

FILE NUMBER: Z189-190(PD)

DATE FILED: February 4, 2019

LOCATION: West side of Greenville Avenue, southeast of Ross Avenue

COUNCIL DISTRICT: 2

MAPSCO: 36 X

SIZE OF REQUEST: ± .05 acres

CENSUS TRACT: 10.02

REPRESENTATIVE: Audra Buckley, Permitted Development

APPLICANT: Ships Lounge

OWNER: Nayeb Family LP

REQUEST: An application for a Specific Use Permit for a late-hours establishment limited to an alcoholic beverage establishment operated as a bar, lounge or tavern use on property zoned Planned Development District No. 842 for CR Community Retail District uses.

SUMMARY: The applicant requests to operate a bar, lounge, or tavern [Ships Lounge] with approximately 1,540 square feet of floor area past midnight

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

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

BACKGROUND INFORMATION:

- The ±2,215-square foot area of request is comprised of approximately 1,179-square feet of floor area within a 24,215-square foot shopping center constructed in the 1940s and currently containing a mix of uses.
- On November 23, 1965, a Certificate of Occupancy (CO) was issued for a lounge use. The request site has not changed uses since the issuance of the CO; therefore, the lounge is considered legally nonconforming and allowed to operate without acquiring an SUP.
- The applicant began operating the lounge use in 1980.
- Pursuant to the provisions of PDD No. 842, a Specific Use Permit for late hours is required in order for the establishment to operate after midnight. The applicant proposes to operate from 11:00 am to 2:00 am (the next day), Monday through Sunday.
- On December 14, 2011, the City Council approved SUP No. 1922 for a late-hours establishment limited to an alcoholic beverage establishment limited to a bar, lounge, or tavern for a four-year period with automatic termination on December 14, 2015 on the subject site.
- On December 5, 2015, the City Plan Commission denied the renewal of Specific Use Permit No. 1922.
- During staff's initial review of the request, staff noted concerns regarding discrepancies regarding the floor areas for the use. While staff does not have access to documentation that determines the accurate square footage, Building Inspections determined that the actual floor area of the request site is 1,540 square feet.

Zoning History: There have been two zoning requests in the area within the past five years.

1. **Z178-186:** On April 25, 2018, the City Council approved an authorized hearing to determine the proper zoning on an area generally bound by Live Oak Street, Bryan Parkway, Matilda Street, Martel Avenue, municipal boundary of Dallas and Highland Park, Lemmon Avenue, Dallas North Tollway, Turtle Creek Boulevard, Carlisle Street, Blackburn Street, and Haskell Avenue to Main Street, both sides of Main Street from North Haskell to South Carroll Avenue, Main Place, South Prairie Avenue, Columbia Avenue, and North Fitzhugh Avenue
2. **Z145-343:** On December 5, 2015, the City Plan Commission denied the renewal of Specific Use Permit No. 1922 for a late-hours establishment limited to an alcoholic beverage establishment limited to a bar, lounge or tavern use on property zoned Planned Development District No. 842.

Thoroughfares and Streets:

Thoroughfare/Street	Type	Existing ROW
Greenville Avenue	Major Arterial	Variable Width
Ross Avenue	Major Arterial	Variable Width

Traffic:

The Engineering Division of the Sustainable Construction and Development Department has reviewed the request and determined that it will not significantly impact the surrounding roadway 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.

The applicant's request is consistent with the following goals and policies of the comprehensive plan.

ECONOMIC ELEMENT

GOAL 2.5 FOSTER A CITY OF GREAT NEIGHBORHOODS

Policy 2.5.1 Promote strong and distinctive neighborhoods to enhance Dallas' quality of life.

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 authorized hearing SUP recommendations to address quality of life for adjacent residential neighborhoods and the Lowest Greenville Avenue corridor, respectively.

Land Use:

	Zoning	Land Use
Site	PDD No. 842, DDO Demolition Delay Overlay	Lounge
North	PDD No. 842, DDO Demolition Delay Overlay	Vacant
East	PDD No. 842, DDO Demolition Delay Overlay	Personal service
South	PDD No. 842, DDO Demolition Delay Overlay	Retail & Personal service
West	PDD No. 842, DDO Demolition Delay Overlay	Personal service

STAFF ANALYSIS:

Land Use Compatibility:

The request site is improved with an approximately 1,540-square foot, one-story bar, lounge or tavern use [Ships Lounge] within a shopping center. On November 23, 1965, a Certificate of Occupancy for a lounge was issued for the request site reflecting a total square footage of 1,060 square feet. The request site has not changed uses since the issuance of the Certificate of Occupancy.

