

FILE NUMBER: Z201-252(CT) **DATE FILED:** May 10, 2021

LOCATION: North line of Ross Avenue, west of McCoy Street

COUNCIL DISTRICT: 14 **MAPSCO:** 45 H

SIZE OF REQUEST: ± 0.30 acres **CENSUS TRACT:** 16

REPRESENTATIVE: Rob Baldwin, Baldwin Associates

OWNER: Estate of Jeannette Schwartz

APPLICANT: Smoothie King

REQUEST: An application for a Specific Use Permit for a restaurant with drive-in or drive-through service use on property zoned Subarea 1 within Planned Development District No. 298, the Bryan Area Special Purpose District.

SUMMARY: The purpose of the request is to allow for a restaurant with drive-in or drive-through service use on the site.

CPC RECOMMENDATION: **Denial without prejudice.**

STAFF RECOMMENDATION: **Approval** for a five-year period, subject to a site plan and staff's recommended conditions.

BACKGROUND INFORMATION:

- The area of request is currently zoned Subarea 1 within Planned Development District No. 298, the Bryan Area Special Purpose District and is currently undeveloped.
- The purpose of the request is to allow for a restaurant with drive-in or drive-through service use on the site.
- Subarea 1 within Planned Development District No. 298, requires a Specific Use Permit for the restaurant with drive-in or drive-through service use to be allowed on the site.
- Per the Dallas City Code, a restaurant with drive-in or drive-through use is defined as an establishment principally for the sale and consumption of food where food service is provided to customers in motor vehicles for consumption on the premises.

Zoning History:

There have been three zoning changes in the surrounding area in the past five years.

1. **Z190-251 & Z178-217:** On June 27, 2018 and September 9, 2020, the City Plan Commission approved an application for the renewal of Specific Use Permit No. 2206 for a liquor store use on the northwest line of Ross Avenue, between North Halls Street and McCoy Street.
2. **Z178-133:** On March 28, 2018, the City Council approved an application for a new subdistrict within Planned Development District No. 298, the Bryan Area Special Purpose District on the southeast line of Ross Avenue, south of Washington Avenue.

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing/Proposed ROW
Ross Avenue	Community Collector	-
McCoy Street	Local	-

Traffic:

The Engineering Division of the Sustainable Development and Construction Department has reviewed the request and determined that the request will not significantly impact the surrounding roadway system.

STAFF ANALYSIS

Comprehensive Plan

The *forwardDallas! Comprehensive Plan* was adopted by the City Council in June 2006. The *forwardDallas! Comprehensive Plan* outlines several goals and policies which can serve as a framework for assisting in evaluating the applicant's request. The applicant's request is consistent with the following goals and policies of the comprehensive plan.

GOAL 2.1 PROMOTE BALANCED GROWTH

Policy 2.1.1 Ensure that zoning is flexible enough to respond to changing economic conditions.

URBAN DESIGN

GOAL 5.3 ESTABLISH WALK-TO CONVENIENCE

Policy 5.3.1 Encourage a balance of land uses within walking distance of each other.

Planned Development District 298 Bryan Area Study

The Bryan Area Study was adopted by the City Council in 1998 and was created to help improve PD 298's development potential, increase the appeal of the district, and encourage investment into the area. They were also given to help improve the pedestrian activity throughout the district and create a more vibrant community.

This property is located with Subarea 1 within Planned Development District No. 298 which is recognized in the study as the Lower Ross Avenue with Retail and commercial services as the primary focus for the Subarea.

Land Use:

	Zoning	Land Use
Site	Planned Development District No. 298, Subarea 1	Undeveloped
North	Planned Development District No. 298, Subarea 1A	Multifamily
West	Planned Development District No. 298, Subarea 1	Multifamily
East	Planned Development District No. 298, Subarea 1	Retail/Undeveloped
South	Planned Development District No. 298, Subarea 1	Office/Retail

Land Use Compatibility:

The property is currently undeveloped and zoned Subarea 1 within Planned Development District No. 298. The applicant seeks to develop the site with a restaurant with drive-through or drive-in use. Under the current zoning, a Specific Use Permit is required for the use. Uses surrounding the request site consist of multifamily developments west and north of the site. East of the site, across Ross Avenue, are retail uses and undeveloped property. South are office and retail uses.

