
FILE NUMBER:	Z189-290(SM)	DATE FILED:	June 3, 2019
LOCATION:	East line of North Westmoreland Road, north of West Davis Street		
COUNCIL DISTRICT:	1	MAPSCO:	53 B
SIZE OF REQUEST:	Approx. 0.49 acres	CENSUS TRACT:	68.00

OWNER/APPLICANT: Nader Kanan

REPRESENTATIVE: Michael Alturk, P.E., ADTM Engineering and Construction Corp.

REQUEST: An application for an MU-1 Mixed Use District with deed restrictions volunteered by the applicant on property zoned a P(A) Parking District.

SUMMARY: The applicant proposes to construct a one-story retail building with approximately 6,000 square feet of floor area. However, the request would allow a variety of development configurations including institutional uses, retail uses, residential uses, or a combination of those uses. The proposed deed restrictions prohibit certain uses that are allowed in the MU-1 Mixed Use District; require a six-foot wide sidewalk, bench and bicycle rack; limit hours of operation; and limit structures to three stories.

CPC RECOMMENDATION: Approval, subject to deed restrictions volunteered by the applicant.

STAFF RECOMMENDATION: Approval, subject to deed restrictions volunteered by the applicant.

BACKGROUND INFORMATION:

- On June 12, 1956, the Board of Adjustment granted a request to provide additional off-street parking for customers of businesses located in the vicinity subject to a five-foot chain link fence on the north line of the parking area and to provide dust free paving for the parking area (minimum six-inch compacted gravel with two coats of penetrating asphalt).
- Aerial photography from 1958 shows the site was developed with a parking lot.
- On February 26, 2003, the City Council approved a P(A) Parking District, subject to a site/landscape plan on property zoned R-7.5(A) Single Family on the subject site to provide parking for the shopping center to the south at the northwest corner of Westmoreland Avenue and Davis Street.
- Although the 2003 zoning case file indicated the parking on the subject site was intended for the abutting parcel to the south, no permit records or parking agreements were discovered that indicated the subject site provided the required parking to the abutting parcel to the south.

Zoning History: There have been two zoning changes requested in the vicinity in the past five years.

1. **Z178-158:** On May 23, 2018, City Council approved an MU-1 Mixed Use District with deed restrictions volunteered by the applicant and the termination of existing deed restrictions, on property zoned an R-7.5(A) Single Family District and an NS(A) Neighborhood Services District on the east line of North Westmoreland Road, north of West Davis Street.
2. **Z156-223:** On February 22, 2017, City Council approved a new subdistrict for Light Commercial/Office and restaurant with drive-in or drive-through service uses within the Light Commercial/Office Subdistrict of Planned Development District No. 631, the West Davis Special Purpose District and an R-7.5(A) Single Family District.

Thoroughfares/Streets:

Thoroughfare/Street	Function	Proposed Dimension	ROW
Westmoreland Road	Principal Arterial	Minimum-6 lanes-divided	100 feet

Traffic:

The Engineering Division of the Sustainable Development and Construction Department has reviewed the request and determined that the proposed development will not have a negative impact on the surrounding street system.

Comprehensive Plan:

The fowardDallas! Comprehensive Plan was adopted by the City Council in June 2006. The fowardDallas! Comprehensive Plan outlines several goals and policies which can serve as a framework for assisting in evaluating the applicant's request. The request does not support or obstruct the Plan's goals or policies.

LAND USE ELEMENT

GOAL 1.2 PROMOTE DESIRED DEVELOPMENT

Policy 1.2.1 Use Vision Building Blocks as a general guide for desired development patterns.

The Plan identifies the request site as being in the southeasternmost edge of the Pinnacle Park Campus Block. The Campus Building Block focuses on areas around large master-planned educational, institutional or business facilities outside the Downtown. The University of North Texas campus was the motivating factor for creating this Building Block, although other examples exist, such as the areas around the Southwestern Medical District, the Baylor University Medical Center, the Veterans Administration Hospital and Pinnacle Park. Campus Building Blocks often act as smaller versions of a complete community and include a range of single-family and multifamily housing for students, employees and visitors. A variety of offices, shops, services and open space should exist to support the major campus employer and area residents. Over time, areas such as UNT can take on a "university town" feel as they mature. All Campus Building Block areas should have convenient transit options as an integral component. Economic development efforts should capitalize on the spin-off employment opportunities generated by the primary employers.

The request is consistent with being on the edge of this building block because the limited number of land uses and the ability to develop the property as either or both residential or non-residential and by allowing the site the opportunity to provide services, products, or units that support the nearby Pinnacle Park and the neighborhoods to the east.

