

ACM: Majed Al-Ghafry

FILE NUMBER:	Z190-148(JM)	DATE FILED:	December 3, 2019
LOCATION:	East side of North Denley Drive, south of Mary Hall Street		
COUNCIL DISTRICT:	4	MAPSCO:	7 K
SIZE OF REQUEST:	± 2,500 square feet	CENSUS TRACT:	41.00

REPRESENTATIVE: Rob Baldwin, Baldwin Associates

APPLICANT/OWNER: Texas Heavenly Homes, LTD

REQUEST: An application for a TH-1(A) Townhouse District with deed restrictions volunteered by the applicant on property zoned an R-5(A) Single Family District.

SUMMARY: The purpose of the request is to allow for the site to be redeveloped with a detached single-family home. The applicant has volunteered deed restrictions that require: **1)** a maximum of one single family detached dwelling per lot; **2)** a maximum height of 30 feet; **3)** no more than two sides of a front porch shall be enclosed by a solid wall; **4)** a maximum drive approach of 16 feet; and, **5)** no carports are permitted as defined by Dallas Building Code as amended. Overall, the new minimum side yard required changes from five feet to zero feet, although the units must still be detached.

CPC RECOMMENDATION: Denial without prejudice.

STAFF RECOMMENDATION: Denial.

BACKGROUND INFORMATION:

- **Changes since CPC include an update to the proposed deed restrictions being volunteered. Items amended include:** **1)** a minimum front porch size of 80 square feet with a minimum depth of six feet; **2)** requiring a pitched roof; **3)** requiring a minimum southern side yard of five feet; and, **4)** prohibiting garages from extending beyond the front façade or the omitted wall line of a front porch. All previously volunteered restrictions listed below still remain.
- The purpose of the request is to allow for the site to be redeveloped with a detached single family home. The applicant proposes to volunteer deed restrictions that would mimic those of the north corner of the block by requiring: **1)** a maximum of one single family detached dwelling per lot; **2)** a maximum height of 30 feet; **3)** no more than two sides of a front porch shall be enclosed by a solid wall; **4)** a maximum drive approach of 16 feet; and, **5)** No carports are permitted as defined by Dallas Building Code as amended.
- The property is located in The Bottom, a 126-acre area with direct connections to Downtown Dallas. The area is largely vacant and in the process of revitalization.
- The subject site contains one undeveloped lot with approximately 2,500 square feet of area. The lot is a legal build site, since the lot is platted¹.
- On August 27, 2014, the City Council approved zone changes for properties at the north end of the block and east of the site, from an R-5(A) Single Family District to a TH-1(A) Townhouse District with deed restrictions volunteered by the applicant. The deed restrictions reverted the yard, lot, and space regulations to the original R-5(A) District standards while allowing front porches to encroach into the front yard, providing porch design requirements, driveway standards, and prohibiting carports. On January 8, 2020, an amendment to the volunteered deed restrictions on the northern property required that development must be a detached single family home.

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

1. **Z190-149:** An application for a TH-1(A) Townhouse District with deed restrictions volunteered by the applicant on property zoned an R-5(A) Single Family District, located on the east side of North Denley Drive, south of Mary Hall Street. *Denied at CPC on 2-20-20. Pending CC on 4-8-20.*
2. **Z189-324:** On January 8, 2020, the City Council approved an amendment to volunteered deed restrictions on property zoned a TH-1(A) Townhouse District with deed restrictions volunteered by the applicant, located on the southeast corner of North Denley Drive and Mary Hall Street. *(The north end of the block for the subject site.)*

¹ Reference Section 51(A)-4.601(a)(1) of the Dallas Development Code.

3. **Z178-307:** Consideration of authorizing a public hearing to determine the proper zoning on property zoned an R-5(A) Single Family District and a TH-1(A) Townhouse District; generally located east of Denley Drive, south the Trinity River Greenbelt, west of Corinth Street, north of Canyon Street, north of Hutchins Avenue, and along both sides of Canyon Street being approximately 44.05 acres. Consideration is to be given to appropriate zoning for the area to include but not limited to use, development standards, and other appropriate regulations. *Authorized by the CPC on May 17, 2018; pending.*

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing ROW	Proposed ROW
North Denley Drive	Community Collector	60 feet	None

Traffic:

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

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.

The request *does not* comply with the following land use goals and policies of the Comprehensive Plan:

URBAN DESIGN

GOAL 5.1 PROMOTE A SENSE OF PLACE, SAFETY AND WALKABILITY

Policy 5.1.3 Encourage complementary building height, scale, design and character.

GOAL 5.2 STRENGTHEN COMMUNITY AND NEIGHBORHOOD IDENTITY

Policy 5.2.1 Maintain neighborhood scale and character.

Area Plans:

The request complies with the recommendation of the *Trinity River Corridor Comprehensive Land Use Plan*², March 2005, which displays 'Residential—Neighborhood Infill' to reflect continued single family use within the area.

The *Bottom Urban Structure and Guidelines* was adopted by City Council on April 8, 2015. Located on a low-lying stretch of land adjacent to the Trinity River, The Bottom is geographically among the closest areas to downtown.

