

FILE NUMBER: Z223-112(MP) **DATE FILED:** October 11, 2022

LOCATION: Southwest corner of Elam Road and C.F. Hawn Freeway

COUNCIL DISTRICT: 8

SIZE OF REQUEST: Approx. 0.51 acres **CENSUS TRACT:** 48113009304

REPRESENTATIVE: Anil Ram

APPLICANT: Alim Investment

OWNER: Syed Sajid

REQUEST: An application for 1) a Specific Use Permit for a motor vehicle fueling station; and 2) a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less on property zoned Subdistrict 5 within Planned Development District No. 533, the C.F. Hawn Special Purpose District No. 1, with a D-1 Liquor Control Overlay.

SUMMARY: The purpose of the request is to allow a motor vehicle fueling station and sales of alcohol within a proposed retail facility on the site.

STAFF RECOMMENDATION: Denial.

PREVIOUS CPC ACTION: At the November 2, 2023 hearing, the City Plan Commission moved to hold the case under advisement until January 18, 2024.

Planned Development District No. 533

<https://dallascityhall.com/departments/city-attorney/Articles/PDF/Article%20533.pdf>

D-1 Liquor Control Overlay

https://codelibrary.amlegal.com/codes/dallas/latest/dallas_tx/0-0-0-83445

BACKGROUND INFORMATION:

- The area of request is currently zoned Subdistrict 5 within Planned Development District No. 533, the C.F. Hawn Special Purpose District No. 1, with a D-1 Liquor Control Overlay. The site is currently undeveloped.
- The applicant proposes a new motor vehicle fueling station with an associated general merchandise or food store 3,500 square feet or less. The general merchandise or food store is permitted by right.
- Among the permitted main uses in the PD, the motor vehicle fueling station is permitted by Specific Use Permit only. The property is also located in a D-1 Overlay, which necessitates an SUP to sell alcoholic beverages in conjunction with the proposed general merchandise store.
- Staff recommends denial based on proximity to nearby residential properties as well as the challenges the site may face in meeting city requirements.
- The applicant has proposed minor changes to the site plan since the previous hearing.

Zoning History:

There have not been any zoning cases in the area in the last five years.

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing/Proposed ROW
Elam Road	Principal Arterial	75 feet / 100 feet Bike Plan
US-175 C.F Hawn Freeway Access Road	Elevated freeway and access road	Varies

Traffic:

The Transportation Development Services Division of the Transportation Department has reviewed the request.

- City standards do not allow access from Elam given its proximity to the intersection
- Driveway on CF Hawn must comply with TxDOT requirements and must be approved by TxDOT

The site plan as proposed conforms with an engineering plan submitted to Development Services on January 17, 2017.

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 conflicts with the following land use goals and policies of the Comprehensive Plan:

LAND USE ELEMENT

GOAL 1.2 PROMOTE DESIRED DEVELOPMENT

Policy 1.1.5 Strengthen existing neighborhoods and promote neighborhoods' unique characteristics.

GOAL 1.4 COORDINATE PLANNING ACTIVITIES TO BALANCE TRANSPORTATION, LAND USE, INFRASTRUCTURE AND THE ENVIRONMENT

Policy 1.4.3 Embrace environmental sustainability.

URBAN DESIGN ELEMENT

GOAL 5.1 PROMOTE A SENSE OF PLACE, SAFETY, AND WALKABILITY

Policy 5.1.1 Promote pedestrian friendly streetscapes.

Policy 5.1.3 Encourage complementary building height, scale, design, and character.

GOAL 5.2 STRENGTHEN COMMUNITY AND NEIGHBORHOOD IDENTITY

Policy 5.2.1 Maintain neighborhood scale and character.

Policy 5.2.3 Ensure attractive gateways into the city.

The proposed change does not further the goals of the Comprehensive Plan in regard to complementary building forms, appropriate development, or sustainability.

Land Use:

	Zoning	Land Use
Site	Subdistrict 5 within PD No. 533 with a D-1 Overlay	Undeveloped
North	Subdistrict 5 within PD No. 533 with a D-1 Overlay	Elevated freeway
East	Subdistrict 5 within PD No. 533 with a D-1 Overlay	Vehicle display, sales, and service
South	Subdistrict 5 within PD No. 533 with a D-1 Overlay	Auto service center
West	Subdistrict 5 within PD No. 533 with a D-1 Overlay	Auto service center

Land Use Compatibility:

CF Hawn Freeway runs along the northeastern boundary of the site. Property to the south and west are used as an auto service center, with a single family subdivision further beyond. The property to the east further down CF Hawn freeway is used as vehicle display, sales, and service. Staff finds that the use may be incompatible with nearby residential uses.

The current zoning, Subdistrict 5 within PD No. 533, allows a variety of commercial and retail uses by right including restaurant uses, personal service uses, and office. However, the proposed motor vehicle fueling station requires approval of an SUP. Staff finds the proposed use within 60 feet of residential properties could fail to meet criteria (2) and (3)(A), (B), (C), and (D) for the evaluation of a specific use permit, noted below. Although the land use of the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less may be appropriate given the commercial land use along the corridor, the site plan associated with the use is noncompliant with code.

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.

The general merchandise use is also regulated by Chapter 12B of the Dallas City Code, Convenience Stores. This chapter applies to all convenience stores, which is defined as any business that is primarily engaged in the retail sale of convenience goods, or both convenience goods and gasoline, and has less than 10,000 square feet of retail floor space; the term does not include any business that has no retail floor space accessible to the public. The purpose of Chapter 12B is to protect the health, safety, and welfare of the citizens of the city of Dallas by reducing the occurrence of crime, preventing the escalation of crime, and increasing the successful prosecution of crime that occurs in convenience stores in the city. This chapter establishes a registration program for convenience stores and provides requirements relating to:

- surveillance camera systems
- video recording and storage systems
- alarm system
- drop safes
- security signs
- height markers
- store visibility
- safety training programs and
- trespass affidavit

A separate certificate of registration to comply with Chapter 12B is required for each physically separate convenience store. A certificate of registration for a convenience store expires one year after the date of issuance and must be renewed annually. If developed, the convenience store would be subject to these requirements.

