

FILE NUMBER: Z201-199(ND)

DATE FILED: March 2, 2021

LOCATION: East line of Gaston Avenue, northwest of Garland Road

COUNCIL DISTRICT: 9

MAPSCO: 37 X

SIZE OF REQUEST: ±9.603 acres

CENSUS TRACT: 1.00

REPRESENTATIVE: Dallas Cothrum, Masterplan

**APPLICANT/
OWNER:**

CH Realty VII/R Dallas Arboretum Village, LP

REQUEST:

An application for the termination of deed restrictions [Z767-296] on property zoned a CR Community Retail District.

SUMMARY:

The purpose of the request is to remove the deed restrictions volunteered in 1977. The deed restrictions limit the uses and height to the GR General Retail District and certain other specific uses, prohibit outside storage, and have restrictions for an engineering laboratory use in the building on the site in 1977. A drive-in restaurant is not allowed in the GR District and is the proposed use if the deed restrictions are terminated. The applicant volunteered a new deed restriction to limit the number of drive-through restaurants to one within area of the deed restrictions.

CPC RECOMMENDATION:

Approval, subject to amended deed restrictions volunteered by the applicant in lieu of the termination of deed restrictions [Z767-296].

STAFF RECOMMENDATION: Approval.

BACKGROUND INFORMATION:

- In 1977, the zoning on the property changed from a GR General Retail District to an HC Heavy Commercial District with deed restrictions volunteered by the applicant.
- The deed restrictions (Z767-296) limit the uses to those in a GR General Retail District plus an engineering design and development, engineering laboratories, light electrical assembly and testing, and associated storage and warehousing.
- The zoning on the property changed from an HC District to a CR Community Retail District with the zoning transition in 1989. The deed restrictions remained in effect on the property.
- The GR District does not allow a restaurant with a drive through or drive in. The current zoning, CR Community Retail District, does allow a restaurant with a drive through or drive in.
- The applicant indicated the reason for the termination of the deed restrictions was to develop a portion of the property with a drive through restaurant. At the May 20, 2021, City Plan Commission, the applicant volunteered a new deed restriction to limit the number of drive-through restaurants to one. The applicant also added a minimum of one bicycle rack containing a minimum of six bicycle parking spaces requirement in conjunction with a restaurant with drive-in or drive-through service use within the amended deed restrictions.

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

1. **Z201-139** - On April 22, 2021, City Plan Commission recommended denial without prejudice of a Planned Development District for MU-1 Mixed Use District uses and the termination of deed restrictions [Z990-137] on property zoned an MU-1 Mixed Use District and CR Community Retail District, located at the southeast corner of Gaston Avenue, Garland Road, and East Grand Avenue. The deadline to appeal the case May 3, 2021.
2. **Z189-369** - On February 12, 2020, the City Council approved the renewal of Specific Use Permit No. 2119 for an alcoholic beverage establishment limited to a bar, lounge, or tavern on property zoned Planned Development District No. 808 South corner of Gaston Avenue and Tucker Street.

Traffic:

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

generated by restaurant with drive-through is already traveling on the adjacent road and makes a stop (called “pass by” traffic) on their way to their destination. Staff indicated a restaurant with drive-through will require a development impact review (DIR) during the permitting process. The traffic movements in and out of the site will be evaluated during the DIR.

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing/Proposed ROW
East Grand Avenue	Principal Arterial	100 feet
Garland Road	Principal Arterial	100 feet
Gaston Ave	Community Collector	60 feet

STAFF ANALYSIS:

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.

ECONOMIC ELEMENT

GOAL 2.1 Promote Balanced Growth

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

Area Plans:

The site is within the Garland Road Vision Study Plan. The plan identifies this area for a mix of uses and higher intensity development. The Garland-Gaston-Grand triangle was identified as a major gateway to the corridor. The zoning request would not hinder future efforts to provide higher intensity development in the future.

Surrounding Land Uses:

	Zoning	Land Use
Site	CR with deed restrictions	General merchandise or food stores, restaurant
North	CR, MF-2(A)	Restaurant, General merchandise, or food stores, undeveloped (pending multifamily)
Northwest	CR	General merchandise or food store with fueling pumps
East	CR	Santa Fe Trail
Southeast	CR	Restaurant, General merchandise or food store, medical clinic, personal service
Southwest	CR, PD No. 808 with SUP No. 2119	Restaurant, general merchandise or food store, medical clinic, personal service, animal clinic, office, alcoholic beverage establishment

Land Use Compatibility:

The request site is developed with several general merchandise or food stores and a restaurant within a large shopping development. The property is zoned a CR Community Retail District with deed restrictions on a portion of the property.

Surrounding uses include restaurants, general merchandise or food stores, personal service, animal clinic, office, medical clinic to the north, southeast, and southwest. To the northwest is a general merchandise or food store with fueling pumps. Further to the north, adjacent to the shopping center, is undeveloped land previously developed with a multifamily use and proposed to be a new multifamily use. To the east of the property is the Santa Fe Trail.

