

FILE NUMBER: Z234-107(LG) **DATE FILED:** October 3, 2023

LOCATION: Intersection of McKinney Avenue and Harvard Avenue (north of Monticello Avenue, west of North Central Expressway)

COUNCIL DISTRICT: 14

SIZE OF REQUEST: Approx. 13,448 sq ft **CENSUS TRACT:** 48113000706

REPRESENTATIVE: Tommy Mann, Winstead

OWNER: SLR 4919 McKinney, LLC

APPLICANT: TMF, LLC

REQUEST: An application for an amendment to Specific Use Permit No. 2436 for the sale of alcoholic beverages in conjunction with a restaurant without drive-through service and a retail food store on property zoned an LC Light Commercial Subdistrict within Planned Development District No. 193, the Oak Lawn Special Purpose District, with a D-1 Liquor Control Overlay and deed restrictions [Z201-315].

SUMMARY: The purpose of the request is to allow the expansion of the sale of alcoholic beverages in conjunction with a restaurant without drive-in or drive-through service and a retail food store.

STAFF RECOMMENDATION: Approval for a five-year period, subject to an amended site plan and conditions.

CPC RECOMMENDATION: Approval for a five-year period, subject to an amended site plan and conditions.

BACKGROUND INFORMATION:

- The request site is currently undeveloped but is under construction.
- The property is located within Planned Development District No. 193.
- On January 12, 2022, the City Council approved an application for (1) a D-1 Liquor Control Overlay District, and (2) a Specific Use Permit No. 2436 for the sale of alcoholic beverages in conjunction with a restaurant without a drive-in or drive-through service or retail food store for a three-year period with consideration for deed restrictions volunteered by the applicant.
- PD No. 193 defines “retail food store” as an establishment for display and retail sale of foods and associated items.
- The applicant is proposing to amend the SUP No. 2436 site plan by increasing the existing plan square footage from 3,790 square feet to 4,722 square feet. The revised site plan will also include a crosswalk across an ingress/egress point to improve walkability and pedestrian access.

Zoning History:

There has been one zoning case in the area in the last five years.

1. **Z201-315:** On January 12, 2022, the City Council approved an application for 1) a D-1 Liquor Control Overlay District; and 2) a Specific Use Permit for the sale of alcoholic beverages in conjunction with a restaurant without drive-in or drive-through service or a retail food store for a three-year period with consideration for deed restrictions volunteered by the applicant. [Subject property]

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing/Proposed ROW
McKinney Avenue	Minor Arterial	60 feet to 80 feet BIKE PLAN
Harvard Avenue	Local Street	--

Traffic:

The Transportation Development Services Division of the Transportation Department has reviewed the request and determined that it 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 and outlines several goals and policies which can serve as a framework for assisting in evaluating the applicant's request.

The *forwardDallas! Comprehensive Plan* outlines several goals and policies to support the applicant's request:

ECONOMIC ELEMENT

GOAL 2.1 PROMOTE BALANCED GROWTH

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

URBAN DESIGN ELEMENT

GOAL 5.1 PROMOTE A SENSE OF PLACE, SAFETY AND WALKABILITY

Policy 5.1.4 Enhance visual enjoyment of public space.

GOAL 5.2 STRENGTH COMMUNITY AND NEIGHBORHOOD IDENTITY

Policy 5.2.1 Maintain neighborhood scale and character.

Policy 5.2.2 Promote the character of the city's significant district, linkage, and area.

GOAL 5.3 ESTABLISHING WALK-TO CONVENIENCE

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

Land Use:

	Zoning	Land Use
Site	PD 193 (LC), "D-1" Liquor Control Overlay District	Undeveloped
North	PD 193 (LC), "D" Liquor Control Overlay District	Medical clinic, multiple family
East	PD 193 (LC)	Warehouse

South	PD 193 (LC)	Office, multiple family (under construction)
West	PD 193 (LC)	Office

Land Use Compatibility:

The area of request is currently undeveloped and is zoned LC Subdistrict within PD 193, with a D-1 Liquor Control Overlay and has deed restrictions [Z201-315]. The applicant has requested that the existing deed restrictions not be amended nor terminated. The area to the north includes a dental office and multifamily. To the east of this site is a mini-storage facility. To the southwest of this site are office buildings. The site southeast of this site is under construction of a multifamily development.

The applicant requests to amend the existing site plan of SUP No. 2436 by increasing the square footage from 3,790 square feet to 4,722 square feet. The revised site plan will include a crosswalk across an ingress/egress point to improve walkability and pedestrian access. The sale of alcohol would not be a primary use and would only be allowed in conjunction with the uses listed on the SUP conditions. The proposed site would serve nearby residential uses in the area and other areas as well. It would allow a mix of uses and would be an addition to the live, work, play environment that currently exists.

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 amendment of SUP No. 2436; however, not the time frame of five years with eligibility for automatic renewals for five-year period as requested by the applicant. Staff recommends a timeframe of three years as it will allow staff to evaluate if the site is compliant within a short period of time.

Landscaping:

Landscaping must be provided in accordance with Article X of the Dallas Development code, as amended.