Staff holds that approval of a specific use permit should, as it constitutes the approval and evaluation of single use on a site, be reserved for sites that are specifically well suited for the use. Staff finds that in order to meet the requirements of city code and the principles of safely designed spaces, the site is not well suited for the particular use.

Landscaping:

The development must provide landscaping per Article X and PD No. 533 as amended. Beyond typical Article X requirements, the PD calls for the following additional requirements.

Front yard strip landscaping:

- (1) The 10-foot-wide strip of land along the entire length of the front yard and immediately adjacent to the property line must be landscaped as follows:
 - (A) Forty percent of the surface must be permeable.
 - (B) Ten percent must be landscaped with trees, shrubs, or a combination of trees and shrubs that have the potential to attain a minimum height of 30 inches within a three-year time period.
 - (C) One tree at least three and one-half caliper inches, or two trees at least one and one-half caliper inches, must be provided between the street curb and the sidewalk for each 30 feet of lot frontage, exclusive of driveways, visibility triangles, and access-ways at points of ingress and egress.
 - (D) An underground irrigation system must be provided.

Parking screening:

- (2) Off-street parking must be screened from an abutting street right-of-way with:
 - (A) a minimum three-foot-high solid fence, with an 18-inch-wide planting bed located on its street side; or
 - (B) shrubs with the potential to attain a minimum height of 30 inches within a three-year time period.

Given the nature of the use, the layout of the site plan, and the size of the site, staff has identified significant difficulty in meeting these requirements of the code. As a result, the proposed site plan does not include space for these code-required plantings.

The applicant has proposed an alternative landscaping plan, which generally conforms to the basics of Article X, except it does not include the required 10-foot buffer required on the thoroughfare (Elam Road) or the required 15-foot buffer required along a freeway. The plan does not meet the requirements or intent of the PD 533 landscaping text to provide buffers to parking areas and front yards. Procedurally, the City Council may approve the proposed plan as an alternative to compliance with code, but staff recommends against it as it serves as an exception to code without significant mitigation.

Parking:

Parking must be provided pursuant to the Dallas Development Code.

A general merchandise or food store 3,500 square feet or less requires 1 space per 200 square feet. Per the site plan, the proposed 3,000 square feet of general merchandise or food store would require 15 spaces. The proposed store includes 400 square feet of

restaurant without a drive through, which at a requirement of 1 space per 100 square feet would require 4 spaces. The use of a motor vehicle fueling station requires 2 spaces.

This is a total requirement of 21 spaces. 19 car spaces are provided on site. The plan includes 8 bicycle spaces, which allows a reduction of required spaces, of up to 5% of the total requirement for the site, which is 1.05 spaces. As a result, the site has a deficit of 1 space under the required 21 car spaces.

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 property is located within a “G” MVA area.

List of Officers

Alim Investments LLC

1. Syed Hammad Sajid – Owner/Officer
2. Ashraf Begum – Trustee
3. Arvind Sharma - Trustee

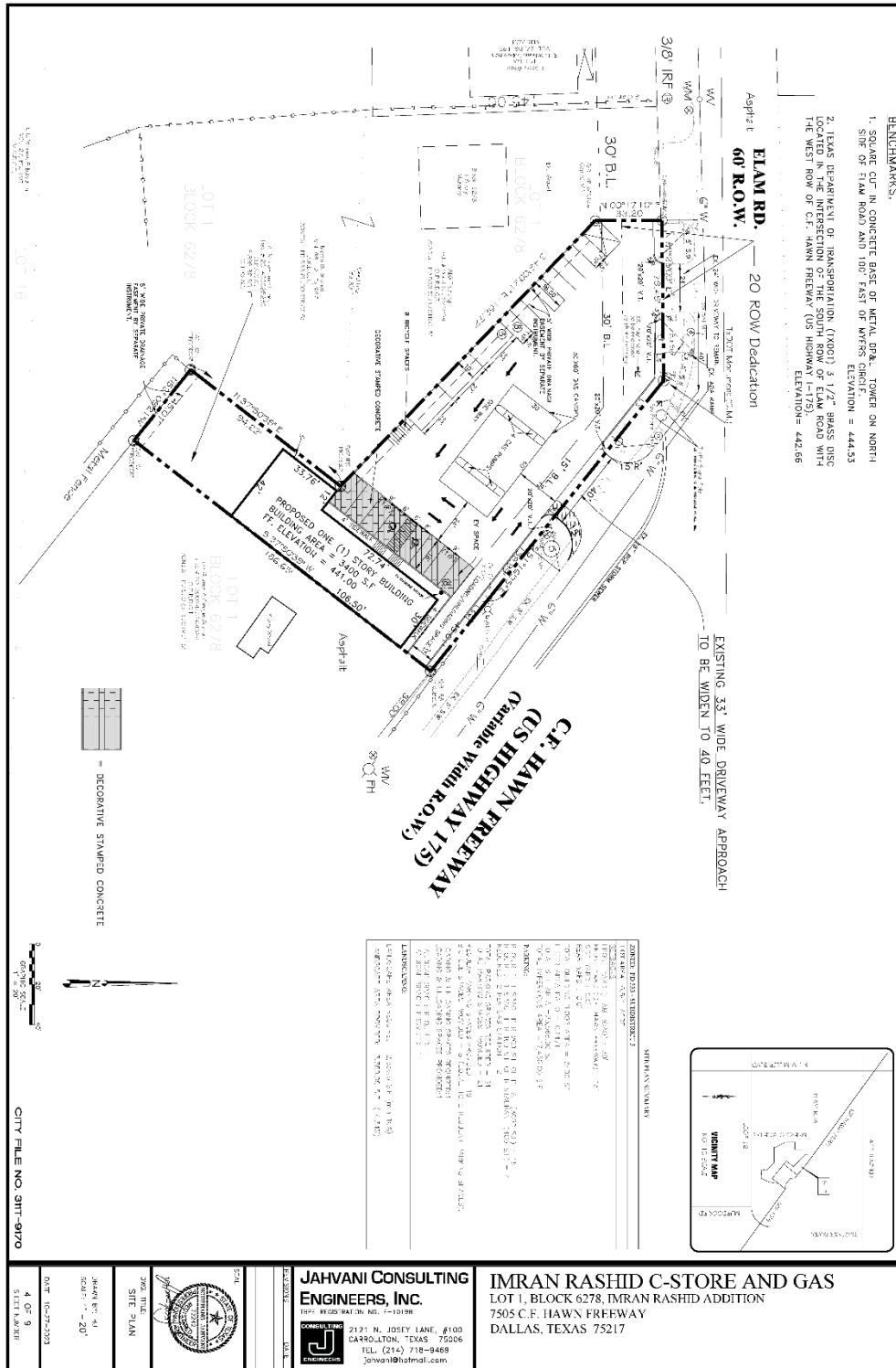
APPLICANT'S PROPOSED CONDITIONS
(Motor vehicle fueling station)