The deed restrictions were volunteered along with a zoning change from GR General Retail District to an HC Heavy Commercial District in 1977. A vacant store was repurposed by Texas Instruments for office, engineering, laboratories, electrical assembly, and associated storage and warehousing. The deed restrictions allowed these uses and restricted other uses to those within the GR District. Other items in the deed restrictions included not expanding the existing building if used for the associated engineering uses, prohibited outside storage, restricted location of fences, and restricted the height to GR District height.

During the transition from Chapter 51 to Chapter 51A zoning ordinance, the property was changed from an HC District to the current CR Community Retail District. The

deed restrictions regarding the uses would maintain those uses allowed in both the CR District and the GR District. The height would be that of the CR District which is less than the GR District.

Given the surrounding property is mostly zoned a CR District, staff is supportive of the termination of the deed restrictions. The result of the termination of the deed restrictions would be the addition of 11 uses allowed in the CR District that are not allowed in the GR District. One of the uses would not require additional staff review or a specific use permit (temporary retail use). Six of the uses require an SUP: 1) attached non-premise sign, 2) alternative financial establishment, 3) convenience store with drive-through, 4) paraphernalia shop, 5) transit passenger station or transfer center, and 6) mini-warehouse. Three uses require a residential adjacency review or a development impact review: 1) commercial parking lot or garage (RAR), 2) home improvement center, lumber, brick or building materials sales yard (DIR), and 3) restaurant with drive-in or drive-through service (DIR). The recycling buy-back center use may require an SUP depending on what is collected. These uses are allowed on both sides of the area of request within the larger shopping center.

Development Standards:

DISTRICT	SETBACKS		Density FAR	Height	Lot Coverage	Lot Size	Special Standards	Primary Uses
	Front	Side/Rear						
CR	15'	0/0	0.75 combined 0.5 office 0.75 retail	54' *	60%	NA	RPS	Retail

* Deed restrictions limit the height to GR District height, which is 120 feet. The CR District having a maximum height of 54 feet would control. HC District maximum height is 240 feet.

New construction would be required to meet the regulations of the CR Community Retail District as well as the limit of one drive-through restaurant in the area of request per the volunteered deed restrictions.

Parking:

Parking requirements for new construction will be as set forth in Section 51A-4.200. The applicant indicated the reason for the termination of the deed restrictions is to construct a restaurant with drive-in or drive-through service. Parking for a restaurant with drive-in or drive-through service is one space per 100 square feet with a minimum of four spaces. Stacking spaces range from six for one drive-through window to eight spaces for two windows with four additional stacking spaces for windows over two.

Landscaping:

Landscaping of new construction will be provided per Article X, 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 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 subject site is not assigned an MVA category. MVA category "B" is to the northwest and further southwest of the site.

List of Officers

Arboretum Village Partners and Principals List

CH Realty VII / R Dallas Arboretum Village, L.P.
CH Realty VII / R Dallas Arboretum Village, G.P.
Fund VII Managers, L.L.C.
CH Realty Investors VII, L.P.
CH Realty Investors VII GP, L.L.C.
Crow Holdings Realty Partners VII-A, Inc.
Crow Holdings Realty Partners VII-A, L.P.
Crow Holdings Realty Partners VII-B, L.P.
Crow Holdings Realty Partners VII, L.P.

Fund VII Managers Officers are as follows:

Robert A. McClain – President
M. Kevin Bryant - Vice President Secretary
Carlos Rainwater – Vice President and Assistant Secretary
J. Dodge Carter - Vice President and Assistant Secretary
Stanley V. Mullikin - Vice President and Assistant Secretary
Anna O Graves - Vice President and Assistant Secretary
Matthew E. Colter - Vice President and Assistant Secretary
Tiffani A. Heidebrecht - Vice President and Assistant Secretary
Brice M. Hafner - Vice President and Assistant Secretary
Jonathon C. Juracek – Vice President
Rodney L. Whitley – Vice President
Cyndy A. Silverthorn – Vice President
Senee Holditch – Vice President
Susan E. Bailey – Vice President
Anne L Raymond – Sole Member

CPC Action:
May 20, 2021

Motion: It was moved to recommend **approval** of amended deed restrictions [Z767-296] volunteered by the applicant in lieu of the termination of deed restrictions [Z767-296] on property zoned a CR Community Retail District, on the east line of Gaston Avenue, northwest of Garland Road.