The Bottom is comprised of 126 acres with direct connections to Downtown Dallas by I-35 and to The Cedars by the Corinth Street Bridge. It is bounded by I-35 to the west, Eighth Street to the south, Corinth Street to the east, and Trinity River Levee to the north. The Bottom is also among a growing number of river edge communities discussing revitalization as our city re-focuses its center back to the Trinity River.

The Bottom Urban Structure and Guidelines have nine fundamental objectives:

1. Create vehicular and pedestrian connections linking existing streets;
2. Preserve and enhance existing single family neighborhood;
3. Develop quality market and affordable infill single family housing;
4. Introduce diverse housing choices west of Denley Drive, including townhomes, live-work, and multi-family increasing density toward IH35;
5. Mixed-use development along 8th Street from I-35 to Brackins Village and along I-35 from 8th to the Trinity River;
6. Enhance existing and add new pedestrian infrastructure and amenities;
7. Make 8th Street a great street;
8. Convert existing open area along 8th Street at Townview into a community plaza;
9. Develop access paths into the river and invest in public spaces, such as an amphitheater and major entry features.

The proposed rezoning with deed restrictions will allow for the existing lot to be developed with a detached single family unit with lesser side yard setbacks than the existing lots surrounding the property to the north and south. This is not in character with the existing structures and the overall neighborhood. While the subject site is located east of Denley Drive, not west as iterated in objective number four, a portion of the block at the southeast corner of South May Hall Drive and North Denley Drive, and another east of the site on Sparks Street were rezoned to a TH-1(A) Townhouse District months after passing the neighborhood plan. However, the subject site would still

² Refer to [Page 13](#).

border three R-5(A) Single Family District lots, including one that is developed to the north. Staff believes that the zone changes to a TH-1(A) District further up the block and to the east in 2015 lend to the idea of flexibility in using Denley Drive as the divider for adding housing diversity, although continued rezoning of the remainder of the block is an intermittent disruption in the continuity of the development rights and housing stock capacity. The rezoning of the block should be considered collectively to either maintain or create a consistent neighborhood character.

2006 Bond Fund Update and Contract Requirements

On June 25, 2008, City Council authorized the City Manager to execute a loan agreement with the applicant, Texas Heavenly Homes (THH), for the purposes of acquiring improved and unimproved properties in the Bottom neighborhood to develop and sell or lease housing units on all of the Properties acquired with the loan funds to households earning 140 percent or less of area median income (AMI). THH had acquired 36 residential lots in the Bottom and expended all loan proceeds but THH did not, and has not, begun to develop housing units in the Bottom. THH's failure to develop housing units can be attributed to a combination of several factors, including: (1) the lack of upgraded public water and sewer infrastructure, (2) the small lot size of many of the properties, (3) the costs and regulations related to developing in the floodplain, and (4) THH's desire to deviate from certain components of the Bottom Urban Structure and Guidelines (the area plan).

On May 22, 2019, City Council authorized a construction contract for the construction of street paving, drainage, and water and wastewater main improvements for the Bottom Phase I Project which consists of: North Denley Drive from Hutchins Avenue to levee; North Moore Street from Hutchins Avenue to levee; and May Hall Street from North Denley Drive to Moore Street. This is funded by the General Obligation and CBDG funds from the Housing Department. Dallas Water Utilities (DWU) is paying for the water and wastewater improvements. The improvements will be made in phases. The Phase I improvements include the subject site and are currently under construction with an expected completion by the summer of 2020. The scope of work includes paving and streetscape improvements, storm drainage, upgrade of water mains and wastewater lines with other miscellaneous improvements as necessary.

Despite a lack of development on the part of THH, the City resolved to extend the completion deadlines, incorporate additional requirements as consideration, convert the loan agreement to a conditional grant, and to include performance thresholds in June of 2019³. The completion date was extended from January 9, 2016, to: (a) within two years of completion of Phase I of the public infrastructure improvement project for the 10 parcels of real property located in Phase I of the public infrastructure improvement project; and (b) within two years of completion of Phase II of the public infrastructure improvement project for the 19 parcels of real property located in Phase II of the public infrastructure improvement project; (2) require house elevations and plans to conform with the Bottom Urban Structure and Guidelines and the Urban Design Expectations; (3)

³ See [Resolution 190942](#).

require the constructed homes to be sold to households earning 80 percent of area median income and below; (4) impose a five-year period of affordability wherein the home must remain occupied by an eligible household; (5) include performance thresholds and requirements; and (6) convert the loan agreement to a conditional grant agreement.

Phase I includes properties on: (a) North Denley Drive from Hutchins Avenue to levee; (b) North Moore Street from Hutchins Avenue to levee; and (c) May Hall Street from North Denley Drive to Moore Street. THH must apply for building permits for the 10 parcels of real property located in Phase I of the public infrastructure project by June 1, 2020 or within 30 days of completion of Phase I infrastructure work, whichever occurs first. Ultimately, the director may approve up to two, one-year extensions of the development timeframe.

