

CITY PLAN COMMISSION**THURSDAY, SEPTEMBER 7, 2023**
Planner: Andreea Udrea, PhD, AICP

FILE NUMBER: Z223-105(AU) **DATE FILED:** October 5, 2022

LOCATION: East line of Greenville Avenue, between Prospect Avenue and Oram Street

COUNCIL DISTRICT: 14

SIZE OF REQUEST: Approx. 0.5 Acres **CENSUS TRACT:** 48113001101

OWNER: Lavo Properties LLC

APPLICANT: Fortune House FH Greenville

REPRESENTATIVE: Rob Baldwin, Baldwin Associates

REQUEST: An application for a Specific Use Permit 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).

STAFF RECOMMENDATION: **Approval** for a two-year period, subject to a site plan and conditions.

CPC RECOMMENDATION: On July 6, 2023, City Plan Commission held the item under advisement till September 7, 2023.

PD No. 842:

<https://dallascityhall.com/departments/city-attorney/pages/articles-data.aspx?pd=842>

BACKGROUND INFORMATION

- On January 26, 2011, the City Council approved Planned Development District No. 842 for CR Community Retail District uses. In PD No. 842, late-hour establishments are allowable only subject to an SUP. A late-hours establishment means a retail and personal service use that, except in Subdistrict 2, operates between 12 a.m. (midnight) and 6 a.m., and in Subdistrict 2, operates between 9 p.m. and 6 a.m.
- The area of request is also located within the Tract 3 portion of Modified Delta Overlay No. 1.
- 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 on the area of request, for a one-year period. Subsequently, on November 14, 2018, City Council approved the renewal of the SUP for an additional one-year period. And on January 8, 2020, City Council approved the renewal of the SUP for an additional two-year period. SUP No. 2272 expired on January 8, 2022.
- The property is currently developed with a 15,680-square-foot retail building with multiple suites, a rooftop terrace, and uncovered patios on the sidewalk. The request for the new SUP is for one of the suites, approximately 4,736 square feet in area being used as a restaurant with a 704-square-foot uncovered patio on the sidewalk, and no rooftop terrace. A Certificate of Occupancy for the subject suite was approved and issued on June 23, 2022, for the existing restaurant use [Fortune House].
- Since July 6, 2023, the applicant revised the SUP Site Plan to indicate the walk-in cooler that is located on the rear of the property. The cooler was installed based on permit issued in 2013. The SUP conditions were revised to include a condition to not allow the use on the rooftop patio.

Zoning History

There have been 15 zoning change requests in the area within the last five years.

1. **Z223-135:** An application for the renewal of Specific Use Permit No. 1903 for a late-hours establishment limited to a restaurant without drive-in or drive-through on property zoned Planned Development District No. 842 for CR Community Retail District uses with an MD-1 Modified Delta Overlay, on the north line of Alta Avenue, west of Greenville Avenue. (under consideration with CPC on July 6, 2023)
2. **Z223-129:** An application for the renewal of Specific Use Permit No. 1903 for a late-hours establishment limited to a restaurant without drive-in or drive-through on property zoned Planned Development District No. 842 for CR Community Retail District uses with an MD-1 Modified Delta Overlay, on the southeast corner of Greenville Avenue and Oram Street. (under consideration with CPC on July 6, 2023)

3. **Z223-123 and Z223-124:** On Thursday, May 18, 2023, the City Plan Commission recommended denial with prejudice of an application for (1) an amendment to add “extended hours establishment” as a permitted use by SUP only in Subdistrict 1 within Planned Development District No. 842, and (2) a Specific Use Permit for an extended hours establishment, on property located on the west side of Greenville Avenue, between Sears Street and Alta Avenue.
4. **Z212-204:** On August 24, 2022, 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, on property zoned Planned Development District No. 842 for CR Community Retail District uses with an MD-1 Modified Delta Overlay, on the west line of Greenville Avenue, north of Alta Avenue.
5. **Z201-154:** On May 26, 2021, City Council approved the renewal of Specific Use Permit No. 1903 for a late-hours establishment limited to a restaurant without drive-in or drive-through for a two-year period, on property zoned Planned Development District No. 842 for CR Community Retail District uses with an MD-1 Modified Delta Overlay, on the north line of Alta Avenue, west of Greenville Avenue.
6. **Z201-101:** On Thursday, January 21, 2021, the City Plan Commission recommended denial with prejudice of an application for a Specific Use Permit for a late hour establishment limited to a restaurant with drive-in or drive-through use on property zoned Planned Development District No. 842 with an MD-1 Modified Delta Overlay District, on the southeast corner of Greenville Avenue and Prospect Avenue.
7. **Z190-306:** On December 09, 2020, 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 five-year period, on property zoned Planned Development District No. 842 for CR Community Retail District uses with an MD-1 Modified Delta Overlay, on the west line of Greenville Avenue, north of Alta Avenue.
8. **Z190-125:** On February 26, 2020, City Council approved the amendment and renewal of Specific Use Permit No. 2327 for a late-hours establishment limited to a restaurant without drive-in or drive-through for a two-year period, 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, north of Oram Street [subject site].
9. **Z189-333:** On January 8, 2020, City Council approved the amendment and renewal of Specific Use Permit No. 2272 for a late-hours establishment limited to a restaurant without drive-in or drive-through for a two-year period, 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, north of Oram Street [subject site].

