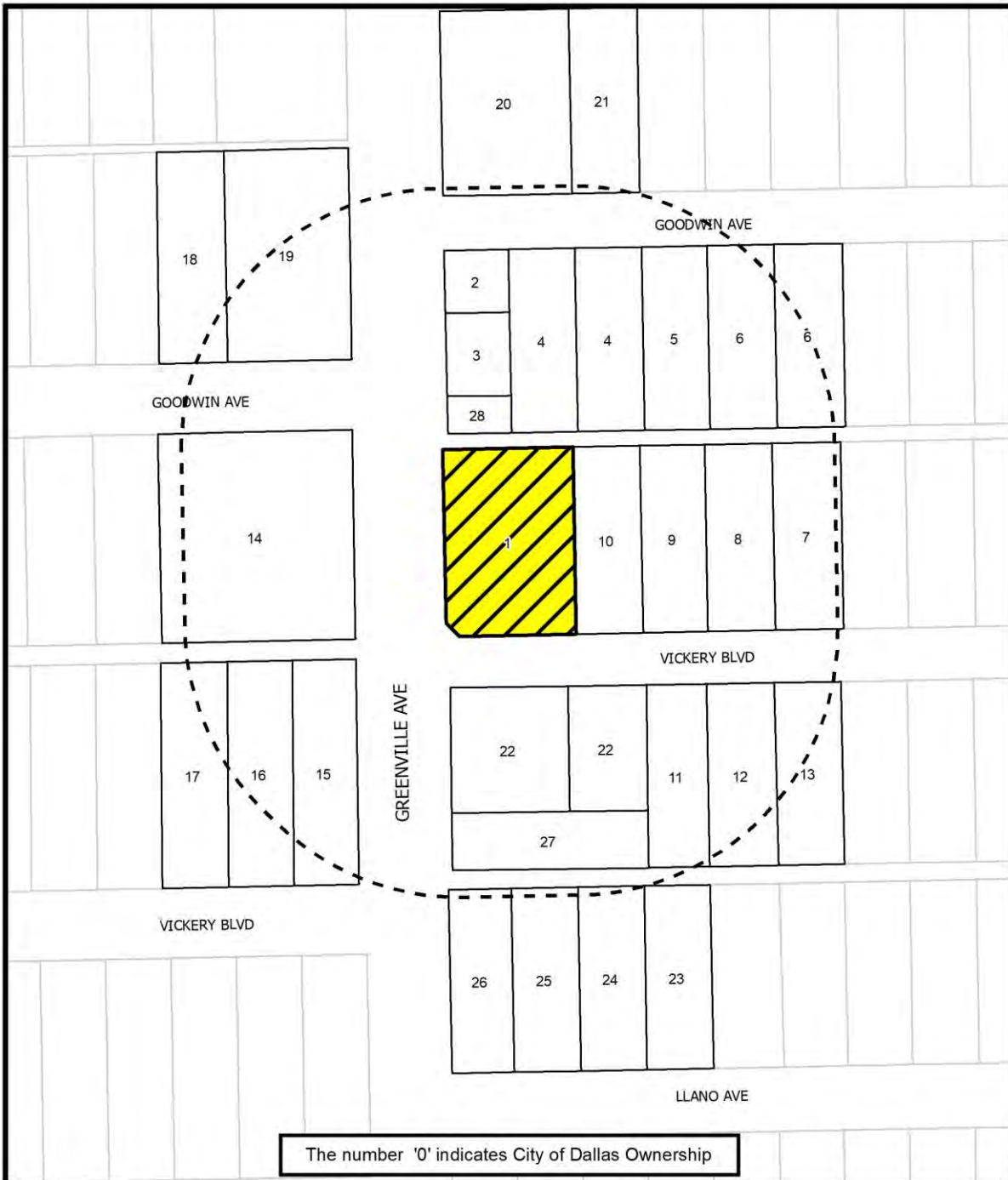


VICKERY BOULEVARD

INT
AL (ON
INT JOINT

973-107

98149 06853



The number '0' indicates City of Dallas Ownership

 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">28</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	28	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA201-006</u> Date: <u>12/11/2020</u>
200'	AREA OF NOTIFICATION					
28	NUMBER OF PROPERTY OWNERS NOTIFIED					

12/11/2020

Notification List of Property Owners

BDA201-006

28 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2802 GREENVILLE AVE	Taxpayer at
2	2820 GREENVILLE AVE	Taxpayer at
3	2818 GREENVILLE AVE	Taxpayer at
4	5706 GOODWIN AVE	MADISON PACIFIC DEVELOPMENT CO
5	5714 GOODWIN AVE	PHILLIPS JAMES T
6	5718 GOODWIN AVE	ELEPHANT PROPERTIES LLC
7	5723 VICKERY BLVD	LAMPLIGHT PROPERTIES
8	5717 VICKERY BLVD	AGUIRRE JUANA T
9	5713 VICKERY BLVD	VROOM JACQUES EDWARD JR &
10	5711 VICKERY BLVD	PARKER CHARLOTTE &
11	5714 VICKERY BLVD	WILLIAMS HARDMON III &
12	5716 VICKERY BLVD	STRALEY JESSICA CHRISTINE
13	5720 VICKERY BLVD	BELL WALTER J
14	2815 GREENVILLE AVE	PARK LANE PARTNERS LP &
15	5645 VICKERY BLVD	SHERIDAN JESSICA A
16	5643 VICKERY BLVD	SANDERSON JAYMA
17	5637 VICKERY BLVD	G2 INVESTMENTS LLC
18	5639 GOODWIN AVE	REISBERG FRED
19	2901 GREENVILLE AVE	REISBERG FRED INV LTD
20	2900 GREENVILLE AVE	MADISON PACIFIC
21	5711 GOODWIN AVE	Taxpayer at
22	2724 GREENVILLE AVE	SBMT GREENVILLE LLC
23	5715 LLANO AVE	ADAMI JO LOU
24	5711 LLANO AVE	HILKE WILLIAM
25	5707 LLANO AVE	VANWINKLE GREG & AMANDA
26	5703 LLANO AVE	WILLIAMSON RHONDA E
27	2714 GREENVILLE AVE	Taxpayer at
28	2810 GREENVILLE AVE	Taxpayer at

FILE NUMBER: BDA201-009(OA)

BUILDING OFFICIAL'S REPORT: Application of Deborah S. Thomas represented by Robert Reeves and Associates for a special exception to the fence height regulations at 4611 N. Lindhurst Avenue. This property is more fully described as Lot 1, C/5540, and is zoned an R-1ac(A) Single Family District, which limits the height of a fence in the front yard to four feet. The applicant proposes to construct a six-foot-high fence in a required front yard, which will require a two-foot special exception to the fence regulations.

LOCATION: 4611 N. Lindhurst Avenue

APPLICANT: Deborah S. Thomas represented by Robert Reeves

REQUESTS:

A request for a special exception to the fence standards regulations related to the fence height of two-feet is made to construct and maintain a five-foot six-inch-high iron fence with six-foot stucco columns and two iron gates in the required front yard on a site developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards when in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the fence standards since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

Site: R-1 ac (A) (Single family district)

North: R-1 ac (A) (Single family district)

East: R-1 ac (A) (Single family district)

South: R-1 ac (A) (Single family district)

West: R-1/2 ac (A) (Single family district)

Land Use:

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

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS/STAFF ANALYSIS:

The purpose of this request for a special exception to the fence height standards focuses on constructing and maintaining a five-foot six-inch-high iron fence with six-foot stucco columns and two iron gates in the required front yard on a site developed with a single-family home.

The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.

The subject site is zoned an R-1ac(A) Single Family District where a 40-foot front yard setback is required.

The proposed fence is to be located in this required front yard. The following additional information was gleaned from the submitted site plan:

- The proposed fence is approximately 170 feet-in-length parallel to Lindhurst Avenue and runs approximately 40 feet perpendicular to this street on both sides of the property.
- The distance between the proposed fence and the pavement line is 10 feet.

The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.

Staff conducted a field visit of the site and surrounding area (approximately 400 feet north, south, east, and west of the subject site) and noticed no other fences that appear to be above four feet-in-height and located in a front yard setback.

As of January 8, 2020, no letters have been received in opposition or support of this request.

The applicant has the burden of proof in establishing that the special exception to the fence height regulation of two feet will not adversely affect neighboring property.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding two-foot-in-height in the front yard setback to be constructed in the location and heights as shown on these documents.

Timeline:

November 18, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

December 9, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

December 11, 2020: The Board Senior Planner emailed the applicant the following information:

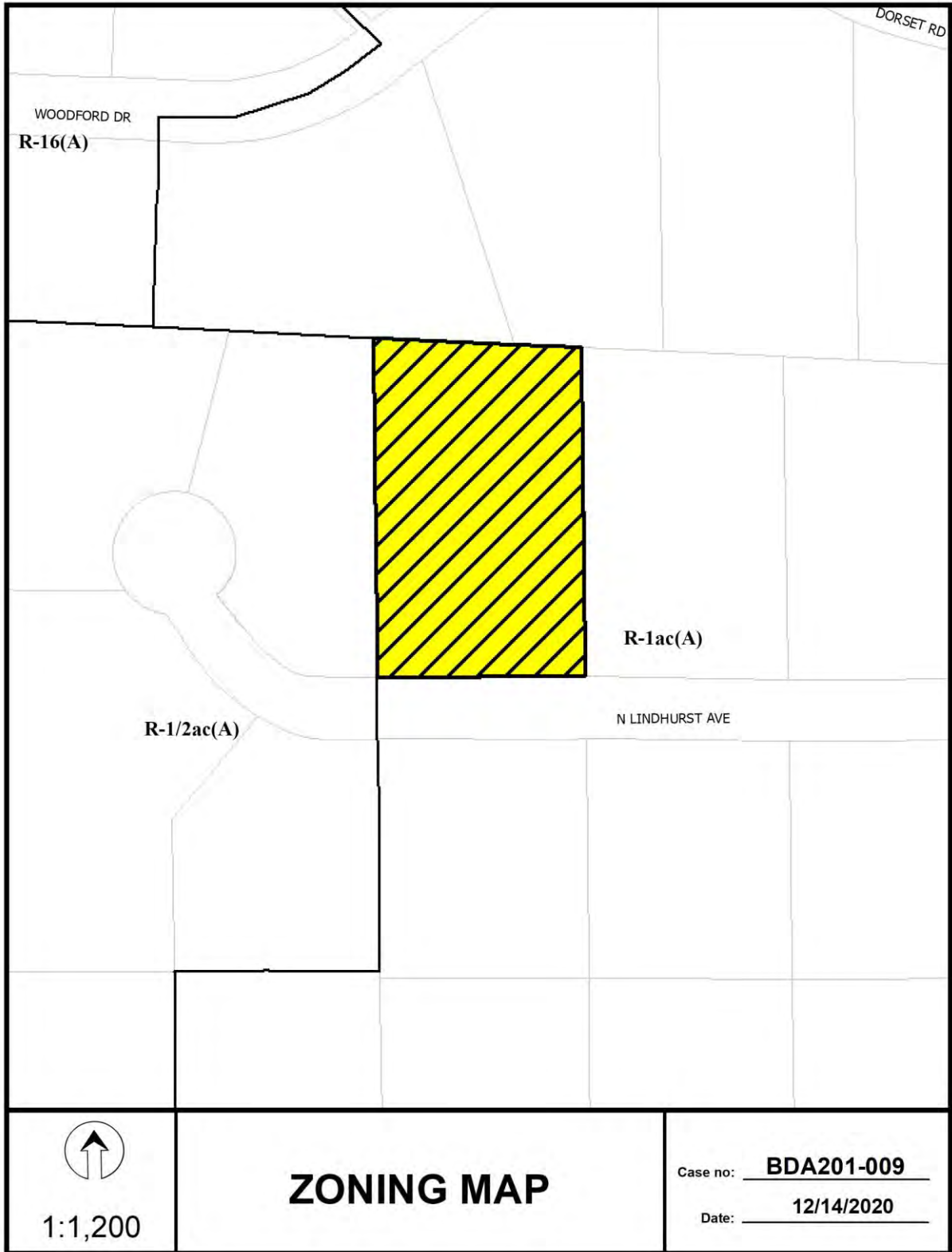
- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the December 29, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the January 8, 2021 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.”

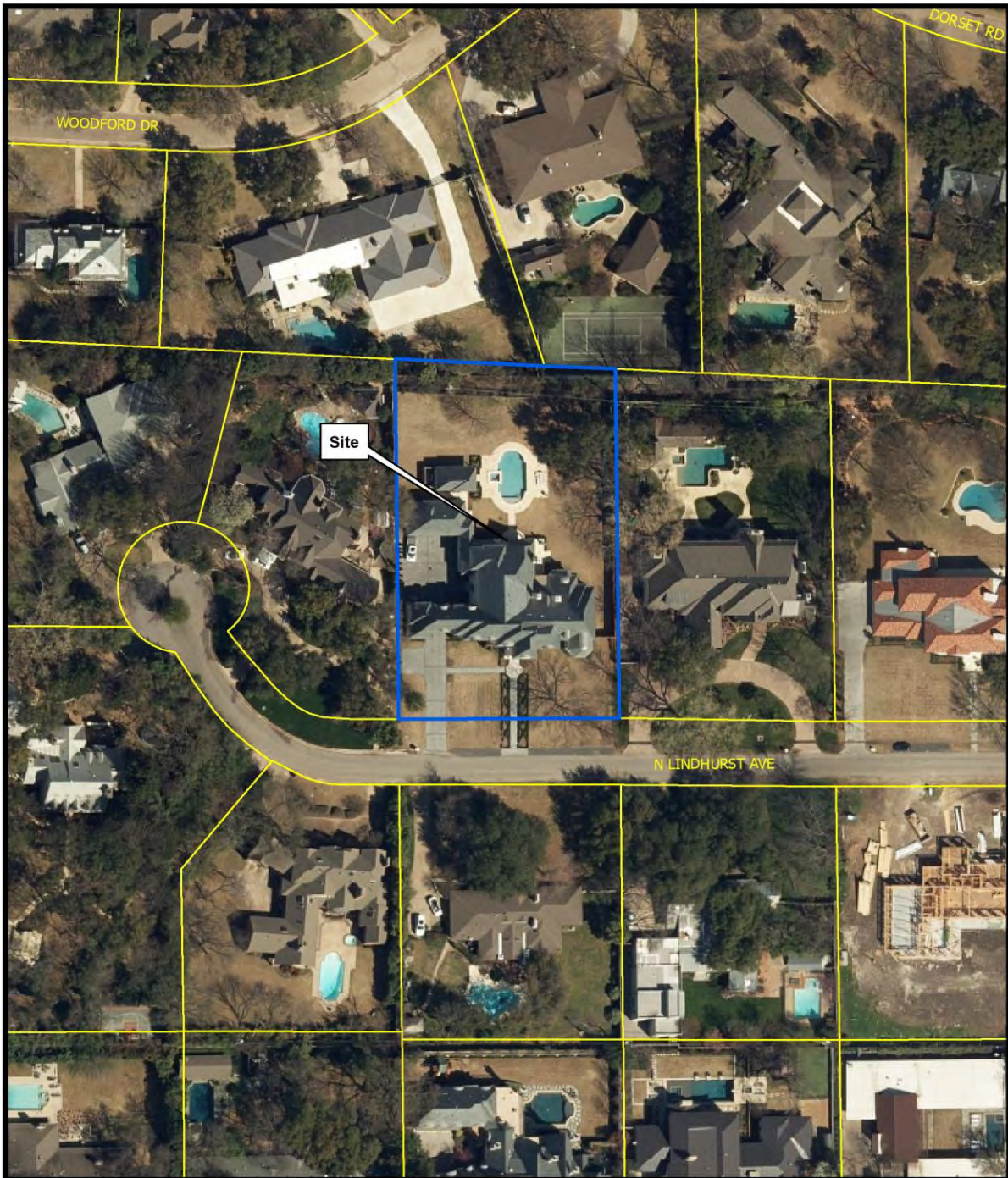
December 21, 2020: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

December 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Sign Code Specialist, 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.

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





1:1,200

AERIAL MAP

Case no: BDA201-009

Date: 12/14/2020



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-009

Data Relative to Subject Property:

Date: 11/18/20

Location address: 4611 N. Lindhurst, Dallas, Texas 75229 Zoning District: R-1Ac.(A)

Lot No.: 1 Block No.: C/5440 Acreage: 1.04 Ac. Census Tract: 0076.01

Street Frontage (in Feet): 1) 170.6 ft. 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Tom J. & Deborah S. Thomas

Applicant: ~~Tom J. &~~ Deborah S. Thomas Telephone: 469-359-4147 Ext. 4614

Mailing Address: 4611 N. Lindhurst, Dallas, Texas Zip Code: 75229

E-mail Address: tthomas@unionsupplygroup.com

Represented by: Robert Reeves & Associates Telephone: 214-893-9351

Mailing Address: 3807 Vinecrest Dr. Zip Code: 75229

E-mail Address: rob.reeves@sbcglobal.net

Affirm that an appeal has been made for a Variance or Special Exception X of 2-ft. for an ornamental iron fence located in the 40-ft. front yard including 40 ft. along both side property lines from the front property line. The 2-ft. special exception includes stucco columns with cast stone caps, and 2 gates.

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:
Fence will provide additional security with an attractive open ornament iron construction with attractive landscaping.
The fence will compliment the home and neighborhood.

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

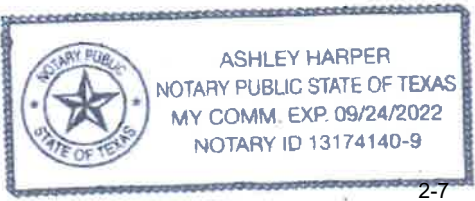
Before me the undersigned on this day personally appeared Deborah Thomas
(Affiant/Applicant's name printed)

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 18th day of November, 2020

(Rev. 08-01-1)



[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

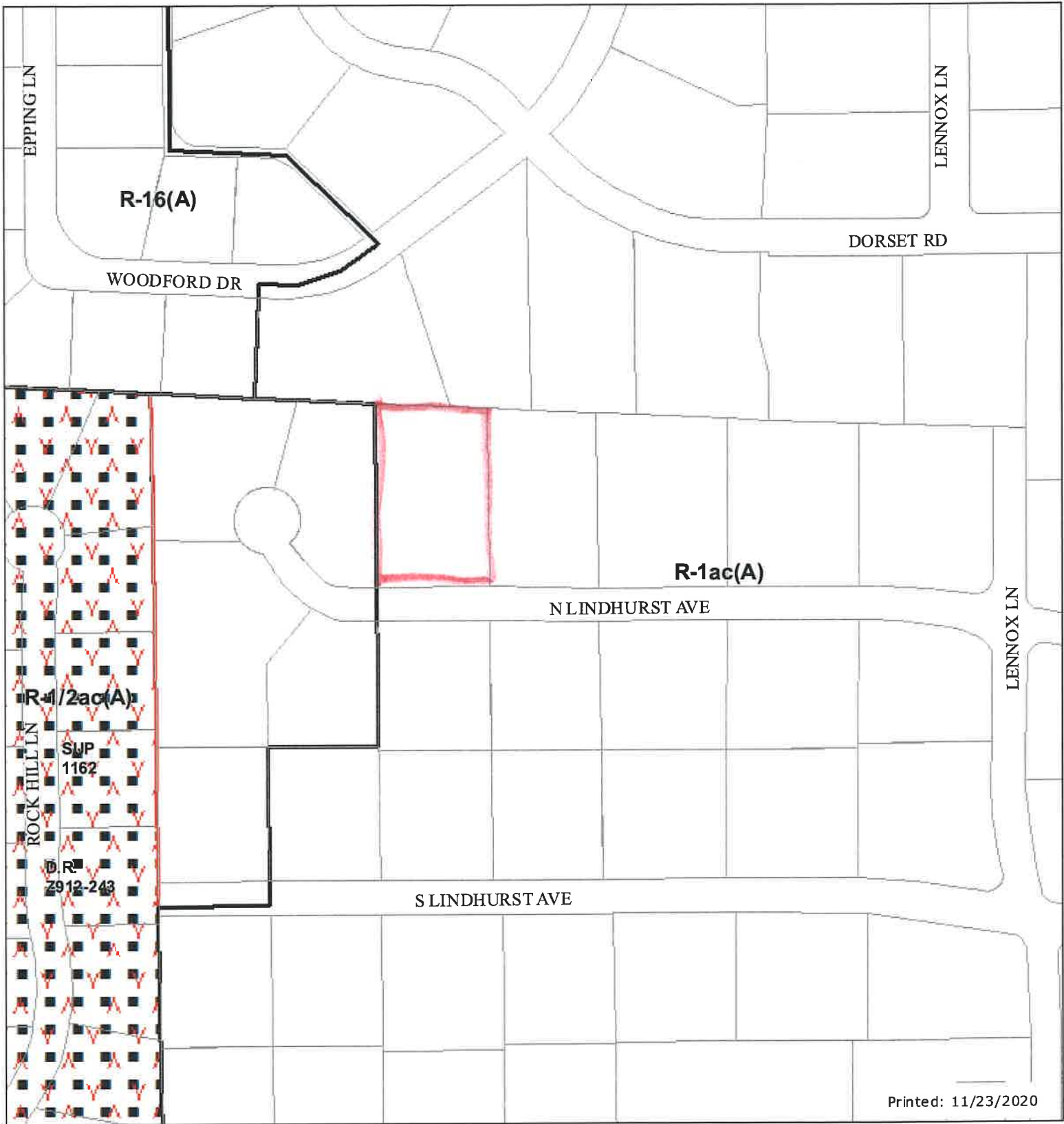
Building Official's Report

I hereby certify that Deborah S Thomas
represented by Robert Reeves
did submit a request for a special exception to the fence height regulations
at 4611 N. Lindhurst Avenue

BDA201-009. Application of Deborah S Thomas represented by Robert Reeves for a special exception to the fence height regulations at 4611 N LINDHURST AVE. This property is more fully described as Lot 1, C/5540, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence regulations.

Sincerely,


David Session, Building Official



Printed: 11/23/2020

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 | 200 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)





ROBERT REEVES
& Associates, Inc.

PLANNING AND ZONING CONSULTANTS

November 20, 2020

Charles Trammell
Sr. Plans Examiner
Department of Sustainable Development & Construction
City of Dallas
320 E. Jefferson Blvd., Room 105
Dallas, Texas 75203

RE: Special Exception for Fence Height
4611 N. Lindhurst

Dear Mr. Trammell:

Enclosed is an application by Tom and Deborah Thomas for a 2-foot fence special exception for their home located at 4611 N. Lindhurst Ave., Dallas, Texas 75229. The Thomas's home was destroyed by the October 2019 tornado and they have built a new home. They intend to construct a 6-foot ornamental iron fence, 6-foot stucco columns with cast stone caps, and two 6-foot ornament iron gates. The fence will extend 40 feet along both side property lines from the front property line.

Mr. Trammell, let me know if you need additional information.

Respectfully:



Robert Reeves



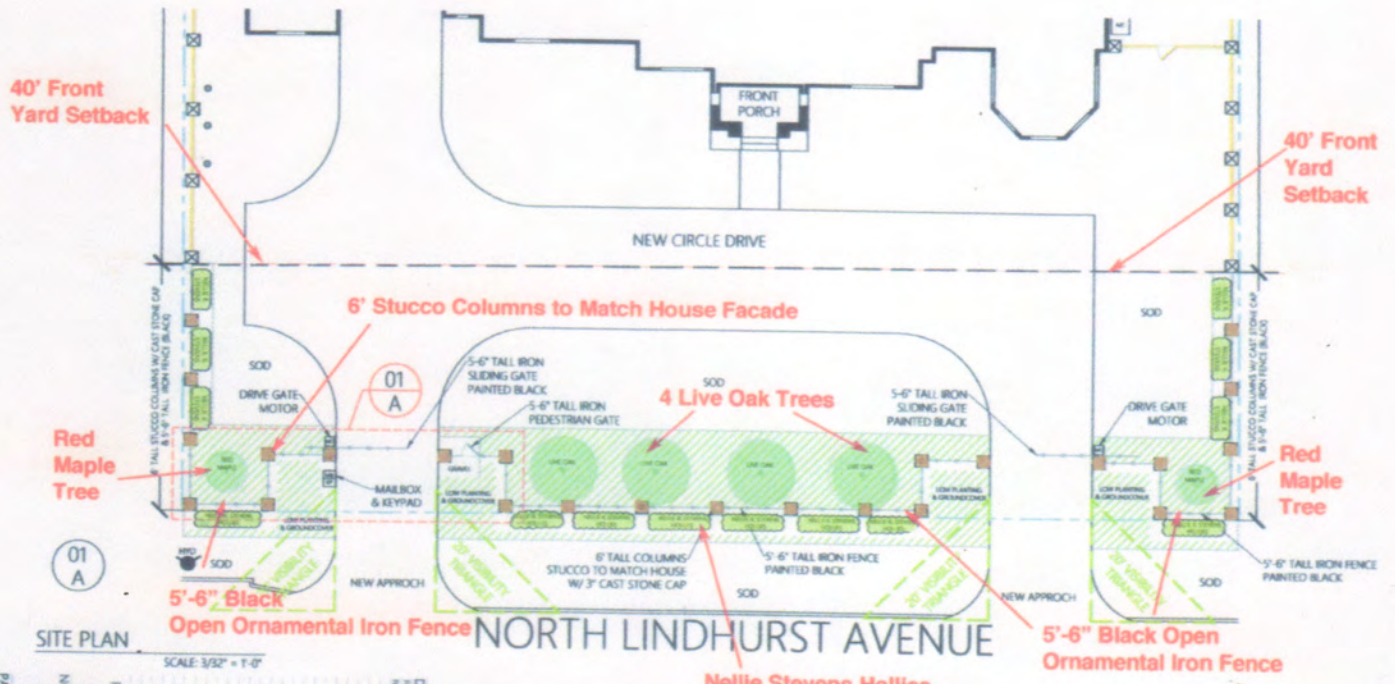
**4611 N. Lindhurst
Pre-October 2019
Tornado**

Google

Image capture: Mar 2019 © 2020 Google



4611 Lindhurst
Currently Under Repair



SITE PLAN

SCALE: 3/32" = 1'-0"

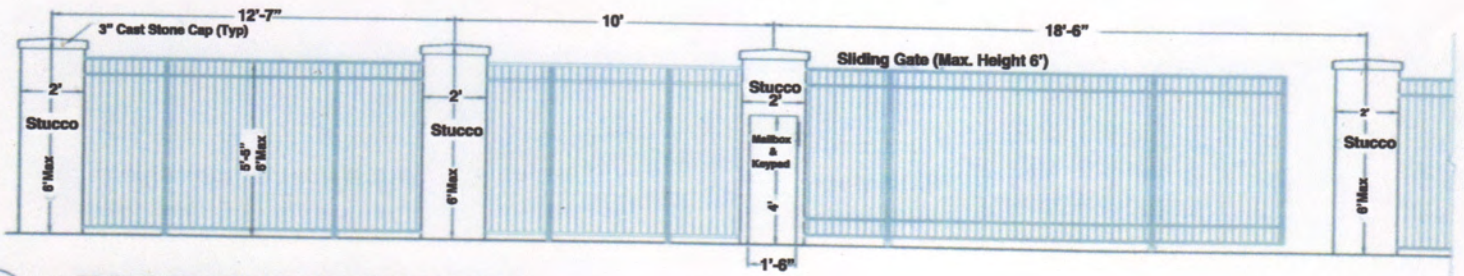
PAPER SIZE: 24" x 36"
 SCALE: AS SHOWN
 SHEET TITLE: SITE PLAN
 SHEET NO: 01

FOR REVIEW ONLY
 NOT FOR CONSTRUCTION
 NORTH ARROW

DRAWING DATES
 FOR REVIEW
 FOR CONSTRUCTION

THOMAS RESIDENCE
 4611 NORTH LINDHURST AVENUE, DALLAS, TEXAS 75229

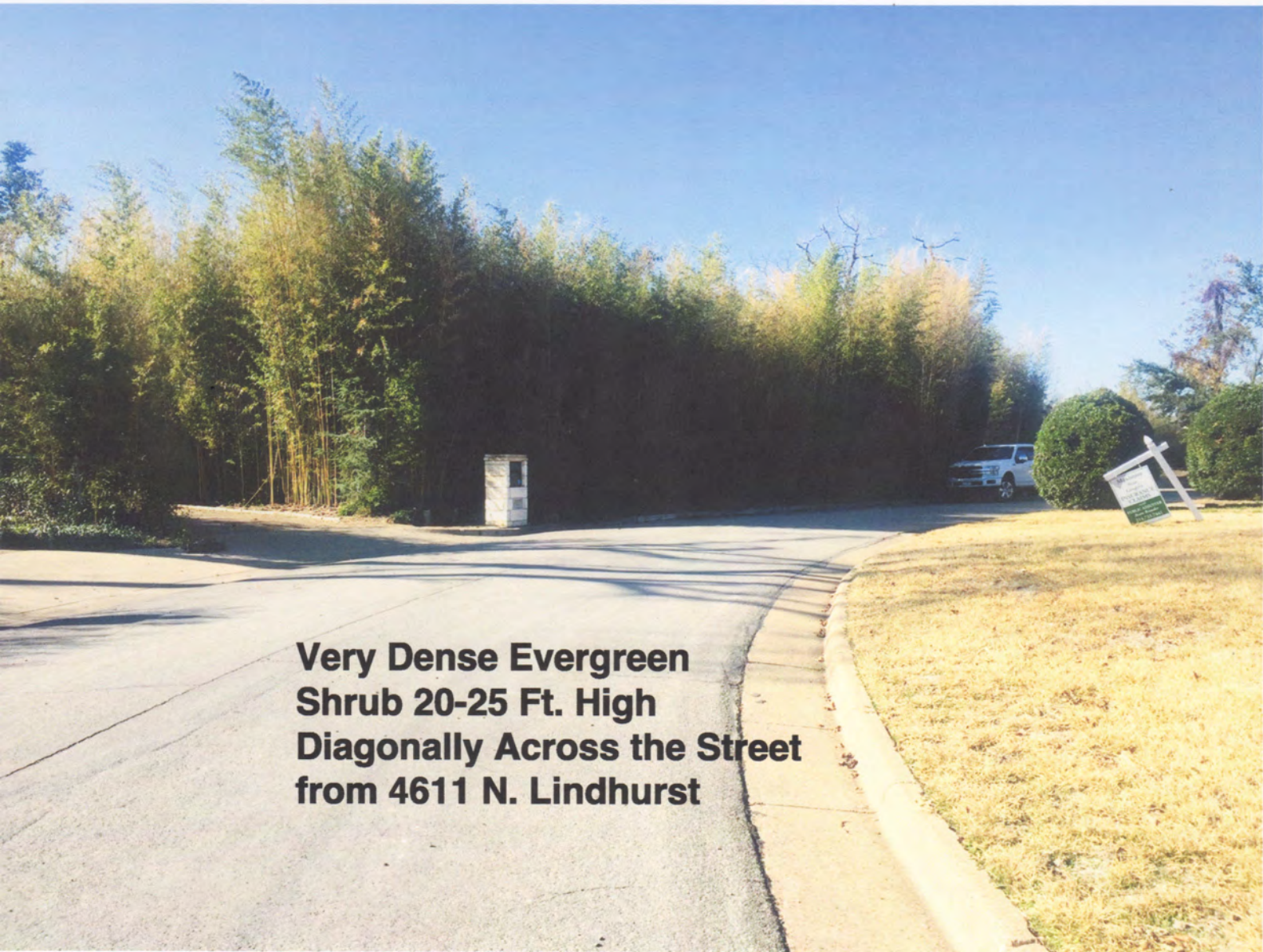
BLOUNT | DESIGNS
 4611 NORTH LINDHURST AVENUE, DALLAS, TEXAS 75229
 P. 972.333.1111



