

6-6-07

ORDINANCE NO. 26789

An ordinance changing the zoning classification on the following property:

Being Lot 1 in Block 9/730, located on the south corner of Bryan Street and Bennett Avenue;
by establishing Historic Overlay District No. 131 (4928 Bryan Street); providing procedures, regulations, and preservation criteria for structures and property in the district; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding the rezoning of the Property hereinafter described; and

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

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

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

SECTION 1. That the zoning classification is changed by establishing Historic Overlay District No. 131 on the following property ("the Property"):

Being Lot in 1 Block 9/730, located on the south corner of Bryan Street and Bennett Avenue.

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

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

SECTION 4. That the building official shall not issue a building permit or a certificate of occupancy for a use on the Property until there has been full compliance with this ordinance, the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the City of Dallas.

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

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

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

SECTION 8. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

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

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By *Valery Zibulch*
Assistant City Attorney

Passed JUN 13 2007

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EXHIBIT A
PRESERVATION CRITERIA
4928 BRYAN STREET

1. GENERAL.

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

- 1.6 No person shall allow a structure in this district to deteriorate through demolition by neglect. Demolition by neglect is neglect in the maintenance of a structure that results in deterioration of the structure and threatens preservation of the structure. All structures in this district must be preserved against deterioration and kept free from structural defects. See Section 51A-4.501 of the Dallas Development Code, as amended, for regulations concerning demolition by neglect.
- 1.7 Consult Article XI, "Development Incentives," of the Dallas Development Code, as amended, for tax incentives that may be available in this district.
- 1.8 The period of historic significance for this district is the period from 1928 to 1940.

2. DEFINITIONS.

- 2.1 Unless defined below, the definitions in Chapter 51A of the Dallas City Code, as amended, apply.
- 2.2 APPROPRIATE means typical of the historic architectural style, compatible with the character of this district, and consistent with these preservation criteria.
- 2.3 CERTIFICATE OF APPROPRIATENESS means a certificate required by Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
- 2.4 CORNERSIDE YARD means a side yard abutting a street.
- 2.5 DIRECTOR means the Director of the Department of Development Services or the Director's representative.
- 2.6 DISTRICT means Historic Overlay District No. 131, the 4928 Bryan Street Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit B.
- 2.7 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.8 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 2.9 INTERIOR SIDE YARD means a side yard not abutting a street or alley.
- 2.10 MAIN BUILDING means 4928 Bryan Street, as shown on Exhibit B.

- 2.11 NO-BUILD ZONE means that part of this district in which no new construction may take place.
- 2.12 PROTECTED means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.13 REAL ESTATE SIGN means a sign that advertises the sale or lease of an interest in real property.

3. BUILDING SITE AND LANDSCAPING.

- 3.1 New construction is prohibited in the no-build zone shown on Exhibit B.
- 3.2 The main building is protected.
- 3.3 Sidewalks.
- a. New sidewalks, steps, leadwalk, and walkways in the front yard must be constructed of Portland cement (to match the color of the historic concrete).
 - b. New walkways in the cornerside yard must be broom finished concrete, stone, or other appropriate material.
 - c. Artificial grass, artificially-colored concrete, asphalt, and outdoor carpet are not permitted.
- 3.4 Circular driveways and parking areas are not permitted in the front yard.
- 3.5 Any new mechanical equipment must be erected in the inset area of the interior side yard or rear yard, and must be screened.
- 3.6 Landscaping.
- a. Outdoor lighting must be appropriate and enhance the structure.
 - b. Landscaping must be appropriate, enhance the structure and surroundings, and not obscure significant views of protected facades.
 - c. Existing trees are protected, except that unhealthy or damaged trees may be removed.
 - d. Pre-cast paving stones are allowed.

- 3.7 The existing iron fence shown on Exhibit B may be repaired and maintained. No additional fences or walls are permitted in the front or cornerside yard.

4. **FACADES.**

4.1 Protected facades.

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

4.2 Wood trim and detailing must be restored wherever practical.

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

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

4.5 Brick, cast stone, and concrete elements may not be painted.

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

4.7 Historic color must be maintained wherever practical. Color schemes for non-masonry elements should conform to any available documentation as to historic color or be appropriate to the style of the main building.

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

5. **FENESTRATION AND OPENINGS.**

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

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

6. ROOFS.

- 6.1 The historic slope, massing, and configuration of the roof must be preserved and maintained.
- 6.2 The following roofing material is allowed: red Spanish clay tile. The following roofing materials are not allowed: slate tiles, composition shingles, and standing metal seam.
- 6.3 Skylights and solar panels on the roof must be set back or screened so that they are not visible to a person standing at ground level on the opposite side of Bennett Avenue or Bryan Street.
- 6.4 Mechanical equipment may not be placed on the roof.
- 6.5 Satellite dishes visible to a person standing at ground level on the opposite side of Bennett Avenue or Bryan Street are permitted if they are appropriate.

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7. PORCHES.

- 7.1 The front porch facing Bryan Street is protected and may not be enclosed or altered by the addition of awnings or other permanent coverings.

