

FILE NUMBER: Z189-250AU)

DATE FILED: April 22, 2019

LOCATION: Southeast corner of Commerce Street and Murray Street

COUNCIL DISTRICT: 2

MAPSCO: 46 J

SIZE OF REQUEST: Approximately 0.21 acres

CENSUS TRACT: 204.00

APPLICANT: John LaRue – Deep Ellum Art Company

OWNER: Commerce Canton Investors, LLC

REPRESENTATIVE: Audra Buckley, Permitted Development

REQUEST: An application for the renewal of Specific Use Permit No. 2211 for a bar, lounge or tavern use and an inside commercial amusement limited to a live music venue on property zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side District

SUMMARY: The applicant proposes to continue the operation of a bar, lounge, or tavern and an inside commercial amusement limited to a live music venue (Deep Ellum Art Co)

CPC RECOMMENDATION: **Approval** for a two-year period, subject to conditions.

STAFF RECOMMENDATION: **Approval** for a two-year period, subject to conditions.

Background Information

- The Deep Ellum/Near East Side District (Planned Development District No. 269) was created on April 29, 1987. On June 14, 2006, the City Council approved an amendment to PD No. 269 that included the SUP requirement for bar, lounge, and tavern use category.
- The request site is an existing one-story building with 5,170 square feet of floor area.
- On September 14, 2016, the City Council approved Specific Use Permit No. 2211 for a bar, lounge, or tavern, and an inside commercial amusement limited to live music venue, for a one-year period subject to site plan and conditions.
- On August 30, 2017, a certificate of occupancy for commercial amusement (inside) was issued to the applicant. The CO includes references to the parking agreement.
- On October 11, 2017, the City Council approved the renewal and amendment of Specific Use Permit No. 2 211 for a bar, lounge, or tavern, and an inside commercial amusement limited to live music venue, for a two-year period subject to site plan and conditions. An amendment to the site plan includes the removal of parking from the eastern lot (3,185 square-foot asphalt area) to remain vacant of structures and be used as an uncovered patio. New parking agreements were detailed on the amended and approved site plan to satisfy the required parking. Uncovered patios do not require additional parking. This SUP renewal will expire on October 11, 2019.

Zoning History

There have been four zoning cases requested in the area in the past five years:

- 1. Z156-245:** On September 14, 2016, the City Council approved Specific Use Permit No. 2211 for an alcoholic beverage establishment limited to a bar, lounge or tavern and a commercial amusement (inside) limited to a live music venue, on property zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side District located on the southeast corner of West Commerce Street and Murray Street.
- 2. Z167-283:** On August 9, 2017, the City Council approved Specific Use Permit No. 2253 for an alcoholic beverage establishment limited to a bar, lounge or tavern use on property zoned Tract A within Planned Development

District No. 269, the Deep Ellum/Near East Side District located on the east side of Hall Street fronting on Elm Street and Main Street.

- 3. Z167-337:** On October 11, 2017, City Council renewed Specific Use Permit No. 2211 for an alcoholic beverage establishment limited to a bar, lounge or tavern and a commercial amusement (inside) limited to a live music venue on property zoned Tract A of Planned Development District No. 269, the Deep Ellum/Near East Side District, on the southeast corner of Commerce Street and Murray Street.
- 4. Z189-216:** On May 16, 2019, the City Plan Commission recommended approval of the renewal of Specific Use Permit No. 2253 for an alcoholic beverage establishment limited to a bar, lounge or tavern use on property zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side District located on the east side of Hall Street fronting on Elm Street and Main Street.

Thoroughfares/Streets

| Thoroughfares/Street | Type | Existing ROW |
|----------------------|--------------|--------------|
| W. Commerce Street | Collector | 80 ft. |
| Murray Street | Local Street | 50 ft. |

Traffic

The Engineering Division of the Sustainable Development and Construction Department has reviewed the request and determined that it will not significantly impact the existing 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 that 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 2.3 BUILD A DYNAMIC AND EXPANDED DOWNTOWN

Policy 2.3.3 Work with property owners and stakeholders to preserve and enhance the image of Downtown Dallas.

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 ELEMENT

GOAL 5.2 STRENGTHEN COMMUNITY AND NEIGHBORHOOD IDENTITY

Policy 5.2.2 Promote the character of the city's significant districts, linkages and areas.