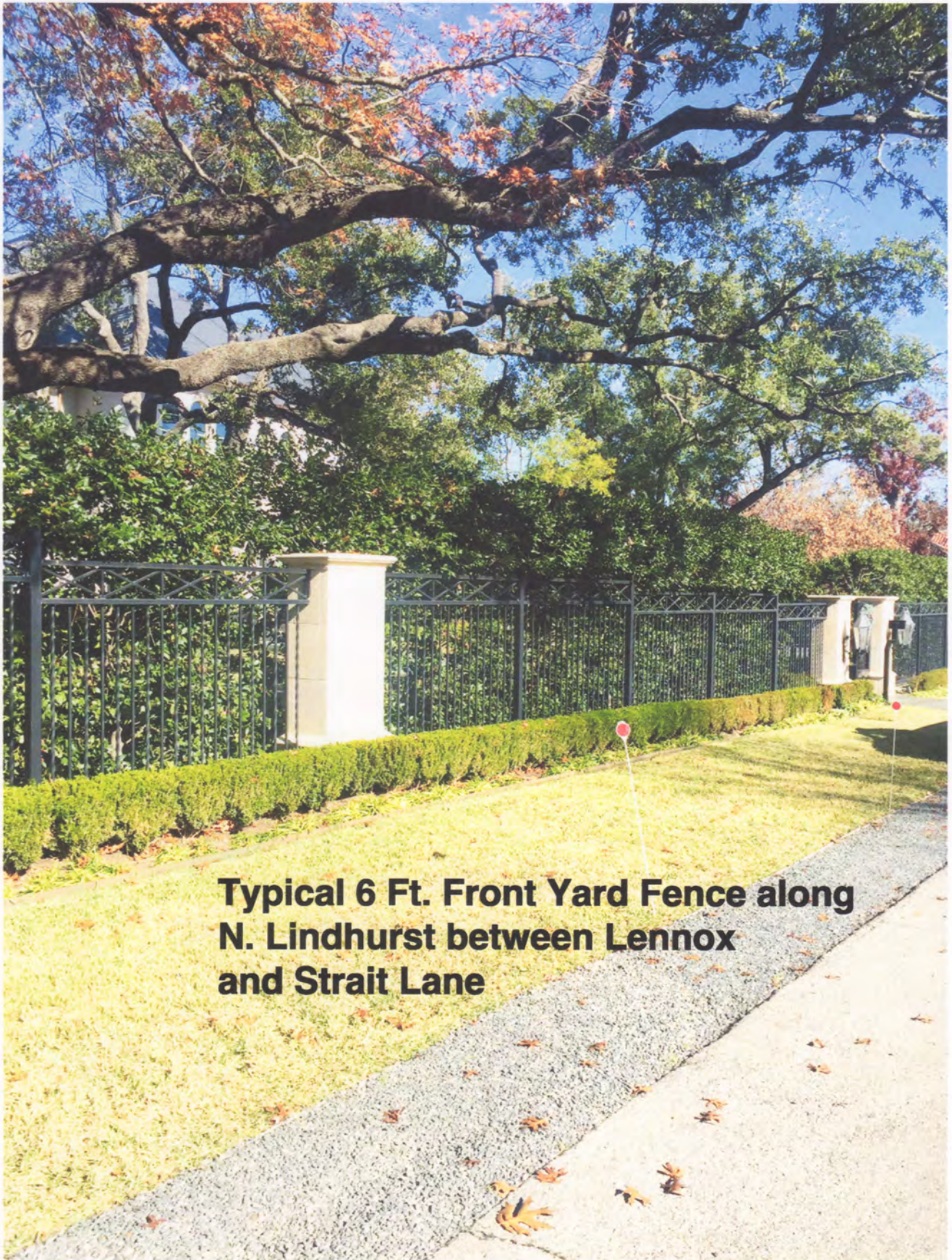
A

FRONT FENCE/COLUMNS ELEVATION

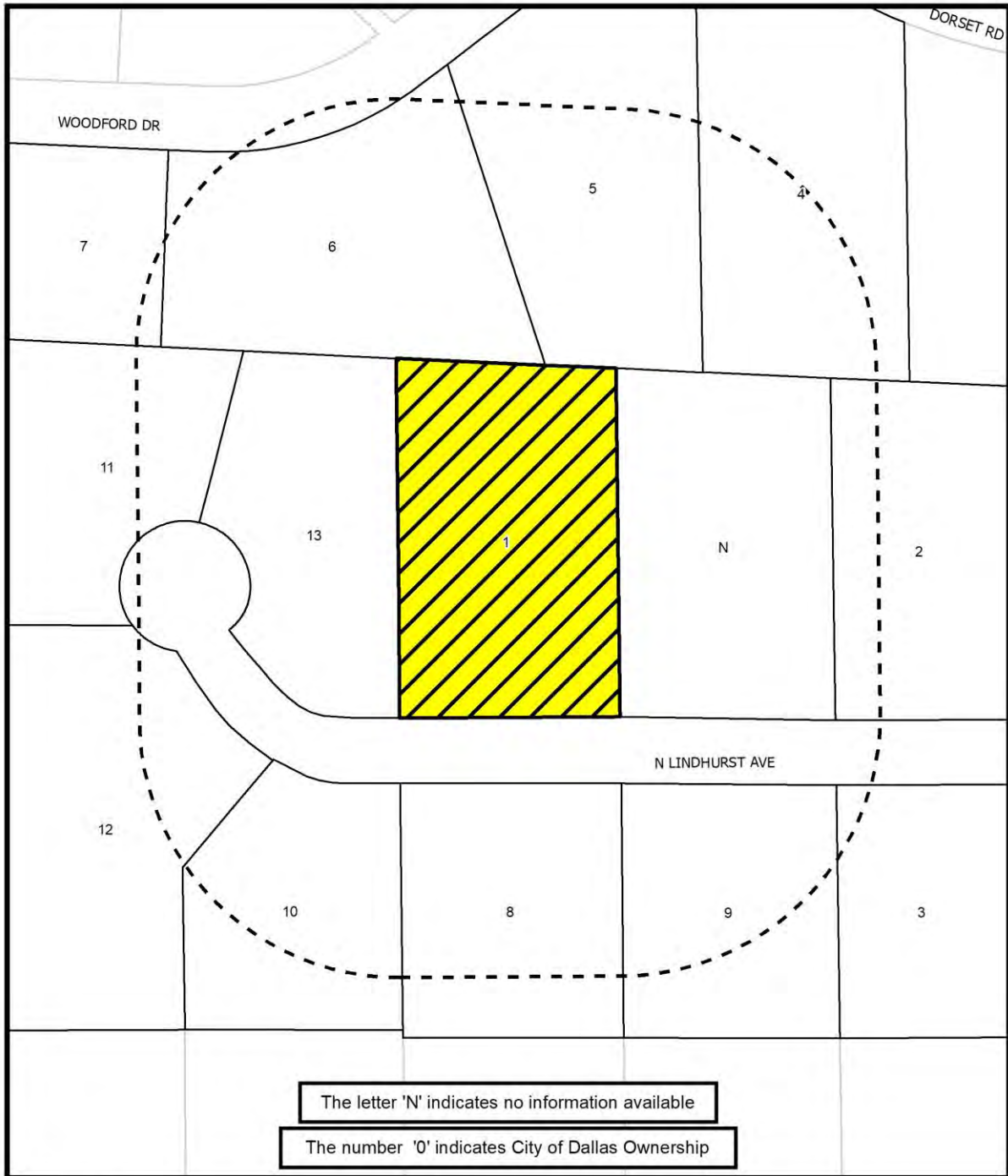
SCALE: 3/8" = 1'-0"



**Very Dense Evergreen
Shrub 20-25 Ft. High
Diagonally Across the Street
from 4611 N. Lindhurst**



**Typical 6 Ft. Front Yard Fence along
N. Lindhurst between Lennox
and Strait Lane**



 1:1,200	<h2>NOTIFICATION</h2>	Case no: BDA201-009			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">13</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	13	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
13	NUMBER OF PROPERTY OWNERS NOTIFIED				

12/11/2020

Notification List of Property Owners

BDA201-009

13 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4611 N LINDHURST AVE	THOMAS TOM J & DEBORAH S
2	4639 N LINDHURST AVE	Taxpayer at
3	4640 N LINDHURST AVE	LINDHURST CAPITAL LLC
4	4606 DORSET RD	KASMIR LINDA
5	10238 WOODFORD DR	DAVIS RICHARD & JANICE
6	10228 WOODFORD DR	UHRICK MICHAEL R &
7	10218 WOODFORD DR	FRAZIER BRIAN A &
8	4610 N LINDHURST AVE	SAMMONS JOHN W & DONNA K
9	4626 N LINDHURST AVE	CONSTANTINE FADI & KRISTIN
10	4530 N LINDHURST AVE	KHALIL MIAN SAJJAD & ROEEDA
11	4507 N LINDHURST AVE	YOUNGBLOOD KNEELAND C &
12	4522 N LINDHURST AVE	DOUGAN PAUL
13	4527 N LINDHURST AVE	HERMAN WESLEY KENT &

FILE NUMBER: BDA190-103(OA)

BUILDING OFFICIAL'S REPORT: Application of Jeff Saba for a special exception to the fence height regulations, and a special exception to the fence standards regulations at 6749 Hillbriar Drive. This property is more fully described as Lot 17, Block 8/8189, and is zoned an R-10(A) Single Family District, which limits the height of a fence in the front yard to four feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line. The applicant proposes to construct an eight-foot-high fence in a required front yard, which will require a four-foot special exception to the fence regulations, and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than five feet from the front lot line, which will require a special exception to the fence regulations.

LOCATION: 6749 Hillbriar Drive

APPLICANT: Jeff Saba

REQUESTS:

The following requests have been made on a site that is developed with a single family structure:

1. A request for a special exception to the maximum fence height of four feet to construct and maintain an eight-foot-high factory edge cedar plank fence with two pedestrian gates located in the required Hillbriar Drive front yard.
2. A request for a special exception to the fence standards regulations related to fence panels having less than 50 percent open surface area when located less than five feet from the front lot line is made to construct and maintain the aforementioned eight-foot-high solid wood fence as close as two feet from the front lot line.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards when in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the fence standards since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site and all surrounding properties are developed with single family uses.

Zoning/BDA History:

There have not been any board or zoning cases recorded within the vicinity of the subject site within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

The requests for special exceptions to the fence standards regulations on a site developed with a single-family home focus on:

1. constructing/maintaining an eight-foot-high factory edge cedar plank fence with two pedestrian gates located in the required Hillbriar Drive front yard;
2. constructing/maintaining the aforementioned eight-foot-high solid wood fence located less than five feet from this front lot line.

The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The subject site is zoned an R-10(A) Single Family District. The minimum front yard setback is 30 feet. The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet-in-height above grade when located in the required front yard and states that no fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line

The proposed fence is to be located in this required front yard. The following additional information was gleaned from the submitted site plan:

- The proposed fence is approximately 195 feet-in-length parallel to Hillbriar Drive along the property line.
- The distance between the proposed fence and the property line is approximately between two feet and 25 feet.

Staff conducted a field visit of the site and surrounding area (approximately 400 feet north, east and west, and south of the subject site) and noted no other fences that appeared to be above four feet-in-height and located in a front yard setback.

The Sustainable Development and Construction Senior Engineer advised that the residential property at 6749 Hillbriar Drive is located along a pronounced roadway curve that limits sight distance from approaching vehicular and pedestrian traffic. The fence further encroaches into the horizontal sight distance and presents a traffic safety hazard. This existing condition must be mitigated. Theoretically speaking, the location of the fence limits a motorist's reaction time and the distance required to brake. If the exception is approved or the fence remains in place, the City should install traffic warning signs indicating the horizontal alignment combined with an advisory speed of 20 MPH, based on calculations for stopping sight distance for horizontal curves.

Furthermore, images from the staff's recent site visit show recently planted trees along the parkway (adjacent to the curb). These trees constitute a code violation and must be removed immediately or allowed with the written permission of the City Arborist and Director of Park Department, as stated in Sec 48-4 of the Dallas Development Code. However, the location of the trees will further block traffic visibility through the curve which is a public safety concern. The new trees should not be approved for planting in their current location but rather should be relocated to an area that does not block the visibility of oncoming traffic. Note: If approved, the special exception to the front fence height does not grant an exception to any encroachment to the visibility triangle at the intersection of the alley.

As of December 4, 2020, four letters have been submitted in support and none in opposition to this request.

The applicant has the burden of proof in establishing that the special exception to the fence height regulation of four feet will not adversely affect neighboring property.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposed fence reaching up to eight-feet-in-height in the front yard setback and with fence panels with surface areas less than 50 percent open located less than five feet from the front lot line to be maintained in the location and of the heights and materials as shown on these documents.

Timeline:

- July 23, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- November 5, 2020: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel C.
- November 6, 2020: The Board Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the November 24, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the December 4, 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.”
- December 1, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Assistant Director of Engineering, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.
- December 2, 2020: The Sustainable Development and Construction Senior Engineer submitted a memo regarding this request (**Attachment A**).
- November 14, 2020: The Board of Adjustment Secretary reassigned this case to the Board of Adjustment Panel B.
- December 18, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the December 29, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the January 8, 2021 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.”

December 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Sign Code Specialist, 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.

BOARD OF ADJUSTMENT ACTION: December 14, 2020

APPEARING IN FAVOR: None

APPEARING IN OPPOSITION: None

MOTION: **Sashington**

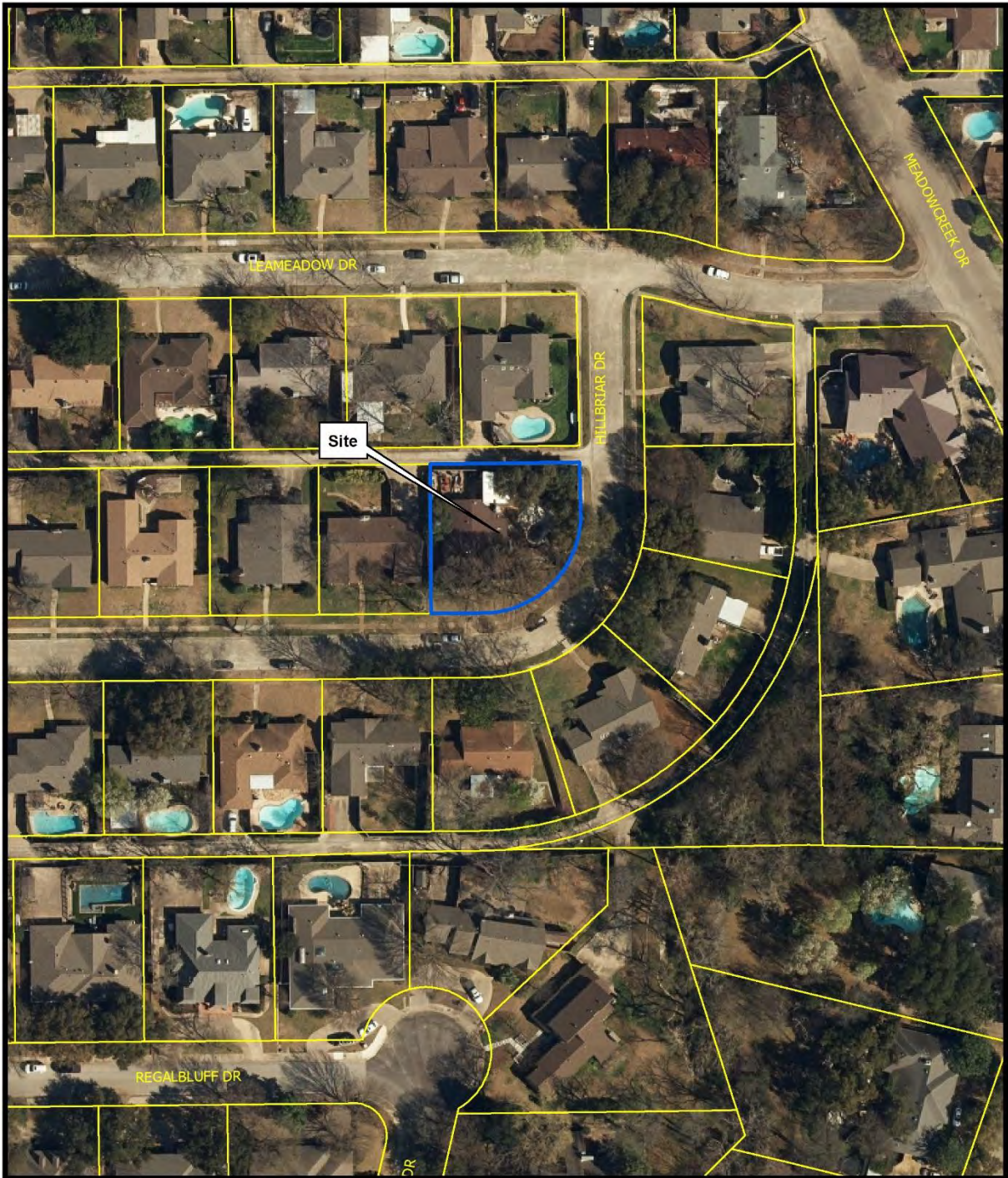
I move that the Board of Adjustment in request No. BDA 190-103, **moved and readvertise** this matter to Panel B Public Hearing on **January 20, 2020**

SECONDED: **Adams**

AYES: 4 - Agnich, Hounsel, Sashington, Pollock

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)



1:1,200

AERIAL MAP

Case no: BDA190-103

Date: 11/23/2020



1:1,200

ZONING MAP

Case no: BDA190-103

Date: 11/23/2020



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-103

Data Relative to Subject Property:

Date: 7-23-2020

Location address: 6749 HILBRIAR DR. Zoning District: _____

Lot No.: 17 Block No.: 816189 Acreage: .28 Census Tract: 13607

Street Frontage (in Feet): 1) 187.64 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): KRISTEN MITCHELL

Applicant: JEFF SABA Telephone: 214-842-9394

Mailing Address: 6749 HILBRIAR DR. Zip Code: 75248

E-mail Address: JEFFSABA@Y2K00.COM

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance __, or Special Exception , of 7' 4"
FRONT FENCE HIGHEST POINT IS 7' 8"
APPLYING FOR 3' 4" EXCEPTION.

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:

FENCE IS STRUCTURALLY SOUND, PROVIDES SAFE SPACE FOR WIFE & 3 DAUGHTERS AND IS NOT UNLIKE OTHER STRUCTURES LOCATED IN THE AREA.

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

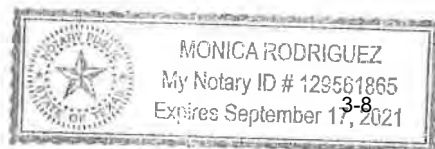
Before me the undersigned on this day personally appeared JEFF SABA
(Affiant/Applicant's name printed)

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 23 day of July, 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 Jeff Saba

did submit a request for a special exception to the fence height regulations, and for a special exception to the fence standards regulations

at 6749 Hillbriar Drive

BDA190-103. Application of Jeff Saba for a special exception to the fence height regulations, and for a special exception to the fence standards regulations at 6749 Hillbriar Dr. This property is more fully described as Lot 17, Block 8/8189, and is zoned R-10(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulations, and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence regulations.

Sincerely,


David Session, Building Official



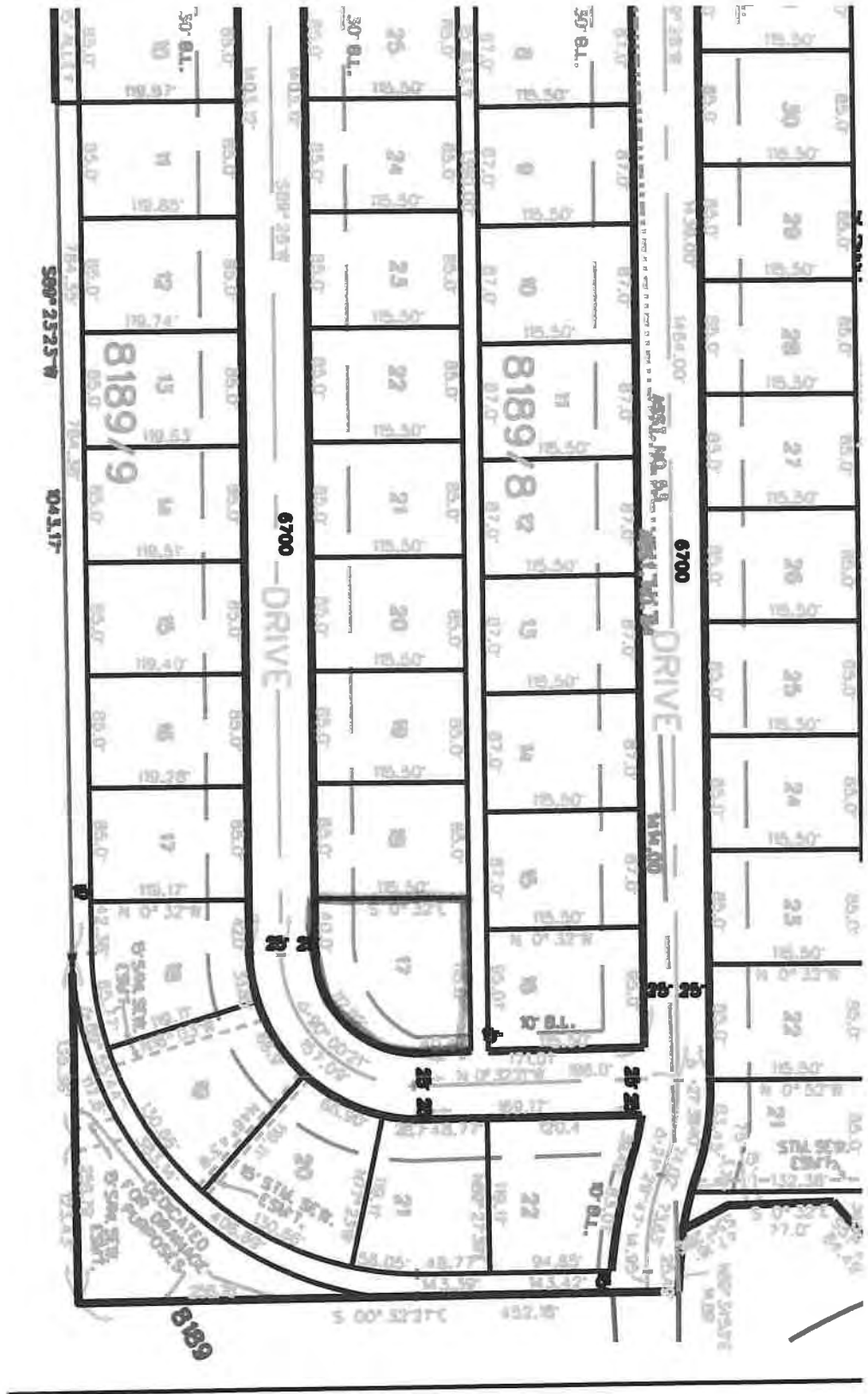
Printed: 9/10/2020

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 | Stop Front Overlay |
| | | Height Map Overlay | |

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June 29, 2020

Jeff Saba
6749 Hillbriar Dr.
Dallas, TX. 75248

Re: BDA190-Fee Waiver (JM) Property at 6749 Hillbriar Dr.

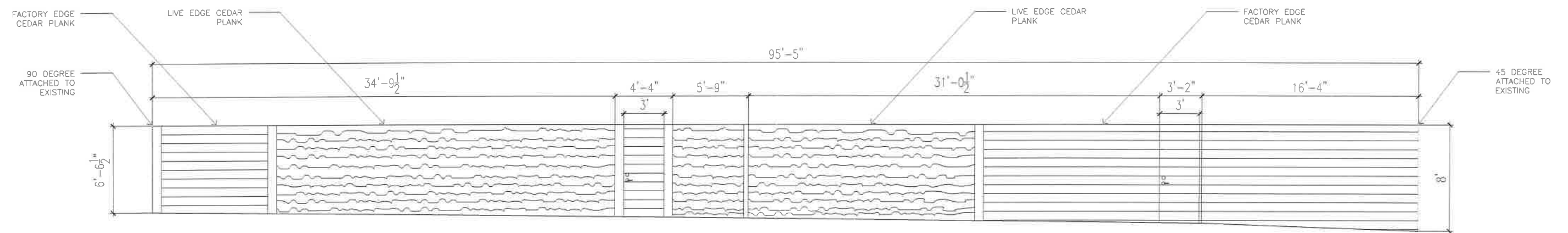
Dear Mr. Saba:

The Board of Adjustment Panel B, at its public hearing held on Wednesday, June 24, 2020, **granted** the request to waive the filing fees to be paid in association with a request for special exceptions to the fence height regulations and the fence standards regulations.

Should you have any further questions regarding the Board's action, please contact me at (214) 670-4208.

 for
Jennifer Munoz, Chief Planner/Board Administrator
Board of Adjustment
Sustainable Development and Construction

c: Code Enforcement, 3112 Canton, Room 100
Charles Trammell, Bldg. Inspection, 320 E. Jefferson #105



From: Nevarez, David
Sent: Wednesday, December 2, 2020 8:38 AM
To: Aguilera, Oscar
Cc: Trammell, Charles; Munoz, Jennifer; Denman, Lloyd; Avatapalli, Shailaja; Erwin, Philip
Subject: BDA190-103(OA) Engineering Review Comments

Oscar,

The residential property at 6749 Hillbriar Drive is located along a pronounced roadway curve that limits sight distance from approaching vehicular and pedestrian traffic. The fence further encroaches into the horizontal sight distance and presents a traffic safety hazard—an existing condition that must be mitigated. Theoretically speaking, the location of the fence limits a motorist reaction time and the distance required to break. If the exception is approved or the fence remains in place, the City should install traffic warning signs indicating the horizontal alignment combined with an advisory speed of 20 MPH, based on calculations for stopping sight distance for horizontal curves.

Images from your recent visit also show recently planted trees along the parkway (adjacent to the curb). These trees constitute a code violation and must be removed immediately or allowed with written permit of arborist and director of park department, as stated in Sec 48-4 of the Dallas Development Code.

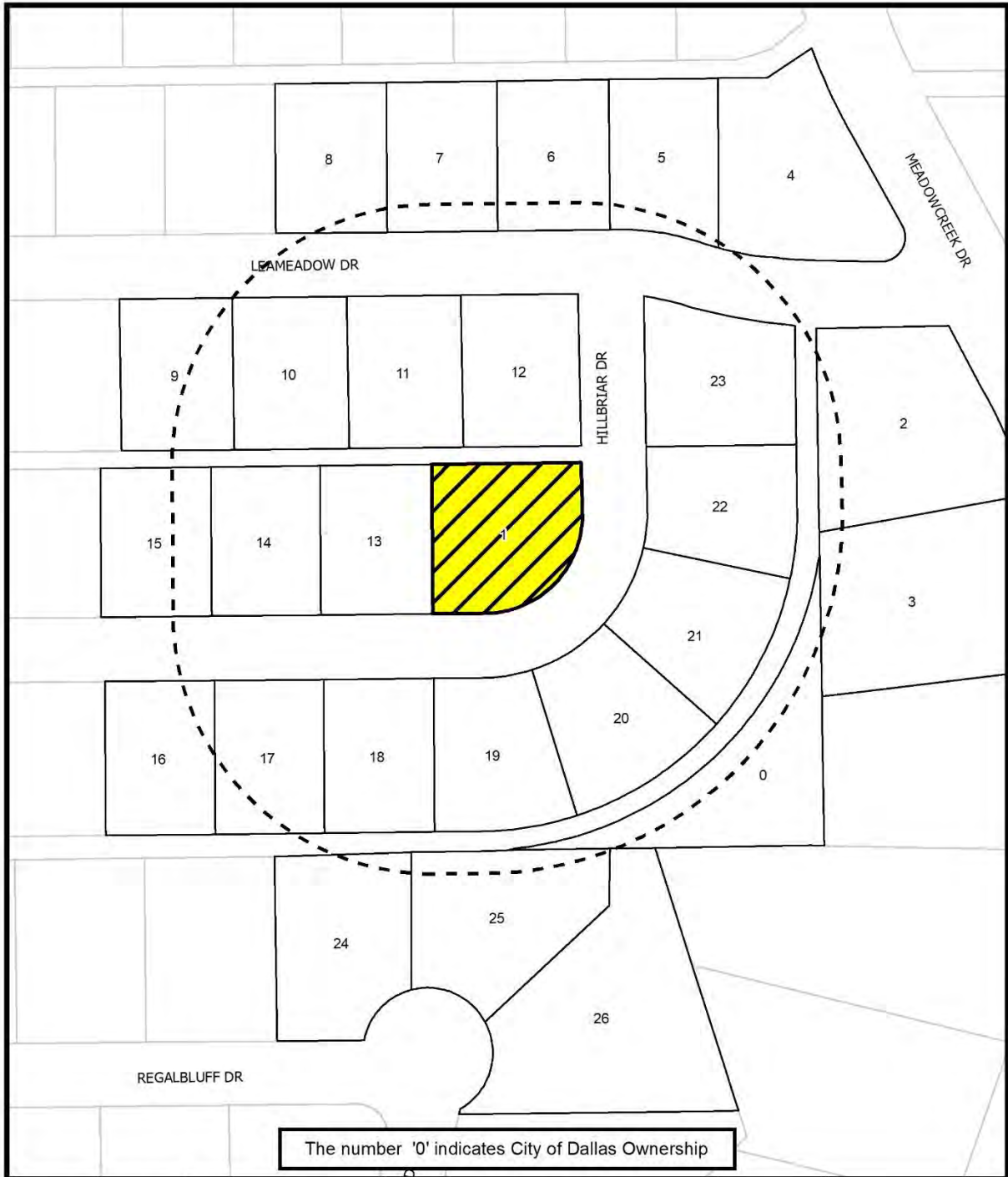
NOTE: If approved, the special exception to the front fence height does not grant an exception to any encroachment to the visibility triangle at the intersection of with the alley.