Parking:

Pursuant to the Dallas Development Code, the off-street parking requirement for a restaurant without a drive-through service is one space per 100 square feet. Additionally, the off-street parking requirement for a retail food store is one space per 200 square feet. Based on the 982 square feet proposed for restaurant use, 10 parking spaces are required. Based on the 3,740 square feet proposed for retail food store use, 19 parking spaces are required. A total of 29 parking spaces are required, and the applicant is providing 12 parking spaces on site as shown in the site plan. The applicant states they will be providing remote parking north of the site via a parking agreement. A note with this language is included on the site.

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 (A through C) to orange, representing the weakest markets (G through I). The area of request is currently not within an MVA area. To the northwest is a "C" MVA area.

Z234-107(LG)

Crime Report:

Since January 2022, the subject site has experienced 3 phone calls to the Dallas Police Department (DPD).

Calls (Summary)	
Problem	Count of Problem
12B - Business Alarm	3
Grand Total	3

List of Officers

TMF, LLC

Lauren van Wagenen (Manager)

Edward Rhyne (Manager)

SLR 4919 McKinney, LLC

Douglas G. chestnut (President)

Thomas B. Bakewell (Vice President)

Roger Beless (Vice President)

Case Killgore (Vice President)

**CPC Action
May 2, 2024**

Motion: It was moved to recommend **approval** of an amendment to Specific Use Permit No. 2436 for the sale of alcoholic beverages in conjunction with a restaurant without drive-through service and a retail food store for a five-year period, subject to an amended site plan and staff's recommended conditions on property zoned an LC Light Commercial Subdistrict within Planned Development District No. 193, the Oak Lawn Special Purpose District, with a D-1 Liquor Control Overlay and deed restrictions [Z201-315], at the intersection of McKinney Avenue and Harvard Avenue (north of Monticello Avenue, west of North Central Expressway).

Maker: Kingston
Second: Chernock
Result: Carried: 15 to 0

For: 15 - Chernock, Hampton, Herbert, Forsyth, Shidid, Carpenter, Wheeler-Reagan, Blair, Sleeper, Housewright, Eppler, Haqq, Hall, Kingston, Rubin

Against: 0
Absent: 0
Vacancy: 0

Notices: Area: 200 Mailed: 10
Replies: For: 0 Against: 3

Speakers: For: Tommy Mann, 500 Winstead Building, Dallas, TX 75201
Adam Murphy, Address not provided
Against: None

**EXISTING DEED RESTRICTIONS
(FOR INFORMATION PURPOSES ONLY.
NO CHANGES)**

220191

DEED RESTRICTIONS

THE STATE OF TEXAS
COUNTY OF DALLAS

§
§
§

KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, SLR 4919 McKinney, LLC, a Delaware limited liability company ("the Owner"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the J.W. Smith Survey, Abstract No. 1334, City Block 4/2017, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Shelley Lamb Enterprises, L.L.C., a Texas limited liability company, by deed dated December 30, 2021, and recorded in the Deed Records of Dallas County, Texas on January 5, 2022 as Instrument No. 202200002083, and being more particularly described in Exhibit A, attached hereto and made a part hereof for all purposes.

II.

The Owner does hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

- I. For a use operating with a specific use permit:
 - A. HOURS OF OPERATION.
 - i. A restaurant without drive-in or drive-through service use may only operate between 9:00 a.m. and 11:00 p.m., Monday through Sunday.
 - ii. A retail food store may only operate between 7:30 a.m. and 8:00 p.m., Monday through Saturday, and between 8:00 a.m. and 8:00 p.m., on Sunday.
 - B. AMPLIFIED SOUND: The use of outdoor amplified sound systems is prohibited after 9:00 p.m. Monday through Sunday. The use of outdoor amplified sound systems is also prohibited prior to 5:00 p.m., Monday through Friday.
 - C. UNOBSTRUCTED SIDEWALKS: Required sidewalks must be unobstructed.

III.

These restrictions shall continue in full force and effect for a period of 20 years from the date of execution, and shall automatically be extended for additional periods of 10 years unless amended or terminated in the manner specified in this document.

**EXISTING DEED RESTRICTIONS
(FOR INFORMATION PURPOSES ONLY.
NO CHANGES)**

220 191

IV.

These restrictions may be amended or terminated as to any portion of the Property, upon application to the City of Dallas by the current owner of that portion of the Property, without the concurrence of the owners of the remaining portion of the Property. These restrictions may be amended or terminated only after a public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings must be given as would be required by law for a zoning change on the Property. The amending or terminating instrument must be approved as to form by the city attorney. If the City Council approves an amendment or termination of these restrictions, the Owner must then file the amending or terminating instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the amendment or termination becomes effective.

V.

These restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owner agrees that these restrictions inure to the benefit of the City. The Owner hereby grants the City the right to enforce these restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these restrictions, the Owner agrees that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owner agrees that the City may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these restrictions are complied with. The right of the City to enforce these restrictions shall not be waived, expressly or otherwise.

VII.

THE OWNER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY FROM AND AGAINST ALL CLAIMS OR LIABILITIES ARISING OUT OF OR IN CONNECTION WITH THE PROVISIONS OF THIS DOCUMENT.