1. USE: The only use authorized by this specific use permit is a **motor vehicle fueling station**.
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 (three years from the passage of this ordinance).
4. OUTSIDE SPEAKERS: Outside speakers are prohibited.
5. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.
6. 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.

APPLICANT'S PROPOSED CONDITIONS
(Sale of alcoholic beverages)

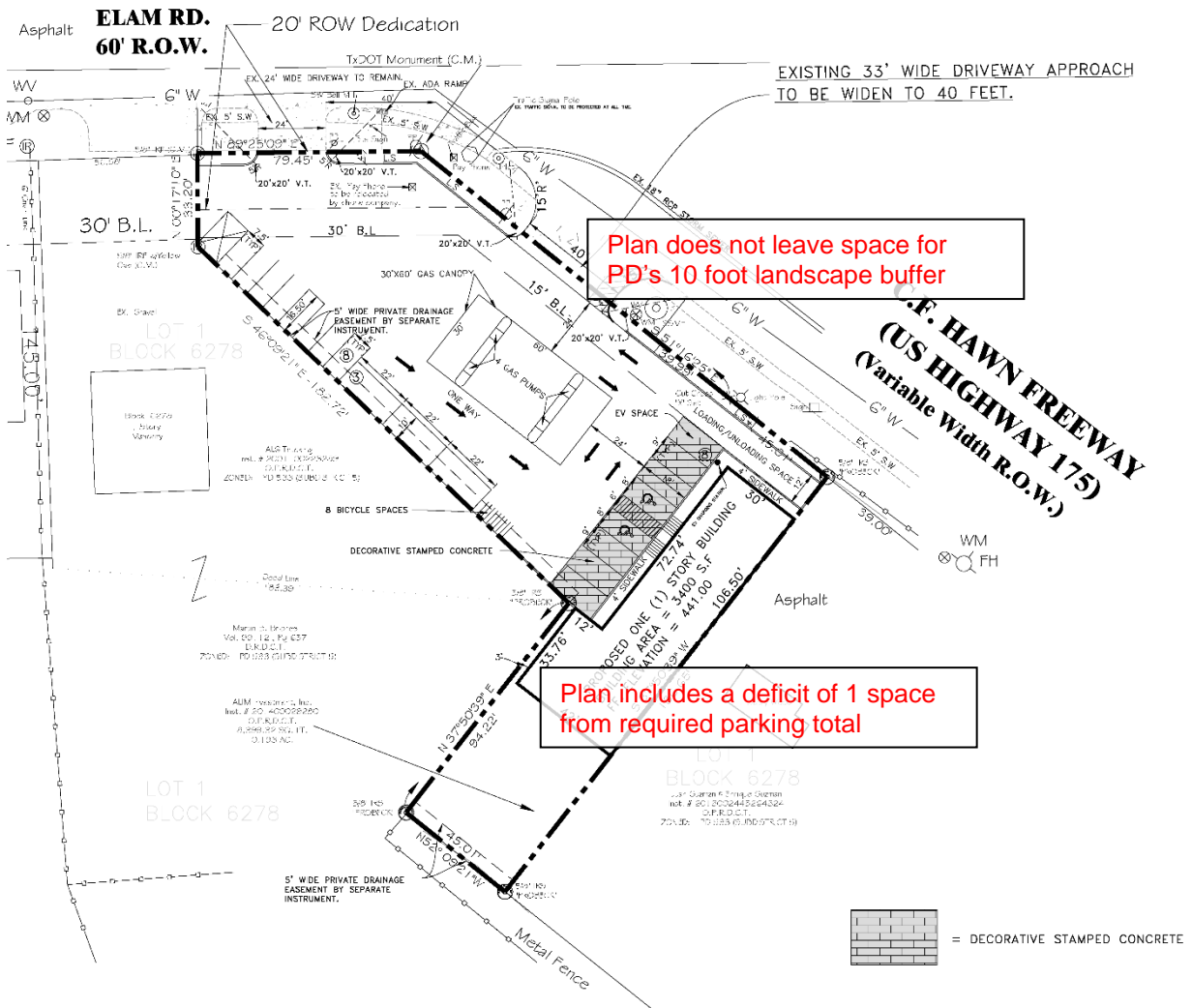
1. USE: The only use authorized by this specific use permit is the **sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less**.
2. SITE PLAN: Use and development of the Property must comply with the attached site plan.
3. TIME LIMIT: This specific use permit expires on (three years from the passage of this ordinance).
4. FLOOR AREA: The maximum floor area for the use is 3,500 square feet.
5. OUTSIDE SPEAKERS: Outside speakers are prohibited.
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.

