

FILE NUMBER: Z189-333(PD) **DATE FILED:** August 14, 2019
LOCATION: East line of Greenville Avenue, between Prospect Avenue and Oram Street
COUNCIL DISTRICT: 14 **MAPSCO:** 36 X
SIZE OF REQUEST: ± 22,204 sq.ft. **CENSUS TRACT:** 11.01

REPRESENTATIVE: Rob Baldwin, Baldwin and Associates

OWNER/APPLICANT: Lavo Properties, LLC

REQUEST: An application for the renewal of Specific Use Permit No. 2272 for a late-hours establishment limited to a restaurant without drive-in or drive-through service use on property zoned Planned Development District No. 842 for CR Community Retail District uses with an MD-1 Modified Delta Overlay.

SUMMARY: The purpose of the request is to allow the existing restaurant use [Gung Ho] to continue to operate as a late-hours establishment per PDD No. 842 and remain open past 12:00 a.m. (midnight).

CPC RECOMMENDATION: Approval for a two-year period, subject to conditions

STAFF RECOMMENDATION: Approval for a two-year period, subject to conditions.

BACKGROUND INFORMATION:

- On January 26, 2011, the City Council approved Planned Development District No. 842 for CR Community Retail District uses, which requires a Specific Use Permit for any retail and personal service uses operating after 12:00 a.m. (midnight).
- The site lies within the Tract 3 portion of Modified Delta Overlay No. 1.
- A Certificate of Occupancy was approved and issued on January 30, 2018, for the existing restaurant use [Gung Ho] at the subject site.
- On December 13, 2017, City Council granted Specific Use Permit No. 2272 for a late-hours establishment limited to a restaurant without drive-in or drive-through service use, for a one-year time period. Subsequently, on November 14, 2018, City Council approved the renewal of the SUP for an additional one-year time period.
- The applicant is requesting the renewal of the SUP for late hours to provide for continued daily operations between the hours of 12:00 a.m. (midnight) and 2:00 a.m., Monday through Sunday.

Zoning History: There have been eleven zoning change requests in the area within the last five years.

1. Z189-206: On August 28, 2019, the City Council approved the creation of a new subdistrict within Planned Development District No. 842 with an MD-1 Modified Delta Overlay.
2. Z178-272: On October 24, 2018, the City Council approved the creation of a new subdistrict within Planned Development District No. 842 with an MD-1 Modified Delta Overlay.
3. Z178-304: On November 14, 2018, the City Council approved the renewal of Specific Use Permit No. 2272 for a late-hours establishment limited to a restaurant without drive-in or drive-through service for a one-year time period, subject to a site plan and conditions. (subject site)
4. Z167-367: On December 13, 2017, the City Council approved Specific Use Permit No. 2272 for a late-hours establishment limited to a restaurant without drive-in or drive-through service for a one-year time period, subject to a site plan and conditions. (subject site)

5. Z156-300: On October 26, 2016, the City Council approved the renewal of Specific Use Permit No. 1905 for a late-hours establishment limited to a restaurant without drive-in or drive-through for a four-year period subject to a site plan and conditions.
6. Z156-294: On October 26, 2016 the City Council approved the renewal of Specific Use Permit No. 1912 for a late-hours establishment limited to a bar, lounge or tavern for a three-year period subject to a site plan and conditions.
7. Z134-262: On October 8, 2014, the City Council approved a Specific Use Permit for a late-hours establishment limited to a restaurant without drive-in or drive through service for a three-year period subject to a site plan and conditions.
8. Z134-177: On August 13, 2014, the City Council approved a Specific Use Permit for a late-hours establishment limited to a restaurant without drive-in or drive-through service for a one-year period subject to a site plan and conditions.
9. Z123-304: On November 12, 2013, the City Council approved the renewal of SUP No. 1904 for a late-hours establishment limited to a restaurant without drive-in or drive-through service.
10. Z134-204: On August 28, 2013 the City Council approved a Specific Use Permit for a late-hours establishment limited to a restaurant without drive-in service for a three-year period with eligibility for automatic renewals for additional two year periods, subject to conditions.
11. Z123-262: On August 28, 2013, the City Council approved a Specific Use Permit for a late-hours establishment limited to a restaurant without drive-in service for a one-year period subject to a site plan and conditions.

Thoroughfare/Street

Thoroughfare/Street	Type	Existing/Proposed ROW
Greenville Avenue	Collector	56 feet

Traffic:

The Engineering Division of the Sustainable Development and Construction Department has reviewed the request and determined it will not negatively impact the surrounding street system.

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.

URBAN DESIGN

GOAL 5.1 PROMOTE A SENSE OF PLACE, SAFETY AND WALKABILITY

Policy 5.1.1 Promote pedestrian-friendly streetscapes.

GOAL 5.3 ESTABLISHING WALK-TO CONVENIENCE

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

Area Plans:

Studies conducted in the area include the Lower Greenville Avenue Parking Study (1986) that recommended that "the City enforce premise code violations as it does in other parts of the City of Dallas". Code Enforcement was also an issue highlighted in the Greenville Avenue Urban Design Study (1996-1997). It was recommended that "initiatives be taken to conduct a comprehensive sweep to clean-up the Greenville Avenue corridor and there after enforce codes with the assistance of property owners, residents, businesses and operations to maintain the property and report violations to the City for follow-up action." Recommendations from both studies are still applicable today and consistent with SUP recommendations to address quality of life for adjacent residential neighborhoods and the Lowest Greenville Avenue corridor, respectively.

