

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, JANUARY 19, 2022

BRIEFING: 11:00 a.m. via **Videoconference** and in **6ES**, Dallas City Hall, 1500 Marilla Street

HEARING: 1:00 p.m. via **Videoconference** and in **6ES**, Dallas City Hall, 1500 Marilla Street

* The Board of Adjustment hearing will be held by videoconference and in 6ES at City Hall. Individuals who wish to speak in accordance with the Board of Adjustment Rules of Procedure **by joining the meeting virtually**, must register online at <https://form.jotform.com/210536758715158> or contact the Planning and Urban Design Department at 214-670-4209 **by the close of business Tuesday, January 18, 2022. All virtual speakers will be required to show their video in order to address the board.** The public is encouraged to attend the meeting virtually, however, City Hall is available for those wishing to attend the meeting in person following all current pandemic-related public health protocols. Public Affairs and Outreach will also stream the public hearing on Spectrum Cable Channel 96 or 99; and bit.ly/cityofdallastv or YouTube.com/CityofDallasCityHall and the WebEx link: <https://bit.ly/BDA011922>

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

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

Handgun Prohibition Notice for Meetings of Governmental Entities

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

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

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

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



CITY OF DALLAS

BOARD OF ADJUSTMENT, PANEL B

WEDNESDAY, JANUARY 19, 2022

AGENDA

BRIEFING: 11:00 a.m. via **Videoconference and** in **6ES**, Dallas City Hall, 1500 Marilla Street

HEARING: 1:00 p.m. via **Videoconference and** in **6ES**, Dallas City Hall, 1500 Marilla Street

Andreea Udrea, PhD, AICP, Assistant Director (Interim)

Jennifer Muñoz, Chief Planner/Board Administrator

Pamela Daniel, Senior Planner

LaTonia Jackson, Board Secretary

PUBLIC TESTIMONY

Minutes

MISCELLANEOUS ITEM

Approval of the November 17, 2021 Board of Adjustment Panel B Public Hearing Minutes	M1
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Approval of the 2021 Board of Adjustment Annual Report	M2
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UNCONTESTED CASE(S)

None

REGULAR CASE(S)

- BDA201-120(PD)** 3022 W. Davis Street 1
REQUEST: Application of Rickey Booker represented by Angie Chapa to restore a nonconforming use
- BDA201-123(PD)** 3015 Taylor Street 2
REQUEST: Application of Alex Oshmyansky represented by Colt Granquist for a special exception to the visibility obstruction regulations
-

HOLDOVER CASE(S)

- BDA190-090(JM)** 3016 Greenville Ave. 3
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. 4
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. 5
REQUEST: Application of Thomas Shields represented by Steven Dimitt to appeal the decision of an administrative official.
- BDA190-093(JM)** 3024 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.

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: BDA201-120(PD)

BUILDING OFFICIAL'S REPORT: Application of Rickey Booker represented by Angie Chapa to restore a nonconforming use at 3022 W. Davis Street. This property is more fully described as Lot 1 within City Block 9/4161, and is zoned an LMU Light Mixed-Use District within Tract 2 of Planned Development District No. 631 which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming alcoholic beverage establishment use, which will require a special exception to the nonconforming use regulations.

LOCATION: 3022 W. Davis Street

APPLICANT: Rickey Booker represented by Angie Chapa

REQUEST:

A request for a special exception to restore/reinstate nonconforming use rights for an alcoholic beverage establishment use that previously operated at the subject site since October 2017 under Certificate of Occupancy # (CO) 1611031101 and Doing Business As (DBA) Pink Lounge. The use ceased operations for over six months and is no longer allowed to operate/obtain a new CO.

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: PDD No. 631 (LMU) Tract 2
North: PDD No. 631 (LMU) Tract 2
East: PDD No. 631 (LMU) Tract 2
South: PDD No. 631 (LMU) Tract 2
West: PDD No. 631 (LMU) Tract 2

Land Use:

The subject site is developed with a commercial structure last used as an ABE, alcoholic beverage establishment, DBA, Pink Lounge. Surrounding properties adjacent to the west, north, and east are developed with auto-related uses. While the property developed to the south, along N. Barnett Avenue is contains a surface parking lot.

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 an alcoholic beverage establishment ABE 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 currently zoned PDD No. 631 (LMU) Tract 2 which prohibits an ABE, alcoholic beverage establishment use. According to documentary evidence provided by the representative (**Attachments A thru J**), the ABE use has been in constant operation since 2016. According to Dallas Central Appraisal District, the approximately 2,048-square-foot commercial structure was constructed in 1948 with an approximately 1,152-square-foot addition of a cocktail lounge in 1950, and second addition with approximately 1,392 square feet of floor area constructed in 1954. During each of the aforementioned years, the commercial use was zoned an HC, Heavy Commercial District under Chapter 51 and permitted an ABE use by Specific Use Permit, SUP. In 1988 Chapter 51 transitioned to Chapter 51A and the zoning changed to a CR, Community Retail District which also permits the ABE use by SUP. On November 13, 1979, CO# 7911165564 was issued for an ABE use (DBA Lady's Choice).

Planned Development District No. 631, the West Davis Special Purpose District was established by Ordinance No. 25209 on March 26, 2003 to: 1) protect residential areas from incompatible land uses; 2) increase the commercial viability along West Davis Street, and, 3) enhance the image of the State Highway/thoroughfare.

Timeline of internal records are as follows:

- **November 13, 1979:** CO #7911165564 was issued citing owner, Debra Pena with the following remarks: "TEXAS EIGHT BALL DEBRA CAME W/COPY OF CO UPDATED 4/98 SEE 3020-3030 DBA.CNG/FRM.LDY.CHOICE TO CLB.SABSURA 6/9/00 REF:9605161071 TO A3 2/04";
- **February 19, 2010:** CO #1002181100 was issued citing a new owner, Choe Mun Suk with the following remarks: "Non – onforming / letters attached - / Alcohol affidavit attached OCC LOAD PER CO #7911165564";
- **July 18, 2011:** CO Inspection Request with validation # 1107111034 citing owner, Debra Pena with the following remarks: "NONCONFORMING CHECK WITH ALCOHOL SUPPLIER AND VERIFIED LAST DAY OF SALES TO LOCATION WAS FEB 17 2011";
- **March 3, 2014:** CO Inspection Request with validation #1402051069 was provided with the following remarks: "INFORMED CUSTOMER THAT THEY MUST PROVE NON-CONFORMING RIGHTS BY SUBMITTING COMBINATION OF DOCS'S. USE CURRENTLY NOT ALLOWED IN PD 631 LMU TRACT 2";
- **July 7, 2014:** Assistant Building Official determined that "the nonconforming status proof on file is not sufficient to prove that the business operated continuously";
- **March 17, 2015:** CO #1402051069 was issued, BDA Lady's Choice Club with the following remarks: "INFORMED CUSTOMER THAT THEY MUST PROVE NON-

CONFORMING RIGHTS BY SUBMITTING COMBINATION OF DOCS'S. USE CURRENTLY NOT ALLOWED IN PD 631 LMU TRACT 2”;

- **March 27, 2015:** Application was submitted to Building Inspections for a change of DBA Trade name on CO to “Pin Ups Nite Club”;
- **August 31, 2015:** CO #1508311001 was created, issued on September 1, 2015, and completed on November 17, 2015 with the following remarks: “LIQ N , NL AFFIDAVITS ON FILE”;
- **August 31, 2015:** the above CO#1508311001 was rejected and a hold placed on the address;
- **September 1, 2015:** CO Inspection Request with validation #1508311001 was submitted, DBA, Dallas Kush Private Club, Inc.”;
- **August 25, 2016:** City water ceased consumption;
- **September 6, 2016:** wastewater past due more than 90 days resulting in cancelled service;
- **September 16, 2016:** Conduct Surety Bond notice of cancellation, reason cited for cancellation is “agent’s request”;
- **September 20, 2016:** Texas Mixed Beverage Gross Receipts Tax Report reports a zero dollar amount for gross sales;
- **October 7, 2016:** CO application submitted to Building Inspection;
- **October 8, 2016:** cable bill collection notice issued;
- **November 30, 2016:** CO Inspection Request with validation # 1611031101 (DBA Pink Lounge) was provided with the following remarks: “LAST SAME #1508311001 NONCONFORMING USE”;
- **July 5, 2017:** City water was reconnected;
- **October 2, 2017:** CO #1611031101 issued (DBA Pink Lounge, LLC) was issued with the following remarks: “LAST SAME #1508311001 NONCONFORMING USE”;
- **October 2, 2017 to June 17, 2021:** the use operated under CO #1611031101 (DBA Pink Lounge, LLC) until served with a cease-and-desist notice from the City of Dallas.

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 ABE use on the subject site even though the use was discontinued for six months or more.

Granting this request would reinstate/restore the nonconforming ABE 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:

October 27, 2021: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

November 23, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.

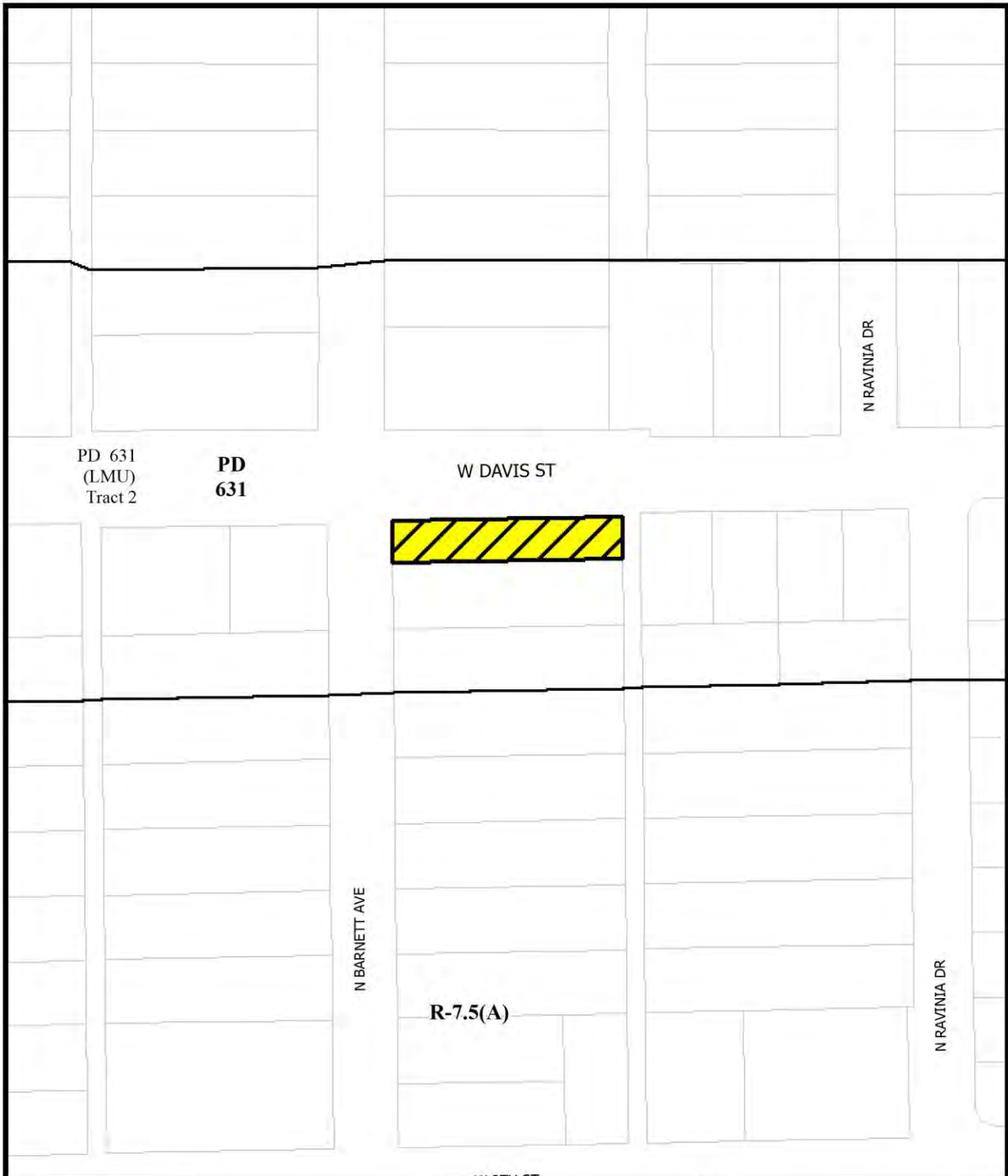
December 16, 2021: The Senior Planner emailed the applicant the following information:

- 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, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the January 7, 2022 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.

Dec. 29, 2021: The representative submitted evidence (**Attachment A**) to staff.

Dec. 30, 2021: 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 Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No review comment sheets were submitted in conjunction with this application.

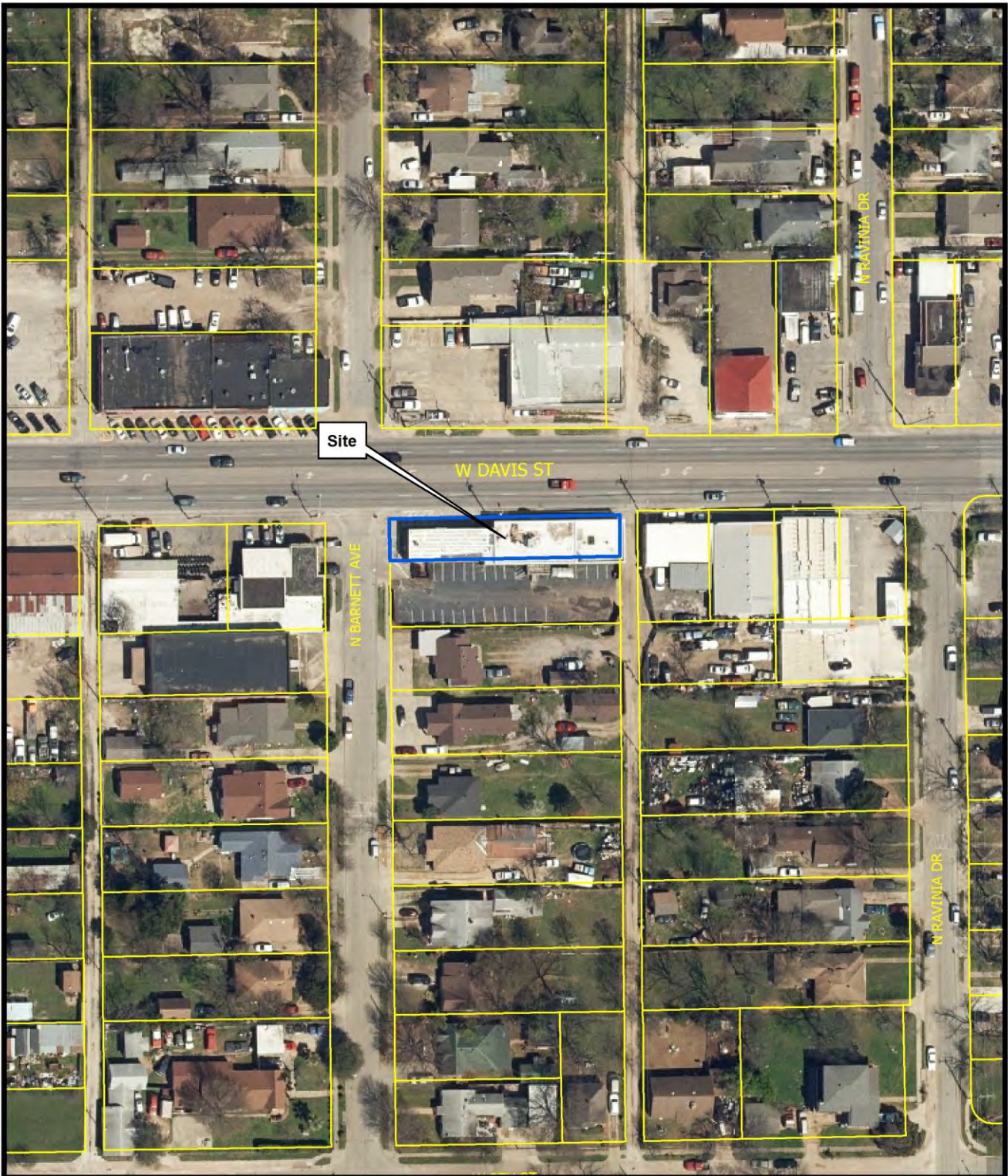


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ZONING MAP

Case no: BDA201-120

Date: 12/22/2021

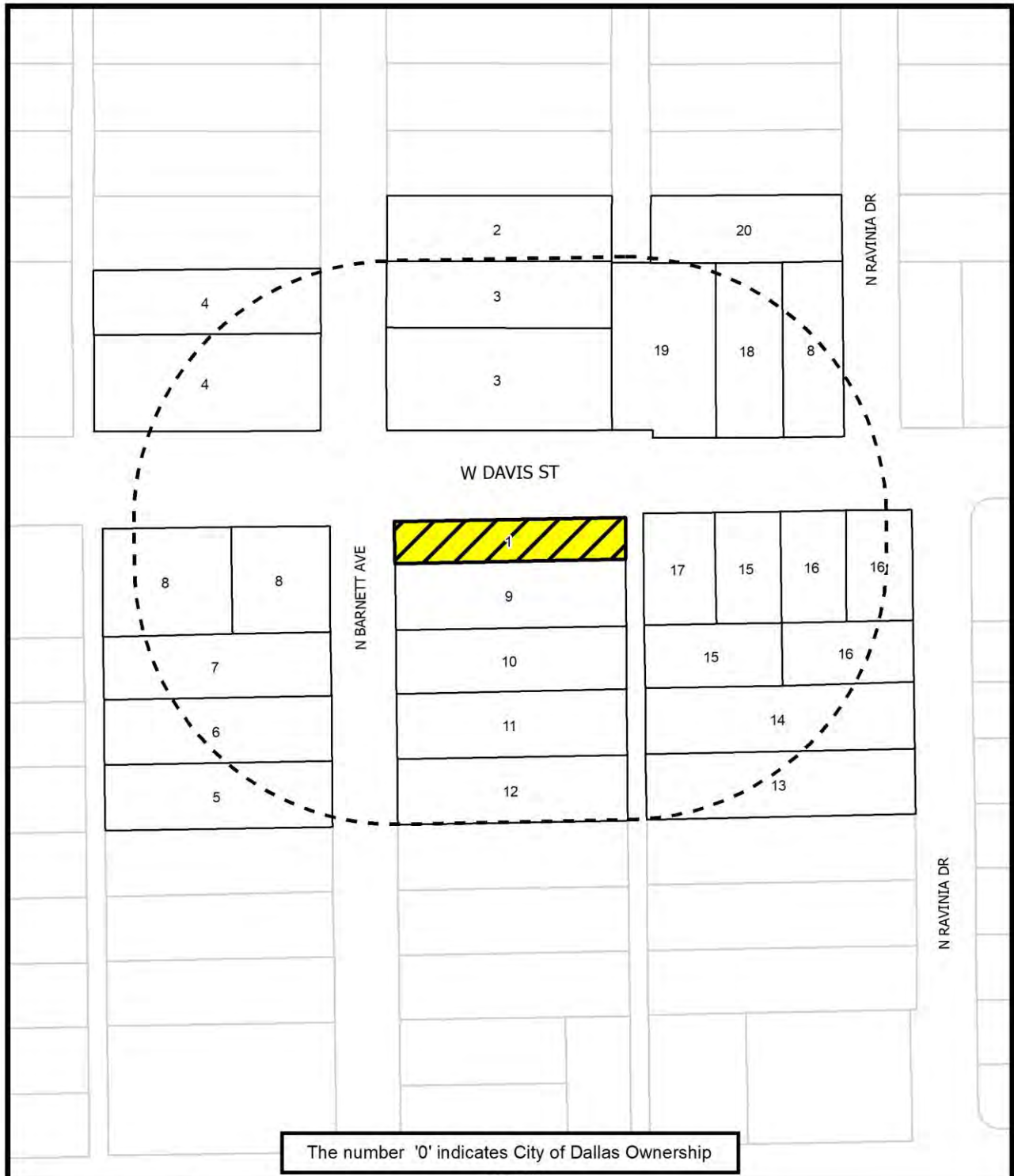


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AERIAL MAP

Case no: BDA201-120

Date: 12/22/2021



The number '0' indicates City of Dallas Ownership


 1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
20 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: BDA201-120
 Date: 12/22/2021

12/22/2021

Notification List of Property Owners

BDA201-120

20 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3022 W DAVIS ST	PENA A INC
2	614 N BARNETT AVE	LOZANO JOHN G
3	610 N BARNETT AVE	MARTINEZ FERNANDO &
4	3101 W DAVIS ST	BARRETO MARVELLA C
5	503 N BARNETT AVE	MALDONADO HORACIO & SAN JUANA
6	507 N BARNETT AVE	MALDONADO HORACIO &
7	509 N BARNETT AVE	509 N BARNETT SERIES LLC
8	3100 W DAVIS ST	MARTINEZ RAUL & LETICIA
9	514 N BARNETT AVE	FORSHEE MARSHALL
10	512 N BARNETT AVE	MARTINEZ MARIA R & JOSE G
11	506 N BARNETT AVE	MARTINEZ JOSE G &
12	502 N BARNETT AVE	MARTINEZ JOSE GUADALUPE &
13	503 N RAVINIA DR	RODRIGUEZ MOISES &
14	507 N RAVINIA DR	CARAWAY BENNIE J
15	509 N RAVINIA DR	NINO ISMAEL
16	511 N RAVINIA DR	ONTIVEROS CARMEN
17	3012 W DAVIS ST	MEDINA ONORIO MALDONADO &
18	3007 W DAVIS ST	PERALES JAIME R SEPULVEDE
19	3011 W DAVIS ST	ORNELAS DAVID
20	619 N RAVINIA DR	DELGADO MARTIN & ELIDIA



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-120

Data Relative to Subject Property:

Date: ~~10-18-2021~~ 10-27-21

Location address: 3022 W. DAVIS ST. Zoning District: PD 631 (LNU) TR 2 - COT

Lot No.: 1 Block No.: 9/4161 Acreage: .200 Census Tract: 45.00

Street Frontage (in Feet): 1) 50' 2) 175' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Peng A Inc.

Applicant: Rickey R. Booker Telephone: _____

Mailing Address: 13154 Coit Rd #105+106 Zip Code: 75240

E-mail Address: pinklounge18@gmail.com

Represented by: Angie B. Chapa and/or Rickey Booker Telephone: A - 214-566-9333
1720 Regal Park St 232 Dallas TX 75235

Mailing Address: 13154 Coit Rd #105-106 Dallas Zip Code: 75240

E-mail Address: abc-liquor-license@sbcglobal.net
pinklounge18@gmail.com

Affirm that an appeal has been made for a Variance , or Special Exception _____, of USE -
Zoning Change No longer Allows current use of Alcoholic
Beverage Establishment - would require change
in zoning for a location that has sold / served

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:

Allow the location to continue operating
as an alcoholic Beverage Establishment
with use of

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.

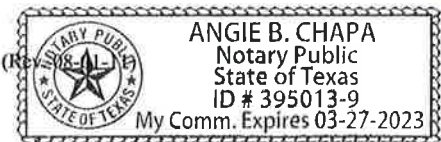
Affidavit

Before me the undersigned on this day personally appeared Rickey R. Booker
(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 19th day of October, 2021



[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 RICKEY BOOKER

did submit a request to restore a nonconforming use
at 3022 W. Davis Street

BDA201-120. Application of RICKEY BOOKER to restore a nonconforming use at 3022 W DAVIS ST. This property is more fully described as Lot 1, Block 9/4161, and is zoned PD-631 (LMU) Tract 2, which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming alcoholic beverage establishment use, which will require a special exception to the nonconforming use regulations.

Sincerely,


David Session, Building Official



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 201-120

I, Anthony Peña, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 3022 W. Davis
(Address of property as stated on application)

Authorize: Rickey R. Booker
(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)

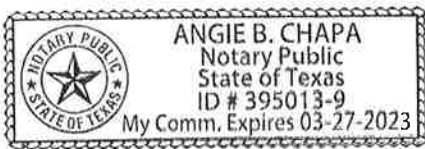
- Variance (specify below)
- Special Exception (specify below)
- Other Appeal (specify below)

Anthony Peña [Signature] 10-19-21
 Print name of property owner/agent Signature of property owner/agent Date

Before me, the undersigned, on this day personally appeared Anthony Peña

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 19 day of October, 2021



[Signature]
Notary Public for Dallas County, Texas

Commission expires on 3-27-2023

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: 3022 West DAVIS St. DALLAS, Tx. 75211

- 1. The nonconforming use being appealed/restored: Alcoholic Beverage Establishment
(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: Due to PD631 and has Always an Alcoholic establishment since 1990 or later
(Was there a change in the zoning or in the use requirements?)
- 3. Current zoning of the property on which the use is located: Not sure on Current Zoning PD631
- 4. Date the nonconforming use was discontinued: MARCH 26, 2003
- 5. Date that the nonconforming use became nonconforming: MARCH 26, 2003
(Date the property zoning or use requirements changed.)
- 6. Previous zoning of the property on which the use is located: Alcoholic Beverage Establishment
(Applies if a zoning district change caused the use to become nonconforming.)



Printed: 11/19/2021

Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-L | 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)







Address

Details **Holds** **Applications**

	Type	Project #	Status	Description	Issue Date	Trades
View	Certificate of Occupancy	1002181100	Issued	Certificate of Occupancy (CO) DBA: Lady's Choice	Feb 18, 2010	
View	Certificate of Occupancy	1107111034	Expired	Certificate of Occupancy (CO) DBA: LADYS CHOICE	Jul 18, 2011	
View	Certificate of Occupancy	1508311001	Issued	Certificate of Occupancy (CO) DBA: DALLAS KUSH CLUB	Sep 1, 2015	
View	Certificate of Occupancy	1508311002	Rejected	Certificate of Occupancy (CO) DBA: DALLAS KUSH CLUB		
View	Certificate of Occupancy	1611031101	Issued	Certificate of Occupancy (CO) DBA: PINK LOUNGE	Nov 30, 2016	
View	Certificate of Occupancy	2105141032	In Review	Certificate of Occupancy (CO) DBA: PINK LOUNGE PRIVATE CLUB		
View	Certificate of Occupancy	7911165564	Issued	Certificate of Occupancy (CO) DBA: LADY'S CHOICE	Nov 13, 1979	
View	Master Permit	1006283002	Revoked	Plumbing (PL) 2008-INSTALL WATER HEATER	Jun 28, 2010	
View	Master Permit	1510271002	Complete	Mechanical (ME) ME DUCT WORK	Oct 27, 2015	
View	Master Permit	1704111092	Complete	Electrical (EL) REPLACE OUTLETS (20) / ELECTRIC REPAIRS	Apr 11, 2017	
View	Master Permit	1709123049	Complete	Plumbing (PL) BF, BF install RPZ valve	Sep 13, 2017	BF, BF
View	Master Permit	8200013340	Complete	Electrical (EL) INSTALL R & R ELECTRICAL SERVICE @ OFFICE	Sep 24, 1982	
View	Sign Permit	1710121047	Complete	Sign (SI) ERECT ATTACHED SIGN (A) New Construction	Oct 12, 2017	
View	Sign Permit	1710171128	Expired	Electrical Sign (ES) ERECT ATTACHED SIGN (A) New Construction	Oct 17, 2017	
View	Sign Permit	9305131020	Complete	Electrical Sign (ES) 3022 W DAVIS ST	May 13, 1993	

[Main Menu](#)



City of Dallas

Certificate of Occupancy

Address: **3022 W DAVIS ST 75211** Issued: 10/02/2017

Owner: **PINK LOUNGE, LLC**
3022 W DAVIS
DALLAS TX 75211

DBA: **PINK LOUNGE**

Land Use: **(5821) ALCOHOLIC BEVERAGE ESTABLISHMENT**

Occupied Portion:

C.O.#: **1611031101**

Lot: 1	Block: 9/4161	Zoning: PD-631	PDD: 631	SUP:
Historic Dist:	Consv Dist: West Davis	Pro Park: 35	Req Park: 35	Park Agrmt: N
Dwlg Units:	Stories:	Occ Code: A2	Lot Area: 5602	Total Area: 3500
Type Const: UNK	Sprinkler:	Occ Load:	Alcohol: N	Dance Floor:N

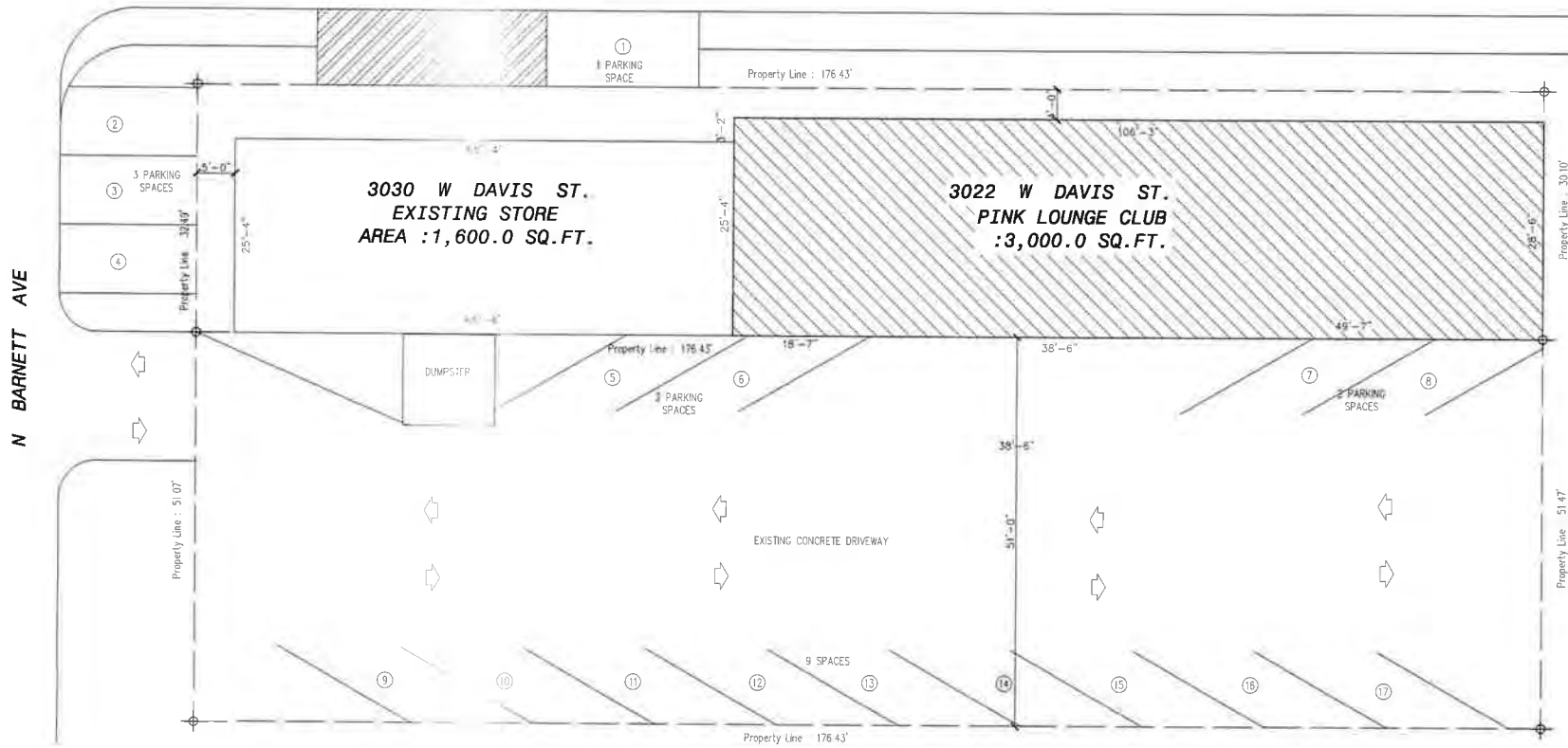
Remarks: LAST SAME # 1508311001 NONCONFORMING USE

Philip Sikes

Philip Sikes, Building Official

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

3022 W DAVIS ST.



N BARNETT AVE

SITE PLAN

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

PARKING ANALYSIS

	ADDRESS	NAME	SPACE AREA	RATIO	REQUIRED
1	3030 W. DAVIS ST.	STORE	1,600.0 SQ.FT.	1 P.S. @ 200 SQ.FT. 1,600/ 200	8
2	3022 W. DAVIS ST.	PINK LOUNGE CLUB	3,000.0 SQ.FT.	1 P.S. @ 333 SQ.FT. 3,000/ 333	9
				PARKING SPACES AVAILABLE	17
				PARKING SPACES REQUIRED	17

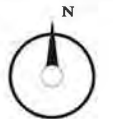


Martinez Design, LLC
 Tel: 972.891.1188
 Tel: 972.871.3912
 martinez77@hotmail.com

GENERAL NOTES

1. THE GENERAL CONTRACTOR/OWNER SHALL EXAMINE AND VERIFY THE ACCURACY OF ALL DIMENSIONS AND CONDITIONS OF THE SITE PLANNING/DEVELOPMENT AND SHALL NOTIFY OWNER OF ANY DISCREPANCIES AND/OR OMISSIONS PRIOR TO THE START OF CONSTRUCTION.
2. THESE PLANS ARE INTENDED FOR THE GENERAL CONTRACTOR CONSTRUCTION PURPOSES ONLY AND ARE NOT FINANCIELY BAILED OR FULLY SPECIFIED.
3. THE GENERAL CONTRACTOR SHALL SUPERVISE CONSTRUCTION AND IT SHALL BE RESPONSIBILITY TO SELECT, VERIFY, REUSE, AND INSTALL ALL EQUIPMENT AND MATERIALS AS TO COMPLY THE QUALITY THEREOF.
4. ALL WORK PERFORMED ON THIS PROJECT SHALL MEET OR EXCEED THE CURRENT EDITION OF THE UNIFORM BUILDING CODE AND ALL APPLICABLE STATE AND LOCAL MECHANICAL CODE AND REGULATIONS.
5. IT IS THE RESPONSIBILITY OF THE GENERAL CONTRACTOR TO PROVIDE ANY ENGINEERING NECESSARY TO THE STABILITY OF THE STRUCTURES OF THE PROJECT. FURTHERMORE IT IS RECOMMENDED THAT THESE PLANS SHALL BE REVIEWED BY A QUALIFIED PROFESSIONAL ENGINEER AND TOPOGRAHY SPECIALIST.

SQUARE FOOTAGE



Project Name:

PINK LOUNGE CLUB

Project Address:

**3022 W DAVIS ST.
DALLAS, TX 75211**

Plan Name:

SITE PLAN

Project #: 06-15-2021 Drawn By: JAM

Date: 061521 Scale: 3/32" = 1'-0"

Sheet #: **1** of **2**

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709

Filing Fee: \$300



**Certificate of Formation
Limited Liability Company**

Filed in the Office of the
Secretary of State of Texas
Filing #: 802556890 10/05/2016
Document #: 693101050002
Image Generated Electronically
for Web Filing

Article 1 - Entity Name and Type

The filing entity being formed is a limited liability company. The name of the entity is:

Pink Lounge LLC

Article 2 – Registered Agent and Registered Office

A. The initial registered agent is an organization (cannot be company named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Cesar Villasenor

C. The business address of the registered agent and the registered office address is:

Street Address:

**8330 LBJ Freeway
Suite 360 Dallas TX 75243**

Consent of Registered Agent

A. A copy of the consent of registered agent is attached.

OR

B. The consent of the registered agent is maintained by the entity.

Article 3 - Governing Authority

A. The limited liability company is to be managed by managers.

OR

B. The limited liability company will not have managers. Management of the company is reserved to the members.

The names and addresses of the governing persons are set forth below:

Managing Member 1: **Cesar Villasenor Sr**

Title: **Managing Member**

Address: **3022 W. Davis Blvd Dallas TX, USA 75211**

Managing Member 2: **Oscar Rivera**

Title: **Managing Member**

Address: **3022 W. Davis Blvd Dallas TX, USA 75211**

Managing Member 3: **Arturo Villasenor**

Title: **Managing Member**

Address: **3022 W. Davis Blvd Dallas TX, USA 75211**

Article 4 - Purpose

The purpose for which the company is organized is for the transaction of any and all lawful business for which limited liability companies may be organized under the Texas Business Organizations Code.