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

The Downtown Dallas 360 Plan was adopted in April 2011 and updated in December 2017. The Plan was adopted as a guide to future City Council actions concerning land use and development regulations, transportation and economic development, and capital improvement expenditures in the area generally bounded by a two-and-a-half-mile radius centered on the intersection of Main Street and Akard Street.

The Plan recognizes Deep Ellum as one of the Core / Supporting Districts for its "many nightclubs, eclectic restaurants, performance venues, art galleries and creative office uses [that] together form a vibrant entertainment destination."

The applicant's request is consistent with the goals and policies of the Dallas 360 Area Plan.

STAFF ANALYSIS**Surrounding Land Uses**

| | Zoning | Land Use |
|-----------|-------------------------------------|---|
| Site | PD No. 269, Tract A SUP No. 2211 | Existing bar, lounge, or tavern with commercial amusement inside limited to live music |
| North | PD No. 269, Tract A | Vacant |
| Northeast | PD No. 269, Tract A H/92 | Multifamily |
| East | PD No. 269, Tract A H/92 | Surface parking lot |
| Southeast | PD No. 269, Tract A | Office and retail |
| South | PD No. 269, Tract A | The property is being used without a Certificate of Occupancy as art pavilion and outside patio |
| West | PD No. 269, Tract A | Office and retail |
| Northwest | PD No. 269, Tract A | Office |

Land Use Compatibility

The subject site is zoned Tract A within Planned Development District No. 269 and developed with a 5,170 square-foot, one-story building. The property is adjacent to a parking lot for the multifamily use across Commerce Street to the east, multifamily, office and retail to the north; and office and community service center to the west. To the south there is a former alley that was abandoned and is currently fenced together with the request site and the lot adjacent to the south. This portion together with the lot located further south are currently being used by the applicant for an art pavilion and outside patio associated with the art pavilion. This abandoned alley and the southern lot are not platted and do not have Certificate of Occupancy for the proper use of the property. Although, the abandoned alley and the southern lot are not part of the SUP request, staff is recommending the applicant get the site into compliance with City's processes as soon as possible.

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 conditions, is compatible to the surrounding mix of uses. The continuation of a bar in Deep Ellum enhances the entertainment character of the area. Considering the surrounding uses that are similar to the request, and the entire mixed use and entertainment character of Deep Ellum and considering the fact that the applicant has improved the property and has operated in a responsible manner at the location for the period of the last SUP No. 2211 renewal in 2017, staff is in support of this request.

A two-year time period is being recommended to allow a review of the SUP to ensure the conditions continue to be met and the property to the south is not consumed by the use and operating without an SUP.

Parking

There are no proposed changes to the site plan, therefore no additional parking requirements are triggered by this request.

There are currently 27 parking spaces provided for this property. PD No. 269 does not require off-street parking for the first 2,500 square feet of floor area for a bar, lounge or tavern located within an original building. Otherwise, one space for each 100 square feet of floor area is required. Since the 5,170-square foot bar is in an original building, the applicant is only required to provide parking for 2,670 square feet of floor area, which equates to 27 spaces. One parking space remains on-street along Commerce Street. The remainder of the required 26 parking will be satisfied by parking agreements made with the following:

- To the south at 3201 Canton Street, three parking spaces.
- To the east at 3111 Commerce Street, 23 parking spaces.

Landscaping

There are no landscaping requirements triggered by the request.

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 request site is located within an “E” MVA cluster.

Crime Report:

From October 2017 to April 2019, 13 phone calls were placed to the Dallas Police Department (DPD) with the location Deep Ellum Art Co., of which eight calls were coded either a general service or non-critical, and zero calls were coded an emergency. DPD also reported the following two incidents and three arrest charges as detailed below within the same period since the previous SUP approval action.