Modified Delta Overlay No. 1:

Modified Delta Overlay (MD-1) was adopted by the City Council on October 1, 1987 in an area generally bounded by Ellsworth Avenue, west of Matilda Street, north of Ross Avenue, and east of Summit Avenue/Worcola Street. The Overlay consists of three Areas. The subject site lies within Area 3 of the Modified Delta Overlay No. 1 (MD-1).

The modified delta overlay, in effect, prohibits the application of the delta theory due to the ceasing of a need to encourage redevelopment and adaptive reuse of existing structures or that the continued application of the delta theory will create traffic congestion and public safety issues.

In general terms, 'delta theory' means the number of nonconforming parking or loading spaces for a use that may be carried forward when the use is converted or expanded.

A June 14, 1995, City Council resolution provided for replacing parking in the right-of-way that is lost due to locating public dining space (subject to the granting of a private license) within this area, and requiring parking for the public dining area at a ratio of 1 space per 300 square feet of public dining space.

Lastly, a June 28, 1995, amendment to the ordinance provide for the following: 1) a use that is discontinued or remains vacant for 12 months loses the right to carry forward nonconforming parking/loading under the delta theory; 2) the Board of Adjustment may not grant a special exception for required parking; 3) walking distance for remote parking is increased to 900 feet; and, 4) special parking may account for more than 50 percent of required parking for a use.

STAFF ANALYSIS:

Land Use:

	Zoning	Land Use
Site	PDD No. 842	Restaurant
North	PDD No. 842	Restaurant
East	PDD No. 167, CR SUP No. 285	Surface Parking Lot, Electric Substation
South	PDD No. 842	Personal Service
West	PDD No. 842	Retail

Land Use Compatibility:

The 22,204-square-foot request site is developed with an approximately 7,300-square-foot structure with an 800-square-foot uncovered patio area. The application is for the renewal of SUP No. 2272, for a late-hours establishment limited to a restaurant without drive-in or drive-through service use.

The applicant is requesting the renewal of the SUP for a late-hours establishment to permit the continued operation of the restaurant beyond 12:00 a.m. to 2:00 a.m., Monday through Sunday, consistent with other retail and personal service uses in the area.

The site is surrounded by retail uses to the north, south and west, and surface parking lots and an electric substation to the east.

The purpose of PDD No. 842 is to 'ensure the compatibility of uses with adjacent residential neighborhoods and to reduce the incidence of crime by discouraging an over-proliferation of regional-serving, late-night venues.' As defined in the PDD, a late-hours establishment is any retail or personal service use that operates between 12:00 a.m. and 6:00 a.m. A specific use permit is required for this defined use. Additionally, the City Council adopted a compliance date of September 23, 2011, for any retail and personal service use operating beyond 12:00 a.m. to obtain the required SUP.

PDD No. 842 establishes the following criteria for consideration of an SUP for a late-hours establishment:

(e) Factors to be considered for a specific use permit for a late-hours establishment. The city plan commission and city council shall consider the following factors when making the findings required by Section 51A-4.219(a)(3):

(1) the number of citations issued by police to patrons of the establishment;

(2) the number of citations issued by police for noise ordinance violations by the establishment;

(3) the number of arrests for public intoxication or disorderly conduct associated with the establishment;

(4) the number of Texas Alcoholic Beverage Code violations of the establishment; and

(5) the number of violent crimes associated with the establishment, with emphasis on violent crimes originating inside the establishment.

In addition to the regulations of PDD No. 842, the Dallas Development Code establishes general criteria for any use requiring an SUP, which 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 purposes of promoting the health, safety, morals, and general welfare of the city.

The proposed use is oriented along the north-south alignment of Greenville Avenue with no direct access to the residential areas that are found beyond those uses along this

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street. Therefore, staff supports the renewal of SUP No. 2272 for a two-year period, subject to the attached conditions.

Reported incidents and calls requiring police activity within the year:

The crime statistics covers the period of November 14, 2018 through October 24, 2019. The crime statistics reflects a total of seven calls with no arrest or offenses reported.

Master_Incident_Number	Response_Date	Response_Time	Watch	Division	Sector	Beat	RA	Problem	Priority_Description	Location_Name	Address	Apt
19-0002610	1/1/2019	1:57:00 AM	1	CENTRAL	140	144	1164	6X - Major Dist (Violence)	2 - Urgent	gungho	2010 Greenville Ave	
19-0079771	1/14/2019	1:49:00 AM	1	CENTRAL	140	144	1164	21B - Business Hold	2 - Urgent		2010 Greenville Ave	B
19-0396433	3/7/2019	2:05:00 AM	1	CENTRAL	140	144	1164	12B - Business Alarm	3 - General Service	REMEDY	2010 Greenville Ave	
19-0425990	3/11/2019	12:13:00 PM	2	CENTRAL	140	144	1164	16 - Injured Person	3 - General Service	HG SUPPLY	2010 Greenville Ave	
19-0632297	4/11/2019	2:51:00 AM	1	CENTRAL	140	144	1164	12B - Business Alarm	3 - General Service	THE REMEDY	2010 Greenville Ave	B
19-1231394	7/4/2019	6:14:00 PM	3	CENTRAL	140	144	1164	6X - Major Dist (Violence)	2 - Urgent	GUNG HO	2010 Greenville Ave	NULL
19-1238605	7/5/2019	8:42:00 AM	2	CENTRAL	140	144	1164	12B - Business Alarm	3 - General Service	REMEDY	2010 Greenville Ave	NULL

Landscaping:

The existing development is void of landscape materials and the request will not trigger compliance with Article X.

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 site is not within an identifiable MVA Category; however, it is in proximity to a “C” MVA Cluster to the northeast across Prospect Avenue.