Overall, the design of the structures must conform to the adopted Bottom Urban Structure and Guidelines and the following Urban Design Expectations:

- a. All homes shall have pitched roof forms. Structures that are visible from the public street must have pitched roofs. Any flat roof structures provided shall not be visible from any public street;
- b. 70 percent of all homes on any block face must have covered front porches with a minimum depth of six feet (max 10 feet and a minimum area of 80 square feet);
- c. New driveways and curb cuts must be co-located along shared property lines on adjacent properties. Driveways shall be a maximum of 16 feet wide at the curb. Where lot widths are 27 feet or less, driveway curb cuts shall leave an uninterrupted length of no less than nine feet of curb along the lot frontage. Dual entry and circular driveways are not permitted;
- d. Garages shall be placed a minimum of two feet behind the street-facing façade, if the home has a porch in compliance with subsection (b). A street facing façade is defined as the façade on which the home's front door is located. If the home has no porch; the garage must be placed a minimum of eight feet behind the street-facing façade. Front-facing garages shall be architecturally treated to de-emphasize their visual impact and prominence from a public street; and,
- e. To promote a variety of architectural interest on each block, every block face shall have homes with a variety of elevations and floor plans. No two homes with identical floor plans or street facing elevations shall be placed next to each other or directly across the street from each other.

Some of these items are echoed in the proposed deed restrictions volunteered by the applicant and discussed further in this report.

Surrounding Land Uses:

Area	Zoning	Use
Site	R-5(A)	Undeveloped
North	R-5(A) and TH-1(A) w/DRs	Single family and undeveloped
East	TH-1(A) w/DRs and R-5(A)	Undeveloped
South	TH-1(A) w/DRs, Subdistrict 2 within PD No. 571, and R-5(A)	Single family and undeveloped
West	Subdistrict 2 within PD No. 571	Single family and undeveloped

Land Use Compatibility:

The property contains one platted lot with approximately 2,500 square feet of undeveloped land. According to historic aerials, the site and surrounding neighborhood was a fully developed and thriving single family neighborhood from 1952 (earliest available aerial) through the 1990s when lots quickly became vacant.

Surrounding land uses consist of single family and mostly undeveloped or vacant lots in all directions. Farther northwest is the Eloise Lundy Recreation Center. Southwest of Hutchins Avenue lies the Townview Magnet School in an area generally more developed which serves as the southern end of The Bottom neighborhood.

The purpose of the request is to allow for the site to be redeveloped with a detached single family home. The applicant has volunteered deed restrictions that require: **1)** a maximum of one single family detached dwelling per lot; **2)** a maximum height of 30 feet; **3)** no more than two sides of a front porch shall be enclosed by a solid wall; **4)** a maximum drive approach of 16 feet; and, **5)** no carports are permitted as defined by Dallas Building Code as amended. Overall, the new minimum side yard required changes from five feet to zero feet, although the units must still be detached.

The proposed TH-1(A) District is considered a low-density, single family district; however, mid-block rezoning is not ideal due to the nature of how development rights may be affected for both the TH and neighboring properties.

Staff is delaying support of the continued rezoning of individual parcels intermittently throughout the block. Instead, staff recommends denial of this request to allow for the pending authorized hearing to determine proper zoning to enforce the area plan for The Bottom. The plan identified the need for low density single family infill east of Denley Drive and greater density and mix of housing units to the west of Denley Drive. Staff believes the authorized hearing process, which allows for further review of the plan in consideration of appropriate zoning through neighborhood meetings, would best serve the neighborhood.

Development Standards:

DISTRICT	SETBACKS		Height	Lot Coverage	Density	Special Standards	Primary Uses
	Front	Side/Rear					
Existing: R-5(A) Single Family District	20'	5' SF 10'/0' Other	30' No max stories	45% res 25% nonres	1 unit per lot, min lot size 5,000 square feet	Proximity Slope	Single family and institutional.
Proposed: TH-1 w/Volunteered Deed Restrictions*	0' ⁴	0' SF 5'/10' Duplex* 10' Others	30'* No max stories	60% res 25% nonres	1 detached SF unit per lot** Min lot size 2,000 square feet	Proximity Slope	Single family, duplex**, and institutional.

While the proposed TH-1(A) District does not require a front yard setback, so long as a portion of the block is zoned to a district with a required front yard setback, all lots must provide a front yard. In this case, if the subject site is rezoned to a TH-1(A) District, the remaining lots zoned an R-5(A) District would dictate maintaining the required front yard setback of 20 feet. This rule is based on block continuity, as defined in the Dallas Development Code⁵.

The proposed lack of a side yard is not consistent with the neighborhood character. Proposed deed restrictions volunteered by the applicant limit the land use to one single family detached dwelling unit per lot. This is in-line with the density of the area and the neighborhood plan; however, so long as building and fire code requirements are met, the dwelling units could provide less than the existing requirement of five feet for a side yard. The same is true for the proposed change to no minimum rear yard requirement.