Calls:

| Incident Number | Response Date | Response Time | Problem | Priority Description |
|------------------------|----------------------|----------------------|-----------------------------|-----------------------------|
| 17-1980401 | 10/17/2017 | 11:31:00 PM | 6M - Loud Music Disturbance | 4 - Non Critical |
| 17-2174129 | 11/16/2017 | 12:23:00 AM | 6M - Loud Music Disturbance | 4 - Non Critical |
| 17-2188234 | 11/18/2017 | 1:23:00 AM | 6X - Major Dist (Violence) | 2 - Urgent |
| 17-2275892 | 12/2/2017 | 1:56:00 AM | 40 - Other | 3 - General Service |
| 18-0511171 | 3/23/2018 | 9:28:00 PM | 40/01 - Other | 2 - Urgent |
| 18-1126272 | 6/23/2018 | 7:32:00 PM | 6X - Major Dist (Violence) | 2 - Urgent |
| 18-1493630 | 8/16/2018 | 10:46:00 PM | 04 - 911 Hang Up | 2 - Urgent |
| 18-1747931 | 9/24/2018 | 7:27:00 PM | 11V - Burg Motor Veh | 4 - Non Critical |
| 18-2135440 | 11/24/2018 | 11:48:00 PM | 6M - Loud Music Disturbance | 4 - Non Critical |
| 18-2277666 | 12/18/2018 | 12:13:00 AM | 6X - Major Dist (Violence) | 2 - Urgent |
| 19-0440719 | 3/13/2019 | 3:15:00 PM | 24 - Abandoned Property | 4 - Non Critical |
| 19-0510660 | 3/23/2019 | 9:26:00 PM | 6M - Loud Music Disturbance | 4 - Non Critical |
| 19-0577637 | 4/3/2019 | 2:30:00 AM | 09V - UUMV | 4 - Non Critical |

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Offenses:

| Incident Number | Incident | Premise | Date | Offense |
|------------------------|---|----------------------------|-------------|--------------------------|
| 212145-2018 | BMV | Highway, Street, Alley ETC | 9/24/2018 | THEFT FROM MOTOR VEHICLE |
| 067033-2019 | THEFT OF PROP > OR EQUAL \$100 <\$750 (NOT SHOPLIFT) PC31.03(e2A) | Highway, Street, Alley ETC | 4/4/2019 | ALL OTHER LARCENY |

Arrests:

| Incident Number | Arrest Number | Arrest Date | Arrest Time | Crime | Description |
|------------------------|----------------------|--------------------|--------------------|---------------------|---------------------|
| 262931-2017 | 17-046580 | 11/18/2017 | 1:50:00 AM | PUBLIC INTOXICATION | PUBLIC INTOXICATION |
| 061556-2018 | 18-009648 | 3/23/2018 | 9:45:00 PM | PUBLIC INTOXICATION | PUBLIC INTOXICATION |
| 076925-2018 | 18-012145 | 4/13/2018 | 12:00:00 AM | DUI | DWI |

CPC Action
August 15, 2019

Motion: It was moved to recommend **approval** of the renewal of Specific Use Permit No. 2211 for a bar, lounge or tavern use and an inside commercial amusement limited to a live music venue for a two-year period, subject to conditions on property zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side District, on the southeast corner of Commerce Street and Murray Street.

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

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

Against: 0
Absent: 0
Vacancy: 2 - District 8, District 12

*out of the room, shown voting in favor

Notices: Area: 200 Mailed: 11
Replies: For: 2 Against: 0

Speakers: None

LIST OF PARTNERS

Owner:

Commerce Canton Investors, LLC

Director and Managing Members:

Richard Flaten

John LaRue

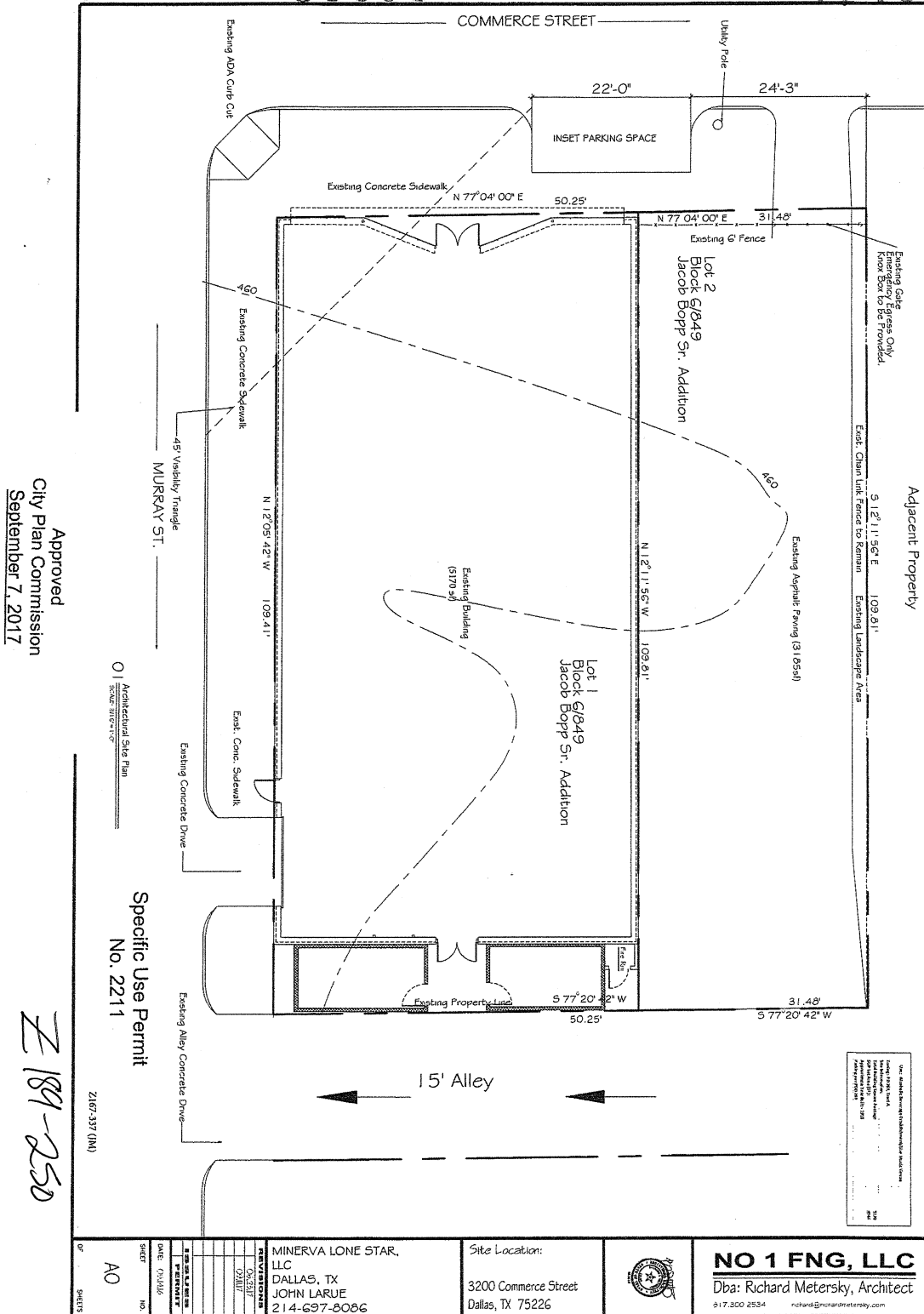
**CPC RECOMMENDED
SUP CONDITIONS**

1. USE: The only uses authorized by this specific use permit are a bar, lounge or tavern and an inside commercial amusement limited to a live music venue.
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 ~~October 11, 2019~~ (two years from the passage of this ordinance).
4. FLOOR AREA: The maximum floor area is 5,170 square feet in the location shown on the attached site plan.
5. HOURS OF OPERATION:
 - A. The bar, lounge, or tavern may only operate from 6:00 p.m. to 2:00 a.m. (the next day) Monday through Friday, and 11:00 a.m. to 2:00 a.m. (the next day) Saturday and Sunday.
 - B. The live music venue may only operate from 6:00 p.m. to 12:00 a.m. (midnight) Monday through Thursday, from 6:00 p.m. to 2:00 a.m. (the next day) Friday, 11:00 a.m. to 2:00 a.m. (the next day) Saturday, and 11:00 a.m. to 12:00 a.m. (midnight) Sunday.
6. OFF-STREET PARKING: Parking must be provided in accordance with the requirements of Planned Development District No. 269. Delta credits, as defined in Section 51A-4.704(b)(4), may not be used to meet the off-street parking requirement.
7. OUTSIDE SPEAKERS: Outside speakers are prohibited.
8. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.
9. 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.