Maker: Jung
Second: Carpenter
Result: Carried: 6 to 5

For: 6 - MacGregor, Johnson, Shidid, Carpenter, Jung, Suhler

Against: 5 - Hampton, Blair, Murphy, Garcia, Rubin
Absent: 3 - Stinson, Jackson, Schwope
Vacancy: 1 - District 10

Notices: Area: 400 Mailed: 22
Replies: For: 1 Against: 0

Speakers: For: Andrew Ruegg, 2201 Main St., Dallas, TX, 75201
Dallas Cothrum, 2201 Main St., Dallas, TX, 75201
Steve Stoner, 7557 Rambler Rd., Dallas, TX, 75231
Bob Potter, 3200 N. Town East Blvd., Mesquite, TX, 75150
Against: Leslie Hearn, 1519 Waterside Ct., Dallas, TX, 75218
Carolyn Jones, 1234 San Rafael Dr., Dallas, TX, 75218
Angie Clarke, 7132 Wildgrove Ave., Dallas, TX, 75214
Michael DeGroot, 7014 Coronado Ave., Dallas, TX, 75214
Against (Did not speak): R. Jones, 1234 San Rafael Dr., Dallas, TX, 75218
Ileana Cuevas, 2311 Loving Ave., Dallas, TX, 75214

Proposed Amendment to the Volunteered Deed Restrictions

That the Owner does hereby amend the Original Restrictions to read as follows:

I. The maximum number of restaurant with drive-in or drive-through service uses permitted on the Property is one.

II. A minimum of one bicycle rack containing a minimum of six bicycle parking spaces must be installed in conjunction with a restaurant with drive-in or drive-through service use.

~~A. (1) The property described herein shall be restricted to the following uses: engineering design and development, engineering laboratories, light electrical assembly and testing, and associated storage and warehousing, together with all of those uses permitted in the General Retail District under the provisions of the Comprehensive Zoning Ordinance of the City of Dallas (known as Chapter 51 of the Revised Code of Civil and Criminal Ordinances of the City of Dallas) as amended, as the same is in effect as of the date of this instrument.~~

~~_____ (2) No materials shall be stored outside of the building;~~

~~_____ (3) No building or structure shall be erected to a height greater than that permitted in a General Retail District provided in the Comprehensive General Zoning Ordinance of the City of Dallas.~~

~~_____ The restrictions contained in Section A shall continue in full force for a period of twenty-five (25) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless terminated in the manner specified herein. These restrictions shall not be altered, amended or terminated without a public hearing before the City Plan Commission and the City Council of the City of Dallas. Notice of such public hearings shall be given as would be required by law for a zoning change on the property described herein.~~

~~B. In addition to the restrictions contained in Section A above, physical development of the property shall be limited as follows:~~

~~_____ (1) The building situated on the property described herein shall not be expanded in size, either vertically or horizontally;~~

~~_____ (2) No fence shall be constructed between the existing building and Gaston Avenue, except that a fence may be constructed that divides the property described herein from the abutting apartment development to the northwest;~~

~~_____ (3) No fence shall be constructed which would separate the parking area of the existing use from the parking area of the abutting grocery store.~~

~~————— The restrictions contained in Section B shall continue in full force and effect during the period of time when the property described herein is used for engineering design and development, engineering laboratories, light electrical assembly, and associated storage and warehousing. Except as provided in the last sentence of this paragraph, these restrictions shall not be altered, amended or terminated without a public hearing before the City Plan Commission and the City Council of the City of Dallas. Notice of such public hearings shall be given as would be required by law for a zoning change on the property described herein. Upon the termination of the use specified in the first sentence of this paragraph, the restrictions contained in Section 3 shall automatically terminate.~~

Existing Deed Restrictions Proposed To be Amended

DEED RESTRICTION VOLINTEERED BY MANCHESTER FINANCIAL OF TEXAS, INC.

DEED RESTRICTIONS

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

That the undersigned, Manchester Financial of Texas, Inc., a Texas Corporation, is the owner of the following described property situated in Dallas County, Texas, being in particular a tract of land out of the A. T. Nanny Survey, Abstract No. 1094, City Block 2745, City of Dallas, Dallas County, Texas, and being a part of that same tract of land conveyed to Milton W. Friend, Jr. and Warren P. Castle, Jr., and recorded in Volume 5645, Page 87 in the Deed Records of Dallas County, Texas, and being more particularly described as follows:

COMMENCING at the most southerly corner of said tract of land, said point being on the northeasterly line of Gaston Avenue (60' ROW), an iron stake found in place for corner; thence N 49° 59' W, along the northeasterly line of Gaston Avenue; 100.39 feet to an iron stake found in place for corner; thence N 49° 03' W, along the northeasterly line of Gaston Avenue, 124.61 feet to an iron stake for the POINT OF BEGINNING;

THENCE N 49° 03' W, along the northeasterly line of Gaston Avenue, 275.39 feet to an iron stake found in place for corner;

THENCE N 50° 45' W, along the northeasterly line of Gaston Avenue, 67.59 feet to a point for corner;

THENCE N 38° 29' E, 241.04 feet to a point for corner;

THENCE N 50° 45' W, 140.00 feet to a point for corner;

THENCE N 44° 58' E, along the southeasterly line of Connecticut Village Apartments, 635.30 feet to an iron stake found in place for corner;

THENCE S 11° 20' E, along the westerly line of the H & TC Railroad property, 713.13 feet to an iron stake for corner;

THENCE S 73° 40' W, 304.00 feet to an iron stake set for corner;

THENCE S 21° 30' W, 200.00 feet to the POINT OF BEGINNING and containing 7.063 acres of land.