VIII.

The provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owner who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

IX.

Unless stated otherwise in this document, the definitions and provisions of Chapter 51, and Article 193, the Oak Lawn Special Purpose District, of Chapter 51P of the Dallas City Code, as amended,

**EXISTING DEED RESTRICTIONS
(FOR INFORMATION PURPOSES ONLY.
NO CHANGES)**

220191

apply and are incorporated into this document as if recited in this document. In the event of a conflict, the definitions and provisions in Article 193 supersede those in Chapter 51.

X.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas.

XI.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

XII.

The invalidation of any provision in this document by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

[Signatures appear on the following page(s).]

**EXISTING DEED RESTRICTIONS
(FOR INFORMATION PURPOSES ONLY.
NO CHANGES)**

220 19 1

EXECUTED this the 11 day of January, 2022.

SLR 4919 McKinney, LLC,
a Delaware limited liability company

By: 
Roger Beless, Vice President

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

Security National Bank of Omaha, a national bank
Property Lienholder or Mortgagee

By: 
Printed Name: James E. Landen, Jr.
Title: Texas Market President

APPROVED AS TO FORM:
CHRISTOPHER J. CASO, City Attorney

By: 
Assistant City Attorney

[Attach an acknowledgment for each signer]

**EXISTING DEED RESTRICTIONS
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NO CHANGES)**


220191

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned, a Notary Public, on this day personally appeared Roger Beless, Vice President of SLR 4919 McKinney, LLC, a Delaware limited liability company, known to me to be the person whose name is ascribed to the foregoing instrument and acknowledged to me that he executed the same on behalf of said limited liability company for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 11 day of January, 2022.

[SEAL] 


Notary Public in and for the State of Texas

EXISTING DEED RESTRICTIONS
(FOR INFORMATION PURPOSES ONLY.
NO CHANGES)

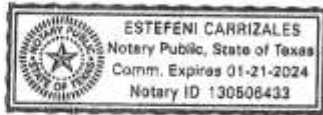
220 191

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned, a Notary Public, on this day personally appeared James E. Lander Jr. Texas Market President of Security National Bank of Omaha, a national bank, known to me to be the person whose name is ascribed to the foregoing instrument and acknowledged to me that he/she executed the same on behalf of said national bank.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 11 day of January, 2022.

[SEAL]



[Signature]
Notary Public in and for the State of Texas

STATE OF TEXAS §
Z 201-315 - Deed Restrictions

**EXISTING DEED RESTRICTIONS
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NO CHANGES)**

220191

Exhibit A

Legal Description of the Property

Being the remainder of Lots 13 and 14, Block 4/2017 of Armstrong's Booker Washington Addition, an Addition to the City of Dallas, Dallas County, Texas, according to the map recorded in Volume 1, Page 175, Map Records, Dallas County, Texas, said being that tract of land conveyed to Shelley Lamb Enterprises, L.L.C, a Texas limited liability company, by Special Warranty Deed recorded in Volume 2001248, Page 10059, Deed Records, Dallas County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a 1/2 inch iron rod found at the Southeast corner of Lot 15 of said Block 4/2017, said point being on the West right-of-way line of McKinney Avenue (variable width right-of-way);

Thence traversing along said West right-of-way line of McKinney Avenue as follows:

South 24 degrees 15 minutes 00 seconds West, a distance of 50.00 feet to a point for corner at the beginning of a curve to the right with a radius of 70.00 feet, a delta of 68 degrees 12 minutes 53 seconds, and a chord bearing and distance of South 58 degrees 21 minutes 26 seconds West, 78.50 feet, from which a mag nail found has a bearing and distance of North 32 degrees 18 minutes 36 seconds East, 2.72 feet;

Along said curve to the right, an arc length of 83.34 feet to a point for corner;

North 65 degrees 45 minutes 00 seconds West, a distance of 47.88 feet to a point for corner at the beginning of a curve to the left with a radius of 340.87 feet, a delta of 18 degrees 33 minutes 56 seconds, and a chord bearing and distance of North 07 degrees 49 minutes 39 seconds West, 109.97 feet, said point being on the East right-of-way line of Harvard Avenue (variable width right-of-way);

Thence Northerly along said East right-of-way line of Harvard Avenue and curve to the left, an arc length of 110.45 feet to a point for corner at the South corner of a tract of land conveyed to Bankers Life Insurance Company of America, described as Tract 2, by Deed recorded in Volume 71205, Page 8, Deed Records, Dallas County, Texas, from which a mag nail found for witness has a bearing and distance of North 71 degrees 52 minutes 10 seconds West, 0.54 feet;

Thence North 24 degrees 15 minutes 00 seconds East, along the East line of said Bankers Life Tract 2, a distance of 21.82 feet to a 1/2 inch iron rod found at the common Northeast corner of said Bankers Life Tract 2 and the Southeast corner of a tract of land conveyed to said Bankers Life Insurance Company, described as Tract 1, and the Southwest corner of the aforementioned Lot 15, Block 4/2017;

Thence South 65 degrees 45 minutes 00 seconds East, along the South line of said Lot 15, Block 4/2017, a distance of 150.31 feet to the Point of Beginning and containing 13,448 square feet or 0.308 of an acre of land.