Supplemental Provisions / Information

I, **Cesar Villasenor at 3022 W. Davis Blvd. Dallas Texas 75211. Hereby consent to become a member of Pink Lounge LLC.**

I, **Arturo Villasenor at 3022 W. Davis Blvd. Dallas Texas 75211. Hereby consent to become a member of Pink Lounge LLC.**

I, **Oscar Rivera at 3022 W. Davis Blvd. Dallas Texas 75211. Hereby consent to become a member of Pink Lounge LLC.**

[The attached addendum, if any, is incorporated herein by reference.]

Organizer

The name and address of the organizer are set forth below.

Cesar Villasenor 3022 W. Davis Blvd Dallas Texas 75211

Effectiveness of Filing

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is: **October 6, 2016**

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Cesar Villasenor

Signature of Organizer

FILING OFFICE COPY

BDA201-120_ATTACHMENT_B

Form 424

(Revised 05/11)

Submit in duplicate to:
Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
512 463-5555
FAX: 512/463-5709
Filing Fee: See instructions



Certificate of Amendment

This space reserved for office use.

FILED
In the Office of the
Secretary of State of Texas

JUL 13 2021

Corporations Section

Entity Information

The name of the filing entity is:

Pink Lounge, LLC

State the name of the entity as currently shown in the records of the secretary of state. If the amendment changes the name of the entity, state the old name and not the new name.

The filing entity is a: (Select the appropriate entity type below.)

- For-profit Corporation
- Nonprofit Corporation
- Cooperative Association
- Limited Liability Company
- Professional Corporation
- Professional Limited Liability Company
- Professional Association
- Limited Partnership

The file number issued to the filing entity by the secretary of state is: 80255 6890

The date of formation of the entity is: 10/06/2016

Amendments

1. Amended Name

(If the purpose of the certificate of amendment is to change the name of the entity, use the following statement)

The amendment changes the certificate of formation to change the article or provision that names the filing entity. The article or provision is amended to read as follows:

The name of the filing entity is: (state the new name of the entity below)

Pink Lounge, LLC

The name of the entity must contain an organizational designation or accepted abbreviation of such term, as applicable.

2. Amended Registered Agent/Registered Office

The amendment changes the certificate of formation to change the article or provision stating the name of the registered agent and the registered office address of the filing entity. The article or provision is amended to read as follows:

Registered Agent

(Complete either A or B, but not both. Also complete C.)

A. The registered agent is an organization (cannot be entity named above) by the name of:

OR

B. The registered agent is an individual resident of the state whose name is:

Cesar Villasenor
First Name M.I. Last Name Suffix

The person executing this instrument affirms that the person designated as the new registered agent has consented to serve as registered agent.

C. The business address of the registered agent and the registered office address is:

3022 W. Davis St. Dallas TX 75211
Street Address (No P.O. Box) City State Zip Code

3. Other Added, Altered, or Deleted Provisions

Other changes or additions to the certificate of formation may be made in the space provided below. If the space provided is insufficient, incorporate the additional text by providing an attachment to this form. Please read the instructions to this form for further information on format.

Text Area (The attached addendum, if any, is incorporated herein by reference.)

Add each of the following provisions to the certificate of formation. The identification or reference of the added provision and the full text are as follows:

Rickey R. Booker - Mgr/Mbr - 3138 Slotch Creek, Coppell, TX 75019
Jonathan Biley-Smith - Mgr/Mbr - 221 Sandlewood Ln Cedar Hill, TX 75104

RB Vegetius Group, Inc 13154 Coit Rd #105-106 - Dallas, TX *mgr/mbr*
75240

Alter each of the following provisions of the certificate of formation. The identification or reference of the altered provision and the full text of the provision as amended are as follows:

Delete each of the provisions identified below from the certificate of formation.

Arturo Villasenor - Director - 3100 Obenchain St. Dallas, TX 75212
Cesar A. Villasenor - Director - 3213 Riverview Dr. Mesquite, TX 75181
Oscar Rivera - Director 3331 Topeka Ave. Dallas, TX 75212

Statement of Approval

The amendments to the certificate of formation have been approved in the manner required by the Texas Business Organizations Code and by the governing documents of the entity.

Effectiveness of Filing (Select either A, B, or C.)


- A. This document becomes effective when the document is filed by the secretary of state.
- B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: 08/20/2018
- C. This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90th day after the date of signing is: _____

The following event or fact will cause the document to take effect in the manner described below:

Execution

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Date: 07/30/2018

By: Rickey Booker

Signature of authorized person

Rickey R. Booker
Printed or typed name of authorized person (see instructions)

Form 202

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709

Filing Fee: \$25



**Certificate of Formation
Nonprofit Corporation**

Filed in the Office of the
Secretary of State of Texas
Filing #: 802595432 12/04/2016
Document #: 702684180002
Image Generated Electronically
for Web Filing

Article 1 - Corporate Name

The filing entity formed is a nonprofit corporation. The name of the entity is :

Pink Lounge Private Club, Inc.

Article 2 – Registered Agent and Registered Office

A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Cesar A. Villasenor

C. The business address of the registered agent and the registered office address is:

Street Address:

3213 Riverview Dr. Mesquite TX 75181-1665

Consent of Registered Agent

A. A copy of the consent of registered agent is attached.

OR

B. The consent of the registered agent is maintained by the entity.

Article 3 - Management

A. Management of the affairs of the corporation is to be vested solely in the members of the corporation.

OR

B. Management of the affairs of the corporation is to be vested in its board of directors. The number of directors, which must be a minimum of three, that constitutes the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are set forth below.

Director 1: **Cesar A. Villasenor**

Title: **Director**

Address: **3213 Riverview Dr. Mesquite TX, USA 75181-1665**

Director 2: **Oscar Rivera**

Title: **Director**

Address: **3331 Topeka Ave. Dallas TX, USA 75212-2844**

Director 3: **Arturo Villasenor**

Title: **Director**

Address: **3100 Obenchain St. Dallas TX, USA 75212-4003**

Article 4 - Organization Structure

A. The corporation will have members.

or

B. The corporation will not have members.

Article 5 - Purpose

The corporation is organized for the following purpose or purposes:

Providing the service of alcoholic beverages to its members and any other lawful social activities and entertainment.

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

509boc_signed-PinkLounge.pdf

Effectiveness of Filing

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Organizer

The name and address of the organizer are set forth below.

Joel D. Rich, Attorney at Law

PO Box 225884, Dallas TX 75222


Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Joel D. Rich, Attorney at Law

Signature of organizer.

FILING OFFICE COPY

<p>Form 509 (Revised 06/15)</p> <p>Submit with relevant filing instrument.</p> <p>Filing Fee: None</p>	 <p>Consent to Use of Similar Name</p>	
---	---	--

(1) Pink Lounge LLC

Name and file number of the entity or individual who holds the existing name on file with the secretary of state

consents to the use of

(2) Pink Lounge Private Club, Inc.

Proposed name

as the name of a filing entity or foreign filing entity in Texas for the purpose of submitting a filing instrument to the secretary of state.

(3) The undersigned certifies to being authorized by the holder of the existing name to give this consent. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

Date: 11/14/16



 Signature of Authorized Person

Cesar Villasenor

 Name of Authorized Person (type or print)

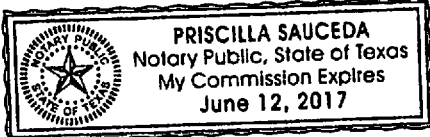
Managing Member


 Title of Authorized Person, if any (type or print)

State of Texas

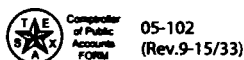
County of Dallas

This instrument was acknowledged before me on 11/14/16 by Cesar Villasenor
 (date) (name of authorized person)

(Seal) 



 Notary Public's signature



Texas Franchise Tax Public Information Report

To be filed by Corporations, Limited Liability Companies (LLC), Limited Partnerships (LP), Professional Associations (PA) and Financial Institutions

Tcode 13196 Franchise

Taxpayer number: 32062217685, Report year: 2018

You have certain rights under Chapter 552 and 559, Government Code, to review, request and correct information we have on file about you. Contact us at 1-800-252-1381.

Taxpayer name: PINK LOUNGE PRIVATE CLUB, INC., Mailing address: 3022 W. DAVIS ST., City: DALLAS, State: TX, ZIP code plus 4: 75211, Secretary of State (SOS) file number or Comptroller file number: 0802595432

Blacken circle if there are currently no changes from previous year; if no information is displayed, complete the applicable information in Sections A, B and C.

Principal office: 3022 W. DAVIS ST. DALLAS, TX 75211, Principal place of business: 3022 W. DAVIS ST. DALLAS, TX 75211

You must report officer, director, member, general partner and manager information as of the date you complete this report.

Please sign below! This report must be signed to satisfy franchise tax requirements. 3206221768518*

SECTION A Name, title and mailing address of each officer, director, member, general partner or manager.

Table with 4 columns: Name, Title, Director, Term expiration. Rows include RICKEY R. BOOKER (PRESIDENT), TIMOTHY DOUGLAS SR. (SECRETARY), and JONATHAN BILEY-SMITH (VICE PRES.).

SECTION B Enter information for each corporation, LLC, LP, PA or financial institution, if any, in which this entity owns an interest of 10 percent or more.

Table with 4 columns: Name of owned (subsidiary) corporation, LLC, LP, PA or financial institution, State of formation, Texas SOS file number, if any, Percentage of ownership.

SECTION C Enter information for each corporation, LLC, LP, PA or financial institution, if any, that owns an interest of 10 percent or more in this entity.

Table with 4 columns: Name of owned (parent) corporation, LLC, LP, PA or financial institution, State of formation, Texas SOS file number, if any, Percentage of ownership.

Registered agent and registered office currently on file (see instructions if you need to make changes). Agent: RICKEY BOOKER, Office: 3022 W. DAVIS ST., City: DALLAS, State: TX, ZIP Code: 75211

The information on this form is required by Section 171.203 of the Tax Code for each corporation, LLC, LP, PA or financial institution that files a Texas Franchise Tax Report. Use additional sheets for Sections A, B and C, if necessary. The information will be available for public inspection.

I declare that the information in this document and any attachments is true and correct to the best of my knowledge and belief, as of the date below, and that a copy of this report has been mailed to each person named in this report who is an officer, director, member, general partner or manager and who is not currently employed by this or a related corporation, LLC, LP, PA or financial institution.

Signature: Rickey Booker, Title: PRES., Date: 09/12/2018, Area code and phone number: (469) 422-0055

Texas Comptroller Official Use Only

05-102|(Rev.9-15/33)|13196|32062217685|2018|Thu Sep 13 2018 10:42:24 GMT-0600 (GMT-06:00)|9997|0|

VE/DE, PIR IND



[← Back](#)

Sales and Use Tax

Taxpayer: 32062217685, PINK LOUNGE PRIVATE CLUB, INC.
Address: 3022 W DAVIS ST, DALLAS TX 75211-2918
Tax Type: Sales and Use Tax

Return Summary Original Return for Period Ending 03/31/2018 (181)

CREDITS TAKEN

Credits Taken

Are you taking credit to reduce taxes due on this return? No

Licensed Customs Broker Exported Sales

Did you refund sales tax for this filing period on items exported outside the United States based on a Texas Licenced Customs Broker Export Certifications? No

LOCATION SUMMARY

Loc #	Total Texas Sales	Taxable Sales	Taxable Purchases	Subject to State Tax (Rate .0625)	State Tax Due	Subject to Local Tax	Local Tax Rate	Local Tax Due
00001	181	181	0	181	11.31	181	0.02000	3.62
SubTotal	181	181	0	181	11.31	181		3.62

Total Tax for Locations \$14.93

Total Tax Due:	\$14.93
Late Filing Penalty:	+ \$50.00
Penalty:	+ \$2.00
Prior Payments:	- \$66.93
Balance Due:	\$0.00
Pending Payments:	- \$0.00

Total Amount Due and Payable: \$0.00

(State amount due is \$0.00)

(Local amount due is \$0.00)

Total Amount Due and Payable may not reflect all payments or discounts.

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Sales and Use Tax

Taxpayer: 32062217685, PINK LOUNGE PRIVATE CLUB, INC.**Address:** 3022 W DAVIS ST, DALLAS TX 75211-2918**Tax Type:** Sales and Use Tax

Return Summary Original Return for Period Ending 12/31/2017 (174)

CREDITS TAKEN

Credits Taken

Are you taking credit to reduce taxes due on this return?

No

Licensed Customs Broker Exported Sales

Did you refund sales tax for this filing period on items exported outside the United States based on a Texas Licenced Customs Broker Export Certifications?

No

LOCATION SUMMARY

Loc #	Total Texas Sales	Taxable Sales	Taxable Purchases	Subject to State Tax (Rate .0625)	State Tax Due	Subject to Local Tax	Local Tax Rate	Local Tax Due
00001	251	251	0	251	15.69	251	0.02000	5.02
SubTotal	251	251	0	251	15.69	251		5.02

Total Tax for Locations**\$20.71**

Total Tax Due: \$20.71

Late Filing Penalty: + \$50.00

Determination Penalty: + \$0.18

Interest: + \$0.02

Penalty: + \$2.16

Prior Payments: - \$103.07

Returned Payment Fee: + \$30.00

Balance Due: \$0.00

Pending Payments: - \$0.00

Total Amount Due and Payable:

\$0.00

(State amount due is \$0.00)

(Local amount due is \$0.00)

Total Amount Due and Payable may not reflect all payments or discounts.

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Sales and Use Tax

Taxpayer: 32062217685, PINK LOUNGE PRIVATE CLUB, INC.

Address: 3022 W DAVIS ST, DALLAS TX 75211-2918

Tax Type: Sales and Use Tax

Return Summary Original Return for Period Ending 06/30/2018 (182)

CREDITS TAKEN

Credits Taken

Are you taking credit to reduce taxes due on this return? No

Licensed Customs Broker Exported Sales

Did you refund sales tax for this filing period on items exported outside the United States based on a Texas Licenced Customs Broker Export Certifications? No

LOCATION SUMMARY

Loc #	Total Texas Sales	Taxable Sales	Taxable Purchases	Subject to State Tax (Rate .0625)	State Tax Due	Subject to Local Tax	Local Tax Rate	Local Tax Due
00001	0	0	0	0	0.00	0	0.02000	0.00
SubTotal	0	0	0	0	0.00	0		0.00

Total Tax for Locations **\$0.00**

LIST SUMMARY

Jurisdiction	Jurisdiction Name	Amount Subject to Local Tax	Local Tax Rate	Local Tax Due
1444442	COMBINED UNSPECIFIED TAX	10	0.00125	

Total Tax for List **\$0.00**

Total Tax Due: \$0.00

Late Filing Penalty: + \$50.00

Penalty: + \$2.00

Prior Payments: - \$52.01

Balance Due: \$0.00

Pending Payments: - \$0.00

Total Amount Due and Payable: \$0.00

(State amount due is \$0.00)

(Local amount due is \$0.00)

Total Amount Due and Payable may not reflect all payments or discounts.

Print

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Sales and Use Tax

Taxpayer: 32062217685, PINK LOUNGE PRIVATE CLUB, INC.
Address: 3022 W DAVIS ST, DALLAS TX 75211-2918
Tax Type: Sales and Use Tax

Return Summary Original Return for Period Ending 09/30/2018 (183)

CREDITS TAKEN

Credits Taken

Are you taking credit to reduce taxes due on this return? No

Licensed Customs Broker Exported Sales

Did you refund sales tax for this filing period on items exported outside the United States based on a Texas Licenced Customs Broker Export Certifications? No

LOCATION SUMMARY

Loc #	Total Texas Sales	Taxable Sales	Taxable Purchases	Subject to State Tax (Rate .0625)	State Tax Due	Subject to Local Tax	Local Tax Rate	Local Tax Due
00001	6,135	6,135	0	6,135	383.44	6,135	0.02000	122.70
SubTotal	6,135	6,135	0	6,135	383.44	6,135		122.70

Total Tax for Locations \$506.14

Total Tax Due:	\$506.14
Late Filing Penalty:	+ \$50.00
Penalty:	+ \$50.62
Prior Payments:	- \$606.76
Balance Due:	\$0.00
Pending Payments:	- \$0.00

Total Amount Due and Payable: \$0.00

(State amount due is \$0.00)

(Local amount due is \$0.00)

Total Amount Due and Payable may not reflect all payments or discounts.

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Sales and Use Tax

Taxpayer: 32062217685, PINK LOUNGE PRIVATE CLUB, INC.

Address: 3022 W DAVIS ST, DALLAS TX 75211-2918

Tax Type: Sales and Use Tax

Return Summary Original Return for Period Ending 12/31/2018 (184)

CREDITS TAKEN

Credits Taken

Are you taking credit to reduce taxes due on this return? No

Licensed Customs Broker Exported Sales

Did you refund sales tax for this filing period on items exported outside the United States based on a Texas Licenced Customs Broker Export Certifications? No

LOCATION SUMMARY

Loc #	Total Texas Sales	Taxable Sales	Taxable Purchases	Subject to State Tax (Rate .0625)	State Tax Due	Subject to Local Tax	Local Tax Rate	Local Tax Due
00001	10,676	10,676	0	10,676	667.25	10,676	0.02000	213.52
SubTotal	10,676	10,676	0	10,676	667.25	10,676		213.52

Total Tax for Locations \$880.77

Total Tax Due:	\$880.77
Late Filing Penalty:	+ \$50.00
Penalty:	+ \$44.04
Prior Payments:	- \$974.81
Balance Due:	\$0.00
Pending Payments:	- \$0.00

Total Amount Due and Payable: \$0.00

(State amount due is \$0.00)

(Local amount due is \$0.00)

Total Amount Due and Payable may not reflect all payments or discounts.

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From: [Angelica Chapa](#)
To: [Daniel, Pamela](#)
Subject: Fw: The Pink Lounge Follow Up
Date: Wednesday, December 29, 2021 1:09:17 PM
Attachments: [image006.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

External Email!

Here is what was sent to me in August 2021

Angie Chapa
ABC Liquor License Service & Bookkeeping
1720 Regal Row, Suite 232
Dallas, TX 75235
(214) 631-2750
(214) 566-9333 Cell

----- Forwarded Message -----

From: Kris Johnson <krisjohnsonmanagement@gmail.com>
To: ABC Liquor License <abc-liquor-license@sbcglobal.net>
Sent: Tuesday, August 3, 2021, 01:39:42 PM CDT
Subject: Fwd: The Pink Lounge Follow Up

Sent from my iPhone

Begin forwarded message:

From: Kris Johnson <[REDACTED]>
Date: June 9, 2021 at 14:28:22 CDT
To: juan.hernandez@dallascityhall.com
Subject: Fwd: The Pink Lounge Follow Up

Sent from my iPhone

Begin forwarded message:

From: PINK LOUNGE <[REDACTED]com>
Date: June 25, 2019 at 17:50:18 CDT
To: [REDACTED]
Subject: The Pink Lounge Follow Up

Sent from my iPhone

Begin forwarded message:

From: "Bone, Jamison" <jamison.bone@dpd.ci.dallas.tx.us>
Date: June 25, 2019 at 4:52:31 PM CDT
To: [REDACTED]
Subject: The Pink Lounge Follow Up

Good Afternoon,

I wanted to include the both of y'all in this email to update on what we have done regarding the Pink Lounge. We did an operation in which we conducted our own undercover surveillance one weekend of the activity at the Pink Lounge. We had officers go to location from 10:00 p.m. until around 3:00 a.m. in plain clothes and in an unmarked vehicle to watch the location for prior discussed issues.

The following were their observations about the night:

1. The officers stated they observed staff from the Pink Lounge put out orange cones off Barnett and 8th street to prevent people from parking on the residential street. I advised the officers that as far as I knew, residents in the area were happy about the cones being put out because it prevented patrons of the bar from parking in the street and blocking their house or driveways.
2. They stated the staff did have to stop traffic a few times on Davis to let vehicles in and out of the parking lot, but that traffic was stopped for a very short amount of time.
3. They stated all night they observed a vehicle sitting at an intersection right by the bar and determined that it was a Pink Lounge employee. They were unsure if the vehicle was providing security for vehicles parked at the bar or to keep people from parking on the street.
4. The only loud music they heard was coming from the actual bar. They stated the only time they heard the music though was when the front door opened, but once it was closed they could no longer hear the loud music. They stated they did not personally hear any loud music coming from people waiting in the valet line and tried to keep an ear out for that issue.
5. There were two security guards observed in the front of location patting down all of the patrons and checking women's purses before entering location.

The few issues they expressed were as follows:

1. They stated there were multiple vehicles parked in alley ways that were impeding thru traffic. They stated the bar nor valet parked the cars there, but it was guest parking their own vehicles then walking over. They stated they observed vehicles parked in the East alley of 500 N. Barnett on the south side of Davis and they said they were parked in the east alley of 600 N. Barnett on the north side of Davis. The vehicles parked in the 500 block were completely blocking the alley and the ones in the 600 block would have made it difficult (but not impossible) for other vehicles to pass. We are going to get our deep nights patrol officers to try and patrol the area more on the weekends and ticket or tow vehicles illegally parked or blocking the alleyway.
2. Another concern are the patrons that walk from the north side of Davis to the Bar on the South side. There are no crosswalks there and the area is not well lit. They said on more than one occasion and pedestrian almost got hit crossing the street there. There is nothing the bar can do about this unless they petition the city to get a cross walk put there or more street lighting to make it more visible.

All in all the officers felt the employees of the Pink Lounge made their best effort possible to try and respect the people of the neighborhood and do what they could to prevent issues. They stated the cones kept people from parking on the residential streets and they had valet parking majority of the cars. They advised all patrons exited the bar by 2:20 a.m. and that nobody hung out too long after leaving. They did not observe anybody doing anything obscene or reckless while they were out there. There were no disturbances once the bar closed and the patrons started to leave. They stated the traffic is heaviest at around 11:00 p.m. and 2:00 a.m., but that it appeared every attempt was made to expedite that process. They stated they do fear a patron could be struck by oncoming traffic walking across the street, but that is more up to the individual patron to control more than an employee at the bar.

For the most part we feel the bar has done its best to try and not be a nuisance to the area and made improvements to ease the issues. At this time, they are not committing any offenses that Dallas Police can enforce on them. If they have other violations such as Code Compliance issues then that will be dealt with through that department. We do not know anything else Police related to deal with at this time. If there are any further issues or anything more either of y'all would like to discuss then please feel free to reach out to me via email or phone number provided below.

Thanks,

594A0864



Jamison Bone, #10336
Southwest NPO Unit
City of Dallas | DallasPolice.net
Dallas Police Department

4230 W. Illinois Ave

Dallas, TX 75211
O: 214-671-0690 C: 214-288-8241

Jamison.Bone@dallascityhall.com



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Jackson, Latonia

From: Rebecca Mohr [REDACTED]
Sent: Friday, January 7, 2022 5:46 PM
To: Jackson, Latonia
Subject: REVISED: January 19 hearing, Panel B, Case # BDA201-120

External Email!

Hi Latonia,
I originally listed the incorrect Case number on my previous email and have added another important comment which I just received.
Please replace the former email with this one before sending to the Board members.
Thank you!
Rebecca Mohr

Dear Board of Adjustment Members,

Regarding case # BDA201-120, I emailed 190 of our El Tivoli Place residents, asking for comments regarding the permitting of a liquor license to 3022 W. Davis Street,
These are some of the lengthier emails I have received in response. The majority just said they were opposed, and NO ONE was in favor of granting the license.
Sincerely,
Rebecca Mohr, President
El Tivoli Place Neighborhood Association

Received from 2718 Overcrest on January 5, 2022 at 8:54 am:

As this business continues to impact the safety of our neighborhood, I stand with the choice of not allowing it to re-open.
Sandra Francis

Received from 1002 Westmount on January 5, 2022 at 4:36 pm:

I am against the nightclub getting the liquor license because drunk people have turned this Neighborhood into a warzone with all the gunshots coming from that area, putting our families in danger, and disturbing our rest time hours during the night.
Luisa Hernandez

Received from 814 Westmount Ave. on January 6, 2022 at 9:15am:

My comments are that this community has improved significantly since I bought a home here in 2017. I remember this nightclub and the music and disruptions that would happen constantly. In fact, I believe I had to file a police noise complaint / report for issues some time ago.

It would be unfortunate that the city moves us backwards on improving our area by allowing for a business with the track record this one has to operate with a liquor license. As tax payers, I would expect the city to advocate for the citizens around a business and prioritize the health and safety of residents. I would oppose this reinstatement and expect the board to uphold their duty of taking our comments into consideration.
Thanks,

Greg Pilz

Received from 1003 Cliffdale on January 6, 2022 at 3:05 pm

We have lived at 1003 Cliffdale Ave; Dallas, Tx 75211 for 50 plus years and have worked with the neighborhood to eliminate problematic clubs along West Davis. This particular nightclub at 3022 W. Davis has been the cause of many disruptions to the neighborhood on both sides of W. Davis. We hope the Board of Adjustment does not grant the renewal of a liquor license for this nightclub.

Roscoe and Elva Friesenhahn

Received from 831 Cliffdale Avenue on January 7 at 5:14 pm

Hi Rebecca,

Replying on behalf of two households in the neighborhood that we are NOT in favor of allowing the liquor license approval. We want the grandfather rule to take effect (whereby if a grandfathered premise is not operating for 90 days, the allowance no longer applies) and for the below reasons:

- The establishment frequently impedes the safe flow of traffic during nights of operation by intentionally parking one car on the right lane of Davis in front of their establishment. They disrupt the thoroughfare and proper use of this major road with a car parked constantly while their establishment was open
- They are allowing for over-serving to customers of liquor/ alcohol and those very drunk individuals run out into the major street and then drive through our neighborhood drunk.
- One drunk individual ended up on one of our home's doorstep and tried to get in
- Their paid "bouncers" / security encourage guests trying to cross the street to do so by "jay-walking" and running out into the street without regard to oncoming traffic and yelling at cars who don't see them or stop in time
- Additionally, they allow their guests to stand out in the actual street while waiting to get in and upon leaving. They are standing in a major thoroughfare and violently getting at cars that are driving correctly. Their paid bouncers/ security do nothing to get their groups of guests off of the street

Brianna Monslave

CAUTION: This email originated from outside of the organization. Please, do not click links or open attachments unless you recognize the sender and know the content is safe.

Board of Adjustments
Case BDA 201-120

January 6, 2022

Dear Board Members,

I am writing you as President of El Tivoli Place Neighborhood Association and represent the 301 homes in our neighborhood.

After learning that 3022 W. Davis has reapplied for its liquor license, I questioned our residents if they were in support of this reopening. NOT ONE resident was in favor of the liquor license reinstatement and a nightclub reopening.

I invite you to live in our neighborhood when the nightclub was open. You would be awoken at 2 am for the routine bar closing gun fire, if not earlier by the loud voices and honking horns. You would have people urinating on your manicured lawn. You would have a difficult time driving down your neighborhood streets and getting in and out of your driveway due to the abundance of cars parked on the street. You'd have drunken drivers driving through your neighborhood. Doesn't this sound like a lovely place to live? We don't think so either.

This club has proven to be bad neighbors and not abide by the laws since it was shut down for numerous violations. It is incomprehensible that it would be allowed to reopen.

You hold the power to make living in our neighborhoods pleasant or not. We implore you to deny the application for a liquor license to 3022 W. Davis Street and not allow its reopening.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Mohr". The signature is written in a cursive, flowing style.

Rebecca Mohr, President
El Tivoli Place Neighborhood Association

Tony and Sue Jackson
102 N Barnett Ave
Dallas, TX. 75211

City Hall
Dallas, TX

1/5/22

To Whom It May Concern:

Our family of 3 (including our 2 year old son) reside on the block of Barnett street. We were recently made aware that Pink Lounge is attempting to renew their permit for operations soon.

We are writing this letter along with many other neighbors who feel the same to petition a request that the permit for Pink Lounge be declined and not be approved for further operations. The permit was revoked in the past for a reason which is concerning. The operations of the Pink Lounge raises the below past and current concerns for many families and our neighborhood:

1. Increase of crime rate.
2. Increase of unsafe late night activities.
3. Increase in bringing the undesirable and unsafe crowd through the surrounding streets and neighborhoods.
4. Decrease in property value in the surrounding neighborhoods.
5. Loud music and disruptive noise past curfew.
6. Lack of respect for property and increase of potential damage to property.
7. Increase in car theft and vandalism.
8. Increase "through" traffic on residential streets.

We sincerely appreciate the consideration to cease operations of Pink Lounge to continue to keep our community and neighborhoods safe and to avoid increased crime and unsafe activities.

Thank you,


Sue Jackson


Tony Jackson

BEVERLY HILLS NEIGHBORHOOD ASSOCIATION
303 North Barnett Avenue
Dallas, TX 75211
214-331-4758
Babs2540@gmail.com

January 4, 2022

To the Dallas Board of Adjustment
Case BDA 201-120

Dear Panel B Members:

The Beverly Hills NA was founded in 1997 as a 501(c) 3 non-profit dedicated to making life better for the residents in our neighborhood. This is a working class neighborhood with a majority of Hispanic residents. Many go to work in their trucks at 6:30 AM. Late night disturbances in this R7.5 residential neighborhood affect the quality of life of all our residents, both adults and children.

The Beverly Hills Neighborhood Association is asking the Board of Adjustment to deny the request from the owner of the Pink Lounge, Mr. Rickey Booker, to restore the non-conforming rights that he has lost due to operating for several years without a valid Certificate of Occupancy. The Certificate of Occupancy that he used was from a former owner, Mr. Cesar Villasenor, who has absolutely nothing whatsoever to do with the current club, as he stated to the Code Enforcement officer that our Community Prosecutor, Mr. Akins, sent to investigate the club. In addition, the fact that the Pink Lounge has been closed for 6 months brings into play the PD 631 regulation that the fact of a 6 month closure automatically cancels the non-conforming rights of the occupant.

BHNA did try since 2018 to reach some sort of cooperation with Mr. Booker. He met several times with members of the neighborhood association and our former City Councilman Scot Griggs and former Asst. Chief of Police for Southwest Dallas, Albert Martinez, to discuss the problems that neighbors were having both during the opening hours of the Pink Lounge and after 2 AM with parked cars blocking Barnett Avenue, loud talking, honking horns, loud music, boom boxes in cars, inappropriate behavior and gunfire. Mr. Booker promised us that he and his security people would control the bad behavior of his customers but unfortunately that lasted a very short time. He did hire a valet service that was supposed to use a rented parking lot a block away at a local church but that did not cut down on cars parked on Barnett on the north and south sides of West Davis and also on other streets in the neighborhood. There is not enough parking for the number of patrons on site which has led to constant spillover into the adjoining streets.

When the Pandemic caused the closure of bars, Mr. Booker built a roofed back porch on the building with no permit, hired a food truck and got permission to operate as a restaurant. He also had accompanying loud music

outside which went on until 2 AM. When it was discovered that Mr. Booker did not have a valid Certificate of Occupancy, the Pink Lounge was closed last summer.

In response to my request to our Neighborhood Policing Unit about problems with 3022 W. Davis reported to 911 in 2021, Officer Donald Bailey came to the BHNA meeting in November with a report. This list is only 2021 from January until the club closed in the summer of 2021. The calls were for loud music, random gunfire, disturbances and other situations that were causing neighbors problems. There were 38 calls to 911 in 6 months about 3022 W. Davis.

After so many years of problems with the patrons of the Pink Lounge at 3022 West Davis and the many broken promises by Mr. Booker and his team to respect the right to peace and quiet of the residents of Beverly Hills, those residents feel they must ask the Board of Adjustment to refuse to reinstate the non-conforming right to serve alcohol at 3022 West Davis and hopefully close this business permanently. The residents of our neighborhood have reached the conclusion that businesses that rely on alcohol sales and late night opening should not be allowed to exist next door to single family neighborhoods.

Some of the Beverly Hills residents plan to attend the hearing at City Hall on January 19 to personally speak to Panel B about our problems with this business and to express our desire to have it shut down permanently.

Sincerely,

A handwritten signature in black ink that reads "Barbara A. Barbee". The signature is written in a cursive, flowing style.

Barbara A. Barbee, President

Memorandum for Record

December 28, 2021

TO: The Dallas Board of Adjustments

REGARDING: Case BDA 201-120 for 3022 West Davis, Pink Lounge.

FROM: Hollis D. Sellman

Hello, I am Hollis D. Sellman of 103 N. Barnett Ave., and I am writing to ask that the Board not restore the non-conforming rights for the Pink Lounge, located at 3022 West Davis St, Dallas, 75211. Since the bar/club has been shut down, we've experienced less gunfire deep into the night, a lot less trash up and down our neighborhood streets, much less traffic and noise to and from, and essentially no one trying to park in front of the homes near the bar during hours of operation.

A neighborhood bar, of the quintessential type, does not bring the majority of its traffic in from outside the neighborhood or local area, especially not vehicular traffic that cannot be accommodated with adequate parking. In order to be a positive addition to, or quaint bar for a neighborhood, an establishment like this would likely cater to foot traffic from the surrounding neighborhoods and perhaps from the surrounding businesses being patronized by locals. I'm simply pointing out that this is not a quaint neighborhood bar, this is a night club that sits within close proximity to several neighborhoods and has a significant and negative impact on them. This club's location does not have enough parking to accommodate the number of patrons that they serve during operating hours. This forces people to park all the way down several streets into the neighborhoods on either side of West Davis.

In the case of the Pink Lounge, there were promises made to our neighborhood association by the club's owner that he simply did not, or could not honor, due to the will of his patrons. The owner made arrangements with a nearby church to use their parking lot for patron parking via a valet service. This simply didn't work as patrons felt compelled to park closer to the bar and to park where it was free. I believe that the valet parking was an effort to control where people parked, but it simply got bypassed by the vast majority of the patrons, which meant instead, that they parked along our streets, in front of our homes. This literally left some people with the inability to leave their driveways due to the sheer number of cars parked along our streets. Even more alarming is that on a couple of occasions, emergency vehicles did not have enough room to navigate down Barnett Ave due to this congestion.

I have lived in the Beverly Hills neighborhood, at 103 N. Barnett Ave, since 1995. We have neighbors who have lived on our street for well over 50 years. We have

members in our neighborhood who have served our country and community for decades and still choose to live here. I, myself, am still currently serving actively in the Air Force as an E9 after 22 years and I wish very much to stay in my home. I say this to point out that many of us work all hours of the day or night, or have to be gone sometimes for extended periods of time and we count on being able to do so without worry. You have very invested citizens, living in this and surrounding neighborhoods, who simply wish to keep our neighborhoods in good order and to feel safe.

The space on Davis in question, has unfortunately brought a significant amount of worry, fear and frustration to those who live the closest to it for many, many years. I'm lucky as I live far enough away to not always be exposed to all of the loud music from the vehicles, yelling, arguing, people urinating along our streets, etc.. I do however, despite living three blocks away, have to endure cars racing down our street deep into the night and have to continually pick up excessive litter, beer bottles etc.. each morning after.

It has been very hard for me to imagine why all of the concerns and complaints have made so little difference thus far.. and why the consideration for all of our elders (some disabled) and citizens in general, seem to have not been fully heard.

I thank you for your time and considerations. The board indeed has an opportunity to assess our situation from the viewpoint of the citizen, as you are all citizens yourselves, as well as consider the rights of the owners of establishments per code. I, along with my neighbors, ask that you take into consideration the types of establishments that have been allowed to nestle up to some of our neighborhoods. If you have doubts as to the negative impact or the overall degradation caused by the proximity of such an establishment, then we certainly would like to invite the board to look further into it by whatever means you value. We would like for you to fully understand the impact on us. We simply want to have our neighborhood be as it was meant to be.. a place to live peacefully with reasonable expectations of traffic, noise, safety and security.

