

FILE NUMBER: Z223-273(TZ) **DATE FILED:** May 31, 2023
LOCATION: Northwest corner of South Buckner Boulevard and Scyene Road.
COUNCIL DISTRICT: 5
SIZE OF REQUEST: Approx. 0.2031 acres **CENSUS TRACT:** 48113008500

REPRESENTATIVE: Andrew Ruegg, Masterplan

APPLICANT/OWNER: SAI DS – Buckner Inc.

REQUEST: An application for the automatic renewal of Specific Use Permit No. 2160 for the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less on property within Subarea 7 of Planned Development District No. 366, the Buckner Boulevard Special Purpose District, with a D-1 Liquor Control Overlay.

SUMMARY: This application for automatic renewal is being forwarded to the city plan commission for further action in accordance with Section 51A-4.219(c) of the Dallas City Code. The city plan commission shall make a recommendation to the city council regarding the proposed renewal.

CPC RECOMMENDATION: Denial of the automatic renewal for an additional three-year period and approval of the renewal of Specific Use Permit No. 2160 for a one-year period in lieu of the requested automatic renewal.

STAFF RECOMMENDATION: Denial of the automatic renewal for an additional three-year period and approval of the renewal of Specific Use Permit No. 2160 for a one-year period in lieu of the requested automatic renewal.

Specific Use Permit [Ref. Sec. 51A-4.219(c) for Automatic Renewals]:
https://codelibrary.amlegal.com/codes/dallas/latest/dallas_tx/0-0-0-82053

Planned Development District No. 366
<https://dallascityhall.com/departments/city-attorney/pages/articles-data.aspx?pd=366>

BACKGROUND INFORMATION:

- On November 10, 2015, City Council authorized the request property to be used under Specific Use Permit (SUP) No. 2160 for the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less, subject to a site plan and conditions, for a two-year period with no eligibility for automatic renewal.
- On December 12, 2018, City Council granted the renewal of SUP No. 2160, again for a two-year period with no eligibility for automatic renewal.
- On November 11, 2020, City Council granted the renewal of SUP No. 2160 for a three-year period but with eligibility for automatic renewal for additional three-year periods.
- The current request is an application for automatic renewal of SUP No. 2160.
- Having found the site to be out of compliance with the conditions of the SUP, the application must be forwarded to City Plan Commission and City Council for further action in accordance with Section 51A-4.219(c) of the Dallas City Code.

Zoning History:

There have been four zoning change requests in the area in the last five years.

1. **Z201-219:** On August 11, 2021, City Council authorized the renewal of Specific Use Permit (SUP) No. 2219 for the sale of alcoholic beverages in conjunction with a restaurant without drive-in or drive-through service on property within Subarea 1 of Planned Development District No. 366 (Buckner Boulevard Special Purpose District) with a D-1 Liquor Control Overlay on the east line of South Buckner Boulevard, south of Scyene Road, for five-year time-period with eligibility for automatic renewal for additional five-year periods.
2. **Z201-350:** On January 5, 2022, Specific Use Permit (SUP) No. 2034 for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property within Subarea 1 of Planned Development District No. 366 (Buckner Boulevard Special Purpose District) with a D-1 Liquor Control Overlay on the east line of South Buckner Boulevard, south of Scyene Road, was automatically renewed for an additional five-year time-period. The new expiration date is February 22, 2027.
3. **Z201-289:** On March 8, 2022, Specific Use Permit (SUP) No. 1805 for an open-enrollment charter school on property zoned an R-7.5(A) Single Family District on the south line of Scyene Road, west of Buckner Boulevard, was automatically renewed for an additional five-year time period. The new expiration date is October 26, 2026.

4. **Z223-212:** On March 27, 2024, City Council approved an ordinance changing the zoning classification of property on the southeast corner of Prichard Lane and Scyene Road from a CR Community Retail District with a D Liquor Control Overlay to an MU-1 Mixed Use District with a D Liquor Control Overlay.

Thoroughfares/Streets:

Thoroughfare/Street	Type	Proposed ROW
Buckner <i>[IH-30 to Great Trinity Forest]</i>	Principal Arterial	Standard-6 lanes-Divided 107 ft ROW; Bike Plan
Scyene Road <i>[East Scyene Circle to West Scyene]</i>	Community Collector	Standard-4 lanes-Undivided 60 ft ROW; 44 ft pavement <i>(not built to S-4-U designation)</i>

Surrounding Land Uses:

	Zoning	Land Use
Site	PD 366 (Subarea 7) w a D-1 Liquor Control Overlay	General Merchandise or food store 3,500 square feet or less; motor vehicle fueling station
North	R-7.5(A) Single Family District w SUP No. 92 for a cemetery	Cemetery
East	PD 366 (Subarea 1) w a D-1 Liquor Control Overlay	Restaurant with drive through; retail
Southeast	PD 366 (Subarea 1) w a D-1 Liquor Control Overlay	Various retail
South	R-7.5(A) Single Family District w SUP No. 92 for a cemetery	Cemetery
West	R-7.5(A) Single Family District w SUP No. 92 for a cemetery	Cemetery
Southwest	MU-1 Mixed Use District w a D Liquor Control Overlay; R-7.5(A) Single Family District	Undeveloped; open-enrollment charter school