STAFF ANALYSIS:**Surrounding Land Uses:**

	Zoning	Land Use
Site	P(A)	Surface Parking
North	MU-1 with DR No. Z178-158	Single Family and Undeveloped
East	R-7.5(A)	Single Family
South	PDD No. 631 (Light Mixed Use)	Retail
West	PDD No. 631 (Medium Commercial/Office)	Retail

Land Use Compatibility:

Surrounding land uses include a single family uses to the north and east and shopping centers to the south and west. The site is relatively flat and contains a surface parking lot that has been in operation for over 60 years.

Without deed restrictions, the Dallas Development Code requires nonresidential uses to provide numerous protections for residential uses and residential districts. Five examples are listed below.

1. Article X requires a perimeter landscape buffer strip¹ that would line the east property line where the area of request abuts an R-7.5(A) Single Family District.
2. Surface parking must provide a solid screening fence to residential uses or a vacant lot in a residential district².
3. Access to a parking area via an alley that abuts a residential district is prohibited³.
4. For the purposes of delivering or receiving any goods or services, nonresidential uses are prohibited residential alley access between the hours of 10 p.m. and 7 a.m.⁴.
5. The symbol [RAR] appearing after a listed use means that a site plan must be submitted and approved through an additional administrative review, termed a *Residential Adjacency Review*, in which a site plan may be approved subject to conditions if the conditions will seek to eliminate what would otherwise constitute grounds for denial⁵.

¹ Reference Section 51A-10.125(b)(1) of the Dallas Development Code.

² Reference Section 51A-4.301(f) of the Dallas Development Code.

³ Reference Section 51A-4.301(a)(13) of the Dallas Development Code.

⁴ Reference Section 51A-4.301(h) of the Dallas Development Code.

⁵ Reference Section 51A-4.803 (f)(3) of the Dallas Development Code.

The site has been operating as a parking lot for over 60 years and the applicant requests to change the zoning from a P(A) Parking District, which only allows surface parking, to an MU-1 Mixed Use District with volunteered deed restrictions which prohibits certain uses. Since the site was zoned an R-7.5(A) Single Family District until 2003 and is located west of an R-7.5(A) Single Family District, the following paragraphs analyze the land use compatibility of the applicant's request to the adjacent R-7.5(A) Single Family District.

The following uses require an SUP in the R-7.5(A) Single Family District and are allowed without an SUP or an RAR⁶ in the proposed zoning district [MU-1 Mixed Use District]. Staff does not object to not restricting the following uses because 1) these uses are not foreseen to be detrimental to the surrounding properties and 2) there are residential protections in the Dallas Development Code as previously listed.

- Adult day care facility
- Child-care facility
- College, university, or seminary
- Convent or monastery
- Library, art gallery, or museum
- Country club with private membership
- Private recreation center, club, or area
- Electrical substation
- Police or fire station
- Post office

Attached non-premise signs (AKA billboards) and paraphernalia shops are also prohibited in the R-7.5(A) Single Family District and are required to obtain an SUP in the proposed zoning district [MU-1 Mixed Use District]. Although these uses have not been restricted with the volunteered deed restrictions, staff does not object to not restricting these uses because these uses would require consideration by the City Plan Commission and City Council before they are allowed, and therefore these uses need not be included in the volunteered deed restrictions.

The applicant has not volunteered deed restrictions to prohibit the following uses that are prohibited in the R-7.5(A) Single Family District. Some of the following uses require an RAR in the MU-1 Mixed Use District. Staff does not object to not prohibiting these uses because 1) these uses are not foreseen to be detrimental to the surrounding properties, 2) because of the residential protections in the Dallas Development Code, and 3) because the applicant has offered to restrict hours of operation for office, retail, and personal service uses.

⁶ An RAR is a Residential Adjacency Review. This review is administrative and can require certain conditions on the use to make it more compatible with surrounding properties such as hours of operation, prohibiting outside speakers, and other conditions.

Uses without restricted
hours of operation:

- College dormitory, fraternity, or sorority house
- Duplex
- Multifamily
- Retirement housing
- Public school other than an open-enrollment charter school [RAR]

Uses with restricted hours of operation:

- Office
- Financial institution without drive-in window
- Medical clinic or ambulatory surgical center
- Dry cleaning or laundry store
- General merchandise or food store 3,500 square feet or less
- General merchandise or food store greater than 3,500 square feet
- Personal service uses
- Restaurant without drive-in or drive-through service [RAR]

The applicant has also volunteered to provide a minimum six-foot-wide unobstructed sidewalk and provide a bench and bicycle rack for every 80 linear feet of frontage. Staff supports these additional pedestrian amenities because they are consistent with the deed restrictions to the north of the subject site.

Development Standards:

Because the only allowed use is surface parking, there are no development standards for the existing zoning district [P(A) Parking District]. However, since the site was zoned an R-7.5(A) Single Family District until 2003 and is located west of an R-7.5(A) Single Family District, the above table compares the applicant's request to the adjacent R-7.5(A) Single Family District.