Parking:

Since 1979, the use of the property has been for retail and personal services uses. For a restaurant without drive-in or drive-through use, the requirement for off-street parking is calculated at one space per 100 square feet of floor area. Additionally, required parking for the public dining area is calculated at a ratio of 1 space per 300 square feet of public dining space which requires an additional 3 off-street parking spaces; however, the patio is exempt because it is uncovered. While no delta credits exist for the request site, staff verified a parking agreement of 169 spaces with 5711,

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5716, 5720, and 5724 Prospect Avenue and 2026 Greenville Avenue and 5602-06 Sears Street to satisfy the requirement of 53 off-street parking spaces for the applicant's request.

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Partners/Principals/Officers:

Lavo Properties, LLC

Wonderful Seven GP

Marc Andres, President
Roger Andres, Director

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**CPC ACTION:
November 7, 2019**

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Planner: Pamela Daniel

Motion: It was moved to recommend **approval** of the renewal of Specific Use Permit No. 2272 for a late-hours establishment limited to a restaurant without drive-in or drive-through service use for a two-year period, subject to revised conditions with a modification to Condition #6, OUTDOOR SPEAKERS to read as follows: "Use of loudspeakers or any amplified sound outdoors is prohibited between the hours of 12:00 a.m. and 2:00 a.m." on property zoned Planned Development District No. 842 for CR Community Retail District uses with an MD-1 Modified Delta Overlay on the east line of Greenville Avenue, between Prospect Avenue and Oram Street.

Maker: Ridley
Second: Murphy
Result: Carried: 14 to 0

For: 14 - MacGregor, Schulte, Schwope, Johnson,
Shidid, Carpenter, Blair, Jung, Housewright,
Schultz, Murphy, Ridley, Brinson, Rubin