10. **Z189-251:** On August 14, 2019, City Council approved Specific Use Permit No. 2346 for a late-hours establishment limited to a restaurant without drive-in or drive-through for a four-year period, on property zoned Planned Development District No. 842 for CR Community Retail District uses with an MD-1 Modified Delta Overlay, on the southwest corner of Greeneville Avenue and Alta Avenue.
11. **Z189-227:** On April 3, 2019, an automatic renewal of Specific Use Permit No. 1879 for a late-hours establishment limited to an alcoholic beverage establishment operated as a bar, lounge or tavern, has been automatically renewed for an additional two-year time period 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 Greeneville Avenue, terminus of Alta Avenue
12. **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.
13. **Z189-131:** On Thursday, February 7, 2019, the City Plan Commission recommended denial without prejudice of your application for a Specific Use Permit for late-hours establishment limited to a restaurant without drive-in or drive-through service on property zoned a Planned Development District No. 842 with a MD-1 Modified Delta Overlay, on the east line of Greenville Avenue, between Oram Street and La Vista Drive.
14. **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, 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 Greeneville Avenue, north of Oram Street. (subject site)
15. **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.

Thoroughfare/Street

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

Transportation

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.

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	PD No. 842	Retail strip with restaurant uses
North	PD No. 842	Restaurant
East	PD No. 167, CR with SUP No. 285	Surface Parking Lot, Electric Substation
South	PD No. 842	Personal Service
West	PD No. 842 With SUPs No. 1905, 2401, 1912	Retail strip with restaurant uses and late-hours establishments

Land Use Compatibility

The SUP area of request is a portion of a lot developed with an approximately 15,680-square-foot-retail strip structure that is divided into four suites, and has a rooftop patio for one of the suites, and uncovered patios on the sidewalk for few of the suites.

The applicant is requesting an SUP for a late-hours establishment in one of the suites, approximately 4,736 square feet in area with an approximately 704-square-foot uncovered patio, 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 area of request was subject to SUP No. 2272, for a late-hours establishment limited to a restaurant without drive-in or drive-through service use, which expired on January 8, 2022.

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 PD 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 PD, 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.

PD 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 PD 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 street. The uncovered patio is along the sidewalk, an no rooftop terrace is associated with the establishment. Therefore, staff supports the request for a Specific Use Permit for a late-hours establishment, for a two-year period, subject to a site plan and conditions.

Police calls

The following tables detail the reported incidents and calls requiring police activity since the passing of the last ordinance approving an SUP at the location, January 2020. The count reflects a total of six calls with one offence and no arrest reported.

Address	Date	Day	Time	Crime	Group Crime Against
2010 GREENVILLE AVE	12/17/2020	Thu	11PM	THEFT FROM MOTOR VEHICLE	Group A – Crime Against Property

Response Date	Response Time	Problem	Priority Description	Location Name	Address
11/1/2021	9:48AM	40 - Other	3 – General Service	GUNGHO	2010 Greenville Ave

2/18/2023	2:28PM	09V - UUMV	4 – Non-Critical		2010 GREENVILLE AVE
5/15/2020	7:16PM	09V - UUMV	4 – Non-Critical		2010 Greenville Ave
11/2/2021	9:00AM	40 - Other	3 – General Service	GUNG HO RESTAURANT	2010 Greenville Ave
7/13/2021	1:48PM	6X - Major Dist (Violence)	2 – Urgent	GUNGHO	20100 Greenville Ave
5/2/2022	3:07AM	11B/01 - Burg of Bus	2 – Urgent	STEEL CITY POPS	2010 GREENVILLE AVE

Landscaping

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

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 176 spaces with 5711, 5716, 5720, and 5724 Prospect Avenue and 2026 Greenville Avenue and 5602-06 Sears Street to satisfy the requirement of 47 off-street parking spaces for the applicant's request.

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.