APPLICANT'S PROPOSED SITE PLAN (Same for both uses)

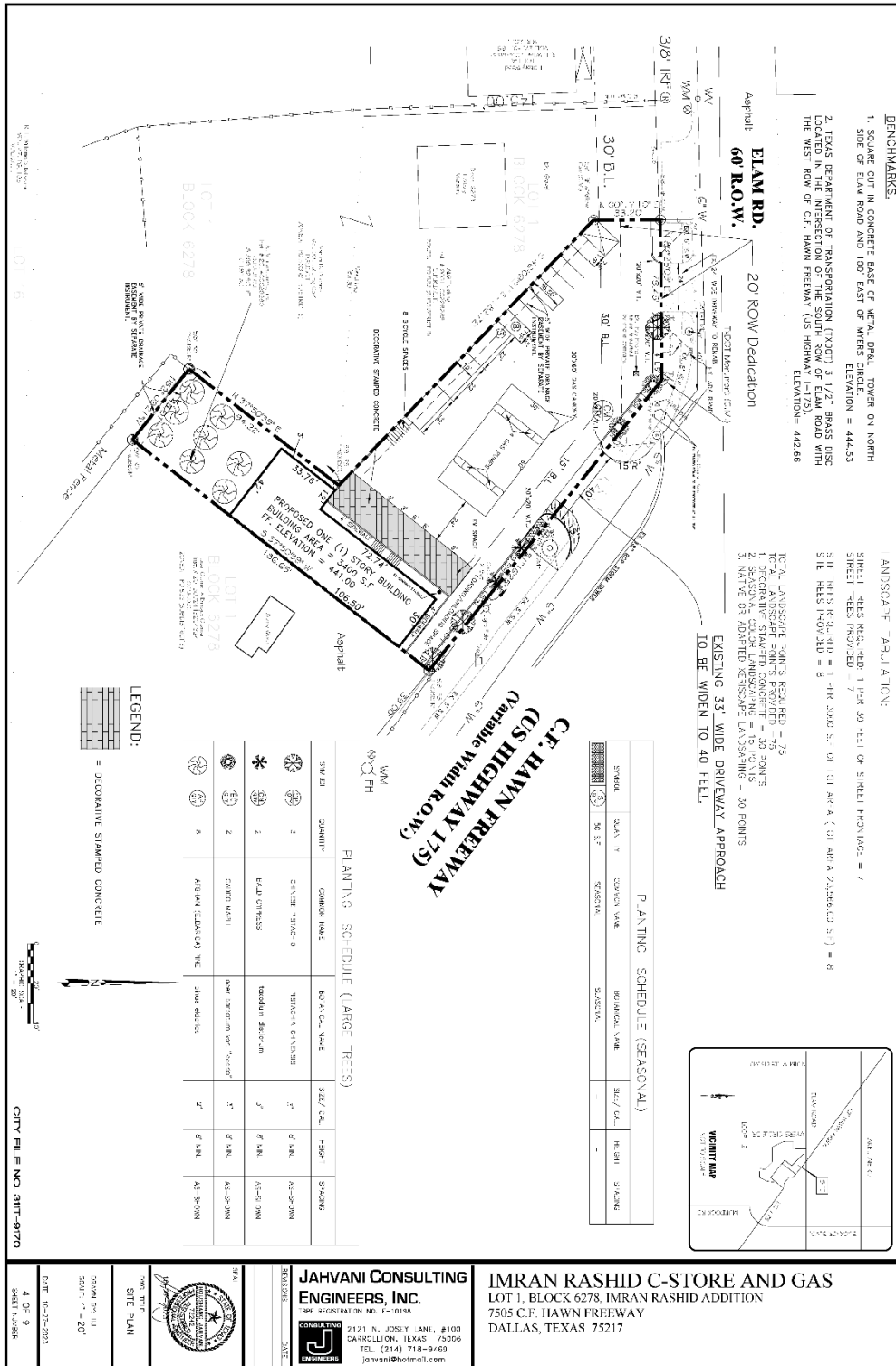


APPLICANT'S PROPOSED SITE PLAN (ENLARGED) (Same for both uses)