Respectfully,



Hollis D Sellman
103 N. Barnett Ave
Dallas, TX 75211

████████████████████

December 22, 2021

To: City of Dallas Board of Adjustment

Re: Board of Adjustment Case Number BDA 201-120
Pink Lounge Club
3022 West Davis
Dallas, Texas 75211

To whom it may concern,

The Pink Lounge club has been operating without following guidelines as dictated by City of Dallas policy. But that part is for you to sort out.

I would like to focus on something that is just as important, and a genuine concern for our neighborhood..... the safety, security, and well being of any citizen that calls Dallas home.

Every night that the Pink Lounge is open (all hours of the night), our neighborhood is forced to tolerate streets congested with cars, club patrons loitering in our residential streets, loud music and yelling in front of our houses, and the beer/liquor bottles and trash that is left behind. There have been incidents of guns being discharged as well.

This is a well established neighborhood. Some of our residents have lived here for decades. We just want our children and families to be able to live in a neighborhood that is peaceful and safe. The activities of the Pink Lounge make our residents feel disrespected, bullied, and intimidated. And the City of Dallas should not allow that to happen.

Just imagine your own neighborhood, your family, your children, your elderly parents. Knowing that five to seven nights per week you will feel like you can't venture out of your own house. Nowhere to park, and people loitering **ALL** hours of the night while talking loud and playing loud music.

Disturbing **YOUR** peace.

Disrespecting **YOUR** neighborhood and all of the people that live there.

If this was **YOUR** neighborhood, I'm sure you would take every step possible to have the City of Dallas take decisive and swift action regarding this business.

Put yourself in our shoes, and you will make the right decision. More specifically, **please DO NOT restore non-conforming rights and DO NOT allow the Pink Lounge to reopen. And please prohibit the sale/use of alcohol by anyone at 3022 West Davis Street.**

Thank you for your time,



Robert and Lisa Brodner
227 North Barnett Ave.
Dallas, Texas 75211

Memorandum for Record

TO: The Dallas Board of Adjustments
December 28, 2021

REGARDING: Case BDA 201-120 for 3022 West Davis, Pink Lounge.

FROM: Shannon V. Mills-Sellman

My name is Shannon Sellman and I live down the street from the Pink Lounge. I reside at 103 N. Barnett Ave. I am asking the board not to restore this bars non-conforming rights. Since the bar has been closed, it has made a huge difference in 2am traffic down our street. When the bar was open, a 2am closure consisted of excessive traffic within our neighborhood, loud music from cars, beer bottles and trash thrown out littering our streets. In addition to this, people would stop to urinate outside their vehicles and we would hear occasional gunfire. This bar's location also doesn't have enough parking space, so patrons park all the way down several streets into the neighborhood on either side of West Davis. Once again, when a bar is located this close to a neighborhood without adequate parking, the disturbance for all residences is significant and impacts our safety, our property values, our restfulness and in general, our quality of life. Thank you for your time and consideration of this issue. We have spent so many years cleaning up after these patrons and feeling as if we have no voice in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shannon Sellman', written in a cursive style.

Shannon Sellman
103 N. Barnett Ave
Dallas, Tx 75211

12/28/2021

To Dallas Board of Adjustments,

Regarding case BDA 201-120 for 3022 West Davis, Pink Lounge.

My name is Jessica Morgan and I live at 110 S Barnett Ave, just down the street from Pink Lounge. I am writing to ask the board please not restore this bars non-conforming rights.

When this bar was open there were people parking all the way down to our end of the block (due to lack of parking spaces at their location), people urinating in our yards, hitting cars of residents parked on the street, drunk driving on our residential streets, beer bottles were thrown into our property, and people stopping to fire guns especially into the creek just feet from our home. We have also had confused, intoxicated people approaching our door in the middle of the night.

To summarize, this bar is a nuisance that brings noise and crime to the residential neighborhood it is in and it impacts our feeling of safety in our homes. This club would be best suited at another location, not within feet from people's homes and with adequate parking.

Thank you for your attention to this matter,



Jessica Morgan
110 S Barnett Av

1/4/2022

Hello!

My name is Patrick Tyler Morgan and I am the owner and resident of the property at 110 S Barnett Ave. I write to you to express my concern regarding the case **BDA 201-120** for 3022 West Davis, Pink Lounge.

This is a quiet neighborhood full of hard-working families. We do not need the unnecessary burden of having a club selling hard liquor on the edge of a single-family zone. This club would increase the likelihood of bringing drunk drivers to the area, which in turn raises our risk of wrecks and other accidents to persons and property.

Additionally, for those that live in close proximity to the property they must put up with the noise, talking, shouting, boom boxes, honking horns and even gunfire after the close down at 2 AM of the night club.

There are no positive outcomes to be had by allowing this club to be open in the area, and as such I humbly request that you deny the permit for alcohol sales for the case **BDA 201-120** for 3022 West Davis, Pink Lounge.

Appreciatively,

Patrick Tyler Morgan

A handwritten signature in cursive script that reads "Patrick Tyler Morgan".

FILE NUMBER: BDA201-123(PD)

BUILDING OFFICIAL'S REPORT: Application of Alex Oshmyansky represented by Colt Granquist for a special exception to the visibility obstruction regulations at 3015 Taylor Street. This property is more fully described as Lot 11A in City Block 21/201, and is zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side Special Purpose District which requires a 20-foot visibility triangle at driveway approaches. The applicant proposes to a commercial structure in the required visibility triangles at the drive approach along South Walton Street, which will require special exception to the visibility obstruction regulations.

LOCATION: 3015 Taylor Street

APPLICANT: Alex Oshymyansky represented by Colt Granquist

REQUESTS:

A request for a special exception to the visual obstruction regulations is made to construct a commercial structure in a required 20-foot visibility triangle at a drive approach into the property from South Walton Street. The request site is currently under construction.

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:

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. However, staff does provide a technical opinion to assist in the board's decision-making.

The Transportation Development Services Department Senior Engineer has completed review of this project and recommends denial of the request. The recommendation of denial is rendered since the proposed driveway and loading dock operations for commercial trucks to back in or out of driveway would create a significant impact to neighboring to neighboring properties. (**Attachment A**).

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	Tract A within PDD No. 269 and SUP No. 2408
<u>Northwest:</u>	Tract A within PDD No. 269
<u>Northeast:</u>	Tract A within PDD No. 269
<u>East:</u>	Tract A within PDD No. 269
<u>South:</u>	Tract A within PDD No. 269
<u>Southeast:</u>	Tract A within PDD No. 269
<u>Southwest:</u>	Tract A within PDD No. 269
<u>West:</u>	Tract A within PDD No. 269

Land Use:

The subject site is currently under construction but previously was developed with an office/showroom warehouse use. Surrounding uses consist of office showroom/warehouse uses to the northeast, multifamily uses to the northwest and southeast, a police station to the east and a surface parking lot with vacant uses to the west.

Zoning/BDA History:

There has been one related zoning case recorded in the vicinity of the subject site within the last five years.

1. **Z190-354:** On Wednesday, January 30, 2021, the City Council approved an application and ordinance granting a Specific Use Permit for a manufacturing laboratory use on property zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side Special Purpose District located on the north side of Taylor Street, east of North Walton Street.

GENERAL FACTS/STAFF ANALYSIS:

The request for a special exception to the visual obstruction regulations focuses on constructing a one-story commercial structure with approximately 22,898 square feet of floor area. The property is located along the north side of Taylor Street, east of North Walton Street. The proposed structure would obstruct one 20-foot visibility triangle into the property (driveway) from South Walton Street.

The property is located in Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side Special Purpose District, with visual obstruction regulations reverting back to the Dallas Development Code. The Code 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 shall be maintained.

Visibility triangles are further defined in Section 51A-4.602(d) of the Dallas Development Code which 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).

A site plan submitted with the request indicates portions of the proposed commercial development encroach 10 feet into the required 20-foot visibility triangle at a drive approach into the site from South Walton Street providing approximately 10 feet of unobstructed area for visibility.

The Transportation Development Services Department Senior Engineer has completed review of this project and recommends denial of the request. The recommendation of denial is rendered since the proposed driveway and loading dock operations for commercial trucks to back in or out of driveway would create a significant impact to neighboring to neighboring properties. (**Attachment A**).

The applicant has the burden of proof in establishing how granting the encroachments into portions of 20-foot visibility triangle at the drive approaches on properties will or will not constitute a traffic hazard.

Granting the request with a condition imposed that the applicant complies with the submitted site plan will limit the structures to be located and maintained into the one required 20-foot visibility triangle at the drive approach into the site from South Walton Street, as shown on the proposed plan.

Timeline:

November 5, 2021: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

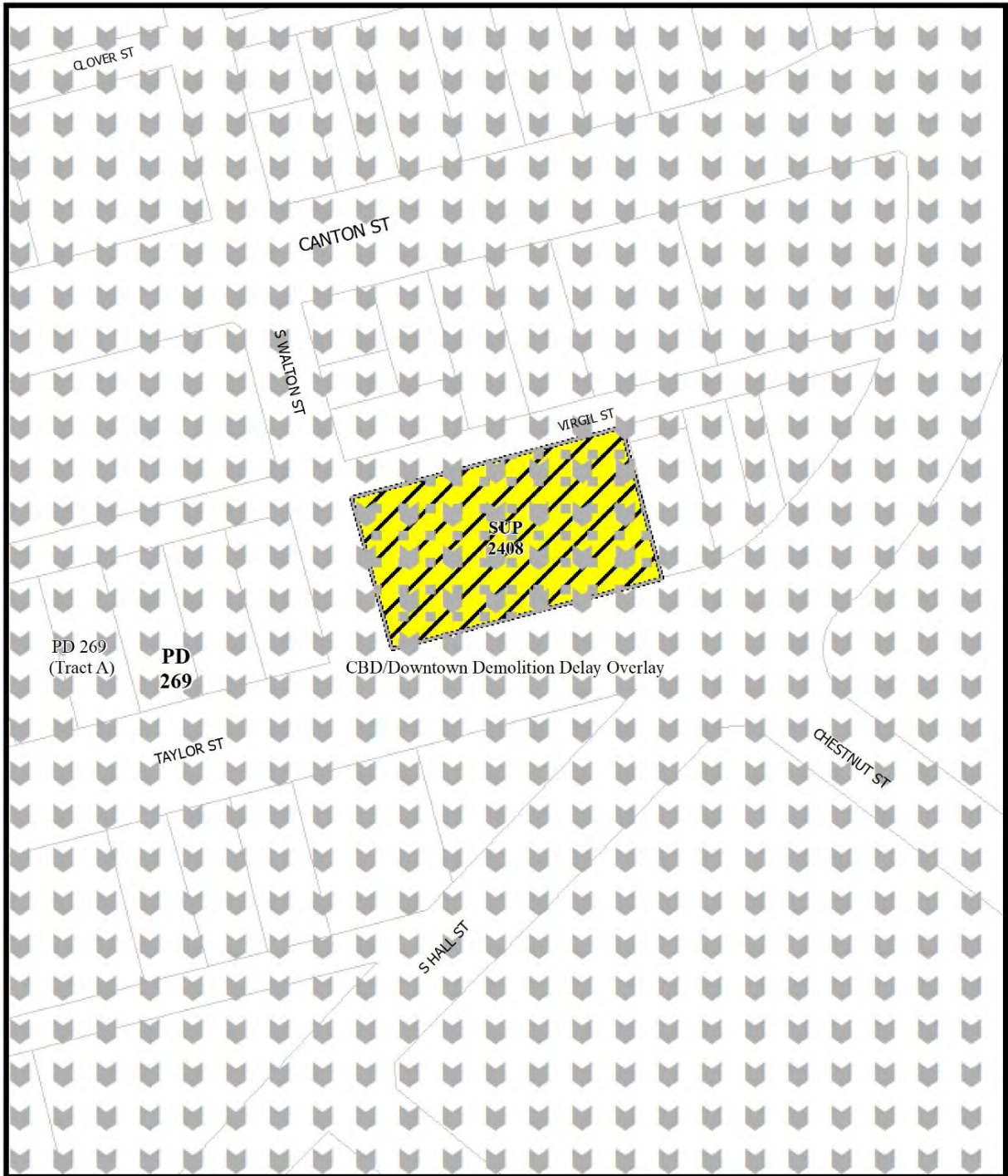
November 23, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.

December 16, 2021: The 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, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the January 7, 2022 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.

Dec. 30, 2021: 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 Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No review comment sheets were submitted in conjunction with this application.

Dec 31, 2021: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "recommends denial" (**Attachment A**).

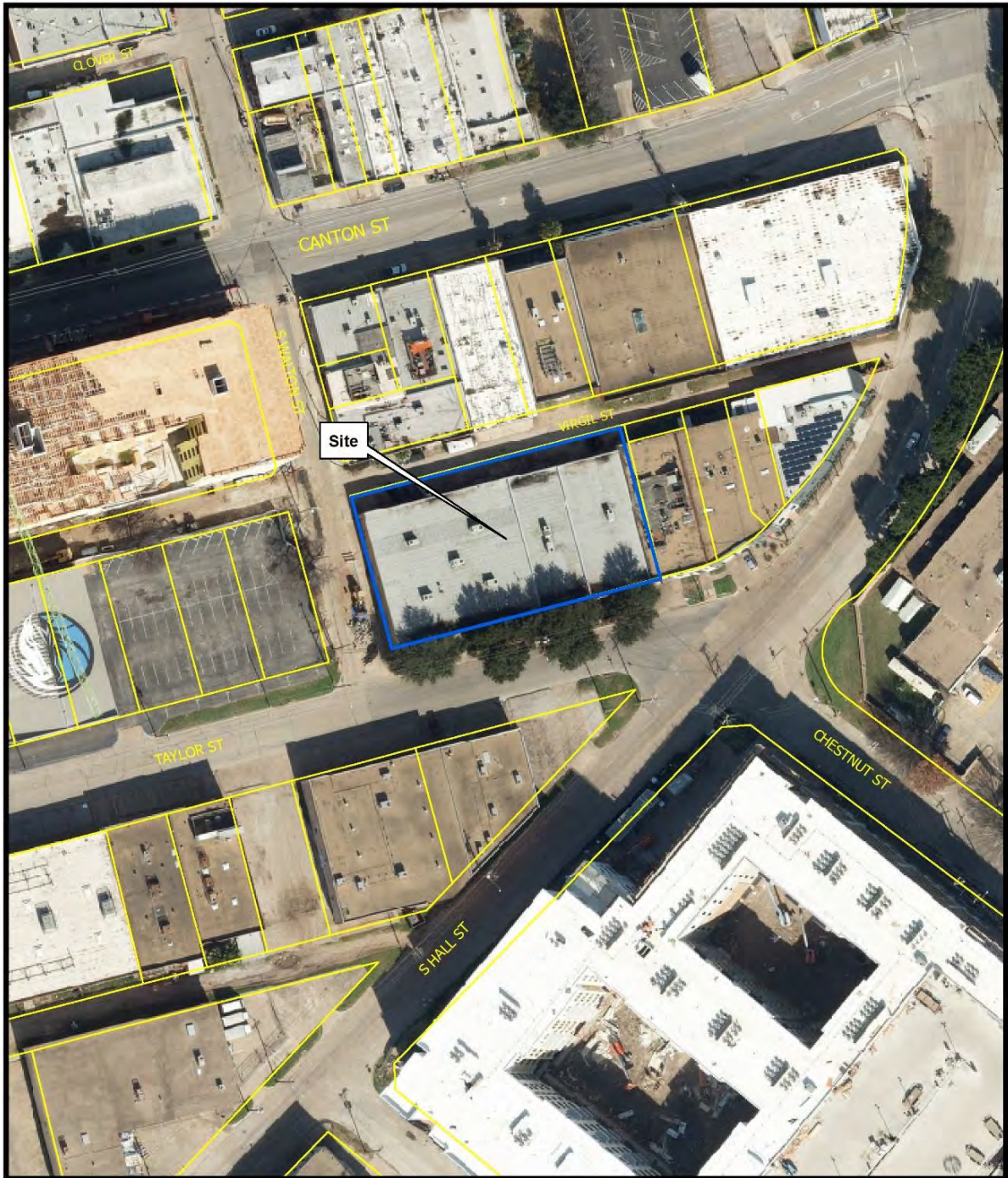


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ZONING MAP

Case no: BDA201-123

Date: 12/22/2021

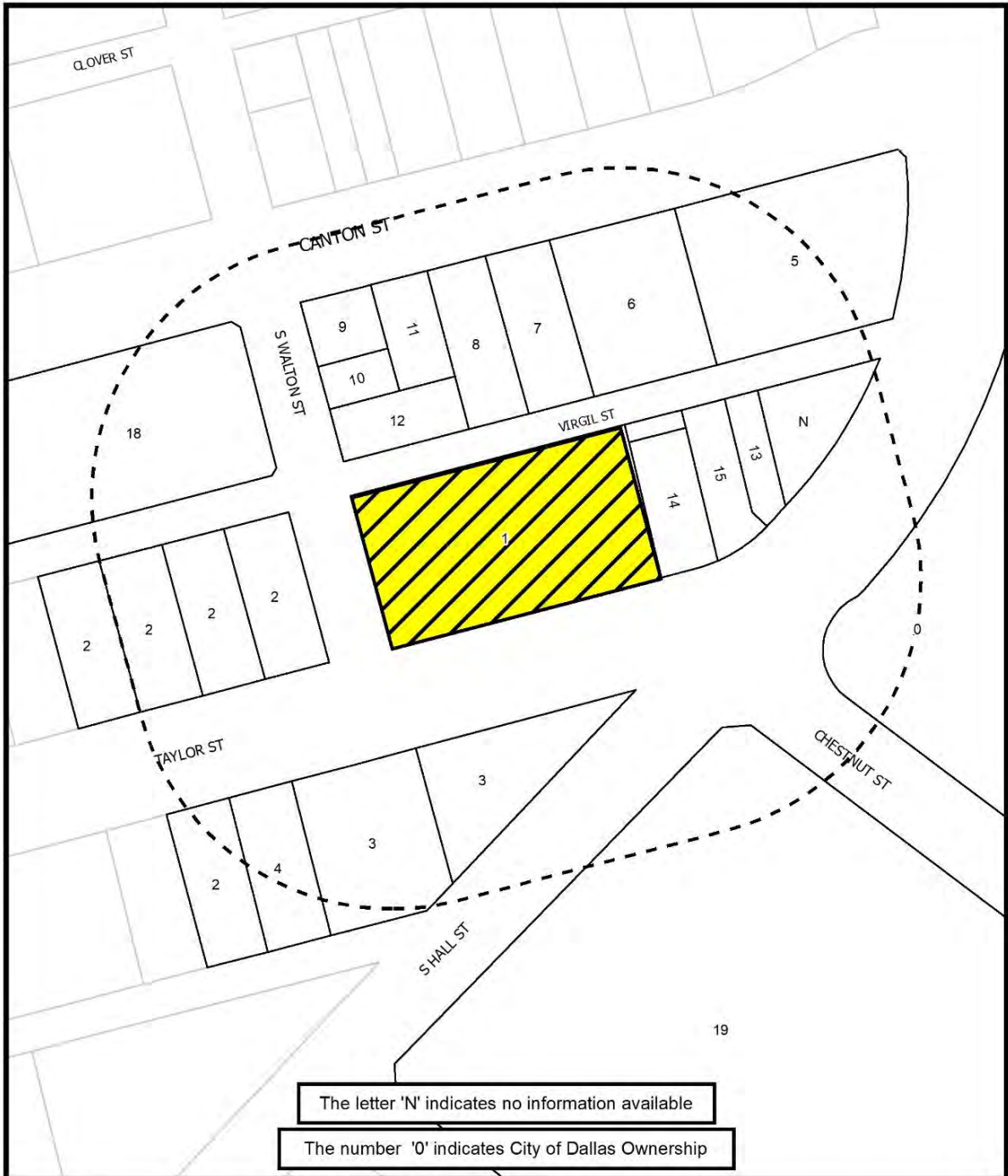


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AERIAL MAP

Case no: BDA201-123

Date: 12/22/2021



The letter 'N' indicates no information available

The number '0' indicates City of Dallas Ownership



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
19 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA201-123**

Date: **12/22/2021**

12/22/2021

Notification List of Property Owners

BDA201-123

19 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3030 TAYLOR ST	RADICAL COMPUTING, INC.
2	2921 TAYLOR ST	RADICAL COMPUTING INC
3	2934 TAYLOR ST	TRW REALTY HOLDING LLC
4	2928 TAYLOR ST	TRW REALTY HOLDINGS LLC
5	3030 CANTON ST	DEEP CANTON 3030 LLC
6	3020 CANTON ST	LONE STAR CLAIM CARE LLC
7	3012 CANTON ST	LALCO INC
8	3008 CANTON ST	3008 CANTON STREET VENTURE LLC
9	3002 CANTON ST	HASKINS MICHAEL & VIRGINIA
10	306 S WALTON ST	WORKMAN ROBERT DANGER
11	3004 CANTON ST	BEAUREGARD PAUL DONALD II
12	310 S WALTON ST	GAETA FLP I LTD PS
13	335 S HALL ST	SINNETT IAN C
14	3025 TAYLOR ST	NEWTON JEFFREY PAUL
15	3027 TAYLOR ST	PETERMAN JOHN MOFFATT &
16	4401 LINFIELD RD	ST LOUIS S W RAILWAY CO
17	9999 NO NAME ST	UNION PACIFIC RR CO
18	2900 CANTON ST	CC DEEP ELLUM LLC
19	400 S HALL ST	NP CROSBY LLC



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-123

Date: 11-5-21

Data Relative to Subject Property:

Location address: 3015 Taylor Street Zoning District: PD269

Lot No.: 11A Block No.: 21/201 Acreage: 0.5895 Census Tract: 204.01

Street Frontage (in Feet): 1) Walton: 120 2) Taylor: 214 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Radical Computing, Inc.

Applicant: Alex Oshmyansky Telephone: (303) 907-8003

Mailing Address: 320 S. Walton Street Zip Code: 75226

E-mail Address: alex@costplusdrugs.com

Represented by: Colt Granquist Telephone: (469) 502-9958

Mailing Address: 320 S. Walton Street Zip Code: 75226

E-mail Address: coltg@dpr.com

Affirm that an appeal has been made for a Variance or Special Exception ^{cc} of _____ ^{cc}

of the building to encroach into the 20x20 visibility triangle for the driveway on Walton St. A portion

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 building proximity to the right-of-way line is consistent with other buildings in Deep Ellum/PD269 with the goal of creating an urban environment. The sight distance at the driveway is commonly seen along many streets in the area. Parking is not allowed on Walton Street in front of the building, therefore the line of sight will not be impeded by a parked vehicle.

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.

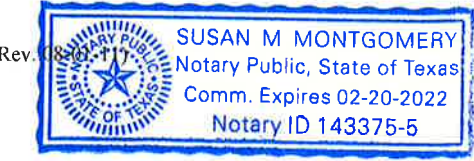
Affidavit

Before me the undersigned on this day personally appeared Alex Oshmyansky
(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 4th day of NOVEMBER, 2021



[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 Alex Oshmyansky
represented by COLT GRANQUIST
did submit a request for a special exception to the visibility obstruction regulations
at 3015 Taylor Street

BDA201-123. Application of Alex Oshmyansky represented by COLT GRANQUIST for a special exception to the visibility obstruction regulations at 3015 TAYLOR ST. This property is more fully described as Lot 11A, Block21/201, and is zoned PD-269 (Tract A), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a commercial structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,


David Session, Building Official



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 201-123

I, Radical Computing, Inc., Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 3015 Taylor Street, Dallas, Texas 75226
(Address of property as stated on application)

Authorize: Alex Oshmyansky
(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)

aw X Special Exception (specify below)

 Other Appeal (specify below)

Specify: aw A portion of the building to encroach into the 20'x20' visibility triangle for the driveway on Walton St.

Robert Hart, Senior EVP, Radical Computing, Inc.

Print name of property owner or registered agent

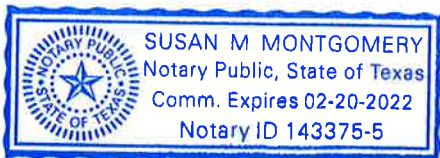
Signature of property owner or registered agent

Date November 4, 2021

Before me, the undersigned, on this day personally appeared ROBERT HART

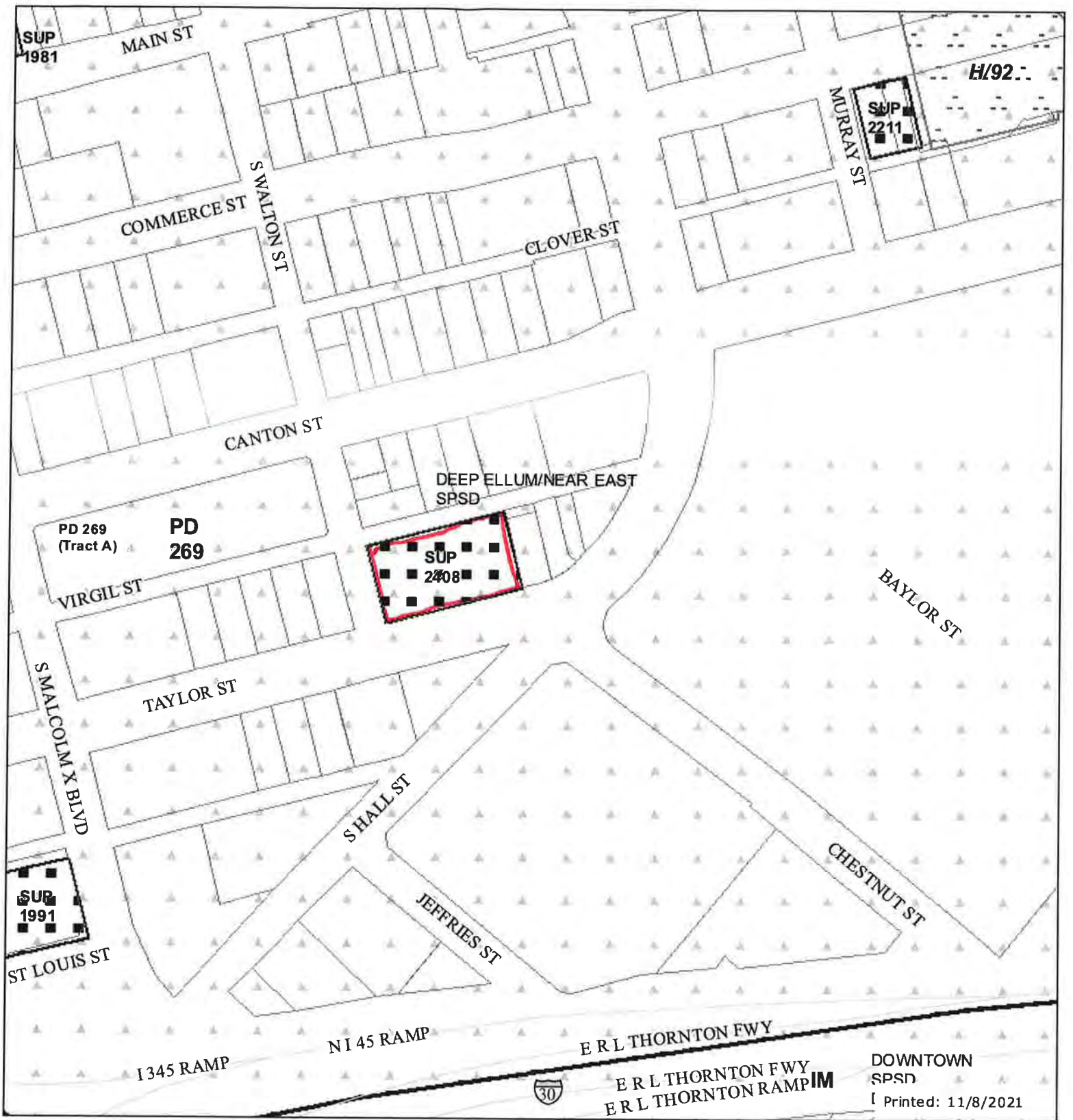
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 4th day of NOVEMBER, 2021



Susan M. Montgomery
Notary Public for Dallas County, Texas

Commission expires on 02/20/2022



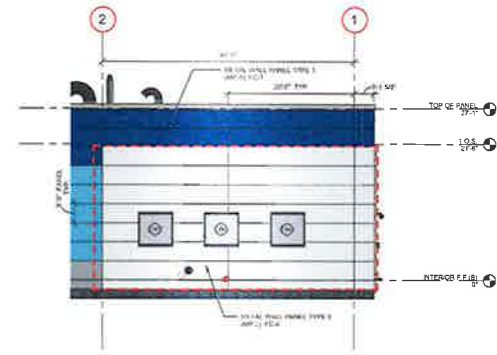
DOWNTOWN
SPSD
[Printed: 11/8/2021

Legend

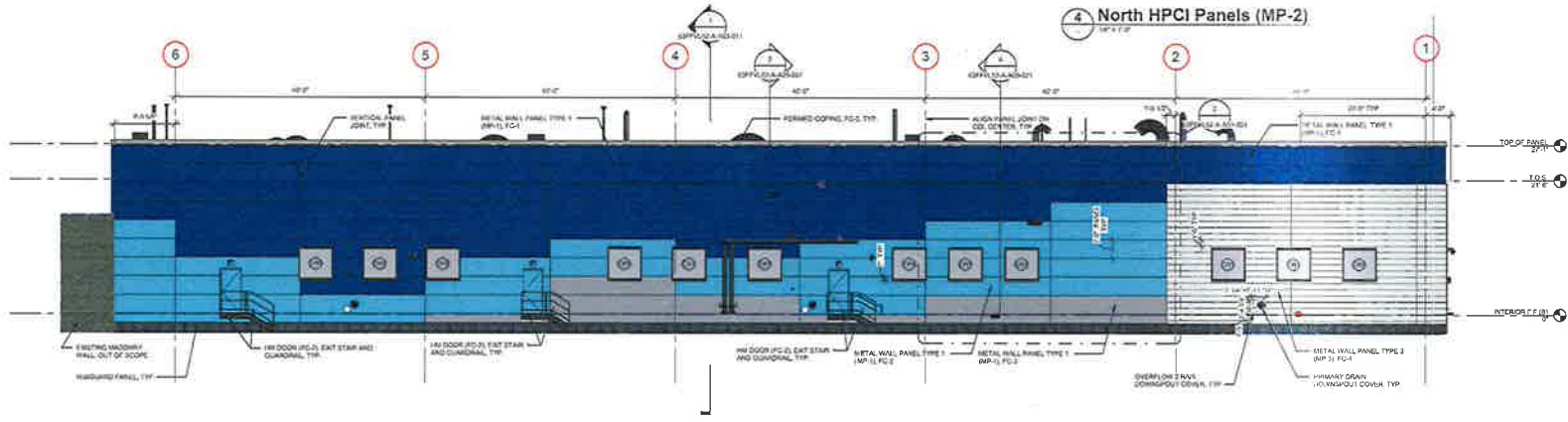
- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood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

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

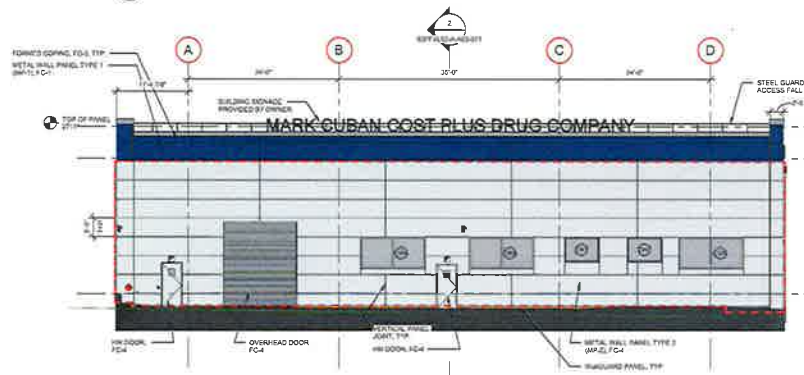
Reference only.



4 North HPCI Panels (MP-2)
18' x 10'

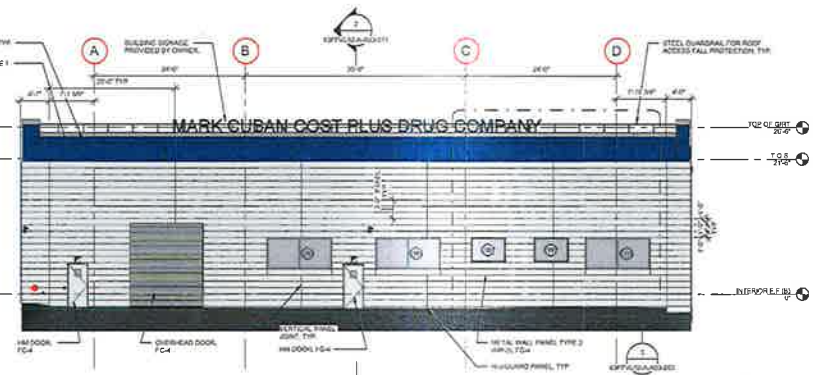


1 North
18' x 10'



3 West HPCI Panels (MP-2)
18' x 10'

2 West
18' x 10'



- NOTES:
- REFER TO ALL SERIES PLANS FOR OPENING SIZES AND LOCATIONS.
 - REFER TO ARCHITECT'S WINDOW SCHEDULE BY TYPE.
 - REFER TO ARCHITECT'S DOOR SCHEDULE BY TYPE AND SIZE.
 - REFER TO ELECTRICAL DRAWINGS FOR EXTERIOR LIGHTING.
 - REFER TO VES DRAWINGS FOR SECURITY CAMERA LOCATION.
 - COORDINATE WITH PLUMBING AND PIPING DRAWINGS FOR ALL BELOW-FLOOR PLUMBING.