Over the years, while the use has not changed, staff found a discrepancy in the total floor area for the use. Records located by staff utilizing the City’s internal permitting system, Posse, reflect a Certificate of Occupancy with a total square footage of 1,060 square feet; however, the site plan and parking analysis provided with this application reflect an increase of 119 square feet. Because internal documents do not reflect a floor area of 1,179 square feet, the additional square footage of 119 square feet would require an additional SUP for a bar, lounge or tavern use or approval to increase a legally nonconforming use by the Board of Adjustments. To date, the applicant has provided resolution to the issue of enlarging a nonconforming use, per Sec. 51A-4.704(b)(5) of the Development Code by having Building Inspections update the floor area of the use and amending the Certificate of Occupancy to reflect the revised floor area.

Pursuant to the provisions of PDD No. 842, a Specific Use Permit for late hours is required for the establishment to operate after midnight. The applicant proposes to operate the bar, lounge or tavern use from 11:00 p.m. to 2:00 a.m. and is therefore requesting an SUP.

Surrounding land uses include a vacant structure to the north; personal service uses to the east and west, and, retail and personal service uses to the south. The closest residential development is more than 300 feet to the east of the request site.

The main uses permitted in PDD No. 842 are those main uses permitted in the CR Community Retail District, subject to the same conditions applicable in the CR Community Retail District, as set out in Chapter 51A. PDD No. 842 is intended to help mitigate the possible negative impacts of late hour uses on adjacent residential neighborhoods. No establishments are required to cease operation per PDD No. 842; all businesses may continue to operate between the hours of 6:00 a.m. and 12:00 a.m. without having to obtain a Specific Use Permit. In order to operate between midnight and 6:00 a.m., the land use becomes a late-hours establishment and a Specific Use Permit is required. The owner or operator must obtain a certificate of occupancy for a late-hours establishment, in order to operate after 12:00 a.m. (midnight).

The PD gives additional criteria for evaluating a request for a specific use permit:

(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.

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 applicant's request, subject to a site plan and conditions, complies with the general provisions for consideration of an SUP but does not comply with the general provision of Sec. 51A-4.704(b)(2). Thus, because Building Inspections has resolved concerns associated with increasing a nonconforming use, staff is recommending approval of the request for a three-year period.

Parking:

Pursuant to §51A-4.210, a restaurant requires one (1) space per 100 square feet of floor area. Therefore, the ±1,540-square foot lounge requires 15 spaces. As depicted on the site plan, 46 spaces are provided onsite, eight bicycle spaces are provided and delta credits designate 90 spaces for a total of 144 spaces for the use and shopping center.

Additionally, a parking analysis was provided and reviewed by staff in 2014 to determine the number of delta credits (hypothetical parking spaces) to be applied to the site. The site plan provided with the submission of this request utilized a parking analysis provided on April 12, 2017 and states that no changes have occurred as of February 1, 2019. The parking analysis reflects a total of 138 spaces with the following breakdown: 46 spaces on site, 8 bicycle spaces for a reduction in the number of on-site parking spaces, and 84 existing delta credits.

The revised plan reflects the following: a total of 144 spaces required and 90 "existing" delta credits. Additionally, the calculations on the revised site plan resulted in a reduction of 232 square feet for one of the personal service uses.

Landscaping:

Landscaping is required in accordance with Article X, as amended of the Dallas Development Code. However, the applicant's request will not trigger landscape requirements, as no new construction is proposed on the site.

Crime Statistics:

Crime statistics covering the period from June 18, 2012 to March 26, 2018 follows. The crime statistics reflect 22 calls and 5 arrests with no offenses.