David Nevarez, P.E., PTOE, CFM
Traffic Engineering & Transportation Planning
 Sustainable Development & Construction
 City of Dallas | www.dallascityhall.com
 1500 Marilla St., 5BN, Dallas, TX 75201
 (214) 671-5115 | david.nevarez@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.




 1:1,200

NOTIFICATION

200'	AREA OF NOTIFICATION
26	NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-103**
 Date: **11/23/2020**

11/20/2020

Notification List of Property Owners

BDA190-103

26 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6749 HILLBRIAR DR	MITCHELL KRISTEN
2	5830 MEADOWCREEK DR	LAZA RANDALL J & DEBORAH D
3	5840 MEADOWCREEK DR	MONACO DAVID W & MOLLIE Y
4	6773 LEAMEADOW DR	ARENDR HENRY PAUL
5	6765 LEAMEADOW DR	MUELLER TIMOTHY &
6	6757 LEAMEADOW DR	ARENDR RESIDENTIAL RENTALS LP
7	6749 LEAMEADOW DR	PENA SHERRIE A
8	6741 LEAMEADOW DR	HUNNICUTT RHONDA S
9	6732 LEAMEADOW DR	CLARKE PATRICK T
10	6740 LEAMEADOW DR	HUNT BARBARA J
11	6748 LEAMEADOW DR	WEST NATALIE
12	6756 LEAMEADOW DR	EMPIRE MASTERMIND LLC
13	6741 HILLBRIAR DR	CASTRO MARICELLA NICOLE
14	6733 HILLBRIAR DR	RIVERA ALFREDO E & VIVIAN LEE
15	6725 HILLBRIAR DR	ALBON RICHARD & AILEEN
16	6724 HILLBRIAR DR	STASKO GERALD &
17	6732 HILLBRIAR DR	HELDMAN PETER & NANCY FAMILY
18	6740 HILLBRIAR DR	ARRINGTON JANE ADELE
19	6748 HILLBRIAR DR	CIMPL MADISON
20	6756 HILLBRIAR DR	ZWIEBEL JEFFREY LEE
21	6760 HILLBRIAR DR	JOHNSON TY M
22	6764 HILLBRIAR DR	HAMILTON FREDERICK D
23	6768 HILLBRIAR DR	ZECH ALFRED K
24	6737 REGALBLUFF DR	GRAHAM MICHAEL
25	6741 REGALBLUFF DR	SUTTON LOUIS A &
26	6818 HARVEST GLEN DR	DUKE RICHARD & JUDITH

FILE NUMBER: BDA201-004(OA)

BUILDING OFFICIAL'S REPORT: Application of Eric Messer for a special exception to the visibility obstruction regulations at 5707 Williamstown Road. This property is more fully described as Lot 1, Block B/6991, and is zoned an R-16(A) Single Family District, which requires a 20-foot visibility triangle at driveway approaches. The applicant proposes to construct a single family residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

LOCATION: 5707 Williamstown Road

APPLICANT: Eric Messer

REQUESTS:

A request for special exceptions to the visual obstruction regulations is made to locate and maintain portions of an eight-foot-high wrought iron/solid wood fence and a portion of a motorized wrought iron gate in the two 20-foot visibility triangles at the intersection of the street and driveway approaches into the property from Nuestra Drive on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d)(3) of the Dallas Development Code states that the board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (visual obstruction regulations):

- No staff recommendation is made on this or any request for a special exception to the visual obstruction regulations since the basis for this type of appeal is when in the opinion of the board, the special exception will not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single Family District)
North: R-16(A) (Single Family District)
South: R-16(A) (Single Family District)
East: R-16(A) (Single Family District)
West: R-16(A) (Single Family District)

Land Use:

The subject site and surrounding properties are developed with single family uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

The requests for special exceptions to the visual obstruction regulations on a site developed with a single family home focus on locating and maintaining a portion of an eight-foot-high wrought iron/solid wood fence and a portion of a motorized wrought iron gate in the two 20-foot visibility triangles at the intersection of the street and driveway approaches into the property from Nuestra Drive on a site developed with a single family home.

Section 51A-4.602(d) of the Dallas Development Code states that a person shall not erect, place, or maintain a structure, berm, plant life, or any other item on a lot if the item is:

- in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections and 20-foot visibility triangles at drive approaches and alleys on properties zoned single family); and
- between two-and-a-half and eight-feet-in-height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).

The property is located in an R-16(A) Single Family District which requires the portion of a lot with a triangular area formed by connecting the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection.

A site plan and elevation have been submitted indicating portions of an eight-foot-high wrought iron/solid wood fence and a portion of a motorized wrought iron gate in the two 20-foot visibility triangles at the intersection of the street and driveway approach into the site from Nuestra Drive.

The Sustainable Development Department Senior Engineer has objections to the request and determined that the City of Dallas should aggressively manage obstructions to visibility triangles (**Attachment A**).

The applicant has the burden of proof in establishing how granting these request to maintain portions of an eight-foot-high wrought iron/solid wood fence and portions of a motorized wrought iron gate in the two 20-foot visibility triangles at the intersection of the street and driveway approaches into the property from Nuestra Drive does not constitute a traffic hazard.

Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items to be located and maintained in the two 20-foot visibility triangles at the drive approaches into the site from Nuestra Drive, to that what is shown on these documents – a portion of an eight-foot-high wrought iron/solid wood fence and a portion of a wrought iron motorized gate.

Timeline:

November 20, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

December 9, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

December 11, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the December 29, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the January 8, 2021 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.”

December 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Sign Code Specialist, 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.

December 30, 2020: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked “objects to the request” (**Attachment A**).

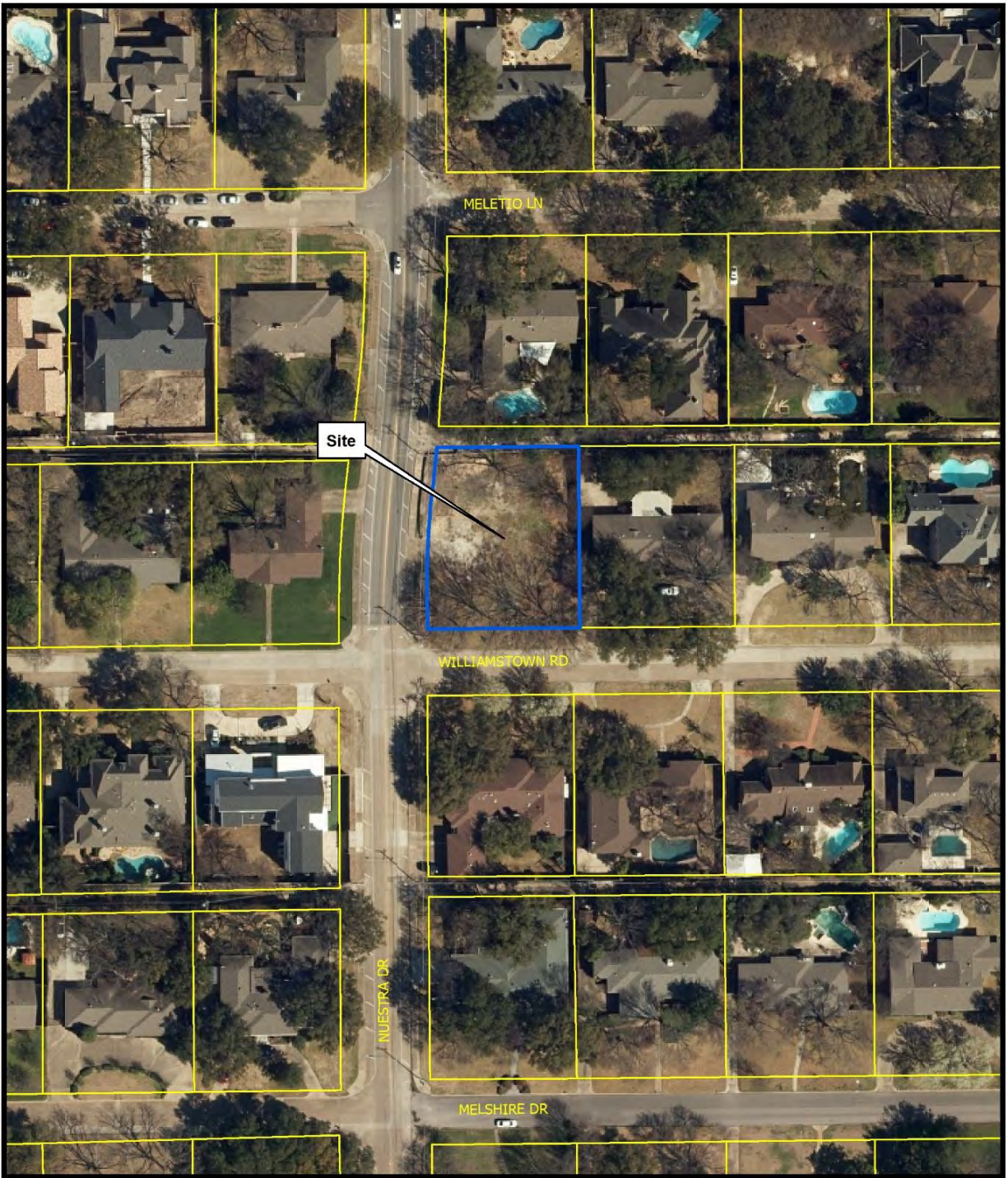


1:1,200

ZONING MAP

Case no: BDA201-004

Date: 12/11/2020



1:1,200

AERIAL MAP

Case no: BDA201-004

Date: 12/11/2020



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-004

Data Relative to Subject Property:

Date: 11-20-20

Location address: 5707 Williamstown Rd. Dallas Zoning District: R16(A)

Lot No.: 1 Block No.: B/6991 Acreage: .380 Census Tract: 96.04

Street Frontage (in Feet): 1) 118 2) 64 3) 77 4) 109 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): George Cochrum

Applicant: Eric Messer Telephone: 972-741-6887

Mailing Address: 6312 Widgeon Dr. Plano TX Zip Code: 75024

E-mail Address: Eric@EMRDHomesLLC.com

Represented by: Eric Messer Telephone: 972 741 6887

Mailing Address: 6312 Widgeon Dr. Plano TX Zip Code: 75024

E-mail Address: Eric@EMRDHomesLLC.com

Affirm that an appeal has been made for a Variance, or Special Exception X, of NO VISIBILITY triangle exiting the residence driveway

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 home owner wants to install fence with motorized gate to the driveway for security and their safety.

The fence with motorized gate is commensurate with others on corner lots zoned R16(A).

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 Eric Messer (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 19 day of November, 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 Eric Messer

did submit a request for a special exception to the visibility obstruction regulations
at 5707 Williamstown Road

BDA201-004. Application of Eric Messer for a special exception to the visibility obstruction regulations at 5707 WILLIAMSTOWN RD. This property is more fully described as Lot 1, Block B/6991, and is zoned R-16(A), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a single family residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,


David Session, Building Official





Printed: 7/27/2020

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 4-9 |
| 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)

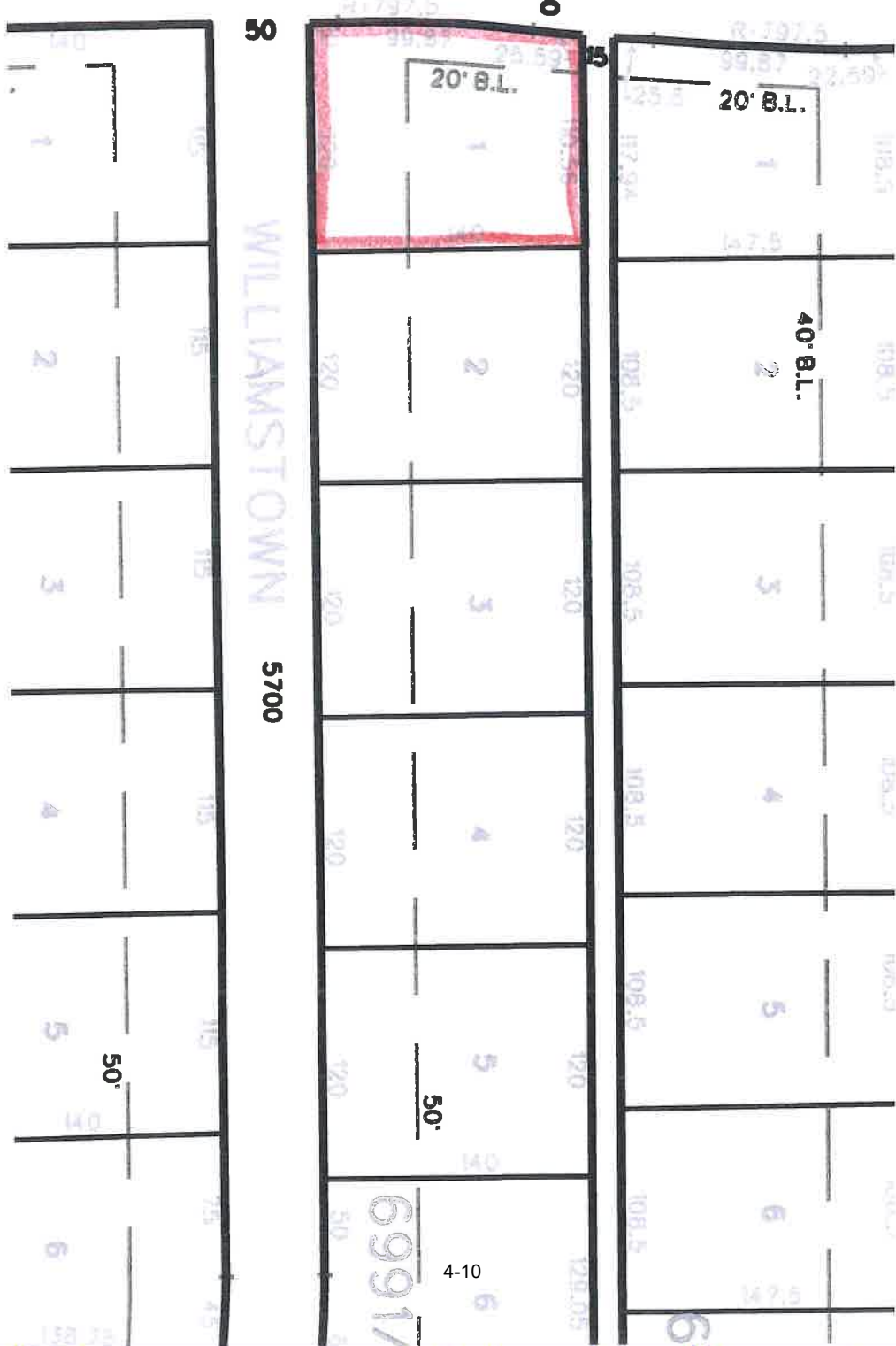
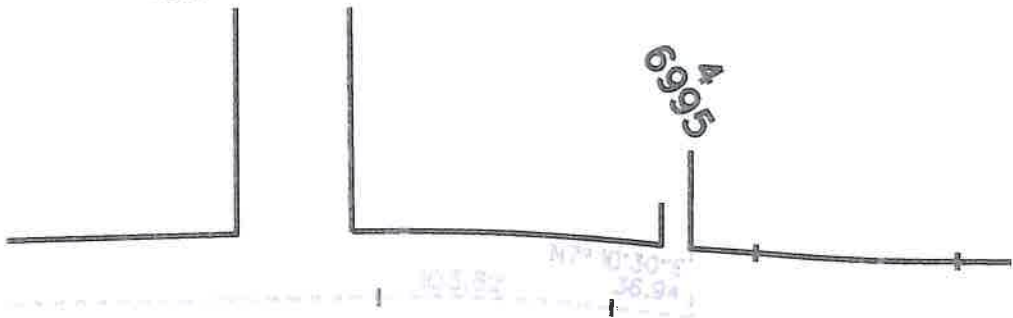


ADD.

5TH. INST.

UNIT

6994



50

30

20' B.L.

20' B.L.

WILLIAMSTOWN

5700

40' B.L.

50'

6991

4-10



To: The Board of Adjustment

I am providing information that I hope will help the board better understand the need for the special exception for the fence that the homeowner at 5707 Williamstown is requesting. The fence with a motorized gate that will be built is commensurate to other fences in the immediate neighborhood and homes zoned R16(A). Modifications to the design have been made to provide visibility when exiting the driveway.

The homeowner is requesting the special exception as the fence will provide security and safety to their property. I have attached photographs of similar fences that other homes in the area have constructed that do not have the visibility triangle exiting from their private driveway. The homeowner is willing to provide visibility to their fence by incorporating wrought iron sections to the areas that require visibility. This should satisfy the need for proper visibility.

All other required visibility triangles will be maintained per city requirements. The homeowner is only requesting the special exception for their private driveway.

Thank you

A handwritten signature in black ink, appearing to read "Eric Messer", is written over a horizontal line.

Eric Messer
EMRO Homes LLC
972-741-6887
eric@emrohomesllc.com

5707 Williamstown
Similar Fence Designs No Visibility Triangle



5624 Williamstown



5639 Williamstown



5630 ridge town



5907 Charlestown



5508 Ridgetown



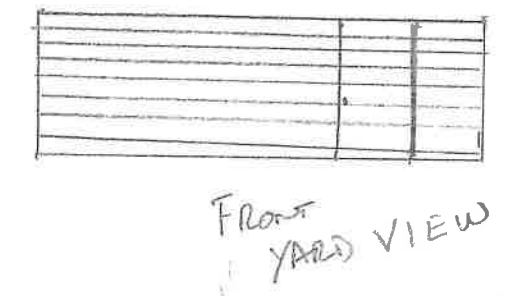
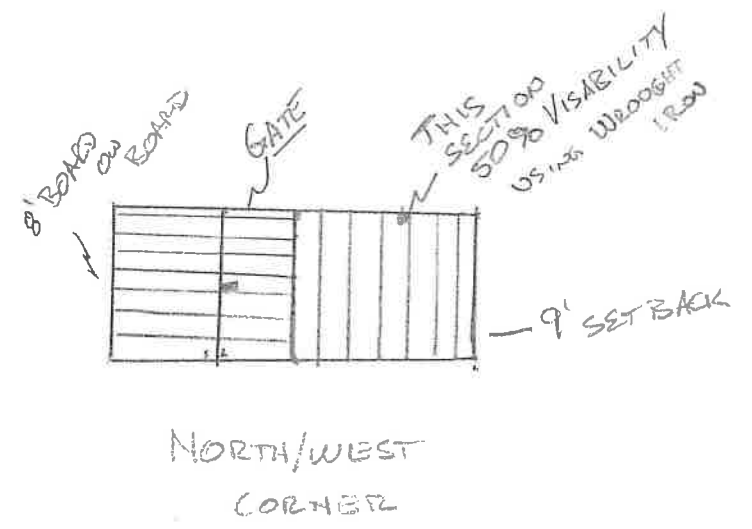
5707 Willow



4531 Naswood/Welsh



4547 Willow/Welsh



3/32" = 1'

8' BOARD ON BOARD

FENCE

WROUGHT IRON

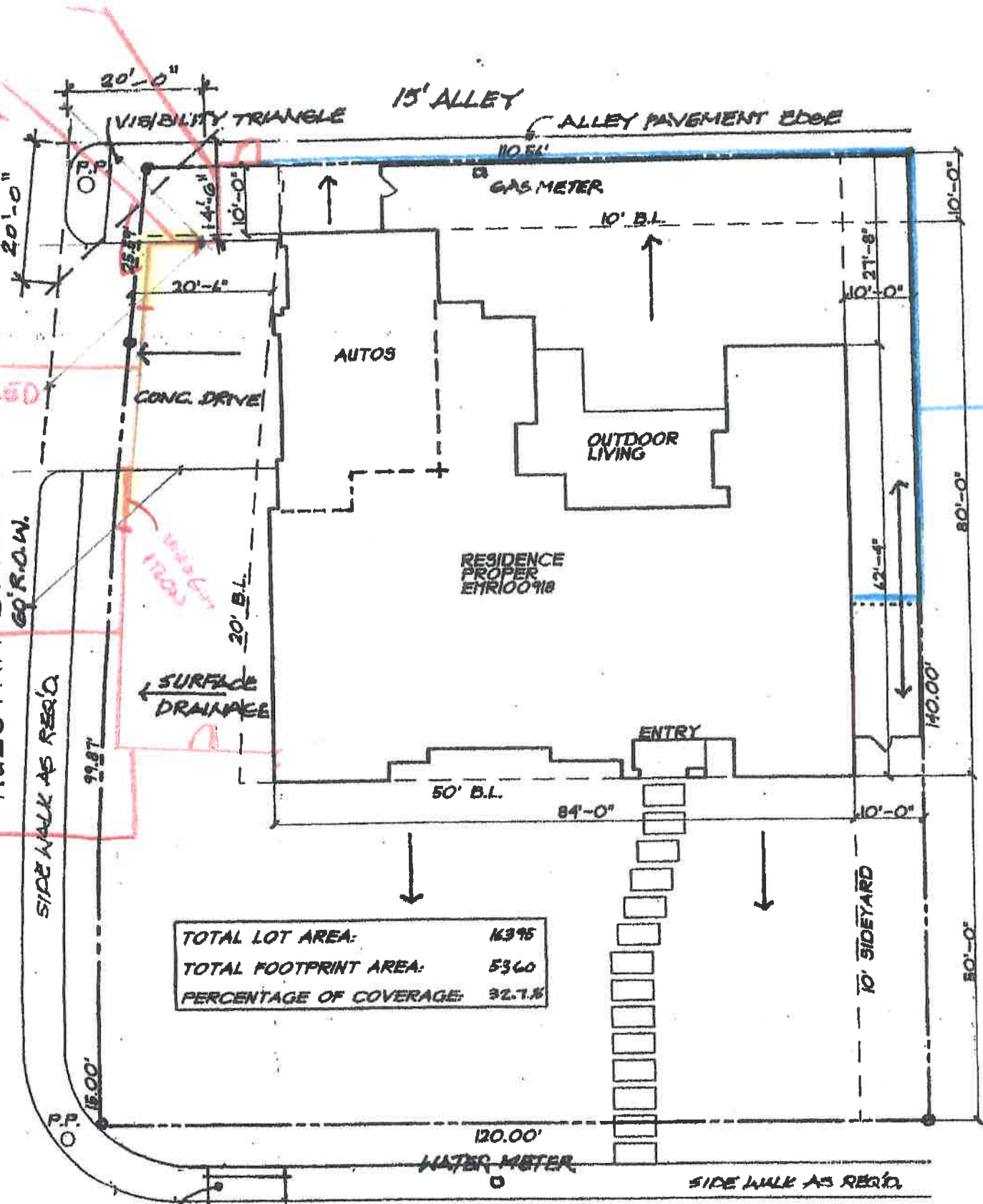
MOTORIZED GATE

8' BOARD ON BOARD

8' BOARD ON BOARD FENCE

NUESTRA DRIVE 60' R.O.W.

SIDE WALK AS REQ'D



TOTAL LOT AREA:	16395
TOTAL FOOTPRINT AREA:	5360
PERCENTAGE OF COVERAGE:	32.7%

S.S. INLET 5707 WILLIAMSTOWN ROAD
50' R.O.W.

SITE PLAN

SCALE: 1"=20'-0"

LOT 1, BLOCK B/1991
MELSHIRE ESTATES
DALLAS, TEXAS



This Site Plan is not a survey. It is provided for building and site-work layout only. Prior to the start of construction, the general contractor shall verify with the city and/or the appropriate utilities all grades, existing improvements, property lines, required building setbacks, easements, utilities, substructures, and any other existing site condition that could present a hazard or interfere with construction. Any discrepancies between this Site Plan and actual on-site conditions shall be the responsibility of the general contractor to resolve. Henderson Design & Associates shall be responsible only for the revision/correction of these documents, and then only as information is provided by the general contractor. These requirements apply from the time these documents are issued, and continue throughout the course of construction.

Finish grade shall provide positive drainage away from (all) structure(s) on this site, and shall furthermore be sensitive to adjacent sites, and shall meet all local requirements.

REVIEW COMMENT SHEET
BOARD OF ADJUSTMENT
HEARING OF JANUARY 20, 2021 (B)

Has no objections

Has no objections if certain conditions
are met (see comments below or attached)

Recommends denial
(see comments below or attached)

No comments

BDA 190-091 (OA)

BDA 190-092 (OA)

BDA 190-093 (OA)

BDA 201-004 (OA)

BDA 201-006 (OA)

BDA 201-009 (OA)

COMMENTS:

***City should aggressively manage
obstructions to visibility triangles.
Exceptions to visibility standards
should only be considered for unique
circumstances and/or hardship.***

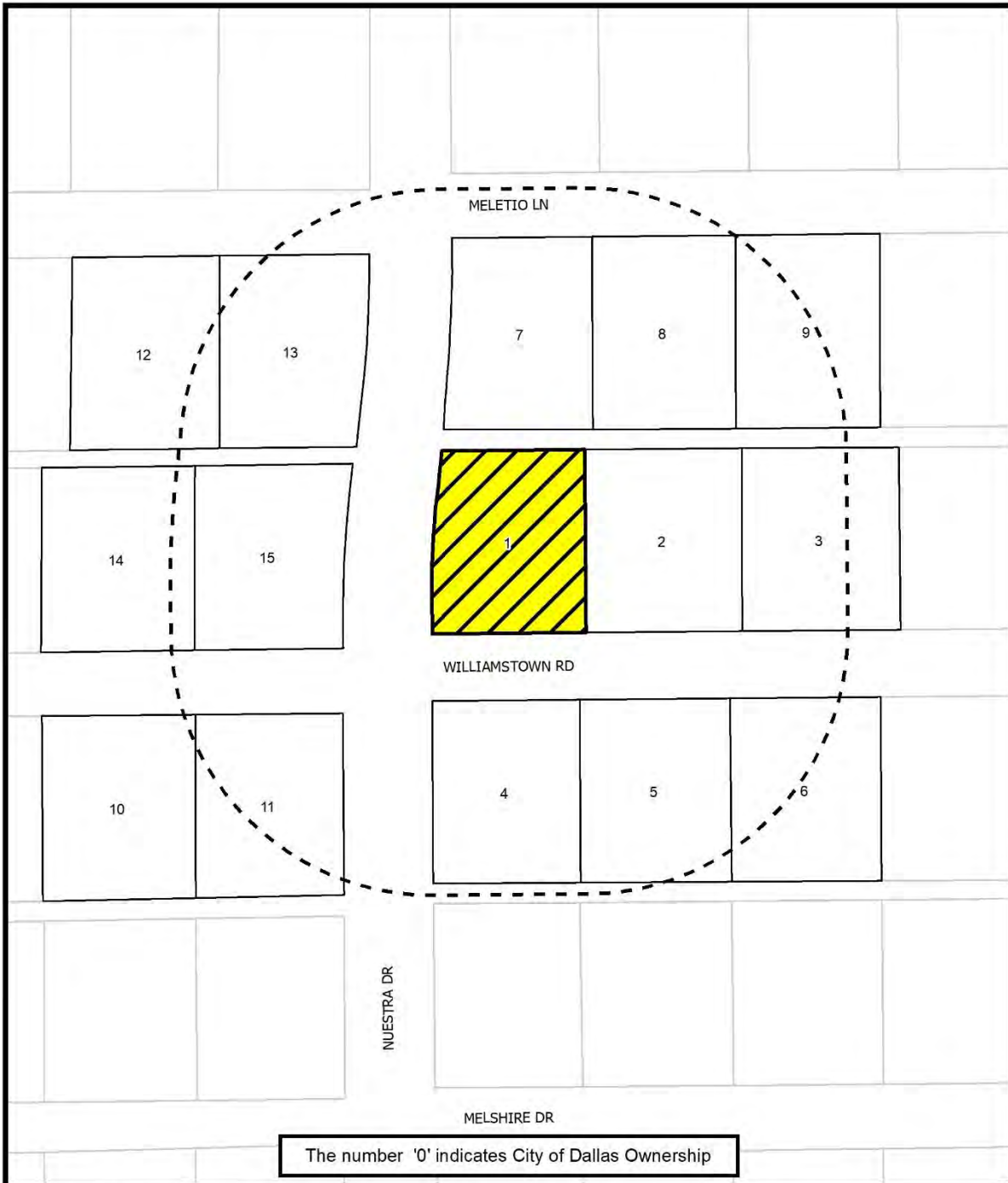
David Nevarez, PE, PTOE, DEV - Engineering

Name/Title/Department

12/30/2020

Date

Please respond to each case and provide comments that justify or elaborate on your response. Dockets distributed to the Board will indicate those who have attended the review team meeting and who have responded in writing with comments.



