

**FILE NUMBER:** Z212-169(OA) **DATE FILED:** January 21, 2022

**LOCATION:** South line of Elam Road, west of Buttercup Lane.

**COUNCIL DISTRICT:** 5

**SIZE OF REQUEST:** ± 1.274 acres **CENSUS TRACT:** 0117.01

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**REPRESENTATIVE:** Mark Tolocko

**APPLICANT/OWNER:** Bharat Padsala

**REQUEST:** An application for a NS(A) Neighborhood Service District with deed restrictions volunteered by the applicant to prohibit massage establishments, tattoo studios, and piercing establishments on property zoned R-7.5(A) Single Family District, on the south line of Elam Road, west of Buttercup Lane [in lieu of a CR Community Retail District]

**SUMMARY:** The purpose of the request is to allow for the property to be developed under the regulations of the NS(A) district.

**CPC RECOMMENDATION:** Approval of a NS(A) Neighborhood Service District with deed restrictions volunteered by the applicant, on property zoned R-7.5(A) Single Family District; in lieu of a CR Community Retail District.

**STAFF RECOMMENDATION:** Approval of a CR Community Retail District.

**BACKGROUND INFORMATION:**

- The area of request is zoned an R-7.5(A) Single Family District and consists of four lots that are currently undeveloped.
- According to the City of Dallas permit records, a structure that served as a church was built on this property, including a new addition approved on September 16, 1978. On January 7, 2021, the structure was destroyed by fire.
- The applicant is requesting the rezoning of the property to CR Community Retail District to develop it with grocery store, restaurant, and other retail uses allowable within this zoning district.
- The original request was to rezone the subject property from a R-7.5(A) Single Family District into a CR Community Retail District. However, the City Plan Commission recommended approval of a NS(A) Neighborhood Service District with deed restrictions volunteered by the applicant to prohibit massage establishments, tattoo studios, and piercing establishments, in lieu of a CR Community Retail District.

**Zoning History:**

There have been no recent zoning changes requested in the area within the past five years

**Thoroughfares/Streets:**

Thoroughfare/Street	Type	Existing/Proposed ROW
Elam Road	Principal arterial	100 feet
Butter Cup	Local	60 feet

**Traffic:**

The Engineering Division of 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.

**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 could be considered consistent with the following goals and policies of the comprehensive plan.

## **ECONOMIC ELEMENT**

### **GOAL 2.4 CREATE AND MAINTAIN AN ENVIRONMENT FRIENDLY TO BUSINESSES AND ENTREPRENEURS**

**Policy 2.4.2** Restore Dallas as the premier city for conducting business within the region.

## **BUILDING BLOCKS**

The Residential Neighborhood Building Block represents the lifeblood of Dallas, the traditional neighborhood of single-family detached homes. Dallas has many neighborhoods that match this description, including Winnetka Heights, Preston Hollow, Lakewood, and Wheatley Place. Single-family dwellings are the dominate land use in these areas. Some shops, restaurants, or institutional land uses such as schools and religious centers that serve neighborhood residents may be located at the edges or at key intersections.

	<b>Zoning</b>	<b>Land Use</b>
<b>Site</b>	R-7.5(A)	vacant
<b>North</b>	CR with D Liquor Control Overlay	church, convenience store/gas station, and full auto service.
<b>West</b>	PD No. 59	hospital, medical clinic, and helistop uses.
<b>East</b>	R-7.5(A)	Single family and church use.
<b>South</b>	R-7.5	Undeveloped

### **Land Use Compatibility:**

The approximate ± 1.274 acres site is comprised of four lots, it is zoned R-7.5(A) Single Family District and is currently vacant due to a fire that occurred in 2021. The applicant is seeking approval for the rezoning of the four vacant lots to CR Community Retail District. Surrounding uses are a church, a convenience store/gas station, and a full auto service use to the north; hospital, medical clinic, and helistop uses to the west, single family to the south, and single family and church uses to the east.