Calls:

Arrest Number	ArArrest Date	ArArrest Time	ArLAddress	NIBRS_Crime	PClass	ChargeDesc
17-039754	9/28/2017	12:15:00 PM	1613 GREENVILLE AVE	DRUG/ NARCOTIC VIOLATIONS	FS	POSS CONT SUB PEN GRP 1 <1G
17-039754	9/28/2017	12:15:00 PM	1613 GREENVILLE AVE	ALL OTHER OFFENSES	M*	OTHER OFFENSE - MISDEMEANOR
17-039754	9/28/2017	12:15:00 PM	1613 GREENVILLE AVE	ALL OTHER OFFENSES	MA	RESIST ARREST SEARCH OR TRANSPORT
17-039754	9/28/2017	12:15:00 PM	1613 GREENVILLE AVE	WARRANT-DALLAS PD (ALIAS)	NA	WARRANT-DALLAS PD (ALIAS)
17-039754	9/28/2017	12:15:00 PM	1613 GREENVILLE AVE	WARRANT-DALLAS PD (CAPIAS)	NA	WARRANT-DALLAS PD (CAPIAS)

Arrests:

Response_ Date	Response_ Time	MDivision	MSector	MBeat	MRA	Problem	Priority_Description	Location_Name	Address
6/18/2012	4:49:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS BAR	1613 Greenville Ave
11/25/2012	3:47:00 AM	Central	140	145	4510	40/01 - Other	2 - Urgent		1613 Greenville Ave
1/20/2014	6:26:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS LOUNGE	1613 Greenville Ave
2/14/2014	8:13:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service		1613 Greenville Ave
4/20/2014	2:55:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS BAR	1613 Greenville Ave
9/8/2014	11:26:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS BAR	1613 Greenville Ave
9/21/2014	9:05:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS LOUNGE	1613 Greenville Ave
9/30/2014	7:37:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS BAR	1613 Greenville Ave
5/12/2015	7:34:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service		1613 Greenville Ave
6/9/2015	4:22:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS LOUNGE	1613 Greenville Ave
6/11/2015	9:55:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service		1613 Greenville Ave
8/8/2016	12:17:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS LOUNGE	1613 Greenville Ave
8/15/2016	12:47:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS LOUNGE	1613 Greenville Ave
9/15/2016	4:11:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS LOUNGE	1613 Greenville Ave
9/18/2016	12:38:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS LOUNGE	1613 Greenville Ave
4/5/2017	12:27:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS LOUNGE	1613 Greenville Ave
7/6/2017	10:13:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS	1613 Greenville Ave
7/13/2017	8:27:00 AM	Central	140	145	4510	40 - Other	3 - General Service	Ships Restauraunt	1613 Greenville Ave
9/28/2017	12:12:00 AM	Central	140	145	4510	15 - Assist Officer	1 - Emergency	SHIPS LOUNGE	1613 Greenville Ave
10/8/2017	7:07:00 PM	Central	140	145	4510	40/01 - Other	2 - Urgent		1613 Greenville Ave
12/28/2017	12:36:00 AM	Central	140	145	4510	12B - Business Alarm	3 - General Service	SHIPS LOUNGE	1613 Greenville Ave
3/26/2018	10:47:00 PM	Central	140	145	1161	6M - Loud Music Disturbance	4 - Non Critical	SHIP'S BAR & GRILL	Greenville Ave / Ross Ave

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). Although the area of request is not within an identifiable MVA cluster, it is surrounded by “C” MVA clusters.

Z189-190(PD)

Partners/Principals/Officers:

Nayeb Family LP:

Farhad Nayeb, Principal

General Partner: Nayeb Real Estate, L.L.C

Naser Nayeb, Managing Member

Farhad Nayeb, Managing Member

Fawad Nayeb, Managing Member

**CPC Action
April 4, 2019**

Motion: In considering an application for a Specific Use Permit for a late-hours establishment limited to an alcoholic beverage establishment operated as a bar, lounge or tavern use on property zoned Planned Development District No. 842 for CR Community Retail District uses, on the west side of Greenville Avenue, southeast of Ross Avenue, it was moved to **hold** this case under advisement until May 2, 2019.

Maker: Schulte
Second: Carpenter
Result: Carried: 13 to 0

For: 13 - MacGregor*, Schulte, Criss, Johnson, Shidid,
Carpenter, Lewis, Jung, Housewright, Schultz,
Murphy, Ridley, Tarpley*

Against: 0
Absent: 0
Vacancy: 2 - District 7, District 12

*out of the room, shown voting in favor

Notices: Area: 200 Mailed: 11
Replies: For: 0 Against: 0

Speakers: None

**CPC Action
May 2, 2019**

Motion: In considering an application for a Specific Use Permit for a late-hours establishment limited to an alcoholic beverage establishment operated as a bar, lounge or tavern use on property zoned Planned Development District No. 842 for CR Community Retail District uses, on the west side of Greenville Avenue, southeast of Ross Avenue, it was moved to **hold** this case under advisement until July 11, 2019.