That the undersigned, Manchester Financial of Texas, Inc., does hereby impress all of the above described property with the following deed restrictions, to-wit:

A. (1) The property described herein shall be restricted to the following uses: engineering design and development, engineering laboratories, light electrical assembly and testing, and associated storage and warehousing, together with all of those uses permitted in the General Retail District under the provisions of the Comprehensive Zoning Ordinance of the City of Dallas (known as Chapter 31 of the Revised Code of Civil and Criminal Ordinances of the City of Dallas) as amended, as the same is in effect as of the date of this instrument.

(2) No materials shall be stored outside of the building;

(3) No building or structure shall be erected to a height greater than that permitted in a General Retail District as provided in the Comprehensive General Zoning Ordinance of the City of Dallas.

The restrictions contained in Section A shall continue in full force and effect for a period of twenty-five (25) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless terminated in the manner specified herein. These restrictions shall not be altered, amended or terminated without a public hearing before the City Plan Commission and the City Council of the City of Dallas. Notice of such public hearings shall be given as would be required by law for a zoning change on the property described herein.

B. In addition to the restrictions contained in Section A above, physical development of the property shall be limited as follows:

(1) The building situated on the property described herein shall not be expanded in size, either vertically or horizontally;

(2) No fence shall be constructed between the existing building and Gaston Avenue, except that a fence may be constructed that divides the property described herein from the abutting apartment development to the northwest;

(3) No fence shall be constructed which would separate the parking area of the existing use from the parking area of the abutting grocery store.

The restrictions contained in Section 3 shall continue in full force and effect during the period of time when the property described herein is used for engineering design and development, engineering laboratories, light electrical assembly and testing, and associated storage and warehousing. Except as provided in the last sentence of this paragraph, these restrictions shall not be altered, amended or terminated without a public hearing before the City Plan Commission and the City Council of the City of Dallas. Notice of such public hearings shall be given as would be required by law for a zoning change on the property described herein. Upon the termination of the use specified in the first sentence of this paragraph, the restrictions contained in Section 3 shall automatically terminate.

The restrictions contained in Sections A and B herein are not in any manner intended to restrict the right of the City Council of the City of Dallas to exercise its legislative duties and powers insofar as zoning on the property is concerned.

The restrictions contained in Sections A and B herein inure to the benefit of the City of Dallas, and the undersigned owner hereof does hereby grant to the City of Dallas the right to prosecute, at law and in equity, against the person violating or attempting to violate such restrictions, either to prevent him from so doing or to correct such violation and for further remedy, the City of Dallas may withhold Certificates of Occupancy necessary for the lawful use of the property until the restrictions described in Sections A and B are fully complied with.

DEED RESTRICTION VOLUNTEERED BY COOK UNITED, INC.

DEED RESTRICTIONS

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

That the undersigned, COOK UNITED, INC., is the owner of the following described property situated in Dallas County, Texas, being in particular a tract of land out of the A. T. Nanny Survey, Abstract No. 1094, City Block 2745, City of Dallas, Dallas County, Texas, and being a part of that same tract of land conveyed to Milton H. Friend, Jr., and Warren P. Castle, Jr., and recorded in Volume 5645, Page 87 in the Deed Records of Dallas County, Texas, and being more particularly described as follows:

Commencing at the most Southerly corner of said tract of land, said point being on the Northeasterly line of Gaston Avenue (60' Row), an iron stake found in place for corner; thence N 49° 59' W. along the Northeasterly line of Gaston Avenue; 100.39 feet to an iron stake in place for corner; thence N 49° 03' W. along the Northeasterly line of Gaston Avenue; 400.00 feet to an iron stake found in place for corner; thence N 50° 45' W. along the Northeasterly line of Gaston Avenue, 87.59 feet to the point of beginning of Tract No. 3;

Thence N 50° 45' W. along the Northeasterly line of Gaston Avenue, 33.03 feet to a cross-cut in a concrete curb for corner;

Thence N 51° 45' W. along the Northeasterly line of Gaston Avenue, 76.97 feet to an iron stake found in place on the most Southerly corner of a 0.4119 acre tract of land owned by Kerr-McGee Oil Industries for corner;

Thence N 35° 45' E. along the Southeasterly line of said 0.4119 acre tract, 120.00 feet to an iron stake found in place for corner;

Thence N 53° 26' W. along the Northeasterly line of said 0.4119 acre tract, 38.39 feet to an iron stake found in place for corner;

Thence N 44° 58' E. along the Southeasterly line of Connecticut Village Apartments, 125.00 feet to a point for corner;

Thence S 50° 45' E, 140.00 feet to a point for corner;

Thence S 38° 23' W. 241.04 feet to the point of beginning and containing 0.722 acres of land.