STAFF ANALYSIS:

Land Use Compatibility:

The request property is located within Subarea 7 of Planned Development District No. 366 and is developed with a general merchandise or food store 3,500 square feet or less and a motor vehicle fueling station. Although these land uses are allowed by right under the current zoning classification of the site, because the property is located within a D-1 Liquor Control Overlay, an SUP is required in order to sell alcoholic beverages.

The use authorized by the SUP (the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less) remains compatible with surrounding land uses. However, because the property was found to be out of compliance with the conditions of SUP No. 2160, the automatic renewal request is forwarded to city plan commission to make a recommendation to city council regarding the renewal.

Automatic Renewal of a Specific Use Permit (SUP):

The requirements for automatic renewal of an SUP are outlined in Section 51A-4.219(c) of the Dallas City Code:

1. Application for automatic renewal must be filed after the 180th but before the 120th day before the expiration of the current specific use permit period.

Staff Comments: Application for automatic renewal was received within the required time frame.

2. Upon the filing of a complete application for automatic renewal, the director shall send written notice to all owners of real property lying within 200 feet of the area governed by the SUP. The notice must state that the SUP is eligible for automatic renewal and may be automatically renewed without further notice.

Staff Comments: Written notice of the application for automatic renewal was sent to property owners within 200 feet of the property governed by the SUP on December 1, 2023.

3. If the owners of 20 percent or more of the land within 200 feet of the area governed by the SUP file a written protest against the automatic renewal, the director shall forward the application to the city plan commission and city council for further action. Written protests against an automatic renewal must be filed with the director before 5:00 p.m. of the 21st calendar day after the date the notice is mailed. A protest sent through the mail must be received by the director before the deadline.

Staff Comments: Notices were mailed to nine property owners within the notification area. Staff received zero replies in favor and zero replies in opposition before 5:00 p.m. of the 21st calendar day [December 22, 2023] after the date the notices were mailed.

4. After the deadline for filing written protests has passed, the director shall review the conditions of the SUP and determine whether the conditions have been met. If the director determines that the conditions have not been met, he shall forward the application to the city plan commission and city council for further action.

Staff Comments:

- Staff conducted initial site inspection on **December 28, 2023**.
 - Notification of non-compliance with the conditions of the SUP were forwarded to the applicant on **February 12, 2024**, as follows, with a deadline for compliance set for **March 8, 2024**:
 - **SUP Condition #2 – Site Plan: Use and development of the Property must comply with the attached site plan.**
 - **Landscaping** – Required plantings are missing and/or have not been maintained in a healthy growing condition as required. Field corrections are required in order to bring the site into compliance with landscaping per the site plan. As an alternative, you may revise the application to a request for an amendment to the SUP to request approval of the landscaping as currently provided on site.
 - **Dumpster screening** – Dumpster must be contained within the required screening area, and doors must remain closed between the hours of 10:00 p.m. and 7:00 a.m. and at all other times except when in actual use. Field corrections are required for compliance.
 - **SUP Condition #5 – General requirements: Use of the Property must comply with ... all ordinances, rules, and regulations of the City of Dallas.**
 - **C-store license** – A convenience store license is required for operation of a general merchandise or food store 3,500 square feet or less. Please provide evidence of current license.
 - **C/O #1906211113** – The certificate of occupancy indicates that “NO COMMERCIAL AMUSEMENT INSIDE OF ANY KIND IS ALLOWED”. Staff noted at time of site visit that several gaming machines were in use inside the store. Please update your certificate of occupancy to allow the commercial amusement (inside) use or remove the gaming machines from the premises to comply with the conditions of the issued certificate of occupancy.
 - **Addition permit** – The proposed extension (building addition) shown on the SUP site plan does not appear to be properly

permitted; however, staff noted at time of site visit that this extension area is in use. Please obtain permit(s) to complete work started on expired permit #1104191070 or provide written documentation from Development Services Department indicating that the required permits for the building addition were obtained and all required inspections were completed.