Maker: Schulte
Second: Lewis
Result: Carried: 13 to 0

For: 13 - MacGregor, Schulte, Criss*, Johnson, Shidid*,
Carpenter, Brinson, Lewis, Jung, Schultz,
Murphy, Ridley, Tarpley

Against: 0
Absent: 1 - Housewright
Vacancy: 1 - District 12

*out of the room, shown voting in favor

Notices: Area: 200 Mailed: 11
Replies: For: 0 Against: 0

Speakers: For: None
For (Did not speak): Audra Buckley, 1414 Belleview St., Dallas, TX, 75215
Against: None

CPC Action
July 11, 2019

Motion: In considering an application for a Specific Use Permit for a late-hours establishment limited to an alcoholic beverage establishment operated as a bar, lounge or tavern use on property zoned Planned Development District No. 842 for CR Community Retail District uses, on the west side of Greenville Avenue, southeast of Ross Avenue, it was moved to **hold** this case under advisement until October 3, 2019.

Maker: Schulte
Second: Lewis
Result: Carried: 12 to 0

For: 12 - MacGregor, Schulte, Shidid, Carpenter,
Brinson, Lewis, Jung, Housewright, Schultz,
Murphy, Ridley, Tarpley

Against: 0
Absent: 2 - Criss, Johnson
Vacancy: 1 - District 12

Notices: Area: 200 Mailed: 11
Replies: For: 0 Against: 0

Speakers: For: None
For (Did not speak): Audra Buckley, 1414 Belleview St., Dallas, TX, 75215
Against: None

**CPC Action
October 3, 2019**

Motion: In considering an application for a Specific Use Permit for a late-hours establishment limited to an alcoholic beverage establishment operated as a bar, lounge or tavern use on property zoned Planned Development District No. 842 for CR Community Retail District uses, on the west side of Greenville Avenue, southeast of Ross Avenue, it was moved to **hold** this case under advisement until November 7, 2019.

Maker: Hampton
Second: Housewright
Result: Carried: 9 to 0
For: 9 - MacGregor, Hampton, Johnson, Shidid,
Carpenter, Jung, Housewright, Schultz, Ridley

Against: 0
Absent: 3 - Criss, Brinson, Murphy
Vacancy: 3 - District 8, District 12, Place 15

Notices: Area: 200 Mailed: 11
Replies: For: 0 Against: 0

Speakers: For: None
For (Did not speak): Audra Buckley, 1414 Belleview St., Dallas, TX, 75215
Against: None

**CPC ACTION:
November 7, 2019**

Motion: It was moved to recommend **approval** of a Specific Use Permit for a late-hours establishment limited to an alcoholic beverage establishment operated as a bar, lounge or tavern use for a one-year period, subject to a site plan and revised conditions with a change to Condition #3, TIME LIMIT, to reflect a one-year period; without auto renewals on property zoned Planned Development District No. 842 for CR Community Retail District uses, on the west side of Greenville Avenue, southeast of Ross Avenue.

Maker: Hampton
Second: Carpenter
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

*out of the room, shown voting in favor

Notices: Area: 200 Mailed: 11
Replies: For: 0 Against: 0

Speakers: For: Audra Buckley, 1414 Belleview St., Dallas, TX, 75215
Against: None

CPC Recommended Conditions

1. USE: The only use authorized by this specific use permit is a late-hours establishment limited to an alcoholic beverage establishment limited to a bar, lounge or tavern.
2. SITE PLAN: Use and development of the Property must comply with the attached site plan.