<u>DISTRICT</u>	<u>SETBACKS</u>		<u>Density</u>	<u>Height</u>	<u>Lot Coverage</u>	<u>Special Standards</u>	<u>PRIMARY Uses</u>
	<u>Front</u>	<u>Side/Rear</u>					
Adjacent: R-7.5(A) Single Family- Existing	25'	Single family: 5' Other: 10' side 15' rear	7,500 sq. ft. min lot size	30'	45% for residential; 25 % for other		Single family
Proposed: MU-1 Mixed use-1 with deed restrictions	15'	20' adjacent to residential OTHER: No Min.	0.8 FAR base 1.0 FAR maximum + bonus for residential	90' 3 stories	80%	Proximity Slope U-form setback Tower spacing Visual Intrusion	Office, retail & personal service, lodging, residential

Parking:

Based on the approved site/landscape plan from the 2003 zoning change of the subject to a P(A) Parking District, the parking spaces on the subject site was used for the shopping center to the south. However, no permit records or parking agreements have been found that bind the subject site to the southern neighbor. Additionally, the Certificates of Occupancy for the shopping center to the south do not indicate the subject site is utilized for required parking. Further, the site does not comply with the landscaping and parking layout on the approved site/landscape plan from the 2003 zoning change. Therefore, it has been determined that the subject site does not provide required parking for another property.

Landscaping:

Landscaping will be in accordance with Article X, as amended for new construction.

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 abuts a "G" MVA cluster to the north and east of the subject site.

CPC Action
August 15, 2019

Motion: It was moved to recommend **approval** of an MU-1 Mixed Use District, subject to deed restrictions volunteered by the applicant on property zoned a P(A) Parking District, on the east line of North Westmoreland Road, north of West Davis 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: 13
Replies: For: 2 Against: 0

Speakers: For: None

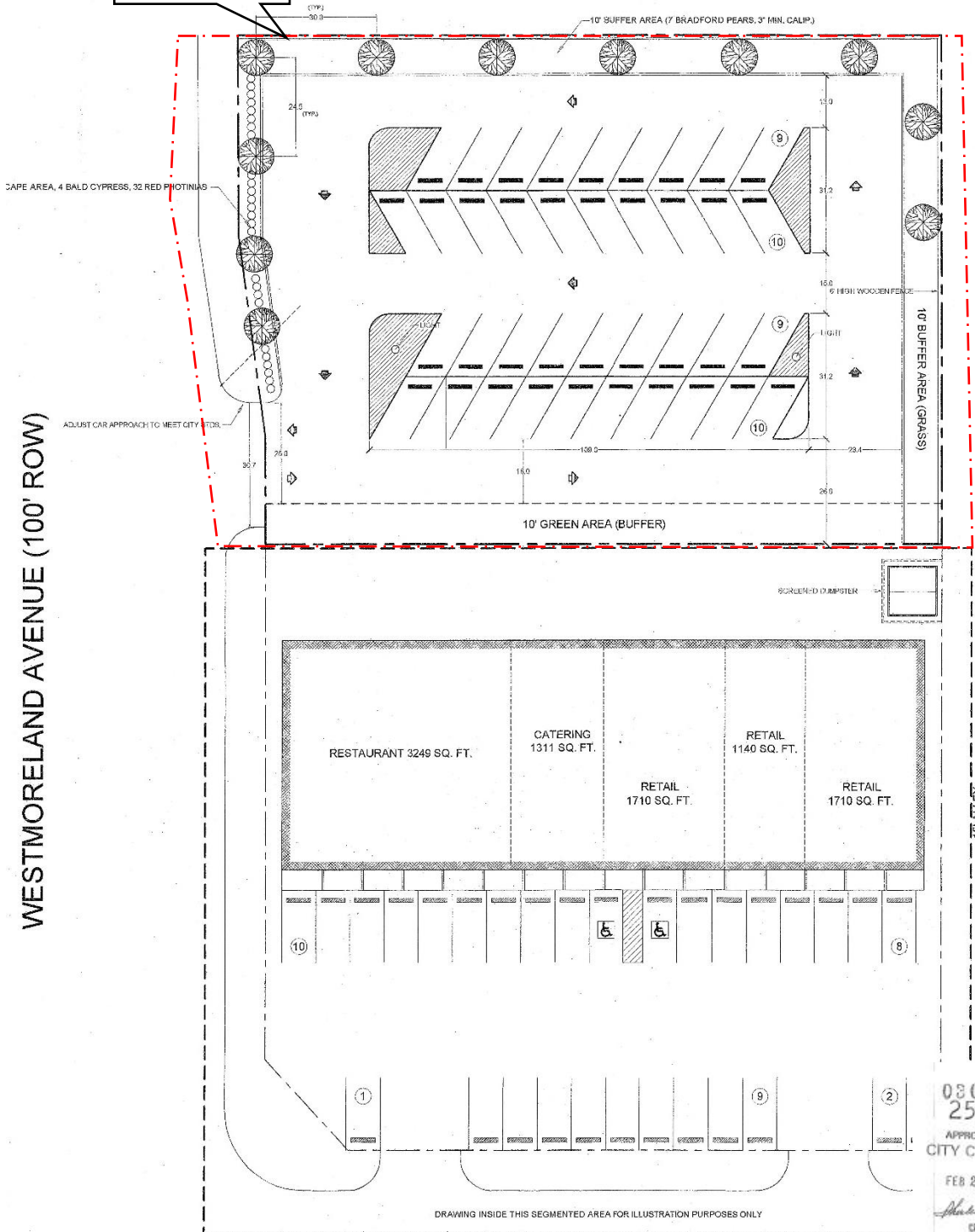
For (Did not speak): Tala Alturk, 1913 Middleton Dr., Mansfield, TX, 76063
Michael Alturk, 1913 Middleton Dr., Mansfield, TX, 76063
Dahna Alturk, 1913 Middleton Dr., Mansfield, TX, 76063