Against: 0
Absent: 0
Vacancy: 1 - District 3

Notices: Area: 200 Mailed: 23
Replies: For: 4 Against: 0

Speakers: For: Rob Baldwin, 3904 Elm St., Dallas, TX, 75226
Against: None

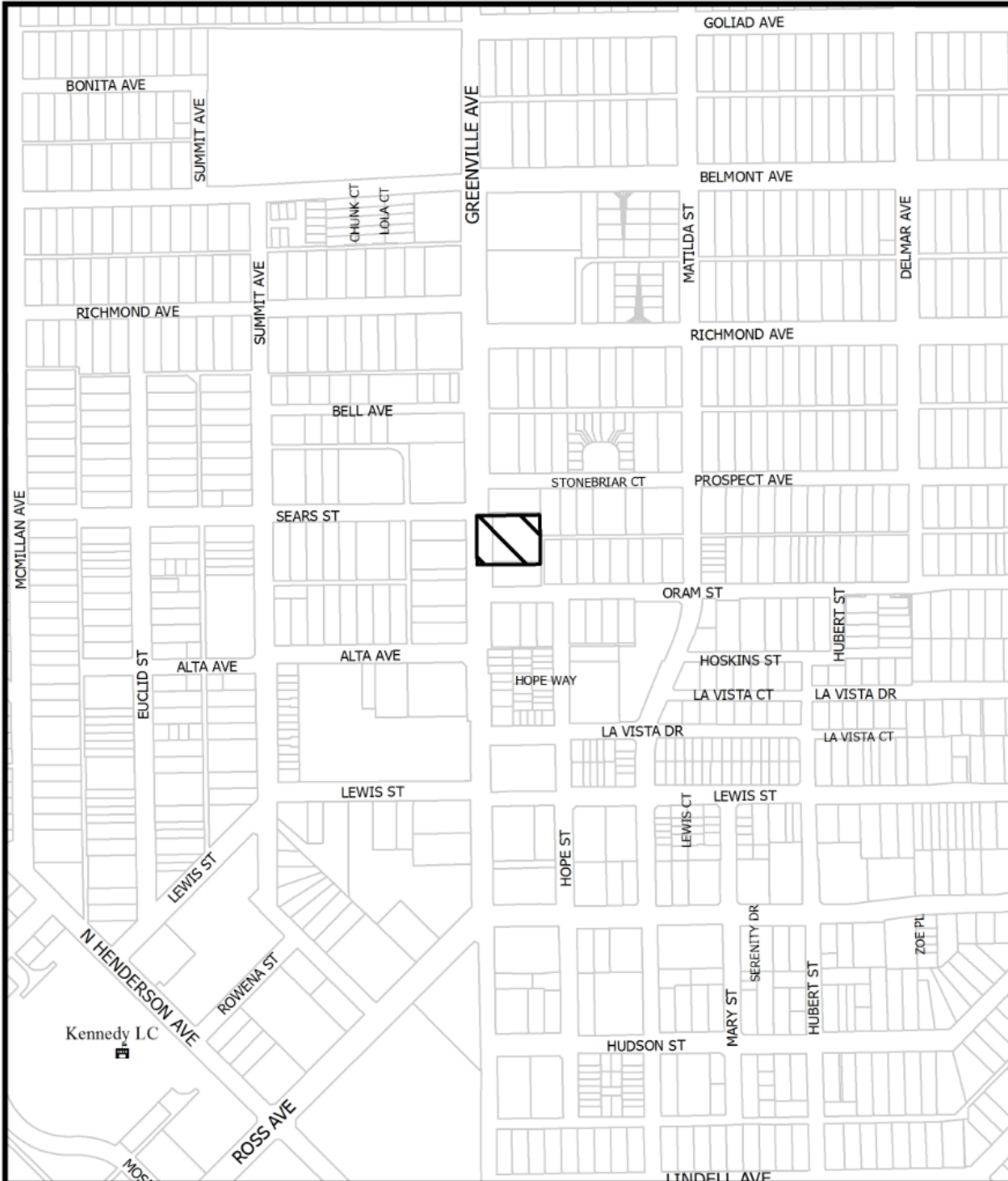
CPC Recommended Conditions


1. USE: The only use authorized by this specific use permit is late hours establishment limited to a restaurant without drive-in or drive-through service.
2. SITE PLAN: Use and development of the Property must comply with the attached site plan.
3. TIME LIMIT: This specific use permit expires on ~~November 14, 2019~~ (two-year period from passage of the ordinance).
4. FLOOR AREA: The maximum floor area is 7,300 square feet in the location shown on the attached site plan.
5. HOURS OF OPERATION:
 - A. The late-hours establishment limited to a restaurant without drive-in or drive-through service may not operate between 2:00 a.m. and 6:00 a.m., Monday through Sunday.
 - B. The rooftop must cease operation by 12:00 a.m., Monday through Sunday.
 - C. All customers must be removed from the Property by 2:15 a.m.
6. OUTDOOR SPEAKERS, AMPLIFICATION, AND LIVE MUSIC: Speakers, amplification, or live music are prohibited on the rooftop and front patio between the hours of 12:00 a.m. and 6:00 a.m.
7. PATIO:
 - A. An outdoor patio is only allowed in the location shown on the attached site plan.
 - B. The patio may not exceed 800 square feet in area.
 - C. The patio must be uncovered.
 - D. The Property owner or operator must obtain a private license for an outdoor patio, with a copy provided to the building official before the outdoor patio may be used by customers.
8. REAR WALK-UP WINDOW: A rear walk-up window for take-out orders is prohibited between the hours of 12:00 a.m. and 6:00 a.m.
9. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.

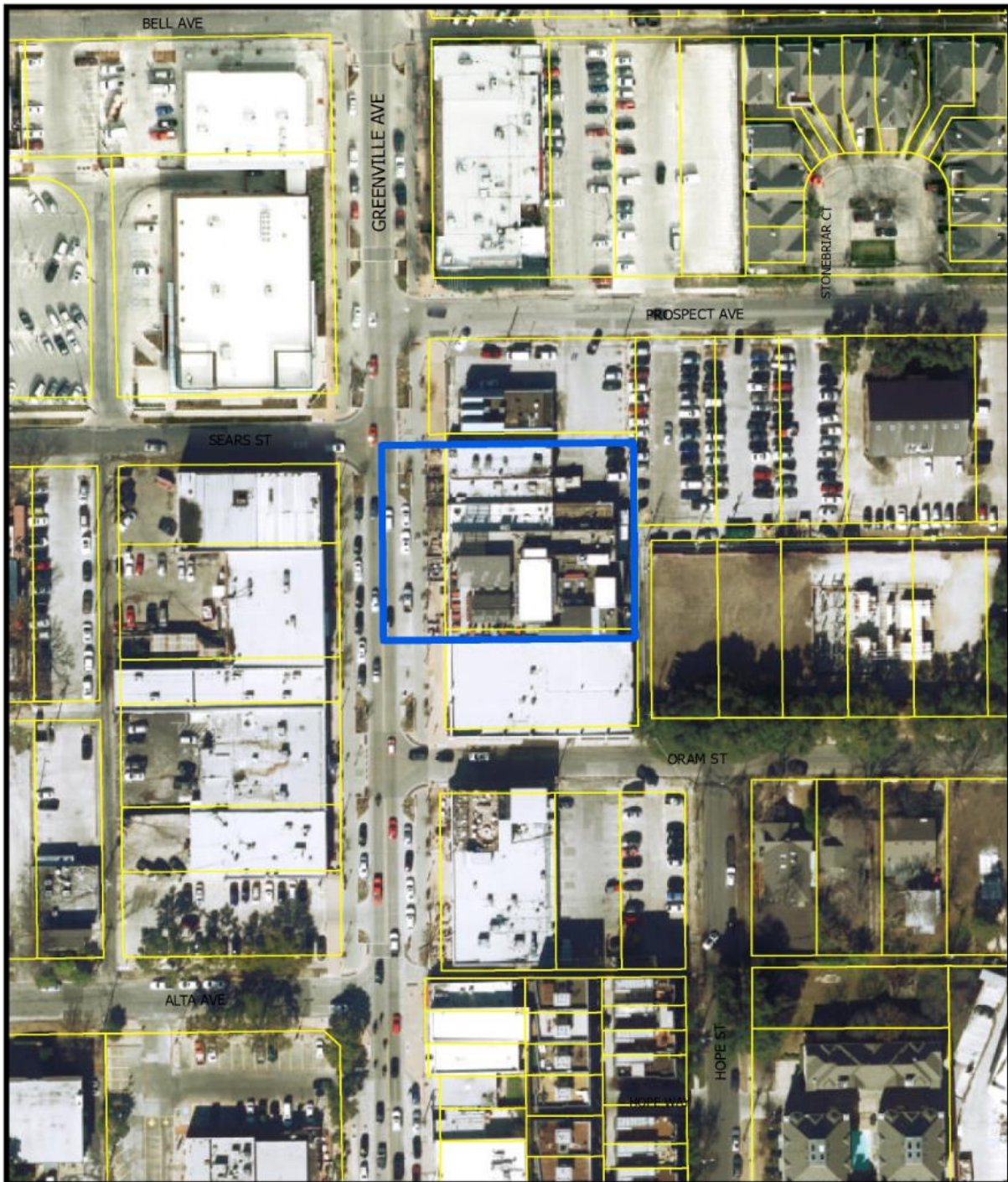
10. GENERAL REQUIREMENTS: Use of the Property must comply with all federal and state laws and regulations, and with all ordinances, rules, and regulations of the City of Dallas.