CPC Recommendation:

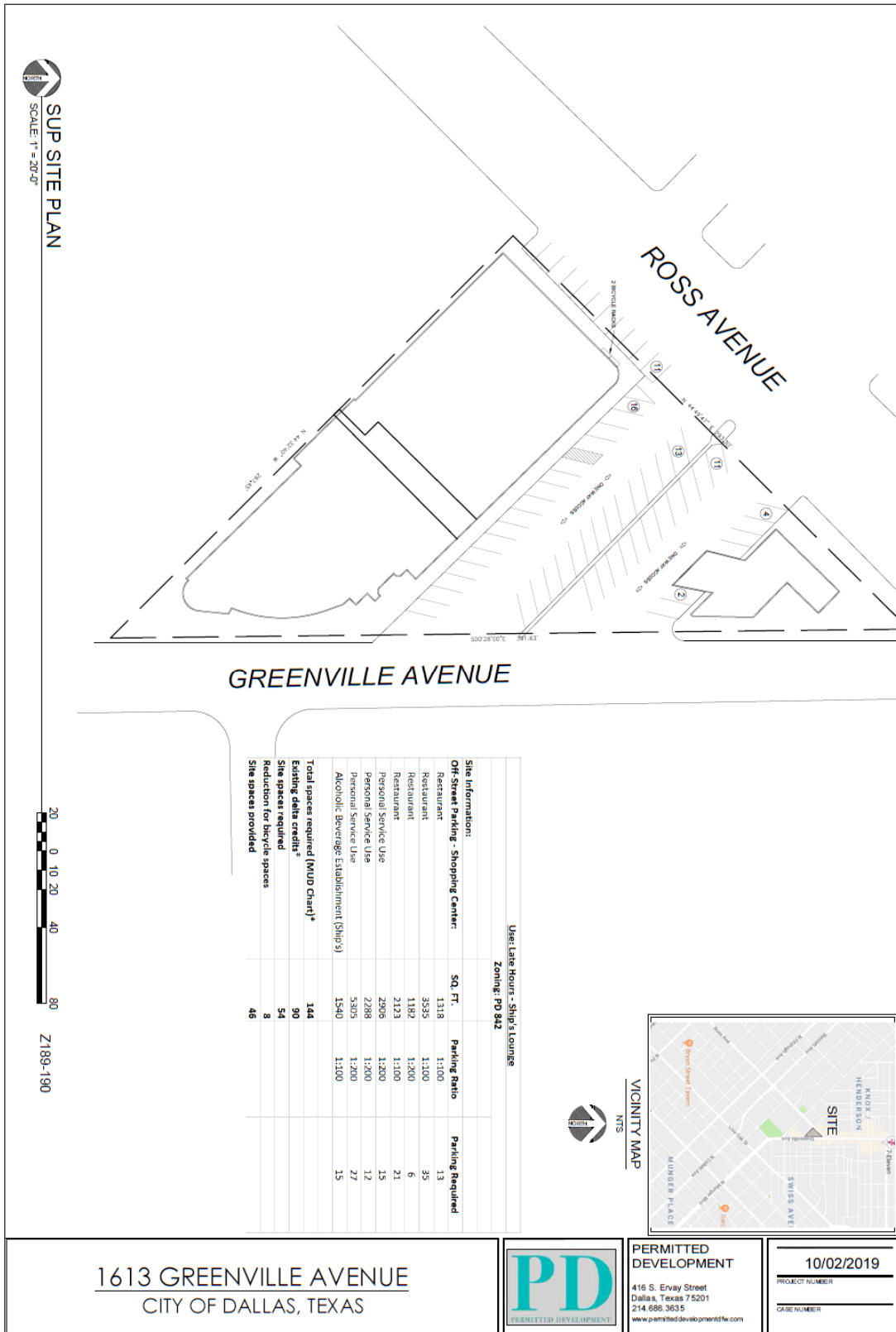
- | |
|---|
| 3. <u>TIME LIMIT</u> : This specific use permit automatically terminates on (one year). |
|---|