- *On **March 8, 2024**, the applicant provided a status update, indicating that replacement landscaping was in process and that they were working through dumpster issues with Waste Connections, working on C-store certification with code compliance, working on finding permit documentation, and provided pictures to show that gaming machines had been removed from the property.*
- *After additional email exchange seeking greater detail regarding progress towards compliance with the SUP conditions, staff met with the applicant on **March 15, 2024**, and ultimately extended the compliance date to **April 15, 2024**, at the applicant's request. Staff noted at this time that all deficiencies must be brought into compliance by this extended deadline; however, the deadline for compliance could be extended if the only remaining issue was obtaining all required inspections on the addition permit.*
- *On **April 19, 2024**, staff informed the applicant that due to the deficiencies not being addressed by the extended deadline of April 15th, staff would prepare to place the application on the May 16th CPC agenda. However, staff noted that if all remaining compliance issues (**C-store license, landscaping, permit for addition, and all required inspections on the addition permit**) were resolved by May 1st, staff could pull the item from the CPC agenda.*
- *On **April 22, 2024**, staff learned that the store was damaged by fire over the preceding weekend.*
- *On **May 10, 2024**, staff conducted a follow-up site visit and confirmed that the store remains closed for operations:*

Due to non-compliance with the conditions of SUP No. 2160, staff recommends denial of the request for automatic renewal. However, staff recommends renewal of the SUP for a one-year time period in order to allow the applicant to repair fire damage and to resolve the remaining issues of non-compliance.

Landscaping:

Landscaping must comply with the plantings shown on the SUP No. 2160 site plan.

Although additional plants were installed in an effort to address the deficiencies noted by staff, the city arborist indicates that the plant sizes are not minimum standard for new required landscaping.

Parking:

Off-street parking and loading must be provided in accordance with Division 51A-4.200 for all uses to be located on the property. For a general merchandise of food store 3,500 square feet or less, one space is required per 200 square feet of floor area. The SUP site plan indicates a total of 13 off-street parking spaces are required and provided, including two spaces required for the motor vehicle fueling station on the property.

At time of site visit, staff observed the property to be in compliance with off-street parking requirements as noted above.

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List of Officers

SAI DS – Buckner Inc.

Surendra Shrestha - Owner

CPC Action
May 16, 2024

Motion: It was moved to recommend **denial** of the automatic renewal for an additional three-year period and **approval** of the renewal of Specific Use Permit No. 2160 for a one-year period in lieu of the requested automatic renewal, for the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less on property within Subarea 7 of Planned Development District No. 366, the Buckner Boulevard Special Purpose District, with a D-1 Liquor Control Overlay, on the northwest corner of South Buckner Boulevard and Scyene Road.

Maker: Shidid
Second: Housewright
Result: Carried: 10 to 0

For: 10 - Chernock, Herbert, Forsyth, Shidid, Carpenter,
Wheeler Reagan, Housewright, Hall, Kingston,
Rubin

Against: 0
Absent: 5 - Hampton, Blair, Sleeper, Eppler, Haqq
Vacancy: 0

Notices: Area: 200 Mailed: 9
Replies: For: 0 Against: 0

Speakers: For: Andrew Ruegg, 2201 Main St., Dallas, TX, 75201
Against: None

CPC-Recommended SUP No. 2160 Conditions

1. USE: The only use authorized by this specific use permit is the sale of alcoholic beverages in conjunction with a general merchandise of food store 3,500 square feet or less.
2. SITE PLAN: Use and development of the Property must comply with the attached site plan.

CPC & Staff recommendation:

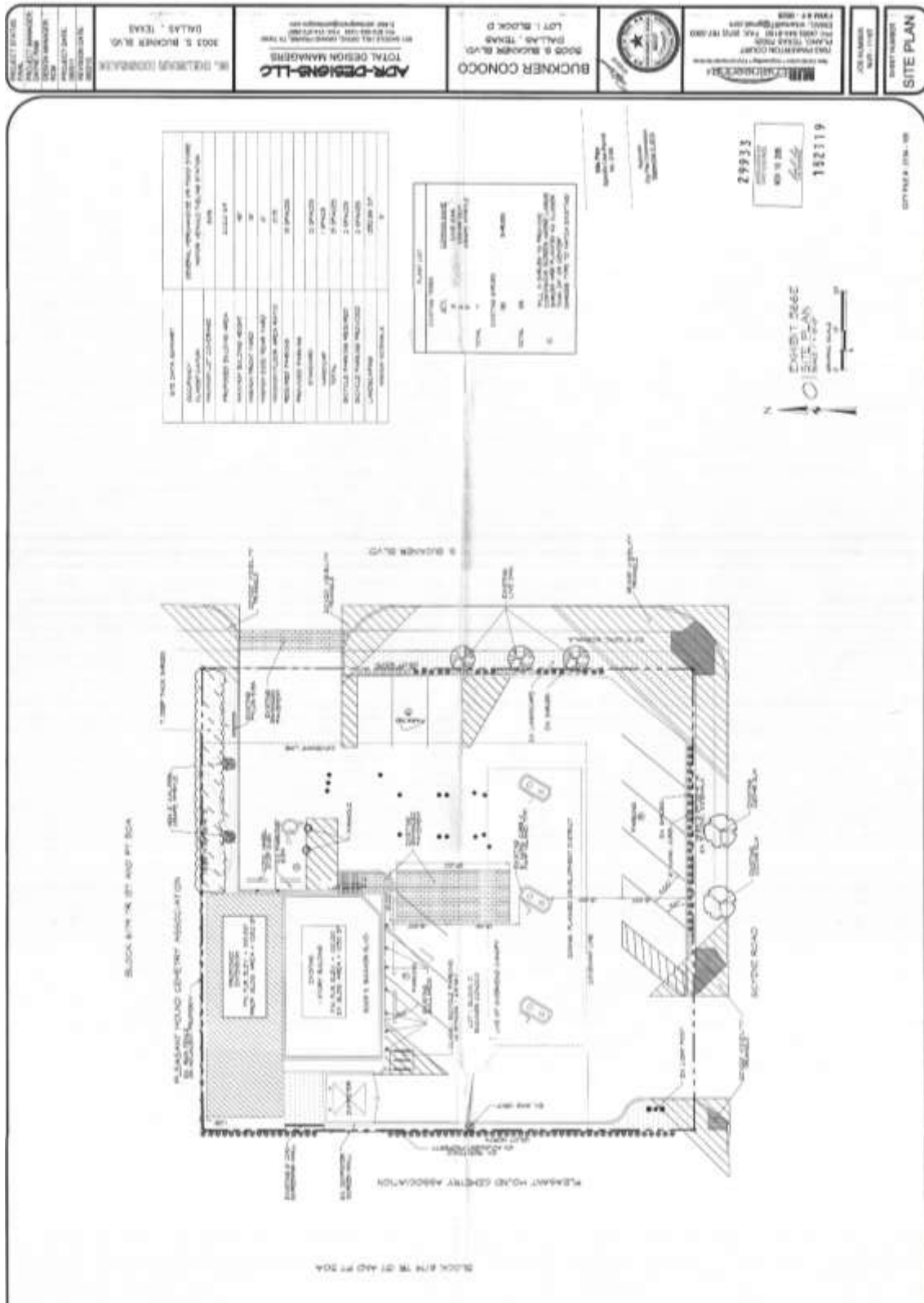
3. TIME LIMIT: This specific use permit expires on ~~[one year after the passage of this ordinance.] [November 11, 2023, but is eligible for automatic renewal for additional three-year periods, pursuant to Section 51A-4.219 of Chapter 51A of the Dallas City Code, as amended. For automatic renewal to occur, the Property owner must file a complete application for automatic renewal with the director before expiration of the current period. Failure to timely file a complete application will render this specific use permit ineligible for automatic renewal. (Note: The Code currently provides that applications for automatic renewal must be filed after the 180th but before the 120th day before the expiration of the current specific use permit period. The Property owner is responsible for checking the Code for possible revisions to this provision. The deadline for applications for automatic renewal is strictly enforced.)]~~

Existing:

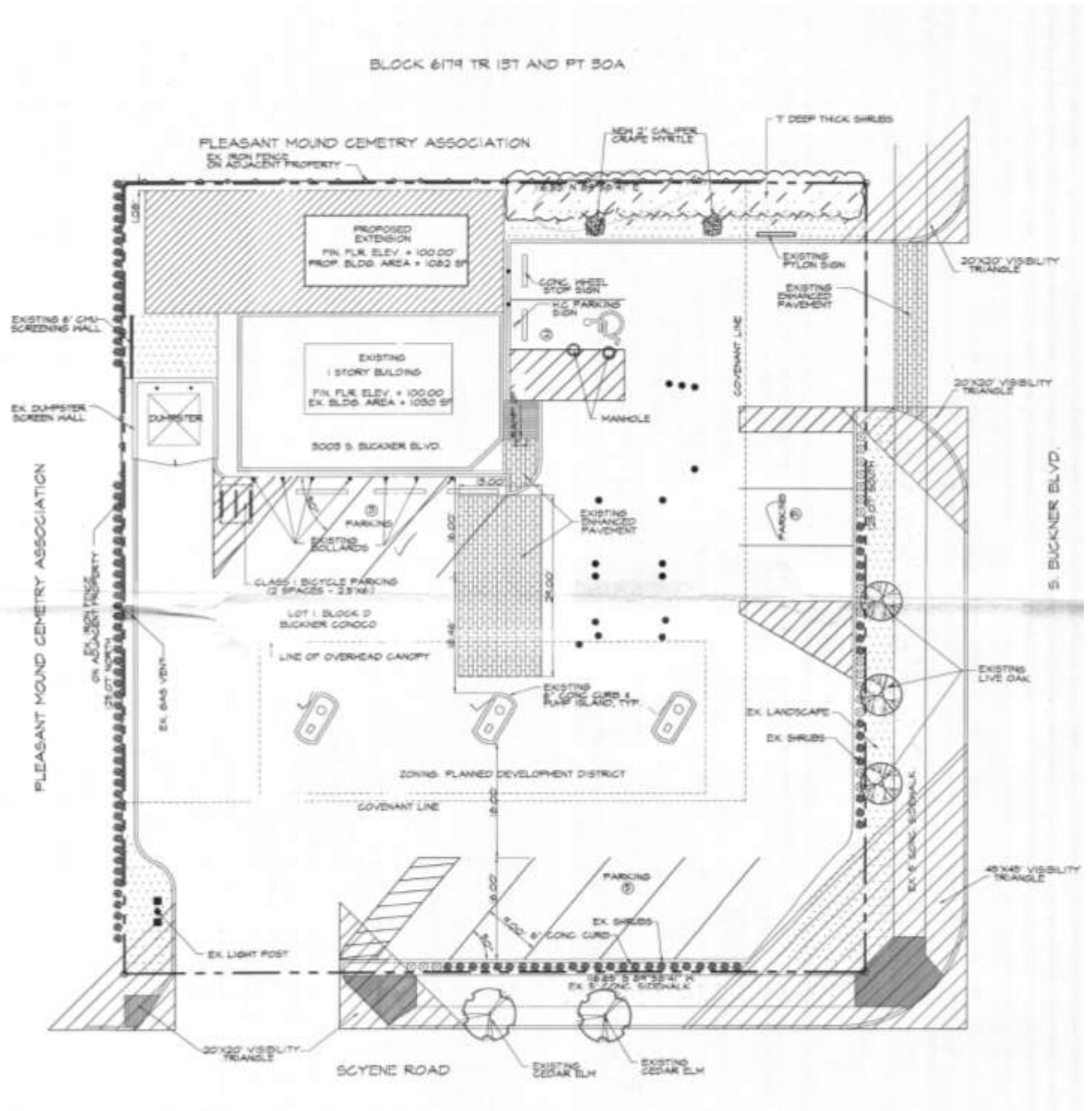
3. TIME LIMIT: This specific use permit expires on November 11, 2023, but is eligible for automatic renewal for additional three-year periods, pursuant to Section 51A-4.219 of Chapter 51A of the Dallas City Code, as amended. For automatic renewal to occur, the Property owner must file a complete application for automatic renewal with the director before expiration of the current period. Failure to timely file a complete application will render this specific use permit ineligible for automatic renewal. (Note: The Code currently provides that applications for automatic renewal must be filed after the 180th but before the 120th day before the expiration of the current specific use permit period. The Property owner is responsible for checking the Code for possible revisions to this provision. The deadline for applications for automatic renewal is strictly enforced.)

4. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.
5. GENERAL REQUIREMENTS: Use of the Property must comply with all federal and state laws and regulations, and with all ordinances, rules, and regulations of the City of Dallas

EXISTING SUP No. 2160 SITE PLAN [For Reference]

