

FILE NUMBER: Z223-245(LC) **DATE FILED:** April 5, 2023

LOCATION: North corner of South Fitzhugh Avenue and Haskell Avenue

COUNCIL DISTRICT: 2

SIZE OF REQUEST: Approx. 34,077 sq. ft. **CENSUS TRACT:** 48113002500

REPRESENTATIVE: Jose C. Garcia, XG Drafting

OWNER/APPLICANT: Jose M. Martinez, [Sole Owner]

REQUEST: An application for the termination of deed restrictions [Z978-150 and Z190-168] on property zoned a CS Commercial Service District.

SUMMARY: The purpose of the request is to terminate the existing deed restrictions to operate under the standard regulations of a CS District.

STAFF RECOMMENDATION: Approval of the termination of deed restrictions [Z978-150 and Z190-168] as volunteered by the applicant.

BACKGROUND INFORMATION:

- The area of request is currently zoned a CS Commercial Service District with deed restrictions [Z978-150 and Z190-168]. The applicant proposes vehicle or engine repair or maintenance on the site.
- Deed restrictions [Z978-150] were originally approved on September 8, 1999 and restricted uses to those permitted in a CR Community Retail District, plus a machinery, heavy equipment, or truck sales and service use with operating hours between 7:00 a.m. and 7:00 p.m. All other uses permitted in a standard CS District were prohibited by these deed restrictions.
- Deed restrictions [Z190-168] were approved on May 27, 2020 to terminate one of the conditions from Z978-150, which was the removal of the 40-foot setback from the northeastern property line.
- The applicant requests the termination of the existing deed restrictions [Z978-150 and Z190-168] to operate under the standard regulations of a CS District.

Zoning History:

There have been no zoning cases in the area in the last five years.

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing/Proposed ROW
South Fitzhugh Avenue	Local Street	-
South Haskell Avenue	Principal Arterial	90 feet

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 outlining several goals and policies which can serve as a framework for assisting in evaluating the applicant's request.

The request complies with the following land use goals and policies of the Comprehensive Plan:

LAND USE ELEMENT

GOAL 1.1 ALIGN LAND USE STRATEGIES WITH ECONOMIC DEVELOPMENT PRIORITIES

A goal of the forwardDallas! Vision is to create a healthy balance between jobs and households throughout Dallas by adding about 220,000 households and about 400,000 jobs between the years 2000 and 2030. The City should facilitate balanced growth with the goal of achieving and maintaining a sustainable tax base. Tools and strategies for achieving the City's economic development land use goals should direct public investment and encourage private partnerships.

ECONOMIC ELEMENT

GOAL 2.1 PROMOTE BALANCED GROWTH

The City must promote a healthy balance of jobs and households in Dallas. It is important that the City establish and maintain land use policies that support its economic goals. These policies should encourage continued development and expansion of employment and housing opportunities throughout the city to achieve a growth target of 400,000 new jobs and 220,000 new households between the years 2000 and 2030.

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

Planning for balanced growth in a dynamic economic environment calls for flexible zoning regulations to enable the City to respond to changing markets and to better facilitate development that aligns with economic priorities.

Land Use:

	Zoning	Land Use
Site	CS	Commercial & business service
North	R-5(A)	Single Family
East	CS	Commercial & business service
South	MF-2(A)	Multifamily
West	CS	Commercial & business service

Land Use Compatibility:

The area of request is predominantly surrounded by a mix of single family, multifamily and a few commercial properties. To the north and south there are single-family houses, with multifamily to the south as well. To the east and west there are a variety of commercial services. Staff assesses the applicant’s proposal for terminating the deed restrictions to allow operation within standard CS District uses to be compatible with surrounding uses in the area.

The area of request is currently zoned a CS District. The applicant proposes to terminate existing deed restrictions to allow vehicle or engine repair or maintenance on the site. As this use is permitted in a standard CS District, staff does not object to the proposed amendment to the deed restrictions that would allow these uses.

Land Use Comparison

Following is a comparison table showing differences in permitted uses between the existing CR District with deed restrictions and a standard CR District. Uses highlighted in yellow are those that are not currently permitted under the existing deed restrictions but would be if the deed restrictions are terminated, plus those that would be subject to less restrictive regulations if the deed restrictions are terminated.