The applicant proposes to construct a 658-square-foot commercial structure to house the restaurant with drive-in or drive-through use. As depicted in the SUP site plan, the building will be configured to face Ross Avenue with parking in the rear to create a sense of walkability and keeping the building close to Ross Avenue. The applicant has added a condition limiting the hour of operations to 6am to 11pm Monday through Sunday. In the vicinity are bars and restaurants that hold similar or later hours than the proposed use and these hours are feasible given its surrounding uses and proximity to downtown.

The general provisions for a Specific Use Permit in Section 51A-4.219 of the Dallas Development Code specifically state: (1) The SUP provides a means for developing certain uses in a manner in which the specific use will be consistent with the character of the neighborhood; (2) Each SUP application must be evaluated as to its probable effect on the adjacent property and the community welfare and may be approved or denied as the findings indicate appropriate; (3) The city council shall not grant an SUP for a use except upon a finding that the use will: (A) complement or be compatible with the surrounding uses and community facilities; (B) contribute to, enhance, or promote the welfare of the area of request and adjacent properties; (C) not be detrimental to the public health, safety, or general welfare; and (D) conform in all other respects to all applicable zoning regulations and standards. The regulations in this chapter have been established in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the city.

Staff supports the approval of the Specific Use Permit the subject site for a five-year period. The site is a part of a block comprised of mainly retail uses on the northwest and southeast line of Ross Avenue. The area plan for subarea 1 views retail and commercial services as the primary focus. The location is also appropriate to serve the emerging residential neighborhood within the Planned Development District. However, since this is a new SUP request, staff recommends a five year time period with no eligibility for autorenewal.

Parking:

The parking provisions in Chapter 51A apply in the Bryan Area SPD. Pursuant to the Dallas Development Code, off-street parking and loading spaces must be provided in accordance with Division 51A-4.200 for the specific off-street parking and loading requirements for each use. Parking for a restaurant with drive-in or drive-through use is

one parking spaces per 200-square-feet of floor area. The site will require four parking spaces for the use and meet the requirement by providing a minimum of four parking spaces.

Landscaping:

Landscaping of the property must be provided in accordance with Article X, as amended.

Market Value Analysis

Market Value Analysis (MVA), is a tool to aid residents and policy-makers in understanding the elements of their local residential real estate markets. It is an objective, data-driven tool built on local administrative data and validated with local experts. The analysis was prepared for the City of Dallas by The Reinvestment Fund. Public officials and private actors can use the MVA to more precisely target intervention strategies in weak markets and support sustainable growth in stronger markets. The MVA identifies nine market types (A through I) on a spectrum of residential market strength or weakness. As illustrated in the attached MVA map, the colors range from purple representing the strongest markets to orange, representing the weakest markets. The area of request is not within MVA and is in proximity to a "C" cluster to the south and a Category "H" Cluster to the north of the site.

CPC ACTION
September 23, 2021

Motion: It was moved to recommend **denial without prejudice** of a Specific Use Permit for a restaurant with drive-in or drive-through service use on property zoned Subarea 1 within Planned Development District No. 298, the Bryan Area Special Purpose District, on the north line of Ross Avenue, west of McCoy Street.

Maker: Garcia
Second: Murphy
Result: Carried: 13 to 0

For: 13 - MacGregor, Hampton, Stinson, Shidid,
Carpenter, Jackson, Blair, Jung, Suhler,
Schwope, Murphy, Garcia, Rubin

Against: 0
Absent: 0
Vacancy: 2 - District 4, District 10

Notices: Area: 200 Mailed: 14
Replies: For: 1 Against: 1

Speakers: For: Rob Baldwin, 3904 Elm St., Dallas, TX, 75226
For (Did not speak): Kevin King, 9797 Rombauer Rd., Dallas, TX, 75019
Against: None

LIST OF OWNERS AND OFFICERS

Owner:

Fonberg Real Estate Investments, Ltd.

Tootpet, L.C.

Peter D. Fonberg, Manager

Applicant:

Smoothie King

Wan Kim, Owner & CEO

Dan Harmon, President & COO

Kevin King, CBDO

Thomas Kim, CFO

Rebecca Miller, CMO

Chris Andrews, CIO

Josh Nicosia, CIO

John Gordon, Director of Real Estate

Proposed SUP Conditions

1. USE: The only use authorized by this specific use permit is a restaurant with drive-in or drive-through service.
2. SITE PLAN: Use and development of the Property must comply with the attached site plan.