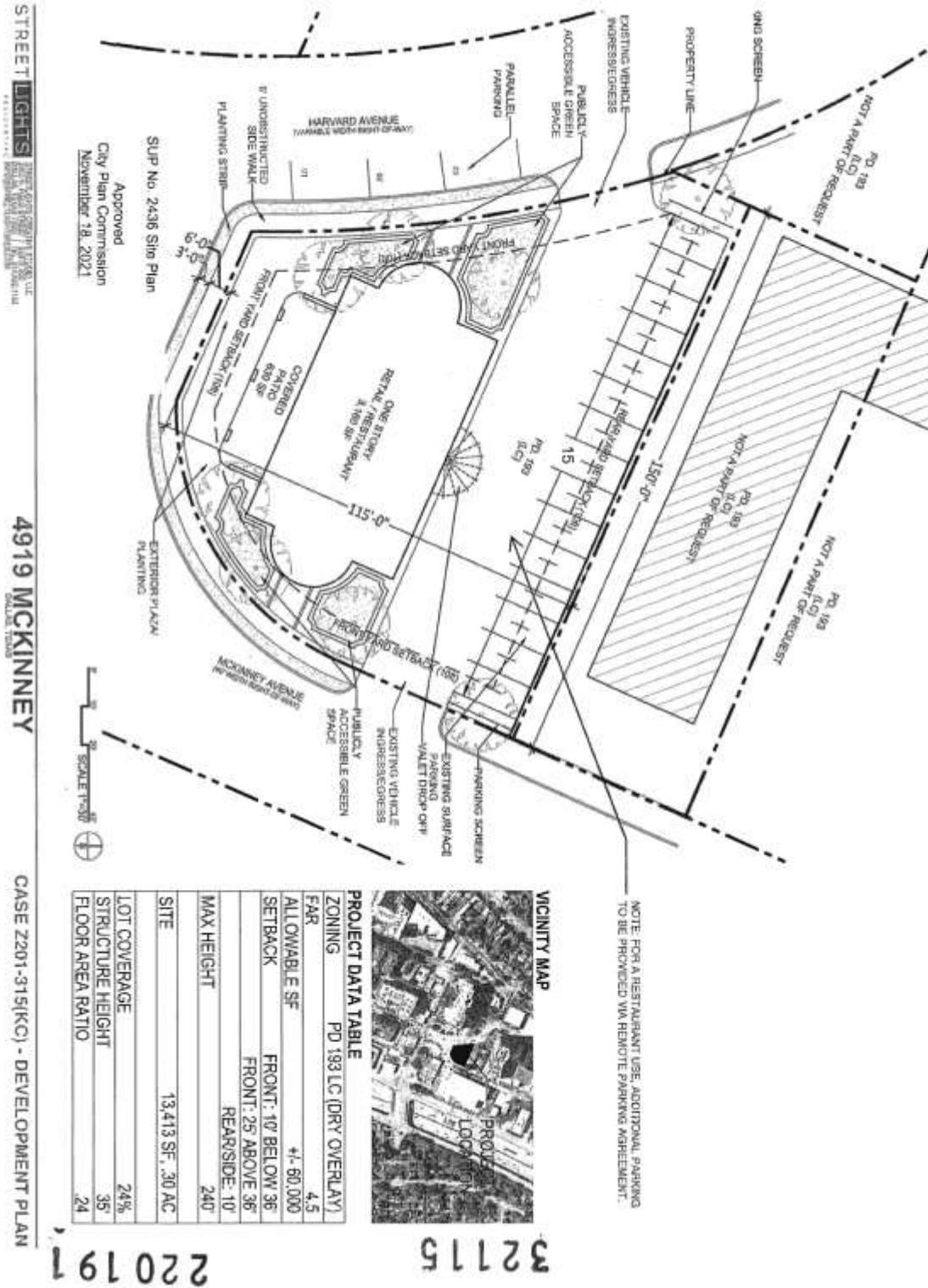
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Return to City Secretary
City Hall
Dallas, Texas, 75201

PROPOSED SUP NO. 2436 CONDITIONS

1. USE: The only use authorized by this specific use permit are the sale of alcoholic beverages in conjunction with either restaurant without drive-through service or a retail food store
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 (five years from the passage of this ordinance.
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. 2436 SITE PLAN



NOTE: FOR A RESTAURANT USE, ADDITIONAL PARKING TO BE PROVIDED VIA REMOTE PARKING AGREEMENT.