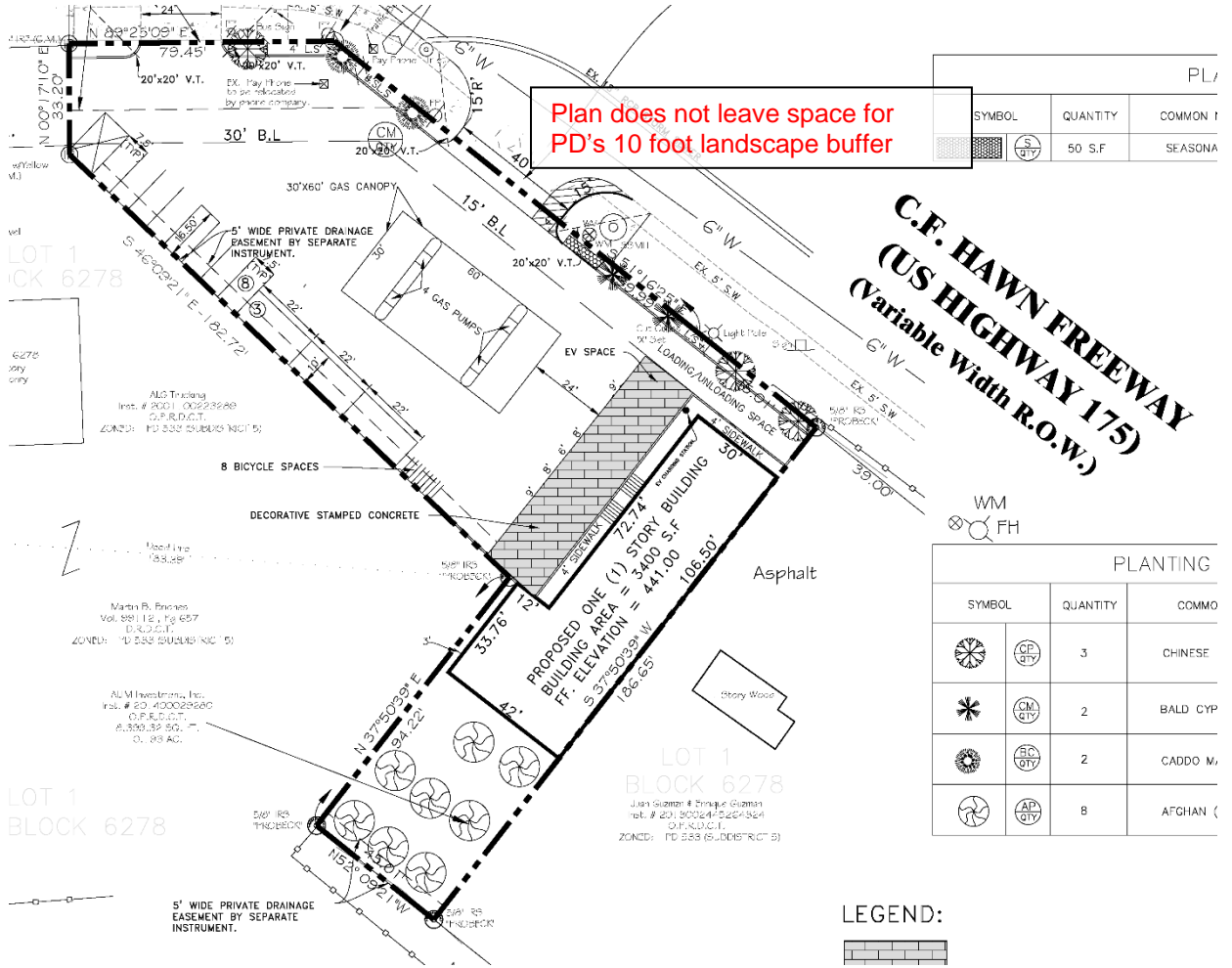
Driveway distance does not comply with Street Design Manual