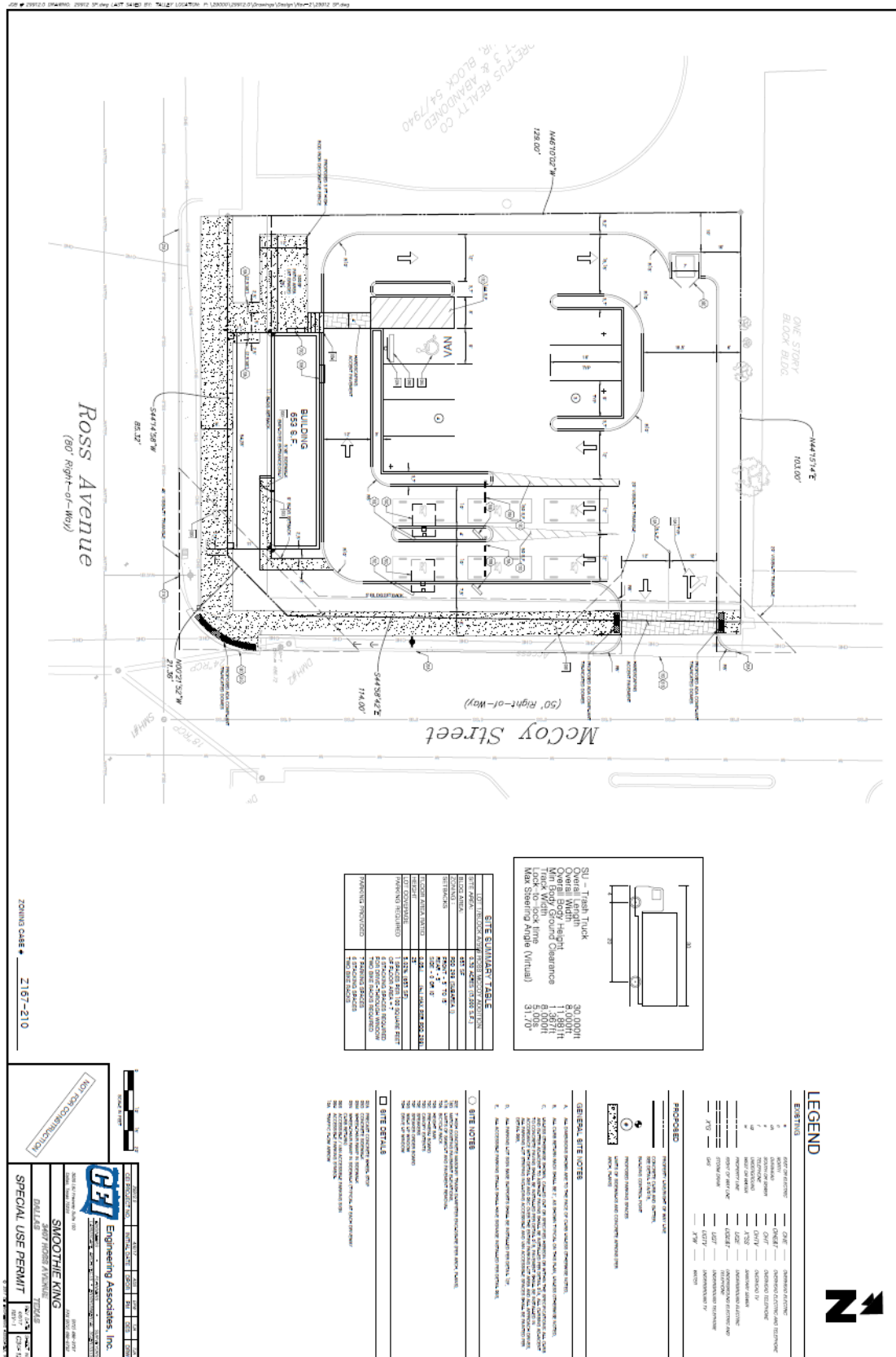
Staff Recommendation

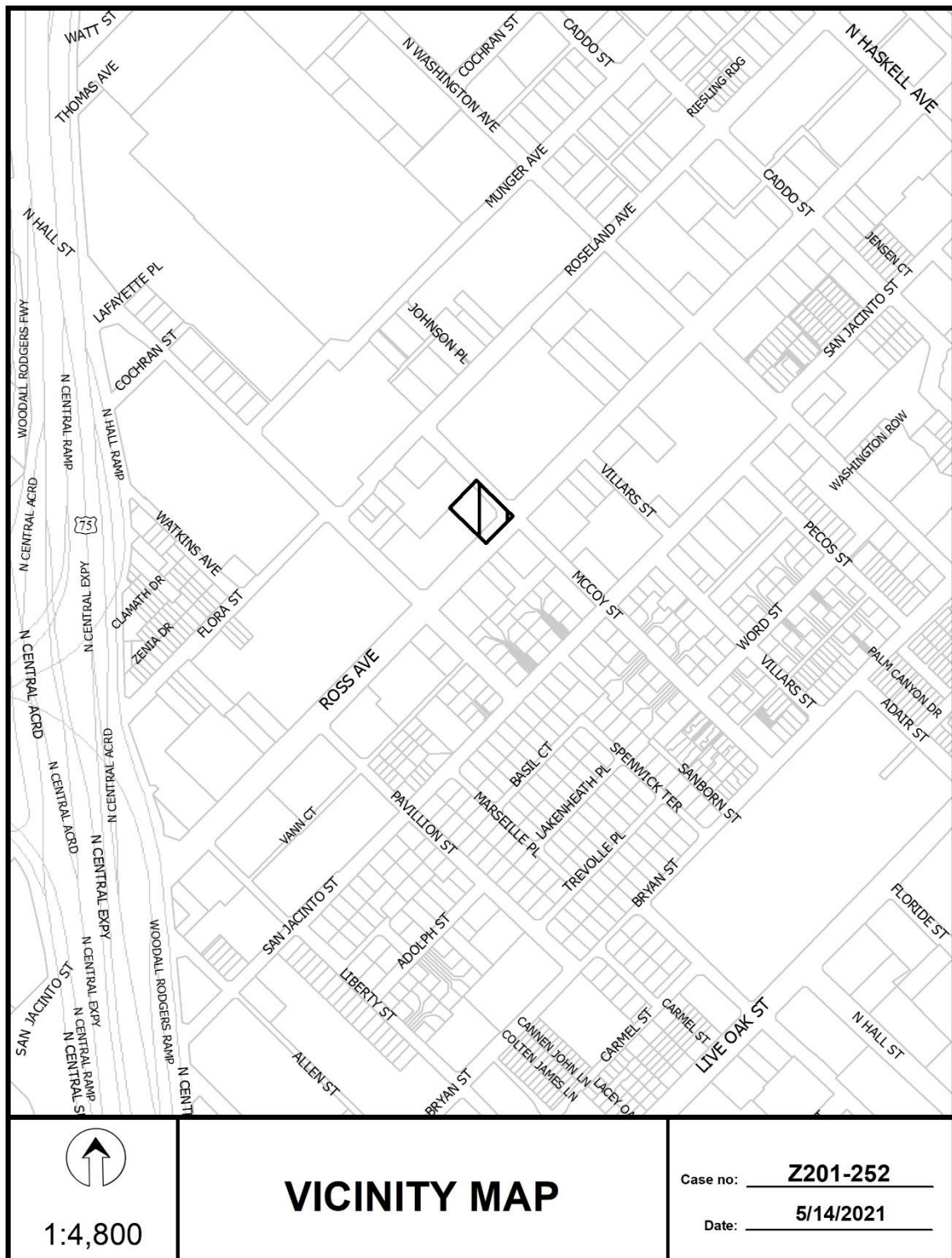