PROJECT DATA TABLE

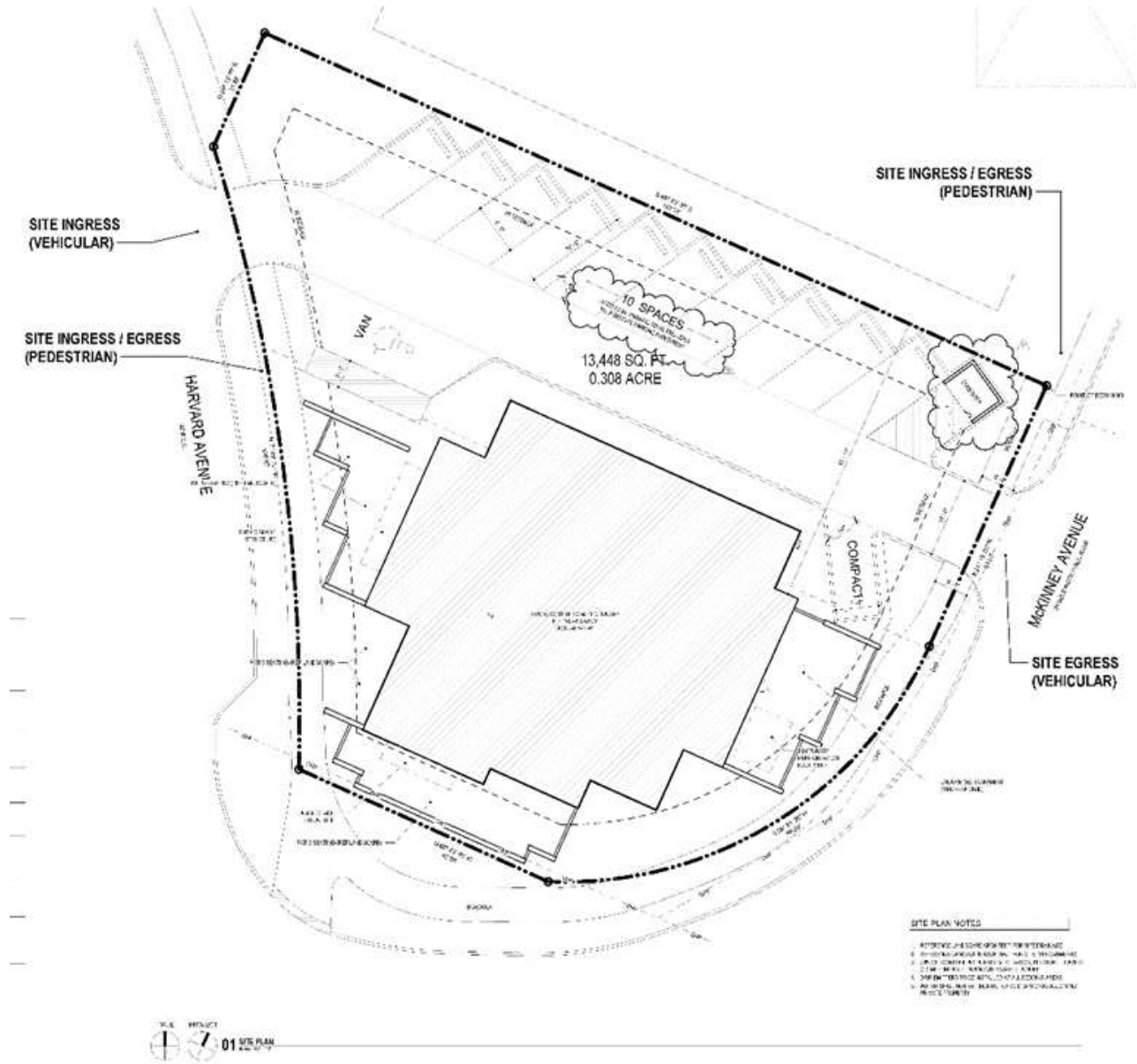
ZONING	PD 193 LC (DRY OVERLAY)
FAR	4.5
ALLOWABLE SF	+/- 60,000
SETBACK	FRONT: 10' BELOW 36 FRONT: 25' ABOVE 36 REAR/SIDE: 10'
MAX HEIGHT	240'
SITE	13,413 SF, .30 AC
LOT COVERAGE	24%
STRUCTURE HEIGHT	35'
FLOOR AREA RATIO	.24

STREET LIGHTS
 4919 MCKINNEY
 CASE Z201-315(KC) - DEVELOPMENT PLAN
 Approved
 City Plan Commission
 November 18, 2021
 SUP No. 2436 Site Plan
 SCALE 1"=20'