That the undersigned, COOK UNITED, INC., does hereby impress all of the above described property with the following deed restrictions, to-wit:

|| A. (1) The property described herein shall be restricted to the ||

uses: Engineering design and development, engineering laboratories, light electrical assembly and testing, and associated storage and warehousing, together with all of those uses permitted in the General Retail District under the provisions of the Comprehensive Zoning Ordinance of the City of Dallas (known as Chapter 51 of the Revised Code of Civil and Criminal Ordinances of the City of Dallas) as amended, as the same is in effect as of the date of this instrument.

(2) No materials shall be stored outside of the building;

(3) No building or structure shall be erected to a height greater than that permitted in a General Retail District as provided in the Comprehensive General Zoning Ordinance of the City of Dallas.

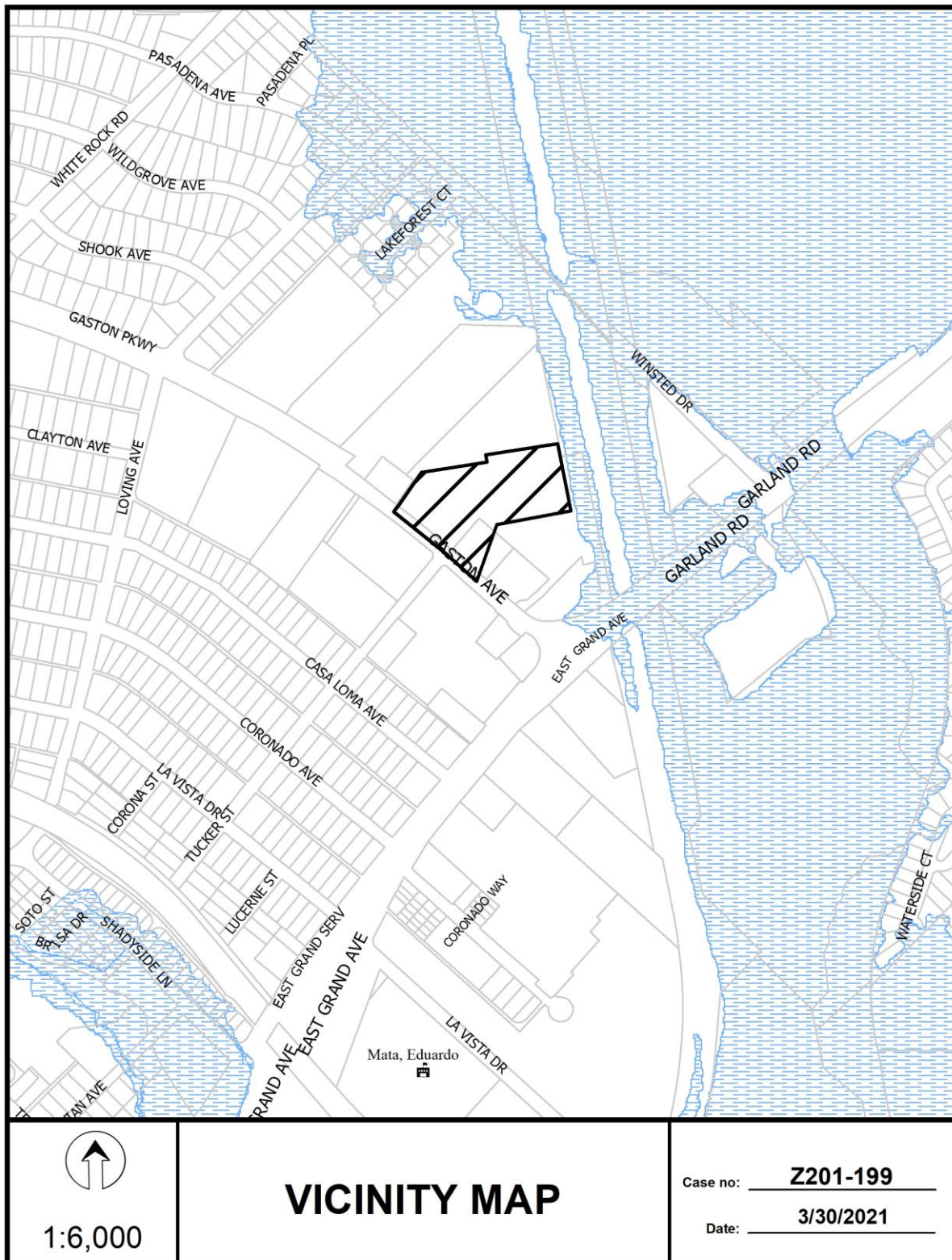
These restrictions contained in Section A shall continue in full force and effect for a period of twenty-five (25) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless terminated in the manner specified herein. These restrictions shall not be altered, amended or terminated without a public hearing before the City Plan Commission and the City Council of the City of Dallas. Notice of such public hearings shall be given as would be required by law for a zoning change on the property described herein.