1. THIS PRINT IS NOT TO BE USED FOR CONSTRUCTION UNLESS NOTED AND SIGNED FOR CONSTRUCTION IN REVISION BLOCK.	RELATED TO THIS PROJECT
2. THIS PRINT IS NOT TO BE USED FOR CONSTRUCTION UNLESS NOTED AND SIGNED FOR CONSTRUCTION IN REVISION BLOCK.	DATE: 08/14/2024
3. THIS PRINT IS NOT TO BE USED FOR CONSTRUCTION UNLESS NOTED AND SIGNED FOR CONSTRUCTION IN REVISION BLOCK.	PROJECT: MARK CUBAN COST PLUS DRUG COMPANY
4. THIS PRINT IS NOT TO BE USED FOR CONSTRUCTION UNLESS NOTED AND SIGNED FOR CONSTRUCTION IN REVISION BLOCK.	DATE: 08/14/2024

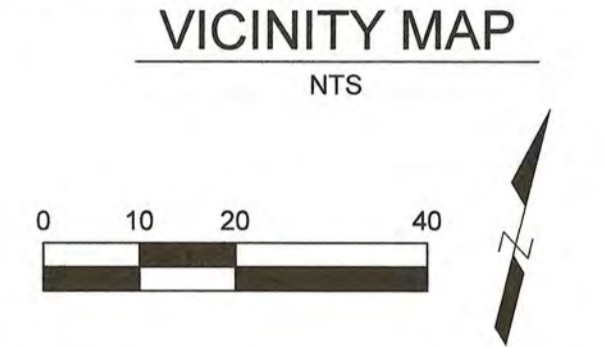
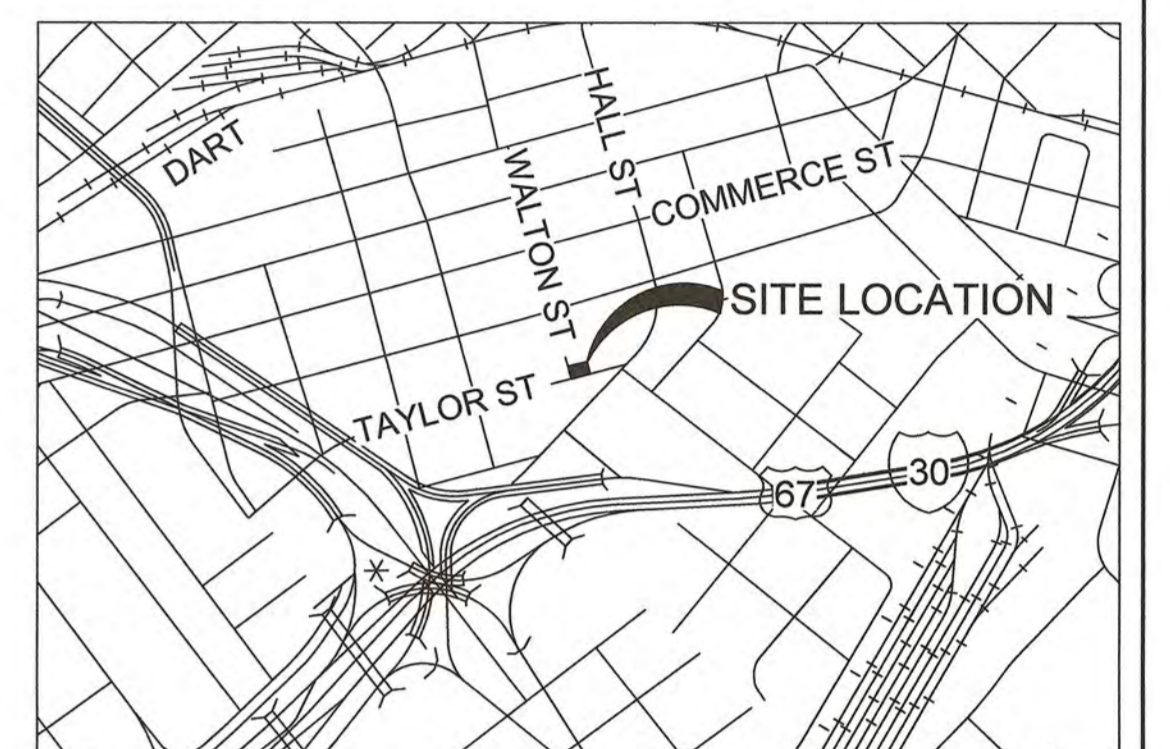
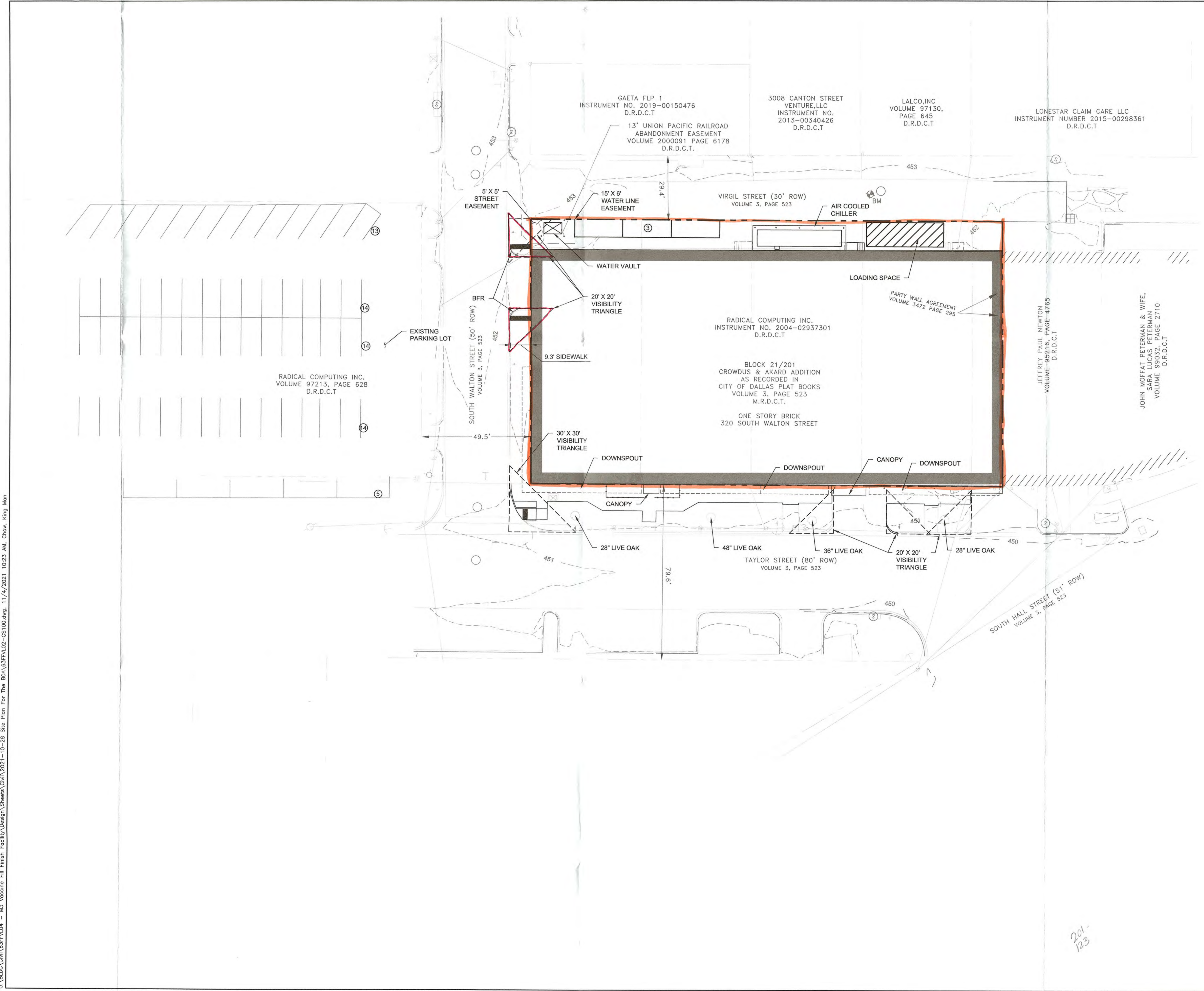
Jacobs
ARCHITECTURAL
MARK CUBAN COST PLUS DRUG COMPANY
MARK CUBAN COST PLUS DRUG COMPANY
ARCHITECTURAL
EXTERIOR ELEVATIONS
OVERALL NORTH & WEST ELEVATIONS

EXTERIOR WALL TYPE LEGEND

FC-1	FC-3
FC-2	FC-4

63FFVL02-A-A03-001

U:\BDD\Civil\GDFPA04 - M3 Vaccine Fill Finish Facility\Design\Sheets\Civil\2021-10-28 Site Plan For The BOA\GDFPA02-CS100.dwg, 11/4/2021, 10:23 AM, Chew, King Man



REV	DATE	REVISION

Jacobs
1999 BRYAN STREET, SUITE 1200
DALLAS, TX 75201-3136
PHONE 214-638-0145
FAX 214-638-0447
Jacobs Engineering Group Inc.
Texas Registration F-2966

SITE PLAN

**Mark Cuban
Cost Plus
Drug
Company**

CITY OF DALLAS
DALLAS COUNTY, TEXAS

DESIGNED: JH	PROJECT NUMBER: 63FFVL02
DRAWN: LDC	DATE: SEPT 2020
APPROVED: JH	SCALE
	HORZ: 1"=20'
	VERT: N/A
	REV DATE: 11/21
	SHEET
	CS100
	OF 1 SHEETS

201-123

BDA201-123_ATTACHMENT_A

REVIEW COMMENT SHEET
BOARD OF ADJUSTMENT
HEARING OF JANUARY 19, 2022 (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 201-120(PD)

BDA 201-123(PD)

COMMENTS:

***Engineering completed review of this project
without proposed driveway in July 2021.
Approved plans do not show proposed driveway
operations on Walton Street.***

***Proposed driveway and loading dock operations
for commercial trucks to back in or out of
driveway would create a significant impact to
neighboring properties and therefore cannot be
approved.***

***Staff is coordinating with applicant to create an
alternative solution.***

David Nevarez, PE, PTOE, TRN/Engineering

Name/Title/Department

12/31/2021

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.

Munoz, Jennifer

From: Ian Sinnett [REDACTED] >
Sent: Monday, November 29, 2021 2:22 PM
To: Munoz, Jennifer <jennifer.munoz@dallascityhall.com>
Cc: Daniel, Pamela <pamela.daniel@dallascityhall.com>; Jeff LaBarba <[REDACTED]> Bryce Tillery
[REDACTED]
Subject: Re: Information on BDA201-123...

External Email!

Jennifer,

Thank you for providing information regarding BDA201-123.

On behalf of the property owners and residents at 333 S Hall, 335 S Hall, and 3027 Taylor, we would to submit our objection to the proposed change of the 20'x20' view triangle.

There are three primary reasons for our objection.

1. If this were an existing condition, an adjustment might make sense. However, this is completely new construction that should be fully compliant with all applicable codes. There is no excuse for the building to not be compliant.
2. Previous requests for adjustments to the 20'x20' view triangle in the area have been denied based on the priority of providing a line of sight at intersections to highly trafficked streets similar to Walton and Virgil.
3. The demographics and use of the area has changed from industrial/business to a mixed-use business/residential. Walton Street and Virgil Street are used heavily by pedestrians and vehicles. The proposed manufacturing use and the size of the dock implies that medium and large trucks will be using the dock. Reducing the sightline will increase safety issues at the intersection by mixing trucks, passenger vehicles, and pedestrians into a concentrated space.

Additionally, the supporting documentation for the building exterior seems to indicate that the building is not compliant with Deep Ellum PD 269. The PD requires the building to meet a minimum point score and also use approved materials. The included combination of HPCI metal panels (not an approved material), openings, awnings, etc. doesn't appear to meet the minimum point score.

If you have any questions, please feel free to reach out to any of us.

Ian - 335 S Hall Street
Jeff - 333 S Hall Street
Bryce - 3027 Taylor Street

Sent from my iPad, please forgive typos.

On Nov 23, 2021, at 4:02 PM, Munoz, Jennifer <jennifer.munoz@dallascityhall.com> wrote:

Good Afternoon,

We now have the application materials and case manager assigned (cc'd). Please let us know if you have any questions.

Sincerely,

CAUTION: This email originated from outside of the organization. Please, do not click links or open attachments unless you recognize the sender and know the content is safe.



Jennifer Muñoz
Chief Planner/Board Administrator
City of Dallas | www.dallascityhall.com
Planning and Urban Design
1500 Marilla Street, 5BN
Dallas, TX 75201
O: 214-670-4208
Working Remotely, please call:
Google Voice: 972-926-3691
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.**

How am I doing? Please contact my supervisor at andreea.udrea@dallascityhall.com.

From: Ian Sinnett [REDACTED] >
Sent: Friday, November 12, 2021 11:10 AM
To: Munoz, Jennifer <jennifer.munoz@dallascityhall.com>
Subject: Re: Information on BDA201-123...

External Email!

Hi Jennifer -

Thank you for the information. I look forward to reviewing the application materials when they become available.

Sincerely,

Ian

On Fri, Nov 12, 2021 at 11:04 AM Munoz, Jennifer <jennifer.munoz@dallascityhall.com> wrote:

Good Morning,

My team has not yet received this application as it is for the January 2022 agenda. Once received in December, I will be able to forward the application materials. From my understanding, it's a request regarding a 20 by 20 visibility triangle for a dock door that for which the applicant is seeking a special exception to the visual obstruction regulations.

Sincerely,

****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.****

How am I doing? Please contact my supervisor at andrea.udrea@dallascityhall.com.

From: Ian Sinnett <[REDACTED]>
Sent: Friday, November 12, 2021 10:11 AM
To: Munoz, Jennifer <jennifer.munoz@dallascityhall.com>
Subject: Information on BDA201-123...

External Email!

Hello Jennifer -

A sign has been posted in my neighborhood for the past week indicating a Board of Adjustments Case (BDA201-123). I have tried to find information on the case at the City's Current Planning website and I've called the number on the sign (214-670-4209).

Can you please send me the information regarding BDA201-123?

Thank you in advance.

--

Ian

NOTICE

BOARD OF ADJUSTMENT APPEAL
REQUEST *20x20 Visibility Triangle*
3015 TAYLOR ST.

CASE NO. BDA 201-123

FOR MORE INFORMATION

CALL *4209*

214-670-4206



MAXIMUM \$2000 FINE
FOR REMOVAL OF THIS
SIGN PRIOR TO THE
PUBLIC HEARING.



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 August 18, November 17, and January 20, 2021, 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. **As of the publishing of this docket on 1-12-22, no new case details were provided. However, the zoning case Z201-213 did go to City Council earlier today and was approved with no parking required for legacy buildings.**

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.

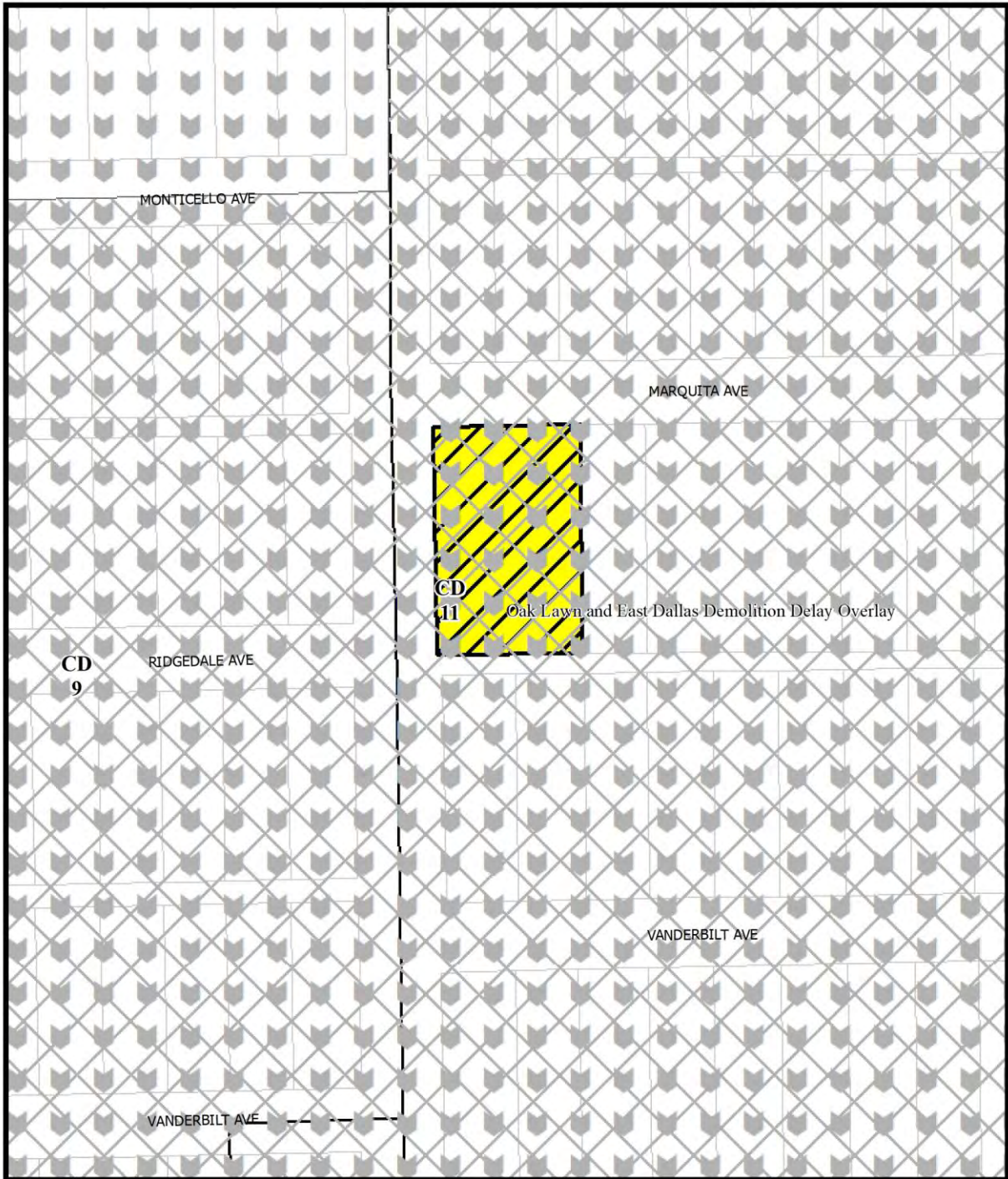
November 23, 2020: The Board Administrator wrote the applicant a letter of the board's action; the deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the board's docket materials.

January 20, 2021: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the August 18, 2021.

January 26, 2021: 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.

January 12, 2022: As of the publishing of this docket, no new case details were provided. However, the zoning case Z201-213 did go to City Council and was approved with no parking required for legacy buildings.

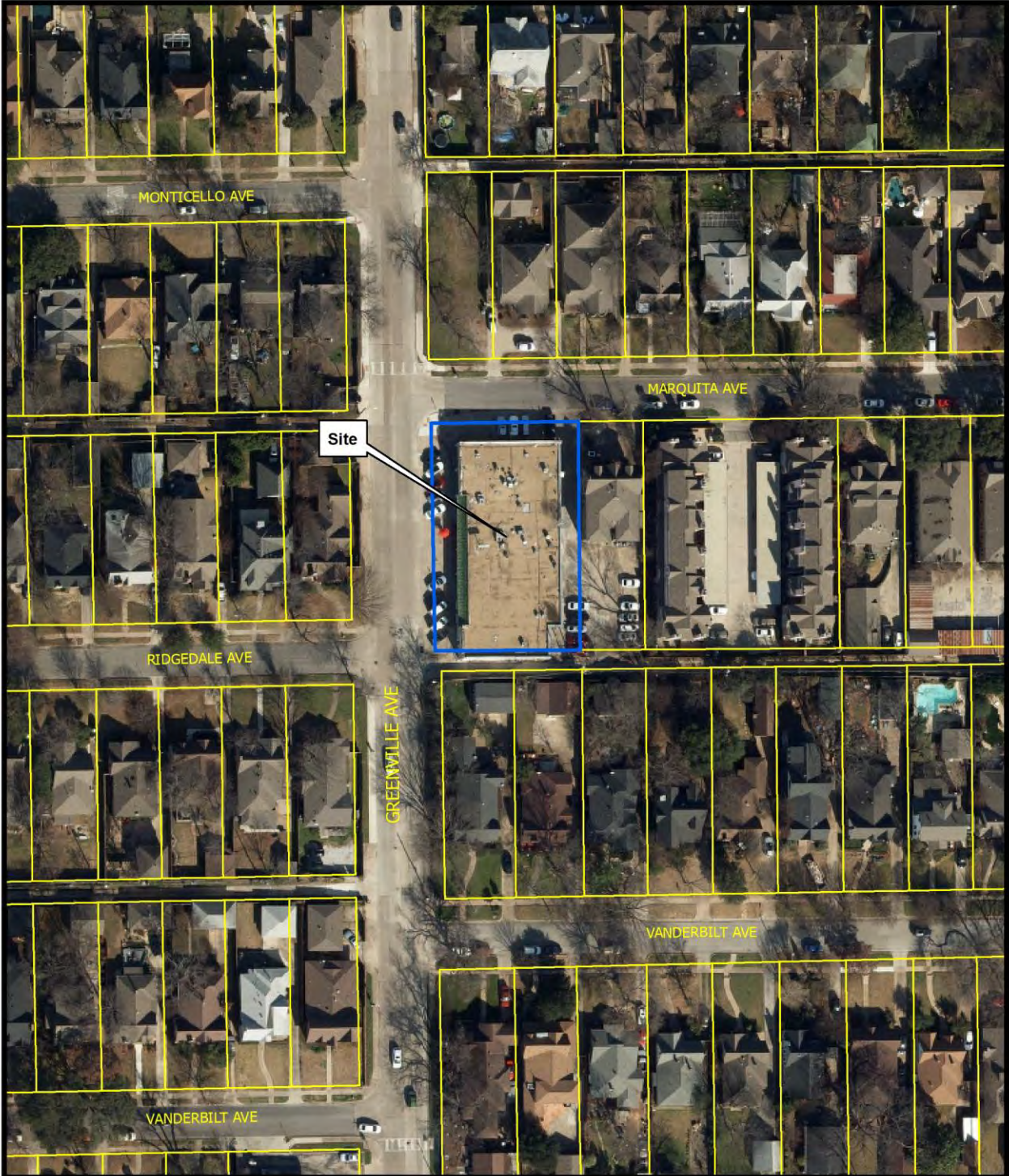


1:1,200

ZONING MAP

Case no: BDA190-090

Date: 12/22/2021

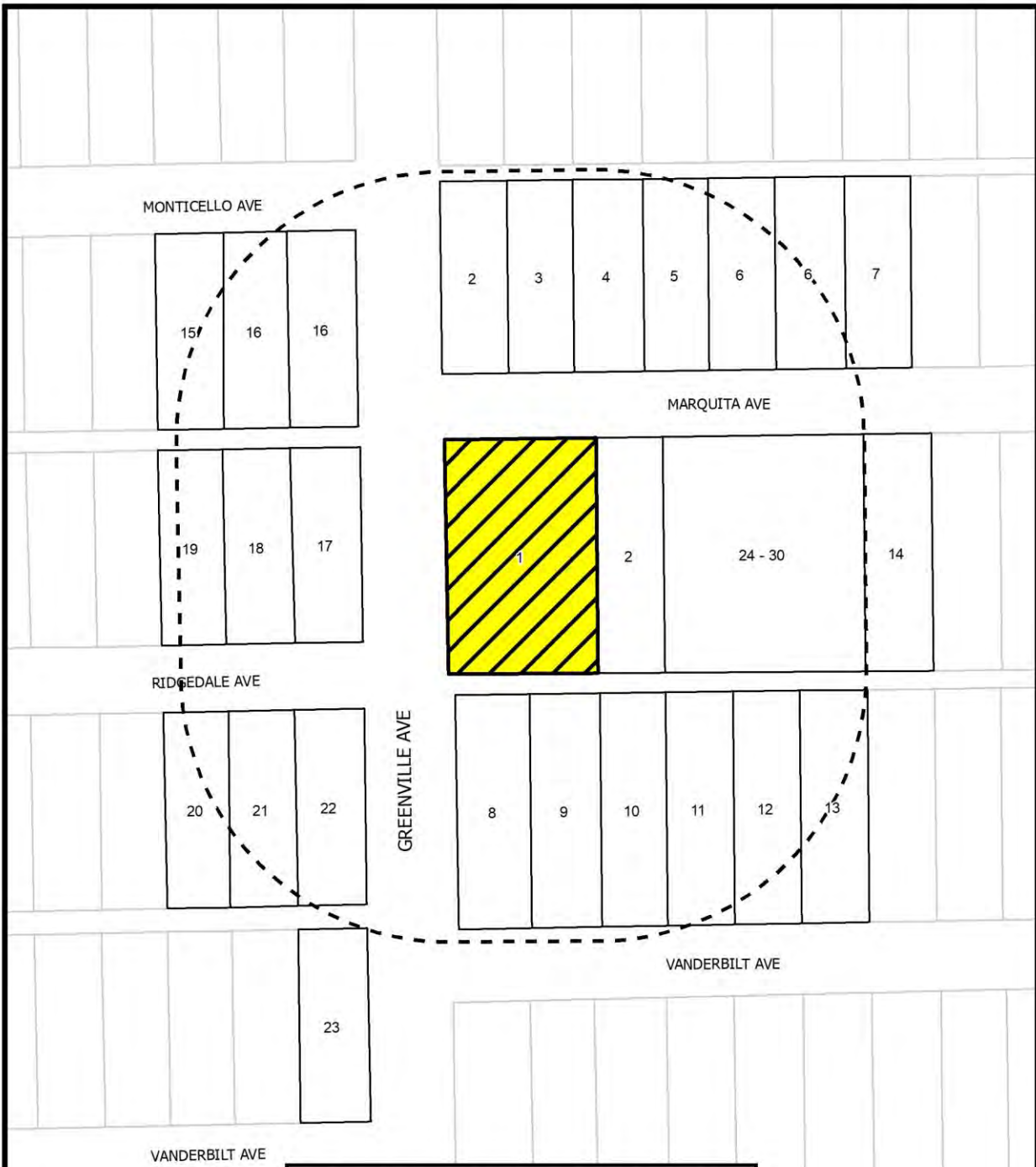


1:1,200

AERIAL MAP

Case no: BDA190-090

Date: 12/22/2021



The number '0' indicates City of Dallas Ownership


 1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
30 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: BDA190-090
 Date: 12/22/2021

12/22/2021

Notification List of Property Owners

BDA190-090

30 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3014 GREENVILLE AVE	Taxpayer at
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	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	TATE CHRISTINE M
26	5720 MARQUITA AVE	WILLINGHAM KIRK R

12/22/2021

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	5720 MARQUITA AVE	BURKE GARY A
28	5720 MARQUITA AVE	LOBO VINAY J
29	5720 MARQUITA AVE	BIRNBAUM MARC A &
30	5720 MARQUITA AVE	XOCHOTL LARA



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.

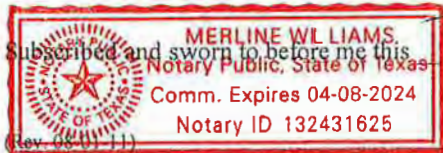
Affidavit

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)



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

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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that THOMAS SHIELDS
represented by Steven Dimitt
did submit a request to restore lost delta credits
at 3016 Greenville Avenue

BDA190-090. Application of THOMAS SHIELDS represented by Steven Dimitt to restore delta parking credits at 3016 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 190-090

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)

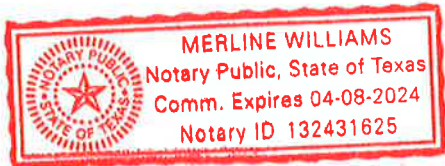
Special exception under Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

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

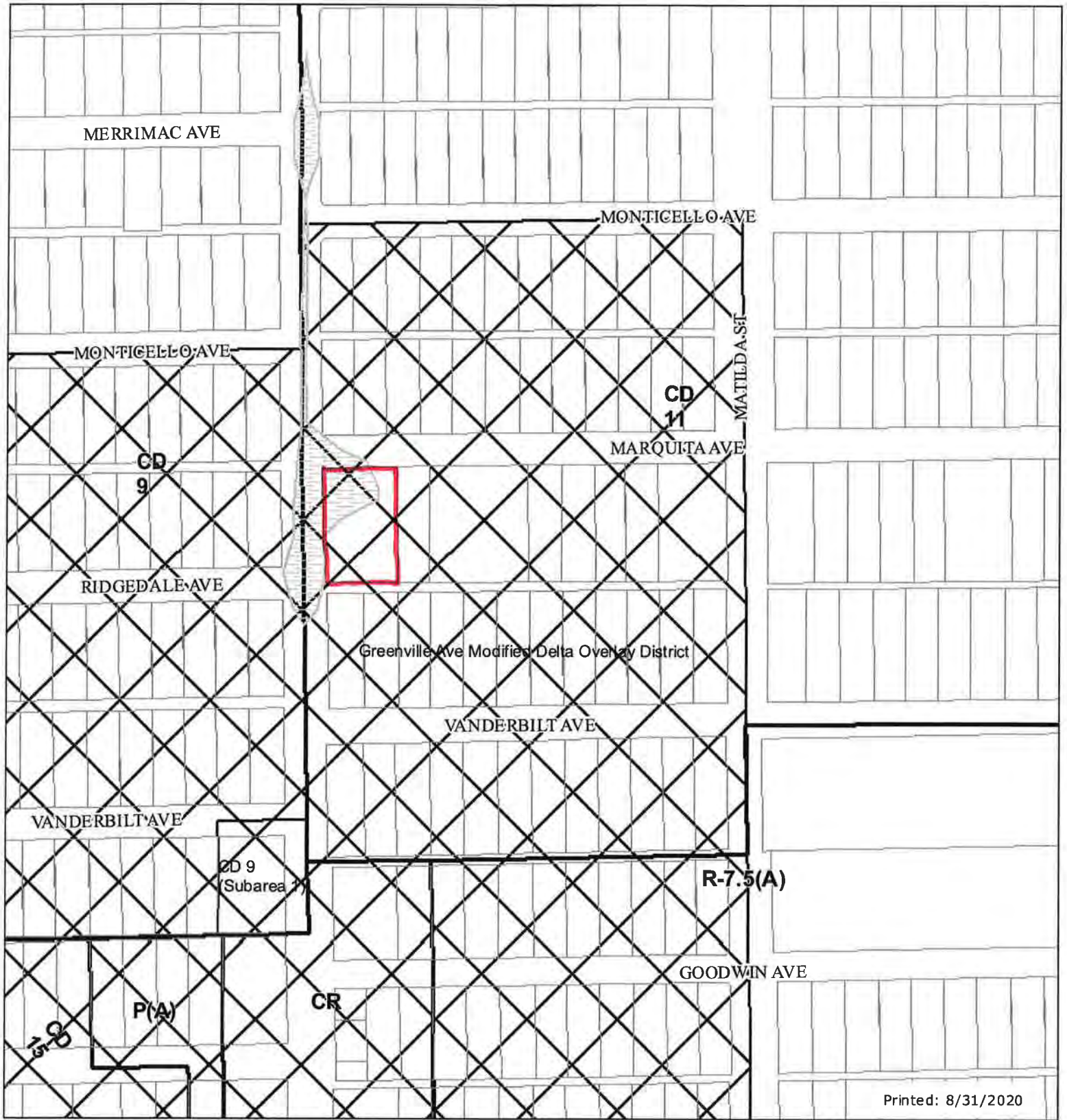
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

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.



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:

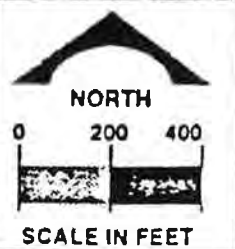
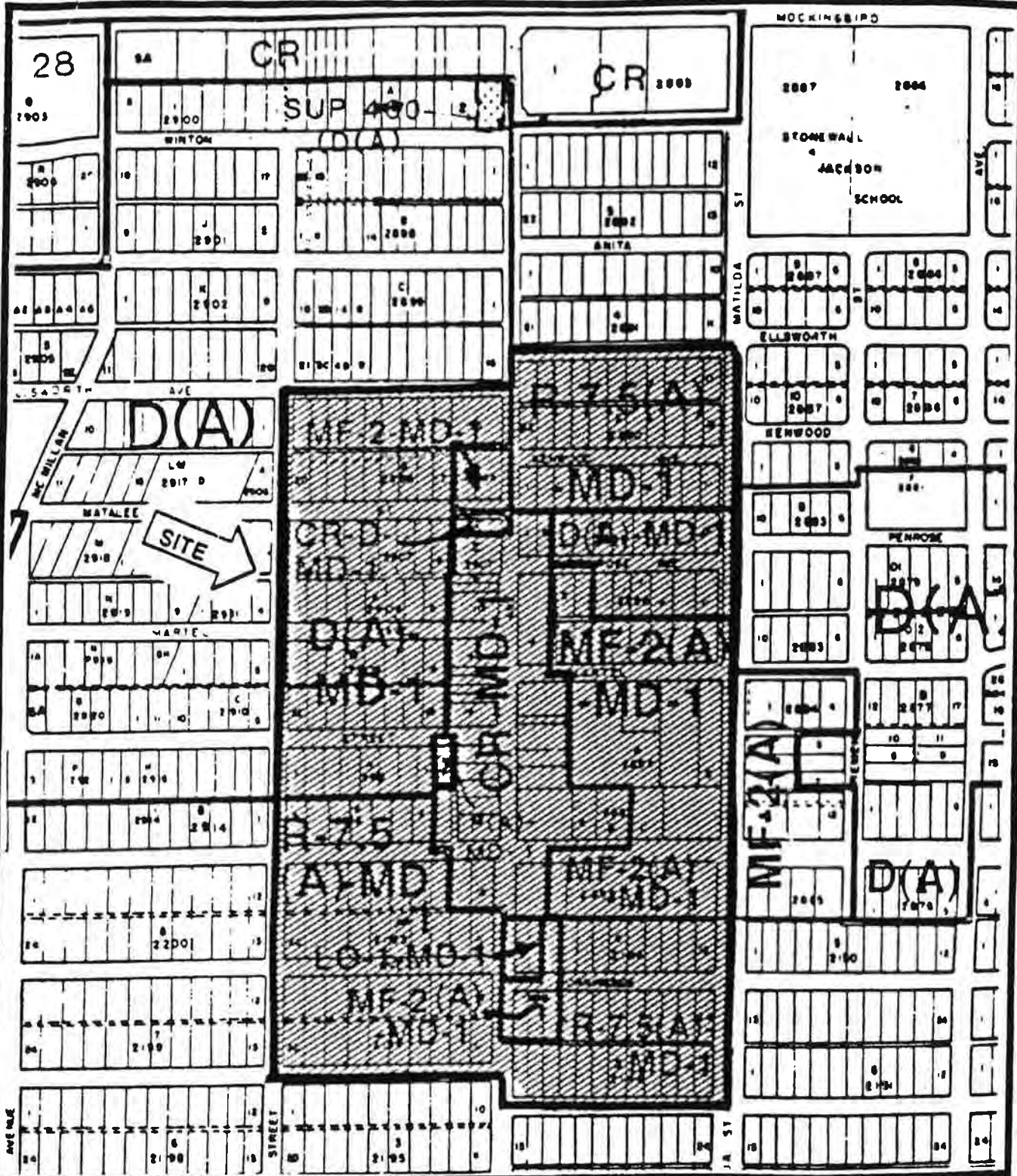
SAM A. LINDSAY, City Attorney

By 
Assistant City Attorney

JUN 28 1995

Passed _____

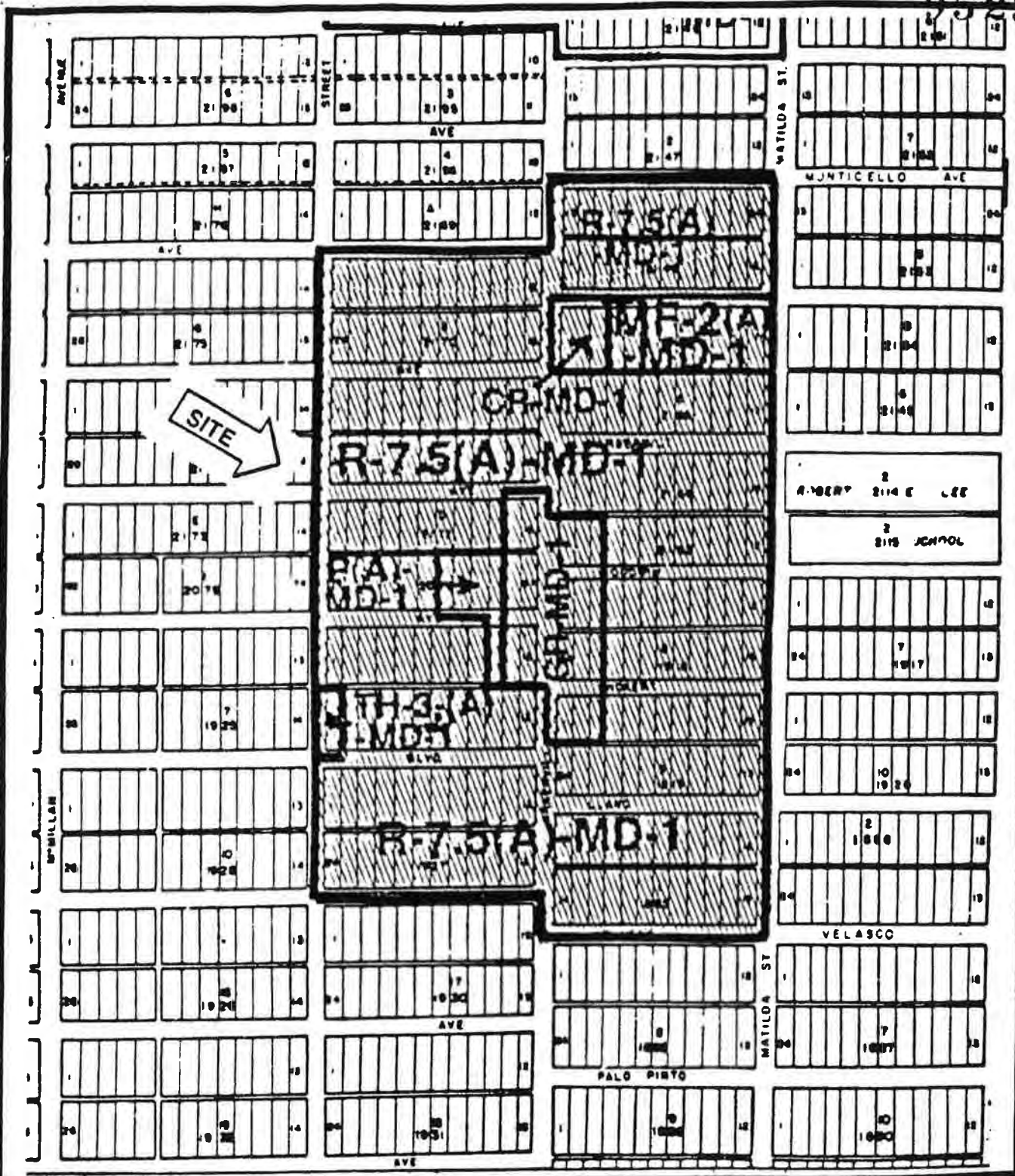
File No. Z945-206/6254-E



ZONING HISTORY
"AREA 1"

Map No. H-8, I-8

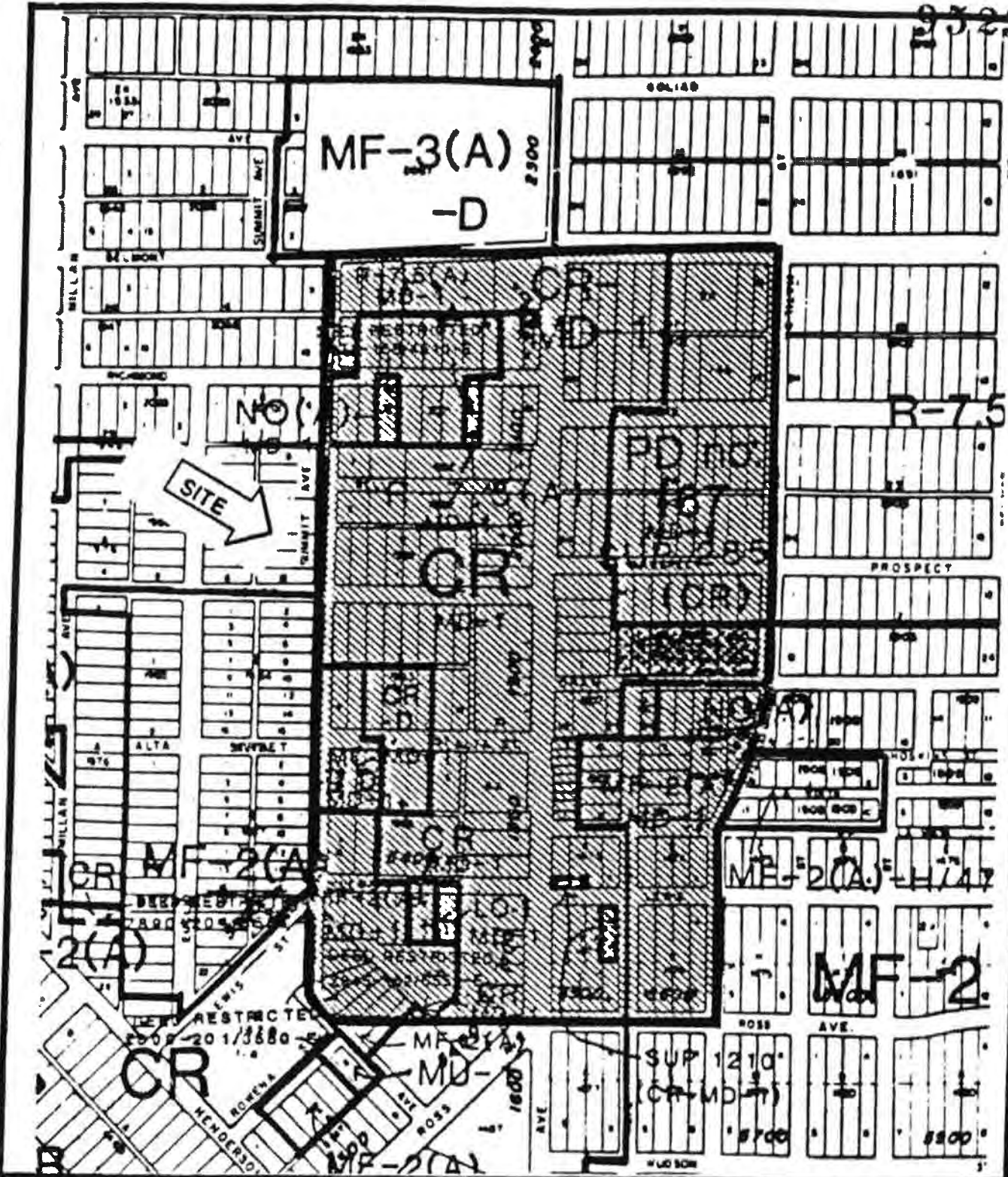
Case No. Z945-206/6254-E



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

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

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 August 18, November 17, and January 20, 2021, 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. **As of the publishing of this docket on 1-12-22, no new case details were provided. However, the zoning case Z201-213 did go to City Council earlier today and was approved with no parking required for legacy buildings.**

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.