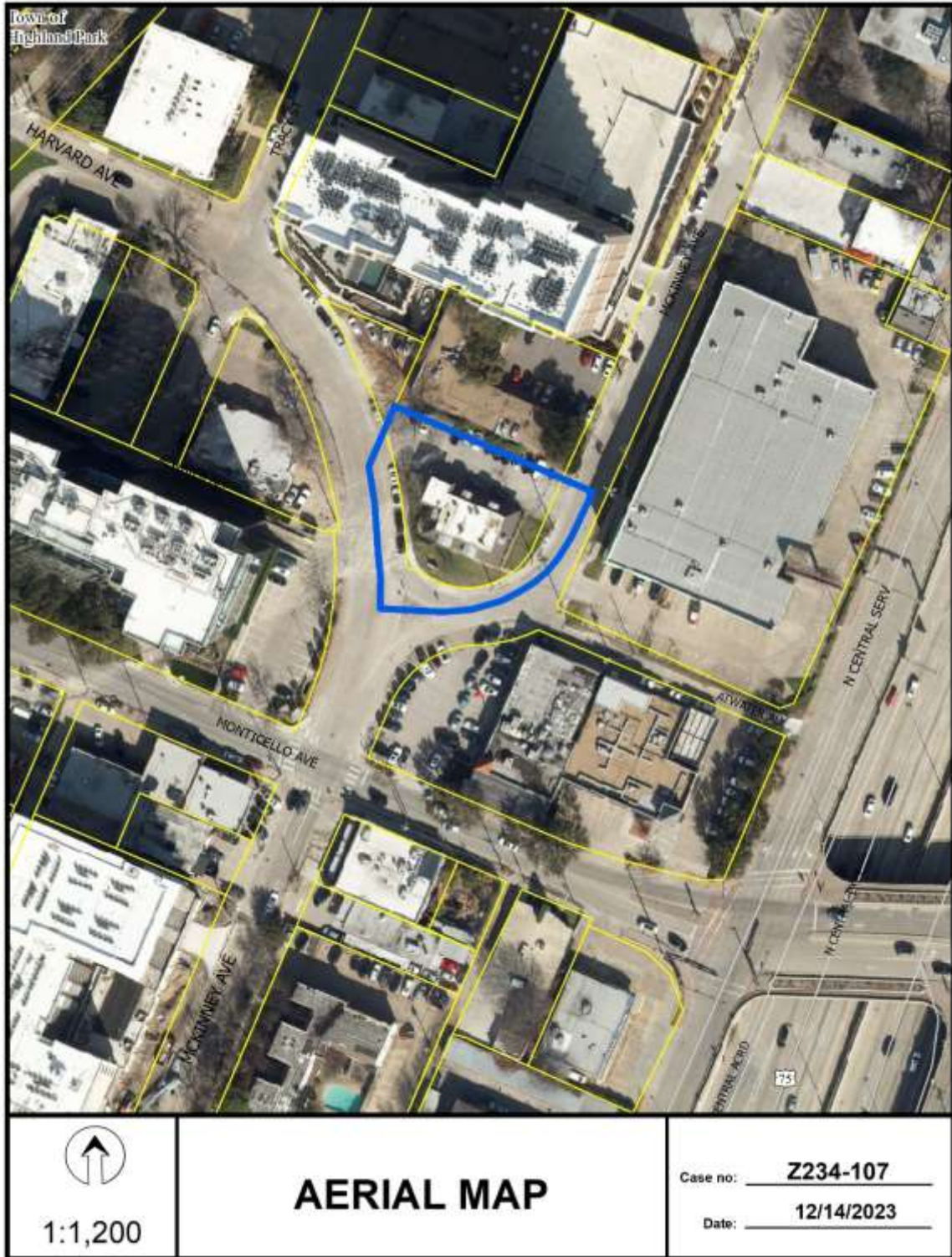
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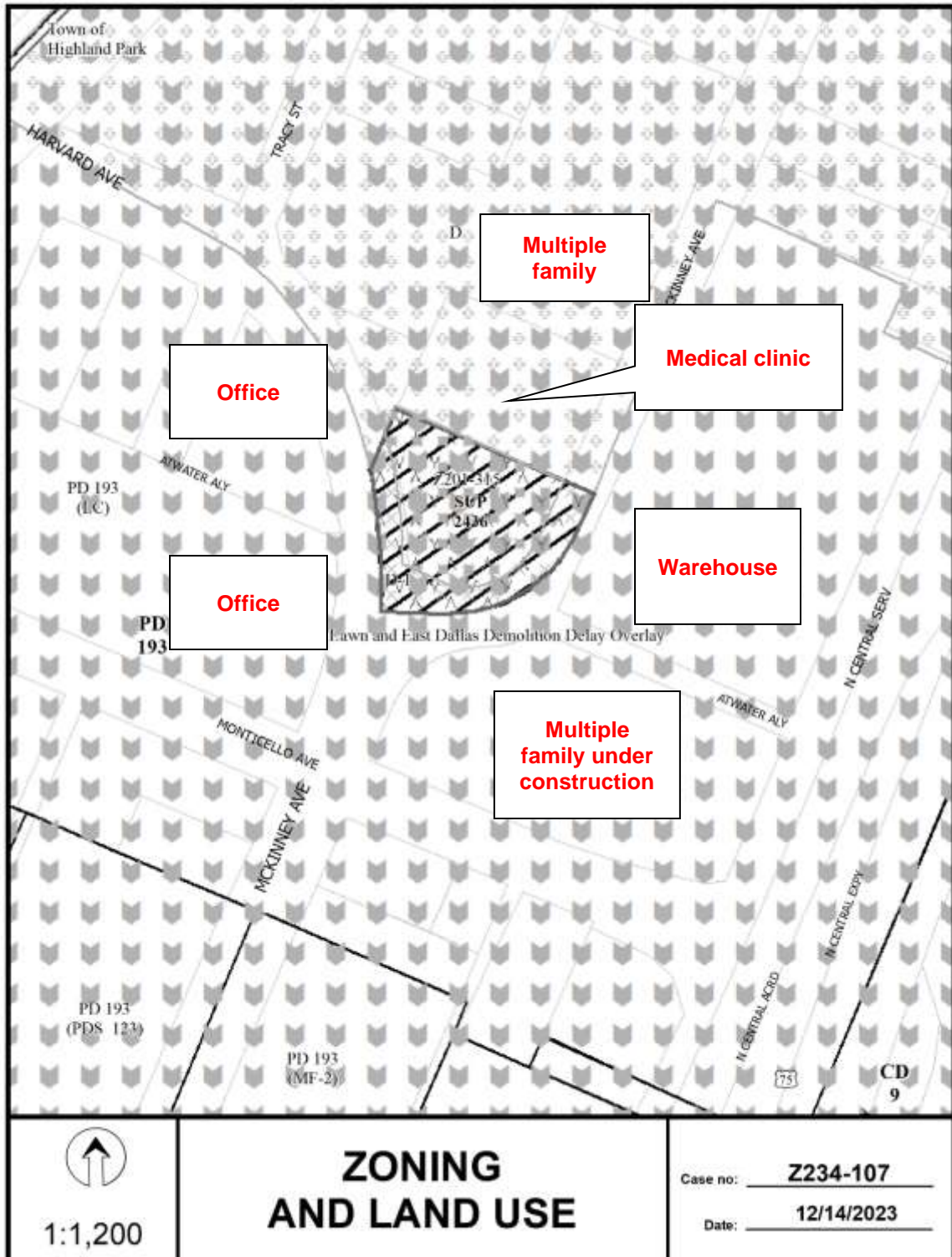