According to the Dallas Comprehensive Plan, community retail districts should be located at the edge of residential subdivisions or located at key intersections. The proposed site

is located at the edge of a single-family subdivision, adjacent to a hospital complex with a helistop use and another CR community retail district across the street. Furthermore, the proposed site fronts Elam Road a major thoroughfare and has no direct access from a local street serving the adjacent residential uses. Additionally, the proposed zoning is intended to serve neighborhood residents located at the edges of the residential subdivision.

### **Use Comparison Table:**

Following is a comparison table showing differences in the permitted uses between the existing and proposed zoning districts.

#### **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

	Existing R-7.5 (A)	Proposed CR	NS(A) Neighborhood Service District with deed restrictions
Use			
<b>AGRICULTURAL USES</b>			
Animal production			
Commercial stable			
Crop production	•	•	•
Private stable			
<b>COMMERCIAL AND BUSINESS SERVICE USES</b>			
Building repair and maintenance shop		R	
Bus or rail transit vehicle maintenance or storage facility			
Catering service		•	
Commercial cleaning or laundry plant			
Custom business services		•	
Custom woodworking, furniture construction, or repair			
Electronics service center		•	
Job or lithographic printing			
Labor hall			
Machine or welding shop			
Machinery, heavy equipment, or truck sales and services			

	Existing R-7.5 (A)	Proposed CR	NS(A) Neighborhood Service District with deed restrictions
Use			
Medical or scientific laboratory		S	
Technical school			
Tool or equipment rental		•	
Vehicle or engine repair or maintenance			
<b>INDUSTRIAL USES</b>			
Alcoholic beverage manufacturing			
Gas drilling and production	S	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	•	•	•
<b>INSTITUTIONAL AND COMMUNITY SERVICE USES</b>			
Adult daycare facility	S	•	•
Cemetery or mausoleum	S	S	S
Child-care facility	S	•	•
Church	•	•	•
College, university, or seminary	S	•	S
Community service center	S	S	S
Convalescent and nursing homes, hospice care, and related institutions			
Convent or monastery	S	•	•
Foster home	S		
Halfway house			
Hospital		S	
Library, art gallery, or museum	S	•	•
Public or private school	S	R	S
<b>LODGING USES</b>			
Extended stay hotel or motel			

	Existing R-7.5 (A)	Proposed CR	NS(A) Neighborhood Service District with deed restrictions
Use			
Hotel or motel		S	
Lodging or boarding house		S	
Overnight general-purpose shelter		•	
<b>MISCELLANEOUS USES</b>			
Carnival or circus (temporary)	•	•	★
Hazardous waste management facility			
Attached non-premise sign		S	S
Temporary construction or sales office	•	•	•
<b>OFFICE USES</b>			
Alternative financial establishment		S	
Financial institution without drive-in window		•	•
Financial institution with a drive-in window		R	
Medical clinic or ambulatory surgical center		•	•
Office		•	•
<b>RECREATION USES</b>			
Country club with private membership	S	•	•
Private recreation center, club, or area	S	•	S
Public park, playground, or golf course	•	•	•
<b>RESIDENTIAL USES</b>			
College dormitory, fraternity, or sorority house		•	S
Duplex			
Group residential facility			
Handicapped group dwelling unit	•		
Manufactured home park, manufactured home subdivision, or campground			
Multifamily			
Residential hotel			
Retirement housing			
Single family	•		
<b>RETAIL AND PERSONAL SERVICE USES</b>			
Alcoholic beverage establishments		•	
Ambulance service		R	
Animal shelter or clinic without outside runs		R	
Auto service center		R	
Business school		•	
Car wash		D	
Commercial amusement (inside)		S	

	Existing R-7.5 (A)	Proposed CR	NS(A) Neighborhood Service District with deed restrictions
Use			
Commercial amusement (outside)		S	
Commercial parking lot or garage		R	
Convenience store with a drive-through		R	
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		•	•
General merchandise or food store 100,000 square feet or more		S	
Home improvement center, lumber, brick or building materials sales yard		D	
Household equipment and appliance repair		•	
Liquor store		•	
Motor vehicle fueling station		•	•
Mortuary, funeral home, or commercial wedding chapel		•	
Nursery, garden shop, or plant sales		•	
Paraphernalia shop		S	
Pawnshop		•	
Personal service use		•	deed restrictions volunteered by the applicant to prohibit massage establishments, tattoo studios, and piercing establishments
Restaurant without drive-in or drive-through service		R	R
Restaurant with drive-in or drive-through service		D	
Surface parking			
Swap or buy shop		S	
Taxidermist			
Temporary retail use		•	
Theater		•	