B. In addition to the restrictions contained in Section A above, physical development of the property shall be limited as follows:

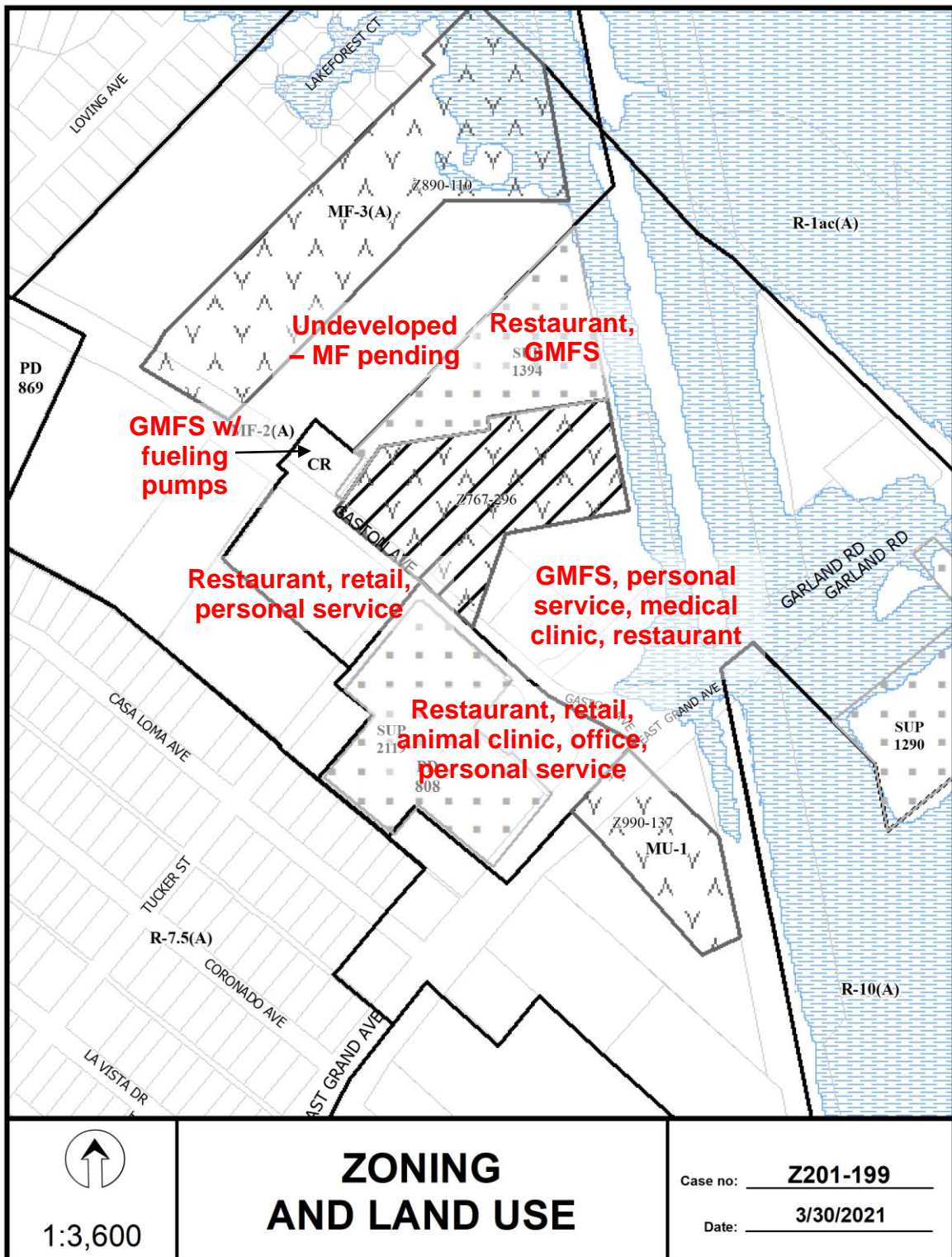
(1) The building situated on the property described herein shall not be expanded in size, either vertically or horizontally;