The proposed lot coverage of 60 percent is not in character with the scale of existing development allowed; however, the neighborhood plan states, "any future re-zoning consider increased coverage when all other architectural guidelines are met."⁶

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 area of request and surrounding properties are located within an "E" MVA cluster.

⁴ Reference Section 51(A)-4.401(a)(6) on block continuity.

⁵ Reference Section 51(A)-4.401(a)(6) on block continuity.

⁶ Page 60 of the [Bottom Urban Structure and Guidelines](#).

The existing developer's agreement with the City will ensure that affordable housing options are brought to the Bottom neighborhood, including the subject site. However, the method of rezoning one lot at a time is not conducive with maintaining the overall character, scale, and intent of the neighborhood or its' plan.

Parking:

Parking will be in accordance with the parking regulations the Dallas Development Code, as amended. For a single family use in the existing R-5(A) or proposed TH-1(A) Districts, one space is required per dwelling unit.

Landscaping:

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

List of Officers

List of officers

Texas Heavenly Homes, LTD

Richard E. LeBlanc, President

CPC ACTION
February 20, 2020

Motion I: In considering an application for a TH-1(A) Townhouse District with deed restrictions volunteered by the applicant on property zoned an R-5(A) Single Family District, on the east side of North Denley Drive, south of Mary Hall Street, it was moved to **hold** this case under advisement until March 26, 2020.

Maker: Johnson
Second: MacGregor
Result: Failed: 7 to 7

For: 7 - MacGregor, Johnson, Shidid, Carpenter,
Jackson, Blair, Housewright

Against: 7 - Hampton, Jung, Schultz, Schwope, Murphy,
Garcia, Rubin

Absent: 0

Vacancy: 1 - District 3

Motion II: It was moved to recommend **denial without prejudice** of a TH-1(A) Townhouse District with deed restrictions volunteered by the applicant on property zoned an R-5(A) Single Family District, on the east side of North Denley Drive, south of Mary Hall Street.

Maker: Johnson
Second: Murphy
Result: Carried: 14 to 0

For: 14 - MacGregor, Hampton, Johnson, Shidid,
Carpenter, Jackson, Blair, Jung, Housewright,
Schultz, Schwope, Murphy, Garcia, Rubin

Against: 0

Absent: 0

Vacancy: 1 - District 3

Notices: Area: 200 Mailed: 23

Replies: For: 0 Against: 0

Speakers: For: Rob Baldwin, 3904 Elm St., Dallas, TX, 75226
Bradyn Boone, 3025 Allister St., Dallas, TX, 75229

Against: None

Staff: David Noguera, Director, Housing and Neighborhood Revitalization Department
Peer Chacko, Director, Planning and Urban Design Department

<p>Proposed Volunteer Deed Restrictions Offered at CPC</p>

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

I.

The undersigned, Texas Heavenly Homes, Ltd. ("the Owner"), is the owner of the following described property ("the Property"), being in particular Lot11 in Block 1/7675 of the Dewberry Addition out of the W.S. Beatty Survey, Abstract No. 57 in the City of Dallas, Dallas County, Texas and being that same tract of land conveyed to the Owner by Instrument Number 200900259741 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. Maximum of one single family detached dwelling per lot.
2. Maximum height is 30 feet.
3. No more than two sides of a front porch shall be enclosed by a solid wall.
4. Maximum drive approach of 16 feet.
5. No carports are permitted as defined by Dallas Building Code as amended.

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.