Against: None

**Existing P(A) Parking District Site/Landscape Plan
(Proposed to be annulled)**

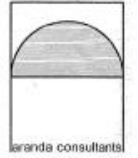
P(A) Parking District

RESIDENTIAL ADJACENCY



WESTMORELAND AVENUE (100' ROW)

DAVIS STREET 90' (ROW)



2808 SQUIRE PLACE
FARMERS BRANCH, TX
75234

(972) 754-1745

"LA RETAMA" BAKERY & RESTAURANT

DAVIS @ WESTMORELAND

DECEMBER 17, 2002

SCALE: 1" = 20'

030804
25197

APPROVED BY
CITY COUNCIL

FEB 26 2003

Shirley Goff
City Secretary

Approved
City Plan Commission

1-9-03

Date:

FEBRUARY 20, 2003

Zoning Case:

2012-284

NORTH
PROPOSED SITE/LANDSCAPE PLAN

Proposed Volunteered Deed Restrictions

The Owner does hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

1. The following main uses are prohibited.
 - a. Commercial and business service.
 - Catering service.
 - Custom business services.
 - Electronics service center.
 - Labor hall.
 - Medical or scientific laboratory.
 - b. Institutional and community service.
 - Convalescent and nursing homes, hospice care, and related institutions.
 - Foster home.
 - Hospital.
 - c. Lodging.
 - Extended stay hotel or motel.
 - Hotel or motel.
 - d. Office.
 - Financial institution with drive-in window.
 - e. Residential.
 - Group residential facility.
 - Residential hotel.
 - f. Retail and personal service.
 - Alcoholic beverage establishments.
 - Animal shelter or clinic without outside runs.
 - Auto service center.
 - Business school.
 - Car wash.
 - Commercial amusement (inside).
 - Commercial amusement (outside).
 - Commercial parking lot or garage.

- Furniture store.
- General merchandise or food store 100,000 square feet or more.
- Mortuary, funeral home, or commercial wedding chapel.
- Motor vehicle fueling station.
- Nursery, garden shop, or plant sales.
- Paraphernalia shop.
- Restaurant with drive-in or drive-through service.
- Swap or buy shop.
- Temporary retail use.
- Theater.

g. Utility and public service.

- Commercial radio or television transmitting station.

h. Wholesale, distribution, and storage.