LEGEND

	Use prohibited
•	Use permitted by right
S	Use permitted by Specific Use Permit
D	Use permitted subject to Development Impact Review
R	Use permitted subject to Residential Adjacency Review
★	Consult the use regulations in Section 51A-4.200 or DRs [Z978-150]

	Existing	Proposed
Use	CS w/DRs	CS
AGRICULTURAL USES		
Animal production		
Commercial stable		
Crop production	•	•
Private stable		
COMMERCIAL AND BUSINESS SERVICE USES		
Building repair and maintenance shop	R	R
Bus or rail transit vehicle maintenance or storage facility		R
Catering service	•	•

Use		
Commercial cleaning or laundry plant		R
Custom business services	•	•
Custom woodworking, furniture construction, or repair		•
Electronics service center	•	•
Job or lithographic printing		R
Labor hall		S
Machine or welding shop		R
Machinery, heavy equipment, or truck sales and services	★	R
Medical or scientific laboratory	S	•
Technical school		•
Tool or equipment rental	•	•
Vehicle or engine repair or maintenance		R
INDUSTRIAL USES		
Alcoholic beverage manufacturing		
Gas drilling and production	S	S
Gas pipeline compressor station		
Industrial (inside)		
Industrial (inside) for light manufacturing		•
Industrial (outside)		
Medical/infectious waste incinerator		
Metal salvage facility		
Mining		
Municipal waste incinerator		
Organic compost recycling facility		
Outside salvage or reclamation		
Pathological waste incinerator		
Temporary concrete or asphalt batching plant	S	S
INSTITUTIONAL AND COMMUNITY SERVICE USES		
Adult day care facility	•	•
Cemetery or mausoleum	S	S
Child-care facility	•	•
Church	•	•
College, university, or seminary	•	•
Community service center	S	S
Convalescent and nursing homes, hospice care, and related institutions		
Convent or monastery		•
Foster home		
Halfway house		S
Hospital	S	R
Library, art gallery, or museum		

Use		
Public or private school	R	R
LODGING USES		
Extended stay hotel or motel		S
Hotel or motel	S	★
Lodging or boarding house	S	•
Overnight general purpose shelter	★	★
MISCELLANEOUS USES		
Carnival or circus (temporary)	★	★
Hazardous waste management facility		
Placement of fill material		
Temporary construction or sales office	•	•
OFFICE USES		
Alternative financial establishment	S	S
Financial institution without drive-in window	•	•
Financial institution with drive-in window	D	R
Medical clinic or ambulatory surgical center	•	•
Office	•	•
RECREATION USES		
Country club with private membership	•	•
Private recreation center, club, or area	•	•
Public park, playground, or golf course	•	•
RESIDENTIAL USES		
College dormitory, fraternity, or sorority house	•	•
Duplex		
Group residential facility		
Handicapped group dwelling unit		
Manufactured home park, manufactured home subdivision, or campground		
Multifamily		
Residential hotel		
Retirement housing		
Single family		
RETAIL AND PERSONAL SERVICE USES		
Ambulance service	R	R
Animal shelter or clinic without outside runs	R	R
Animal shelter or clinic with outside runs		★
Auto service center	R	R
Business school	•	•
Car wash	D	R
Commercial amusement (inside)	★	★
Commercial amusement (outside)	S	D

Use		
Commercial motor vehicle parking		★
Commercial parking lot or garage	R	R
Convenience store with drive-through	S	S
Dry cleaning or laundry store	•	•
Furniture store	•	•
General merchandise or food store 3,500 square feet or less	•	•
General merchandise or food store greater than 3,500 square feet	•	•
Home improvement center, lumber, brick or building materials sales yard	D	R
Household equipment and appliance repair	•	•
Liquefied natural gas fueling station		S
Motor vehicle fueling station	•	•
Nursery, garden shop, or plant sales	•	•
Outside sales		S
Paraphernalia shop	S	S
Pawn shop	•	•
Personal service use	•	•
Restaurant without drive-in or drive-through service	R	R
Restaurant with drive-in or drive-through service	D	D
Surface parking		
Swap or buy shop	S	S
Taxidermist		•
Temporary retail use	•	•
Theater	•	•
Truck stop		S
Vehicle display, sales, and service		R
TRANSPORTATION USES		
Airport or landing field		
Commercial bus station and terminal		D
Heliport		S
Helistop		S
Private street or alley		
Railroad passenger station		S
Railroad yard, roundhouse, or shops		
STOL (short take-off or landing port)		
Transit passenger shelter	•	•
Transit passenger station or transfer center	★	★
UTILITY AND PUBLIC SERVICE USES		
Commercial radio or television transmitting station	•	•