January 20, 2021: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the August 18, 2021.

January 26, 2021: 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.

January 12, 2022: As of the publishing of this docket, no new case details were provided. However, the zoning case Z201-213 did go to City Council and was approved with no parking required for legacy buildings.

BOARD OF ADJUSTMENT ACTION: November 17, 2021

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION: Mike Northrup 5703 Goliad Ave., Dallas, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX.
Chris Gunther 1500 Marilla St. Dallas, TX

MOTION: Cannon

I move that the Board of Adjustment in Appeal No. BDA 190-091, **hold** this matter under advisement until **January 19, 2022**.

SECONDED: Karnowski

AYES: 4 – Shouse, Karnowski, Gambow, Cannon

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: January 20, 2021

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
Richard Soltes 5607 Monticello 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 190-091, hold this matter under advisement until **August 18, 2021.**

SECONDED: **Williams**

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
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)

BOARD OF ADJUSTMENT ACTION: October 21, 2020

APPEARING IN FAVOR:

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

Rob Baldwin 3904 Elm St. Ste. B Dallas, TX
Kristen Boyd 6801 Lochwood Garland, TX

APPEARING IN OPPOSITION:

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

MOTION: **Vermillion**

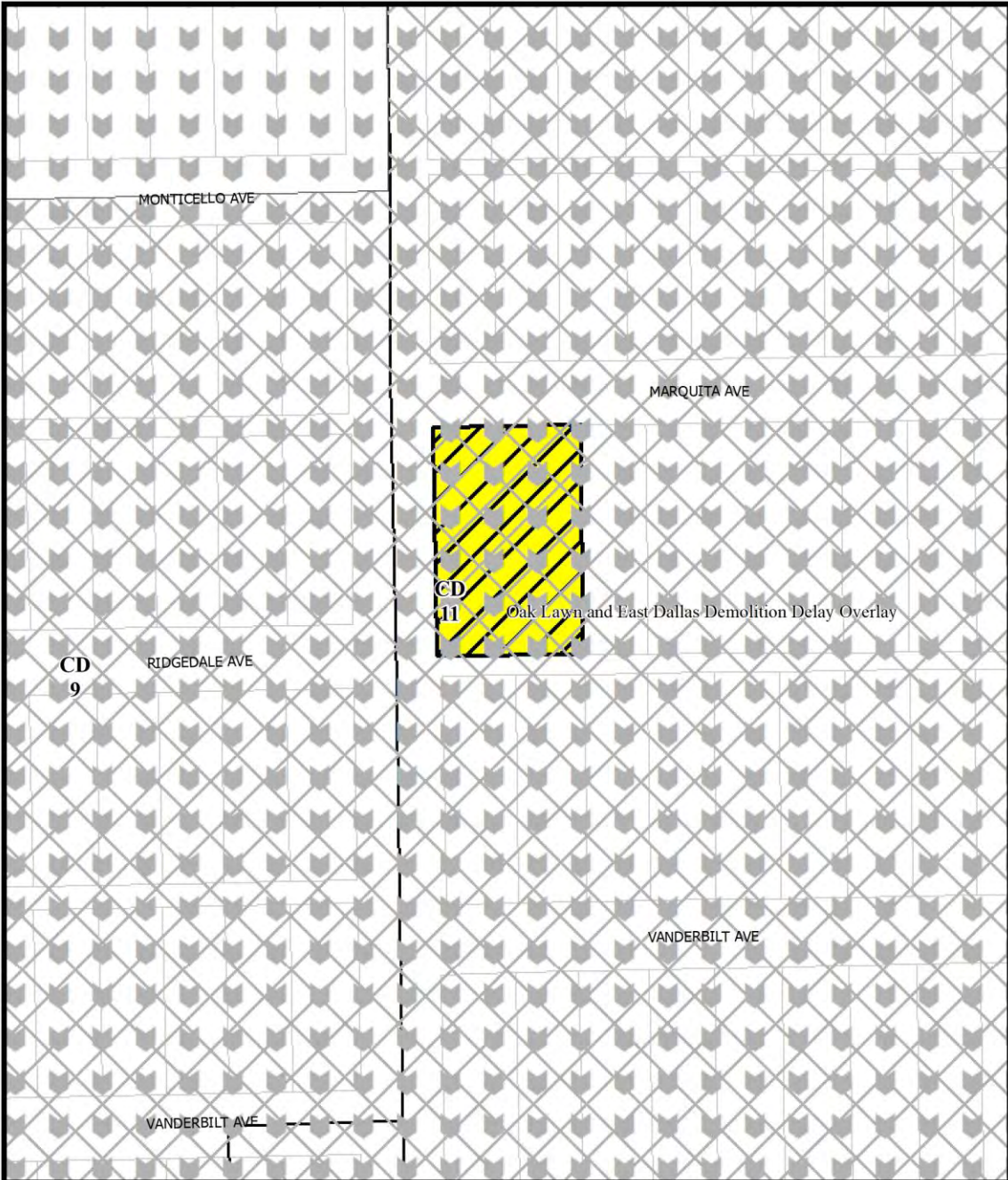
I move that the Board of Adjustment in Appeal No. BDA 190-091, **hold** this matter under advisement until **November 18, 2020**.

SECONDED: **Williams**

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

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

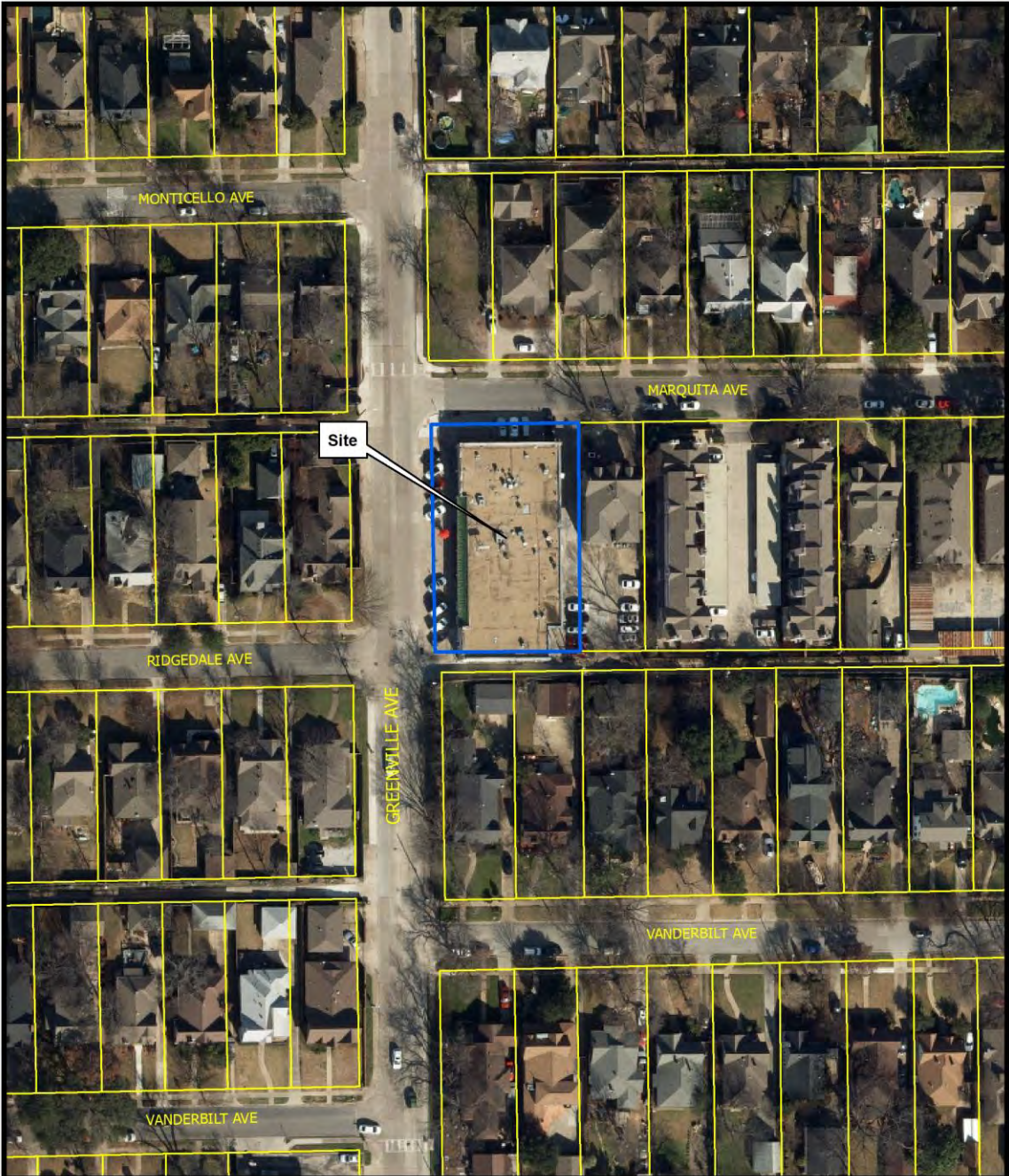


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ZONING MAP

Case no: BDA190-091

Date: 12/22/2021

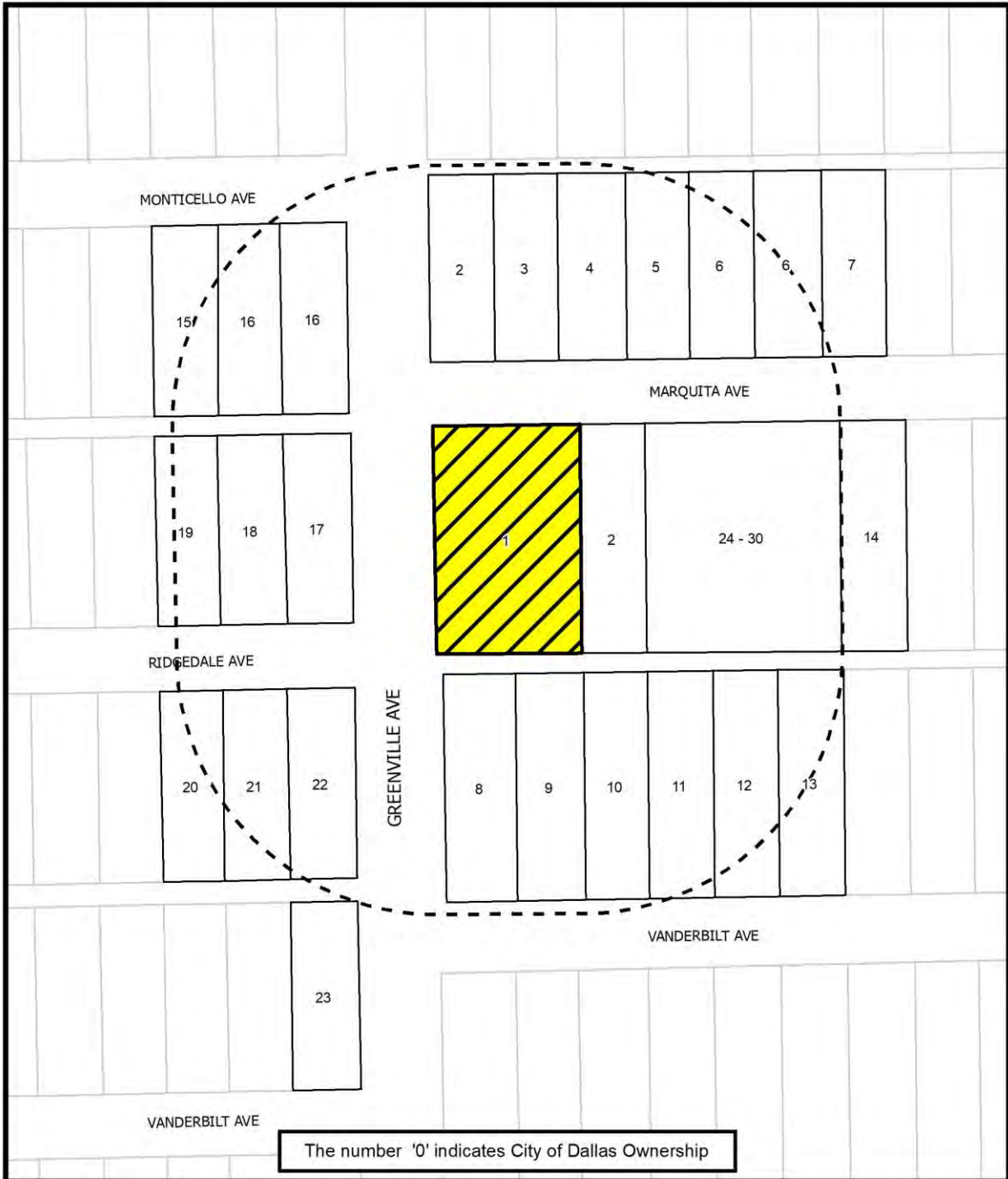


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AERIAL MAP

Case no: BDA190-091

Date: 12/22/2021



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
30 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-091**
 Date: **12/22/2021**

12/22/2021

Notification List of Property Owners

BDA190-091

30 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3014 GREENVILLE AVE	Taxpayer at
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	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	TATE CHRISTINE M
26	5720 MARQUITA AVE	WILLINGHAM KIRK R

12/22/2021

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	5720 MARQUITA AVE	BURKE GARY A
28	5720 MARQUITA AVE	LOBO VINAY J
29	5720 MARQUITA AVE	BIRNBAUM MARC A &
30	5720 MARQUITA AVE	XOCHOTL LARA



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.

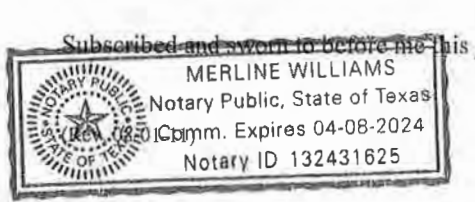
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

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)

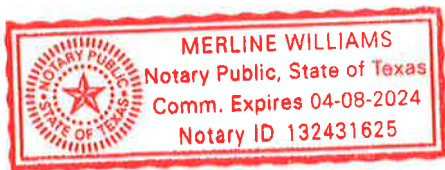
Special exception under Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

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

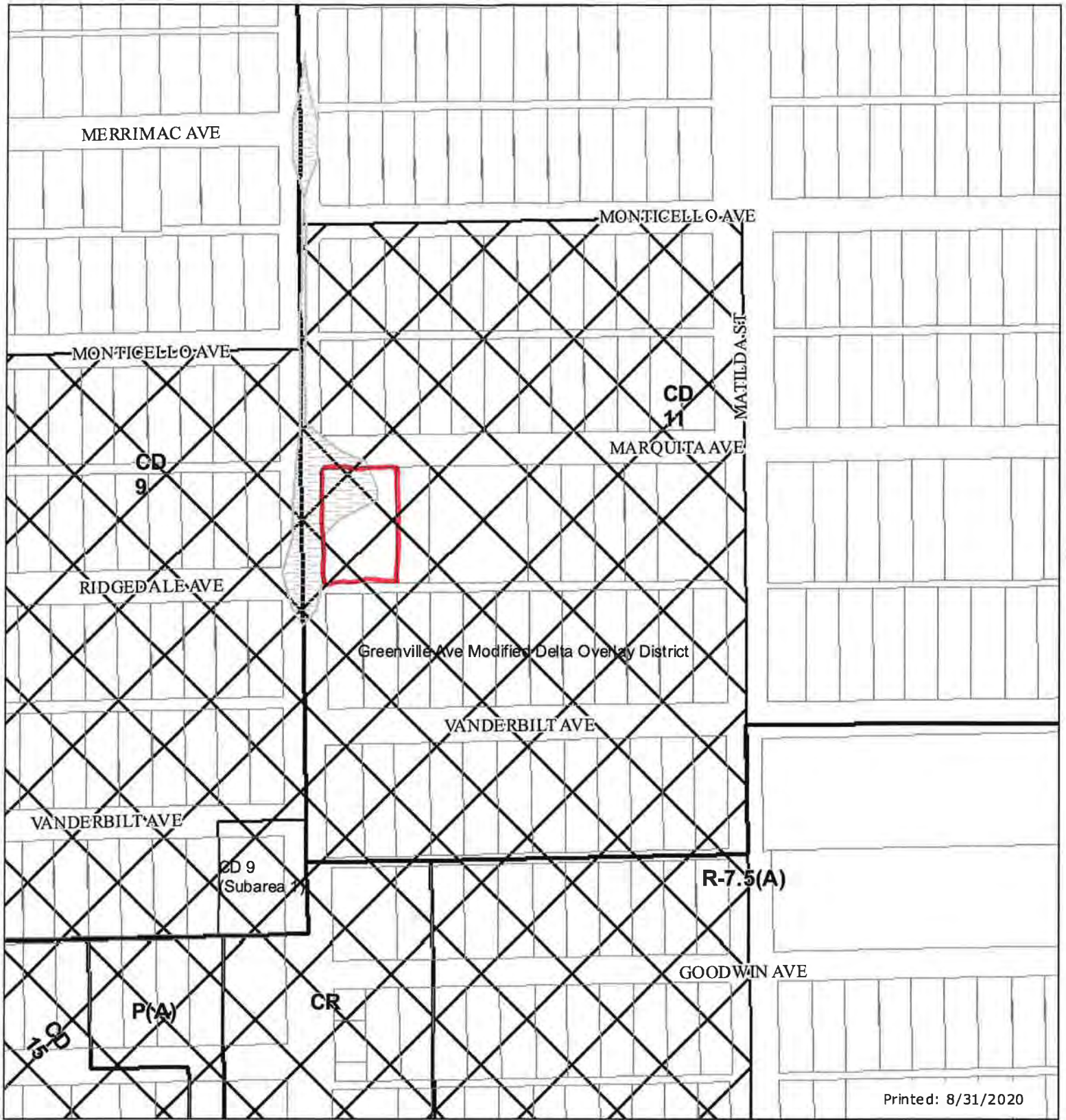
Before me, the undersigned, on this day personally appeared Thomas Shields

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 | 27-4 |

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



1:2,400



City of Dallas

Certificate of Occupancy

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

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

DBA: WINDOW SEAT

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

Occupied Portion:

C.O.#: 1906071094

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

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

Philip Sikes, Building Official

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



CITY OF DALLAS

July 14, 2020

CERTIFIED MAIL No. 7019 1640 0001 6327 1312

Drew M. Martin

PO Box 470007

Fort Worth, Texas 76147

CERTIFIED MAIL No. 7019 1640 0001 6327 1305

Tom Shields

Shields Ltd. P.S.

418 E Shore Dr

Kemah, Texas 77565-2525

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

Dear Mr. Martin and Mr. Shields:

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

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

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

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



CITY OF DALLAS

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

Sincerely,

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.

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

APPROVED AS TO FORM:

ANALES LIE MUNCY, City Attorney

BY *Agnes M. M. 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.

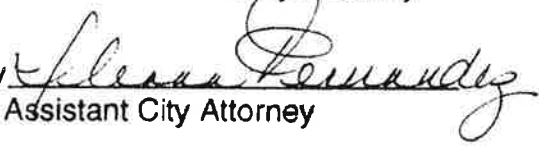
SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 shall remain in full force and effect, save and except as amended by this ordinance.

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

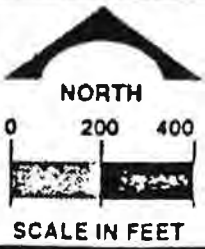
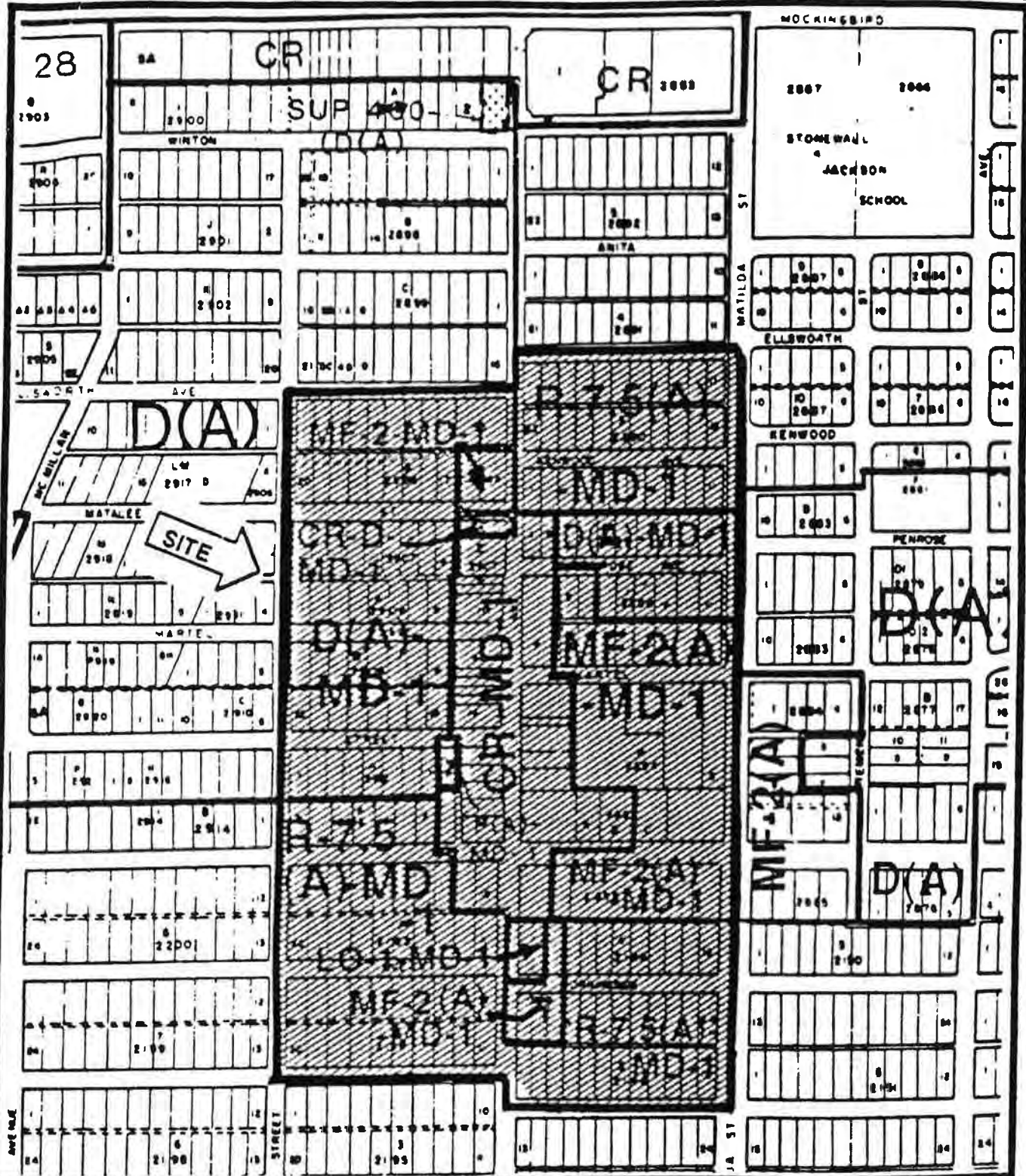
By 
Assistant City Attorney

JUN 28 1995

Passed _____

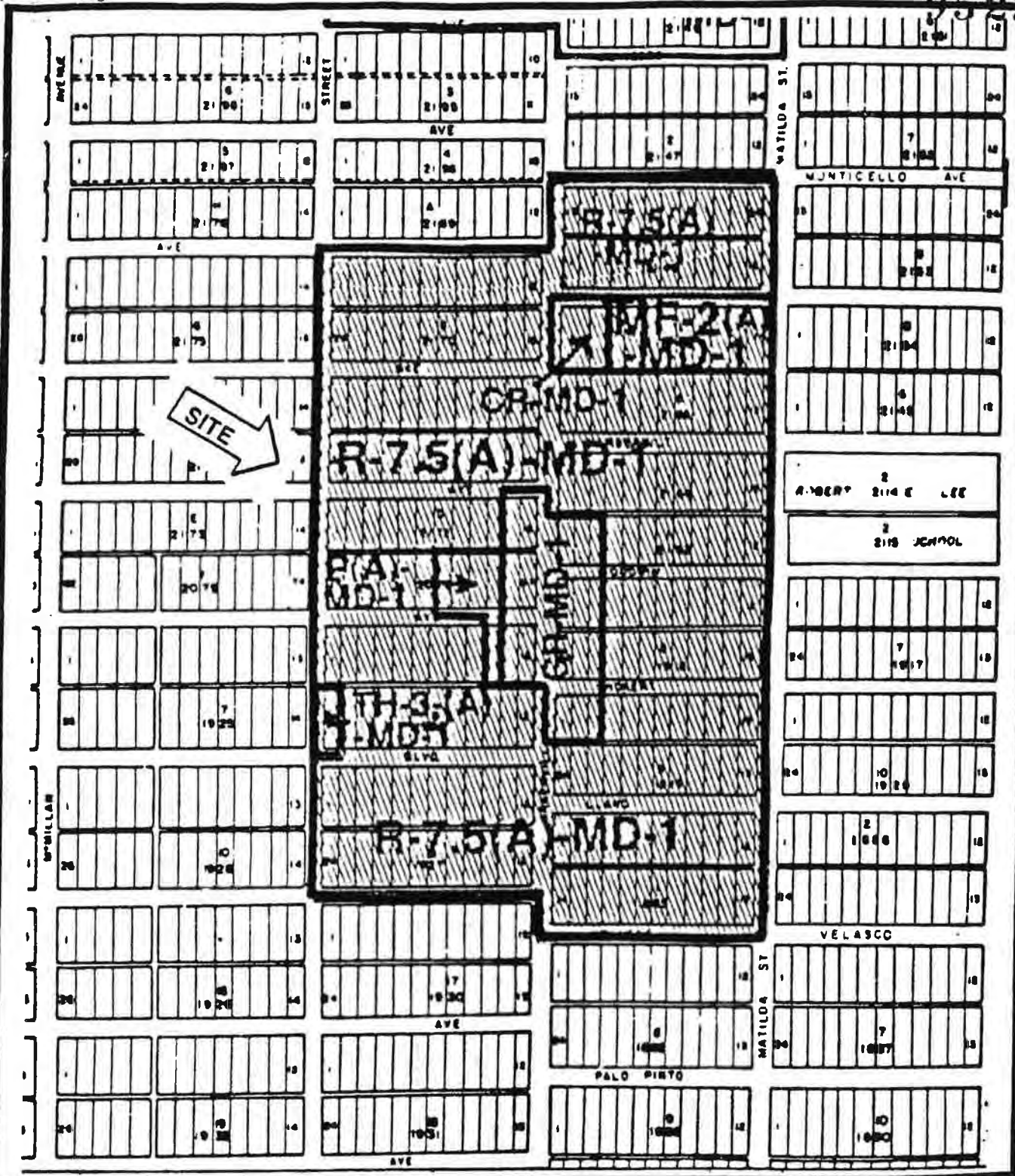
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ZONING HISTORY
"AREA 1"

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

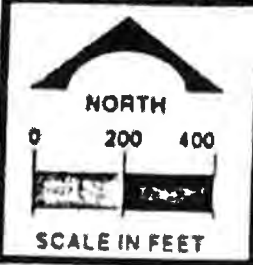
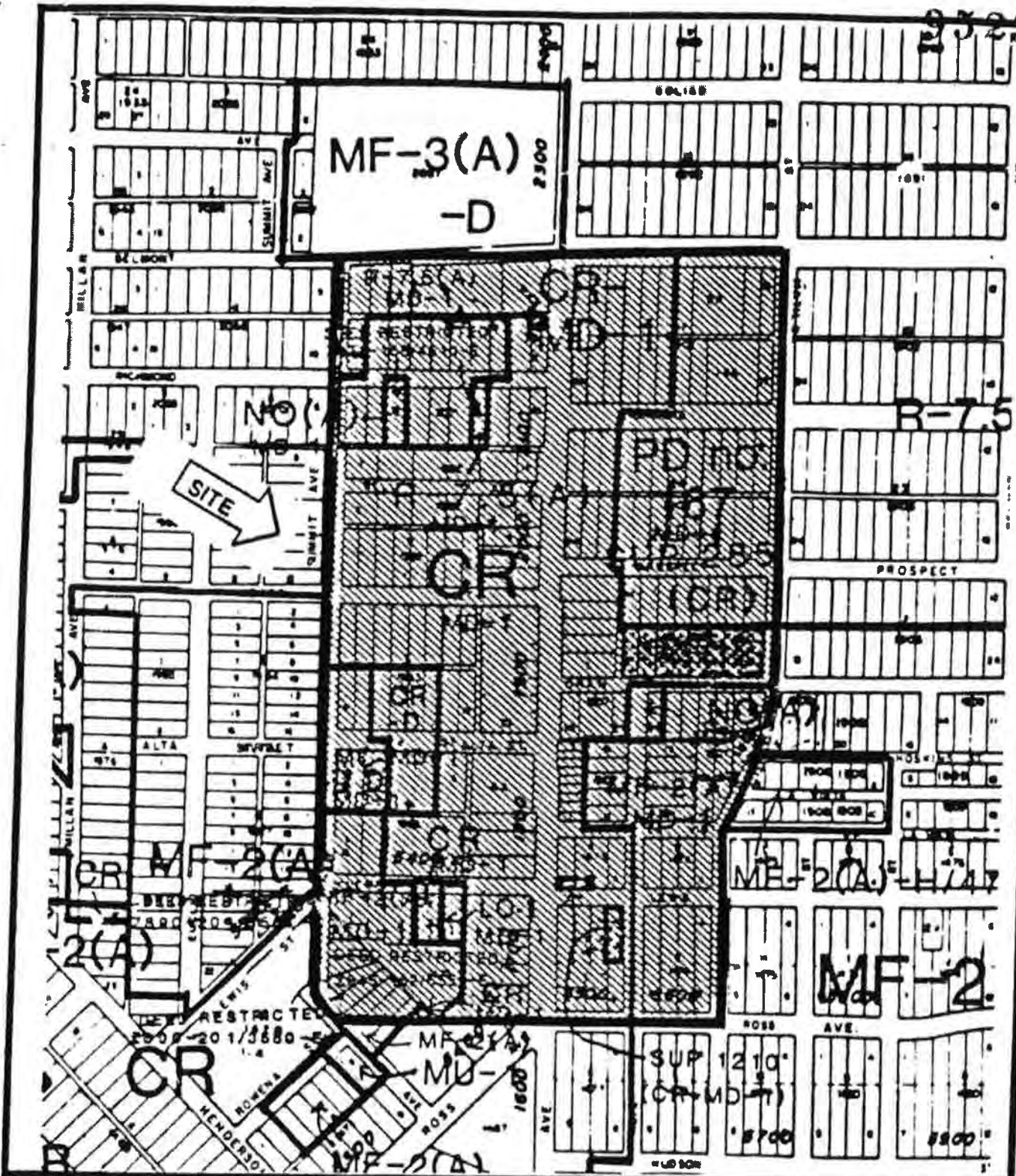


ZONING HISTORY

"AREA 2"

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

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ZONING HISTORY
"AREA 3"

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

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

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 August 18, November 17, and January 20, 2021, 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. **As of the publishing of this docket on 1-12-22, no new case details were provided. However, the zoning case Z201-213 did go to City Council earlier today and was approved with no parking required for legacy buildings.**

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.