	Existing R-7.5 (A)	Proposed CR	NS(A) Neighborhood Service District with deed restrictions
Use			
Truckstop			
Vehicle display, sales, and service			
<b>TRANSPORTATION USES</b>			
Airport or landing field			
Commercial bus station and terminal			
Heliport			
Helistop			
Private street or alley	S		
Railroad passenger station			
Railroad yard, roundhouse, or shops			
STOL (short take-off or landing port)			
Transit passenger shelter	•	•	•
Transit passenger station or transfer center	S	•	S
<b>UTILITY AND PUBLIC SERVICE USES</b>			
Commercial radio or television transmitting station		•	
Electrical generating plant			
Electrical substation	S	•	S
Local utilities	S	S	S
Police or fire station		•	S
Post office/ Police or fire station	S	•	S
Radio, television, or microwave tower	S	S	S
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			
<b>WHOLESALE, DISTRIBUTION, AND STORAGE USES</b>			
Auto auction			
Building mover's temporary storage yard			
Contractor's maintenance yard			
Freight terminal			
Livestock auction pens or sheds			
Manufactured building sales lot			
Mini-warehouse		S	



	Existing R-7.5 (A)	Proposed CR	NS(A) Neighborhood Service District with deed restrictions
Use			
Office showroom/warehouse			
Outside storage			
Petroleum product storage and wholesale			
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			
Trade center			
Vehicle storage lot			
Warehouse			

### **Development Standards:**

District	Setback		Density	Height	Lot Coverage	Special Standards
	Front	Side/ Rear				
<b>Existing: R-7.5(A)</b>	25'	5'-10'	1 DU/7,500 SF	30'	45% for res. 25% for non res.	
<b>Proposed: CR</b>	15'*	20' adj to res Other: No min	0.5 FAR office/ .75 for all uses (max)	54' RPS 26'	60%	Residential Proximity Slope

*\*Blockface continuity may apply*

The City of Dallas Development Standards requires any proposed CR uses to comply with the residential proximity slope. Any proposed building height would be significantly lower than the allowed 54 feet height for CR districts adjacent to residential districts. However, the proposed CR height is compatible to the surrounding CR district properties and significantly lower than the adjacent hospital that contains a 3-story high building. Furthermore, the required 20 feet side and rear yard setback as well as the increased landscape buffer requirements would increase the separation of the proposed commercial district from the single-family district.

**Landscaping:**

Landscaping will be in accordance with the landscape regulations of Article X, as amended. Properties zoned CR community retail District adjacent to residential zoning districts require a residential buffer zone. These residential buffer zone must have an average depth of 10 feet, a minimum depth of five feet, and a maximum depth of 30 feet. No portion of the residential buffer zone may exceed 10 percent of the lot depth excluding paved surfaces at points of vehicular and pedestrian ingress or egress. Additionally, the residential buffer zone must include a minimum of one plant group every 40 feet.

**Parking:**

Parking will be provided in accordance with the Dallas Development Code, as amended.

**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 strengths or weaknesses. 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 an “F” MVA Cluster to the south and a “G” MVA cluster to the north.

**CPC ACTION  
MAY 19, 2022**

**Motion:** It was moved to recommend **approval** of a NS(A) Neighborhood Service District with deed restrictions volunteered by the applicant to prohibit massage establishments, tattoo studios, and piercing establishments on property zoned R-7.5(A) Single Family District, on the south line of Elam Road, west of Buttercup Lane in lieu of a CR Community Retail District.