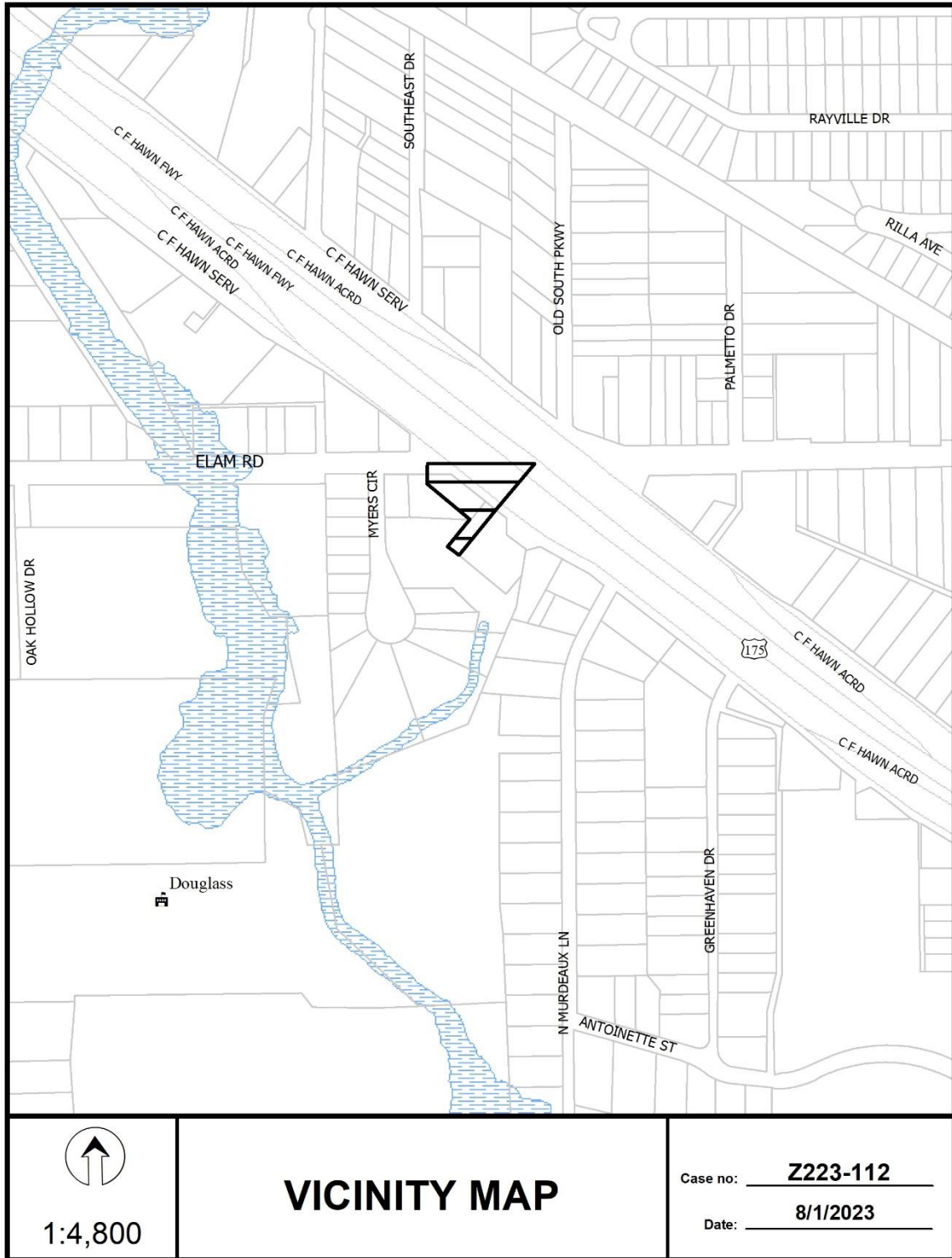


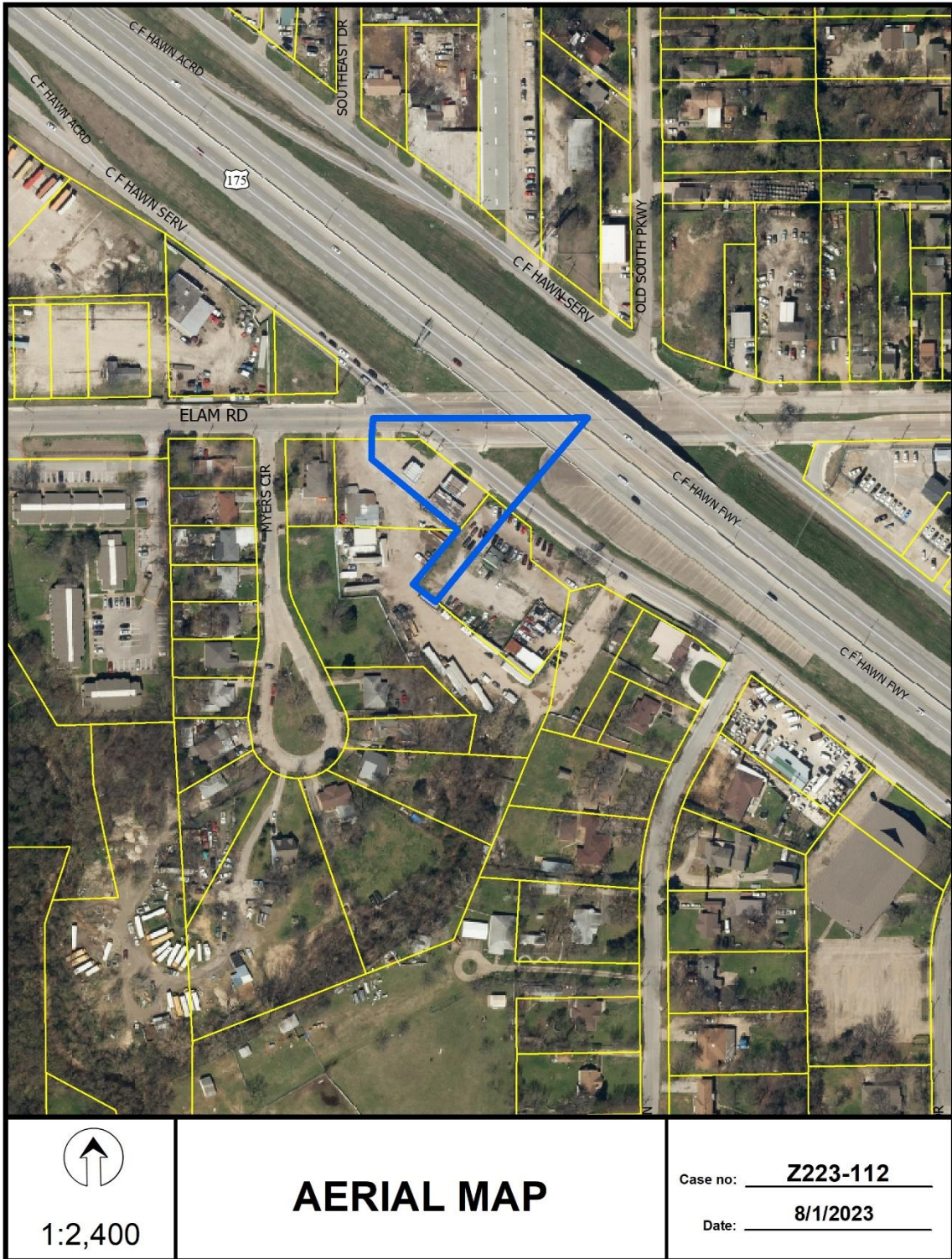
APPLICANT'S PROPOSED LANDSCAPE PLAN
 (Same for both uses)