January 20, 2021: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant’s request until the August 18, 2021.

January 26, 2021: 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 17, 2021

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION: Mike Northrup 5703 Goliad Ave., Dallas, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX.
Chris Gunther 1500 Marilla St. Dallas, TX

MOTION: **Cannon**

I move that the Board of Adjustment in Appeal No. BDA 190-092, **hold** this matter under advisement until **January 19, 2022**.

SECONDED: **Karnowski**

AYES: 4 – Shouse, Karnowski, Gambow, Cannon

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: January 20, 2021

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX
Kristin Boyd 6801 Lochwood, Garland, TX

APPEARING IN OPPOSITION: Roger Albright 1701 N. Collins Blvd. #1100 Richardson, TX
Richard Soltes 5307 Monticello Dallas, TX
Mike Northrup 5703 Goliad Ave., Dallas, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX
Sarah May 320 E. Jefferson Dallas TX
Chris Gunter 1500 Marilla St Dallas, TX

MOTION: **Vermillion**

I move that the Board of Adjustment in Appeal No. BDA 190-092, hold this matter under advisement until **August 18, 2021**.

SECONDED: **Johnson**

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
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**

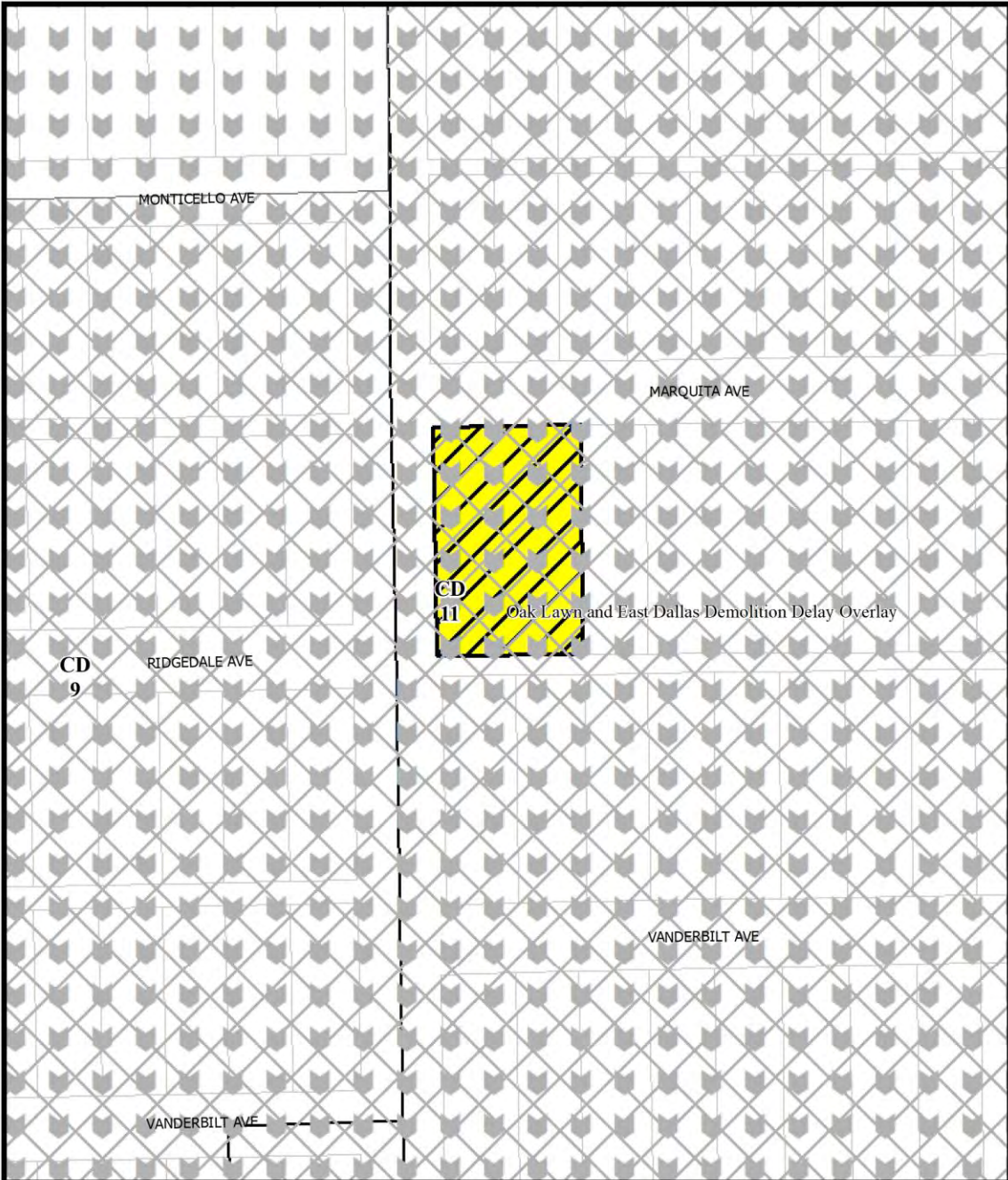
I move that the Board of Adjustment in Appeal No. BDA 190-092, hold this matter under advisement until **January 20, 2021**.

SECONDED: **Jones**

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

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

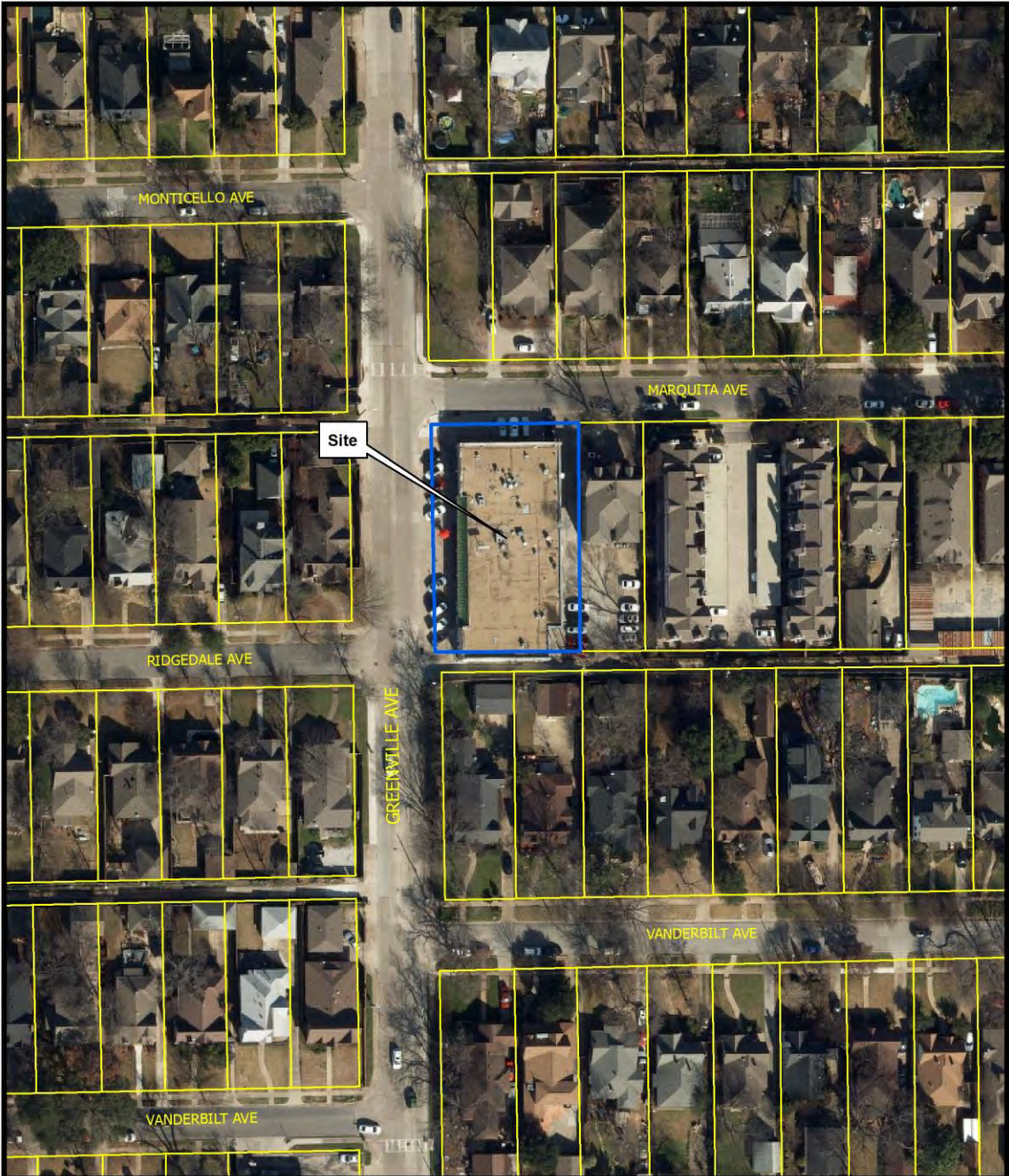


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ZONING MAP

Case no: BDA190-092

Date: 12/22/2021

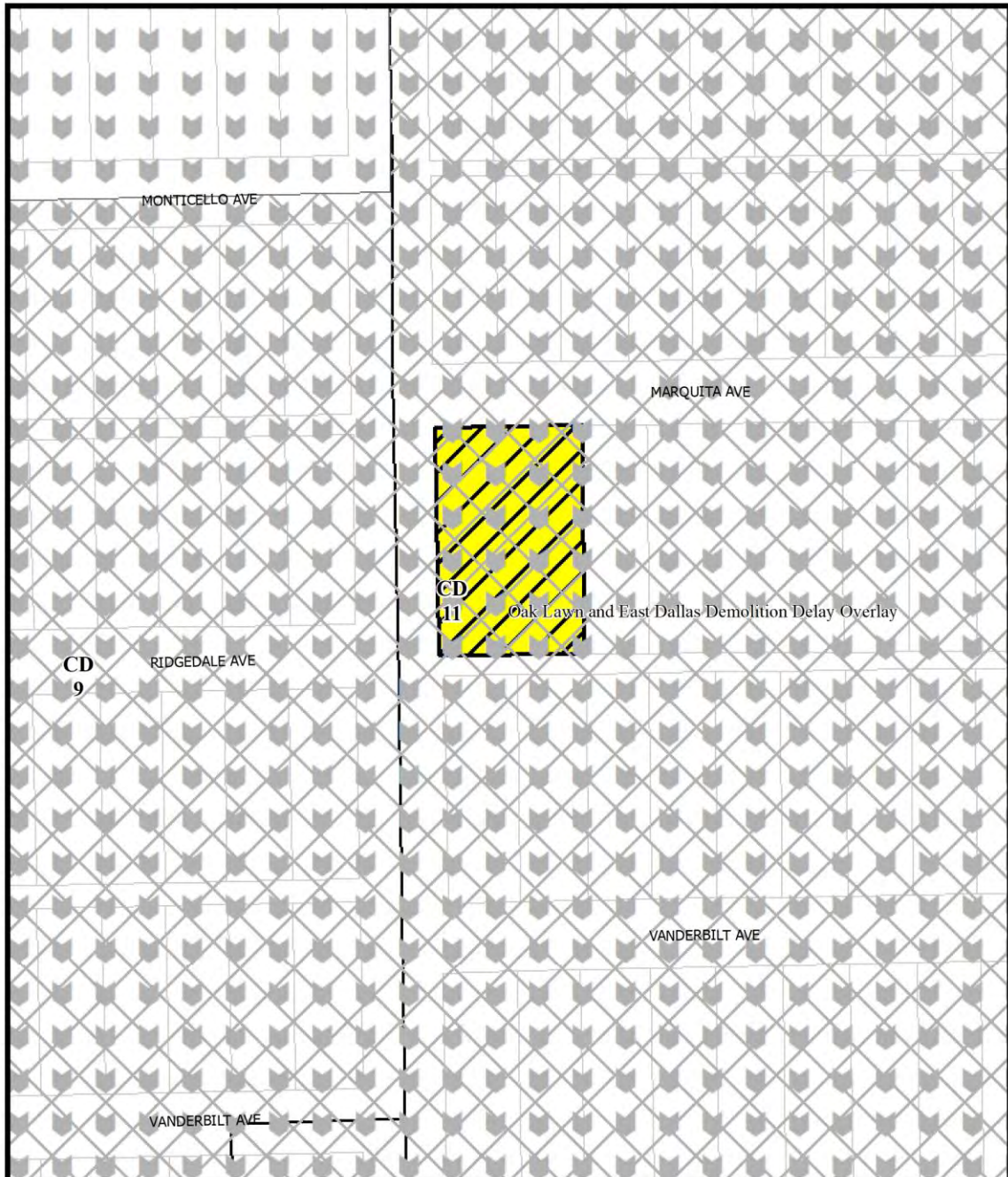


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AERIAL MAP

Case no: BDA190-092

Date: 12/22/2021



1:1,200

ZONING MAP

Case no: BDA190-092

Date: 12/22/2021

12/22/2021

Notification List of Property Owners

BDA190-092

30 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3014 GREENVILLE AVE	Taxpayer at
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	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	TATE CHRISTINE M
26	5720 MARQUITA AVE	WILLINGHAM KIRK R

12/22/2021

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	5720 MARQUITA AVE	BURKE GARY A
28	5720 MARQUITA AVE	LOBO VINAY J
29	5720 MARQUITA AVE	BIRNBAUM MARC A &
30	5720 MARQUITA AVE	XOCHOTL LARA



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-092

Data Relative to Subject Property:

Date: 8/4/2020

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

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

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

To the Honorable Board of Adjustment :

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

Applicant: Thomas Shields Telephone: 281-635-4250

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

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

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

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

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

Affirm that an appeal has been made for a Variance __, or Special Exception __, of Appeal building official's revocation of certificate of occupancy.

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

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

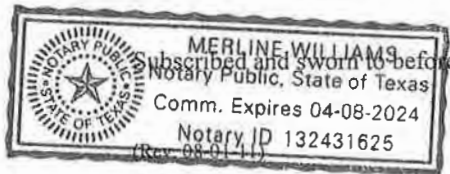
Affidavit

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

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

Respectfully submitted: Thomas Shields (Affiant/Applicant's signature)

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



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

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

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

Sincerely,


David Session, Building Official



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)

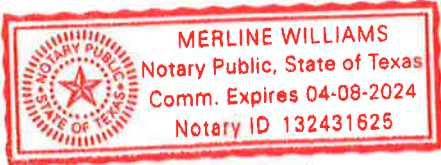
Appeal building official's revocation of certificate of occupancy.

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

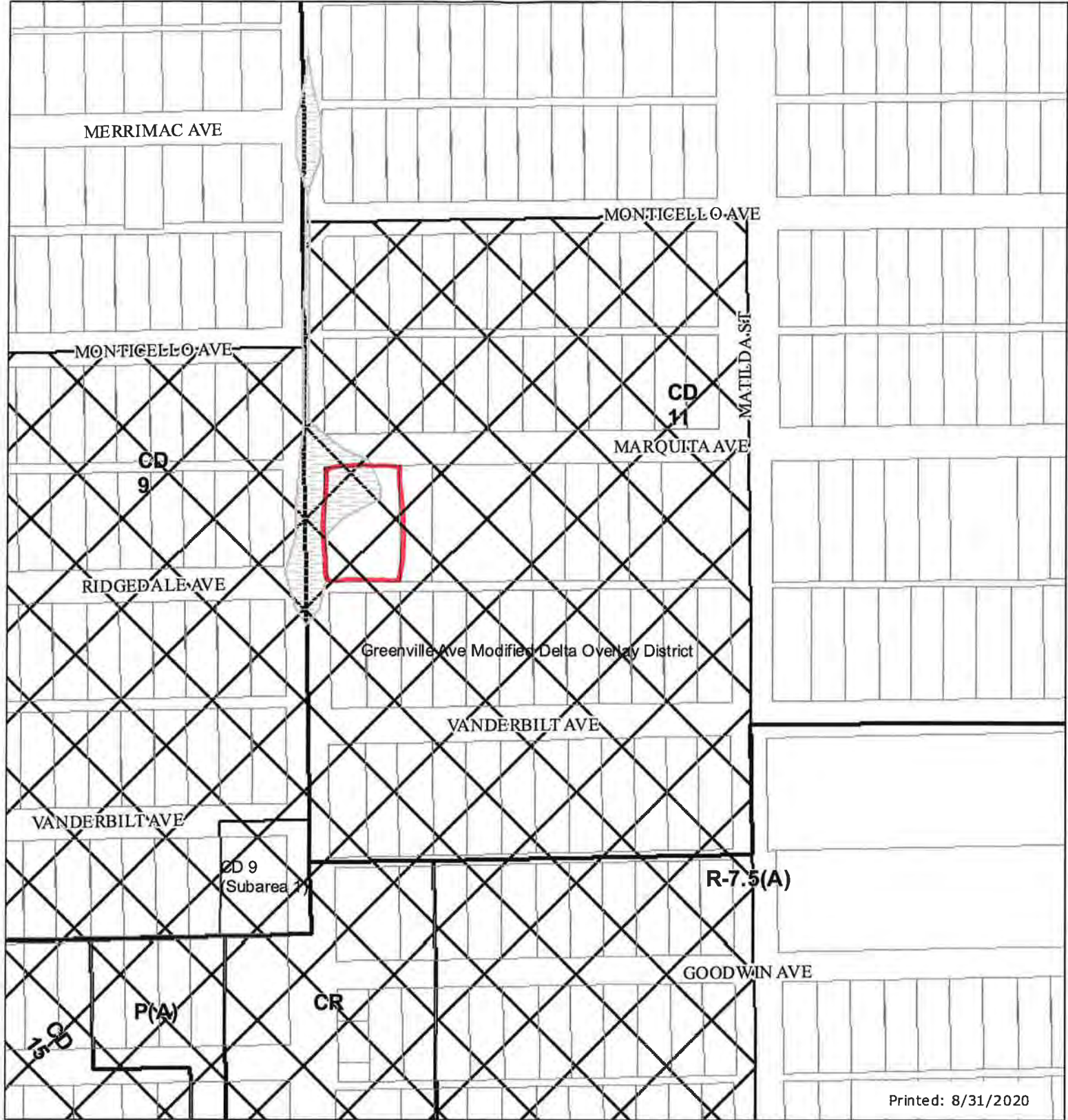
Before me, the undersigned, on this day personally appeared Thomas Shields

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 | SPSD Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | Shop Front Overlay 30-4 |
| | | 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, Building Official

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

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.

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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

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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.

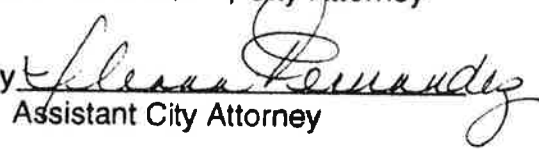
SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 shall remain in full force and effect, save and except as amended by this ordinance.

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:

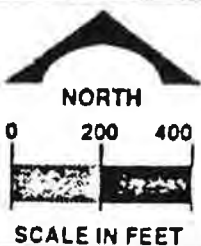
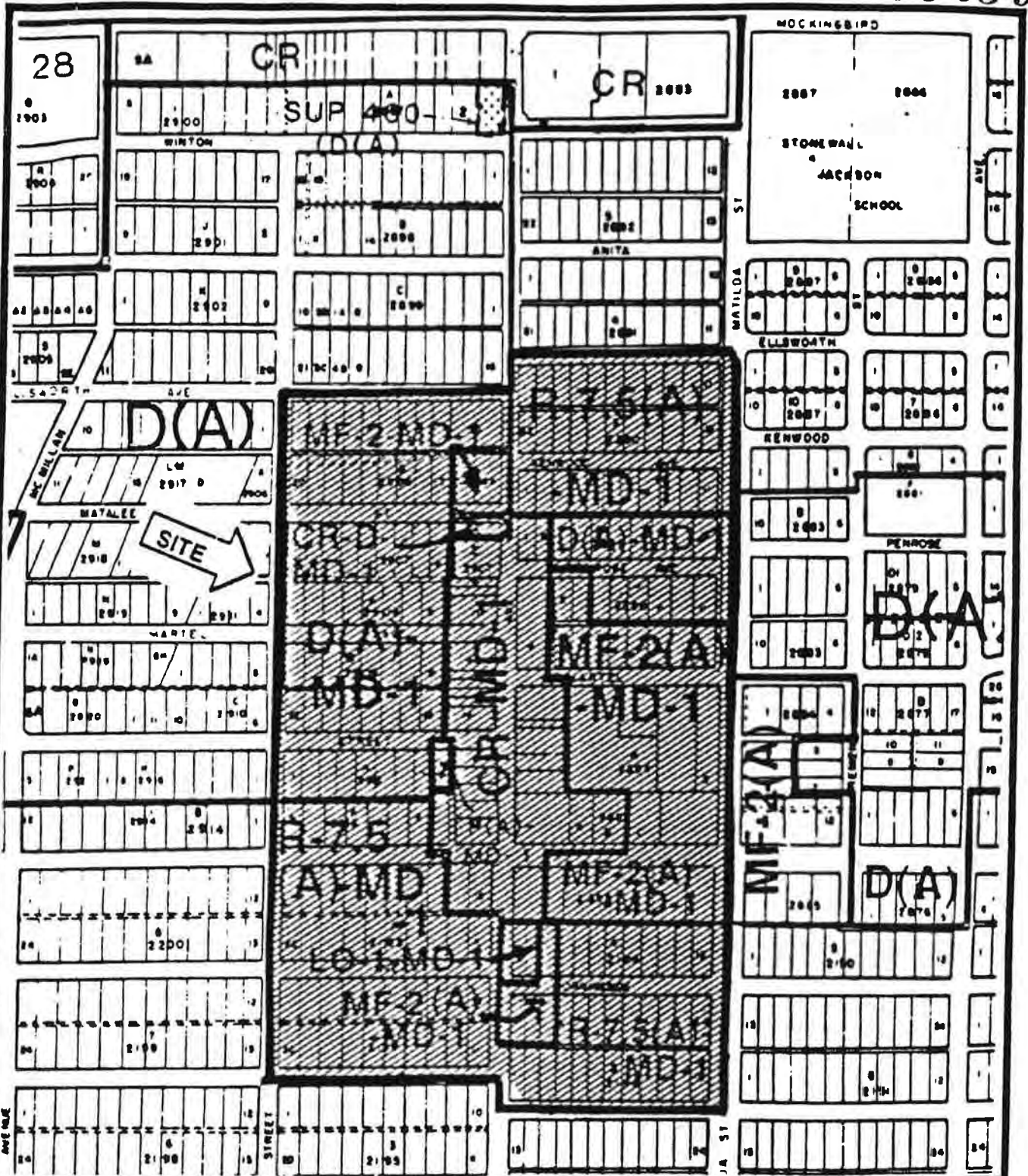
SAM A. LINDSAY, City Attorney

By 
Assistant City Attorney

JUN 28 1995

Passed _____

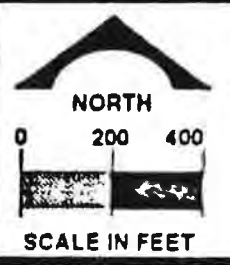
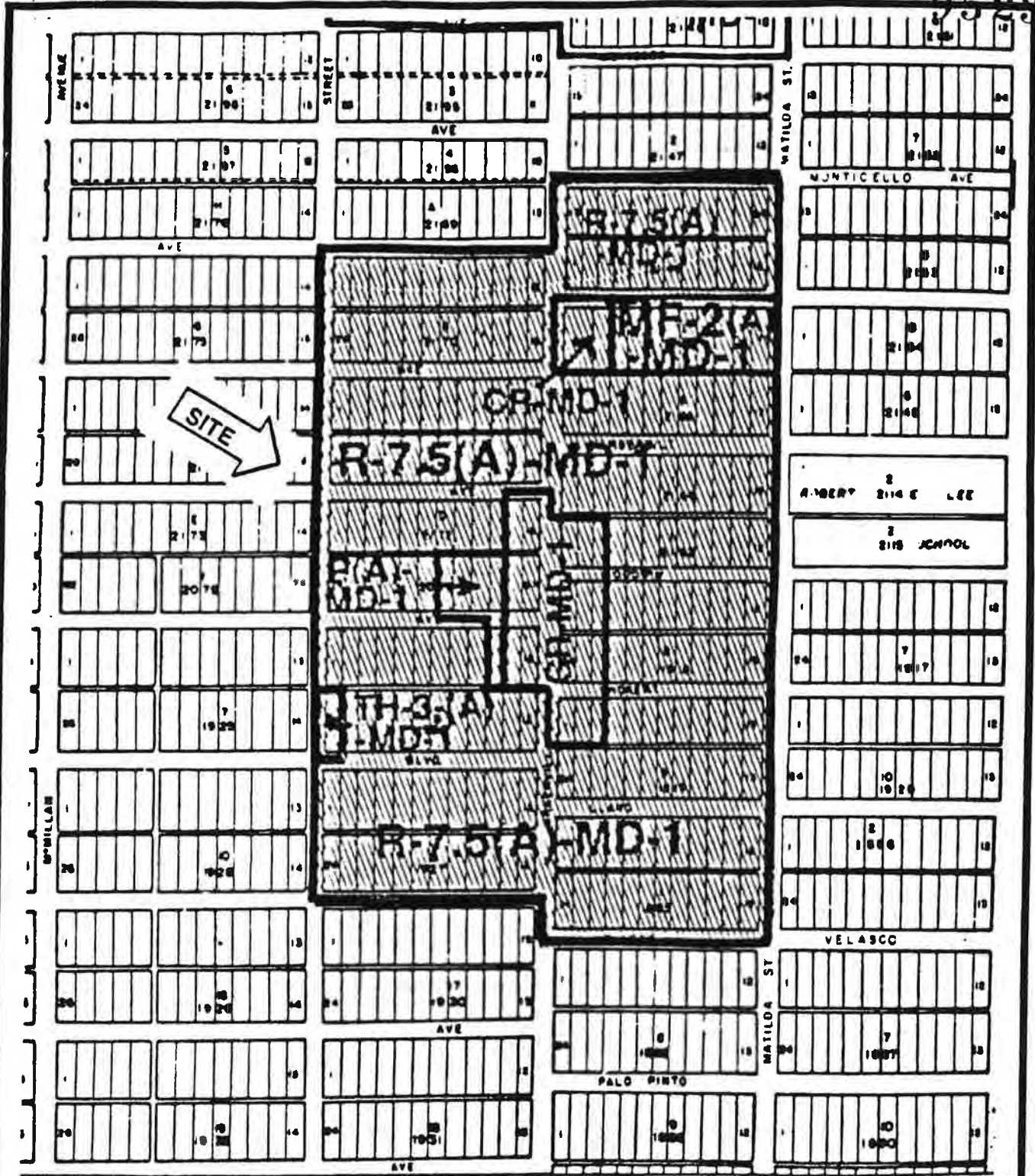
File No. Z945-206/6254-E



ZONING HISTORY
"AREA 1"

Map No. H-8, I-8

Case No. Z945-206/6254-E

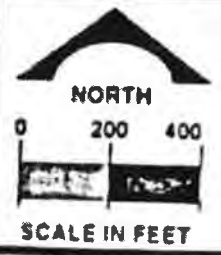
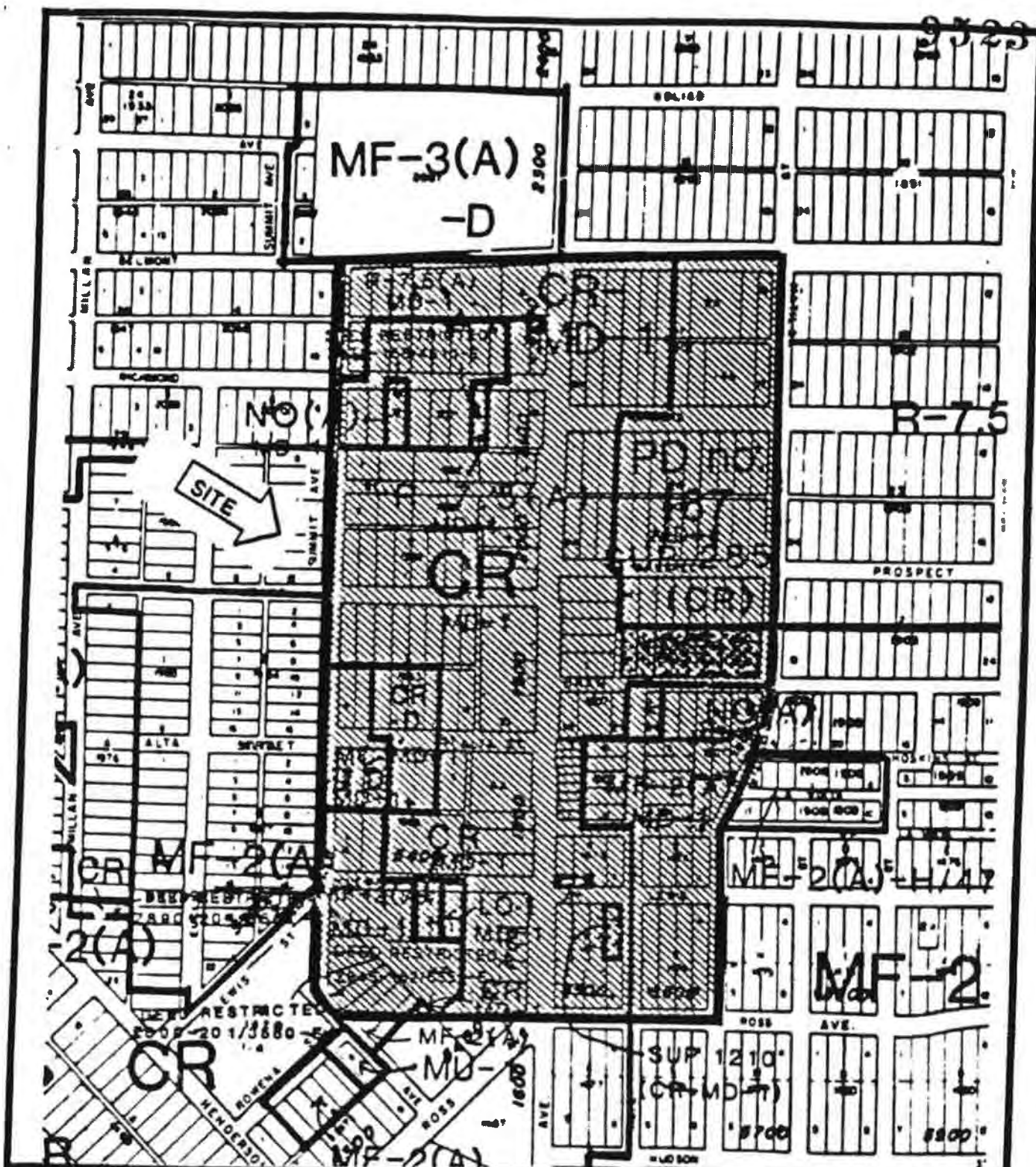


ZONING HISTORY

"AREA 2"

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

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. Jindaly
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.

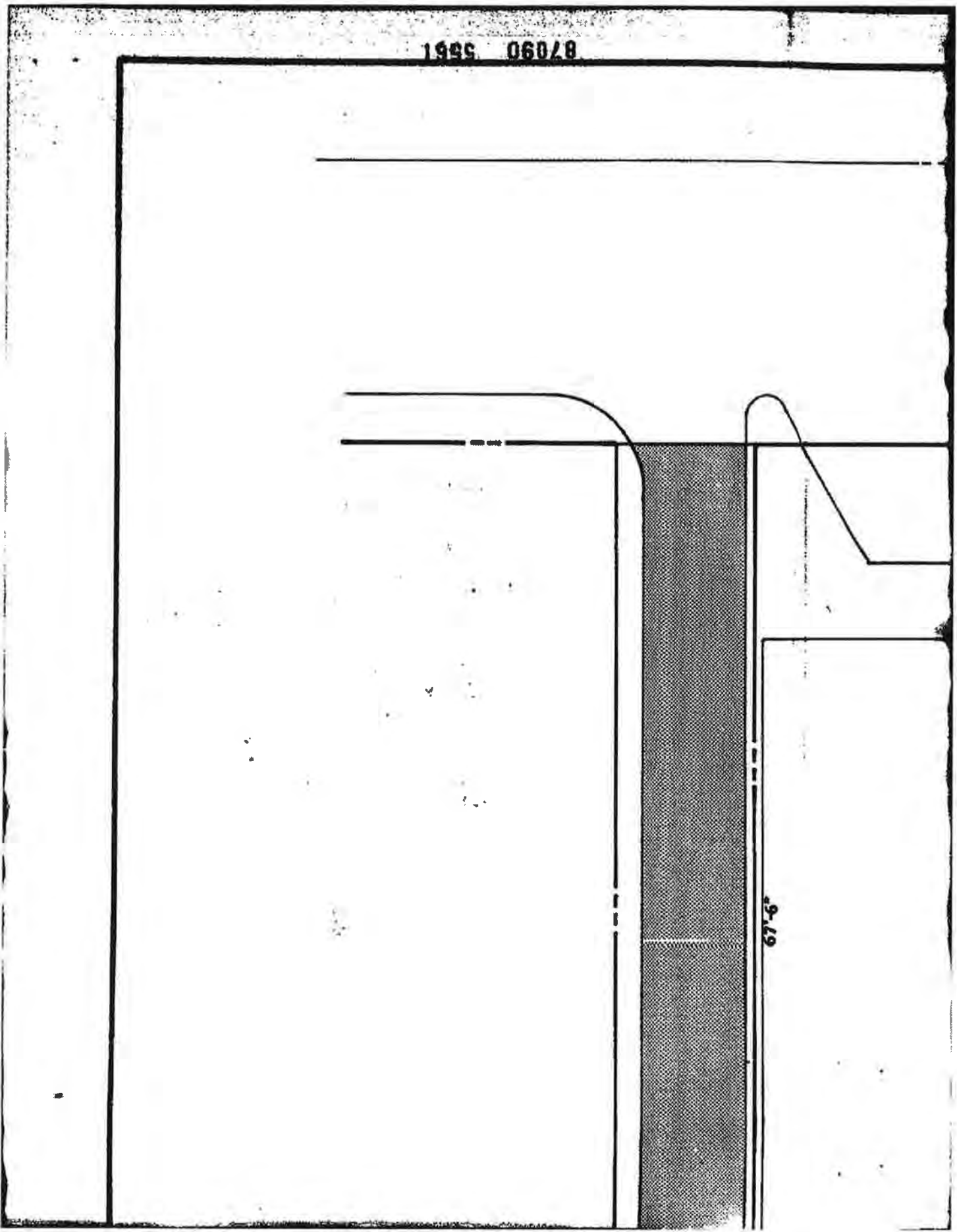
Given under my hand and seal of office on this 29th day of June, 19 86.