Maker: Shidid  
Second: Blair  
Result: Carried: 9 to 0

For: 9 - Popken, Anderson, Shidid, Carpenter, Blair,  
Gibson, Stanard, Kingston, Rubin

Against: 0  
Absent: 5 - Hampton, Vann, Jung, Housewright, Haqq  
Vacancy: 1 - District 3

<b>Notices:</b>	Area: 300	Mailed: 26
<b>Replies:</b>	For: 0	Against: 0

**Speakers:** For: Mark Tolacko, 2814 Maple Springs Blvd., Dallas, TX, 75235  
Against: None

**CPC ACTION**  
**April 21, 2022**

**Motion:** In considering an application for a CR Community Retail District on a property zoned R-7.5(A) Single Family District, located on the south line of Elam Road, West of Buttercup Lane., it was moved to **hold** this case under advisement until May 19, 2022.

Maker: Shidid  
Second: Blair  
Result: Carried: 14 to 0

For: 14 - Hampton, Anderson, Shidid, Carpenter, Blair,  
Jung, Housewright, Gibson, Popken, Stanard,  
Kingston, Rubin , Haqq, Vann

Against: 0  
Absent: 0  
Vacancy: 1 - District 3

<b>Notices:</b>	Area: 300	Mailed: 26
<b>Replies:</b>	For: 0	Against: 0

**Speakers:** For: Mark Tolocko, 2814 Maple Springs Blvd, Dallas TX 75235  
Against: None

DEED RESTRICTIONS

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

I.

The undersigned, Bharat Padsala ("the Owner"), is the owner of the following described property ("the Property"), being all of lots 21,22,23,24, Block 1/6647 of the Briggs Subdivision, an addition to the City of Dallas, Dallas County, Texas and being that same tract of land conveyed to the Owner by New Light Church, by deed dated 10/25/2021, and recorded in Instrument Number 202100318397 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:

1. "TATTO STUDIOS"
2. "BODY PIERCING STUDIOS"
3. "MESSAGE PARLOR ESTABLISHMENTS"

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.

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 51A of the Dallas City Code, as amended, apply and are incorporated into this document as if recited in this document.

X.

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

Deed Restriction Form - Page 2 (Rev.1-19-21)

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.

EXECUTED this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Bharat Padsala  
Owner