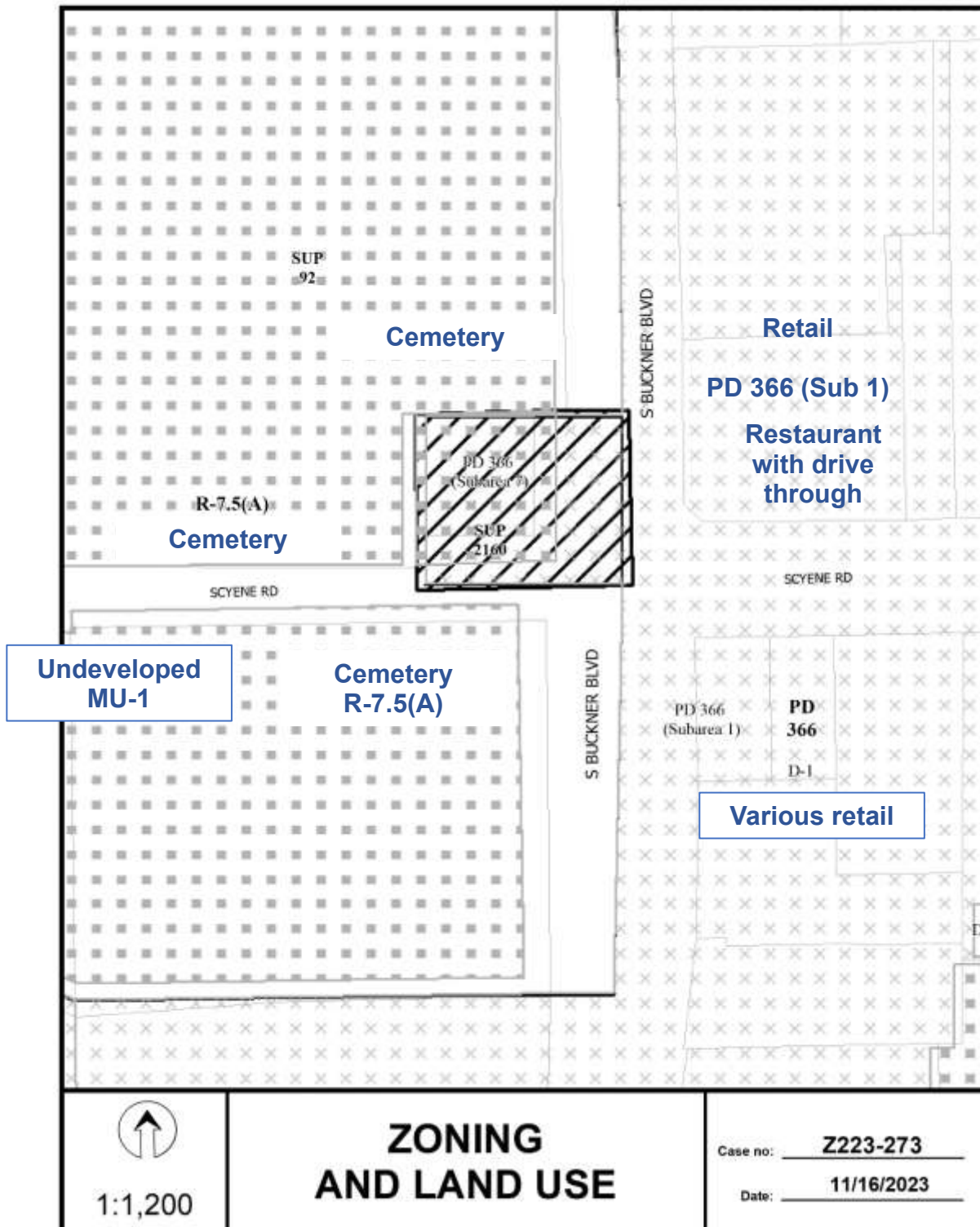


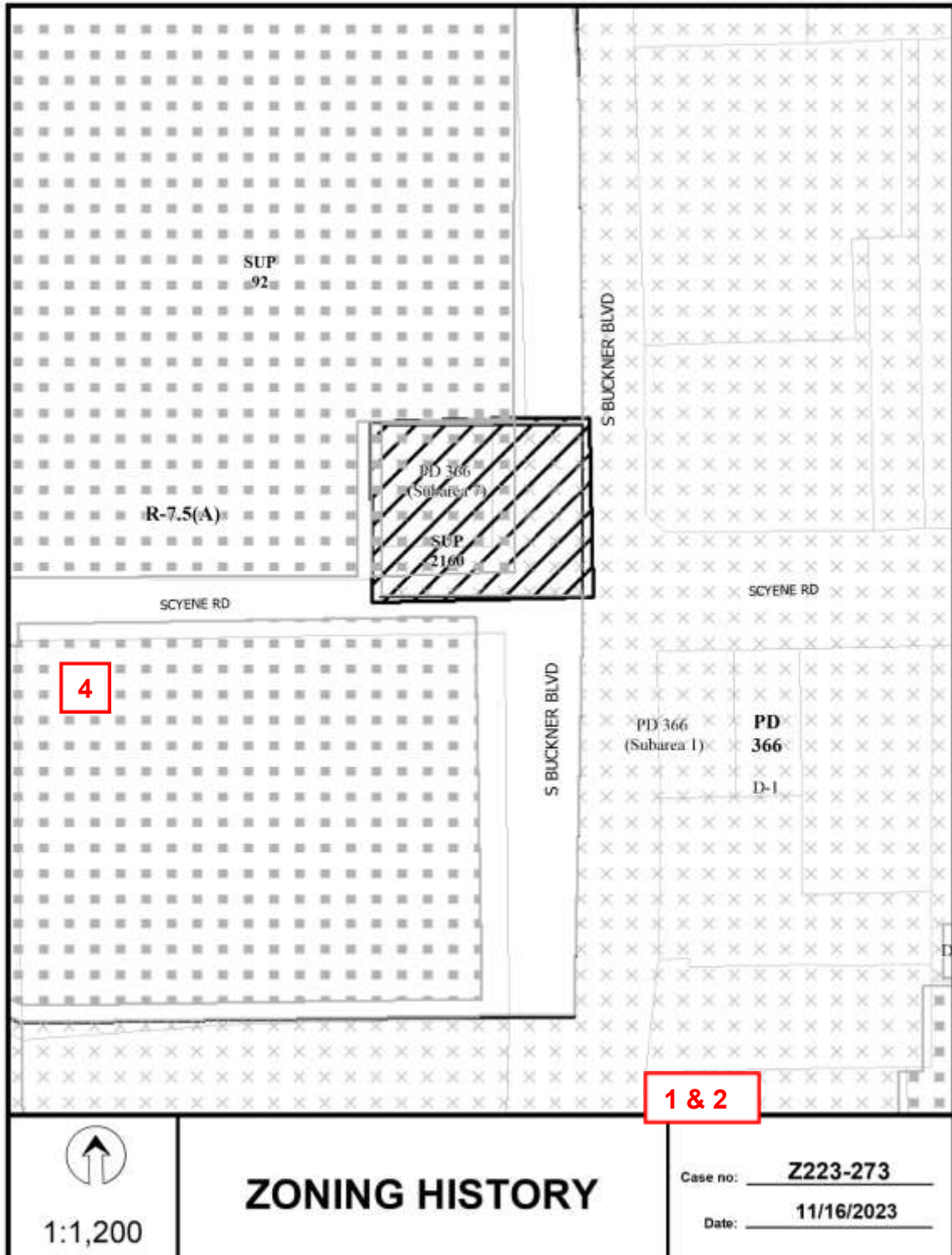
**EXISTING SUP No. 2160 SITE PLAN [Enlarged]
[For Reference]**