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
COUNTY OF DALLAS

87090 5560



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

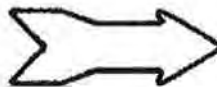
SAN FRANCISCO ROSE CAFE

77'-9"

115.33'
6 SPACES

OCK 2168

1100 2228



AVENUE

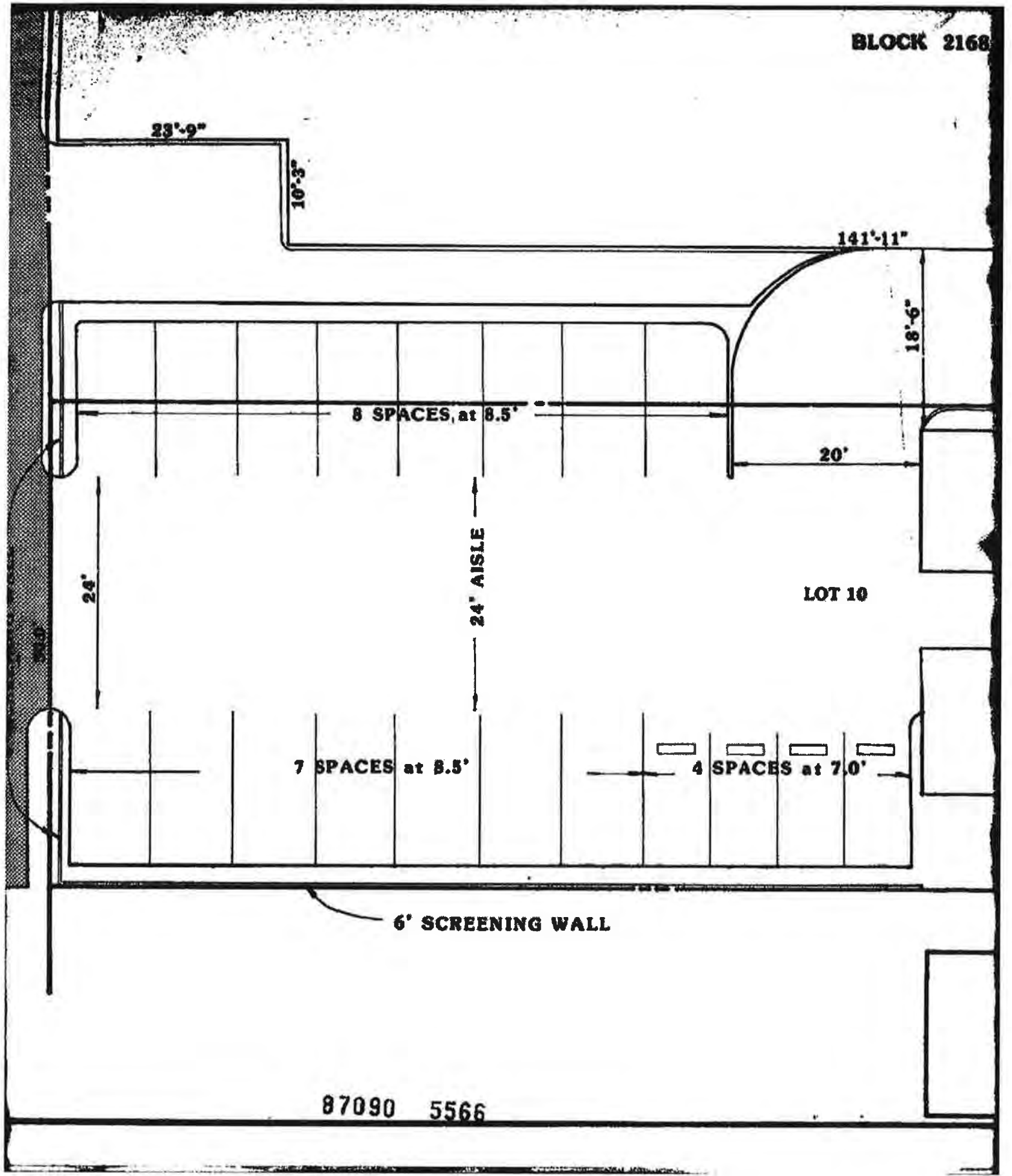
115.33'

6 SPACES

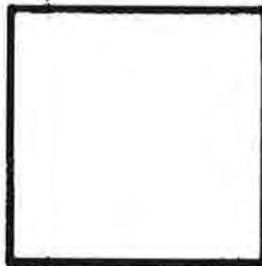
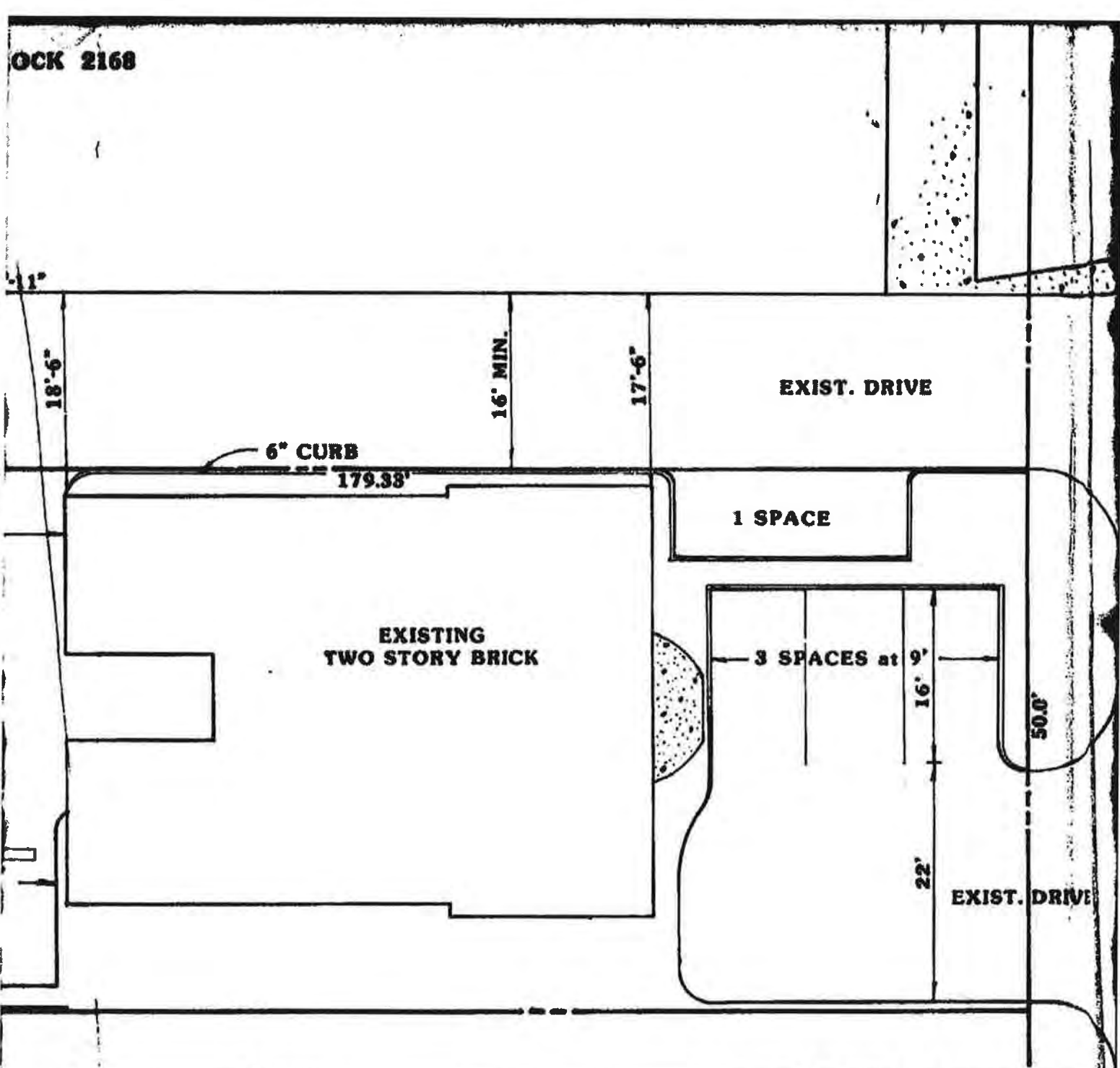
IS ALLEY

U.S. DEPARTMENT OF JUSTICE

87090 5565



OCK 2168

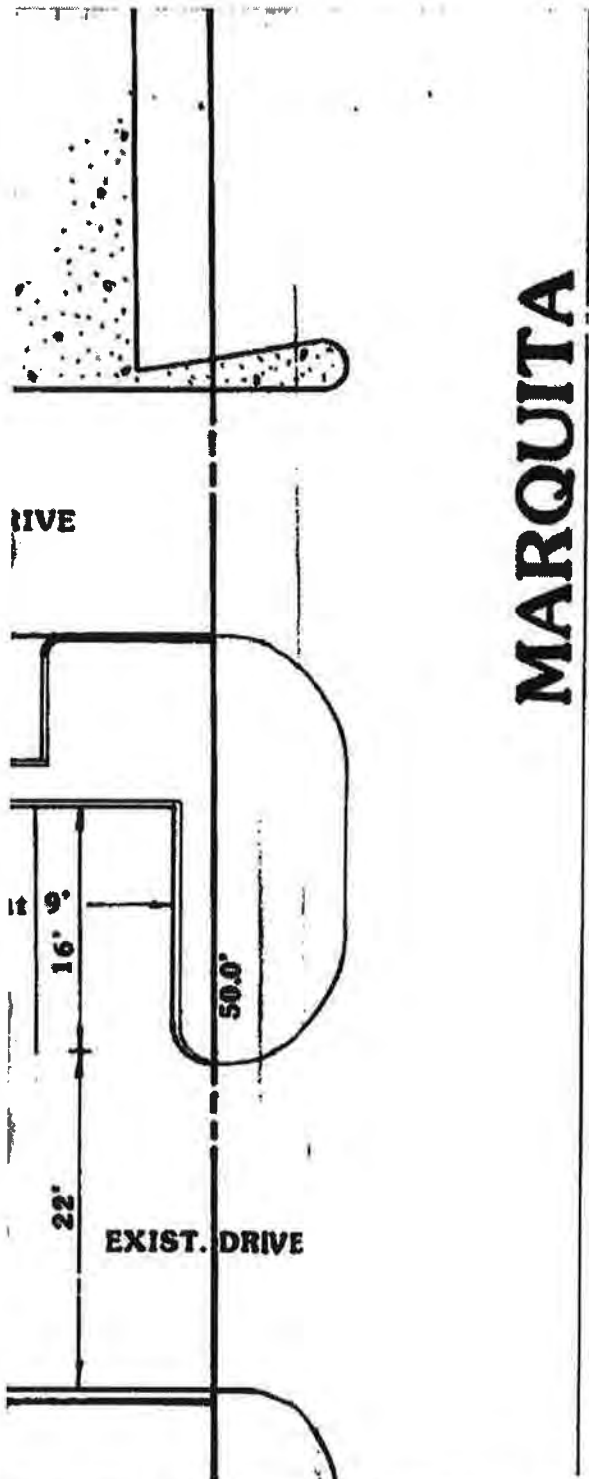


revision	date

NDM NAT CONSUM

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. 789
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 RESTRICTS
THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED
THEREIN BECAUSE OF RACE OR COLOR ARE INVALID UNDER
FEDERAL LAW AND ARE UNENFORCEABLE.
ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL,
OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR
OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL
LAW.

87090 5569

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

Rob,

Yes, this is correct.

Thank you,

Kiesha Kay

Get [Outlook for Android](#)

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

Good afternoon Kiesha

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

Thanks for your help.

Rob

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



CITY OF DALLAS

September 6, 2019

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

RE: Zoning Determination Request; 3014-3024 Greenville

Dear Ms. Stoy:

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

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

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

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

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

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

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

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

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



CITY OF DALLAS

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

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

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

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

Respectfully,

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

Remarks:

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

Exhibit B



City of Dallas

Certificate of Occupancy

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

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

DBA: **WINDOW SEAT**

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

Occupied Portion:

C.O.#: **1906071094**

Lot: 11	Block: 2168	Zoning: CD-11	PDD:	SUP:
Historic Dist:	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

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 *Christopher 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:

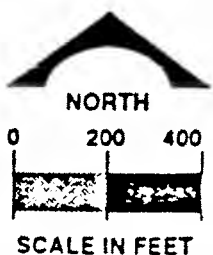
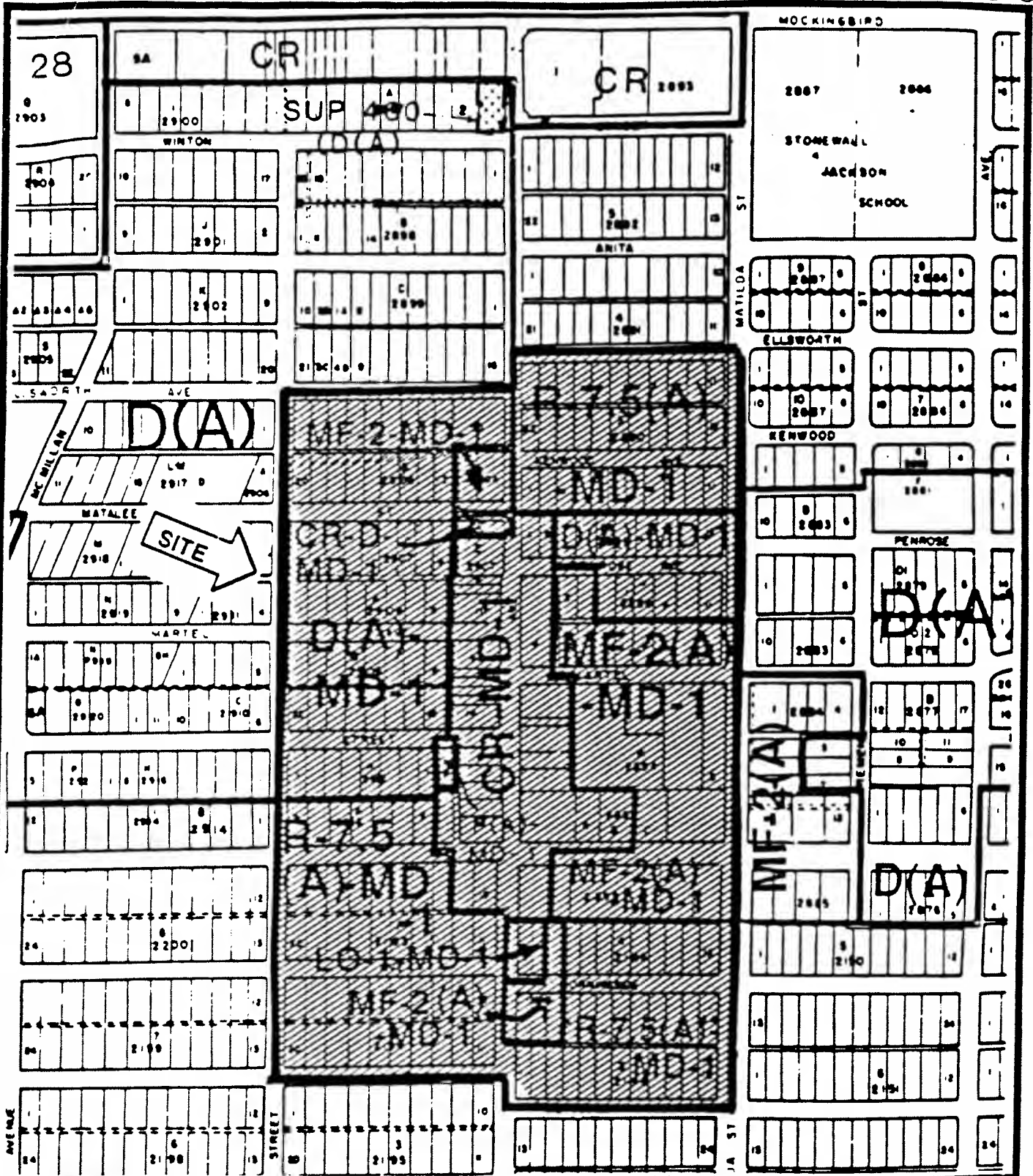
SAM A. LINDSAY, City Attorney

By  Assistant City Attorney

JUN 28 1995

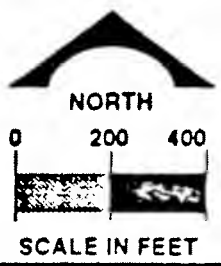
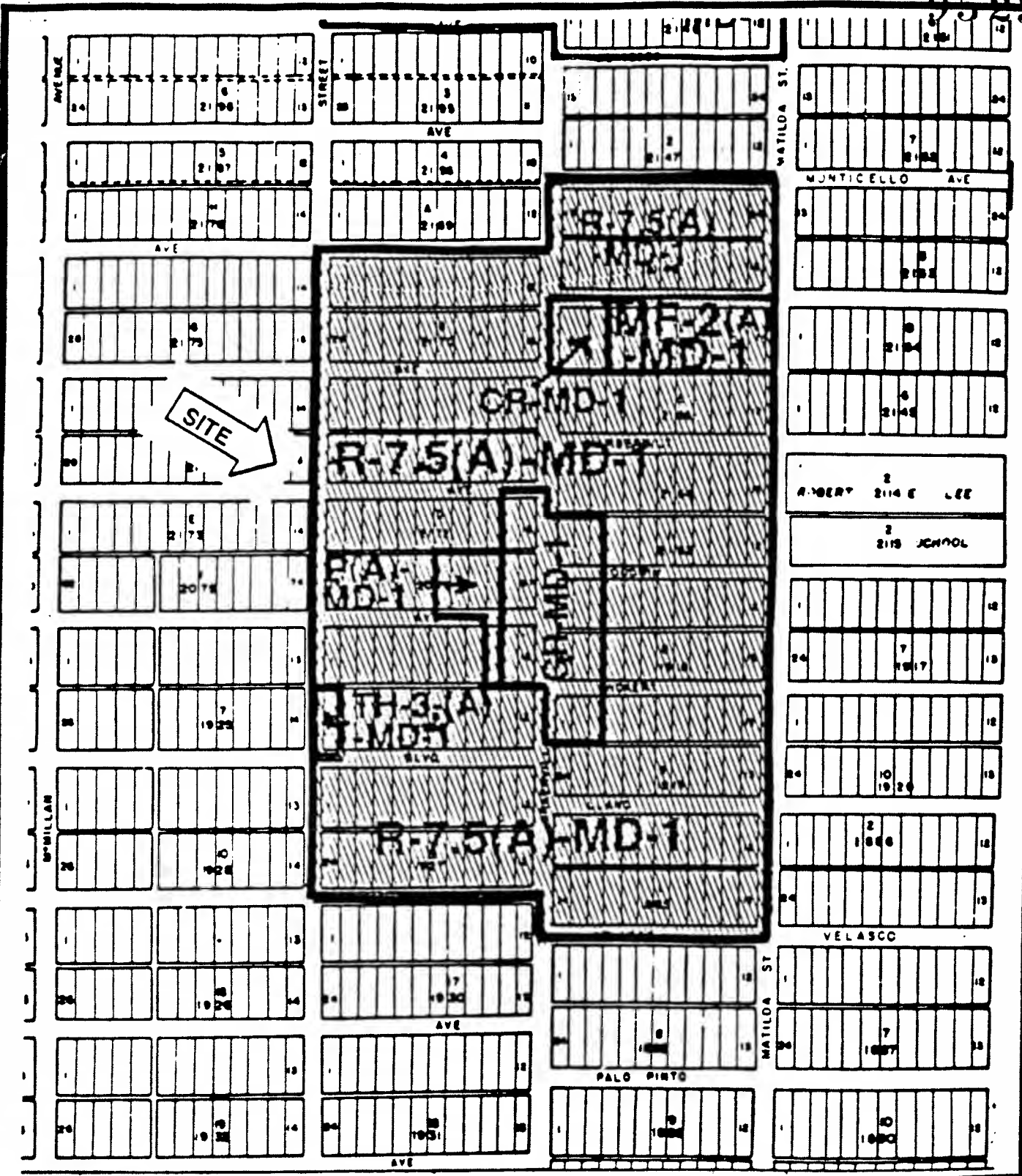
Passed _____

File No. Z945-206/6254-E



ZONING HISTORY
"AREA 1"

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

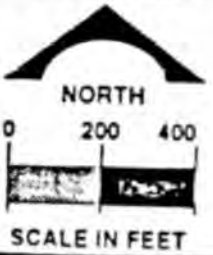
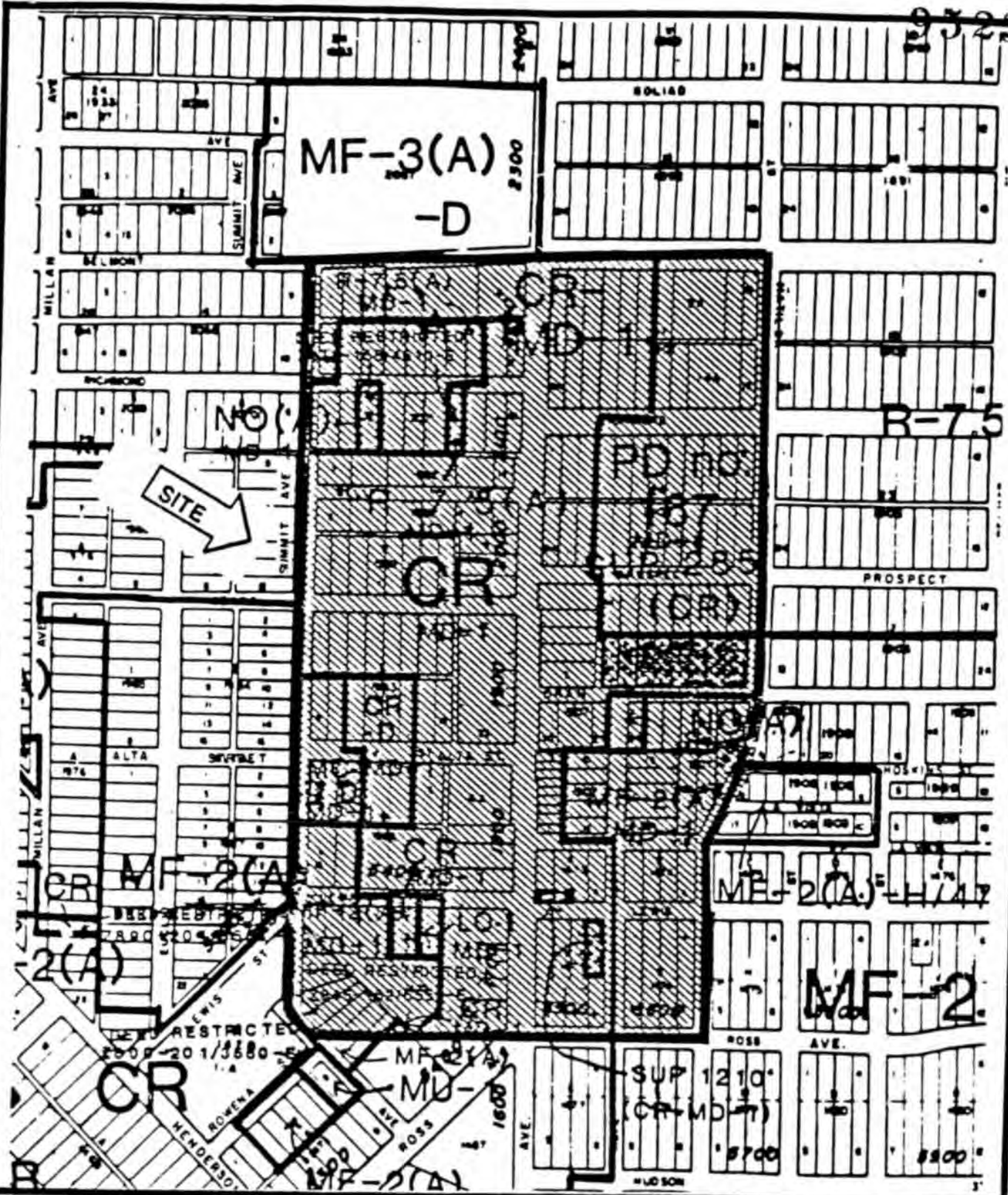


ZONING HISTORY

"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:

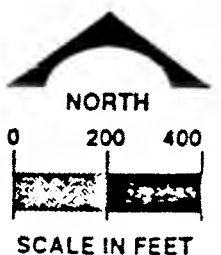
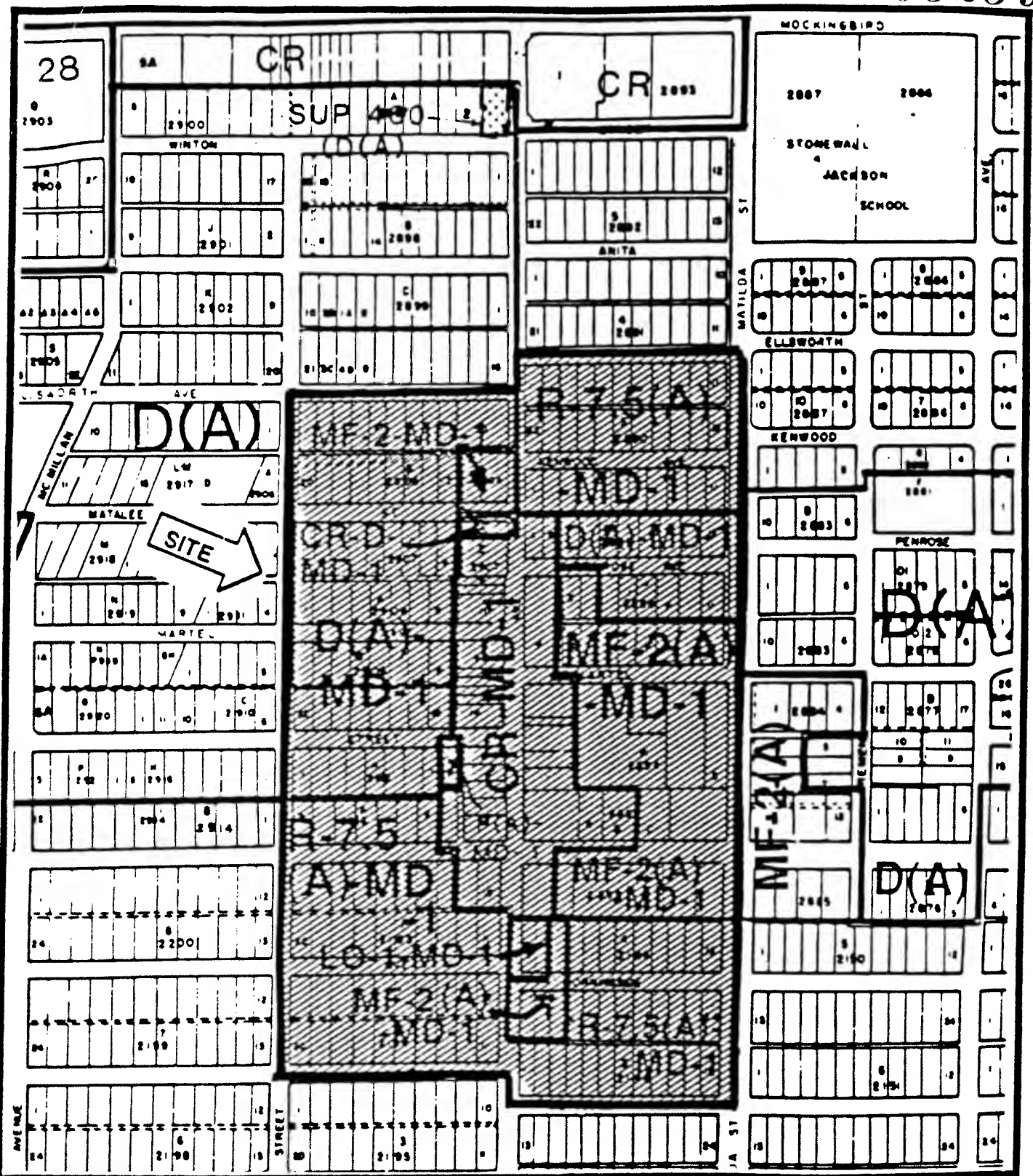
SAM A. LINDSAY, City Attorney

By  Assistant City Attorney

JUN 28 1995

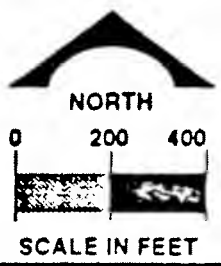
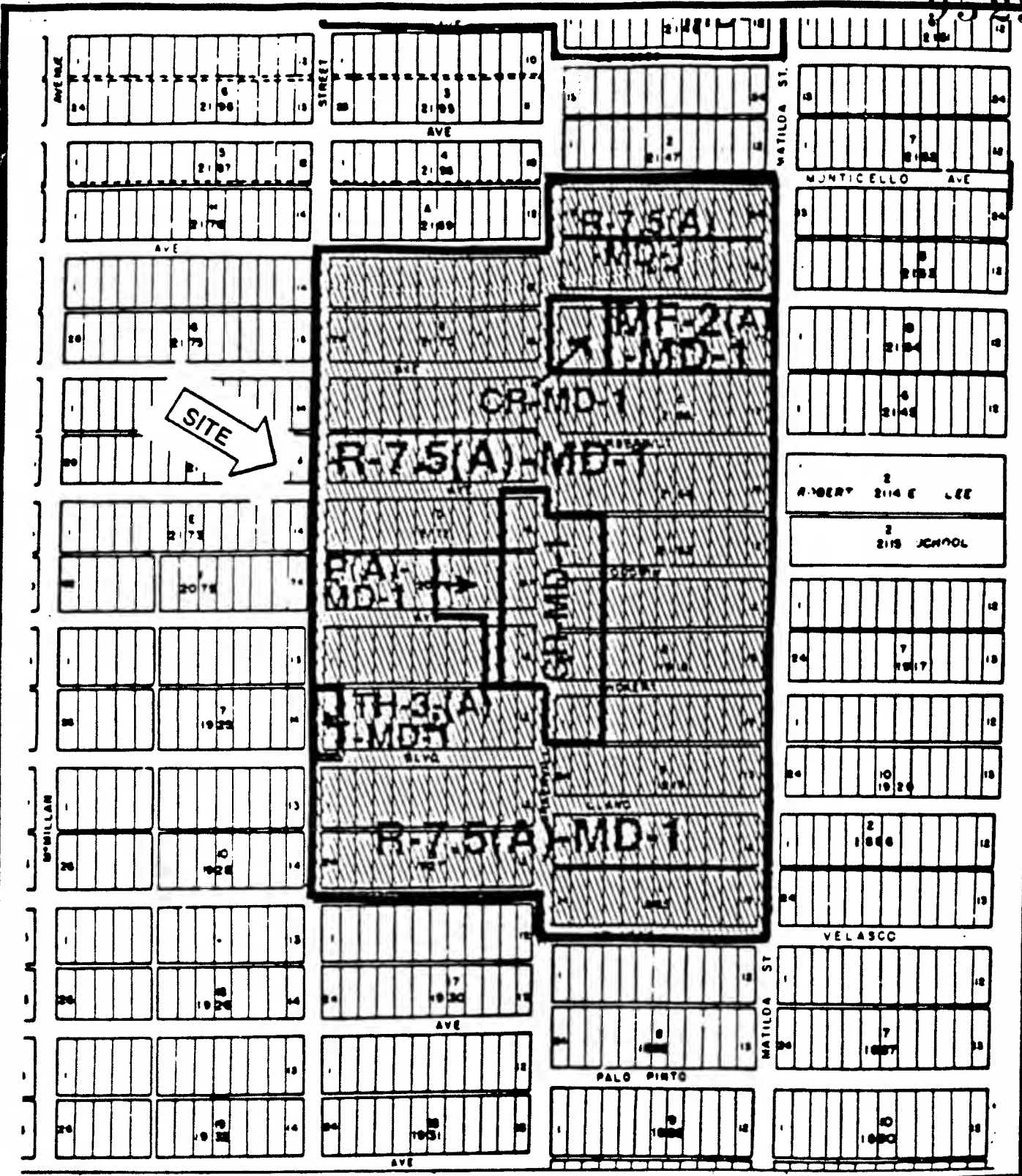
Passed _____

File No. Z945-206/6254-E



ZONING HISTORY
"AREA 1"

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

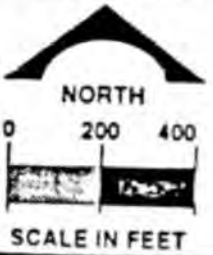
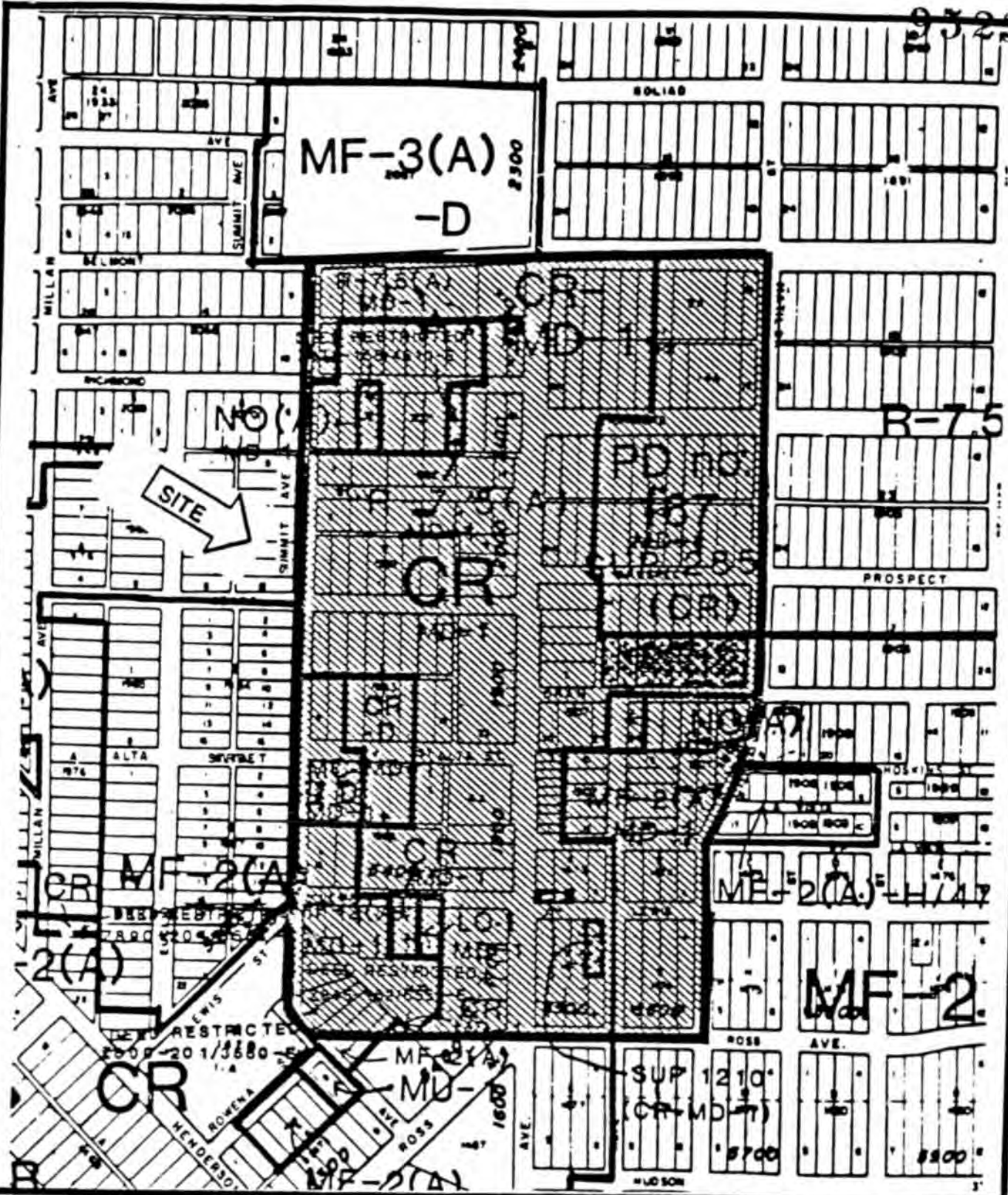


ZONING HISTORY

"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 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)

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 August 18, November 17, and January 20, 2021, 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. **As of the publishing of this docket on 1-12-22, no new case details were provided. However, the zoning case Z201-213 did go to City Council earlier today and was approved with no parking required for legacy buildings.**

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.

January 20, 2021: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the August 18, 2021.

January 26, 2021: 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.

January 12, 2022: As of the publishing of this docket, no new case details were provided. However, the zoning case Z201-213 did go to City Council and was approved with no parking required for legacy buildings.

BOARD OF ADJUSTMENT ACTION: November 17, 2021

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION: Mike Northrup 5703 Goliad Ave., Dallas, TX
Bruce Richardson 5607 Richmond Ave. Dallas, TX.
Chris Gunther 1500 Marilla St. Dallas, TX

MOTION: Cannon

I move that the Board of Adjustment in Appeal No. BDA 190-093, **hold** this matter under advisement until **January 19, 2022**.