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CONSENT AND CONCURRENCE OF  
LIENHOLDER OR MORTGAGEE

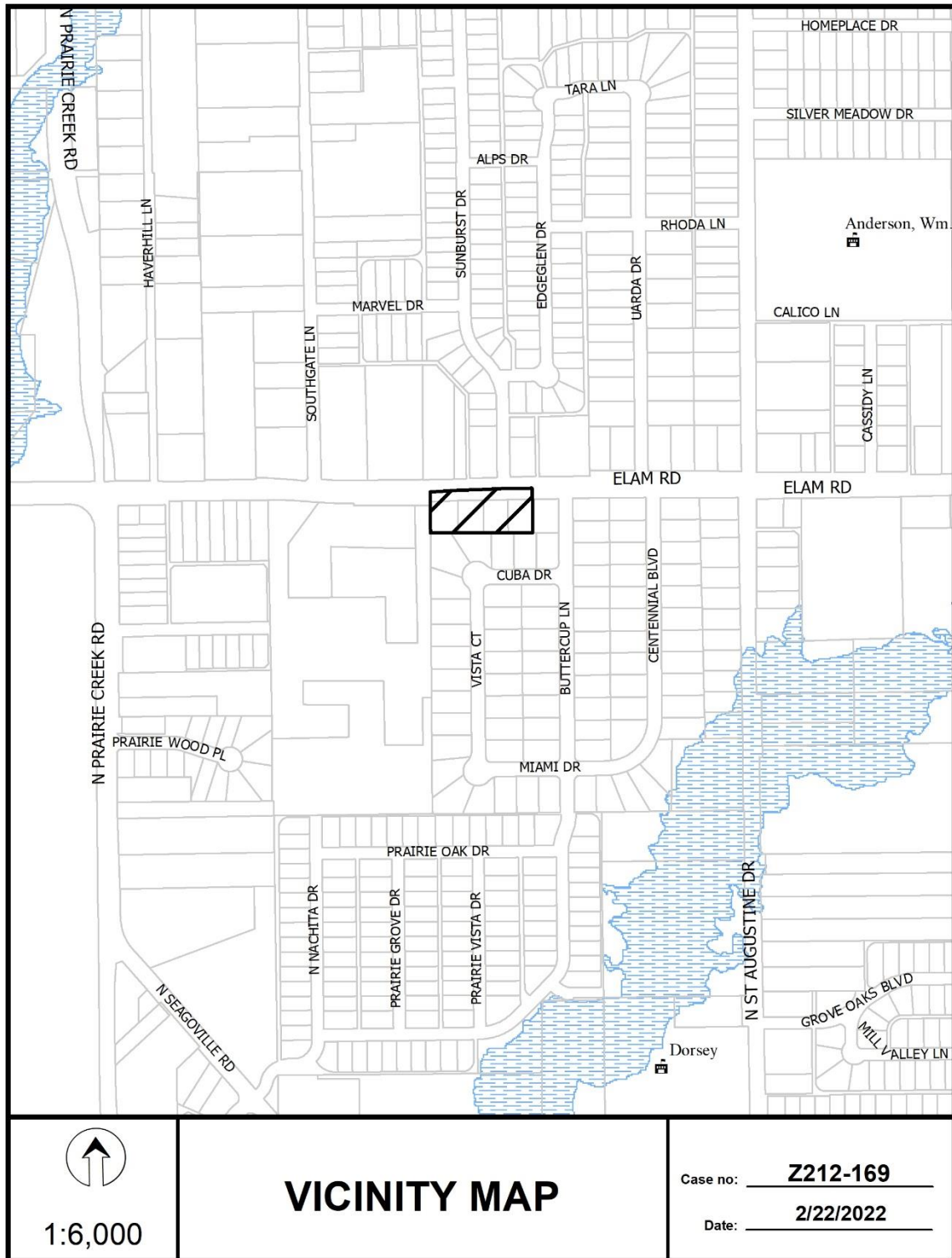
\_\_\_\_\_  
Property Lienholder or Mortgagee