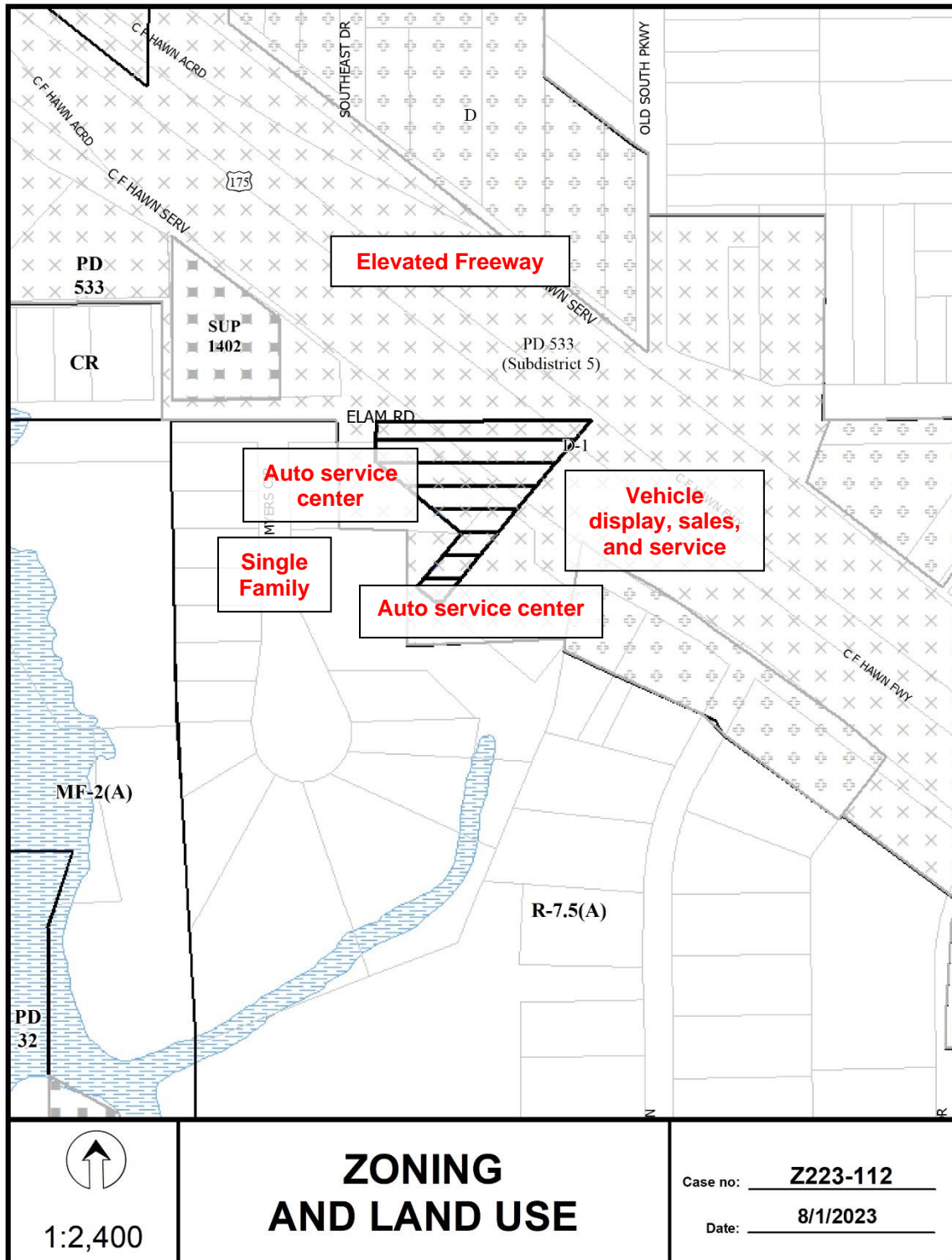


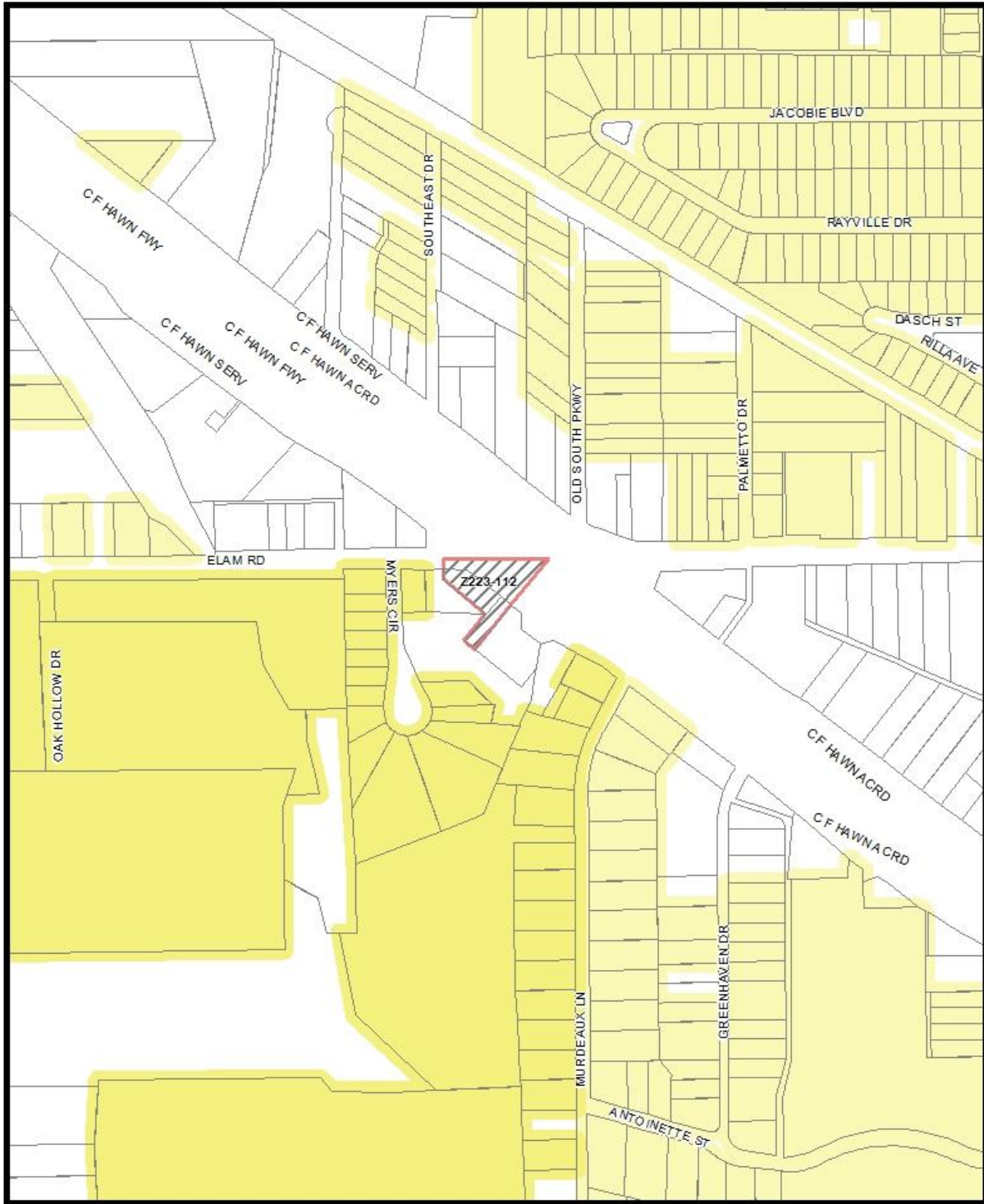
APPLICANT'S PROPOSED LANDSCAPE PLAN (ENLARGED)
(Same for both uses)