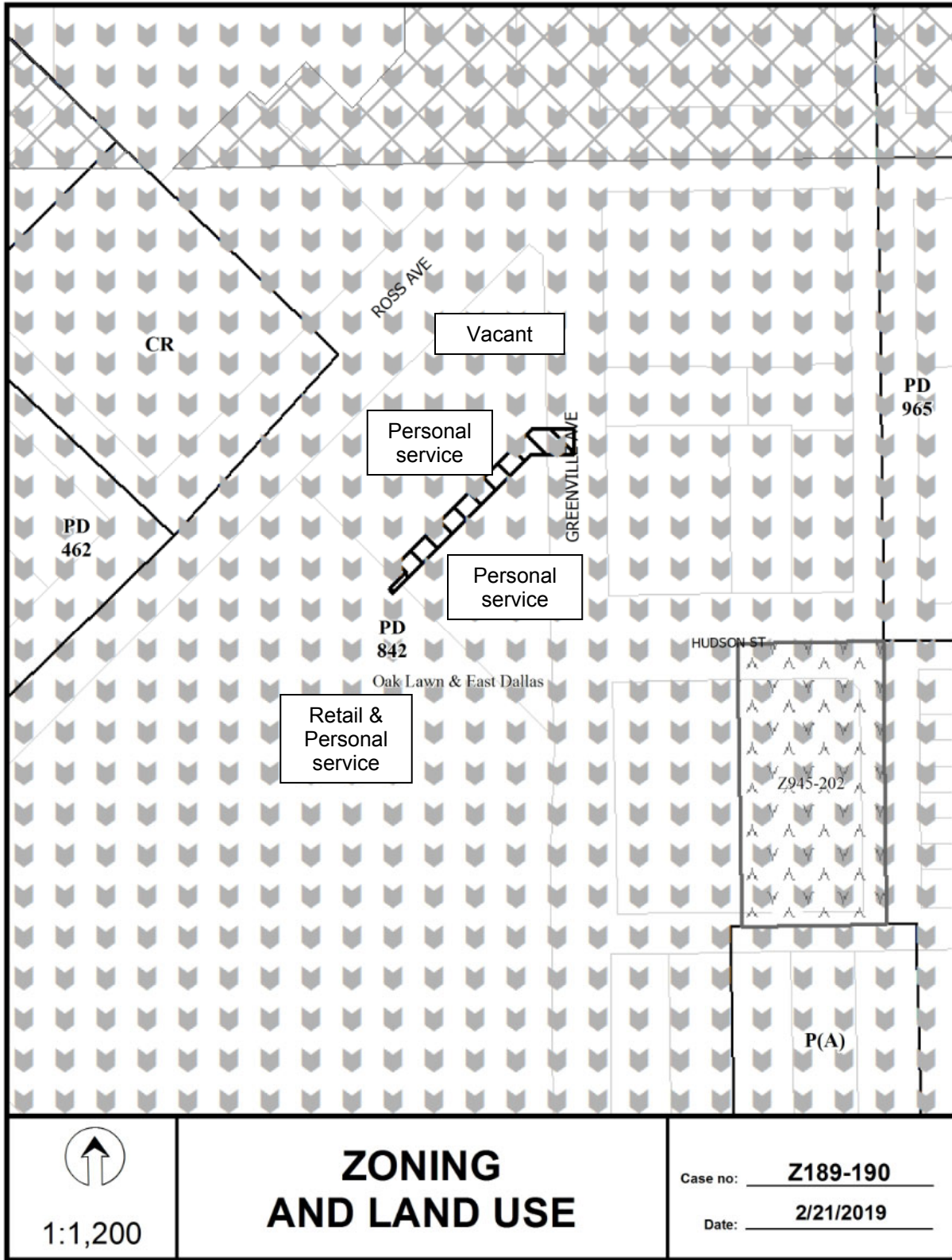
Staff Recommendation:

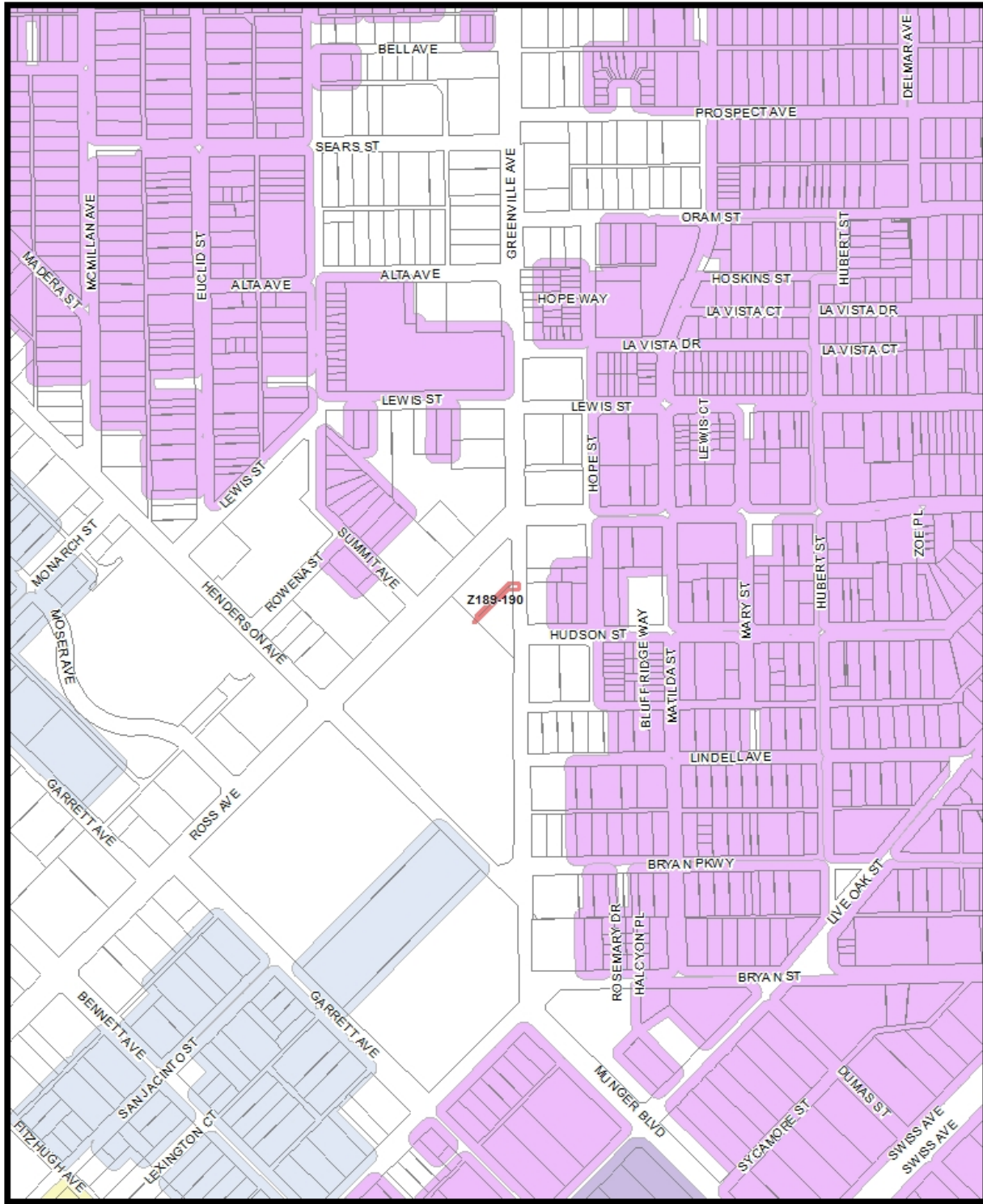
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|--|
| 3. <u>TIME LIMIT</u> : This specific use permit automatically terminates on (three years). |
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4. FLOOR AREA: The maximum floor area is 1,540 square feet in the location shown on the attached site plan.
5. HOURS OF OPERATION: The late-hours establishment limited to an alcoholic beverage establishment limited to a bar, lounge or tavern may only operate between 12:00 a.m. (midnight) and 2:00 a.m., Monday through Sunday. All customers must be removed from the Property by 2:15 a.m.
6. CERTIFICATE OF OCCUPANCY: The owner or operator must obtain a certificate of occupancy for a late-hours establishment before operating after 12:00 a.m. (midnight).
7. OUTSIDE SPEAKERS: Outside speakers are prohibited.
8. PARKING: Parking must comply with the attached site plan
9. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.
10. GENERAL REQUIREMENT: 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 Site Plan