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">15</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	15	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA201-004</u> Date: <u>12/11/2020</u>
200'	AREA OF NOTIFICATION					
15	NUMBER OF PROPERTY OWNERS NOTIFIED					

12/11/2020

Notification List of Property Owners

BDA201-004

15 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5707 WILLIAMSTOWN RD	EMRO HOMES LLC
2	5715 WILLIAMSTOWN RD	BAKER RICHARD Y
3	5723 WILLIAMSTOWN RD	FONBERG MITCHELL
4	5706 WILLIAMSTOWN RD	WIER JEFFREY A
5	5712 WILLIAMSTOWN RD	FRIEDMAN JOSEPH S &
6	5722 WILLIAMSTOWN RD	SHMUEL NAFTALI &
7	5706 MELETIO LN	YATES ROBERT E & MARY R
8	5714 MELETIO LN	FIELDER CHARLES R &
9	5722 MELETIO LN	SMITH CHRISTINA EMILY
10	5618 WILLIAMSTOWN RD	DOREY MICHAEL R & PATRICIA
11	5624 WILLIAMSTOWN RD	Taxpayer at
12	5618 MELETIO LN	BLINN MARK A
13	5624 MELETIO LN	MILLER C SUZETTE &
14	5617 WILLIAMSTOWN RD	ROSS SHARON L
15	5623 WILLIAMSTOWN RD	SCHWARCZ JOSEPH PHILLIP

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 November 18, and 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.

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 B.

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.

November 18, 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 January 20, 2021.

November 23, 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.

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)

BOARD OF ADJUSTMENT ACTION: November 18, 2020

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX
Tom Shields 418 E. Shore Dr. Clearlake Shores, TX

APPEARING IN OPPOSITION: Roger Albright 1701 N. Collins Blvd. #1100
Richardson, TX
Pasha Heidari 3020 Greenville Ave. Dallas, TX.
Chuck DeShazo 400 S. Houston St. #330, Dallas, TX.
Mike Northrup 5703 Goliad Ave., Dallas, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION#1: Brooks

I move that the Board of Adjustment, in Appeal No. BDA 190-090, on application of Thomas Shields, represented by Steve Dimitt, **grant** the request to carry forward delta credits as a special exception to the Modified Delta Overlay District No. 1 regulations in the Dallas

Development Code, because our evaluation of the property and the testimony shows 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 including:

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

SECONDED: Schwartz

AYES: 3 - Schwartz, Brooks, Jones

NAYS: 2 – Vermillion, Shouse

MOTION FAILED: 3 – 2

MOTION#2: Vermillion

I move that the Board of Adjustment, in Appeal No. BDA 190-090, on application of Thomas Shields, represented by Steven Dimitt, **deny** the special exception requested by this applicant **without** prejudice, because our evaluation of the property and the testimony did not demonstrate an extreme circumstance to justify a lack of intent to abandon the use that was discontinued or vacant for 12 months or more.

SECONDED: Jones

AYES: 5 - Schwartz, Shouse, Vermillion, Jones, Brooks

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION#3 (Motion to Reconsider): Brooks

I move that the Board of Adjustment **reconsider** the **decision to deny** the applicant's request in appeal number BDA 190-090.

SECONDED: Vermillion

AYES: 5 - Schwartz, Shouse, Vermillion, Jones, Brooks

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION#4: Brooks

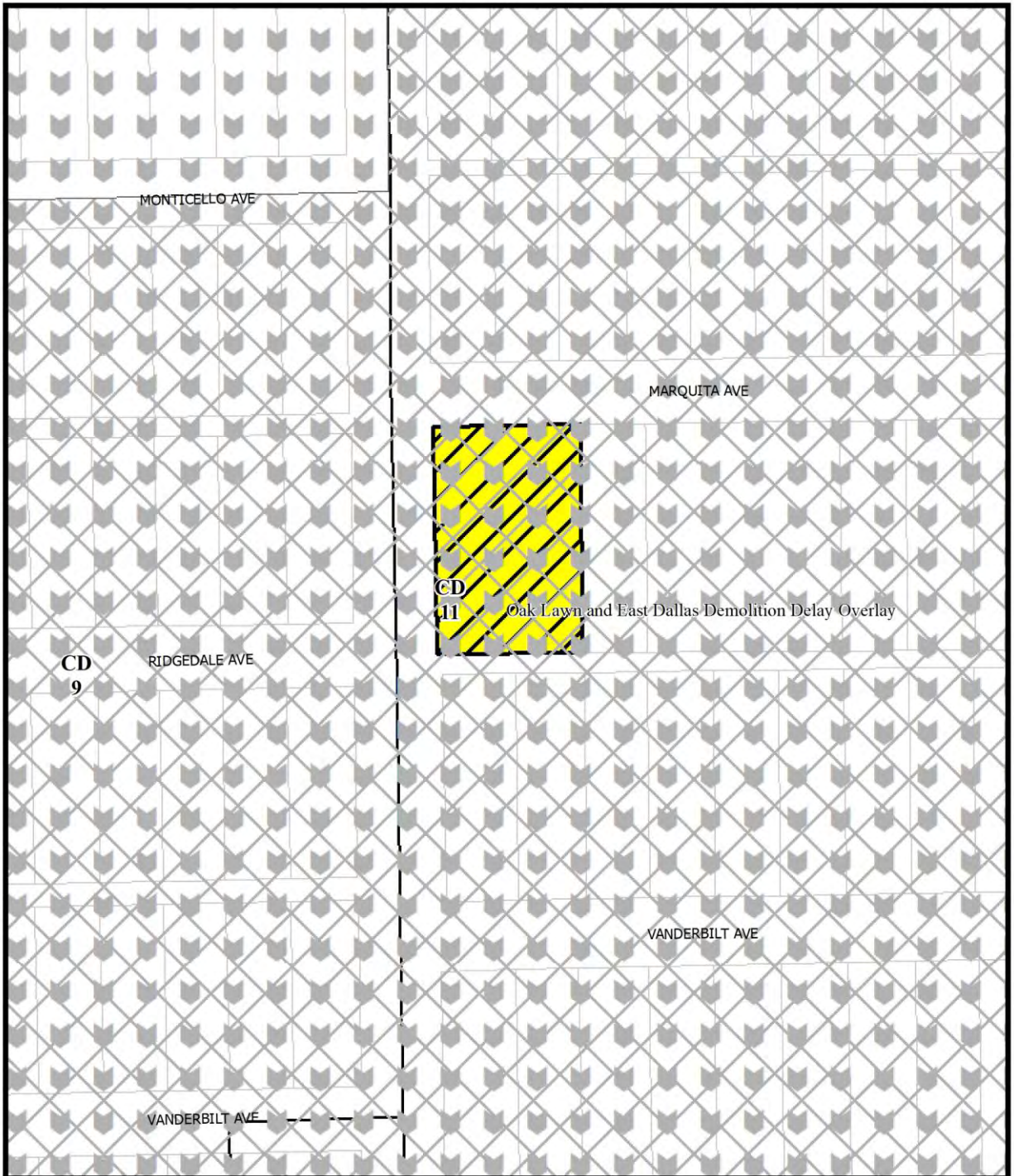
I move that the Board of Adjustment in Appeal No. BDA 190-090, hold this matter under advisement until **January 20, 2021**.

SECONDED: Vermillion

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

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

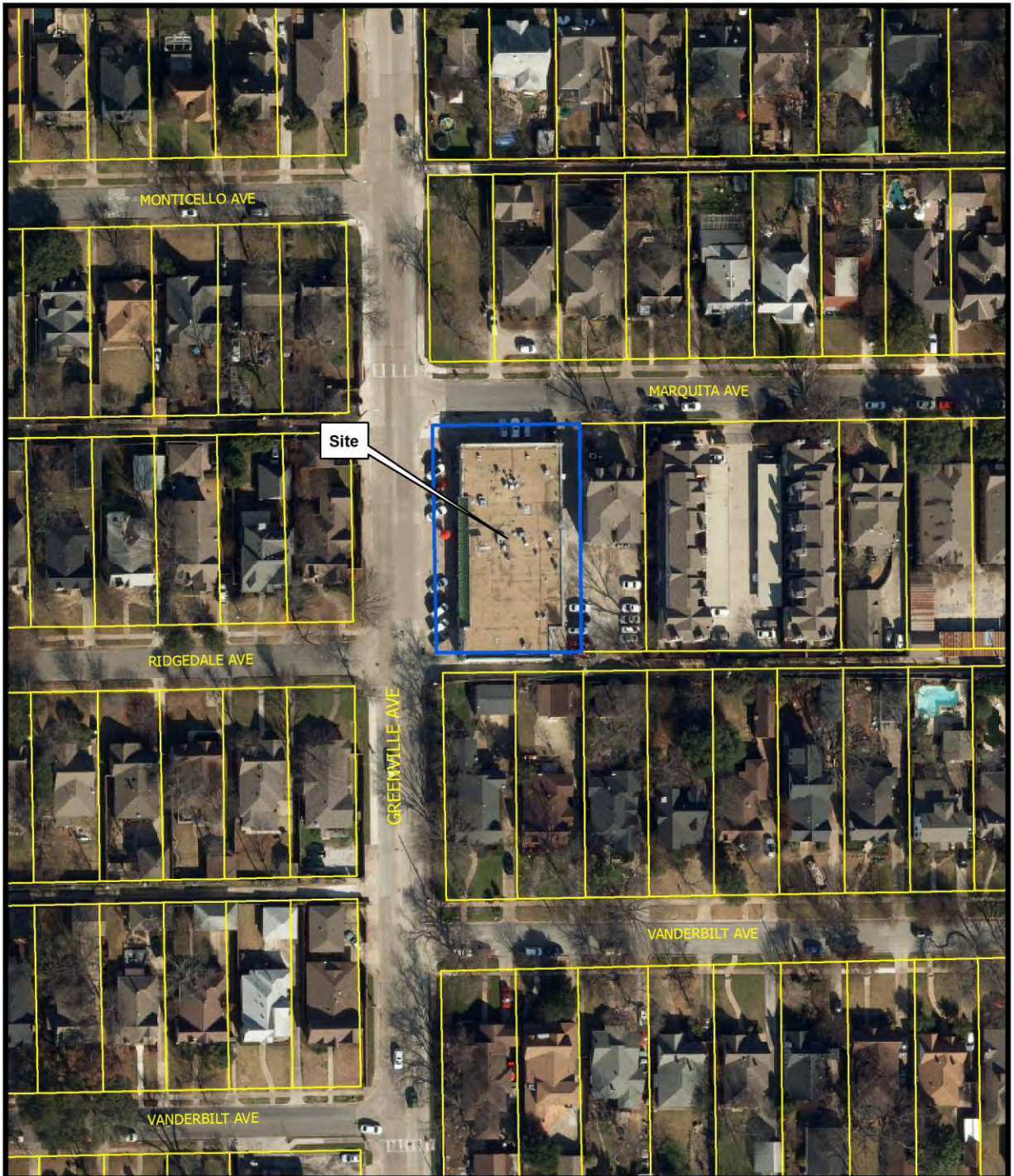


1:1,200

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 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.

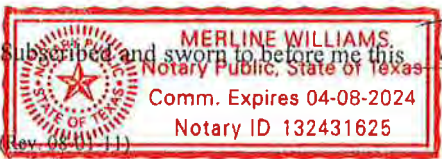
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

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



3 day of August, 2020

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



CITY OF DALLAS

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)
- Special Exception (specify below)
- Other Appeal (specify below)

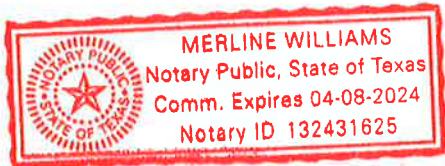
Special exception under Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

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

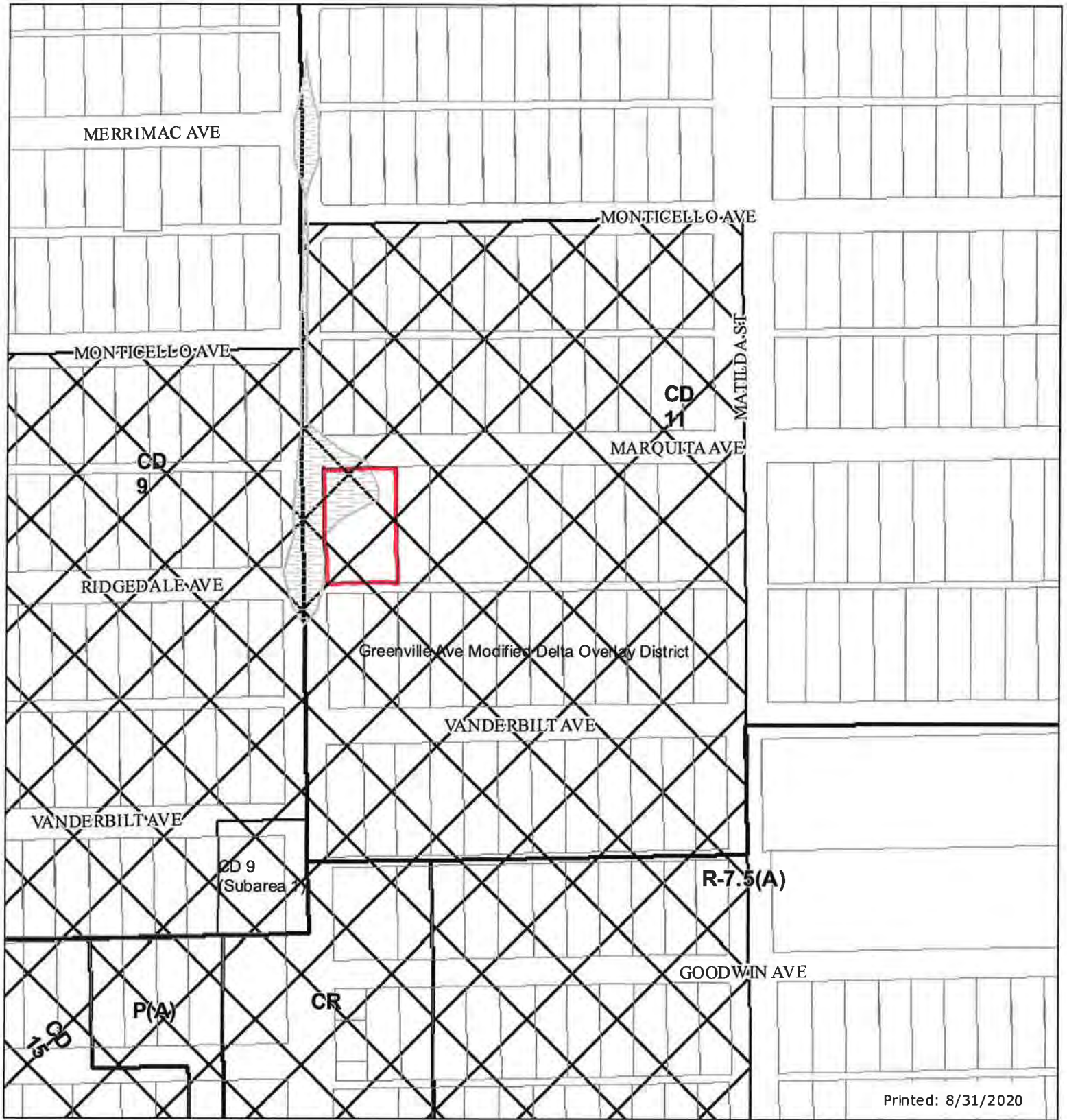
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

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 | SPSP 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: 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.

Sustainable Development and Construction | Building Inspection Division | 214/948-4480 | www.dallascityhall.com



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,

A handwritten signature in cursive script that reads "Sarah May".

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

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

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

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:

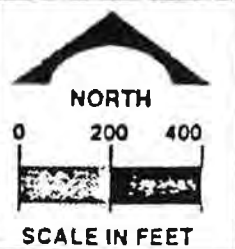
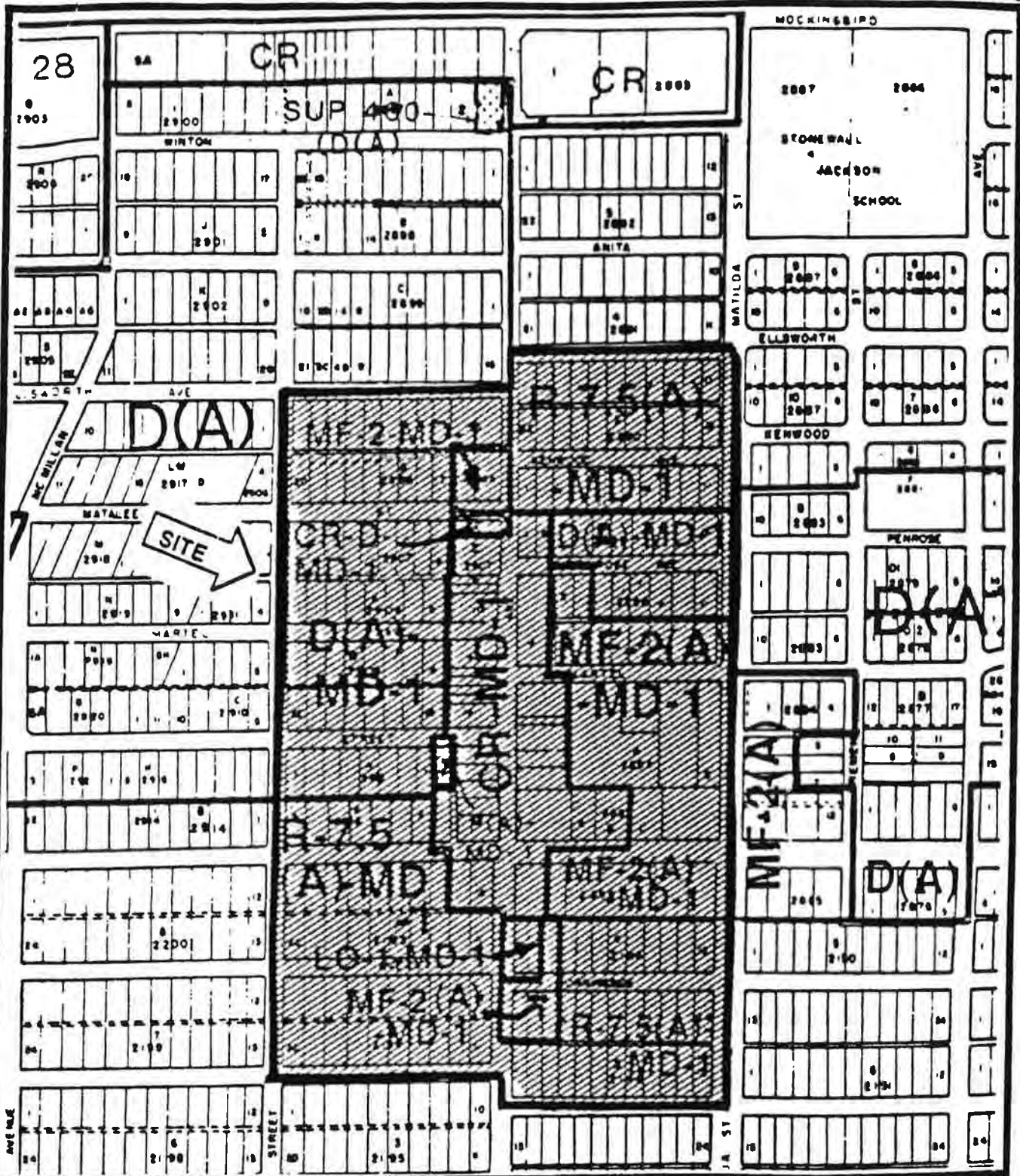
SAM A. LINDSAY, City Attorney

By 
Assistant City Attorney

JUN 28 1995

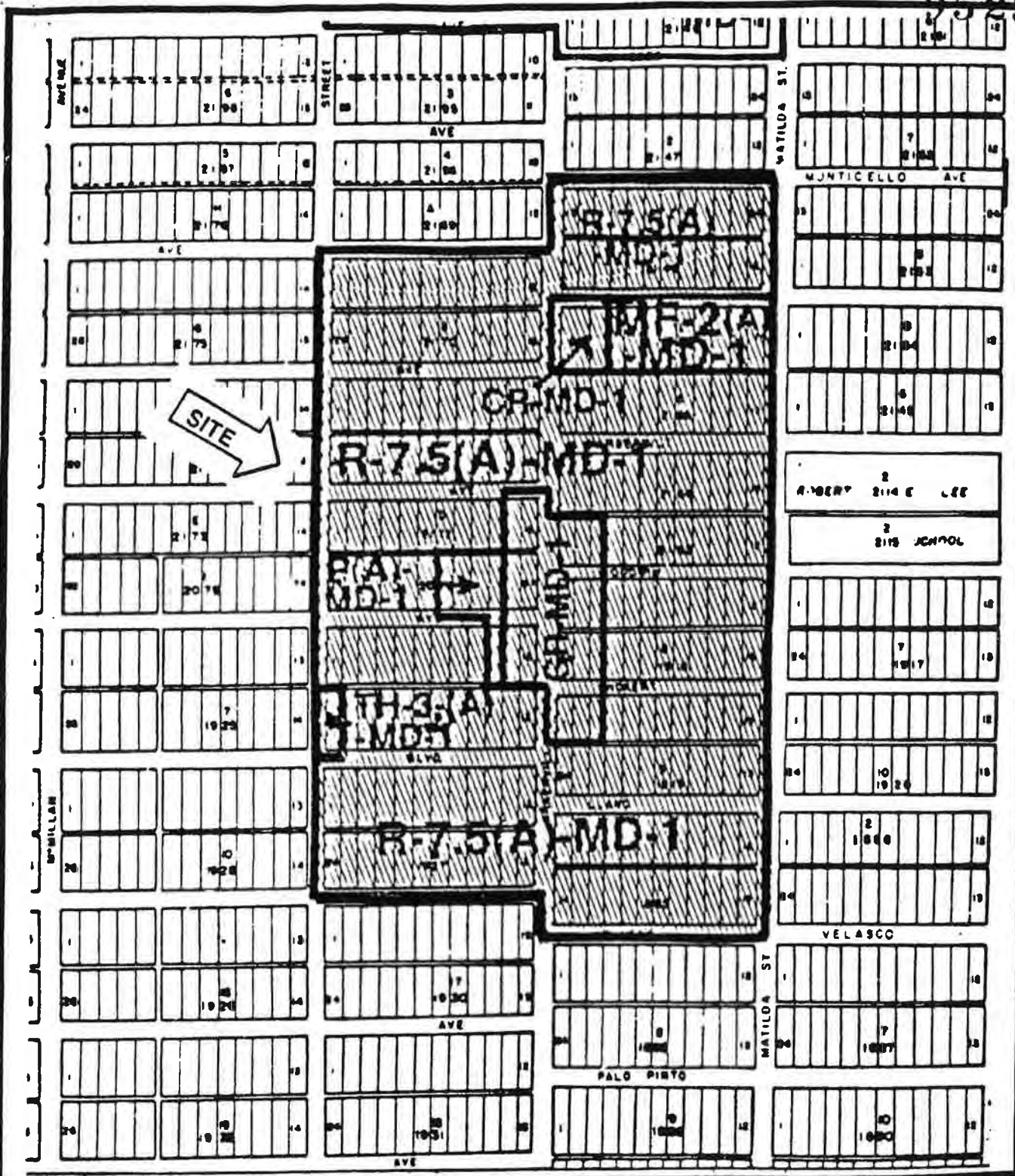
Passed _____

File No. Z945-206/6254-E



ZONING HISTORY
"AREA 1"

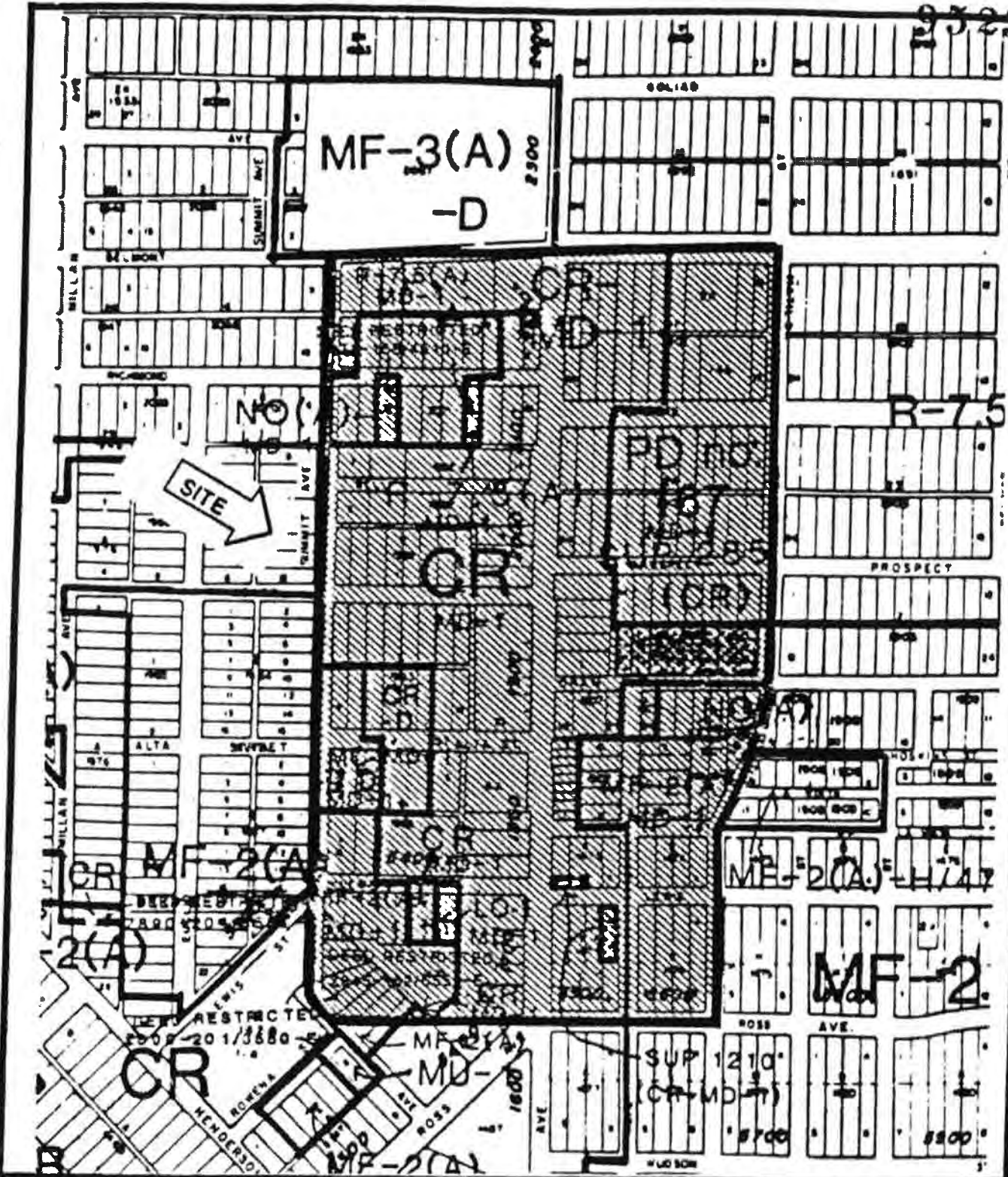
Map No. H-8, I-8
Case No. Z945-206/6254-E



ZONING HISTORY
"AREA 2"

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

252395



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.

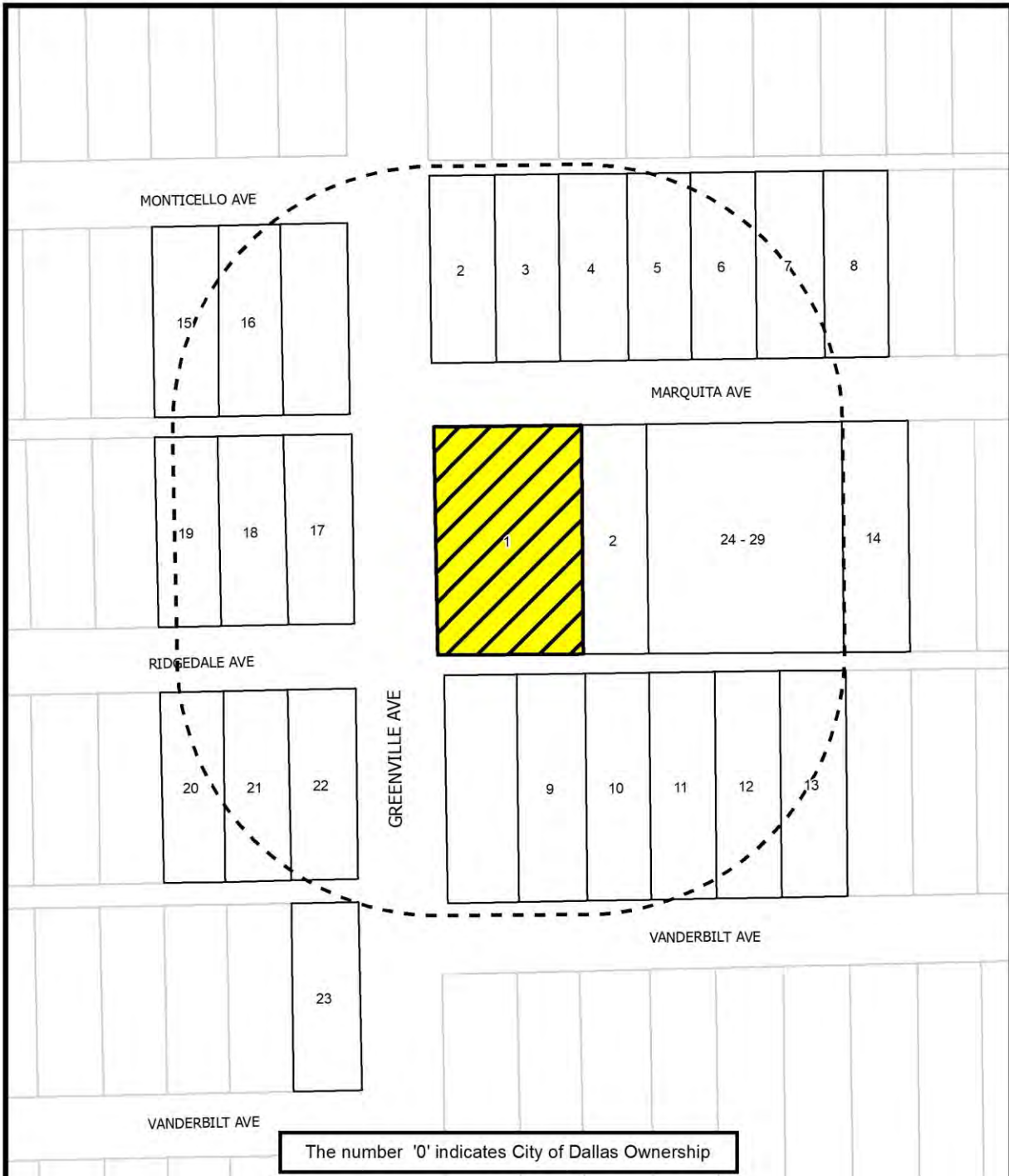
If you have any further questions, please contact me at 214-948-4501 or megan.wimer@dallascityhall.com.