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

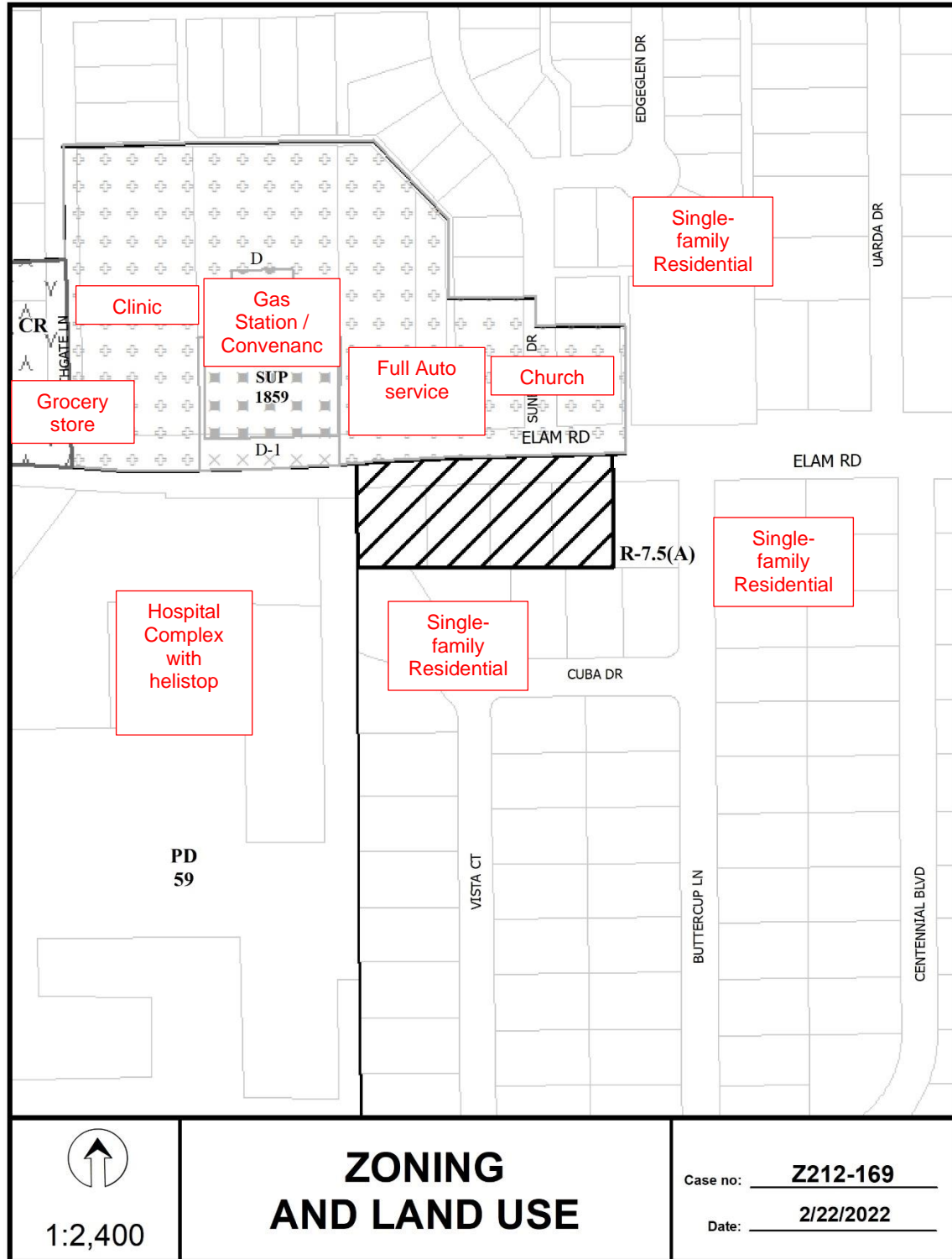
APPROVED AS TO FORM:  
CHRISTOPHER J. CASO, City Attorney