Use		
Electrical generating plant		
Electrical substation	•	•
Local utilities	★	★
Police or fire station	•	•
Post office	•	•
Radio, television, or microwave tower	S	R
Refuse transfer station		
Sanitary landfill		
Sewage treatment plant		
Tower/antenna for cellular communication	★	★
Utility or government installation other than listed	S	S
Water treatment plant		
WHOLESALE, DISTRIBUTION, AND STORAGE USES		
Auto auction		S
Building mover's temporary storage yard		S
Contractor's maintenance yard		R
Freight terminal		R
Livestock auction pens or sheds		
Manufactured building sales lot		R
Mini-warehouse	S	•
Office showroom/warehouse		•
Outside storage		R
Petroleum product storage and wholesale		S
Recycling buy-back center	★	★
Recycling collection center	★	★
Recycling drop-off container	★	★
Recycling drop-off for special occasion collection	★	★
Sand, gravel, or earth sales and storage		S
Trade center		•
Vehicle storage lot		S
Warehouse		R

Landscaping:

Landscaping will be provided in accordance with the landscaping requirements in Article X, as amended.

Parking:

Pursuant to the Dallas Development Code, the off-street parking requirement for vehicle or engine repair or maintenance is one space per 500 square feet of floor area; a minimum

of five spaces is required. Parking spaces that are used to repair vehicles and located in a structure are not counted in determining the required parking. The applicant will be required to comply with standard parking ratios at permitting.

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 target intervention strategies more precisely 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 not currently within an MVA cluster. To the north and northwest are “H” MVA clusters. To the southwest, south, and southeast are “I” MVA clusters.

EXISTING DEED RESTRICTIONS (PROPOSED TO BE TERMINATED)

992857

DEED RESTRICTIONS

THE STATE OF TEXAS)
) KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF DALLAS)

I.

The undersigned, Magdaleno Diaz and Maria Diaz ("the Owners") are the owners of the following described property ("the Property"), being all of Lots 15, 16, 17 and 18, of City Block C/1461, of the Fair Park Addition, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owners by D.D. McDonald, by deed dated January 5, 1998, and recorded in Volume 98003, Page 02908, in the Deed Records of Dallas County, Texas.

II.

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

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1. The only uses permitted on the Property are:
 - A. those uses permitted in the CR Community Retail District, as amended, and
 - B. a machinery, heavy equipment, or truck sales and repair use with operating hours between 7:00 a.m. and 7:00 p.m..
2. Prior to the submission of an application for a certificate of occupancy for a machinery, heavy equipment, or truck sales and repair use, a minimum six-foot high masonry screening fence must be erected along the northeastern property line and along the front property line along Fitzhugh.
3. ~~No new structure may be erected on the Property within forty (40) feet of the northeastern property line.~~ 2190-168
4. The centerline of the driveway approach to the Property from Fitzhugh Avenue must be located 120 feet from the north right-of-way line of Haskell Avenue.

Z978-150/10495-SE(LS)

200858

AMENDMENT TO DEED RESTRICTIONS

THE STATE OF TEXAS)
)
COUNTY OF DALLAS) KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, Diaz Trucking, Inc. ("the Owner"), is the owner of the following described property ("the Property"), being all of Lots 15, 16, 17 and 18, of City Block C/1461, of the Fair Park Addition, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Magdaleno Diaz and Maria Diaz, by deed dated August 20, 2002, and recorded in Volume 2002168, Page 01588, in the Deed Records of Dallas County, Texas, and being more particularly described in Exhibit "A", attached hereto and made a part hereof for all purposes.

II.

That the Property was impressed with certain deed restrictions ("Original Restrictions") as shown in an instrument dated August 5, 1999, signed by Magdaleno Diaz and Maria Diaz and recorded in Volume 99187, Page 02935, of Deed Records of Dallas County, Texas, a true and correct copy of which is attached to this instrument as Exhibit "B" and made a part of this instrument.

III.