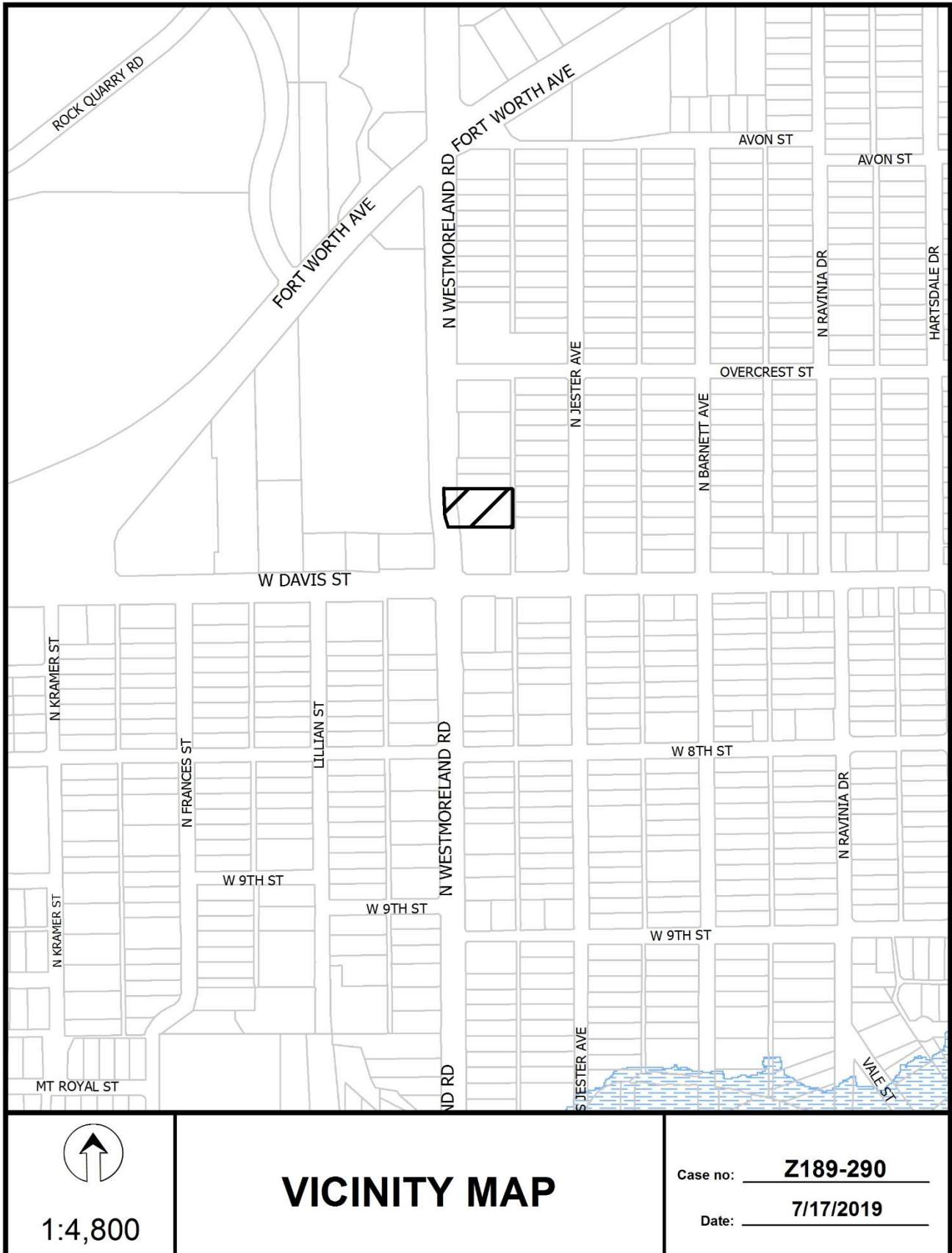
- Mini-warehouse.
- Recycling buy-back center
- Recycling collection center.

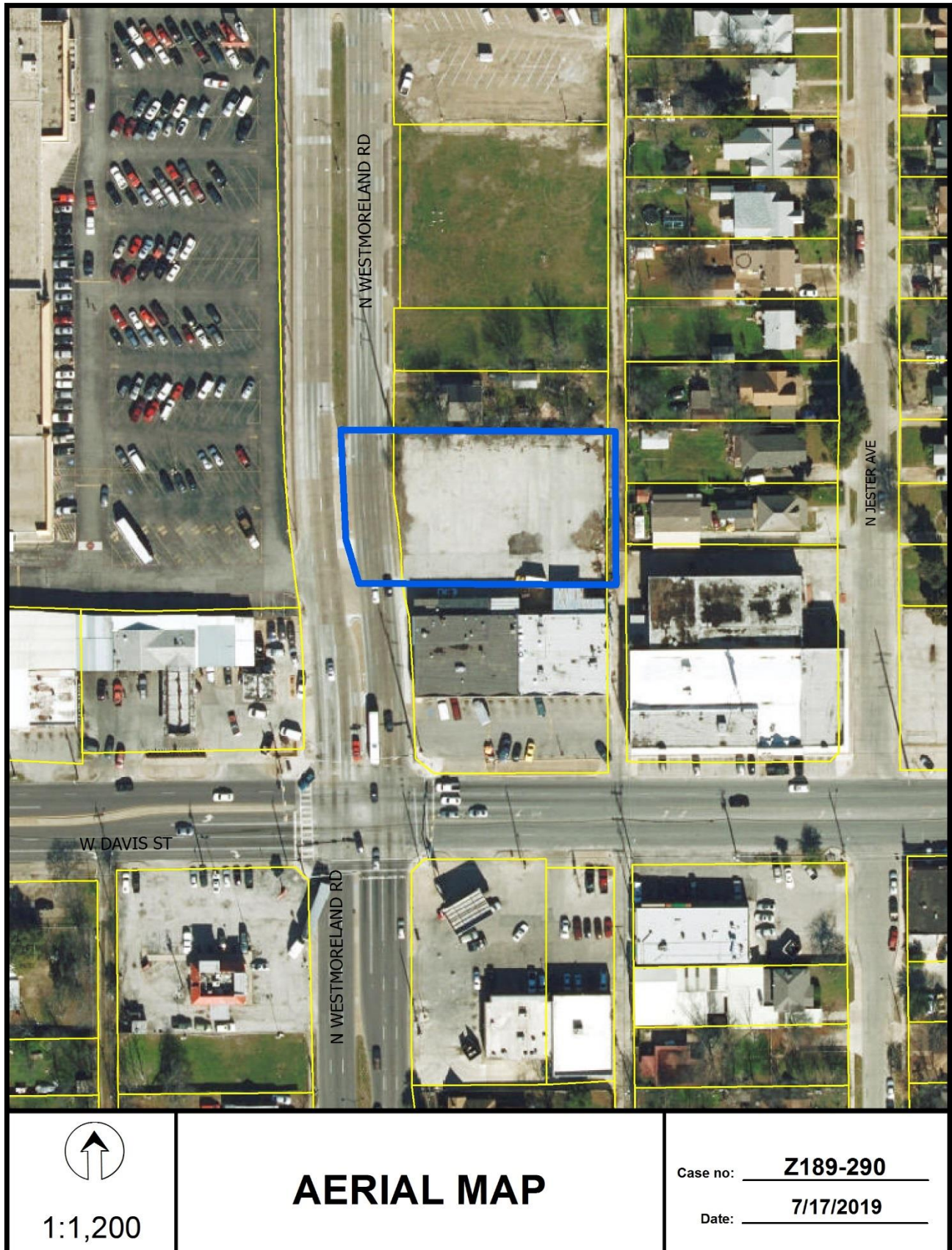
2. A minimum six-foot-wide unobstructed sidewalk is required.