List of Officers:

Lavo Properties, LLC

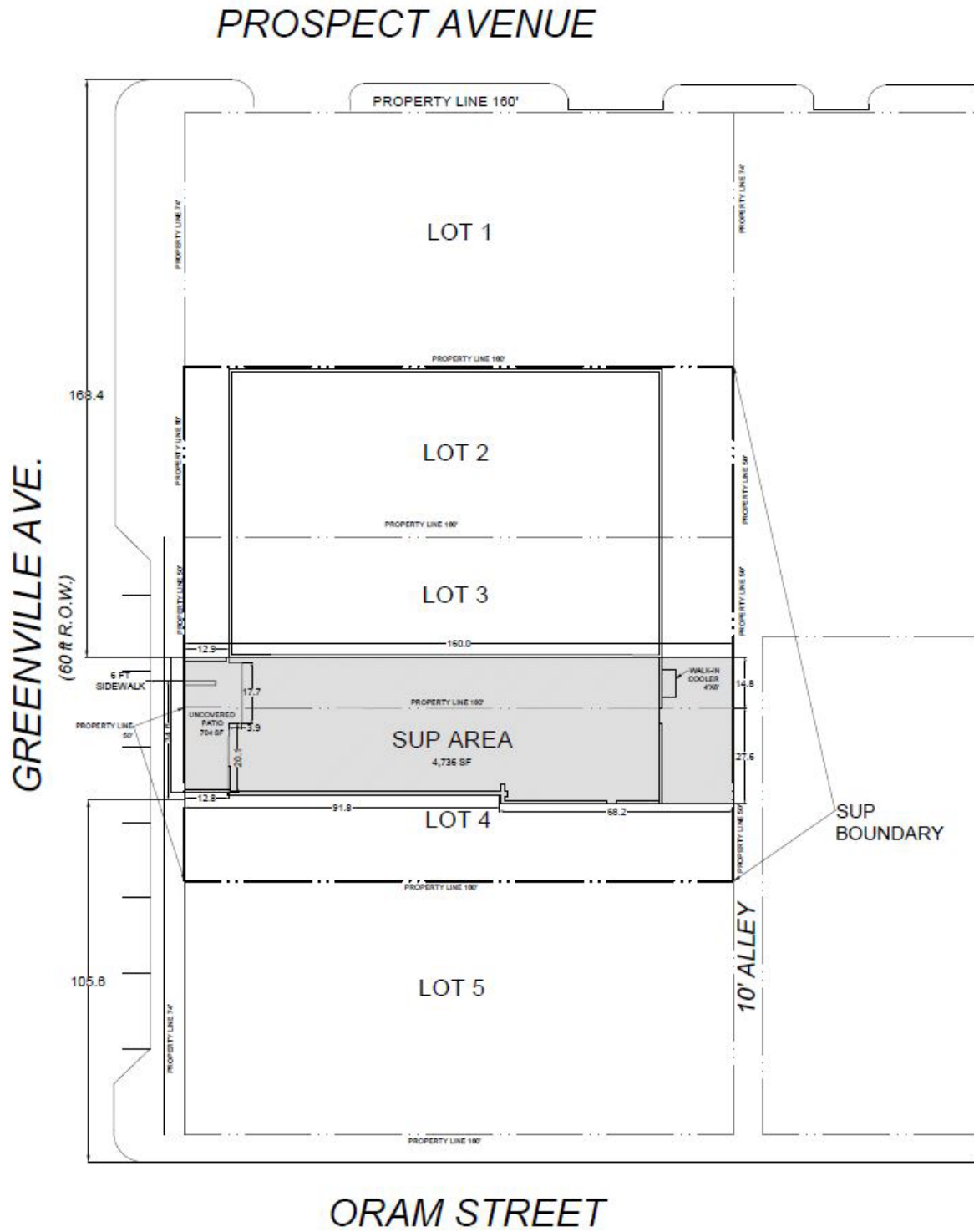
Wonderful Seven GP