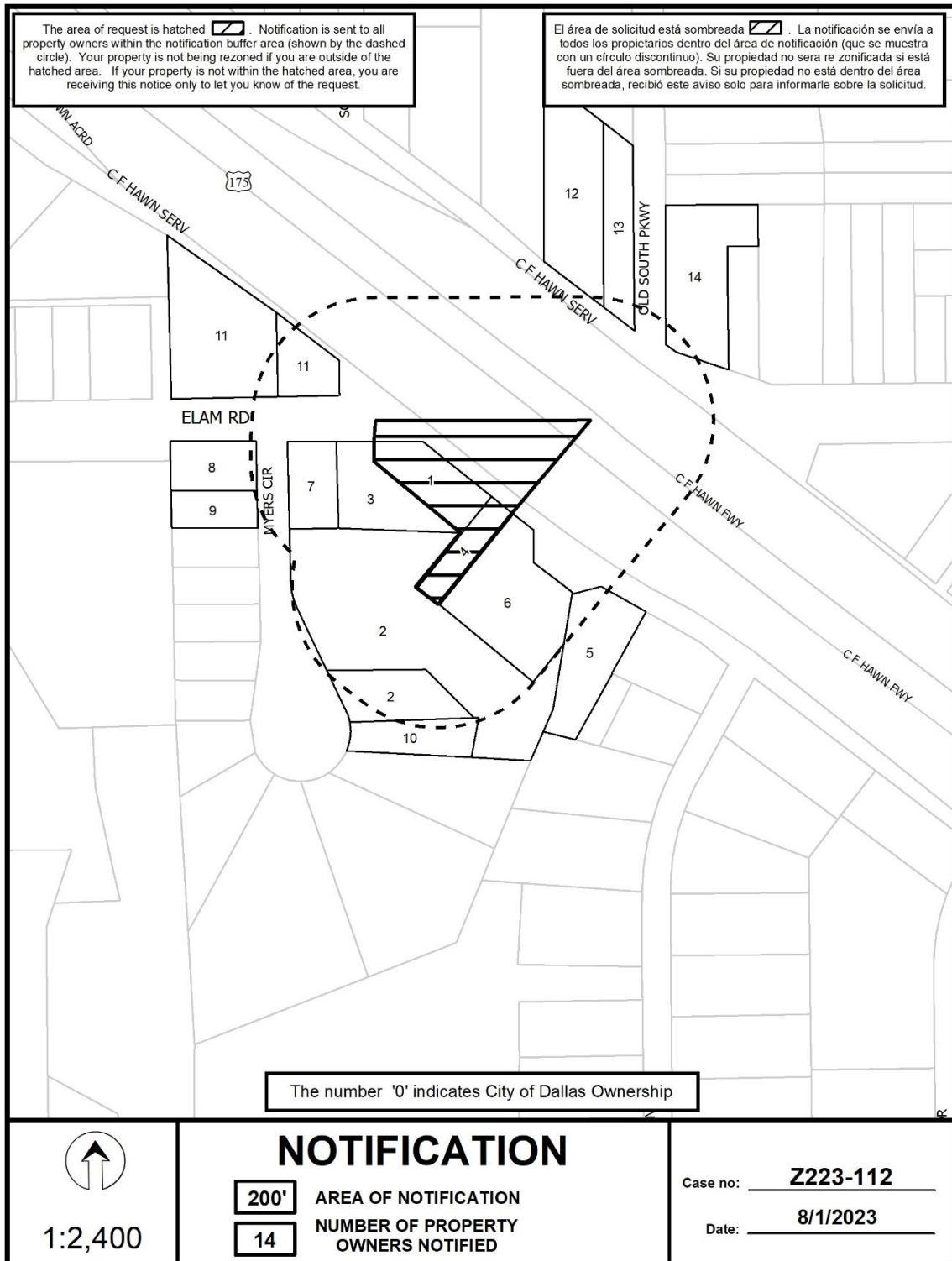
Market Value Analysis

A	B	C	D	E	F	G	H	I	NA
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 1:4,800

Market Value Analysis

Printed Date: 8/1/2023



08/01/2023

Notification List of Property Owners

Z223-112

14 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	7505 C F HAWN FWY	SAJID SYED DBA
2	7511 C F HAWN FWY	BRIONES MARTIN B
3	7420 ELAM RD	BRIONES MARTIN B
4	7505 C F HAWN FWY	ALIM INVESTMENT INC
5	7511 C F HAWN FWY	GUZMAN JUAN F ETAL
6	7505 C F HAWN FWY	GUZMAN JUAN & ENRIQUE
7	7406 ELAM RD	BRIONES JUAN E
8	445 MYERS CIR	PEREZ MARIA DOLORES JIMENEZ
9	439 MYERS CIR	DELGADO ATANACIO &
10	410 MYERS CIR	MOLINDA EDGAR MARTINEZ &
11	7345 ELAM RD	DFW OIL INC
12	7464 C F HAWN FWY	ACTS OF THE APOSTOLIC FAITH
13	7470 C F HAWN FWY	SOLIS KAYLAN
14	7503 C F HAWN FWY	RAMIREZ JAMES ZACHARY &