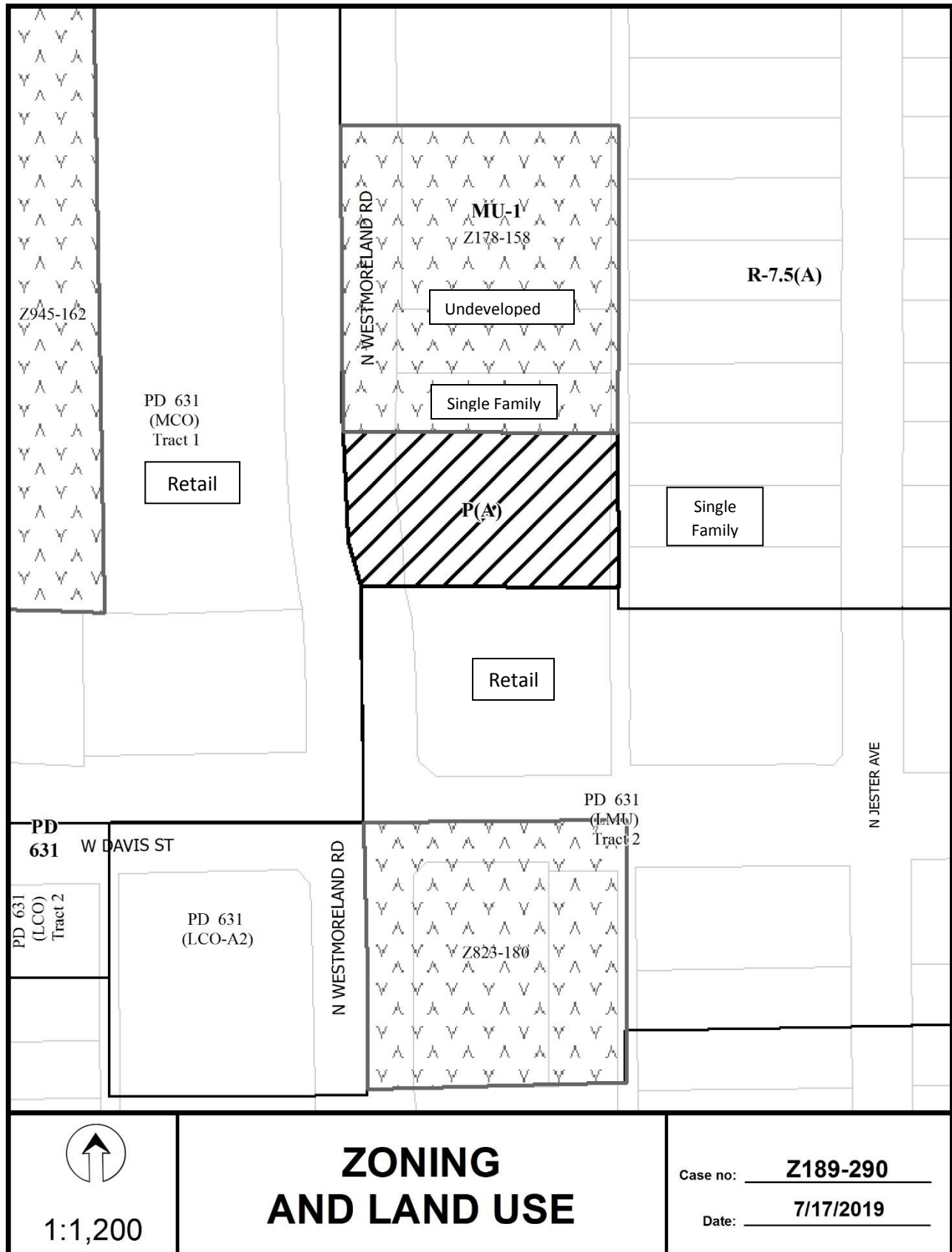
3. A minimum of one bench and bicycle rack for every 80 linear feet of frontage of the Property is required within 10 feet of the sidewalk. Installation of the bench and bicycle rack is required for that portion of the Property at the time of a building permit for work that will increase the floor area on a building site.