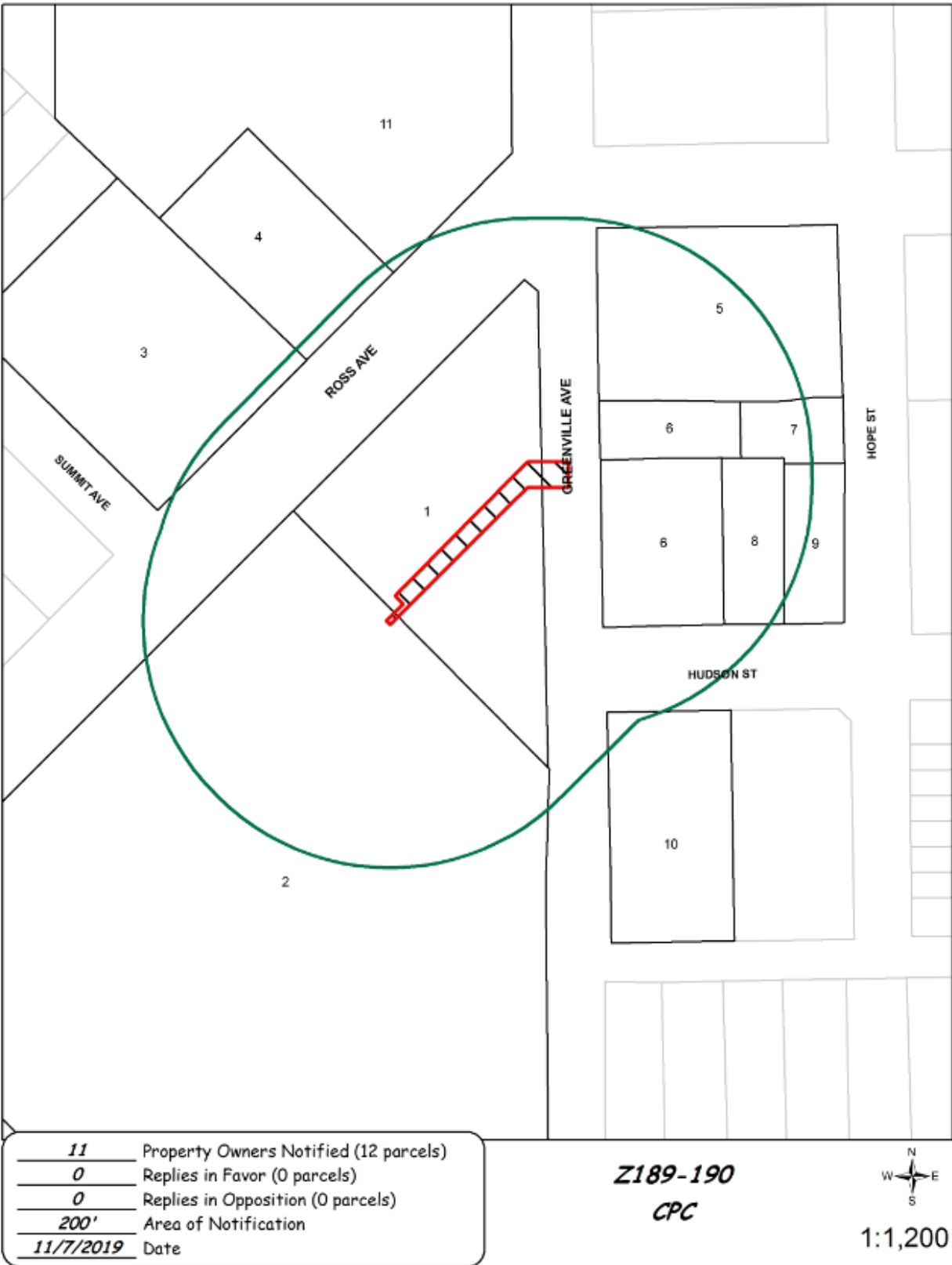
MVA Cluster A B C D E F G H I NA



Market Value Analysis

Printed Date: 2/21/2019

CPC RESPONSES



11/06/2019

Reply List of Property Owners

Z189-190

11 Property Owners Notified

0 Property Owners in Favor

0 Property Owners Opposed

<i>Reply</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5434	ROSS AVE	NAYEB FAMILY LP
2	5334	ROSS AVE	ROSS HENDERSON DEV GROUP
3	5403	ROSS AVE	MCDONALDS CORP
4	5415	ROSS AVE	GABERINO JAMES D ETAL LTD
5	1616	GREENVILLE AVE	AMERCO REAL ESTATE CO
6	1606	GREENVILLE AVE	GOODWILL INDUSTRIES OF
7	1615	HOPE ST	POSPISIL BENJAMIN PAUL
8	5509	HUDSON ST	CAMPBELL ROBIN LEE
9	5513	HUDSON ST	HARBER CAROL
10	1516	GREENVILLE AVE	MARS PARTNERS JOINT
11	5429	ROSS AVE	CHAN ALVIN B INC