Respectfully,

A handwritten signature in black ink that reads "megan wimer".

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

cc: Phil Sikes, CBO, Building Official



 1:1,200	<h2>NOTIFICATION</h2>	Case no: BDA190-090			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">29</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	29	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
29	NUMBER OF PROPERTY OWNERS NOTIFIED				

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 November 18, and 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.

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 B.

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.

November 18, 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 January 20, 2021.

November 23, 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.

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)

BOARD OF ADJUSTMENT ACTION: November 18, 2020

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX
Tom Shields 418 E. Shore Dr. Clearlake Shores, TX
Kristin Boyd 6801 Lochwood, Garland, TX

APPEARING IN OPPOSITION: Roger Albright 1701 N. Collins Blvd. #1100
Richardson, TX
Pasha Heidari 3020 Greenville Ave. Dallas, TX.
Chuck DeShazo 400 S. Houston St. #330, Dallas, TX.
Mike Northrup 5703 Goliad Ave., Dallas, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION#1: Shouse

I move that the Board of Adjustment, in Appeal No. BDA 190-091, on application of Thomas Shields, represented by Steve Dimitt, **grant** the request to carry forward delta credits as a special exception to the Modified Delta Overlay District No. 1 regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows 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 including:

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

SECONDED: Jones

AYES: 3 - Schwartz, Shouse, Jones,

NAYS: 2 - Vermillion, Brooks

MOTION FAILED: 3 – 2

MOTION#2: Shouse

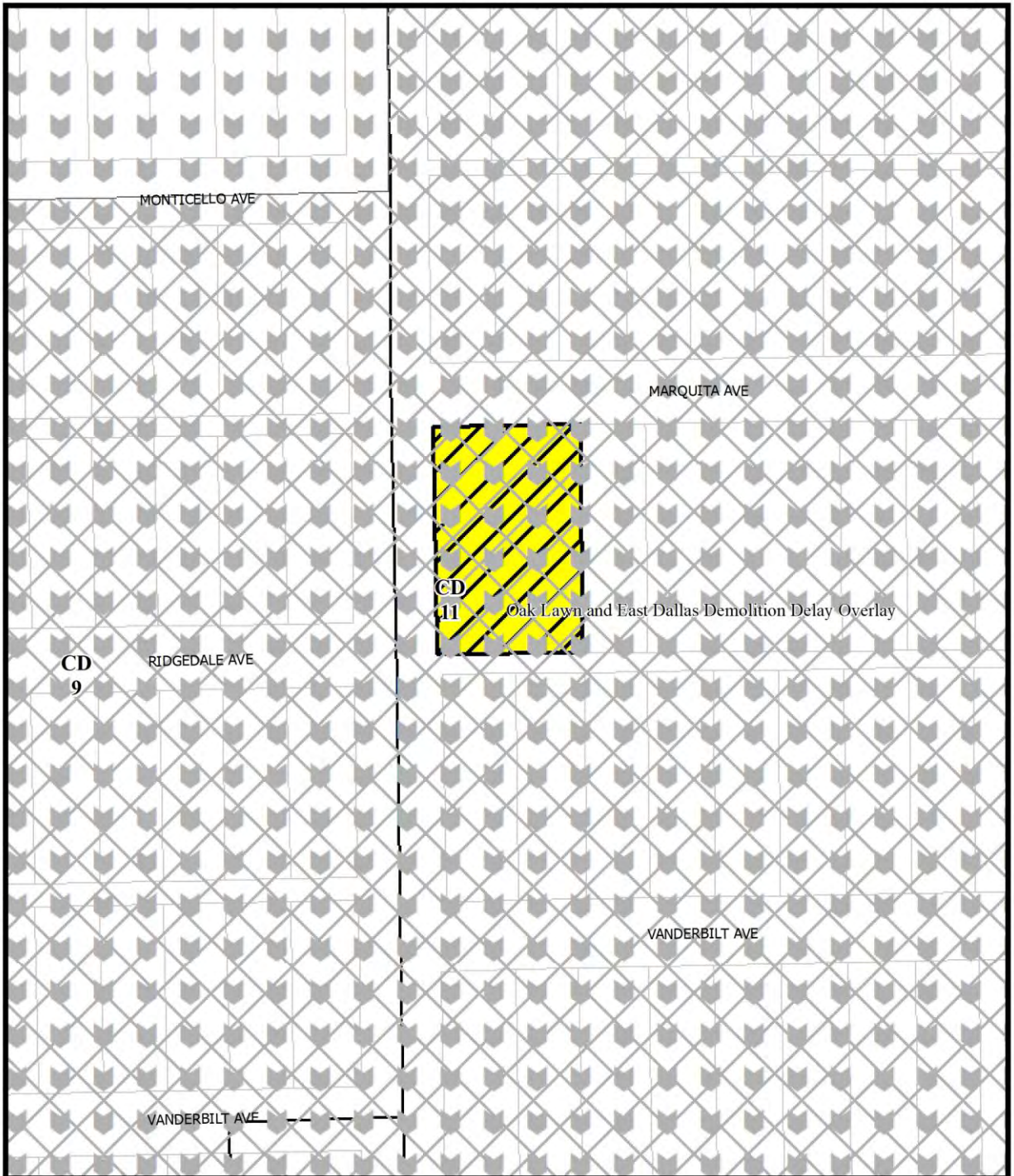
I move that the Board of Adjustment in Appeal No. BDA 190-091, hold this matter under advisement until January 20, 2021.

SECONDED: Brooks

AYES: 5 - Schwartz, Shouse, Jones, Vermillion, Brooks

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

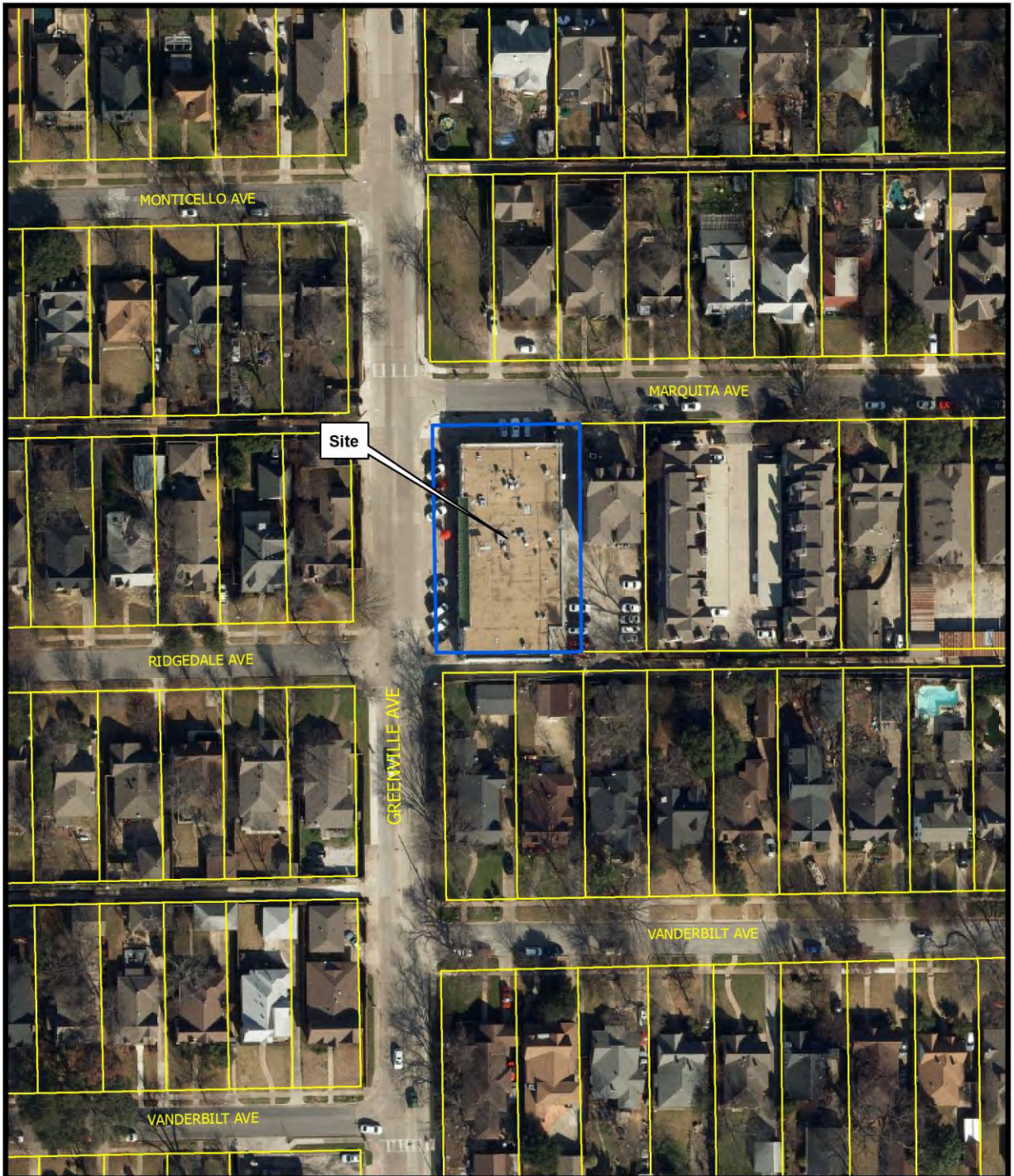


1:1,200

ZONING MAP

Case no: BDA190-091

Date: 10/1/2020



1:1,200

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.

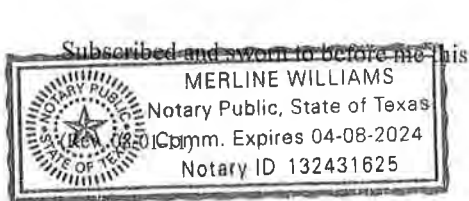
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

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



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 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, 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)
- Special Exception (specify below)
- Other Appeal (specify below)

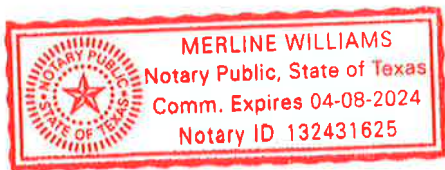
Special exception under Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

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

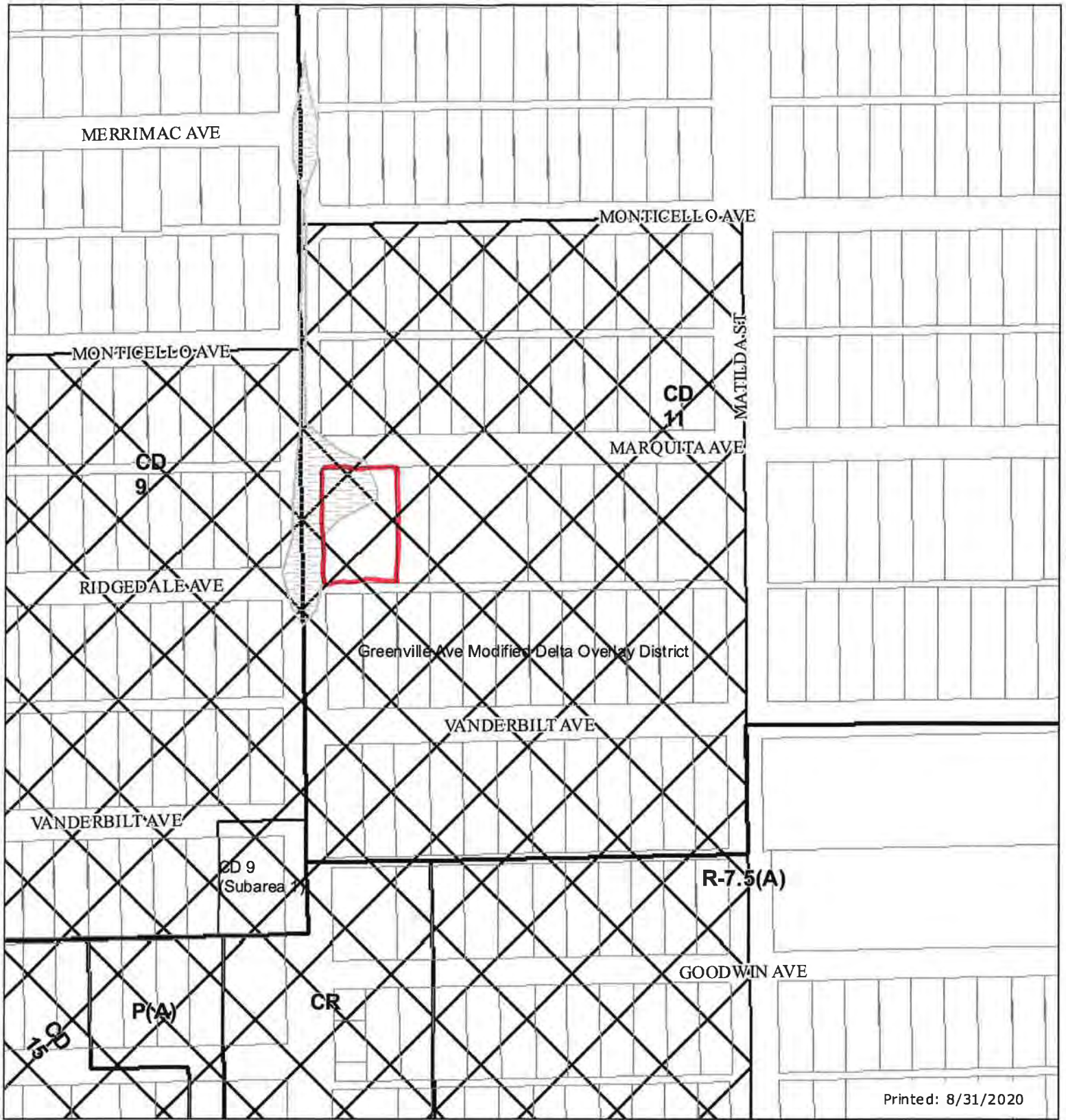
Before me, the undersigned, on this day personally appeared Thomas Shields

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 | SPSP 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 | 6-13 |

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.

Sustainable Development and Construction | Building Inspection Division | 214/948-4480 | www.dallascityhall.com



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,

A handwritten signature in cursive script that reads "Sarah May".

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:

1

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

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.

19726

043376

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 *Agnes M. Alder 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.

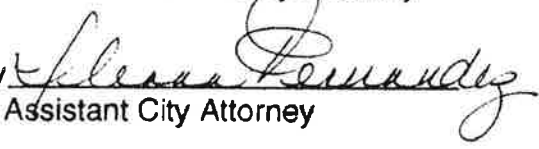
SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 shall remain in full force and effect, save and except as amended by this ordinance.

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:

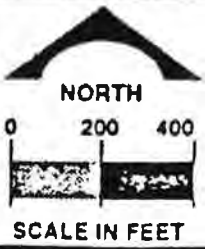
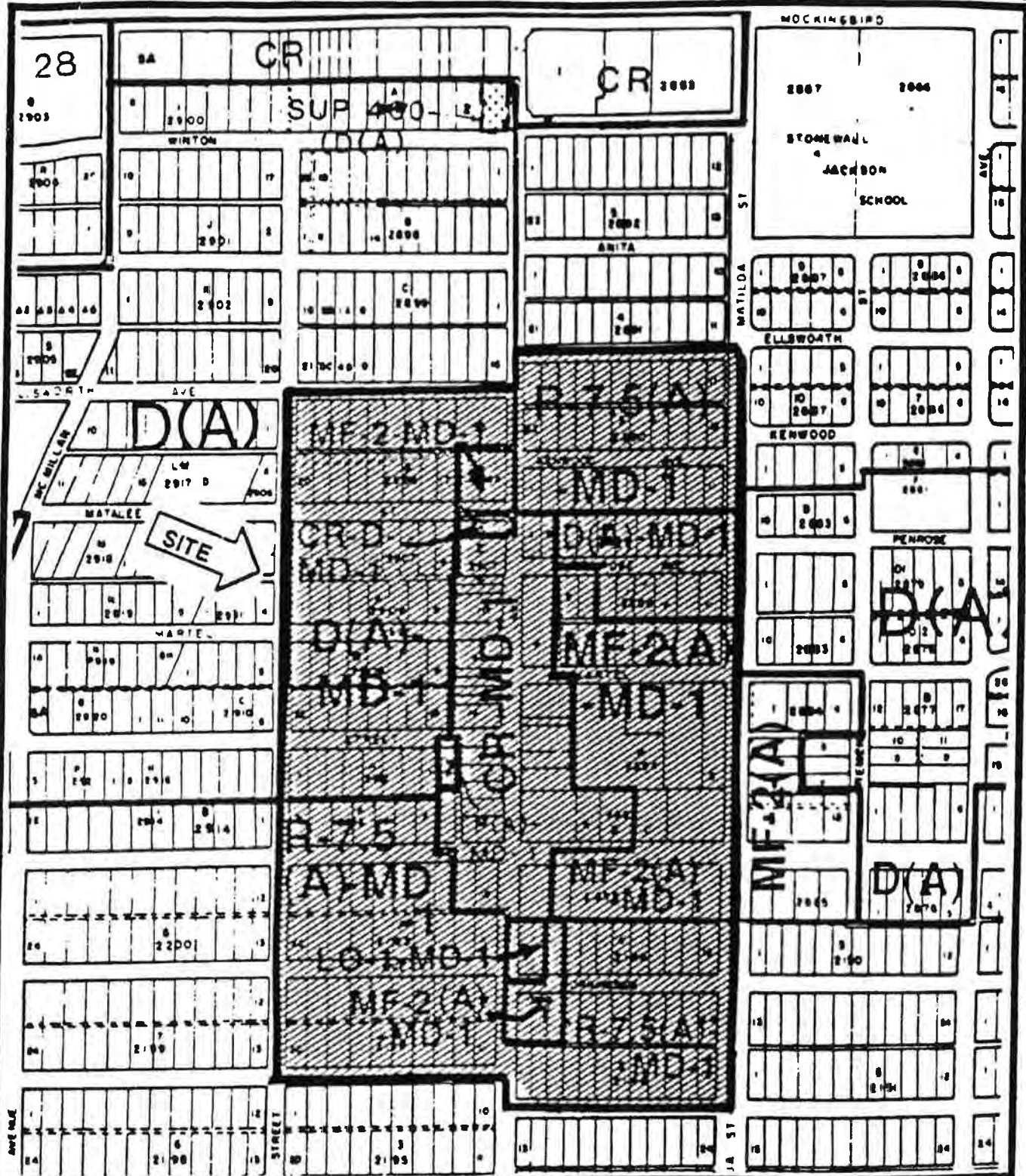
SAM A. LINDSAY, City Attorney

By 
Assistant City Attorney

JUN 28 1995

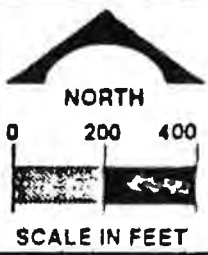
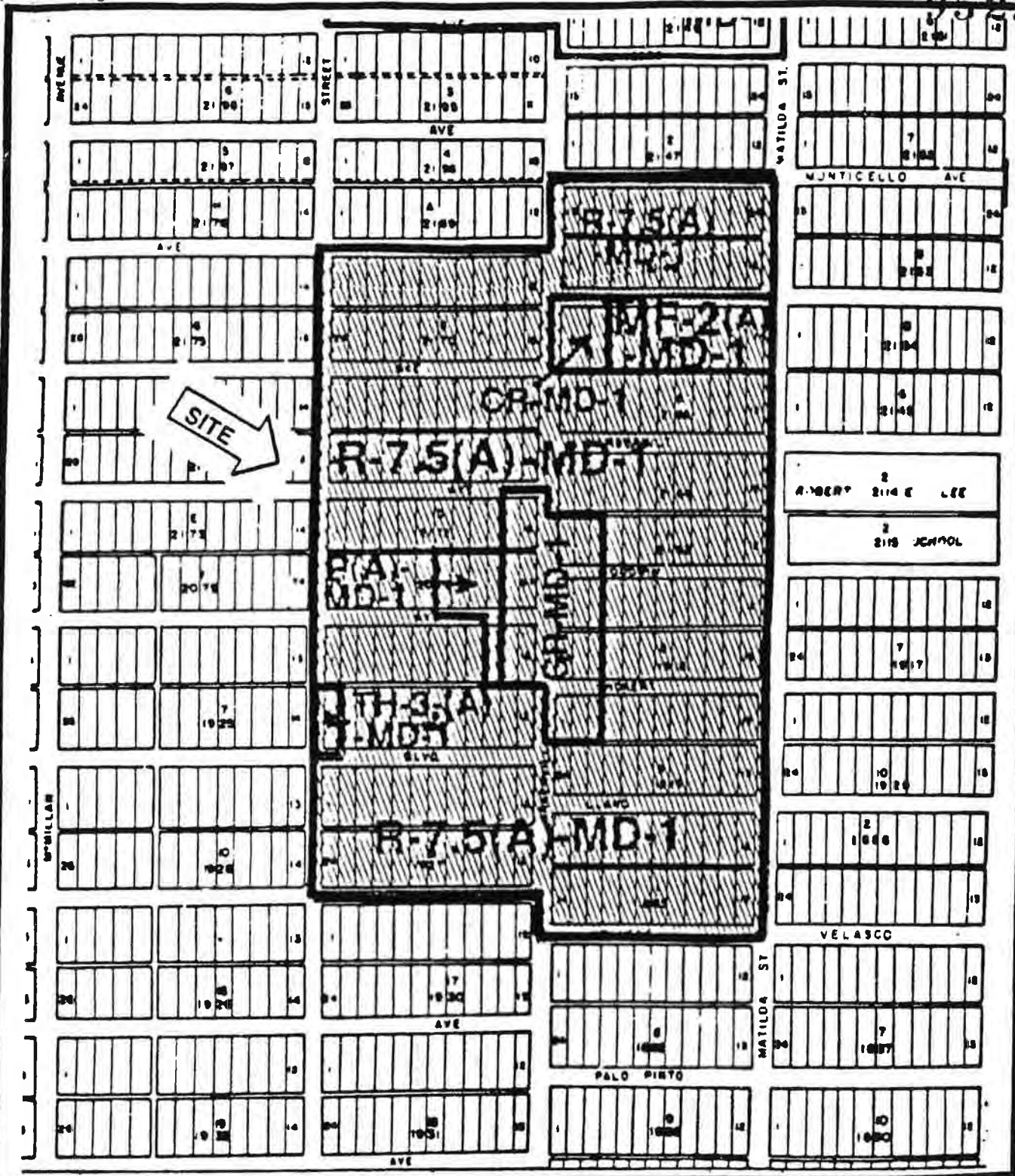
Passed _____

File No. Z945-206/6254-E



ZONING HISTORY
"AREA 1"

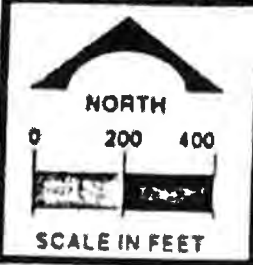
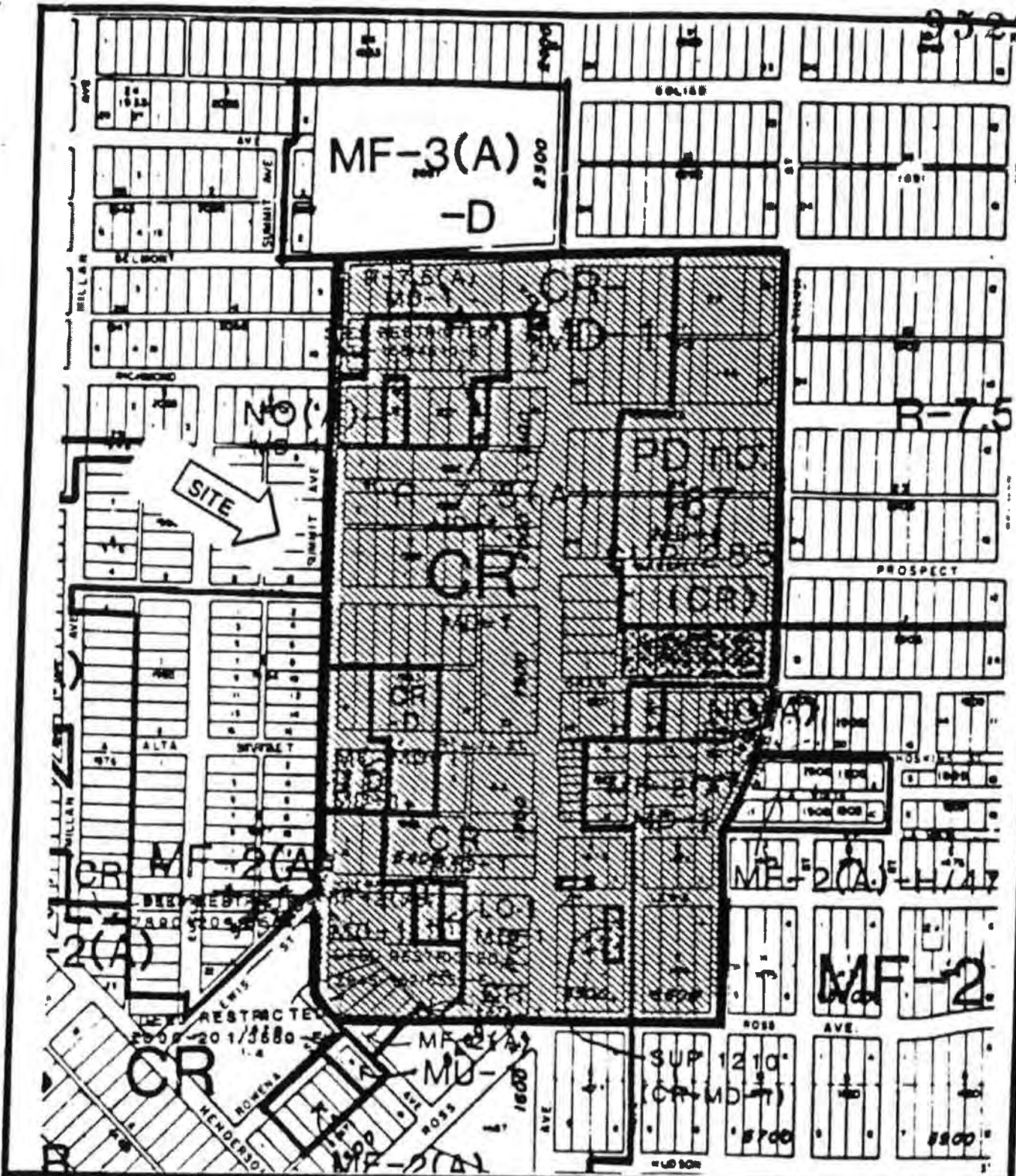
Map No. H-8, I-8
Case No. Z945-206/6254-E



ZONING HISTORY
"AREA 2"

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

23295



ZONING HISTORY
"AREA 3"

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.

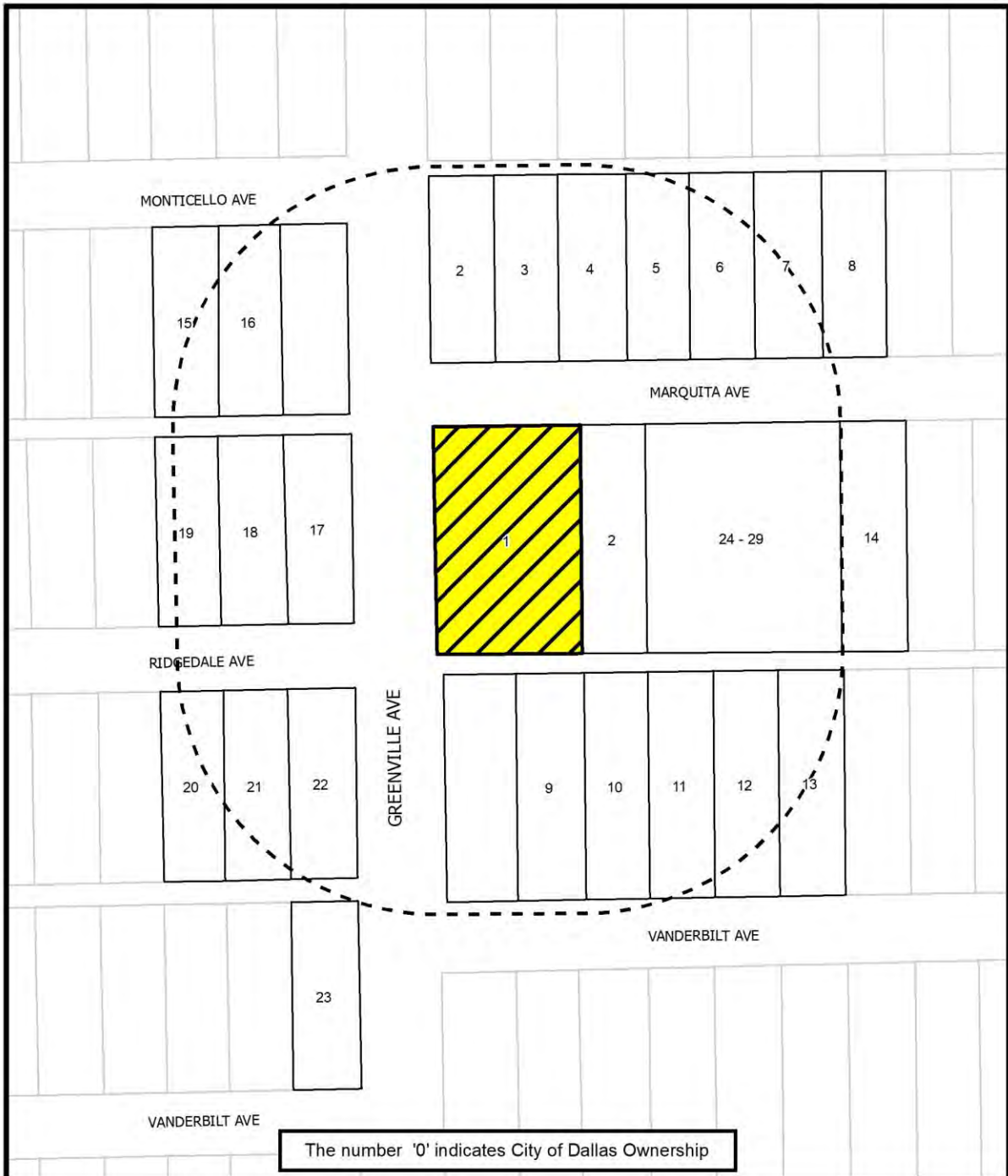
If you have any further questions, please contact me at 214-948-4501 or megan.wimer@dallascityhall.com.