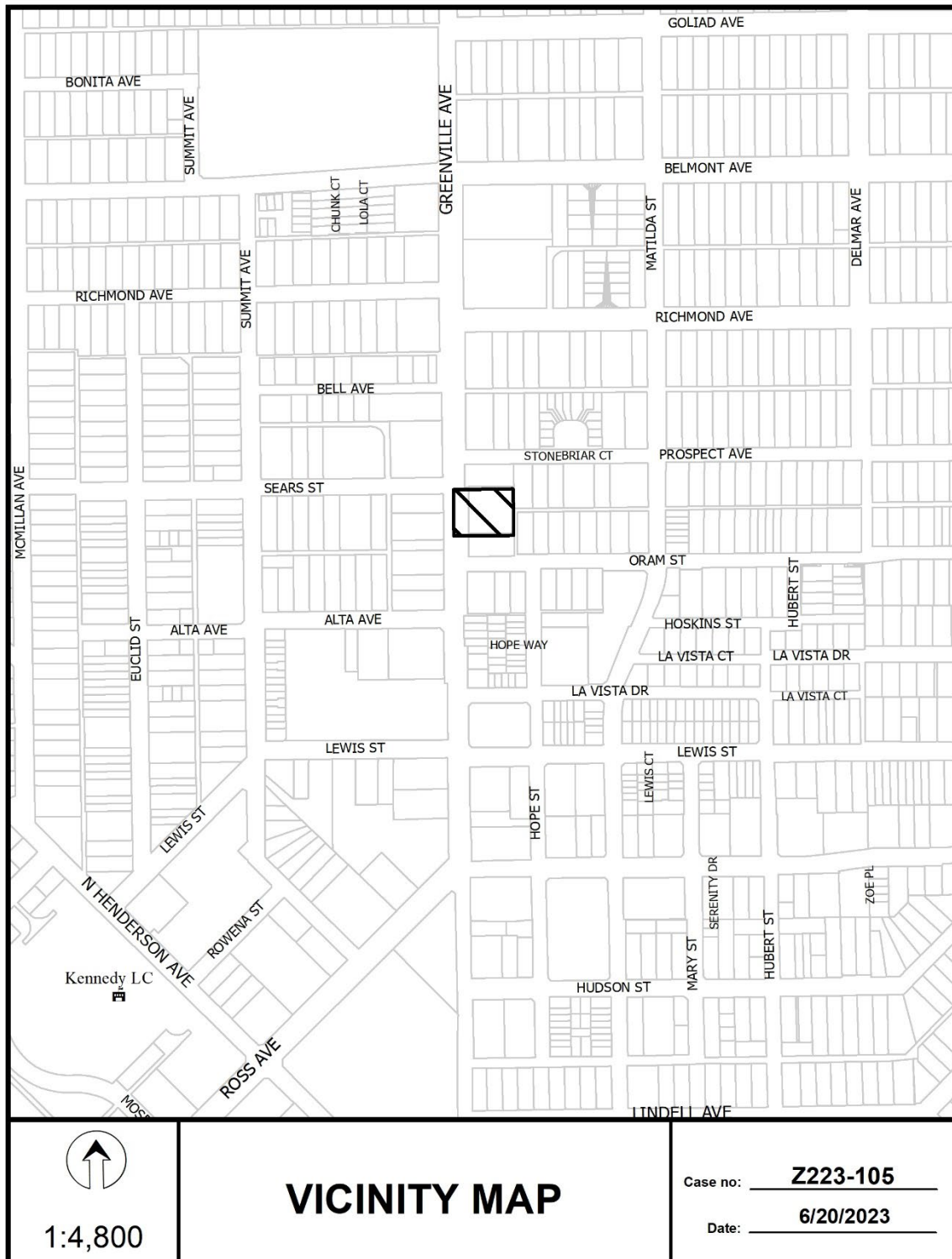
Marc Andres, President
Roger Andres, Director