8. EMBELLISHMENTS AND DETAILING.

- 8.1 The following architectural and site elements are considered important features and are protected:
- a. Historic window configuration and patterning on protected facades.
 - b. Historic windows, including lintels, sills, and screens on protected facades.
 - c. Pilasters on the front facade of the main building.
 - d. Wide eaves and cornices on protected facades.
 - e. Brick chimneys.
 - f. Original decorative ironwork on balconet.

9. NEW CONSTRUCTION AND ADDITIONS.

- 9.1 Stand-alone new construction is permitted only in the areas shown on Exhibit B.
- 9.2 Vertical additions to the main building are not permitted.
- 9.3 Horizontal additions to the main building are not permitted on protected facades.
- 9.4 The color, details, form, materials, and general appearance of new construction and additions must be compatible with the existing historic structure.
- 9.5 New construction and additions must have appropriate color, detailing, fenestration, massing, materials, roof form, shape, and solid-to-void ratios.
- 9.6 The height of new construction and additions must not exceed the height of the historic structure.
- 9.7 Aluminum siding, vinyl cladding, and exterior insulated finish systems (EIFS) are not permitted.
- 9.8 The setback of new construction and additions must conform to the setback of the main building.

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- 9.9 New construction and additions must be designed so that connections between new construction or additions and the historic structure are clearly discernable as suggested by the Secretary of the Interior in Preservation Brief No. 14. A clear definition of the transition between new construction or additions and the historic structure must be established and maintained. Historic details in the coping, eaves, and parapet of the historic structure must be preserved and maintained at the point where the historic structure abuts new construction or additions.

10. SIGNS.

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

11. ENFORCEMENT.

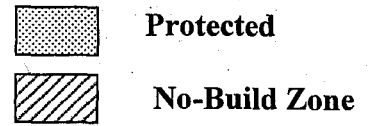
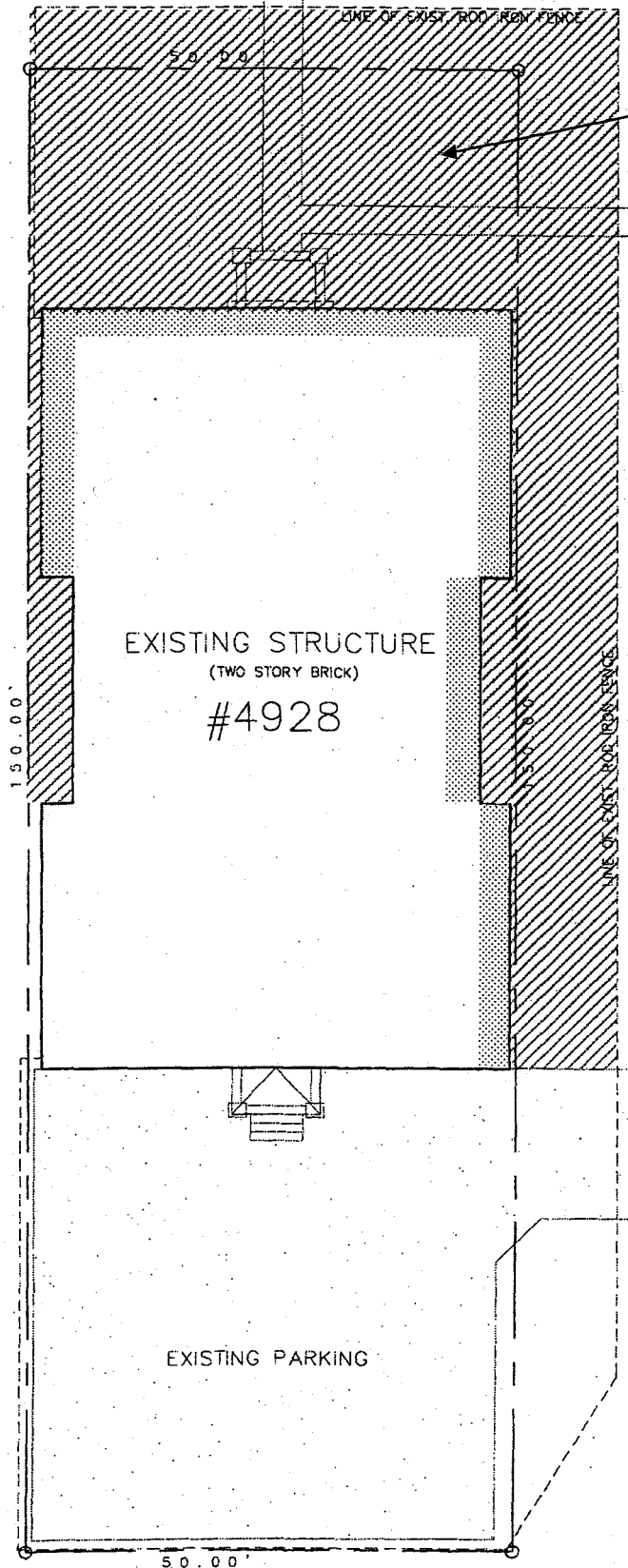
- 11.1 A person who violates these preservation criteria is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.
- 11.2 A person is criminally responsible for a violation of these preservation criteria if:
- a. the person knowingly commits the violation or assists in the commission of the violation;
 - b. the person owns part or all of the property and knowingly allows the violation to exist;
 - c. the person is the agent of the property owner or is an individual employed by the agent or property owner; is in control of the property; knowingly allows the violation to exist; and fails to provide the property owner's name, street address, and telephone number to code enforcement officials; or.
 - d. the person is the agent of the property owner or is an individual employed by the agent or property owner, knowingly allows the violation to exist, and the citation relates to the construction or development of the property.