Respectfully,

A handwritten signature in black ink that reads "megan wimer".

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

cc: Phil Sikes, CBO, Building Official



 1:1,200	<h2>NOTIFICATION</h2>	Case no: <u>BDA190-091</u>
	AREA OF NOTIFICATION NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <u>10/1/2020</u>

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: BDA190-092(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.

UPDATE:

On November 18, 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.

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 B.
- 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.

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

November 18, 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 January 20, 2021.

November 23, 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.

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

BOARD OF ADJUSTMENT ACTION: November 18, 2020

APPEARING IN FAVOR:

Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
 Rob Baldwin 3904 Elm St. Ste. B Dallas, TX
 Tom Shields 418 E. Shore Dr. Clearlake Shores, TX
 Kristin Boyd 6801 Lochwood, Garland, TX
 Brad Williams 2728 N. Harwood St. #500, Dallas, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100
 Richardson, TX
 Pasha Heidari 3020 Greenville Ave. Dallas, TX.

Chuck DeShazo 400 S. Houston St. #330, Dallas, TX.
Mike Northrup 5703 Goliad Ave., Dallas, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: Vermillion

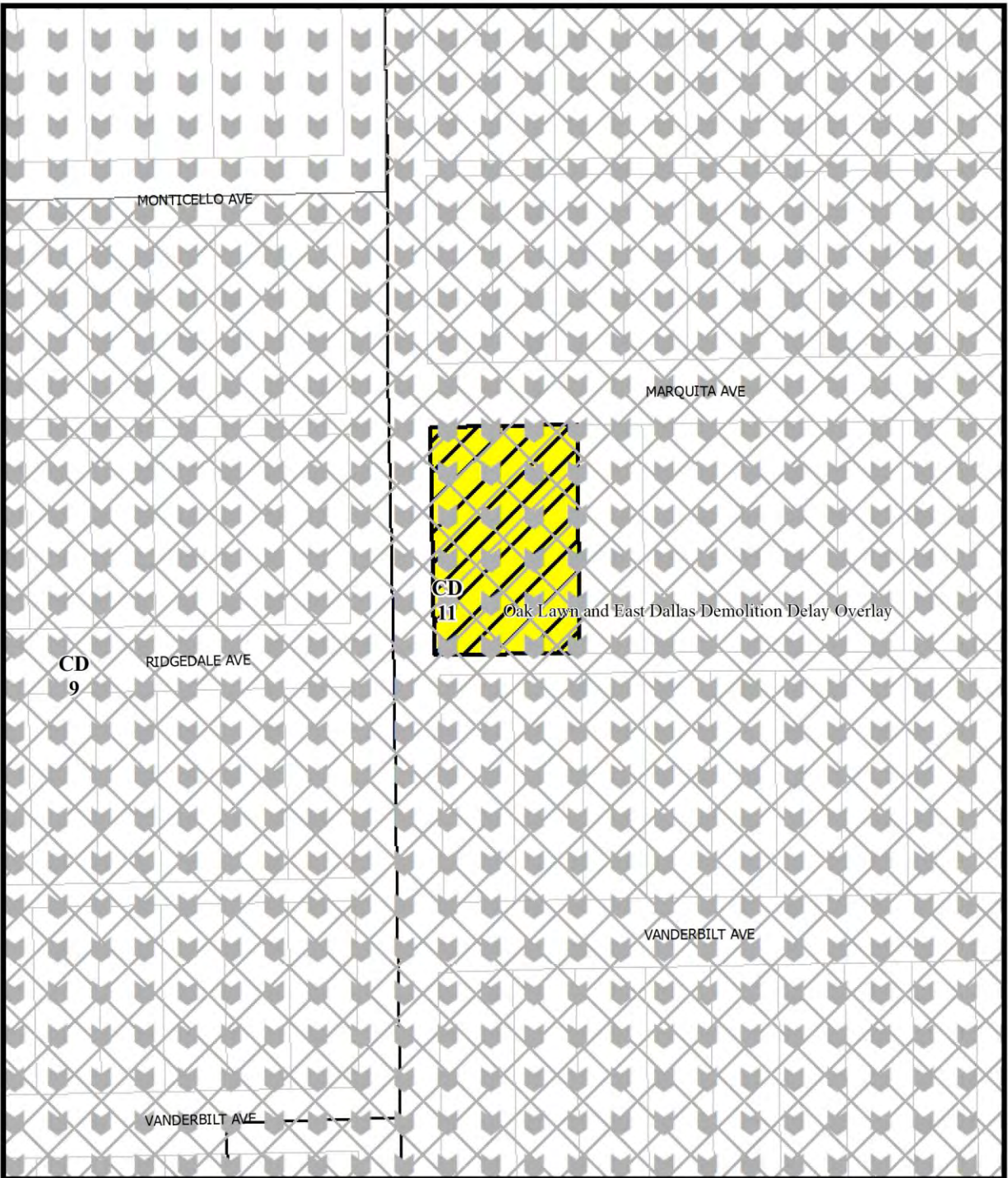
I move that the Board of Adjustment in Appeal No. BDA 190-092, hold this matter under advisement until **January 20, 2021**.


SECONDED: Jones

AYES: 5 - Schwartz, Shouse, Vermillion, Jones, Brooks

NAYS: 0

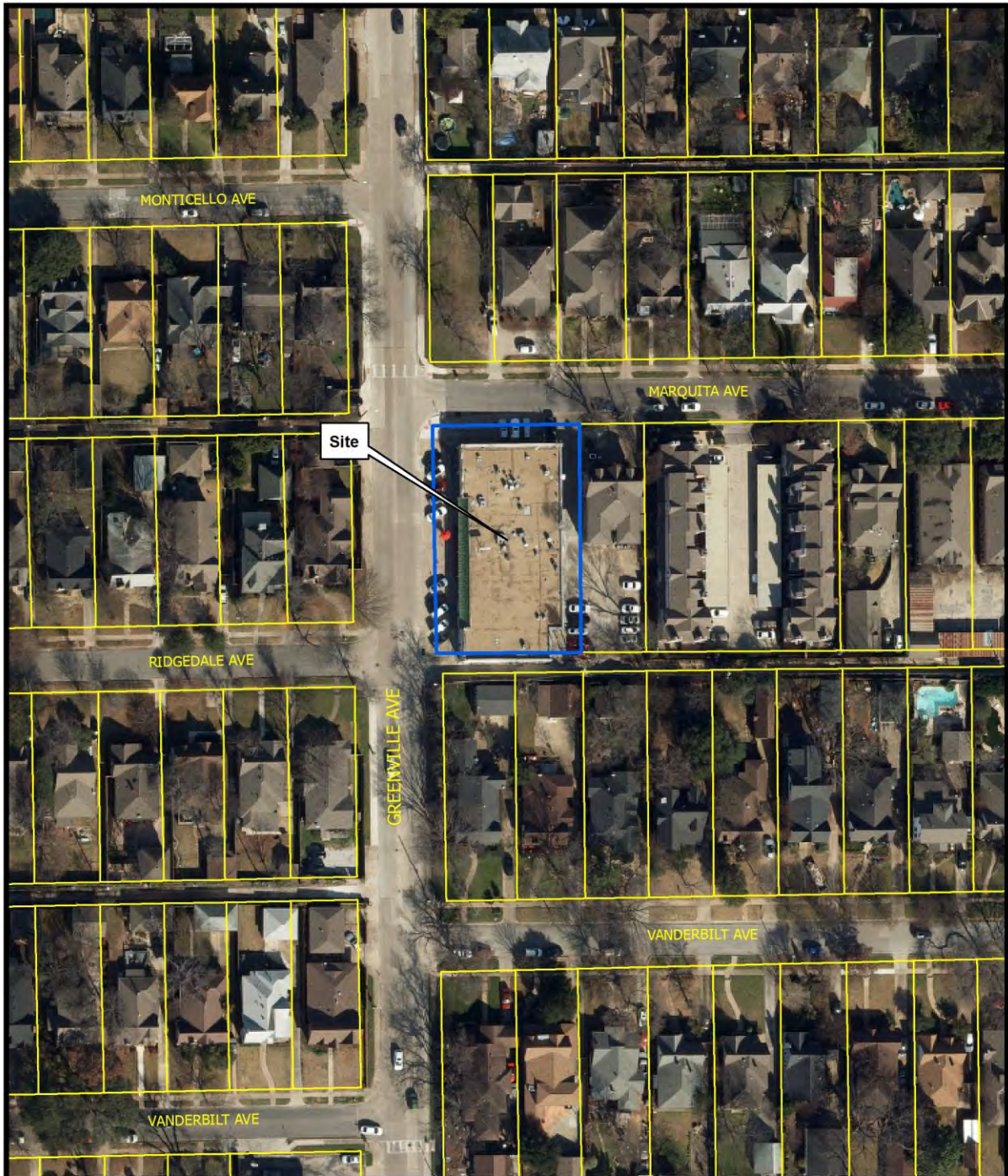
MOTION PASSED: 5 – 0 (unanimously)




 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.

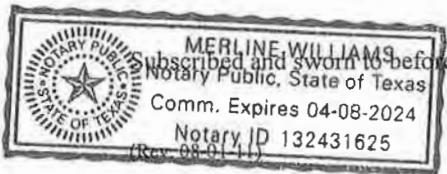
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

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



CITY OF DALLAS

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)
- Other Appeal (specify below)

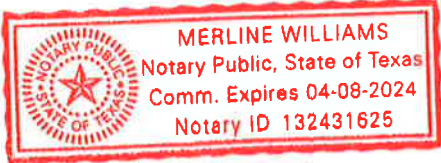
Appeal building official's revocation of certificate of occupancy.

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

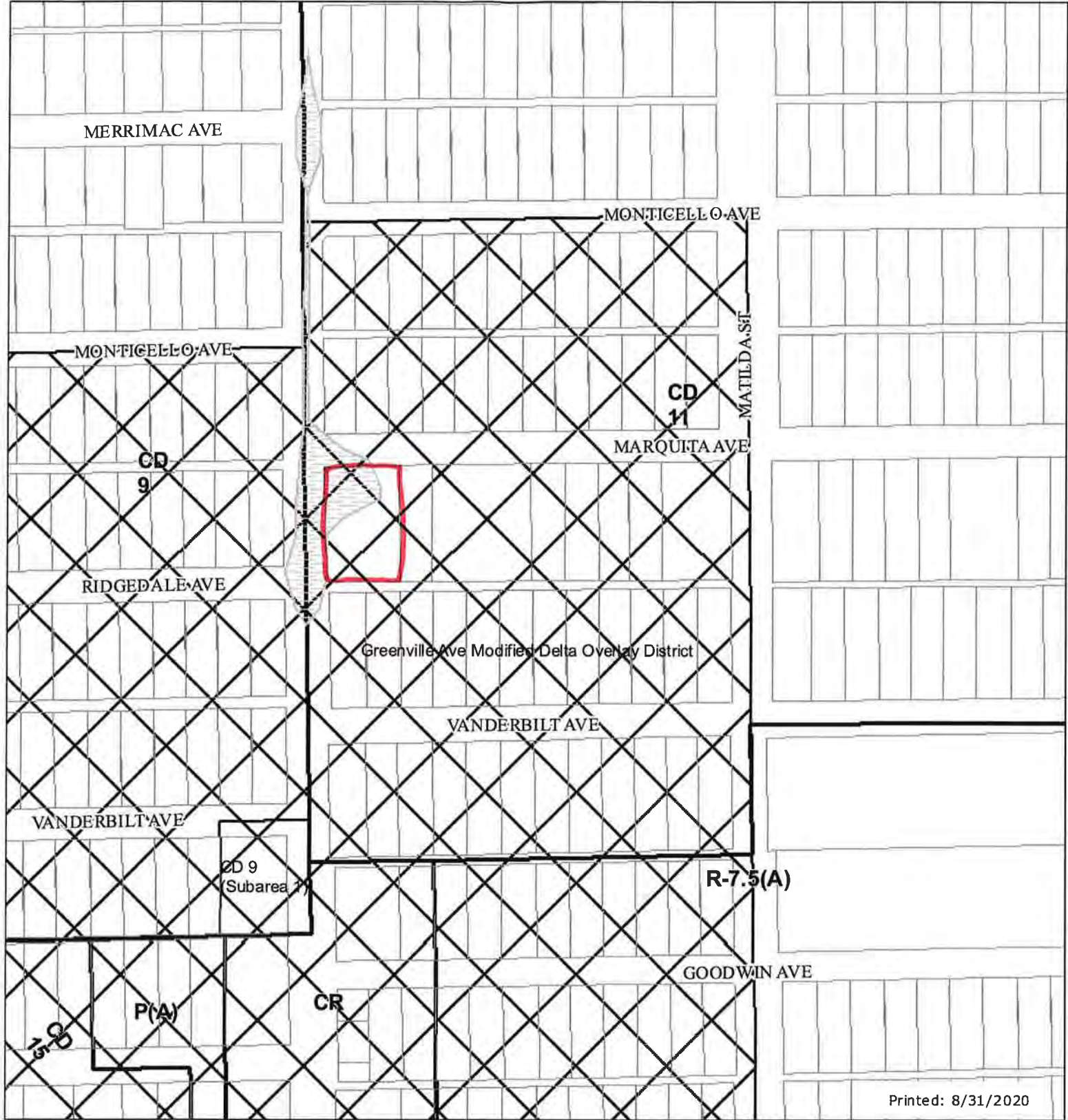
Before me, the undersigned, on this day personally appeared Thomas Shields

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 | SPSP Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | Shop Front Overlay 7-10 |
| | | 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,

A handwritten signature in cursive script that reads "Sarah May".

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:

1

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

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.

19726

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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:

ANALESIE MUNCY, City Attorney

BY *Christopher 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

22472

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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.

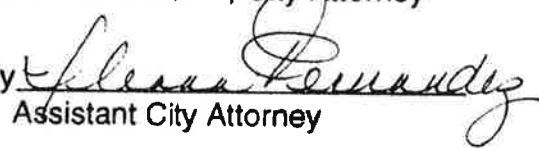
SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 shall remain in full force and effect, save and except as amended by this ordinance.

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:

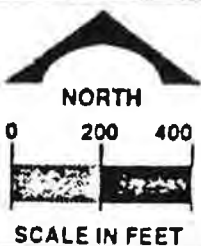
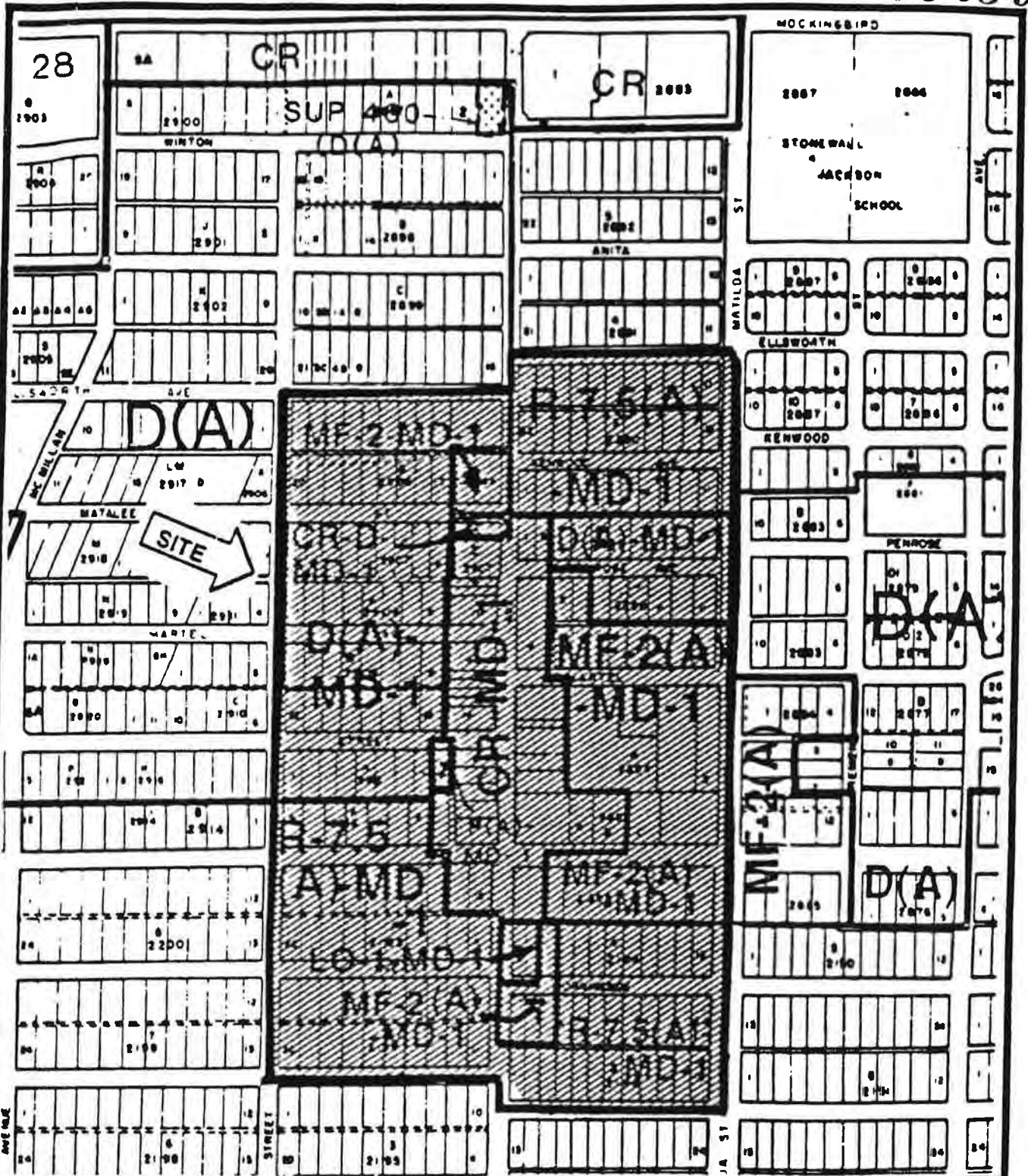
SAM A. LINDSAY, City Attorney

By 
Assistant City Attorney

JUN 28 1995

Passed _____

File No. Z945-206/6254-E

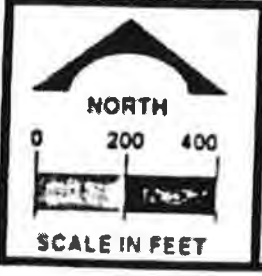
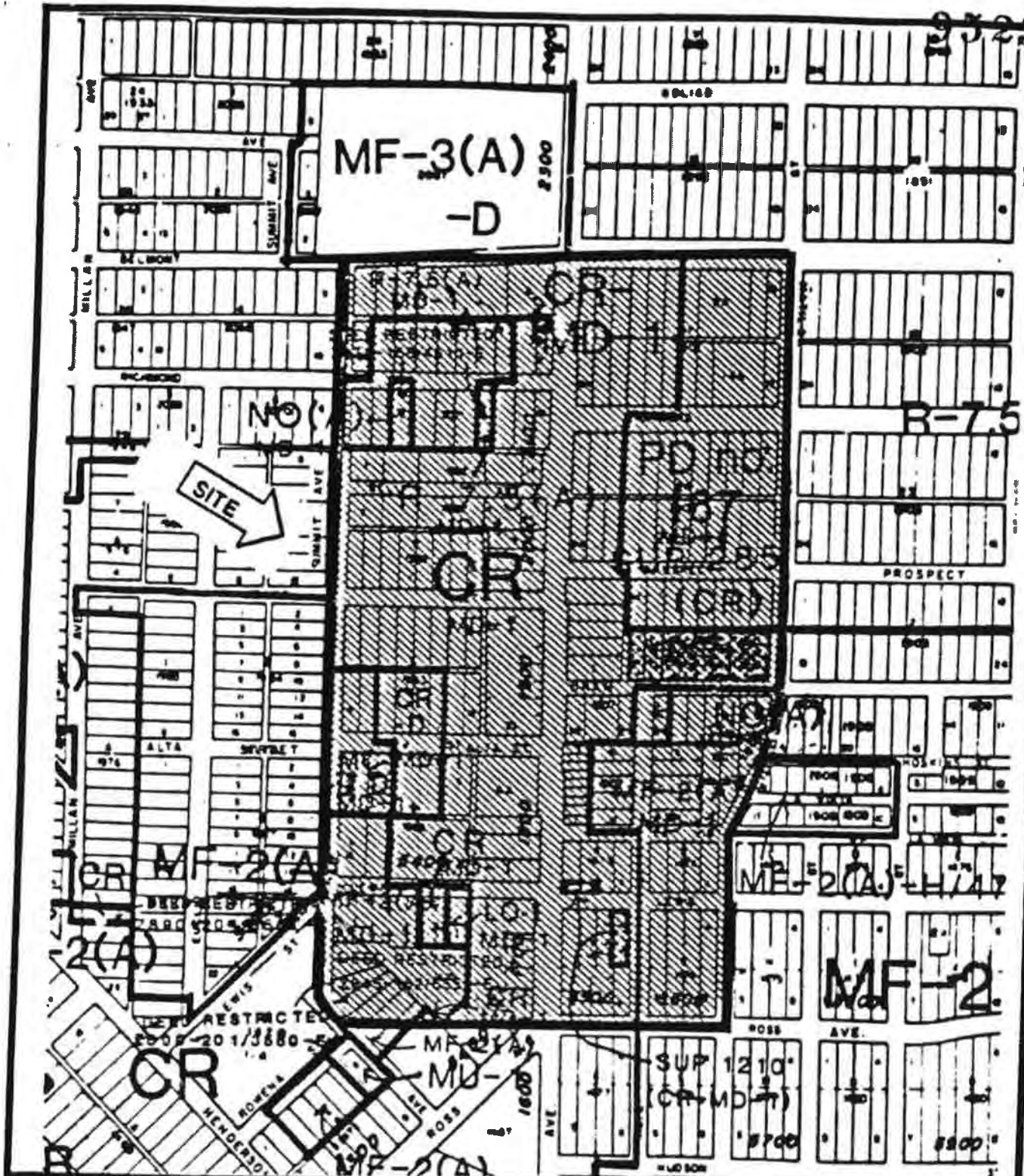


ZONING HISTORY
"AREA 1"

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

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.

R.M. Gindley
Owner A.

Sue Hill
Owner B.

Attach acknowledgments for both
Owner A and Owner B

ANNE L. MUNCY, City Attorney

By Cynthia Foster Skinner
Assistant City Attorney

90588/th

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. Lindsley, 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. Lindsley 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.

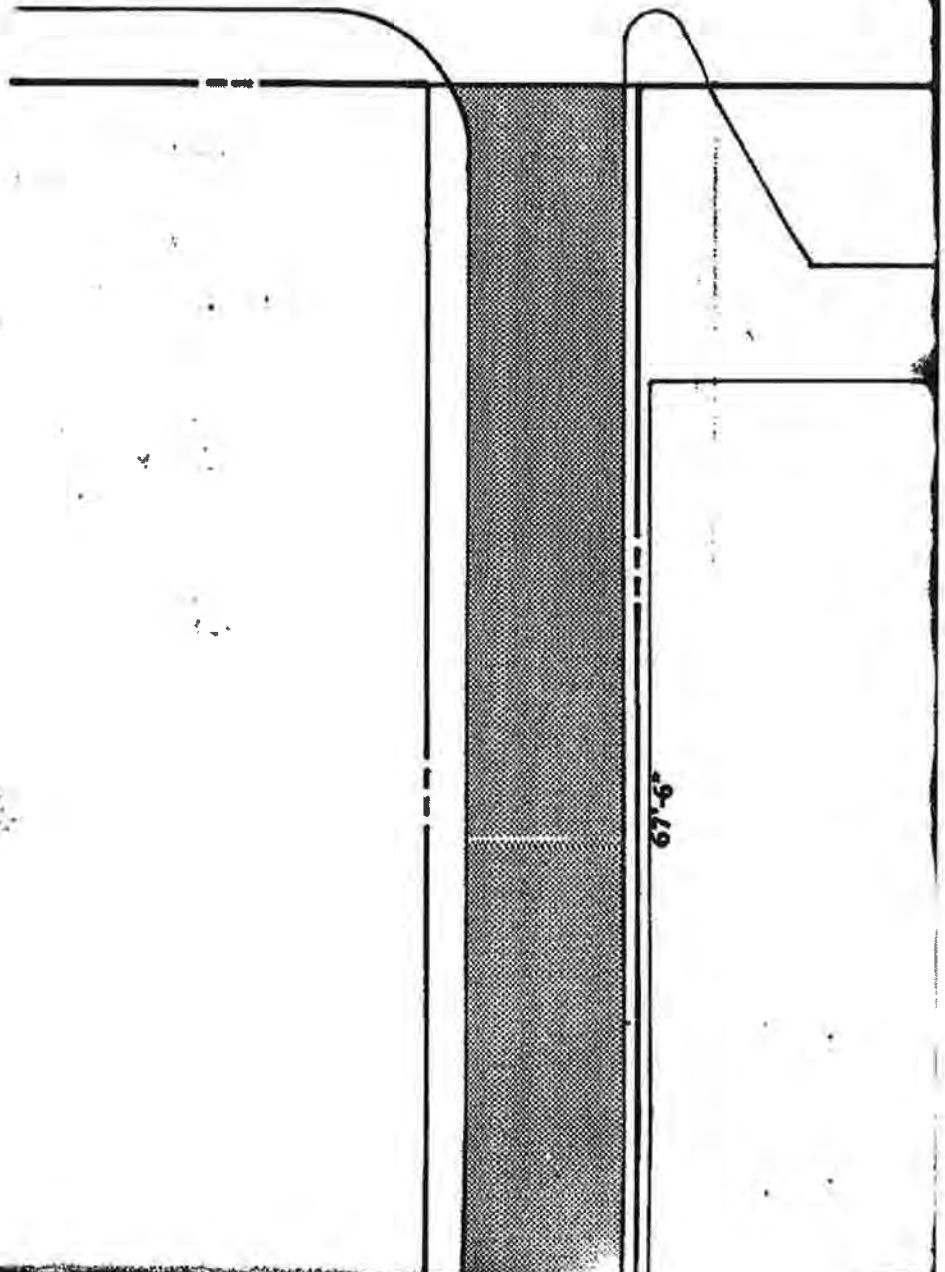


Cynthia Widener
Notary Public, State of Texas
Notary's name printed:
Cynthia Widener
My commission expires: 9-19-87

Printed & bound by the State of Texas
NOTARY PUBLIC
JOHN W. LINDSLEY III

87090 5560

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

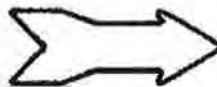
SAN FRANCISCO ROSE CAFE

77'-9"

115.33'
6 SPACES

OCK 2168

1100 2228



AVENUE

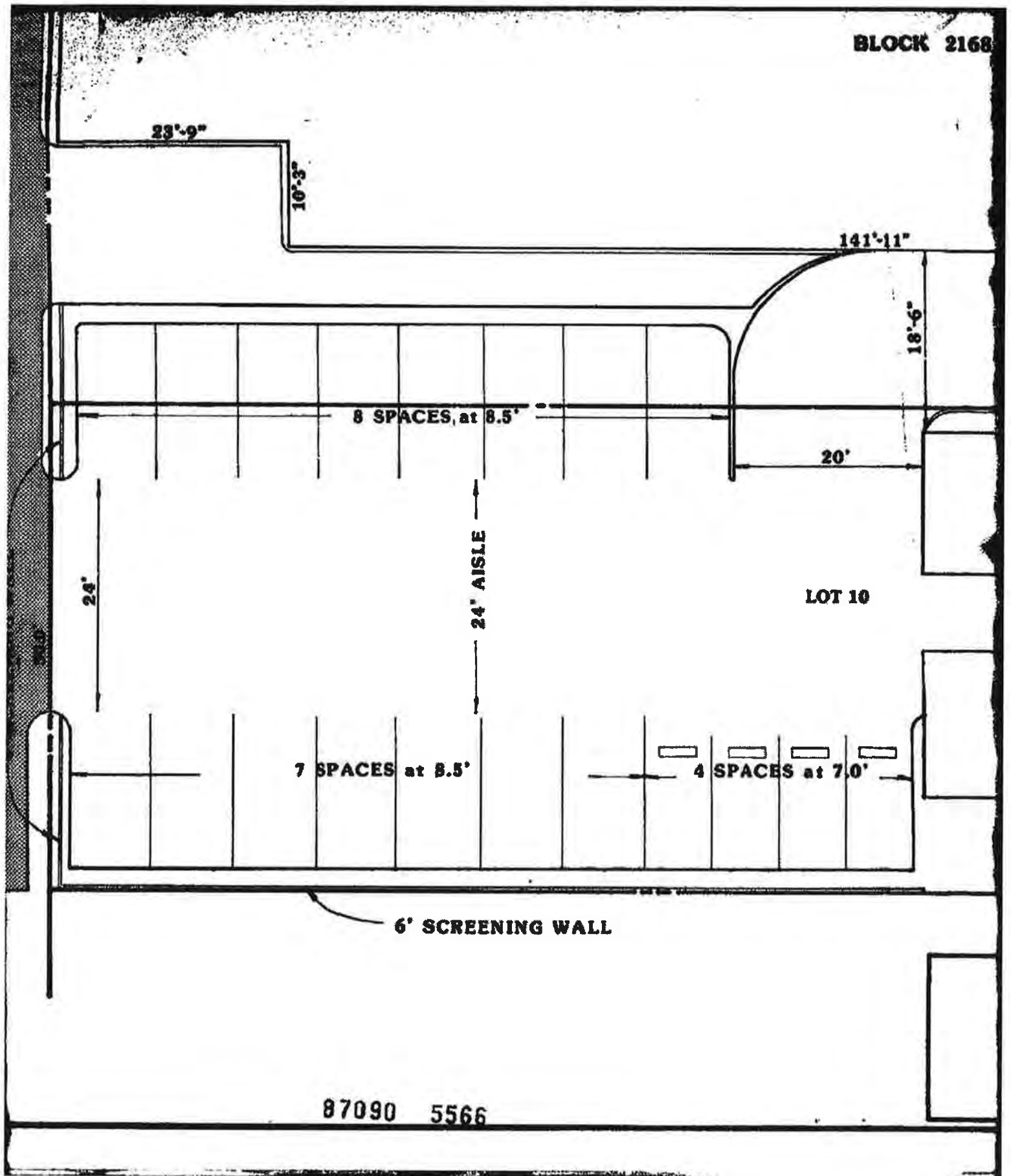
115.33'