EXISTING SITE PLAN (no changes)

30668 Site Plan

171613

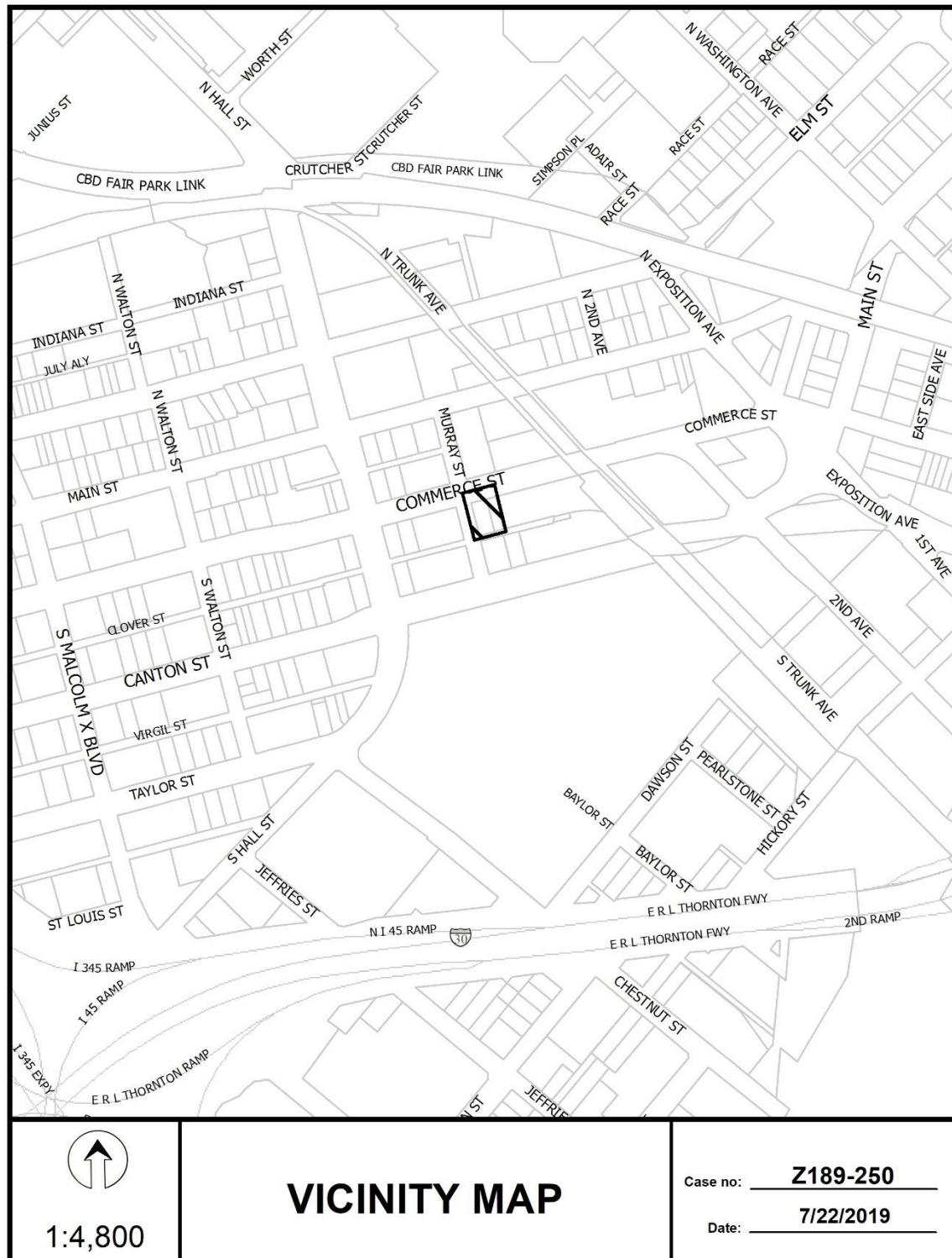


Approved
City Plan Commission
September 7, 2017

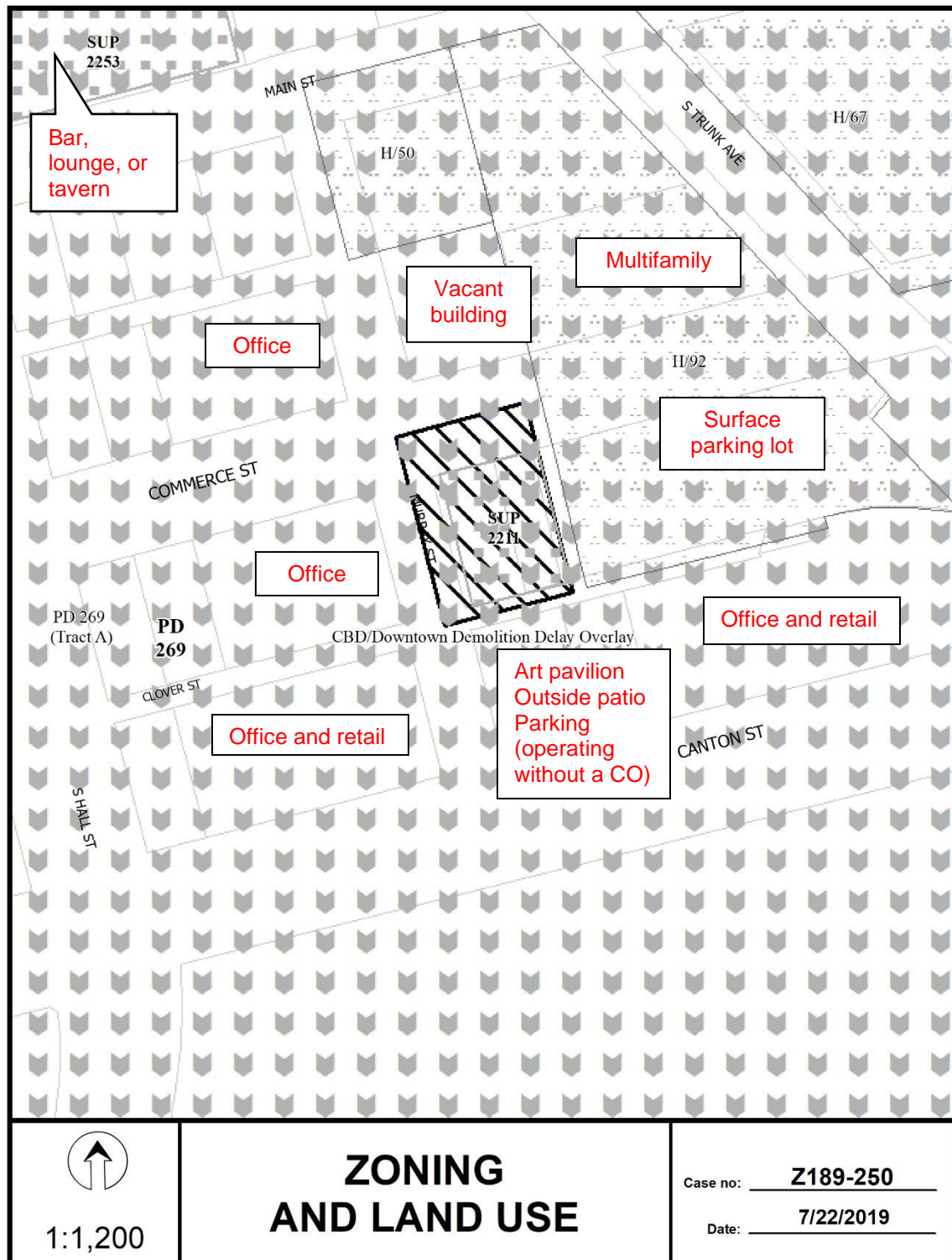
Specific Use Permit
No. 2211

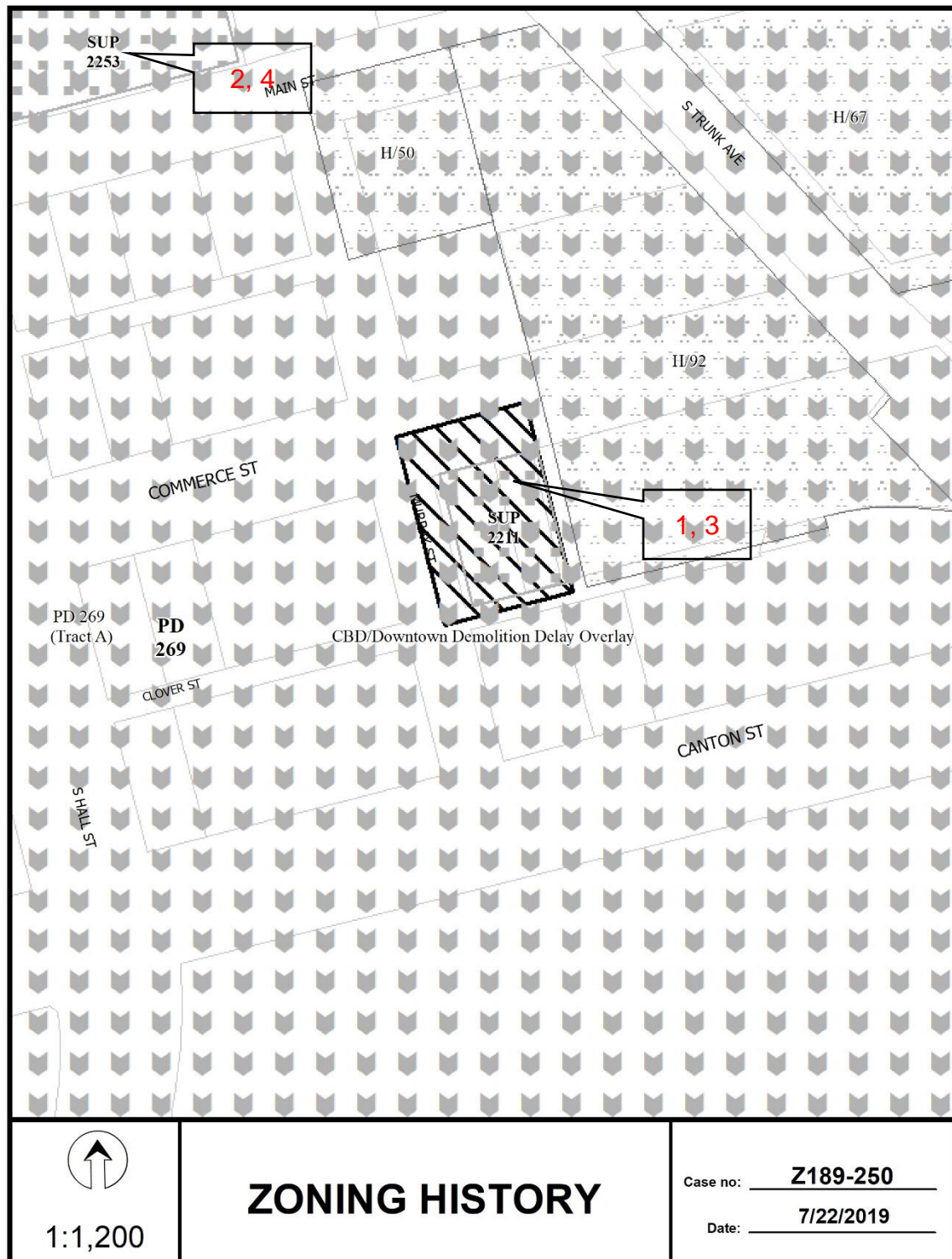
Z 189-250

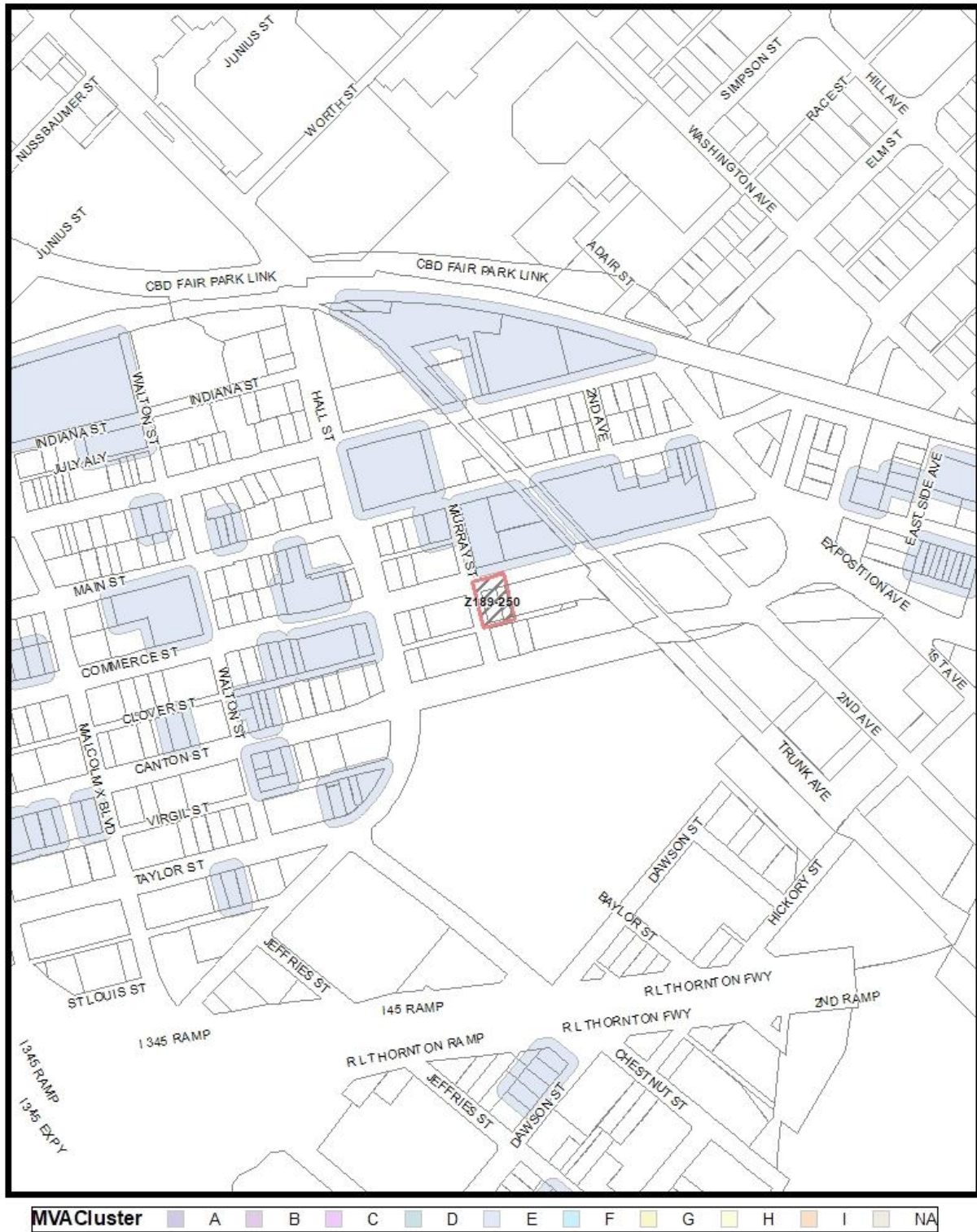