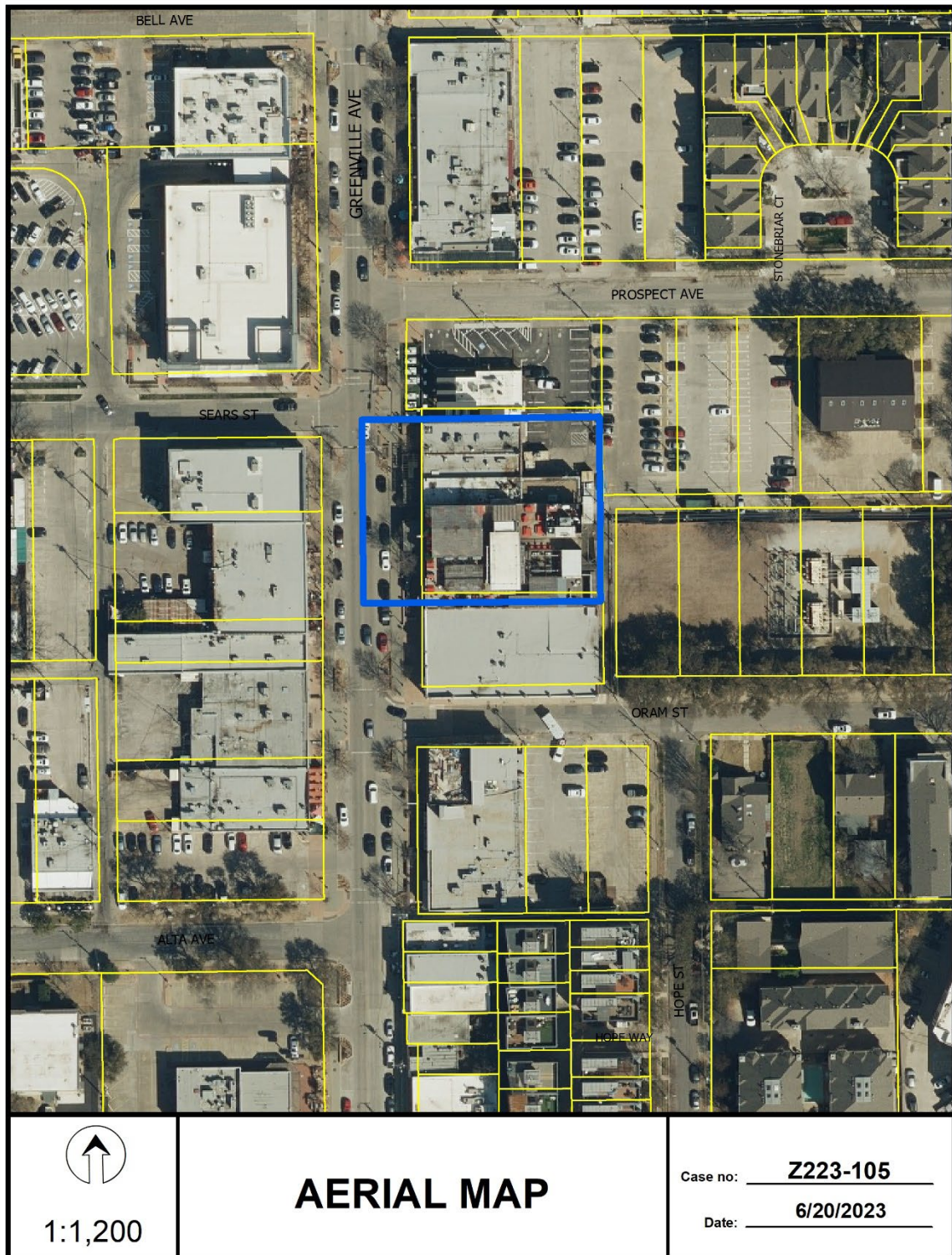
Proposed SUP Conditions

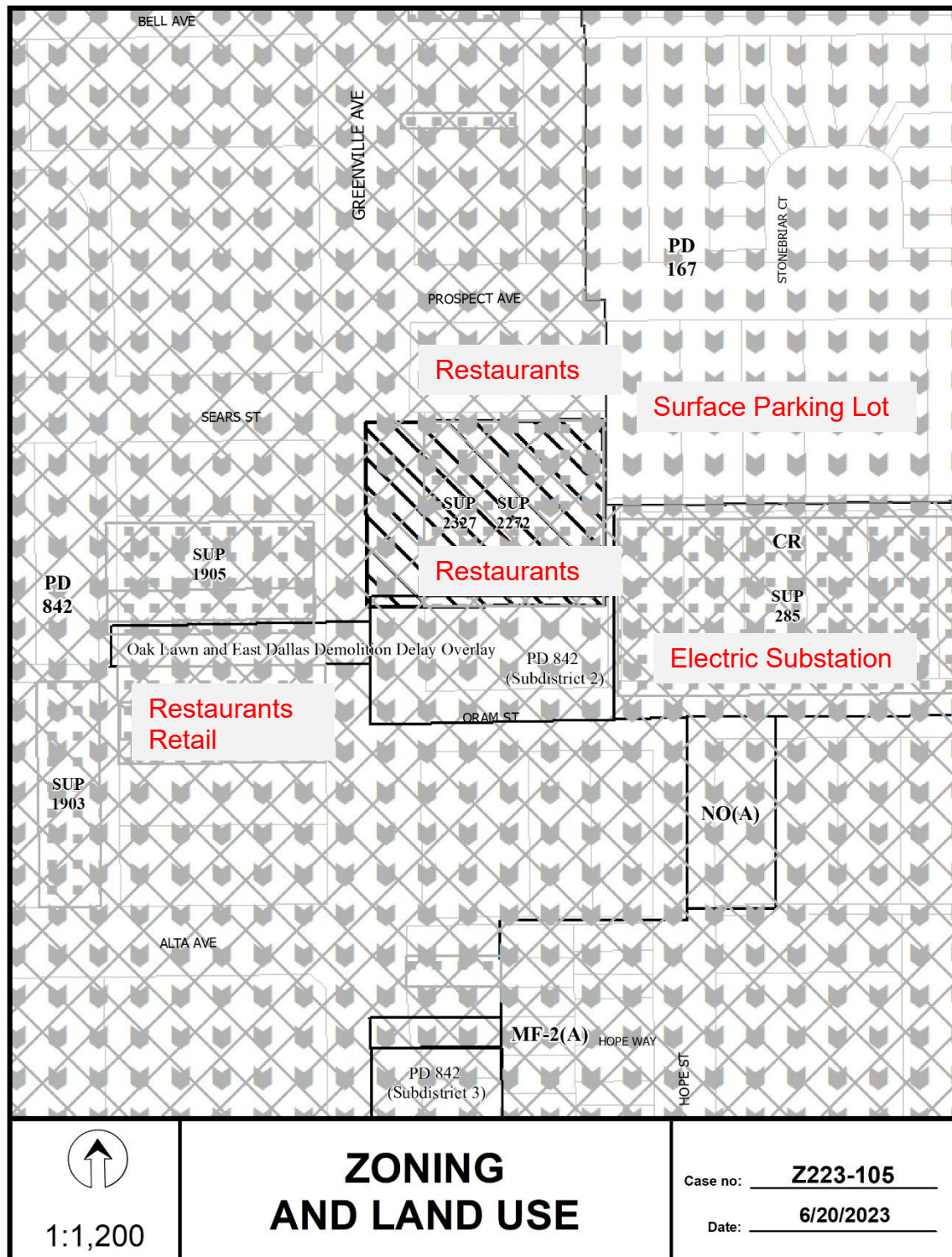
1. USE: The only use authorized by this specific use permit is a late-hours establishment limited to a restaurant without drive-in or drive-through service.
2. SITE PLAN: Use and development of the Property must comply with the attached site plan.
3. TIME LIMIT: This specific use permit expires on ... (two-year period from passing of this ordinance).
4. FLOOR AREA:
 - a. The maximum floor area is 4,736 square feet in the location shown on the attached site plan.
 - b. The rooftop patio is not part of the SUP.
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. All customers must be removed from the Property by 2:15 a.m.
6. OUTDOOR SPEAKERS, AMPLIFICATION, AND LIVE MUSIC: Speakers, amplification, and live music are prohibited on the outdoor patio between the hours of 12:00 a.m. and 2:00 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 704 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. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.
9. 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.