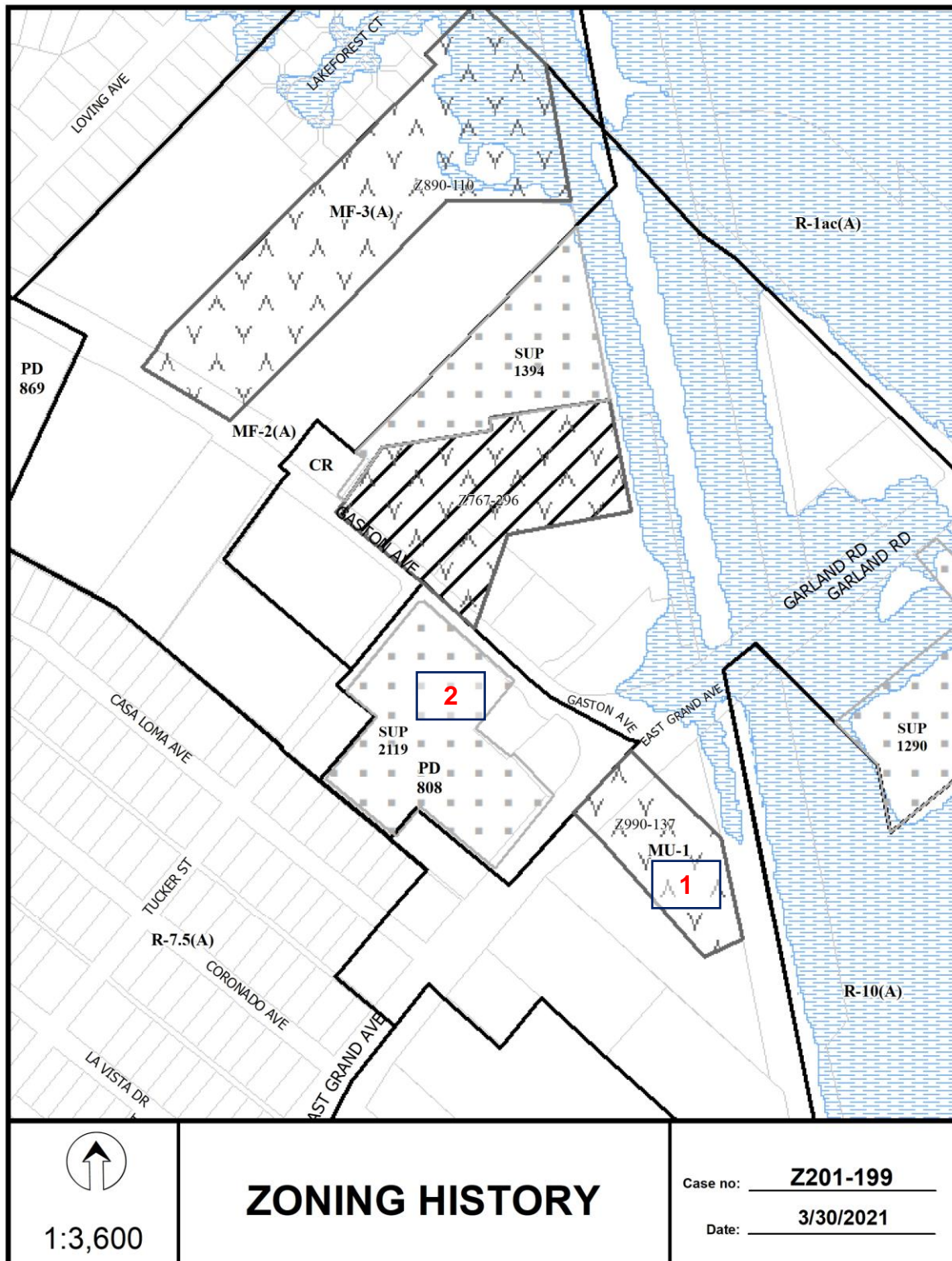
(2) No fence shall be constructed between the existing building and Gaston Avenue, except that a fence may be constructed that divides the property described herein from the abutting apartment development to the northwest;

(3) No fence shall be constructed which would separate the parking area of the existing use from the parking area of the abutting grocery store.