Z189-250(AU)











1:4,800

Market Value Analysis

Printed Date: 7/22/2019

CPC Responses



Z189-250(AU)

08/14/2019

Reply List of Property Owners

Z189-250

11 Property Owners Notified

2 Property Owners in Favor

0 Property Owners Opposed

| <i>Reply</i> | <i>Label #</i> | <i>Address</i> | <i>Owner</i> |
|---------------------|-----------------------|-----------------------|------------------------------|
| O | 1 | 3200 COMMERCE ST | COMMERCECANTON INVESTORS LLC |
| | 2 | 3210 MAIN ST | WESTDALE FUTURA LOFTS LTD |
| | 3 | 3112 MAIN ST | MAIN MURRAY L L C |
| | 4 | 3105 COMMERCE ST | OAKCLIFF HAMPTON INC |
| O | 5 | 3117 COMMERCE ST | SMITH ED W MACHINE WORK |
| | 6 | 3200 MAIN ST | WESTDALE FUTURA LOFTS LTD |
| | 7 | 3106 COMMERCE ST | PROVINCE LANE LC |
| | 8 | 3116 COMMERCE ST | WEINBERG ROBERT |
| | 9 | 3111 CANTON ST | 3111 CANTON HOLDINGS LLC |
| | 10 | 3215 CANTON ST | WESTDALE PPTIES AMERICA I |
| | 11 | 3225 CANTON ST | ALFORD ENTERPRISES |