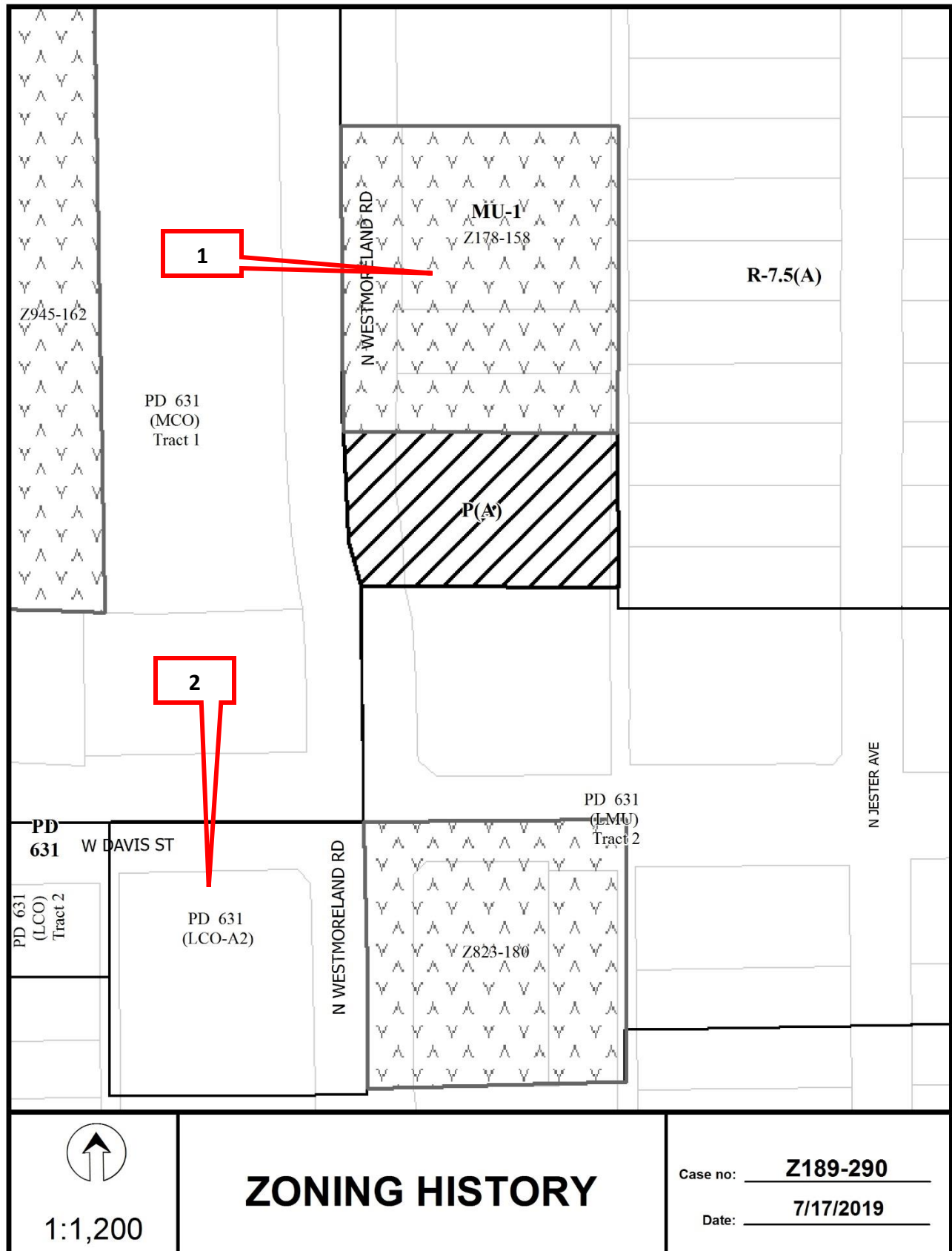
4. Office, retail, and personal service uses may only operate between 7:00 a.m. and 10:00 p.m., Monday through Sunday.