6 SPACES

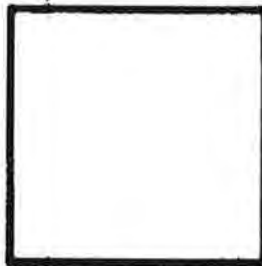
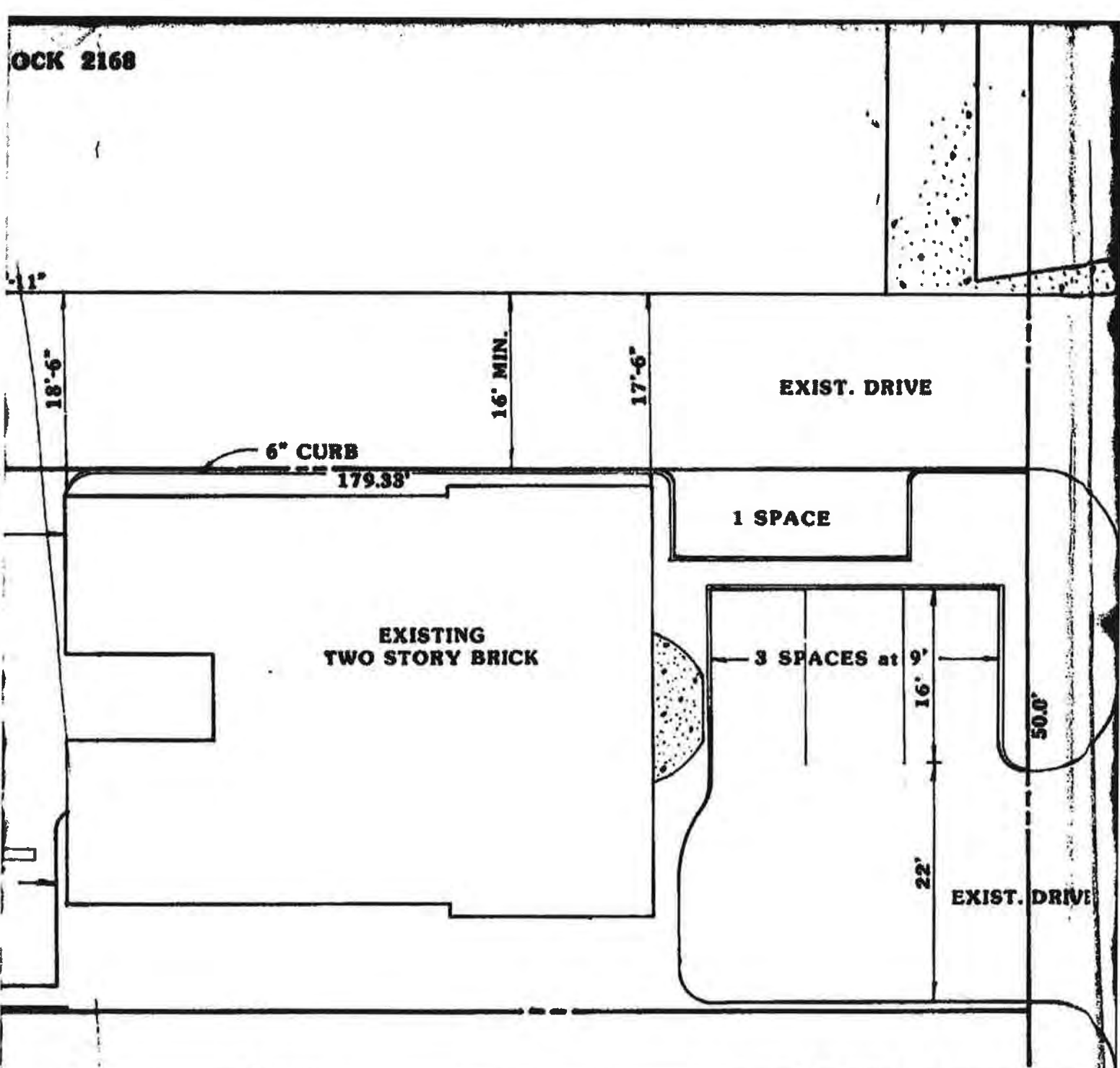
IS ALLEY

U.S. DEPARTMENT OF JUSTICE

87090 5565



OCK 2168

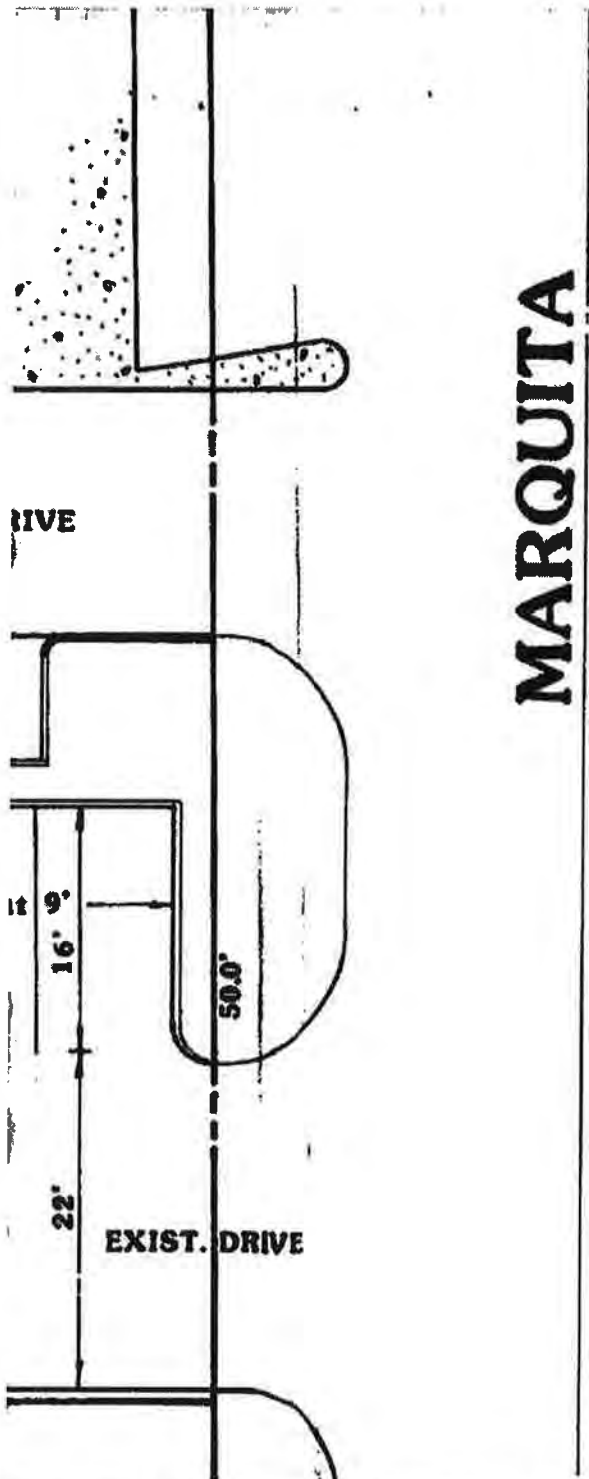


revision	date

NDM NAT CONSU

Three NorthPark / 8900 N. Central
Dallas, Texas 75281

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

DM NATHAN D. MAIER
 CONSULTING ENGINEERS, INC.

**SAN FRANCISCO ROSE
 PARKING LAYOUT**

sheet 07090 5568

NorthPark / 8800 N. Central Expwy. / Suite 200
 Dallas, Texas 75225 / (214) 739-6741

design	drawn	scale	date	notes
AM	LCG	1"-10"	6-1986	

job no.
 86-04-042

Barry R. Knight
1001 East R. Blvd. 750
Dallas, Texas 75201

BARRY R. KNIGHT

After filing return to:

STATE OF TEXAS
COUNTY CLERK
COUNTY OF DALLAS
I hereby certify that the instrument was filed on the
date and time hereby shown by the seal and date on the
face hereof and that the same has been recorded in the
public records of the County of Dallas, Texas as shown hereon by me.
MAY 11 1987
Eugene B. Smith
COUNTY CLERK, Dallas County, Texas

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

PROVISIONS CONTAINED IN ANY DOCUMENT WHICH RESTRICT
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,

A handwritten signature in black ink that reads "megan wimer".

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

Page 4

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:	SUP:
Historic Dist:	Consrv Dist:	Pro Park:	Req Park:	Park Agrmt:
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



Certificate of Occupancy

City of Dallas

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.

EXHIBIT C

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."

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:

1

CHECKED BY

JCK

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

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.

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 *Christina M. de Steiner*
Assistant City Attorney

Passed and correctly enrolled OCT 21 1987.

Zoning File No. 2867-228/6254-E

5623I

HOOVER SLOVACEK LLP

A REGISTERED LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
GALLERIA TOWER II
5051 WESTHEIMER, SUITE 1200
HOUSTON, TEXAS 77056

(713) 977-8686
FAX (713) 977-5395

JOSEPH O. SLOVACEK, P.C.
PARTNER

slovacek@hooverslovacek.com
www.hooverslovacek.com

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

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

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:

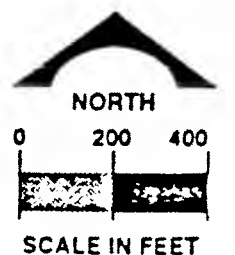
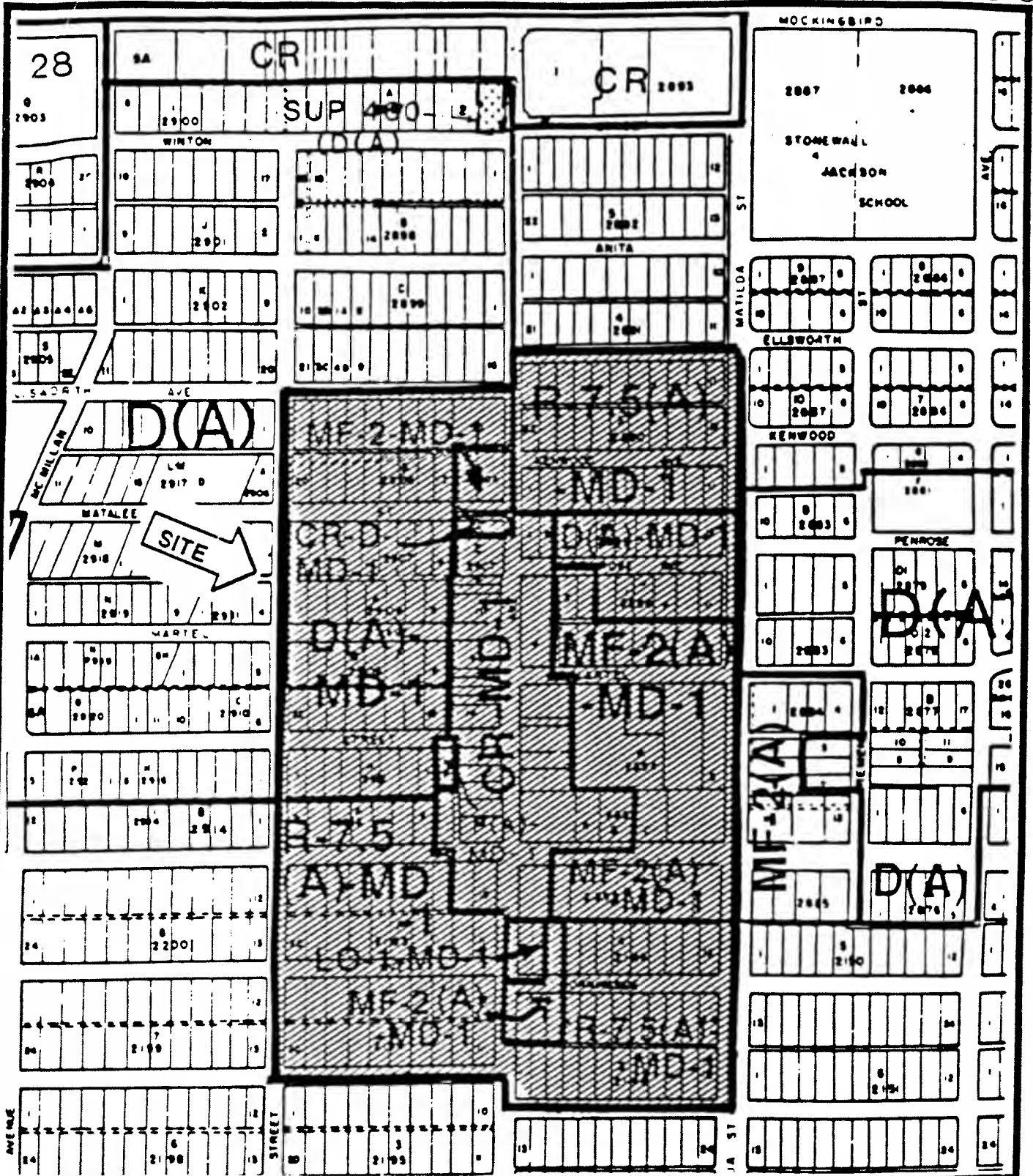
SAM A. LINDSAY, City Attorney

By  Assistant City Attorney

JUN 28 1995

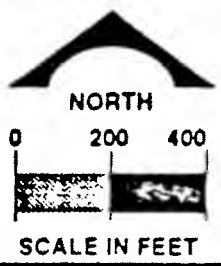
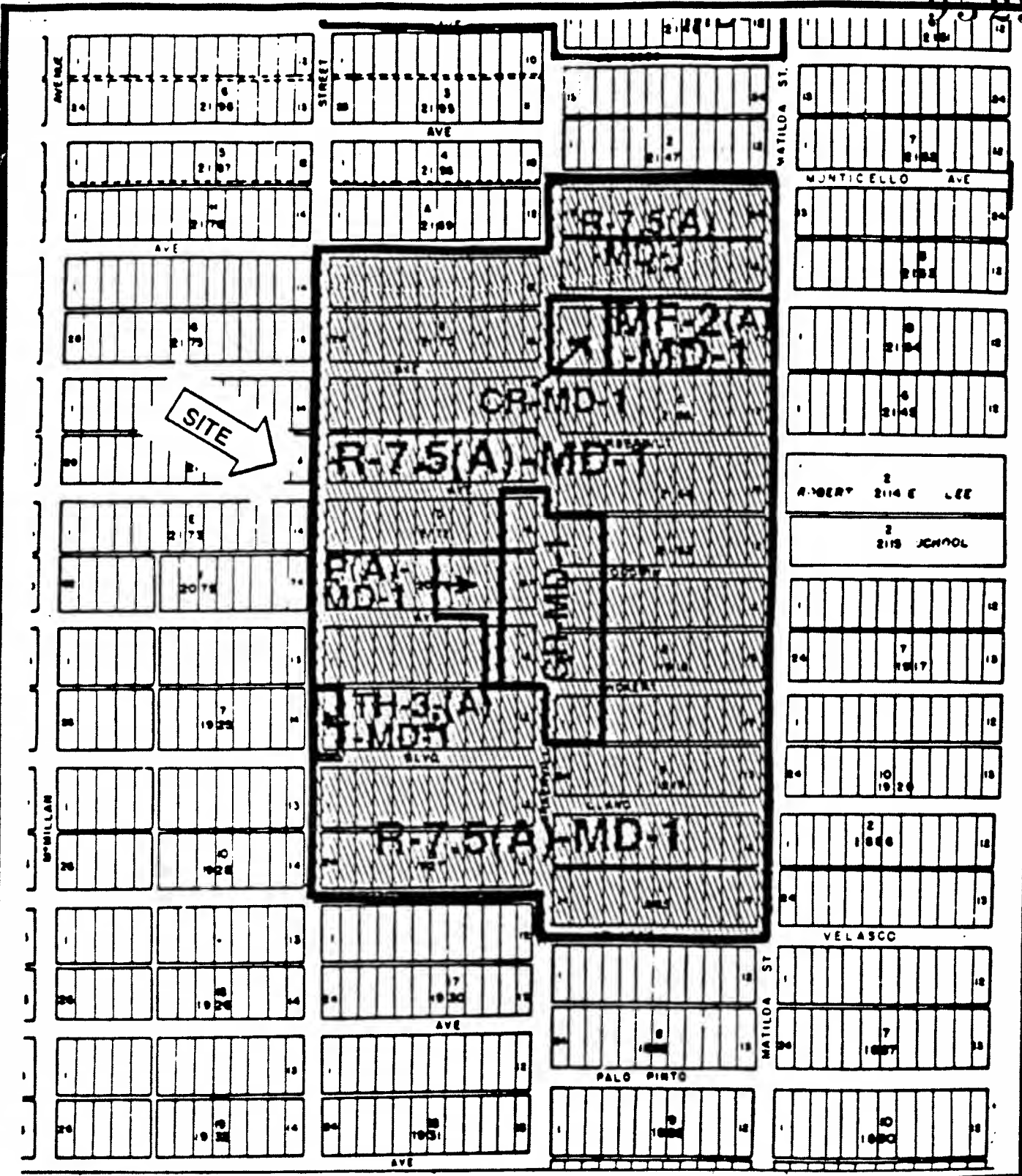
Passed _____

File No. Z945-206/6254-E



ZONING HISTORY
"AREA 1"

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

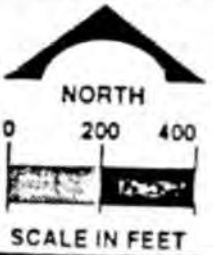
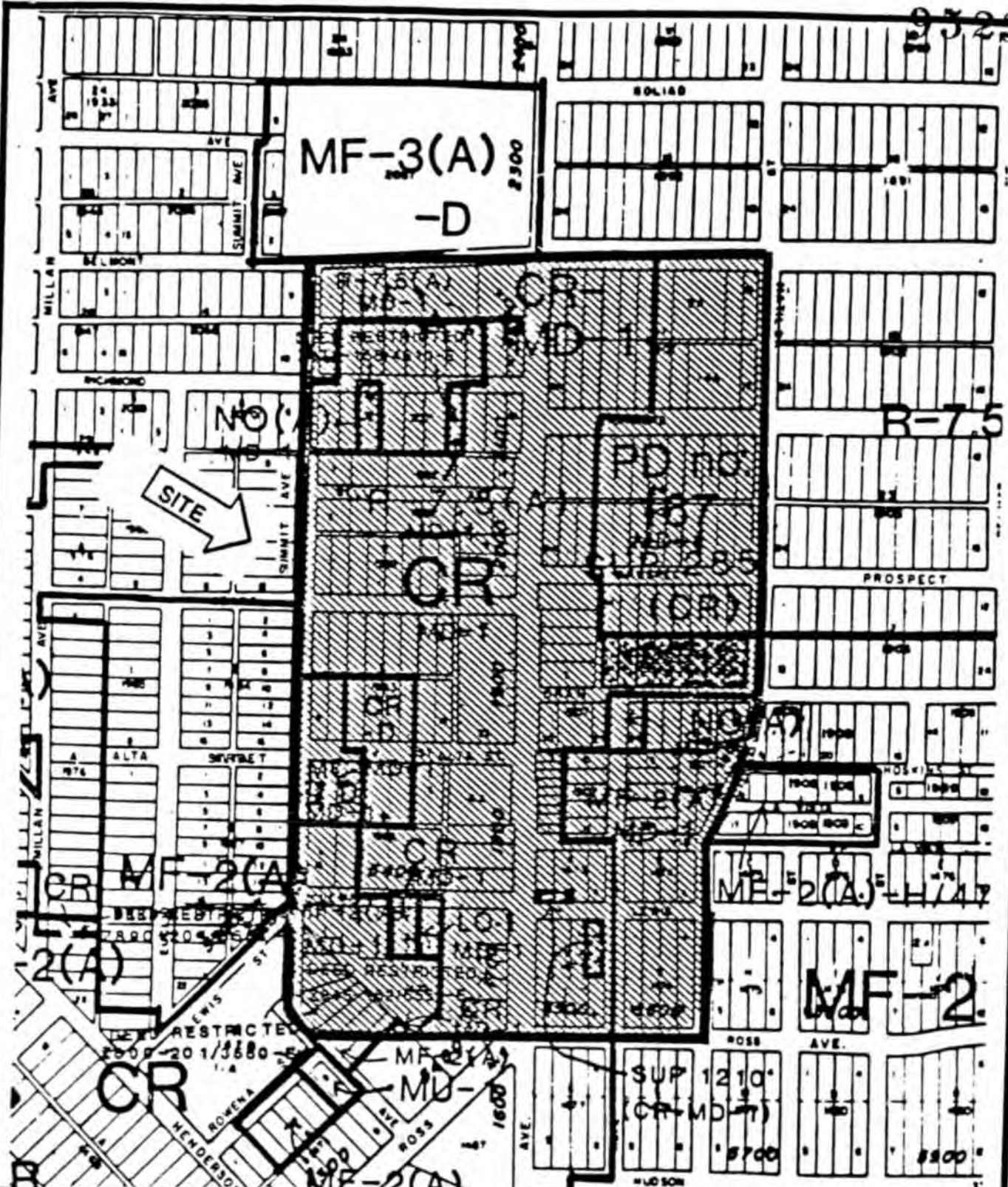


ZONING HISTORY

"AREA 2"

Map No. H-8, I-8

Case No. Z945-206/6254-E



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:

1

CHECKED BY

JCK

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

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.

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 *Christina M. de Steiner*
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 SPAC
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

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

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:

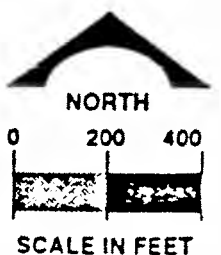
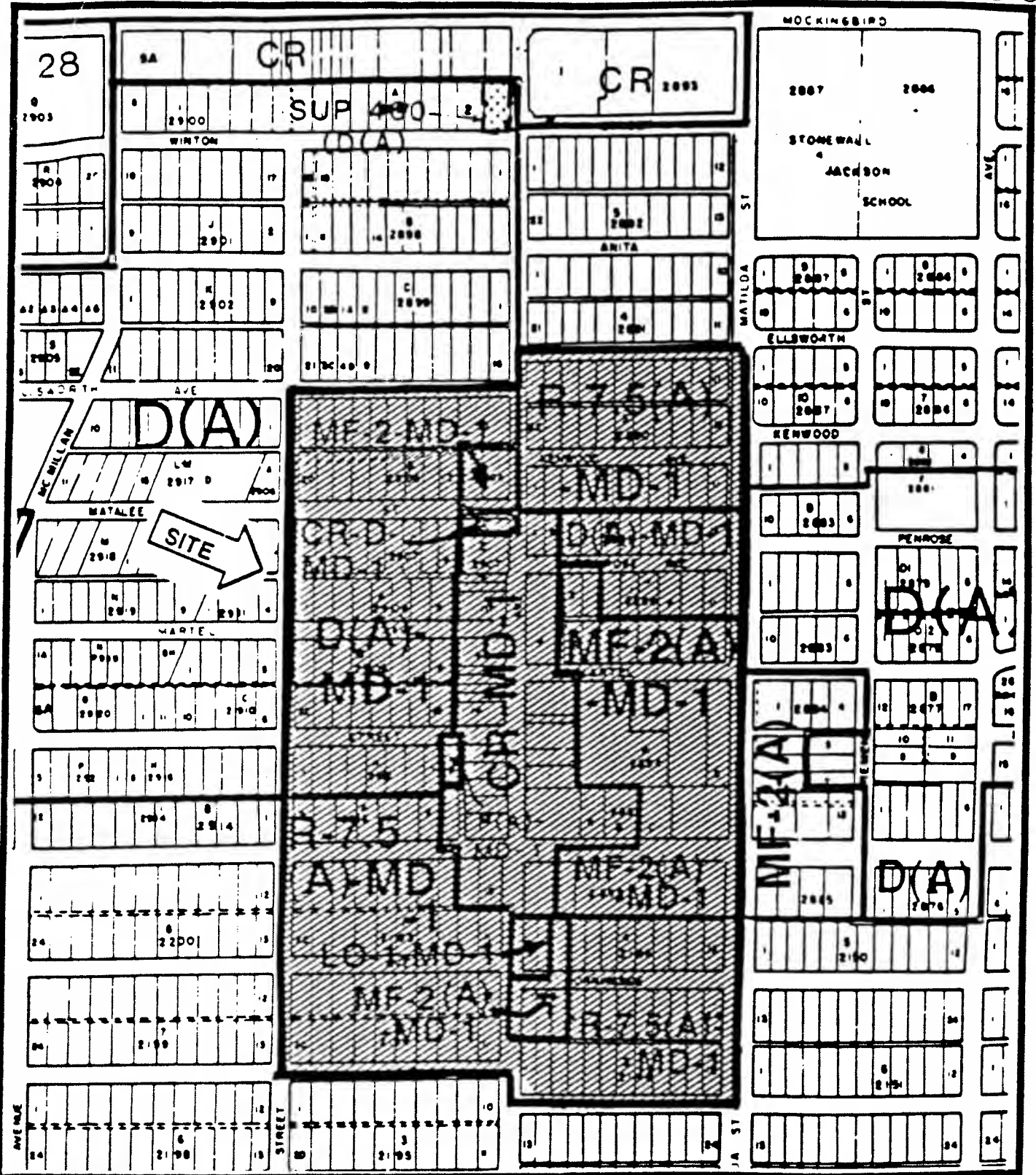
SAM A. LINDSAY, City Attorney

By  Assistant City Attorney

JUN 28 1995

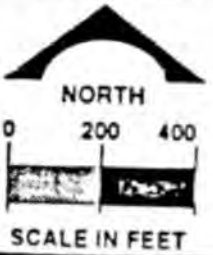
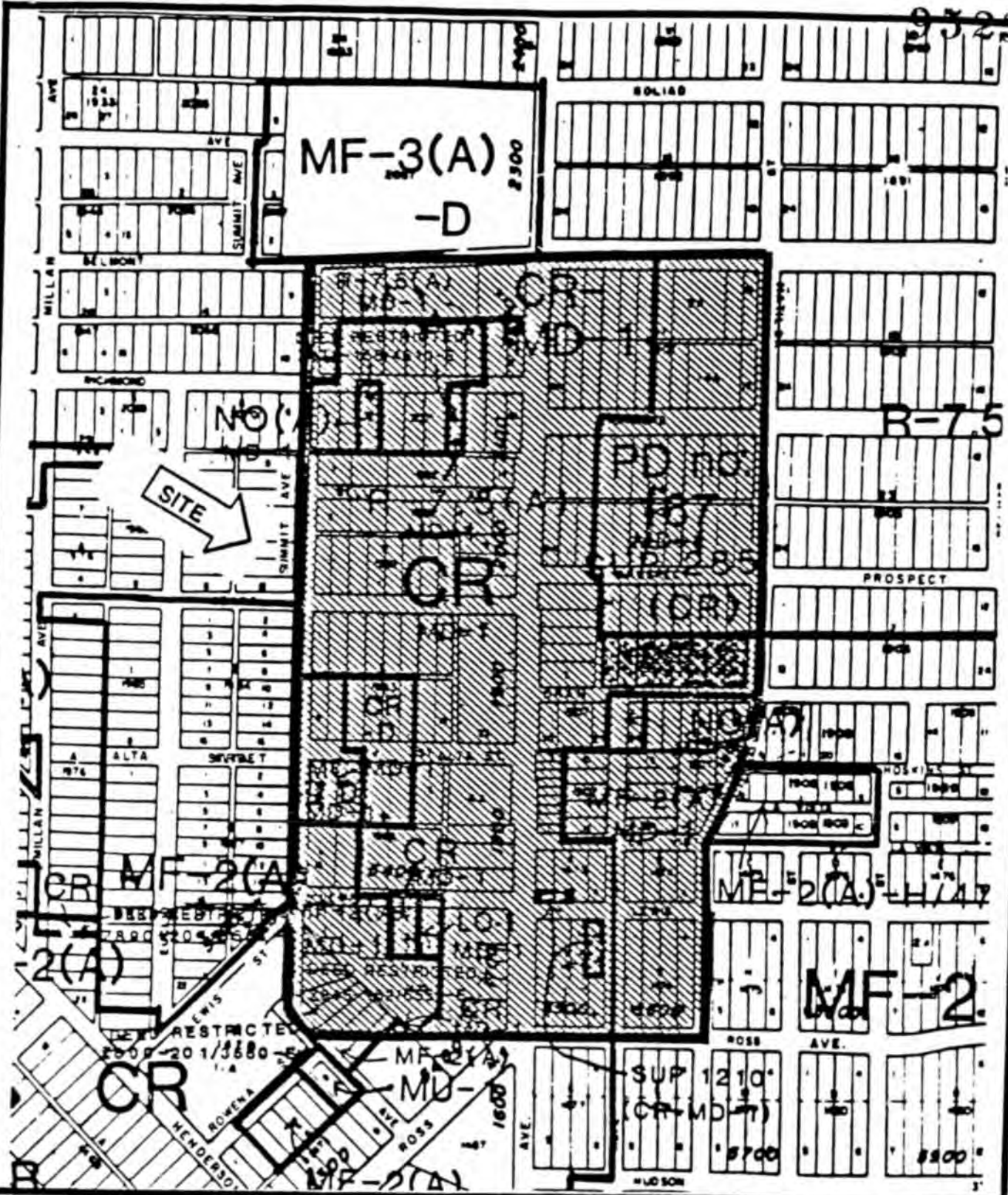
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File No. Z945-206/6254-E



ZONING HISTORY
"AREA 1"

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



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.