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|---|
| 3. <u>TIME LIMIT</u> : This specific use permit expires on (FIVE years) from the passage of this ordinance. |
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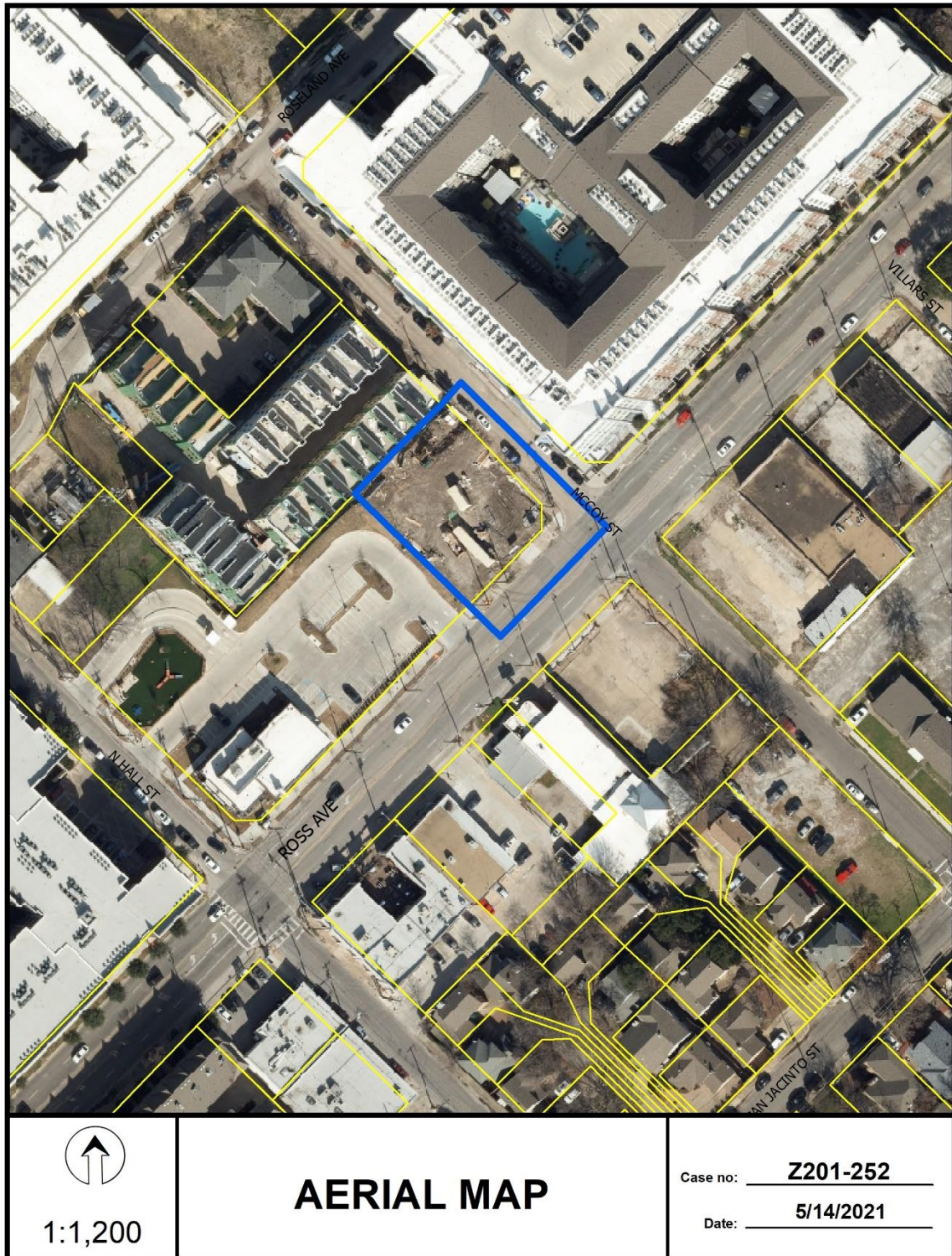
Applicants Request