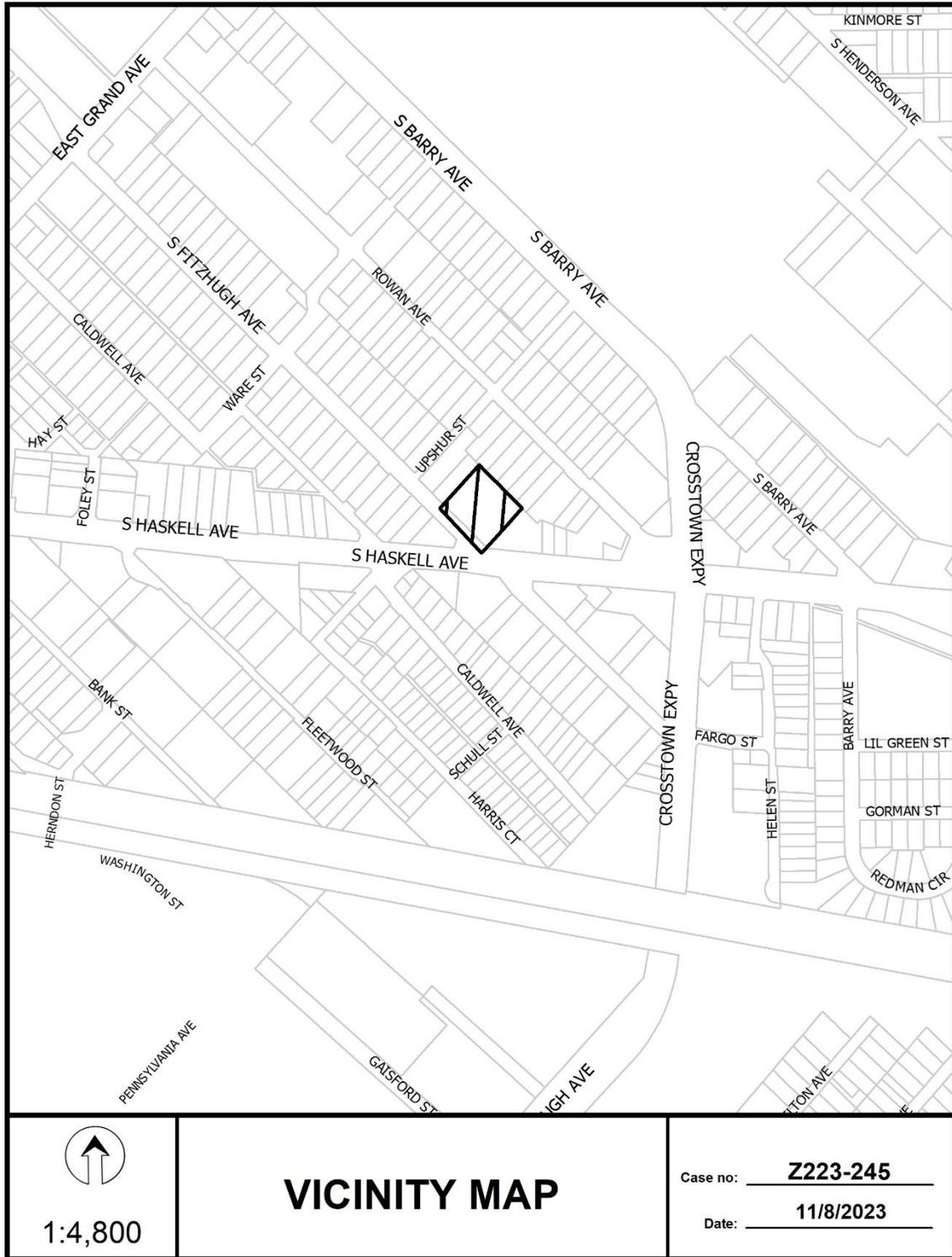
That the Owner does hereby remove restriction number 3 of the Original Restrictions as follows:

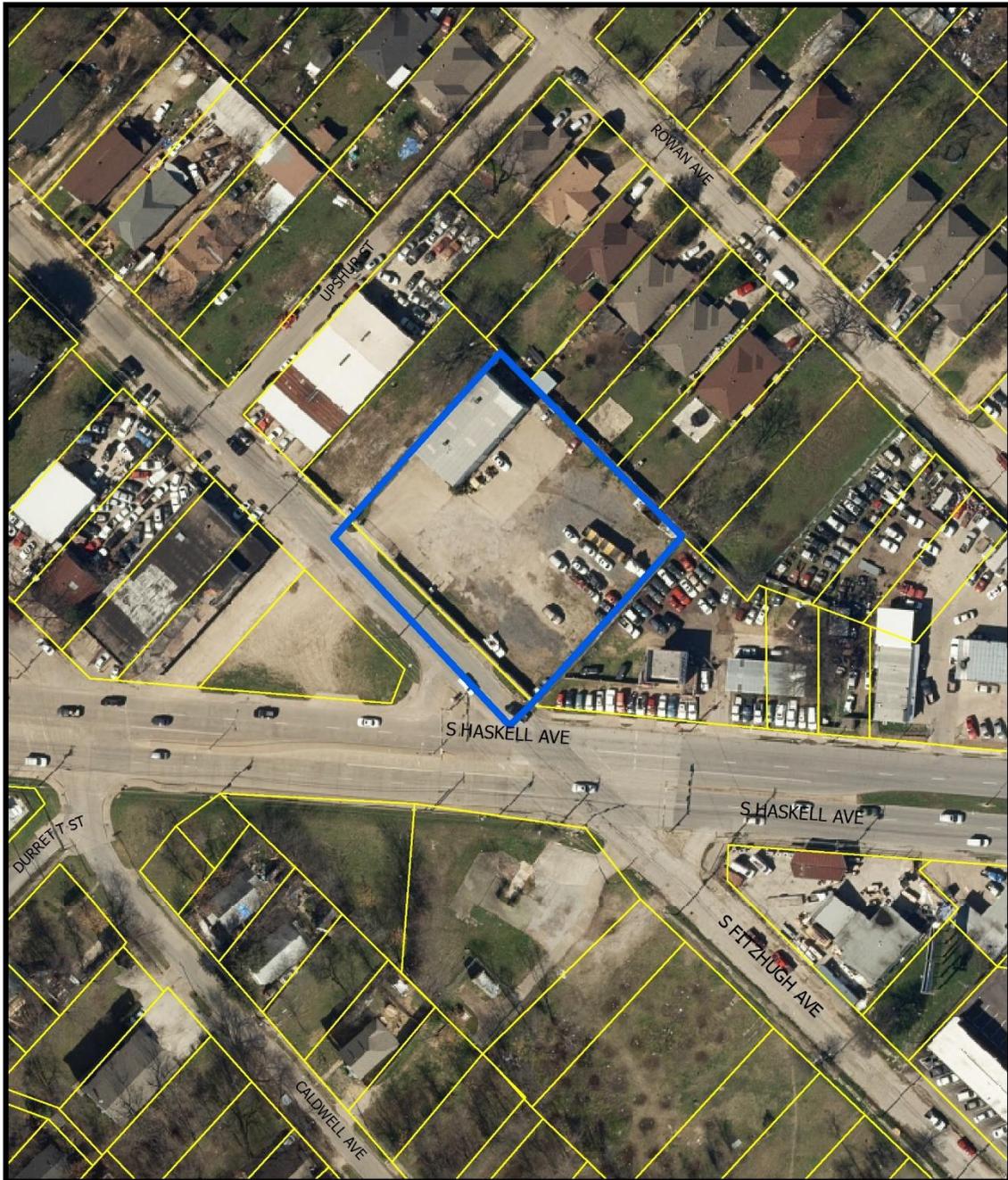
- 3- ~~No new structure may be erected on the Property within forty (40) feet of the northeastern property line.~~

IV.

That the preceding amendment was made following notice and hearing before the City Plan Commission and City Council of the City as required in the Original Restrictions and notice of such public hearing was given as would have been required by law for a zoning change on the Property. The Owner must file this 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 becomes effective.

Z223-245(LC)