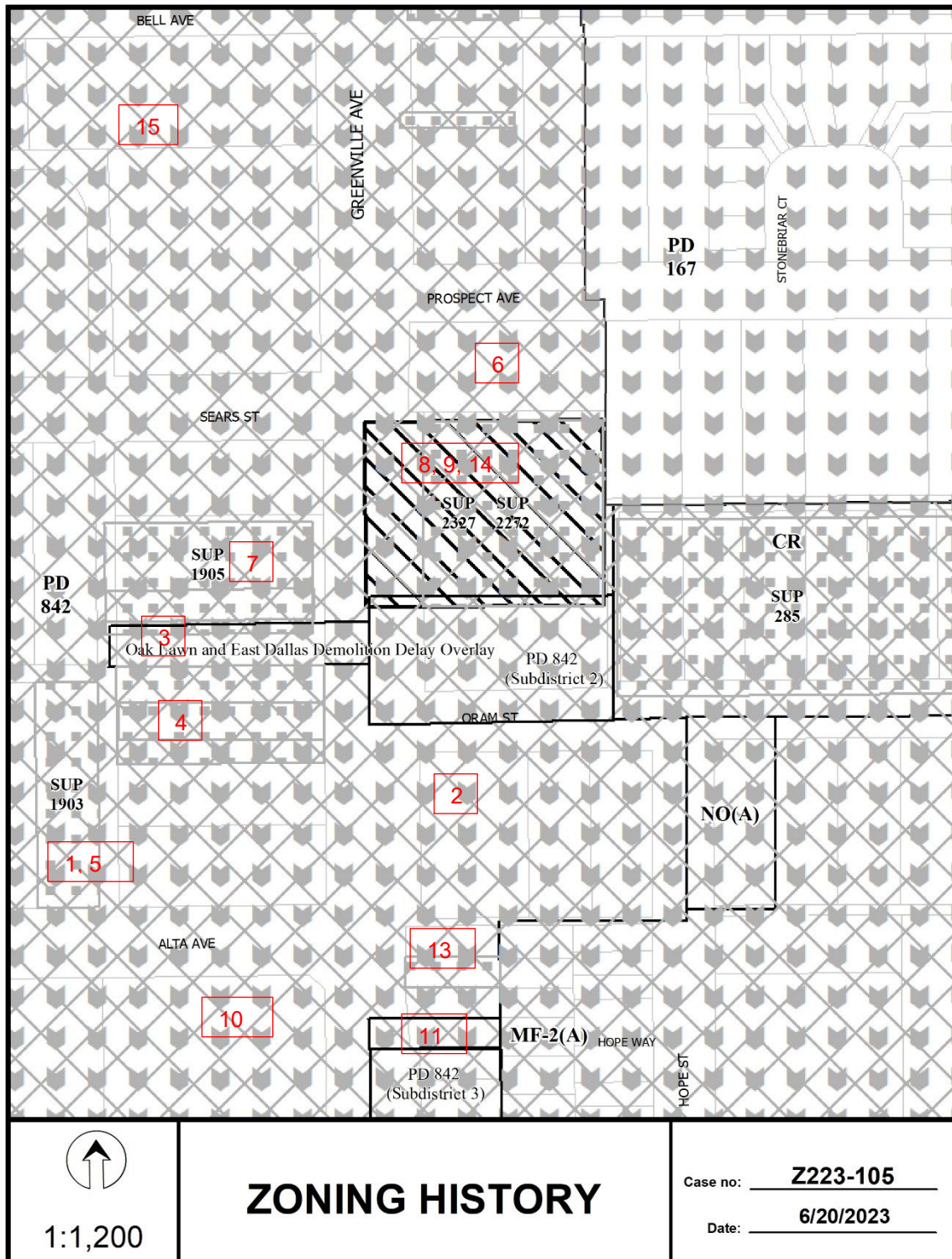
**PROPOSED SUP SITE PLAN
(enlarged)**

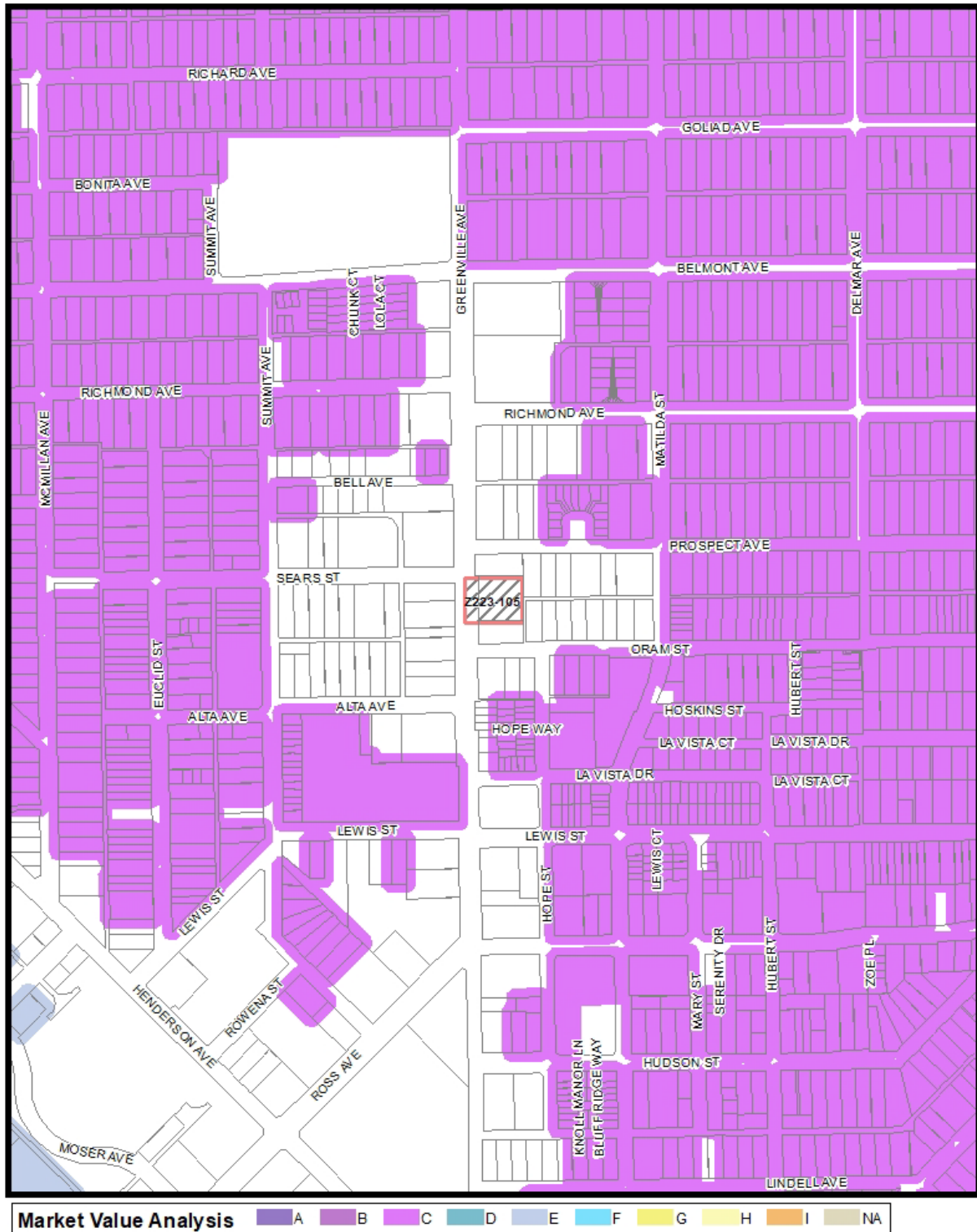












Market Value Analysis

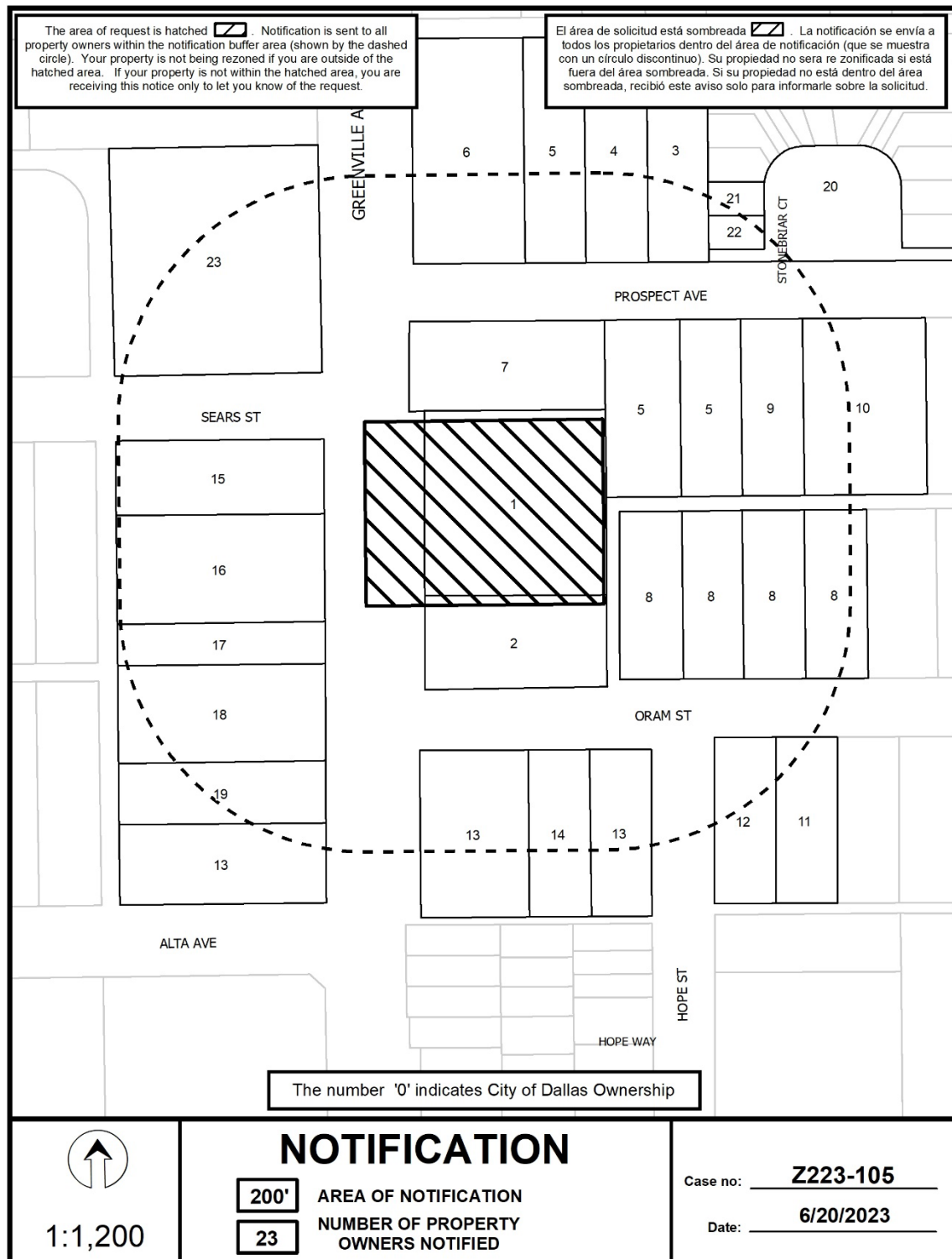
A B C D E F G H I NA



1:4,800

Market Value Analysis

Printed Date: 6/22/2023



6/20/2023

Notification List of Property Owners***Z223-105******23 Property Owners Notified***

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2008 GREENVILLE AVE	LAVO PROPERTIES LLC
2	2000 GREENVILLE AVE	2000 GREENVILLE INVESTORS LLC
3	5719 PROSPECT AVE	MADISON PACIFIC DEV COM
4	5715 PROSPECT AVE	REESE GRANDCHILDRENS
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
9	5724 PROSPECT AVE	ANDRES FAMILY TRUST
10	5728 PROSPECT AVE	WALL JOHN E JR
11	5726 ORAM ST	ORAM HOME LLC
12	5722 ORAM ST	MCKINNEY FEARGAL &
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	MEDICAPITAL INC
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