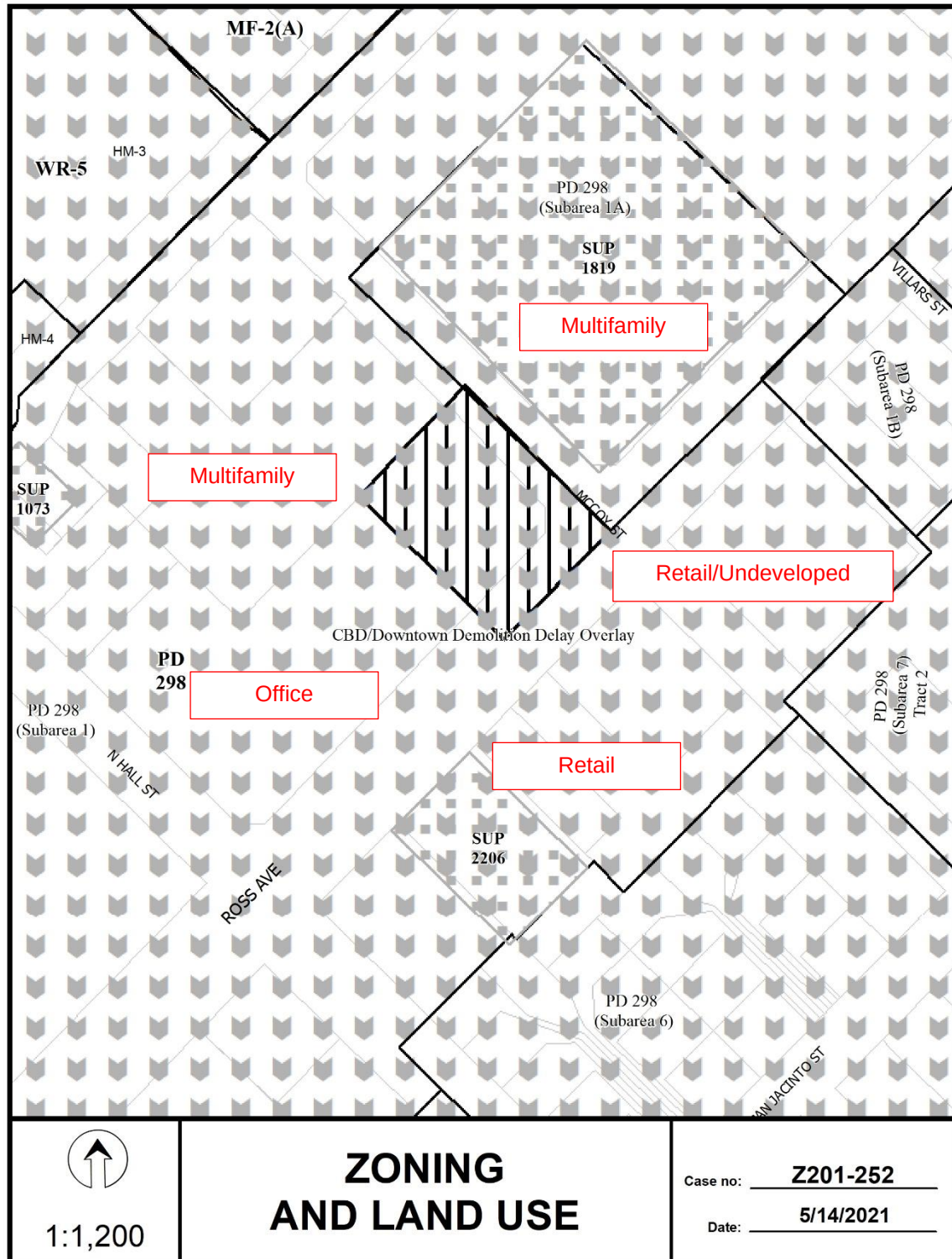
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| 3. <u>TIME LIMIT</u> : This specific use permit expires on (FIVE years) from the passage of this ordinance, but is eligible for automatic renewal for additional FIVE-year periods pursuant to Section 51A-4.219 of Chapter 51A of the Dallas City Code, as amended. For automatic renewal to occur, the Property owner must file a complete application for automatic renewal with the director before the 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.) |
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4. INGRESS-EGRESS: Ingress and egress must be provided in the locations shown on the attached site plan. No other ingress or egress is permitted.
 5. HOURS OF OPERATION: The restaurant with drive-in or drive-through service use may only operate between the hours of 6:00 a.m. and 11:00 p.m., Monday through Sunday.
 6. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.
 7. 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.