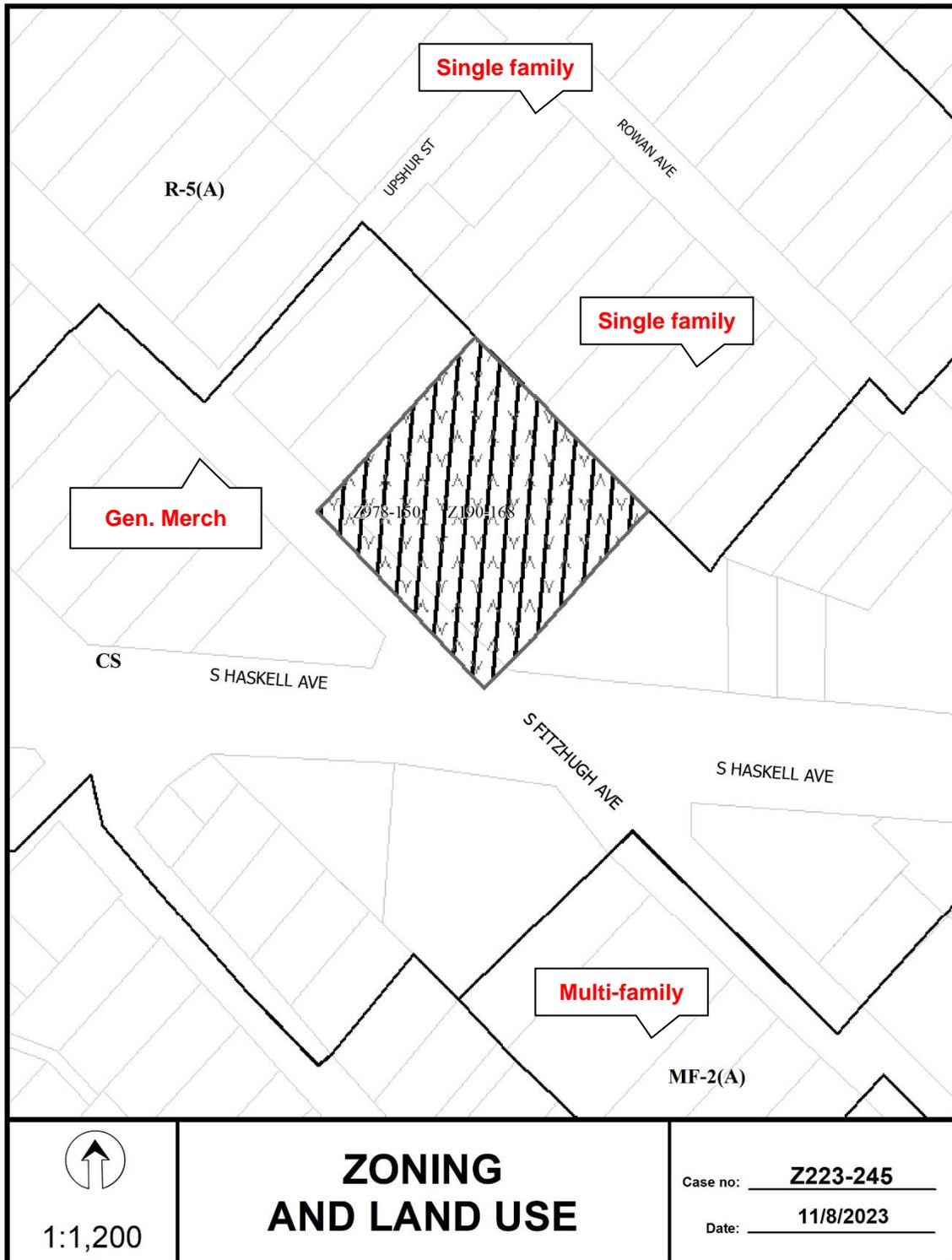


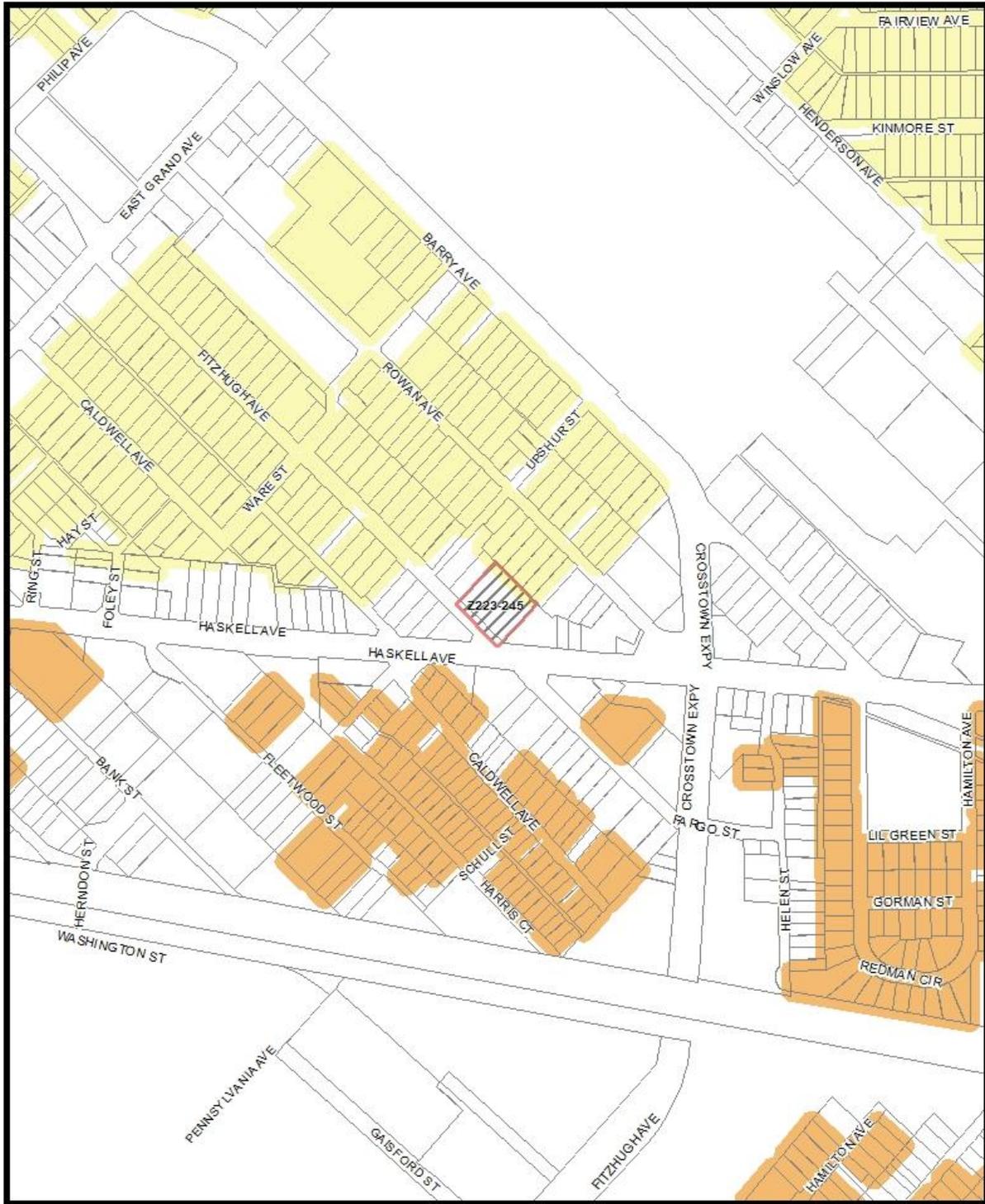
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AERIAL MAP