**Newly Proposed Volunteer Deed
Restrictions Offered *after CPC***

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

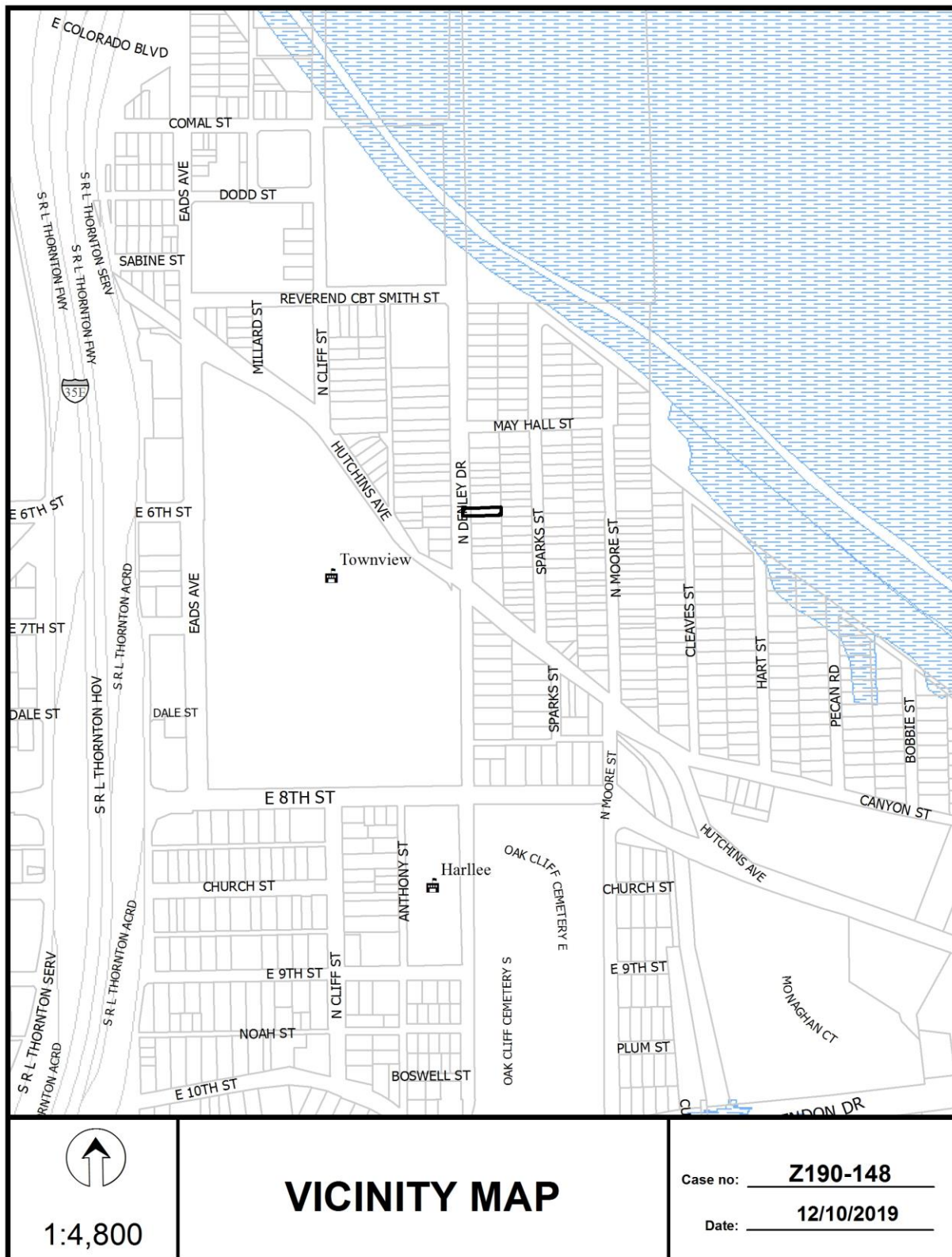
I.