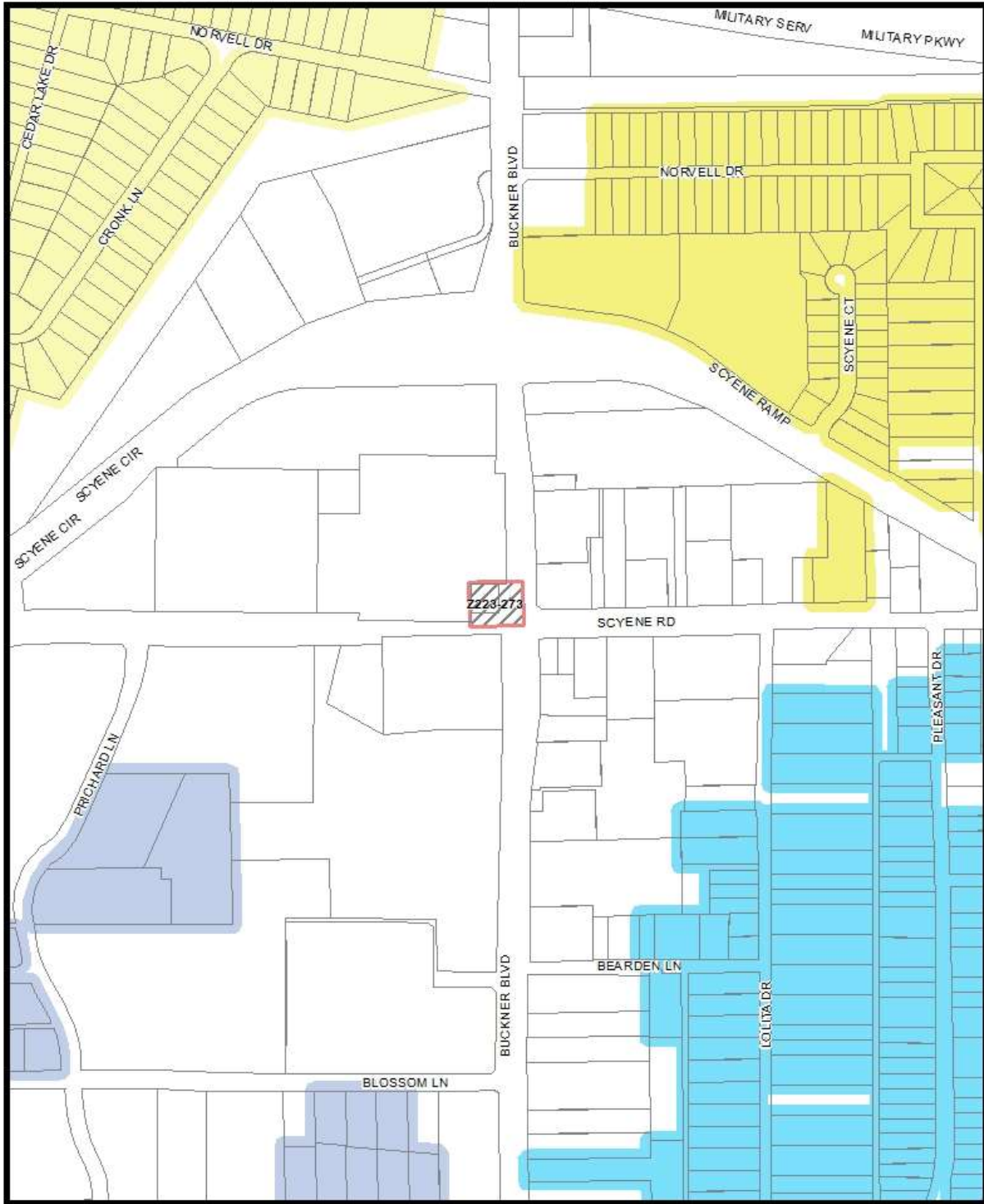










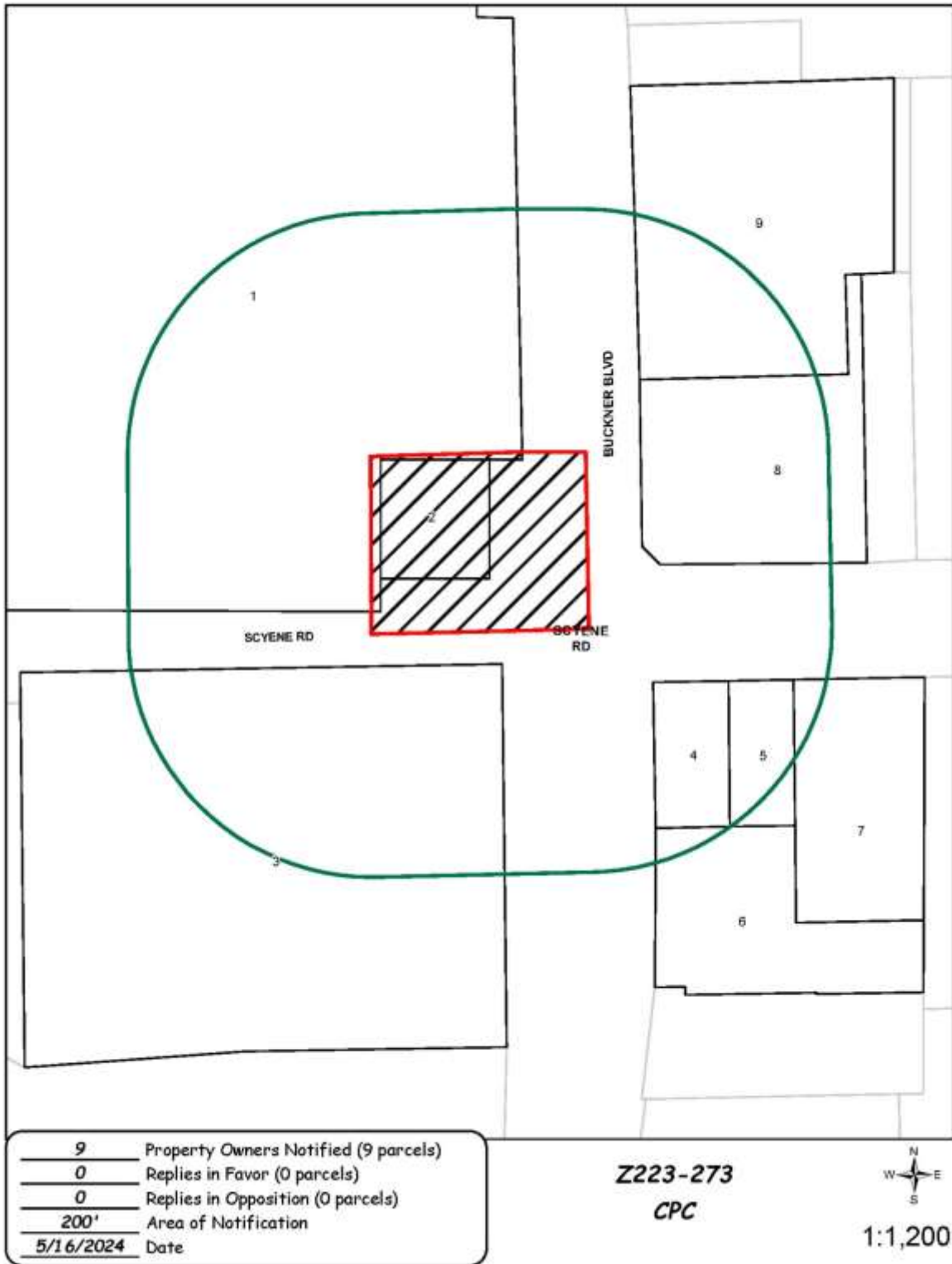


Market Value Analysis A B C D E F G H I NA

1:4,800

Market Value Analysis

Printed Date: 11/16/2023



Z223-273(TZ)

05/15/2024

Reply List of Property Owners

Z223-273

9 Property Owners Notified 0 Property Owners in Favor 0 Property Owners Opposed

<i>Reply</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3151	S BUCKNER BLVD	PLEASANT MOUND CEMETERY
2	3003	S BUCKNER BLVD	SAI DSBUCKNER INC
3	8050	SCYENE RD	CEMETERY
4	2952	S BUCKNER BLVD	MONA & NADA CORPORATION
5	8106	SCYENE RD	ZUNIGA CLAUDIA Y
6	2940	S BUCKNER BLVD	MITCHELL WILLIAM J &
7	8116	SCYENE RD	Taxpayer at
8	3004	S BUCKNER BLVD	FIREBRAND PROPERTIES LP
9	3110	S BUCKNER BLVD	FIRST CASH LTD