By: \_\_\_\_\_  
Assistant City Attorney

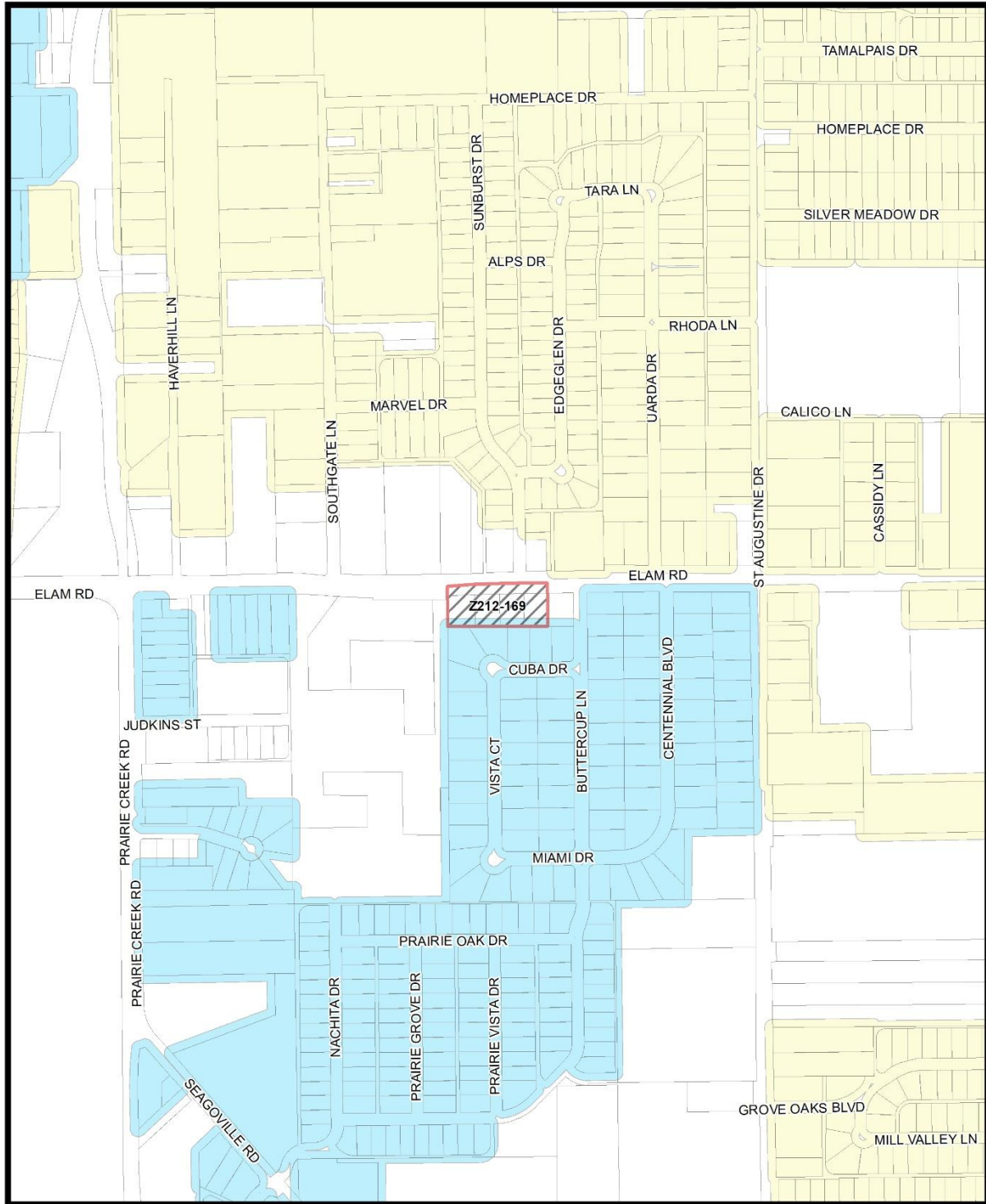












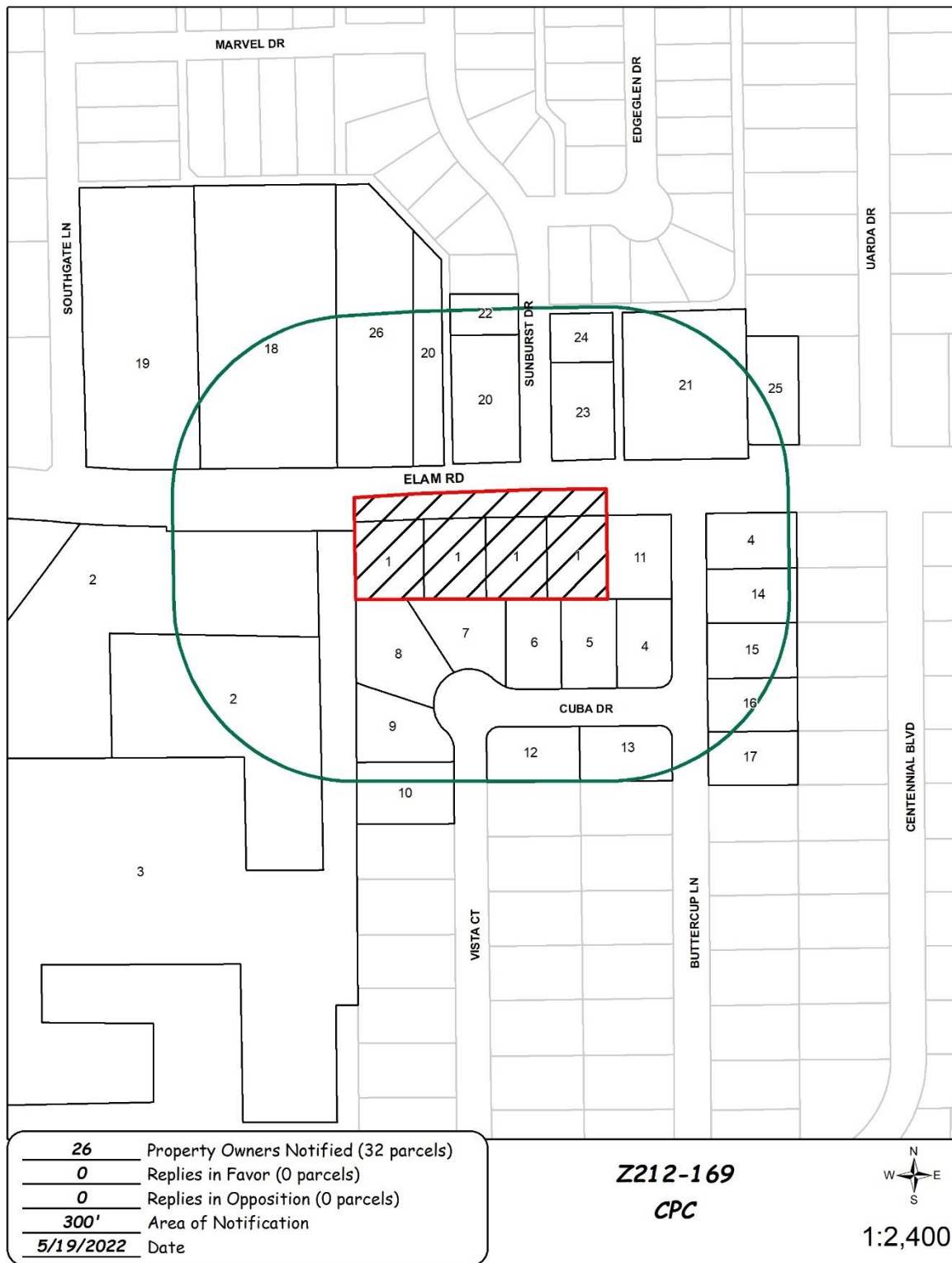
Market Value Analysis A B C D E F G H I NA