**Existing Site Plan
(No Changes)**





 1:4,800	<h2>VICINITY MAP</h2>	Case no: <u> Z189-333 </u> Date: <u> 10/22/2019 </u>
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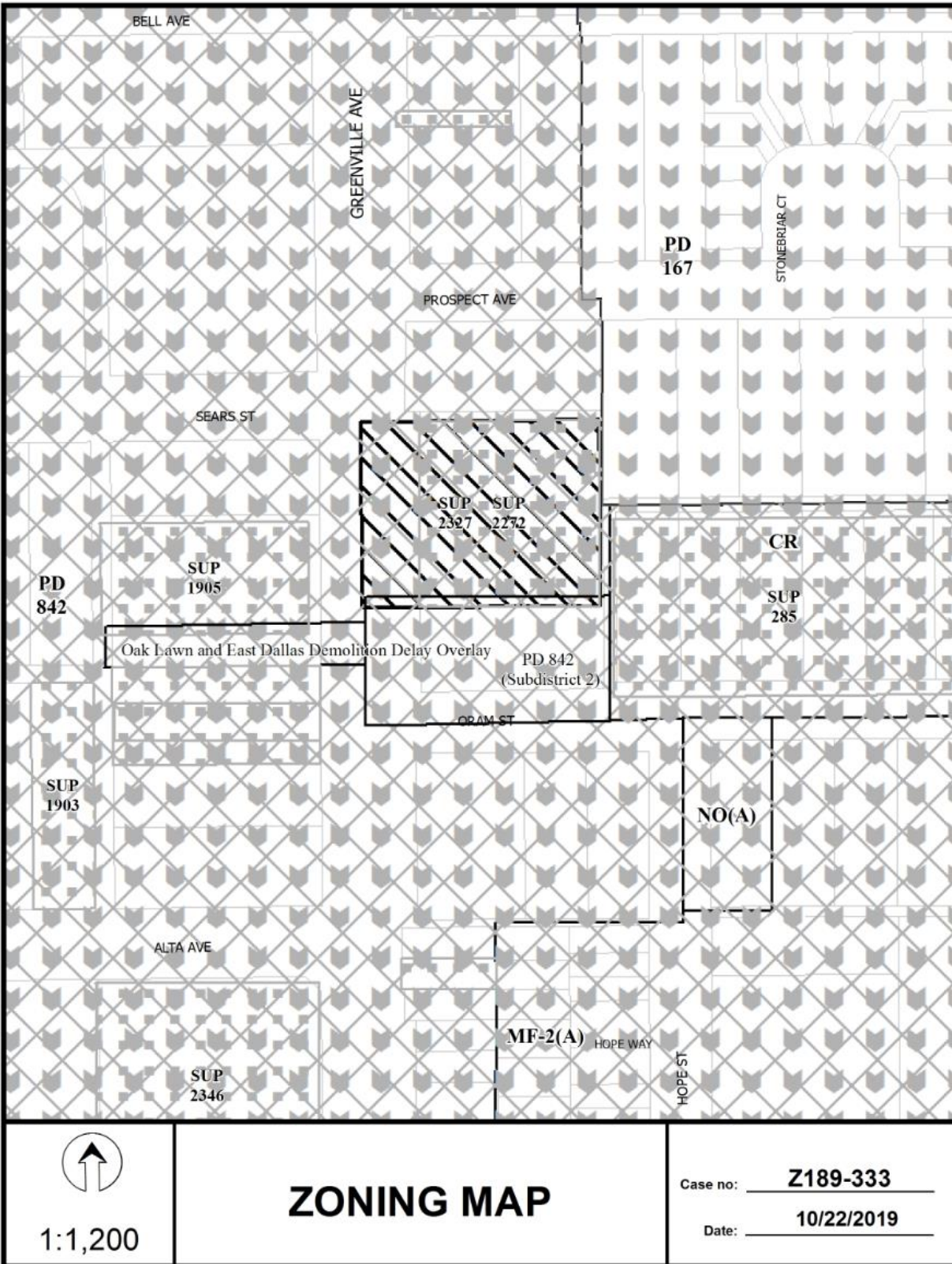