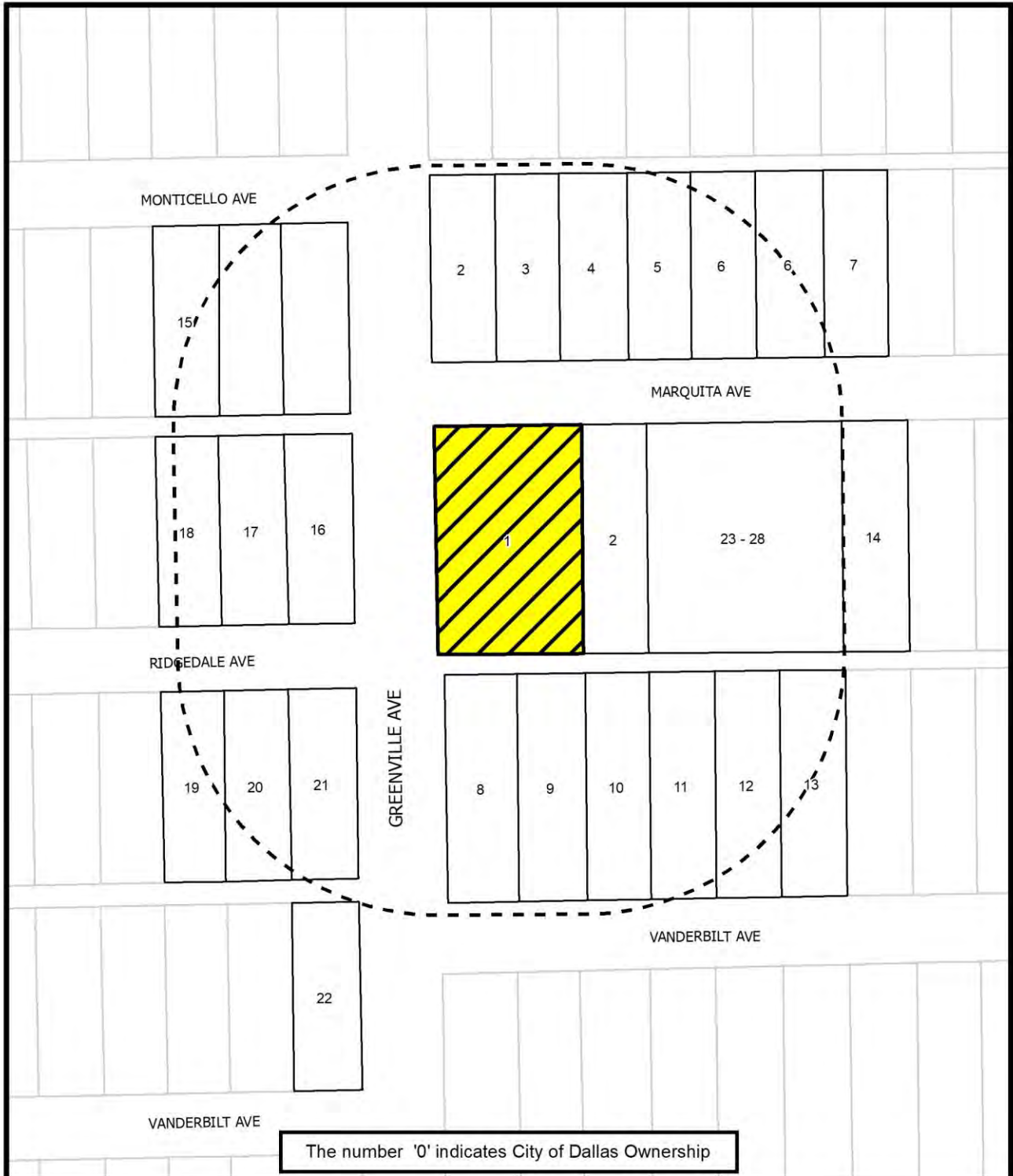
Sincerely yours,

HOOVER SLOVACEK LLP

Joseph O. Slovacek

JOS:AJB

bcc: client (via email)



 1:1,200	<h1>NOTIFICATION</h1> <p> 200' AREA OF NOTIFICATION 28 NUMBER OF PROPERTY OWNERS NOTIFIED </p>	Case no: <u>BDA190-092</u> Date: <u>11/4/2020</u>
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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: BDA190-093(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 November 18, and 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.

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 PARKNG 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 B.

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.

November 18, 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 January 20, 2021.

November 23, 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.

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)

BOARD OF ADJUSTMENT ACTION: November 18, 2020

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX
Tom Shields 418 E. Shore Dr. Clearlake Shores, TX
Jeffrey Karetnick 3024 Greenville Ave., Dallas, TX

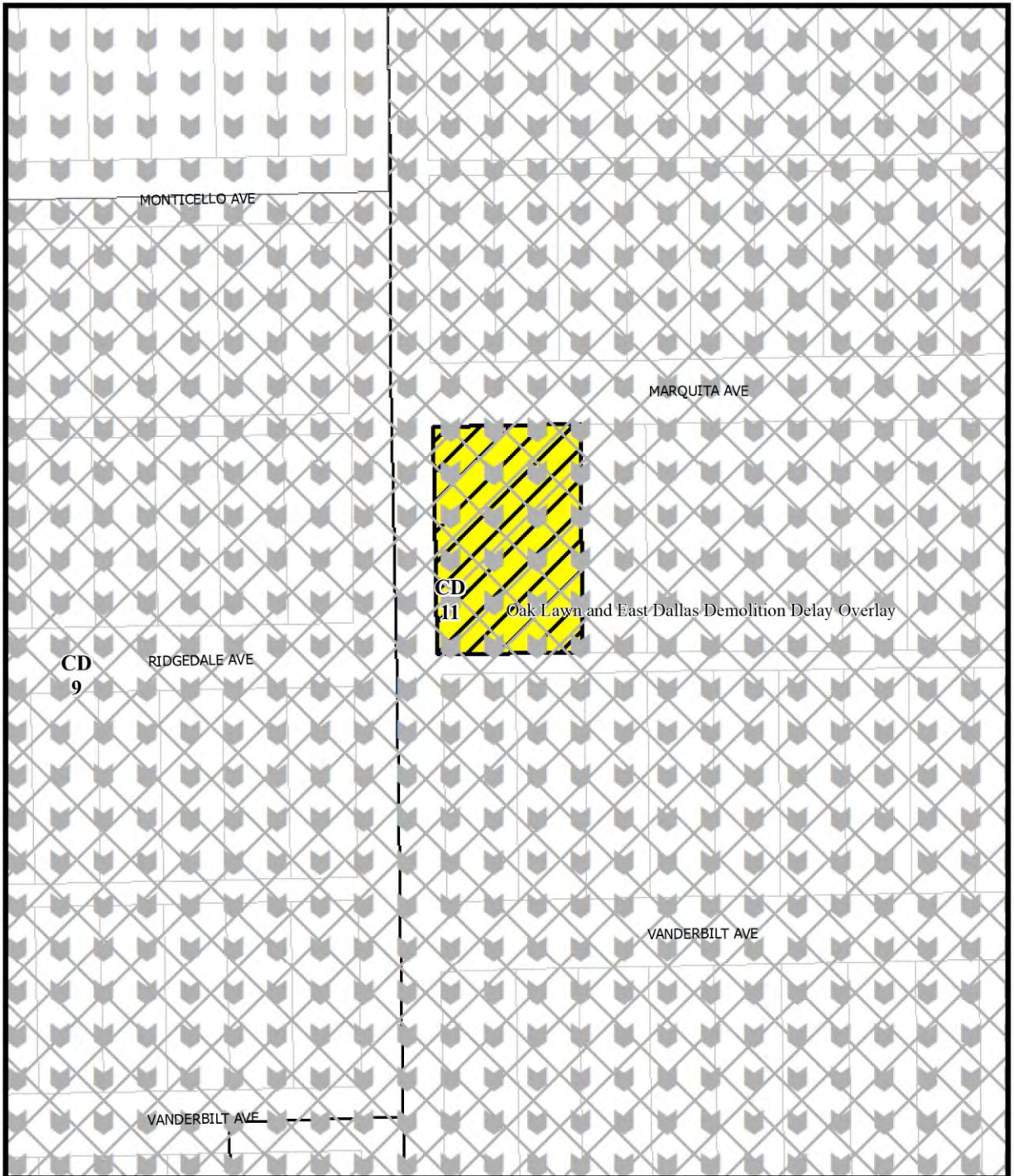
APPEARING IN OPPOSITION: Roger Albright 1701 N. Collins Blvd. #1100
Richardson, TX
Pasha Heidari 3020 Greenville Ave. Dallas, TX.
Chuck DeShazo 400 S. Houston St. #330, Dallas, TX.
Mike Northrup 5703 Goliad Ave., Dallas, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: Jones

I move that the Board of Adjustment in Appeal No. BDA 190-093, hold this matter under advisement until **January 20, 2021**.

SECONDED: Vermillion

AYES: 5 - Schwartz, Shouse, Vermillion, Jones, Brooks
NAYS: 0
MOTION PASSED: 5 – 0 (unanimously)

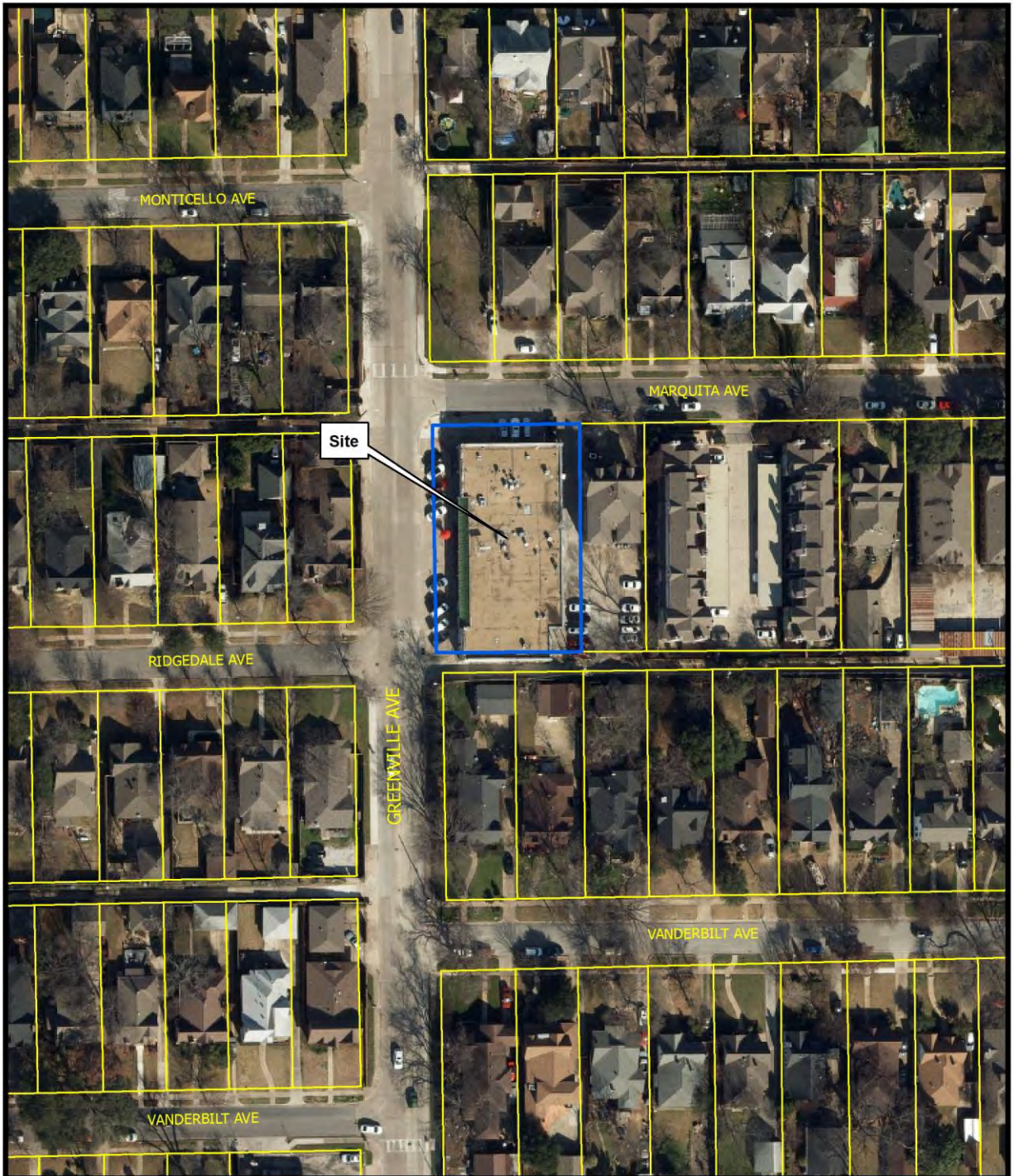


1:1,200

ZONING MAP

Case no: BDA190-093

Date: 10/1/2020



1:1,200

AERIAL MAP

Case no: BDA190-093

Date: 10/1/2020



City of Dallas

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.

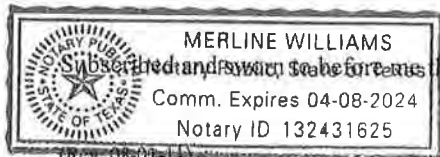
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

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

[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 restore lost delta credits
at 3024 Greenville Avenue

BDA190-093. Application of THOMAS SHIELDS represented by Steven Dimitt to restore delta parking credits at 3024 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, Building Official



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)
- Special Exception (specify below)
- Other Appeal (specify below)

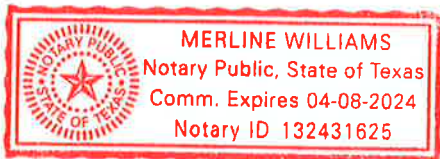
Special exception under Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

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

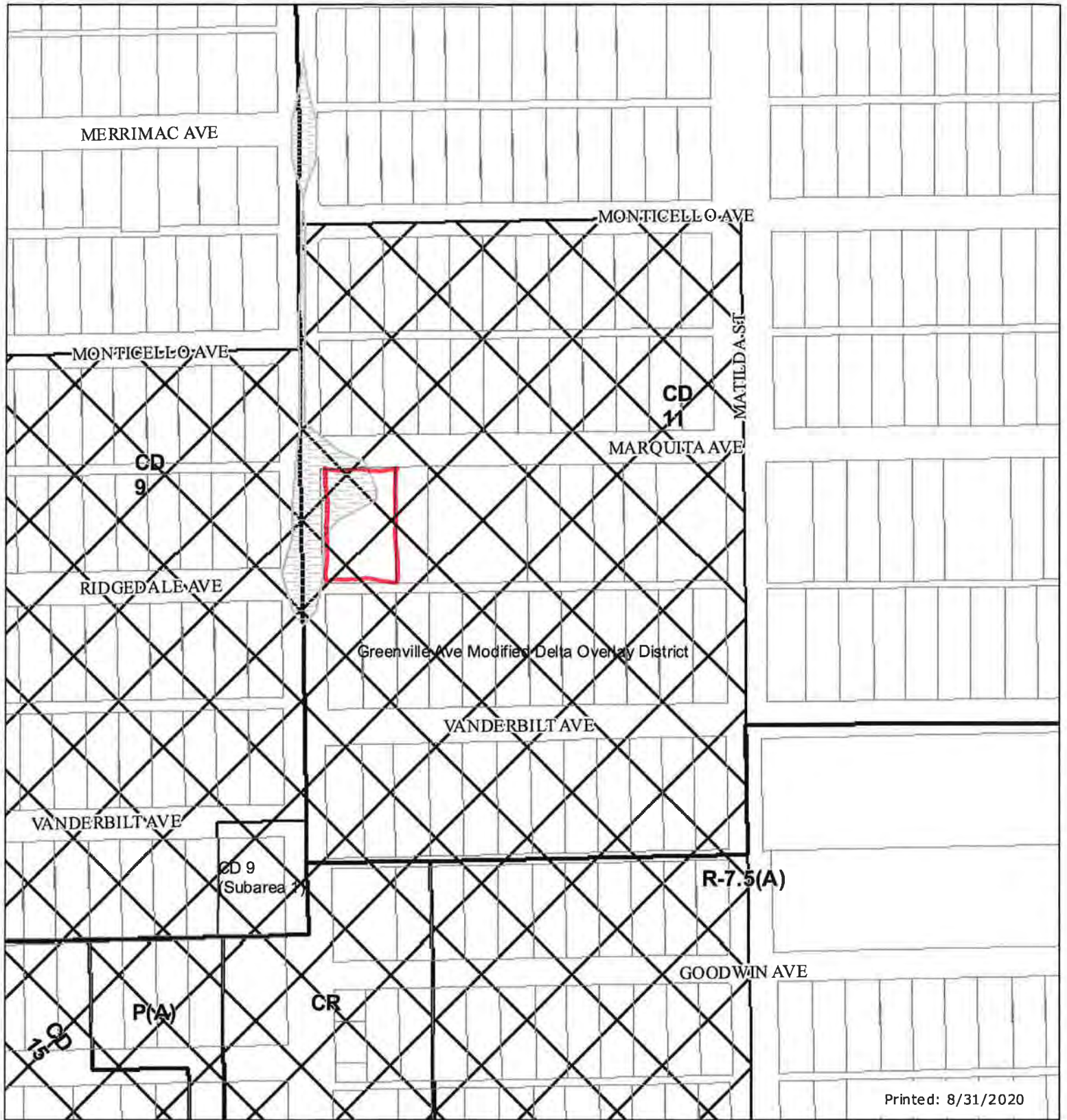
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

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 | SPSP Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | Shop Front Overlay 8-13 |
| | | 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.

Sustainable Development and Construction | Building Inspection Division | 214/948-4480 | www.dallascityhall.com



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 Lantin, 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!

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.

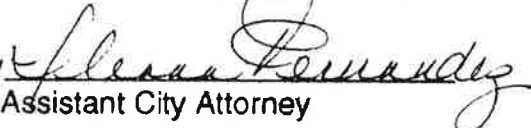
SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 shall remain in full force and effect, save and except as amended by this ordinance.

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:

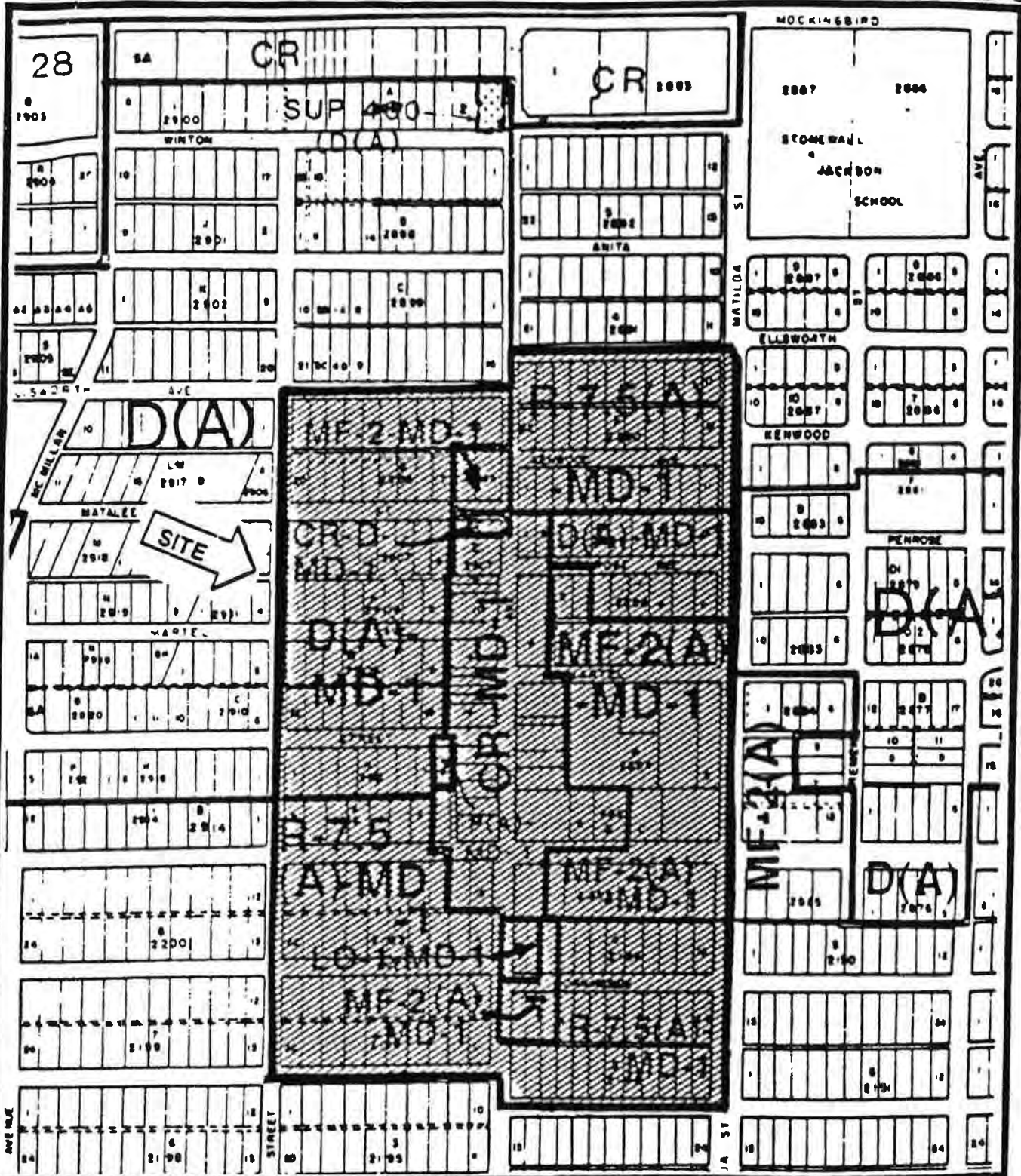
SAM A. LINDSAY, City Attorney

By 
Assistant City Attorney

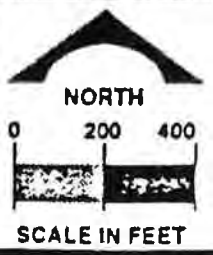
JUN 28 1995

Passed _____

File No. Z945-206/6254-E



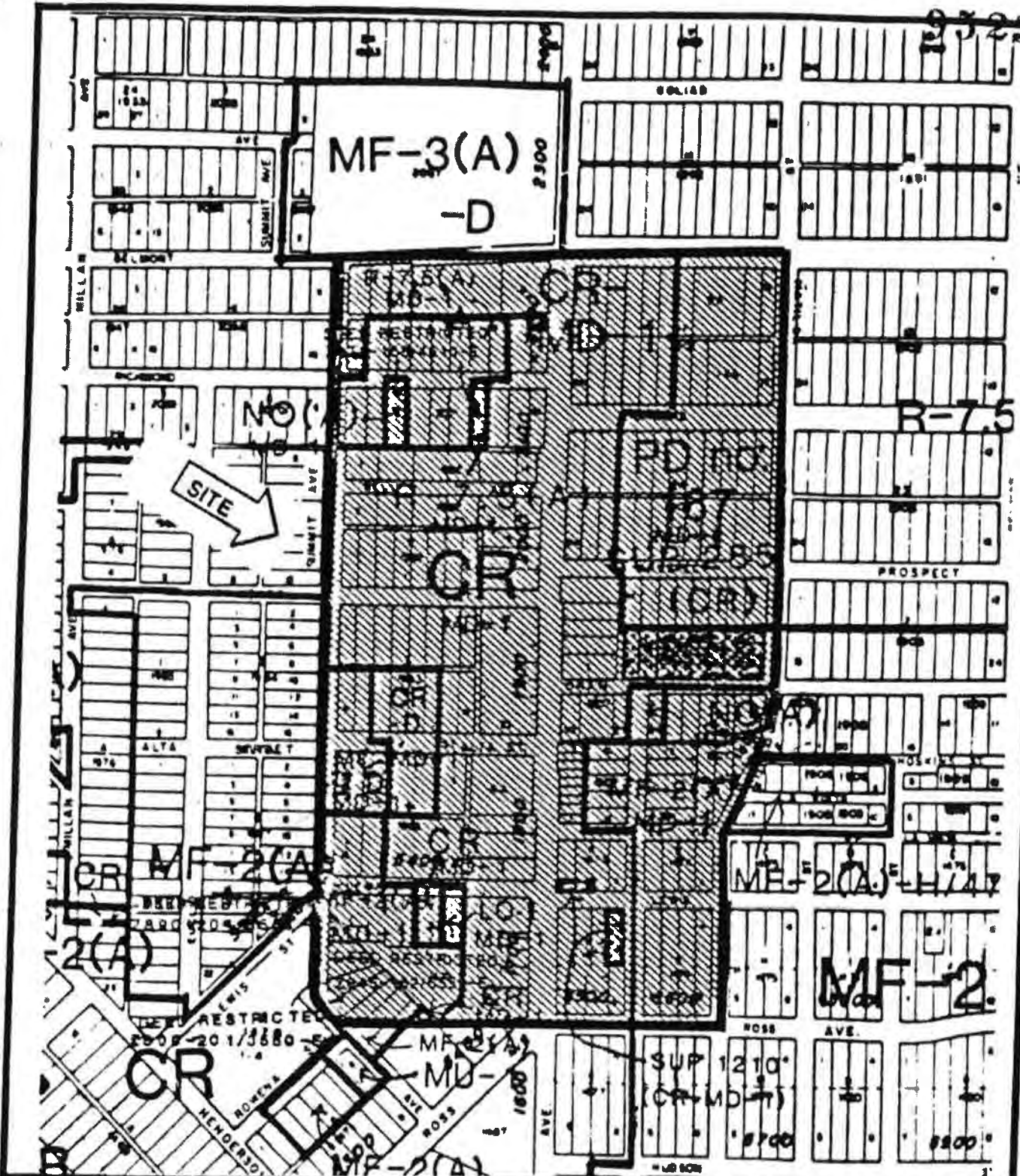
SITE



ZONING HISTORY
"AREA 1"

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

ATTACHMENT A
BDA190-093

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.

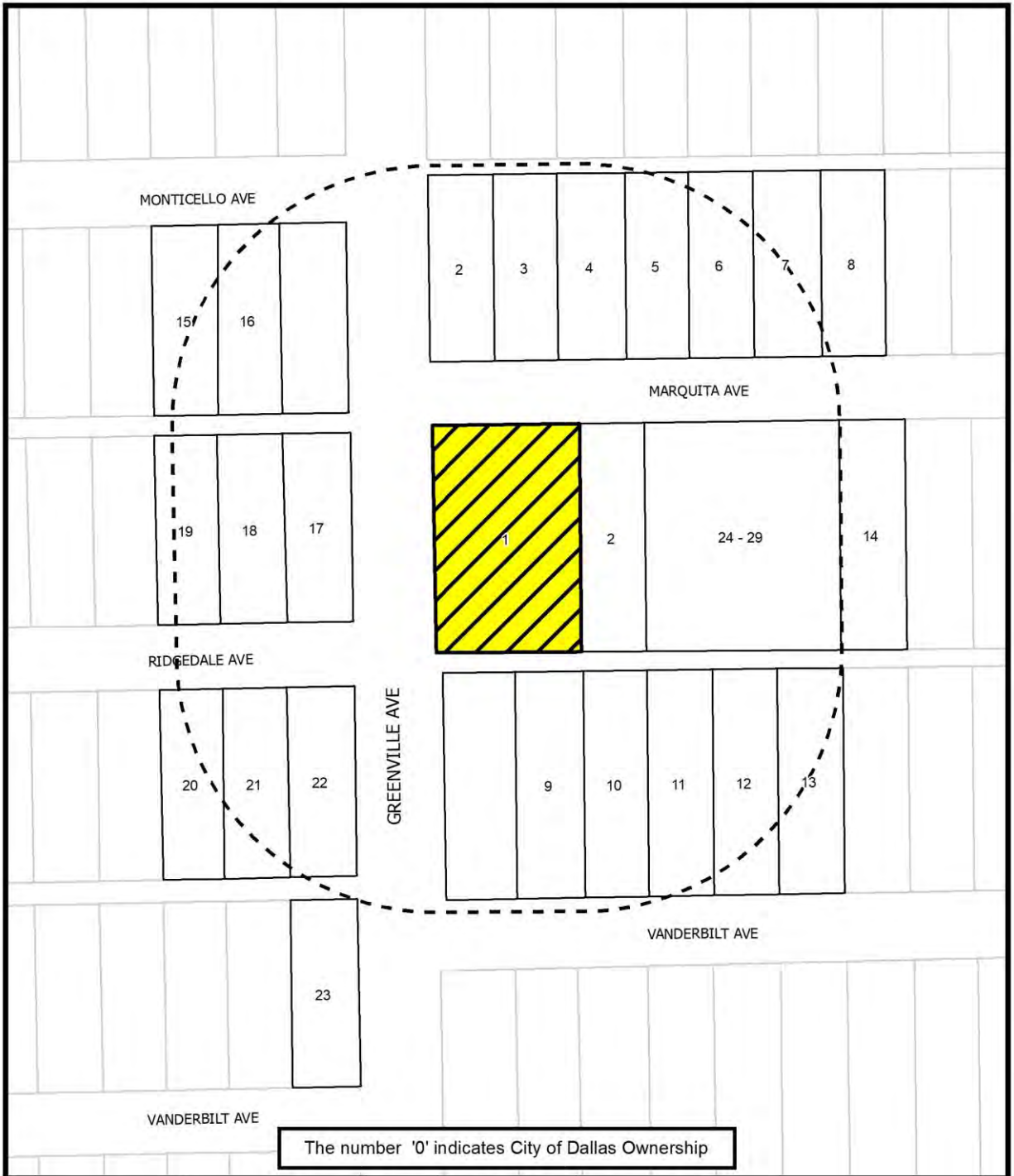
If you have any further questions, please contact me at 214-948-4501 or megan.wimer@dallascityhall.com.

Respectfully,

A handwritten signature in black ink that reads "megan wimer".

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

cc: Phil Sikes, CBO, Building Official



 1:1,200	<h2>NOTIFICATION</h2>	Case no: BDA190-093			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">29</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	29	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
29	NUMBER OF PROPERTY OWNERS NOTIFIED				

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