Case no: Z223-245

Date: 11/8/2023



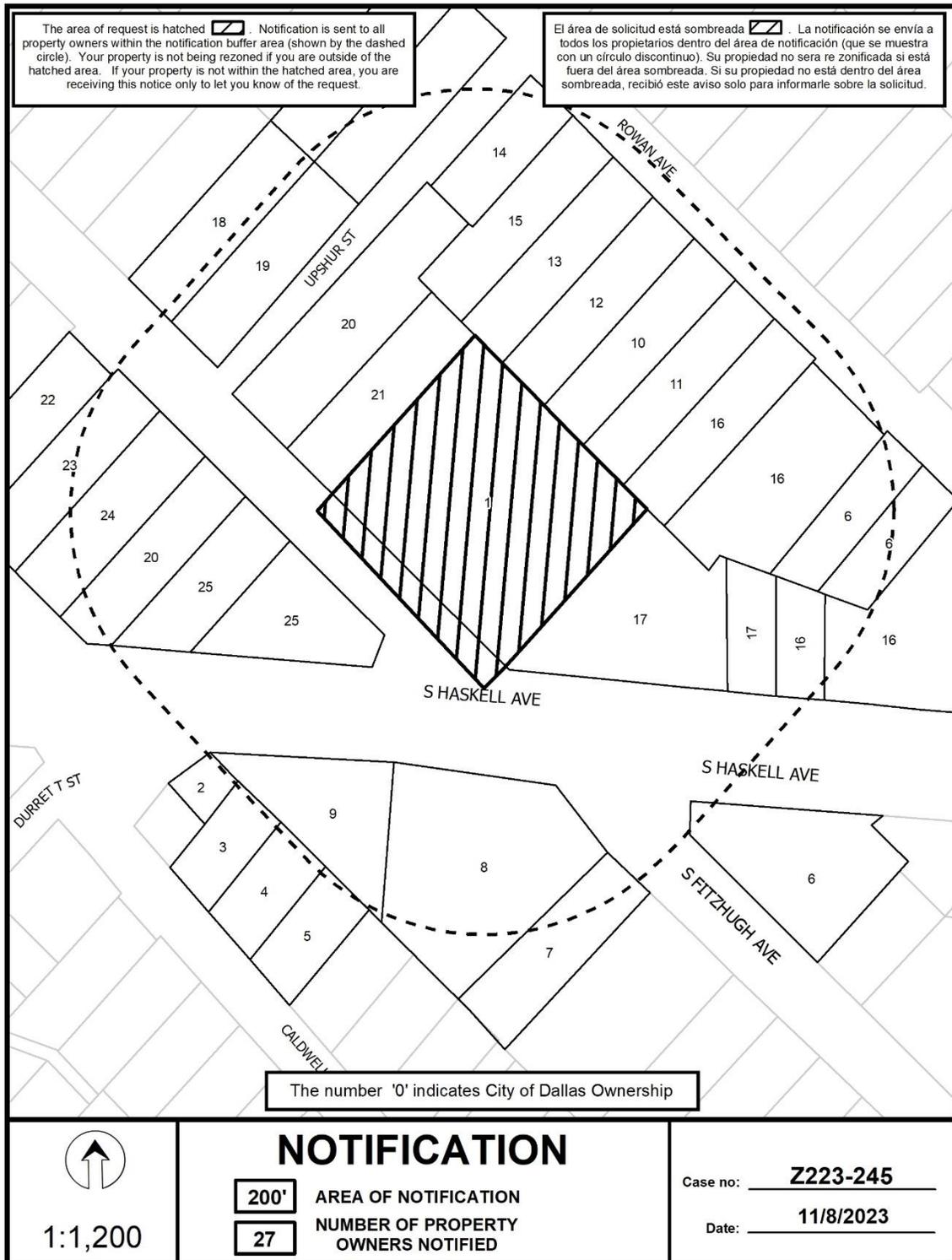


Market Value Analysis A B C D E F G H I NA



Market Value Analysis

Printed Date: 11/8/2023



10/04/2023

Notification List of Property Owners***Z223-245******27 Property Owners Notified***

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1524 S FITZHUGH AVE	MARTINEZ JOSE M
2	1709 S HASKELL AVE	CIPRIANO JAIME &
3	1514 CALDWELL AVE	SAUCEDO ARMANDO PUENTE
4	1520 CALDWELL AVE	CLARK CATHERINE
5	1522 CALDWELL AVE	RELIABLE HOMES LLC
6	1805 S HASKELL AVE	CERVANTES EDGAR O
7	1609 S FITZHUGH AVE	NEGUSSE INVESTMENTS INC
8	1603 S FITZHUGH AVE	NEGUSSE INV INC
9	1715 S HASKELL AVE	ONG GIA DINH LLC &
10	1517 ROWAN AVE	ORTIZ JORGE &
11	1519 ROWAN AVE	ORTIZ JUAN &
12	1513 ROWAN AVE	QUEZADA JORGE
13	1511 ROWAN AVE	CONNALLY CAMILLE LANESHIA
14	1503 ROWAN AVE	GUERRERO EUGENIO
15	1507 ROWAN AVE	MARTINEZ HECTOR &
16	1820 S HASKELL AVE	CERVANTES EDGAR
17	1812 S HASKELL AVE	LANEY MICHAEL B
18	1438 S FITZHUGH AVE	VALDEZ ANTONIO &
19	1442 S FITZHUGH AVE	Taxpayer at
20	1502 S FITZHUGH AVE	SAMUEL MILLER FIT LLC
21	1520 S FITZHUGH AVE	POLAN JANIE OSBUN &
22	1439 S FITZHUGH AVE	JAHANGIRI MARIA
23	1443 S FITZHUGH AVE	HERNANDEZ JESUS CARDONA
24	1447 S FITZHUGH AVE	HERNANDEZ JEUS CARDONA
25	1702 S HASKELL AVE	GSI PORTFOLIO LLC
26	1453 ROWAN AVE	JIMENEZ JUAN ANTONIO &

Z223-245(LC)

10/04/2023

Label # Address

27 1441 ROWAN AVE

Owner

DIAZ MARIA DEL CARMEN