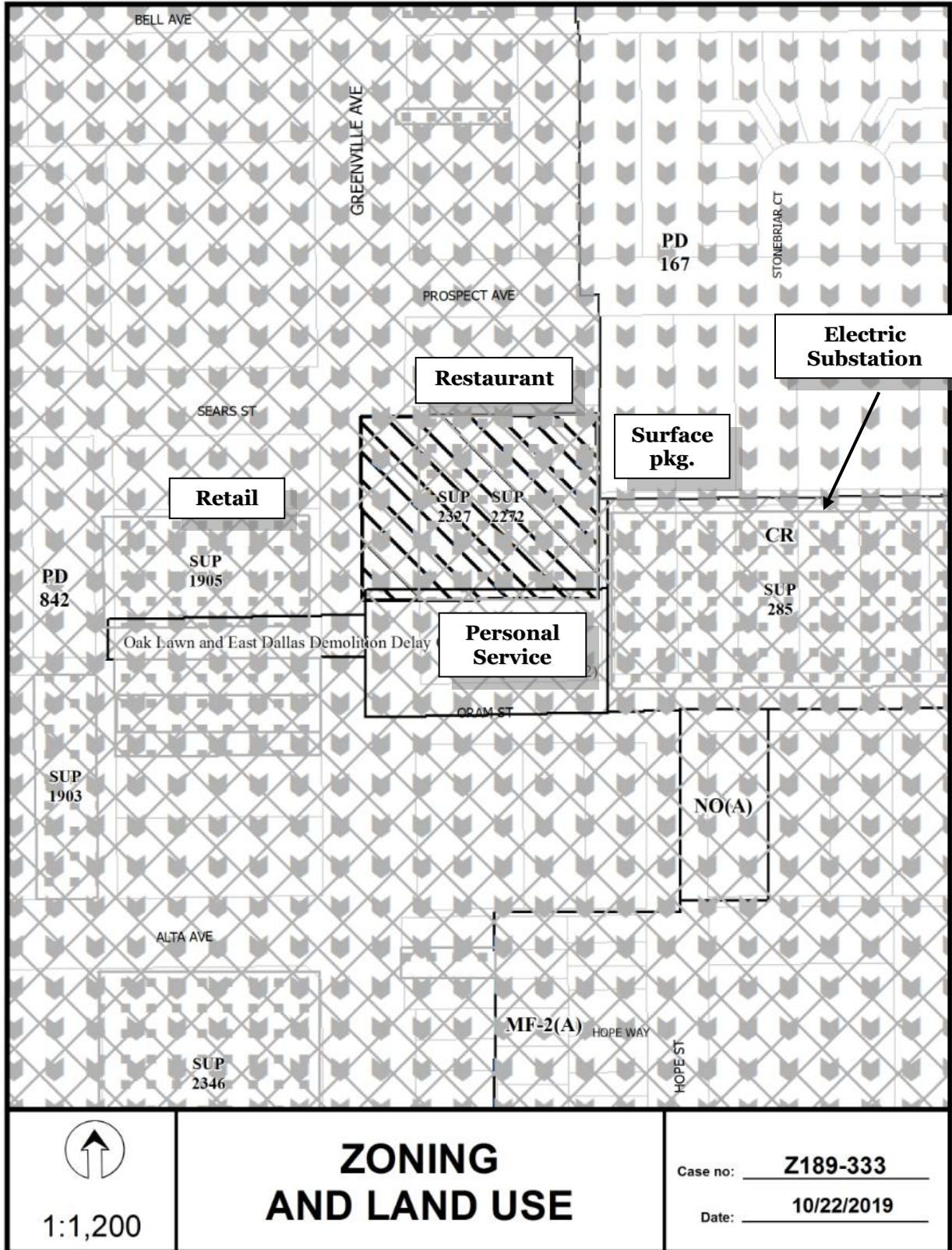
1:1,200

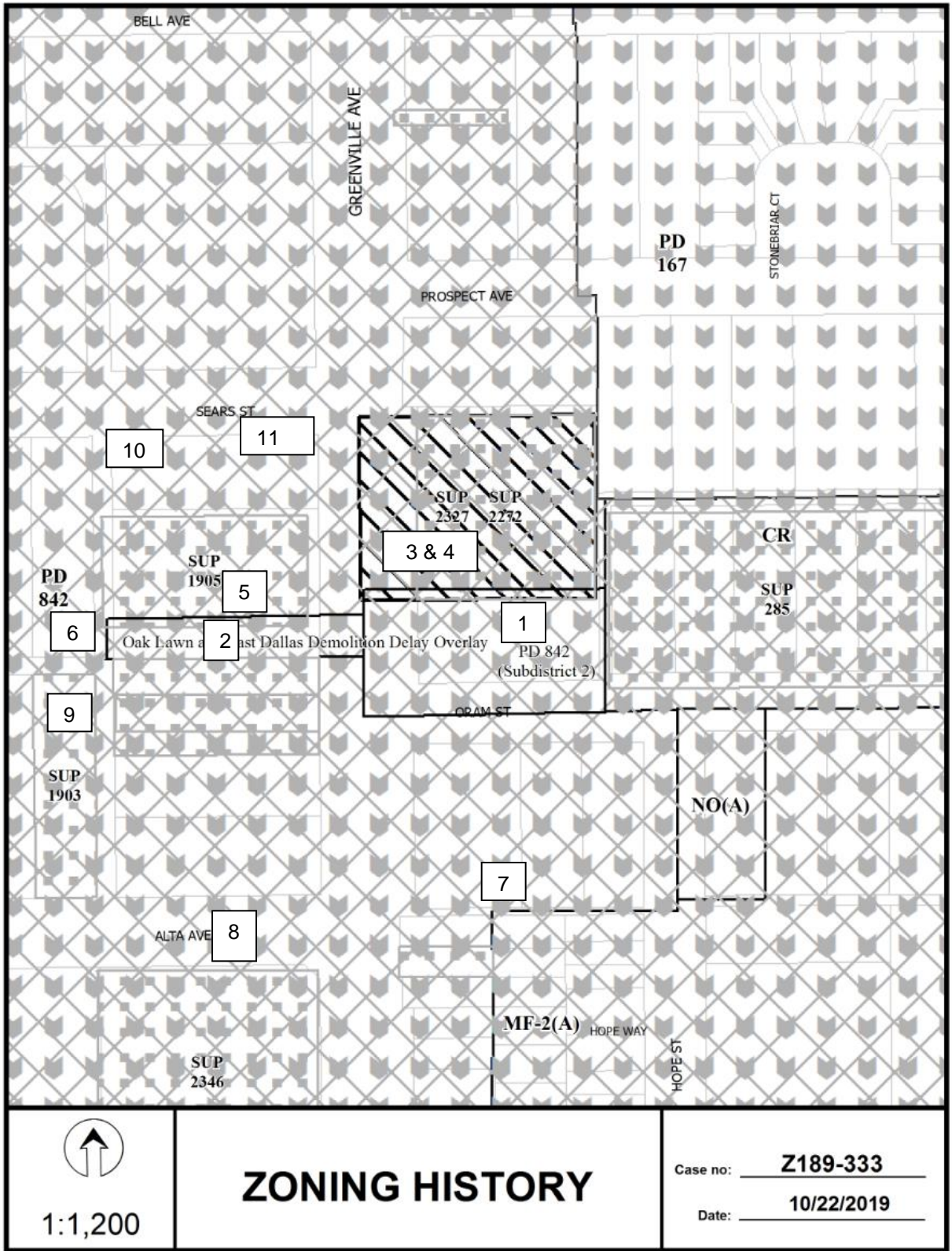
AERIAL MAP

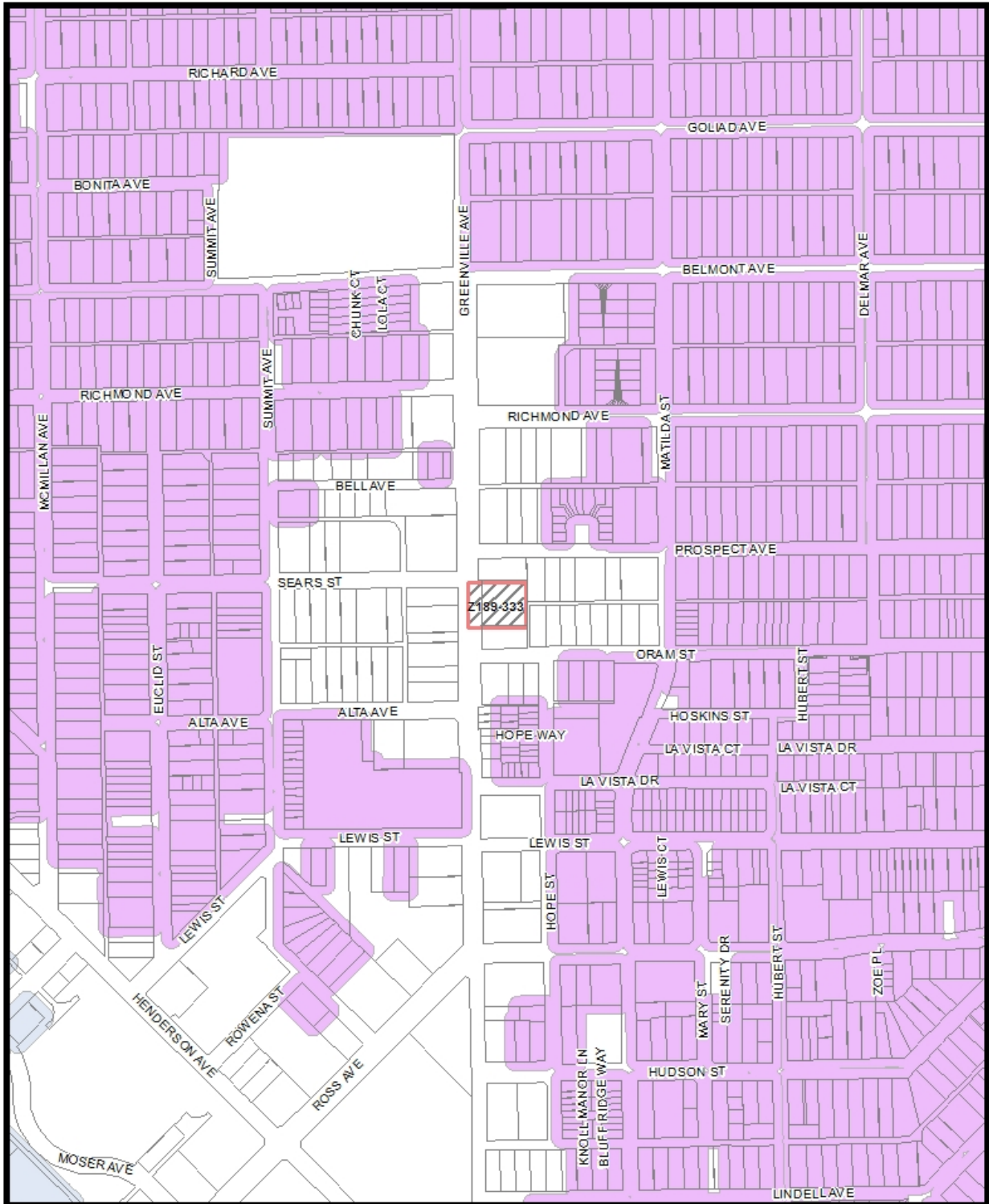
Case no: Z189-333

Date: 10/22/2019

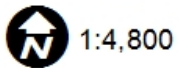








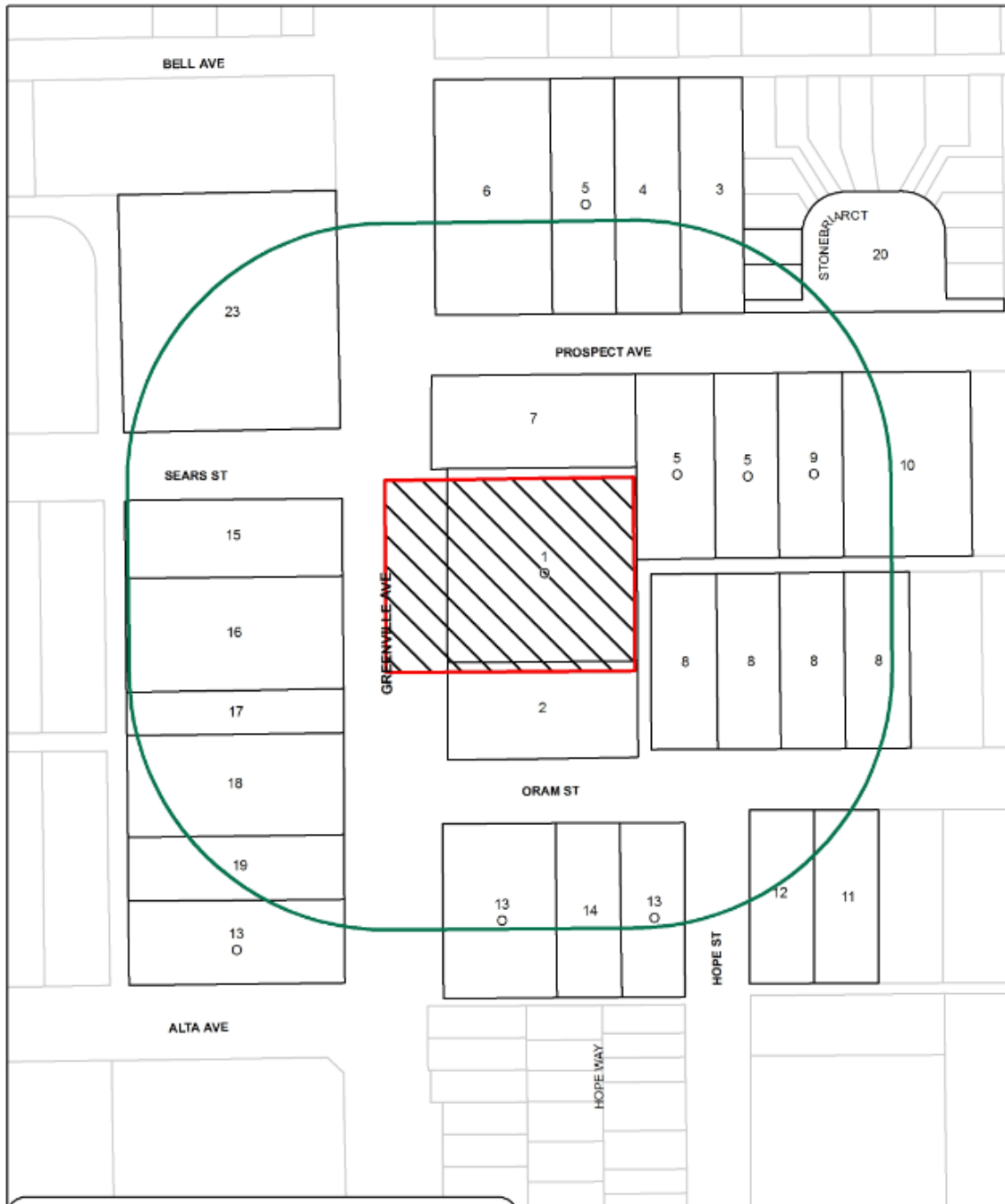
Market Value Analysis A B C D E F G H I NA



Market Value Analysis

Printed Date: 10/22/2019

CPC RESPONSES



<u>23</u>	Property Owners Notified (30 parcels)
<u>4</u>	Replies in Favor (8 parcels)
<u>0</u>	Replies in Opposition (0 parcels)
<u>200'</u>	Area of Notification
<u>11/7/2019</u>	Date

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CPC