SECONDED: Karnowski

AYES: 4 – Shouse, Karnowski, Gambow, Cannon

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: January 20, 2021

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING NEUTRAL: Jeffrey Karetnick 5739 Marquita Ave. Dallas, TX
April Segovia 5739 Marquita Ave. Dallas, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100 Richardson, TX
Richard Soltes 5607 Monticello 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 190-093, hold this matter under advisement until **August 18, 2021.**

SECONDED: **Williams**

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)

BOARD OF ADJUSTMENT ACTION: **October 21, 2020**

APPEARING IN FAVOR:

Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION:

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

MOTION: **Shouse**

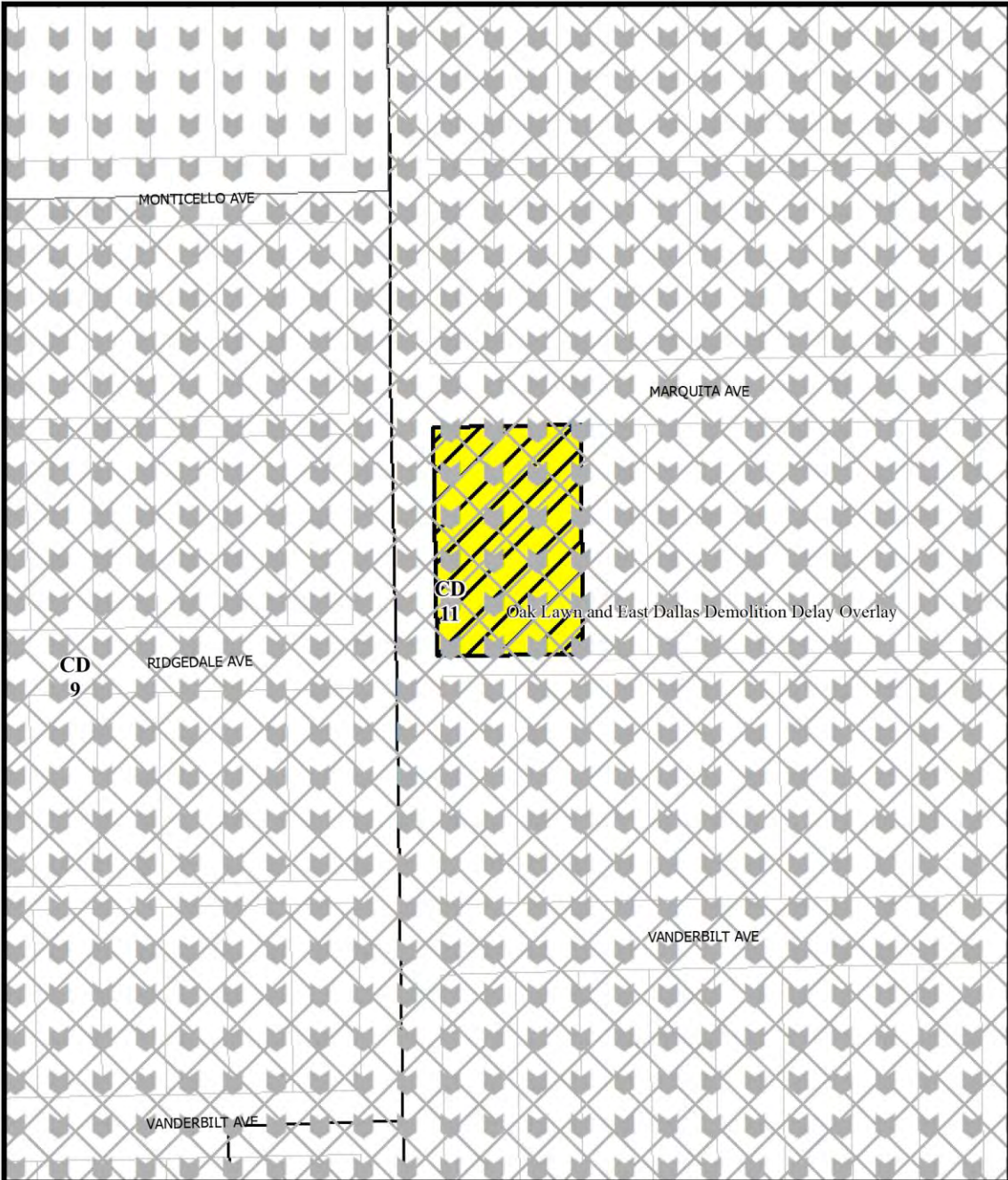
I move that the Board of Adjustment in Appeal No. BDA 190-093, **hold** this matter under advisement until **November 18, 2020.**

SECONDED: **Vermillion**

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

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

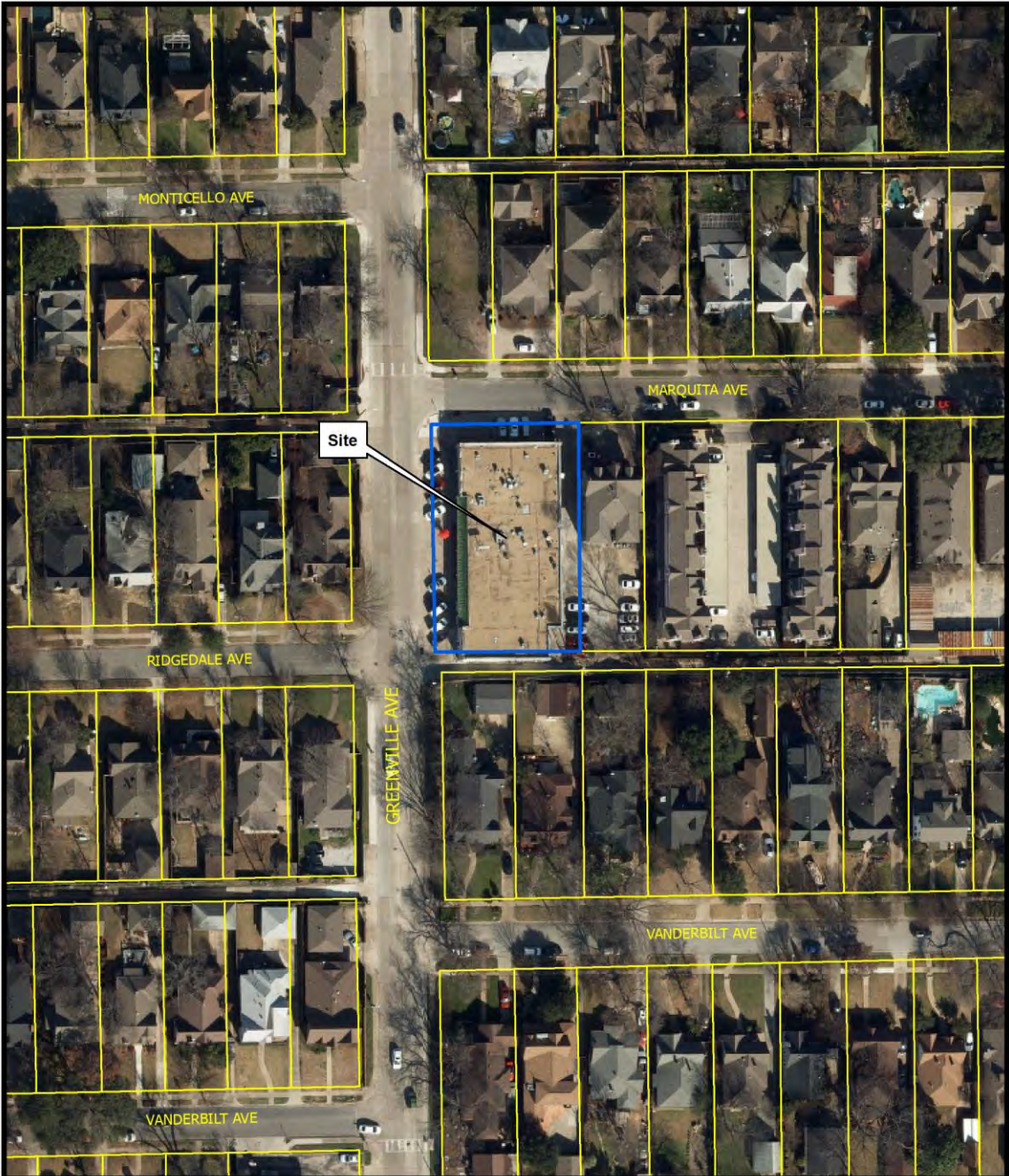


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ZONING MAP

Case no: BDA190-093

Date: 12/22/2021

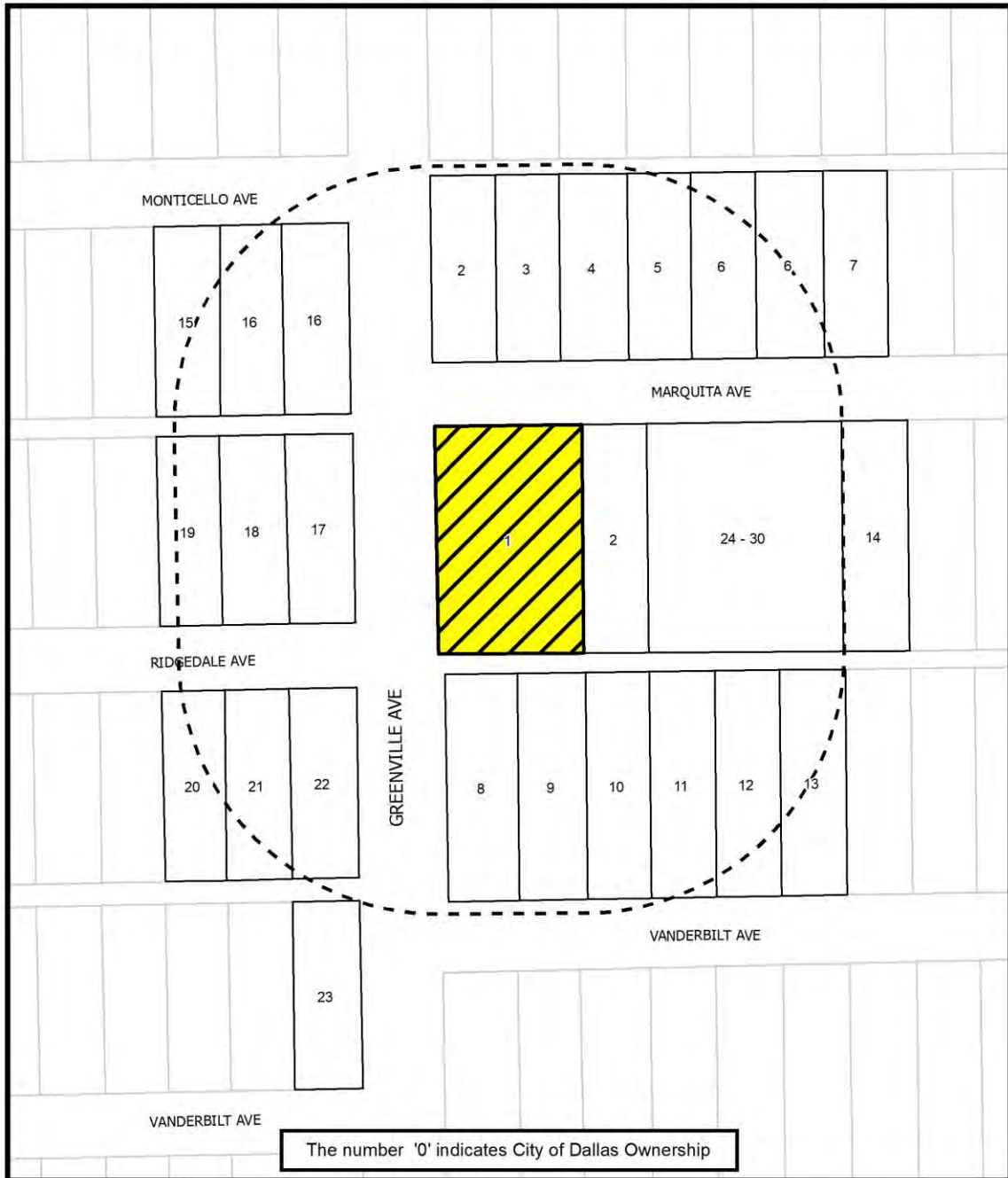


1:1,200

AERIAL MAP

Case no: BDA190-093

Date: 12/22/2021



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
30 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-093**
 Date: **12/22/2021**

12/22/2021

Notification List of Property Owners

BDA190-093

30 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3014 GREENVILLE AVE	Taxpayer at
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	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	TATE CHRISTINE M
26	5720 MARQUITA AVE	WILLINGHAM KIRK R

12/22/2021

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	5720 MARQUITA AVE	BURKE GARY A
28	5720 MARQUITA AVE	LOBO VINAY J
29	5720 MARQUITA AVE	BIRNBAUM MARC A &
30	5720 MARQUITA AVE	XOCHOTL LARA



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: [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 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)

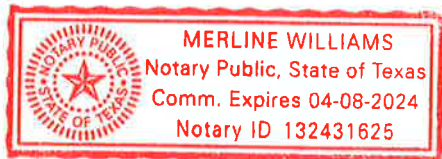
Special exception under Section 5 of Ordinance 19726 regarding the termination of delta credits for parking and loading spaces that are terminated because a use is discontinued or vacant for 12 months.

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

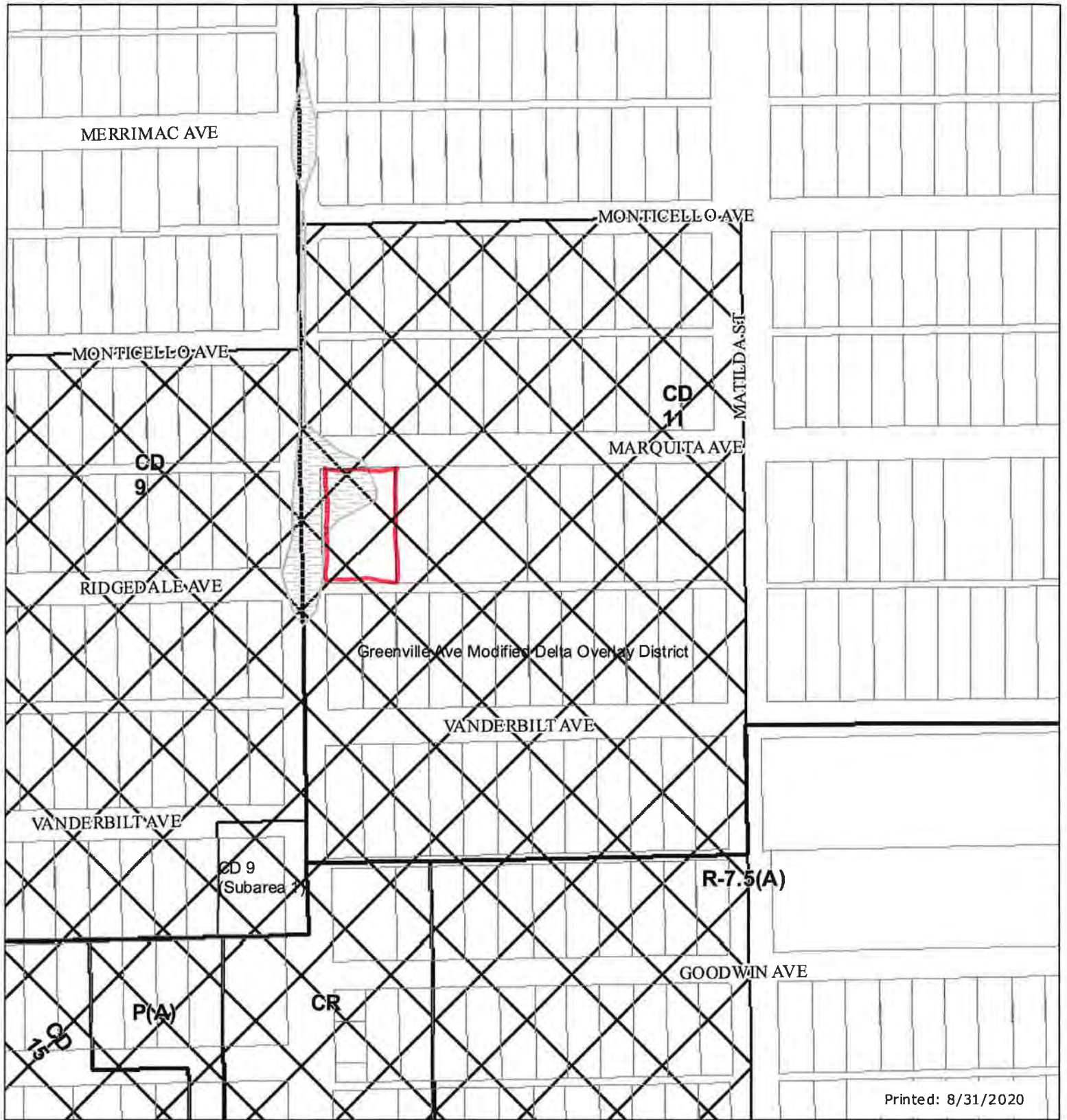
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

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 | SPSD Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | Shop Front Overlay 34-4 |
| | | Height Map Overlay | |

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





City of Dallas

Certificate of Occupancy

Address: 3024 GREENVILLE AVE 75206

Issued: 01/09/2017

Owner: SHIELDS LTD PS
418 E SHORE DR , KEMAH TEXAS 775652525 UNITED STATES OF AMERICA

DBA: SAN FRANCISCO ROSE

Land Use: (5821) ALCOHOLIC BEVERAGE ESTABLISHMENT

Occupied Portion:

C.O.#: 1604221106

Lot: 11	Block: 2168	Zoning: CD-11	PDD:	SUP:
Historic Dist:	Consv Dist: M Streets E	Pro Park: 36	Req Park: 36	Park Agrmt: N
Dwlg Units:	Stories: 1	Occ Code: A2	Lot Area: 20620	Total Area: 3610
Type Const: IIB	Sprinkler: None	Occ Load: 87	Alcohol: N	Dance Floor:N

Remarks: SUBJECT TO FIELD INSPECTOR APPROVAL / MAX OCC'Y LOAD IN BUILDING = 87; IN OPEN PATIO=30 PERSONS/

Philip Sikes, Building Official

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



CITY OF DALLAS

July 14, 2020

CERTIFIED MAIL No. 7019 1640 0001 6327 1329

Boo Bradberry

40/40 Enterprises, Inc DBA San Francisco Rose
1009 Stoneport Lane
Allen, Texas 75002

CERTIFIED MAIL No. 7019 1640 0001 6327 1305

Tom Shields

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

RE: Revocation of Certificate of Occupancy No. 1604221106 for an *Alcoholic Beverage Establishment* use at 3024 Greenville Avenue, Dallas, Texas 75206

Dear Mr. Bradberry and Mr. Shields:

Based upon articles written in the *Dallas Observer* and the San Francisco Rose Facebook page (Exhibit A), the building official has determined that the above use was discontinued in late 2017, over two years ago. The building official is required to revoke a certificate of occupancy if the building official determines that the use or occupancy authorized by the certificate of occupancy has been discontinued for six months or more.¹ Therefore, the above-referenced certificate of occupancy is hereby revoked.

Additionally, the above-referenced certificate of occupancy was approved based, in part, on compliance with off-street parking requirements which had been met, in part, with delta credits. Since this location has been closed for more than twelve months, all delta credits for this occupancy have been lost pursuant to the provisions of Ordinance No. 22472 for the Modified Delta Overlay No. 1 (Exhibit B). Fortunately, this ordinance allows the owner to make an appeal to the Board of Adjustment for a special exception to the provision that terminates delta credits as described in the attached ordinance. Questions about the Board of Adjustments should be directed to Charles Trammell at 214-948-4618.

¹ Section 306.13(7) of Chapter 52, "Administrative Procedures for the Construction Codes."



CITY OF DALLAS

Finally, since the above-referenced certificate of occupancy was issued for a nonconforming *alcoholic beverage establishment* use, which has been discontinued for more than six months, nonconforming right to open another nonconforming *alcoholic beverage establishment* use has also been lost.²

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

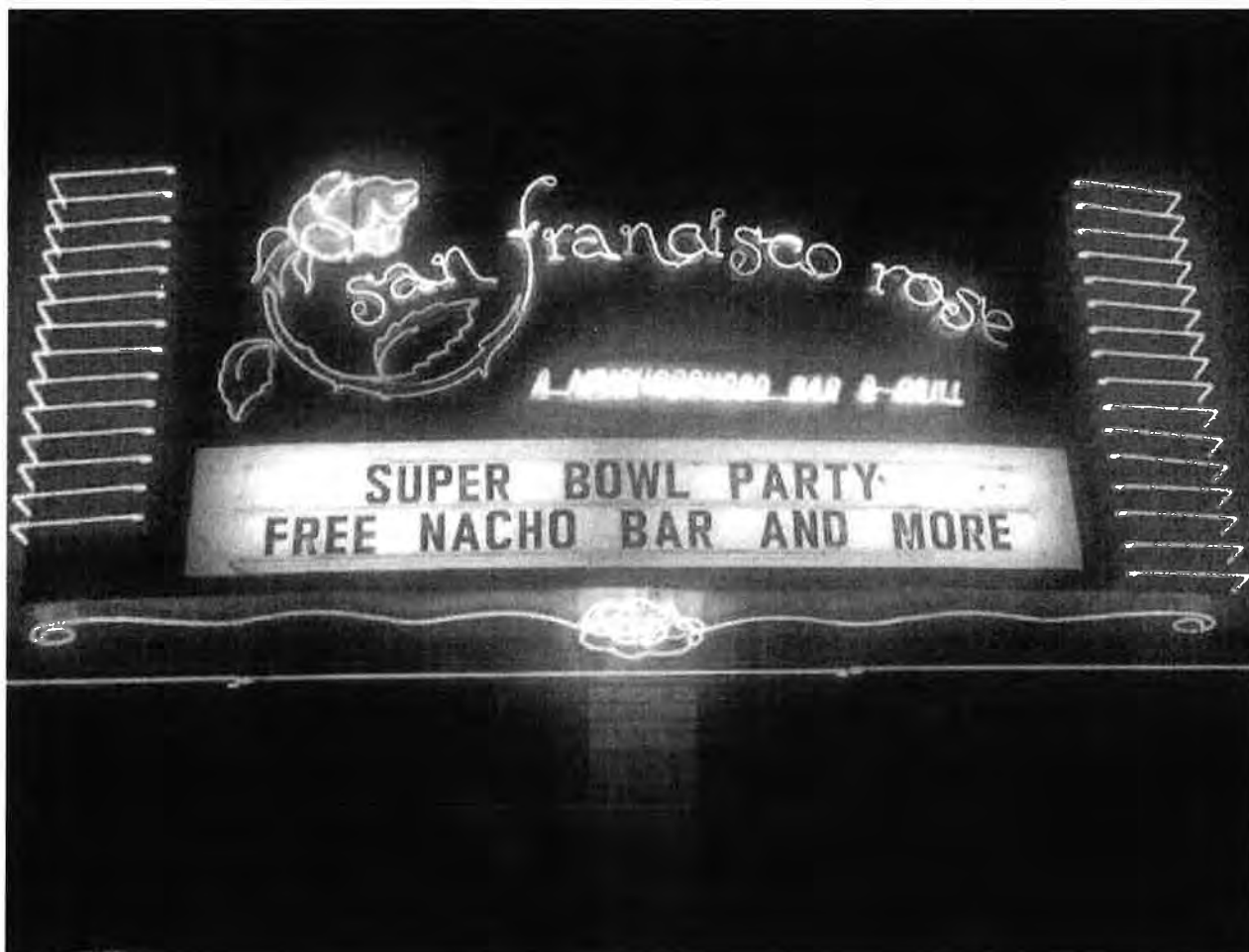
Sincerely,

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

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

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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

22472

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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.

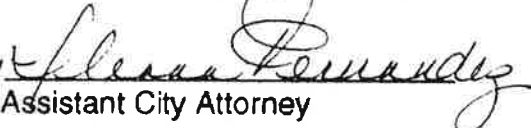
SECTION 7. That CHAPTERS 51 and 51A, "DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, and Ordinance No. 19726 shall remain in full force and effect, save and except as amended by this ordinance.

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:

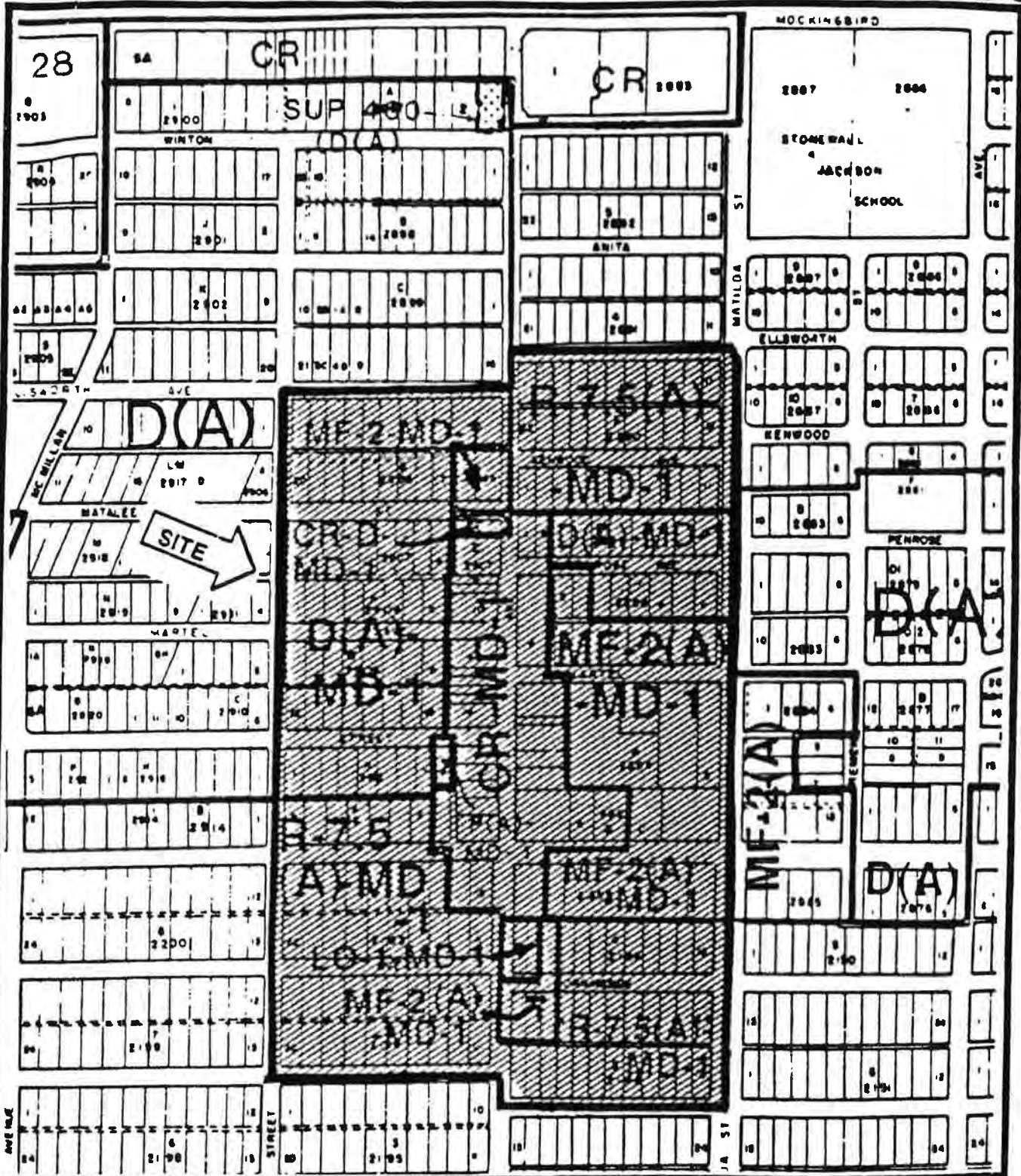
SAM A. LINDSAY, City Attorney

By 
Assistant City Attorney

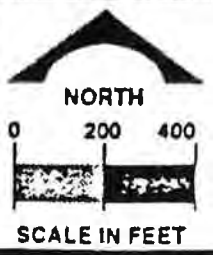
JUN 28 1995

Passed _____

File No. Z945-206/6254-E



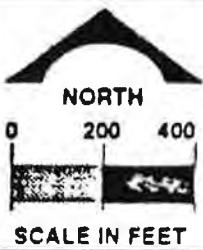
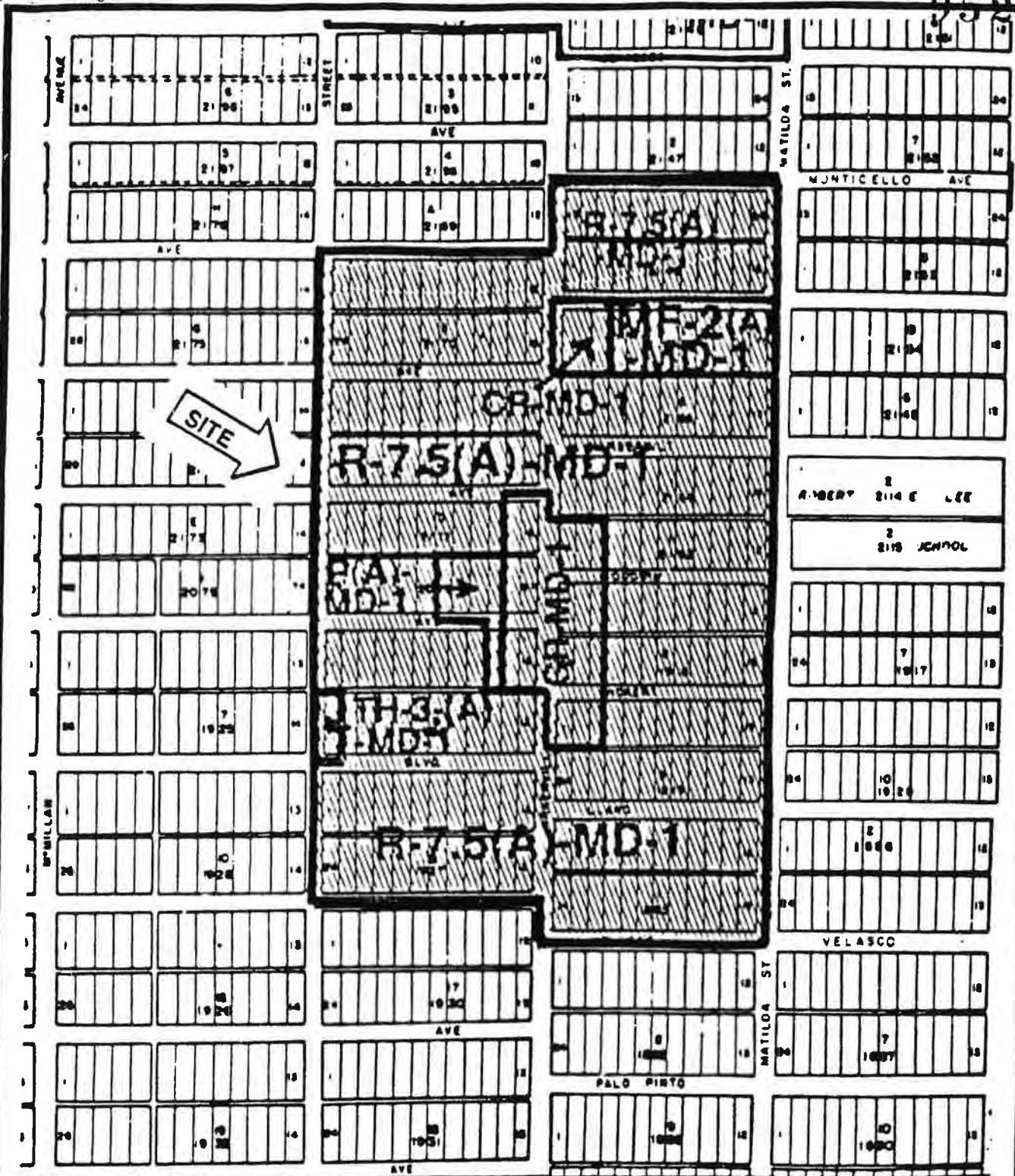
SITE



ZONING HISTORY
"AREA 1"

Map No. H-8, I-8

Case No. Z945-206/6254-E



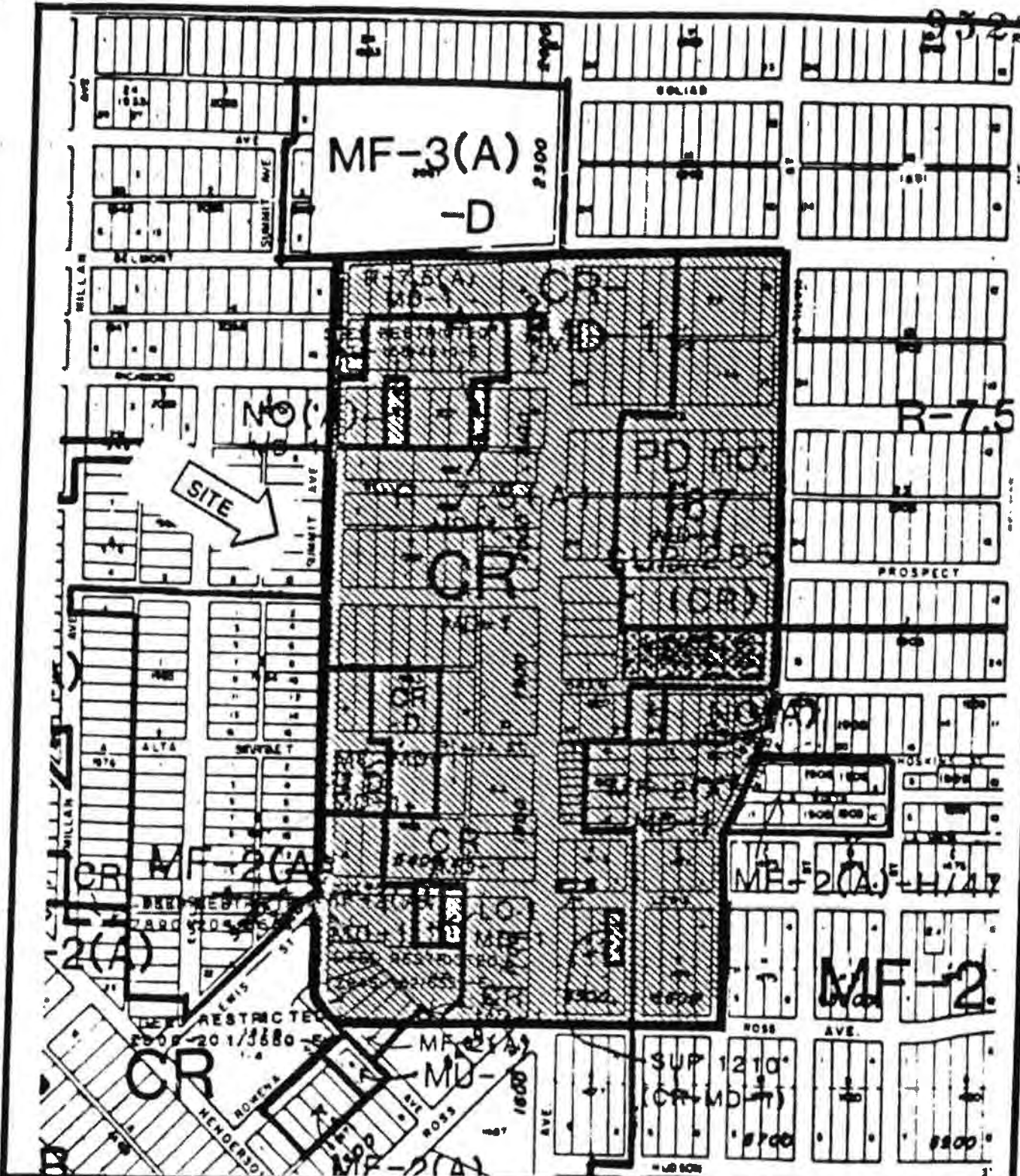
ZONING HISTORY

"AREA 2"

Map No. H-8, I-8

Case No. Z945-206/6254-E

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

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