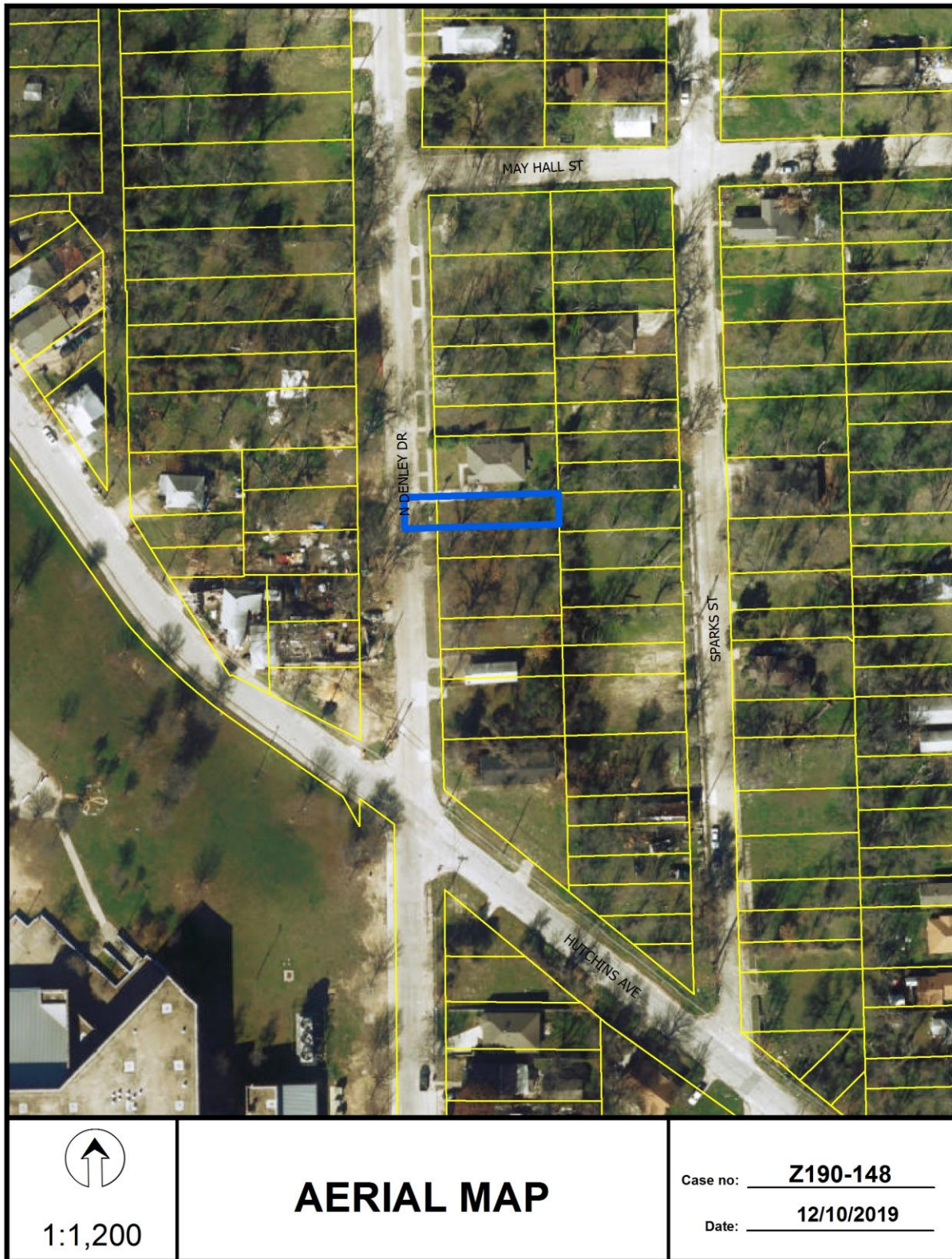
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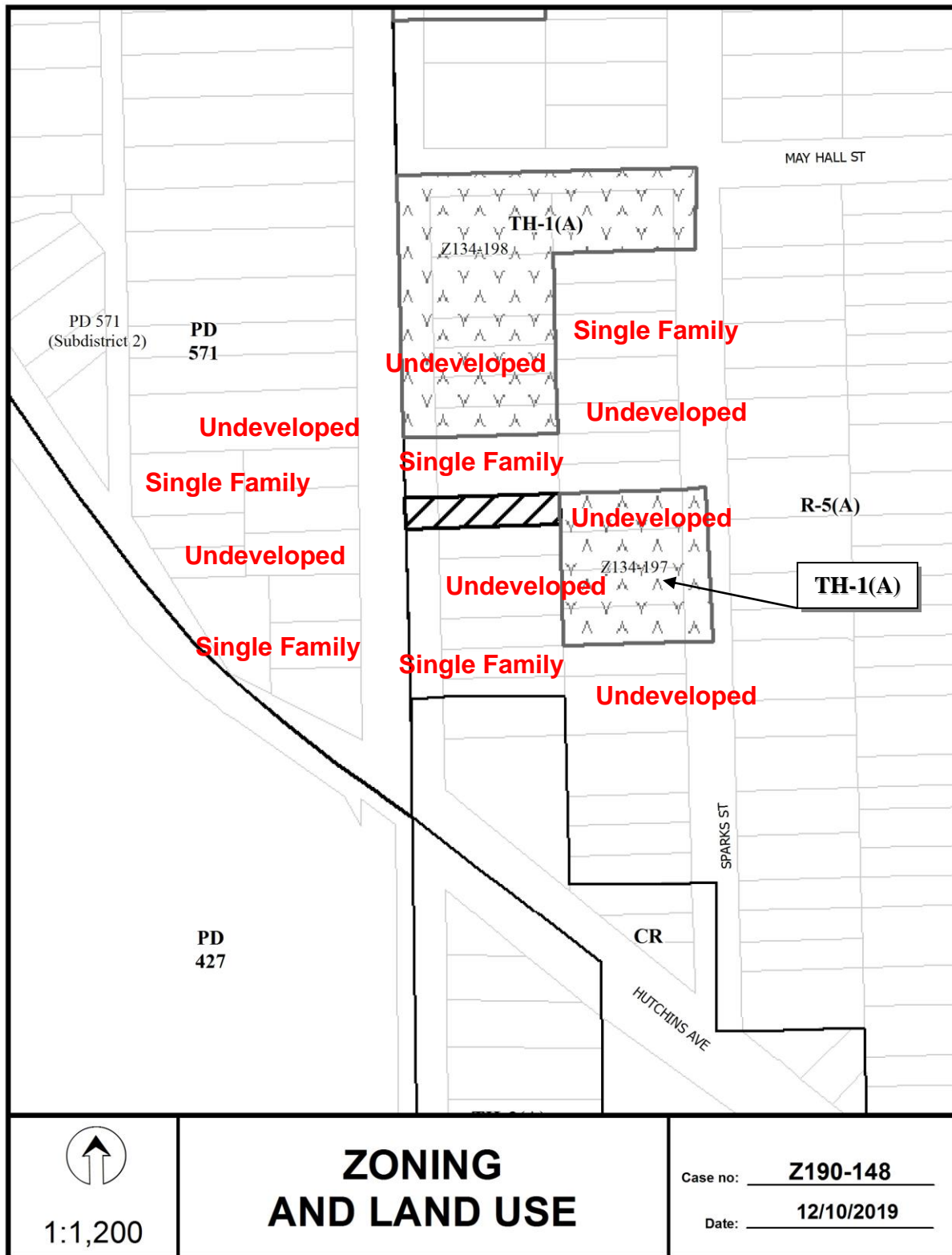
II.