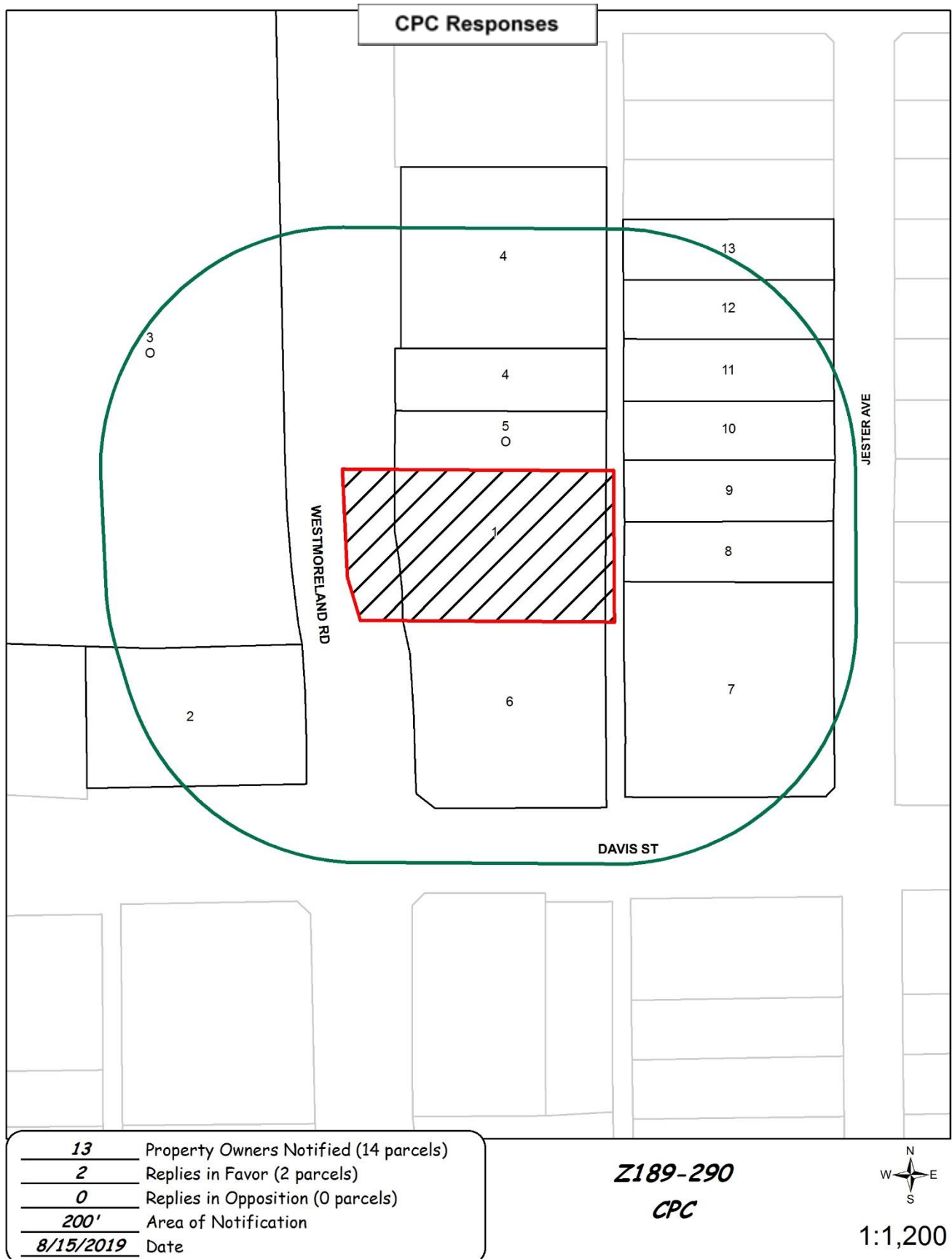
5. Maximum number of stories is three.











08/14/2019

Reply List of Property Owners***Z189-290******13 Property Owners Notified******2 Property Owners in Favor******0 Property Owners Opposed***

<i>Reply</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
	1	614 N WESTMORELAND RD	NADER KANAN
	2	3301 W DAVIS ST	KANAN NADER
O	3	627 N WESTMORELAND RD	WESTMORELAND PLAZA JV
	4	702 N WESTMORELAND RD	SOS CUSTOM HOMES INC
O	5	626 N WESTMORELAND RD	ASH LIZ PROPERTIES INC
	6	3217 W DAVIS ST	M CACERES ENTERPRISES INC
	7	3201 W DAVIS ST	TEMPLO DE PODER Y GOZO
	8	619 N JESTER AVE	CAMACHO MIGUEL
	9	623 N JESTER AVE	VASQUEZ ALICIA
	10	625 N JESTER AVE	ALVAREZ MARY LOU &
	11	703 N JESTER AVE	WEBB LARRY M
	12	707 N JESTER AVE	BONILLA ERICK & SONIA
	13	711 N JESTER AVE	CAZARES JOSE LUIS J &