1:1,200

11/06/2019

Reply List of Property Owners**Z189-333****23 Property Owners Notified****4 Property Owners in Favor****0 Property Owners Opposed**

<i>Reply</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
O	1	2008 GREENVILLE AVE	LAVO PROPERTIES LLC
	2	2000 GREENVILLE AVE	LANDE PAUL &
	3	5719 PROSPECT AVE	MADISON PACIFIC DEV COM
	4	5715 PROSPECT AVE	REESE GRANDCHILDRENS
O	5	5711 PROSPECT AVE	ANDRES FAMILY TRUST
	6	2100 GREENVILLE AVE	GREENVILLE 2100 LTD
	7	2026 GREENVILLE AVE	ANDRES FAMILY TRUSTS THE
	8	5715 ORAM ST	ONCOR ELECRCIC DELIVERY COMPANY
O	9	5724 PROSPECT AVE	ANDRES FAMILY TRUST
	10	5728 PROSPECT AVE	WALL JOHN E JR
	11	5726 ORAM ST	TARL CABOT LLC &
	12	5722 ORAM ST	MCKINNEY FEARGAL &
O	13	5712 ORAM ST	LOWGREEN PS
	14	5710 ORAM ST	SOURIS GEORGIA REVOCABLE TRUST
	15	1931 GREENVILLE AVE	GREENWAY SEARS LP
	16	1919 GREENVILLE AVE	1919 27 GREENVILLE LTD
	17	1917 GREENVILLE AVE	SEB GROUP LLC
	18	1911 GREENVILLE AVE	INTERCITY INVESTMENT PROP
	19	1909 GREENVILLE AVE	WORLDWIDE FOOD INC
	20	2100 STONEBRIAR CT	STONEBRIAR CT H O A
	21	2 STONEBRIAR CT	GERDES ANDREW KIRK
	22	1 STONEBRIAR CT	HOOPER NICOLE E
	23	2001 GREENVILLE AVE	2001 GREENVILLE VENTURE LTD