1:6,000

# Market Value Analysis

Printed Date: 2/22/2022



05/18/2022

***Reply List of Property Owners******Z212-169******26 Property Owners Notified******0 Property Owners in Favor******0 Property Owners Opposed***

<b><i>Reply</i></b>	<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
	1	9330 ELAM RD	NEW LIGHT CHURCH
	2	9202 ELAM RD	DALLAS COUNTY HOSPITAL DISTRICT
	3	9202 ELAM RD	DALLAS COUNTY HOSPITAL DISTRICT
	4	9329 CUBA DR	HOUSE DEARL D
	5	9321 CUBA DR	MOLINA JAZMINA LIZETT
	6	9315 CUBA DR	HOUSE JEFFREY DEAN
	7	9307 CUBA DR	JARAMILLO OLEGARIO
	8	373 VISTA CT	CARROLL PAUL S
	9	365 VISTA CT	TEJADA RAFAEL &
	10	355 VISTA CT	WALKER RACHEL
	11	437 BUTTERCUP LN	GARCIA AGUSTIN & ALICIA
	12	354 VISTA CT	BRIGHTMON PHYLLIS
	13	355 BUTTERCUP LN	BASQUEZ ATANACIO
	14	418 BUTTERCUP LN	HERNANDEZ RAFAEL
	15	412 BUTTERCUP LN	BLAKE VINCENT DOUGLAS
	16	404 BUTTERCUP LN	DOMINGUEZ-GARCIA JESUS MANUEL
	17	354 BUTTERCUP LN	GONZALEZ BRENDA
	18	9217 ELAM RD	BOBBYS CORPORATION
	19	9209 ELAM RD	SOUTHGATE PARTNERS
	20	9315 ELAM RD	GODS WORD MISSIONARY
	21	9339 ELAM RD	AGUILAR EDUARDO
	22	523 SUNBURST DR	MACK MARK
	23	9353 ELAM RD	AVM MEDICAL SERVICES LLC
	24	518 SUNBURST DR	WEED KELLY R
	25	9407 ELAM RD	HOUSE DEARL
	26	9309 ELAM RD	VILLANUEVA RODRIGO.