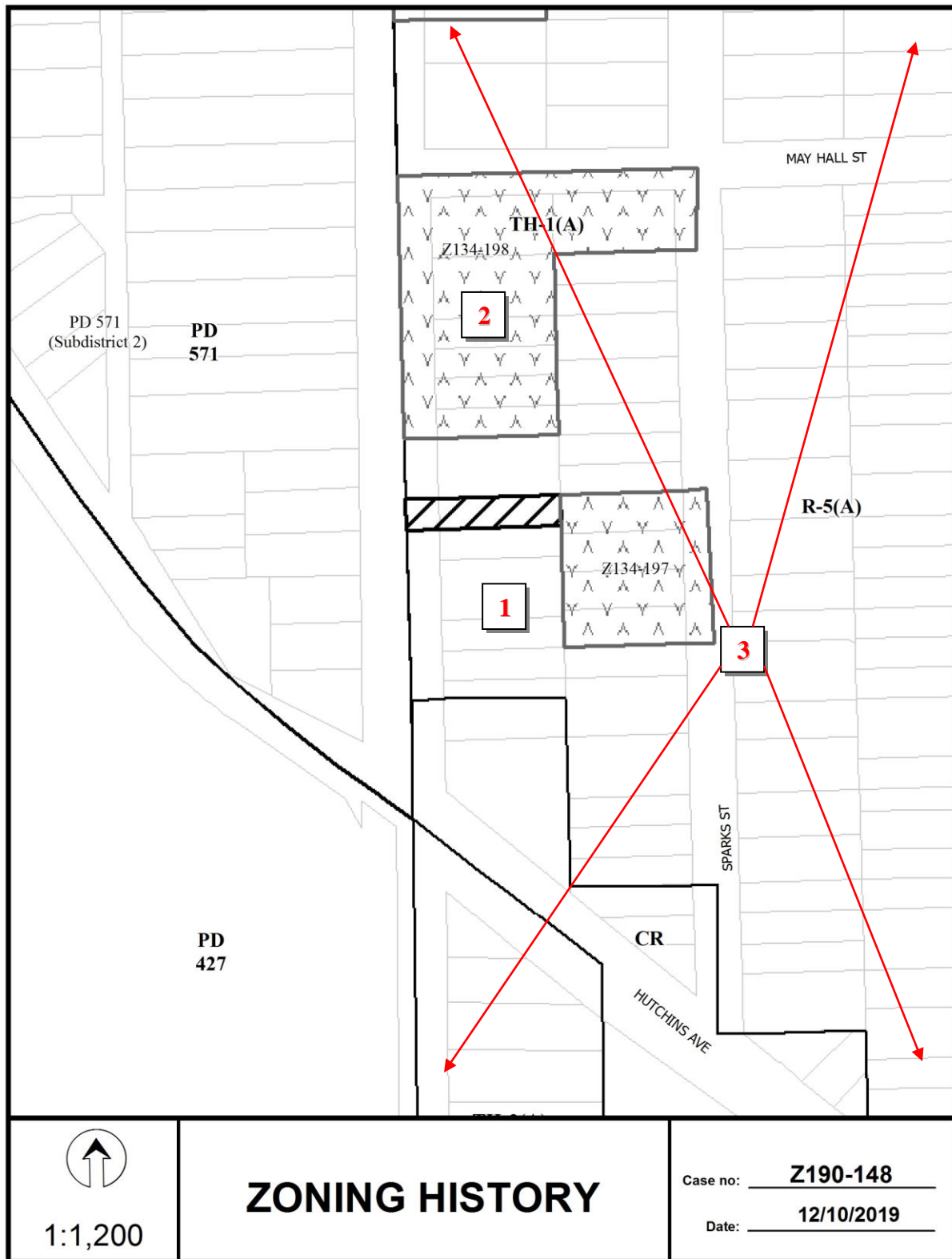
The Owner does hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