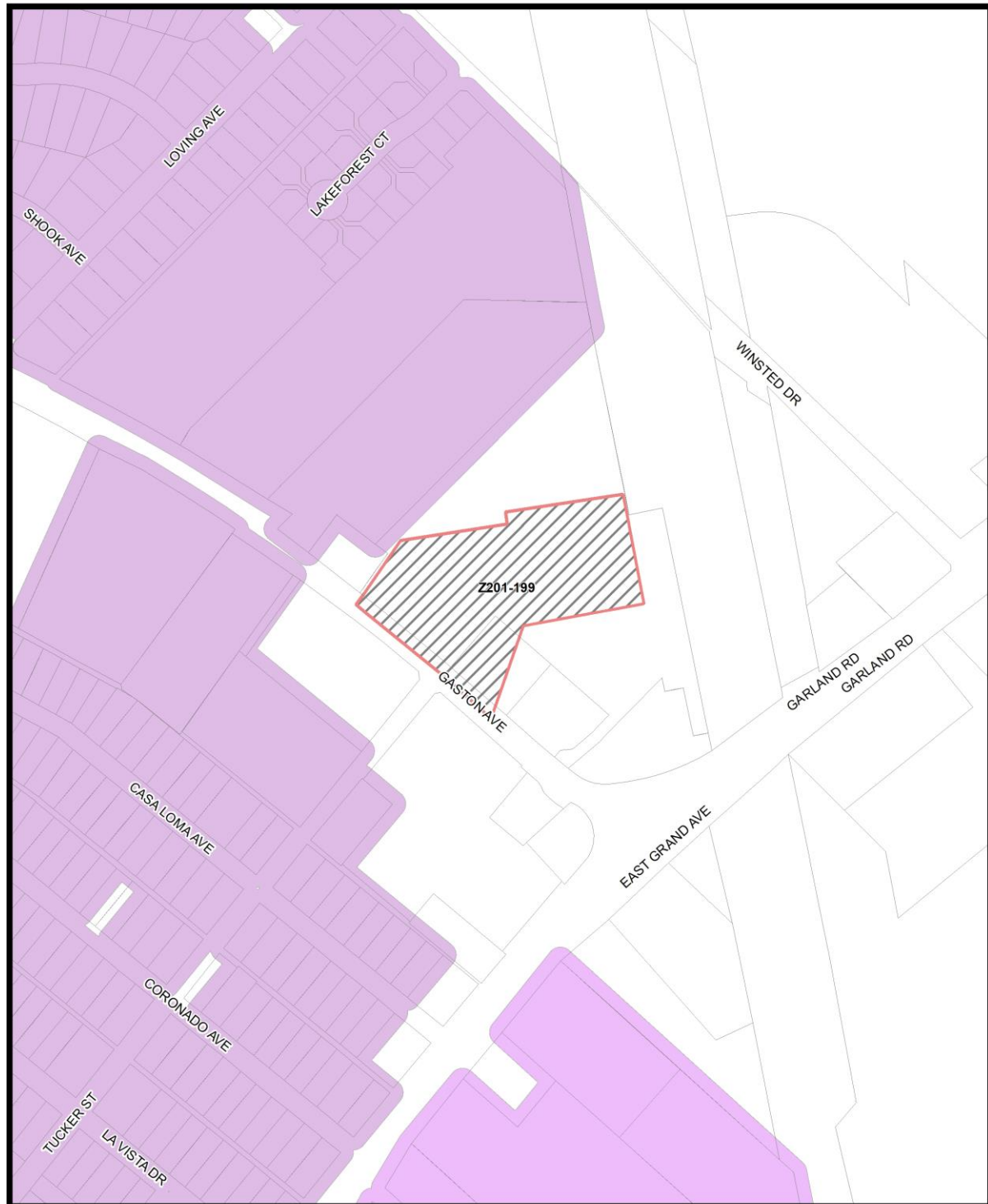








Z201-199(ND)



MVACluster A B C D E F G H I NA



1:3,600

Market Value Analysis

Printed Date: 4/27/2021

CPC Responses



<u>22</u>	Property Owners Notified (19 parcels)
<u>1</u>	Replies in Favor (3 parcels)
<u>0</u>	Replies in Opposition (0 parcels)
<u>400'</u>	Area of Notification
<u>5/20/2021</u>	Date

Z201-199
CPC



1:3,600

05/19/2021

Reply List of Property Owners***Z201-199******22 Property Owners Notified******1 Property Owners in Favor******0 Property Owners Opposed***

<i>Reply</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
O	1	7317 GASTON AVE	CH REALTY VII R DALLAS ARBORETUM VILLAGE LP
	2	7130 GASTON AVE	C & B POWER INC
	3	7600 GARLAND RD	ONCOR ELECRCIC DELIVERY COMPANY
	4	7233 GASTON AVE	NIROJ REALTY LLC
	5	2114 TUCKER ST	SPARK VENTURE PROPERTY GROUP
	6	7340 GASTON AVE	7324 GASTON AVENUE LTD
	7	7204 GASTON AVE	POWER 7204 LP
	8	7222 GASTON AVE	Taxpayer at
	9	7330 GASTON AVE	7324 GASTON AVE LTD
	10	2105 WINSTED DR	PS TEXAS HOLDINGS LTD
	11	7230 GASTON AVE	BROWN ARTHUR LUTHER ET AL
	12	2165 TUCKER ST	MDI LLC
	13	2208 WINSTED DR	WOP WINSTED AT WHITE ROCK LLC
	14	401 S BUCKNER BLVD	DART
	15	7345 GASTON AVE	Taxpayer at
	16	2305 CONNECTICUT LN	CONNECTICUT AT WHITE ROCK LLC
	17	2339 CONNECTICUT LN	IP WHITEROCK LP
	18	2343 CONNECTICUT LN	CONNECTICUT AT WHITE ROCK LLC
	19	2417 CONNECTICUT LN	CONNECTICUT AT WHITE ROCK LLC
	20	2424 CONNECTICUT LN	CONNECTICUT AT WHITE ROCK LLC
	21	2326 CONNECTICUT LN	IP WHITEROCK LP
	22	2334 CONNECTICUT LN	IP WHITEROCK LP