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

BRYAN STREET

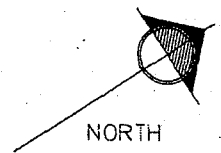
Exhibit B
4928 Bryan Street.

Front yard to fenceline:
No-Build

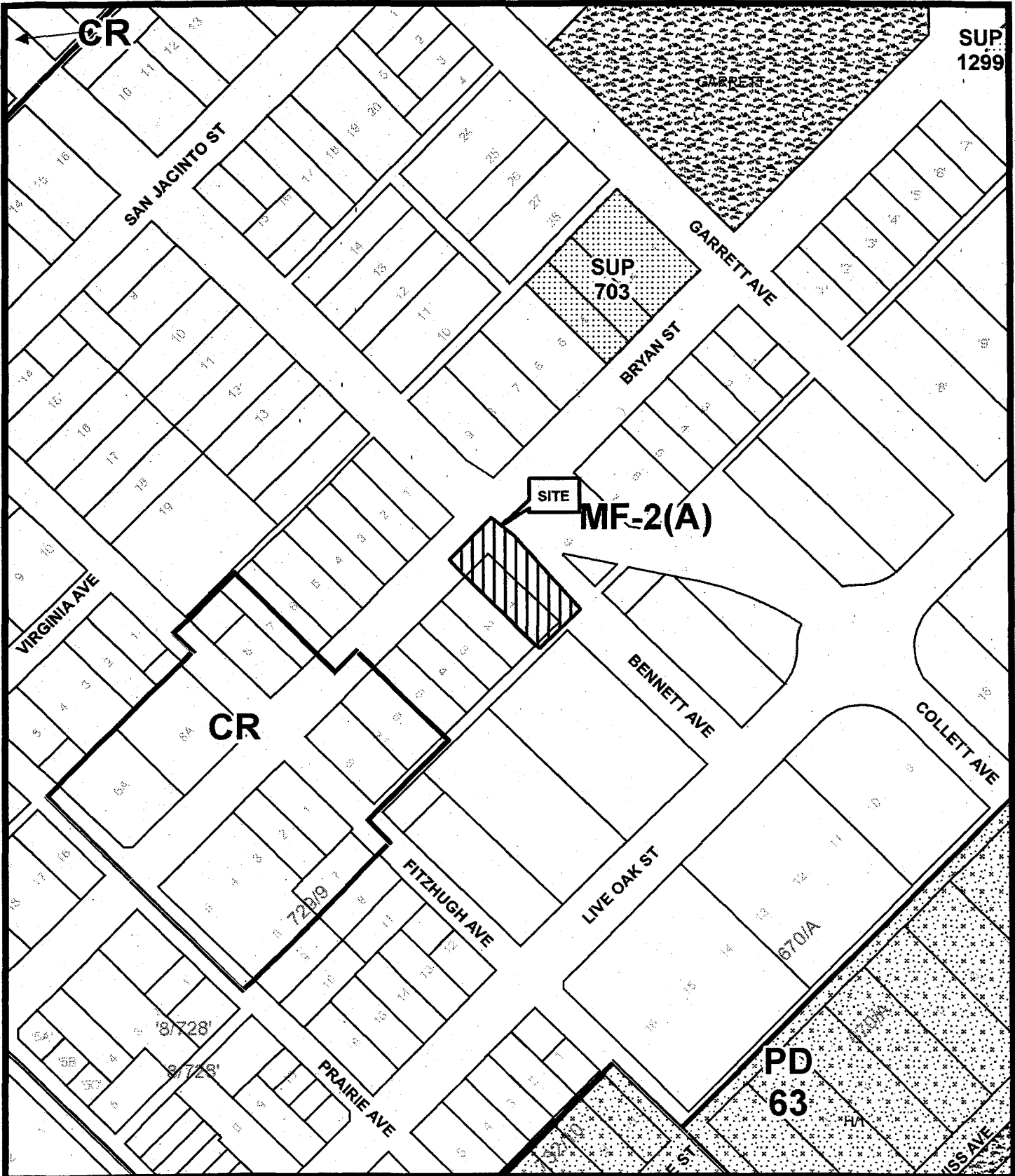


Property line

BENNETT AVENUE



01 SITE PLAN
SCALE: 1/8" = 1'-0"



1:2,400

ZONING

Map no: 1-8

Case no: Z067-199(MW)