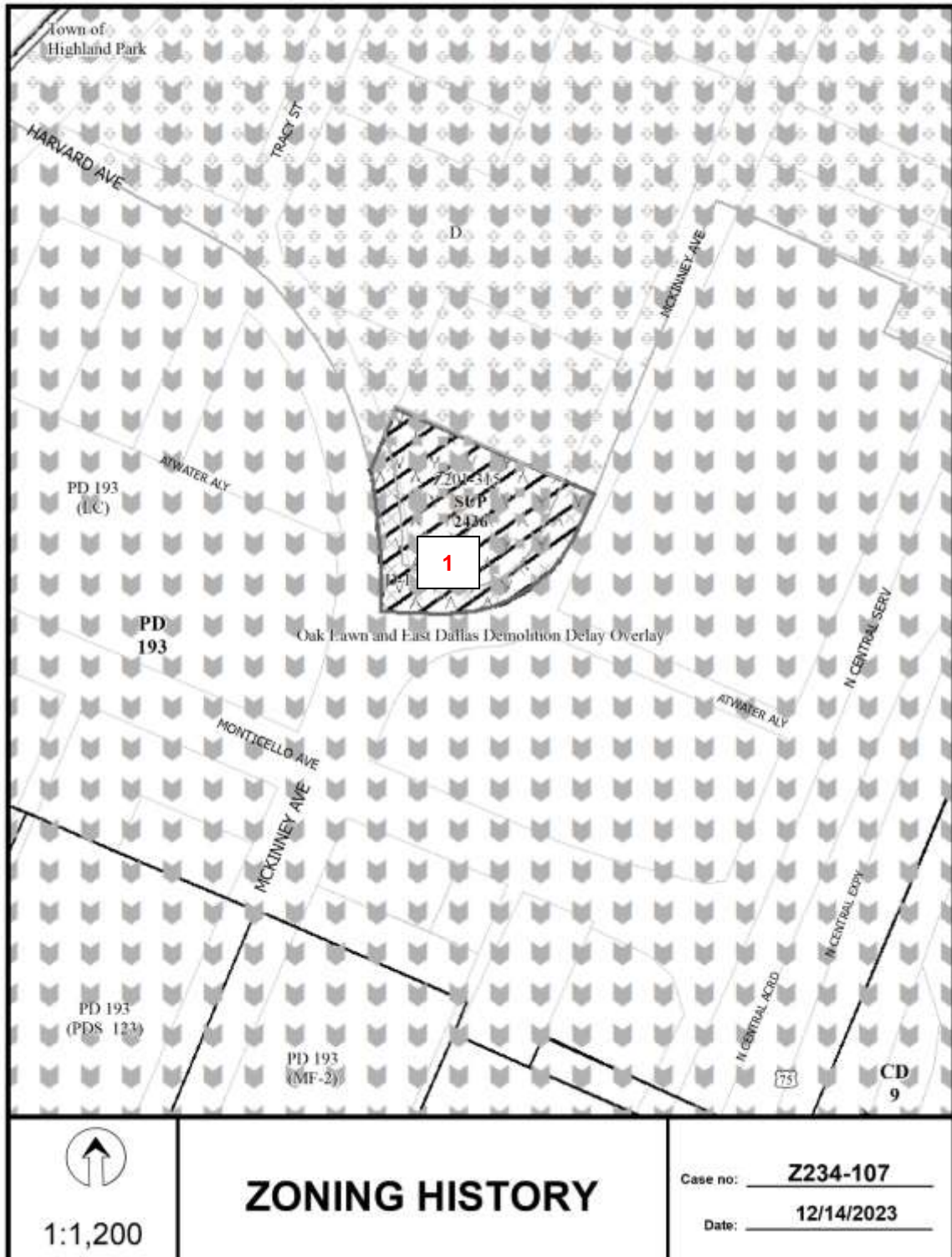
PROPOSED SUP NO. 2436 SITE PLAN (Enlarged)