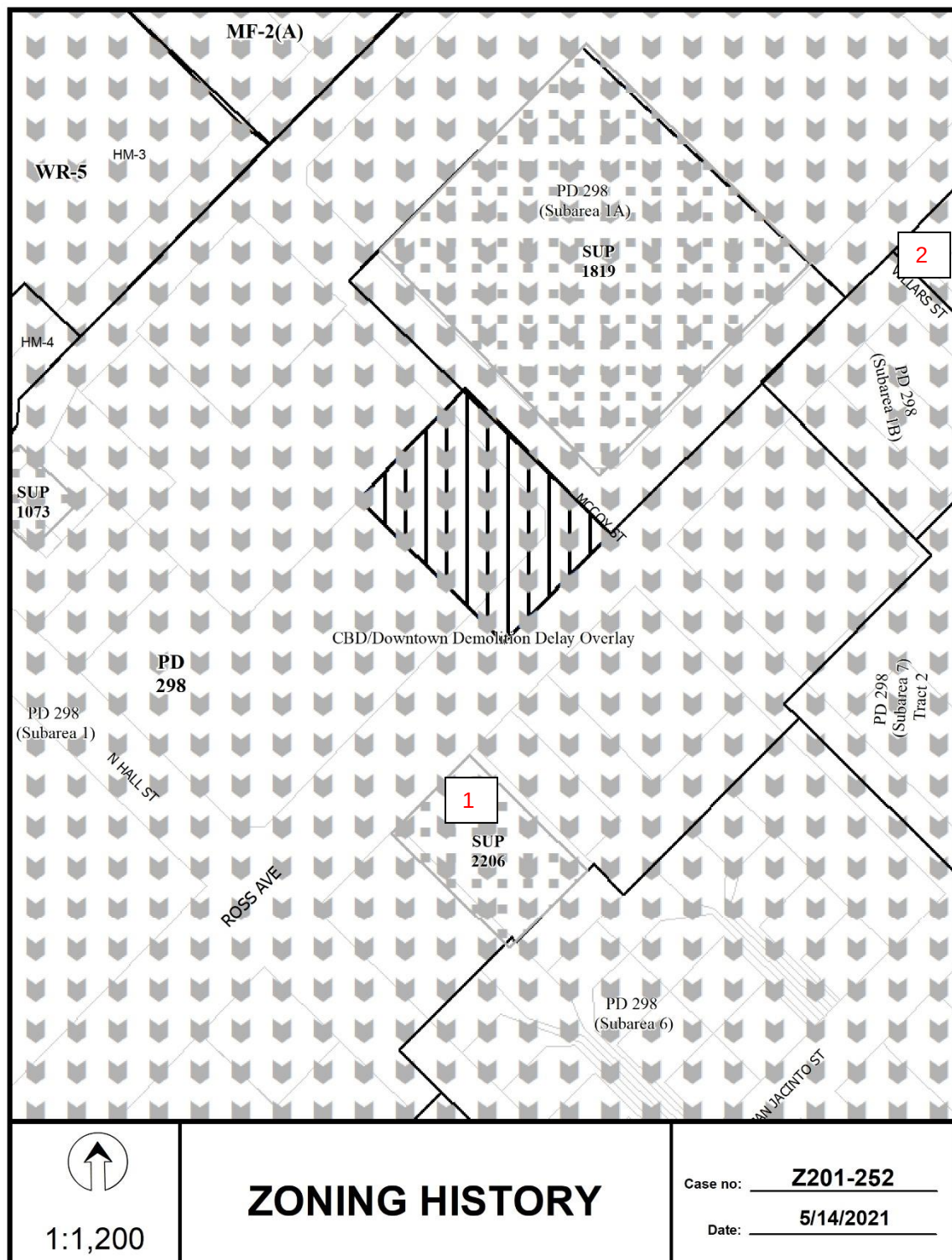
PROPOSED SITE PLAN

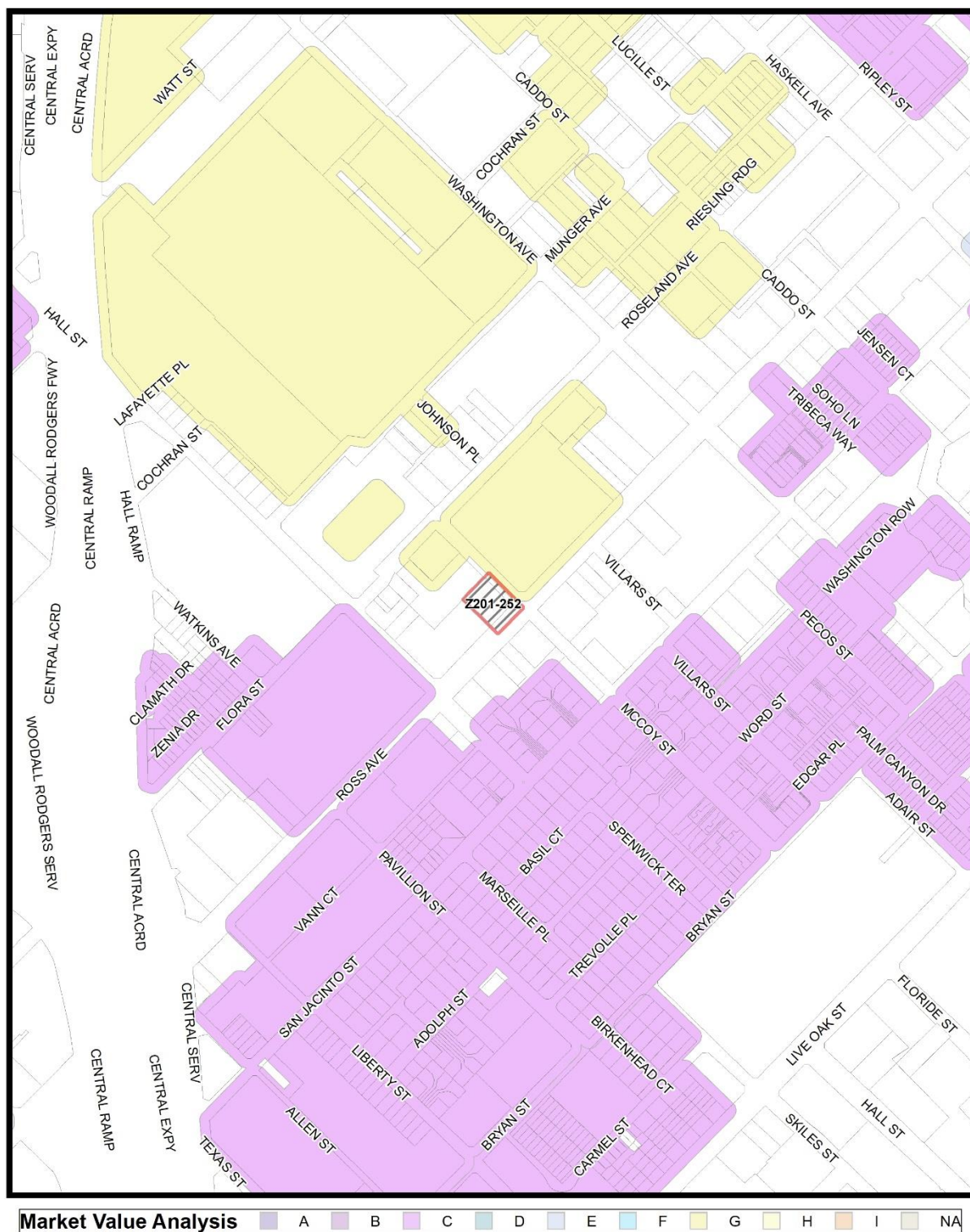












CPC RESPONSES



09/22/2021

Reply List of Property Owners***Z201-252******14 Property Owners Notified 1 Property Owners in Favor 1 Property Owners Opposed***

<i>Reply</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
	1	3407 ROSS AVE	SCHWARTZ JEANNETTE ESTATE OF
	2	3400 ROSS AVE	HERNANDEZ JULIO
O	3	3300 ROSS AVE	BSK SCHWARTZ LTD
	4	3404 ROSS AVE	3404 ROSS AVENUE LLC
	5	3512 ROSS AVE	Taxpayer at
	6	3510 ROSS AVE	3510 RA LLC
	7	3517 SAN JACINTO ST	3517 SAN JACINTO LLC
	8	1723 MCCOY ST	HOUSING AUTHORITY OF THE
	9	3400 ROSELAND AVE	DONLIN PATRICK
	10	1722 N HALL ST	HALL STREET YANKEE LLC
X	11	3305 ROSS AVE	3405 DHG LLC
	12	3606 ROSELAND AVE	WW ROSS AVENUE LP
	13	1771 MCCOY ST	WINDOKUN OLABISI
	14	1771 MCCOY ST	DOOLEY DEVELOPMENT USA LLC