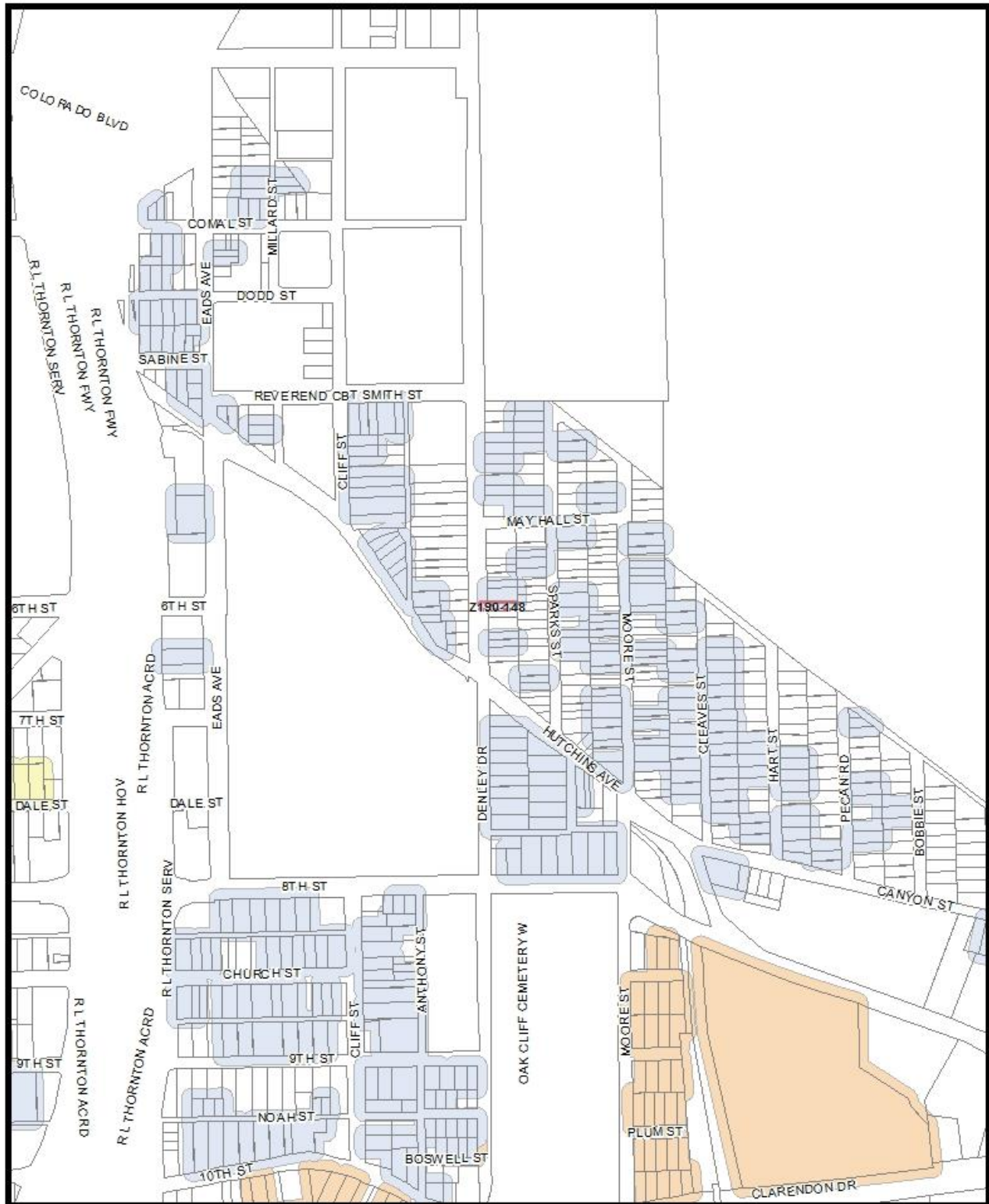
- (1) Maximum of one single family detached dwelling per lot.
- (2) Maximum structure height is 30 feet.
- (3) For single family structures, minimum front porch depth is six feet and minimum front porch area is 80 square feet.
- (4) Front porches may have no more than two sides enclosed by a solid wall.
- (5) For lots 40 or more feet wide, maximum driveway width is 16 feet. For lots less than 40 feet wide, maximum driveway width is ten feet. For all lots, maximum driveway width for a shared driveway is 20 feet.
- (6) Carports are prohibited.
- (7) Single family structures must have a pitched roof.
- (8) Minimum side yard along the southern Property line is five feet.
- (9) Garages may not extend beyond the front facade of a single family structure. If the roof line of a porch is an extension of the roof line of a single family structure, then the front omitted wall line of the porch is considered the front facade of the home for purposes of this provision.











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



Market Value Analysis

Printed Date: 12/10/2019

CPC Responses



02/19/2020

Reply List of Property Owners***Z190-148******23 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	517	N DENLEY DR	TEXAS HEAVENLY HOMES LTD
2	505	N DENLEY DR	DALLAS HOUSING ACQUISITION & DEV CORP
3	507	N DENLEY DR	GLOBAL HARVESTERS FDN
4	501	N DENLEY DR	SPARKS FANNIE
5	1223	HUTCHINS AVE	EDWARDS NELLA DELOIS
6	425	N DENLEY DR	CARTER JAMES
7	1239	HUTCHINS AVE	WALKER ELMORE L
8	419	N DENLEY DR	MEEKS JAMES
9	413	N DENLEY DR	LEBLANC RICHARD
10	426	N DENLEY DR	DALLAS HOUSING ACQUISITION & DEV CORP
11	418	N DENLEY DR	HAYNES EMMA ET AL
12	410	N DENLEY DR	MANUEL BERNET
13	400	N DENLEY DR	BAKER LEATHA
14	421	SPARKS ST	FELDER ROBERT CARL &
15	423	SPARKS ST	FELDER ROBERT CARL
16	429	SPARKS ST	TEXAS HEAVENLY HOMES
17	435	SPARKS ST	WACHE LLC
18	439	SPARKS ST	LOWERY TASHA M
19	443	SPARKS ST	JONES CHARLES E
20	438	SPARKS ST	COBBS CLYDE B SR
21	436	SPARKS ST	MOORE MRS LORAIN
22	432	SPARKS ST	NEDD ETHEL
23	422	SPARKS ST	WATSON BEATRICE &