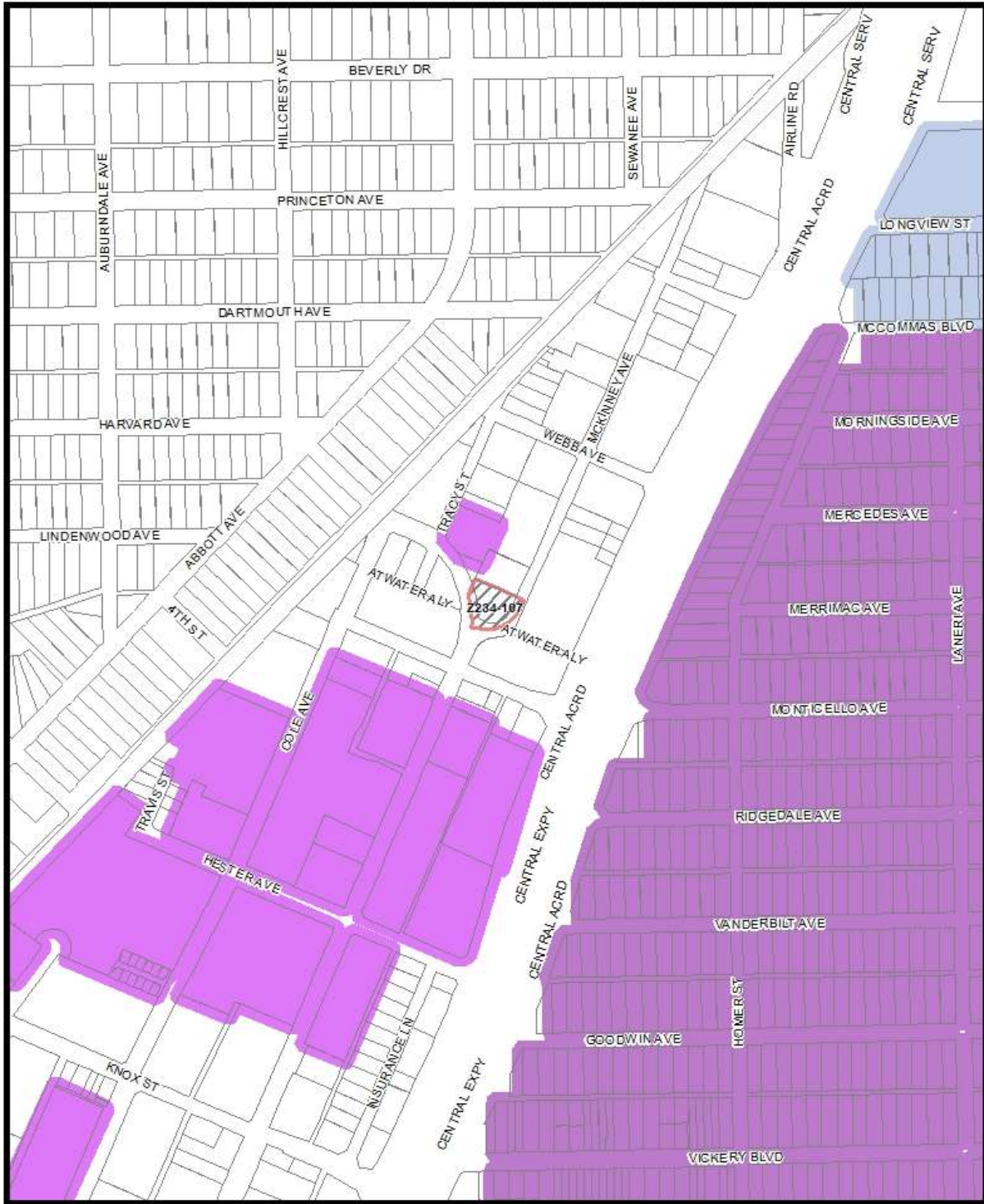












Market Value Analysis A B C D E F G H I NA

1:4,800

Market Value Analysis

Printed Date: 12/14/2023



Z234-107(LG)

05/01/2024

Reply List of Property Owners

Z234-107

10 Property Owners Notified

0 Property Owners in Favor

3 Property Owners Opposed

<i>Reply</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
	1	4919 MCKINNEY AVE	SLR 4919 MCKINNEY LLC
	2	4830 MCKINNEY AVE	RAB MCKINNEY LLC
	3	4900 MCKINNEY AVE	4900 MCKINNEY OWNER LLC
	5	4920 TRACY ST	BANKERS LIFE INS CO
X	6	3130 HARVARD AVE	GUTIERREZ JAVIER
	7	4925 MCKINNEY AVE	BANKERS LIFE INS CO
	9	4920 MCKINNEY AVE	ESS PRISA II TX LP
	10	3140 HARVARD AVE	STREETLIGHTS RESIDENTIAL
X	A1	3100 MONTICELLO AVE	DALLAS 3100 LP
X	A2	3111 MONTICELLO AVE	DALLAS 3111 LP