

ACM: Dr. Eric A. Johnson

FILE NUMBER: Z190-247(AU)

DATE FILED: April 14, 2020

LOCATION: West line of Midway Road, north of West Northwest Highway

COUNCIL DISTRICT: 6

MAPSCO: 24 X

SIZE OF REQUEST: +/- 0.33 acres

CENSUS TRACT: 94.02

REPRESENTATIVE: La Sierra Planning Group

APPLICANT/OWNER: Constance Midway, LTD

REQUEST: An application for a D-1 Liquor Control Overlay; and a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned a CR Commercial Retail District with a D Liquor Control Overlay, Specific Use Permit No. 1718 for a tower/antenna for cellular communication.

SUMMARY: The applicant is proposing to change the zoning on a portion of the building to enable the sales of beer and wine within the existing store [CVS].

CPC RECOMMENDATION: **Approval**, of a D-1 Liquor Control Overlay; and **approval** of a Specific Use Permit for a two-year period with eligibility for automatic renewals for additional three-year periods, subject to a site plan and conditions.

STAFF RECOMMENDATION: **Approval** of a D-1 Liquor Control Overlay; and **approval** of a Specific Use Permit for a two-year period with eligibility for automatic renewals for additional five-year periods, subject to a site plan and conditions.

Background Information:

- The 0.33-acre request site is a portion of a larger lot that is 1.15 acres in area and that contains a 11,418-square-foot building. The property is used for a general merchandise or food store with a drive-through.
- The area of request is zoned a CR Commercial Retail District with a D Liquor Control Overlay and Specific Use Permit No. 1718 for a tower / antenna for cellular communication. The tower is located on the southern property line and is 65 feet in height.
- On September 14, 2011, City Council granted Specific Use Permit No. 1718 for a tower/antenna for cellular communication on the entire 1.15-acre lot. SUP No. 1718 was renewed on February 14, 2018 and is set to expire on February 14, 2028.
- The remainder of the property does not have a Liquor Control Overlay and is zoned CR, thus alcohol sales are allowed by right. A 0.8-acre portion of the property is also zoned with deed restrictions [Z801-138.] The deed restrictions prohibit the following uses on that portion of the site: inside commercial amusement, including modeling studios; steam baths and massage parlors, bar, lounge or tavern; restaurant; barber and beauty shops; beverage store; second-hand store; pawn shop; Army/Navy stores, discount stores, government “surplus” stores, wholesale or factory outlets and any use that exhibits lewd or pornographic material. In addition, the restrictions limit all buildings to one story and a total structure height not to exceed 24 feet, which includes the roof, canopies, and attached signs.
- The existing D Liquor Control Overlay District prohibits the sale or serving of alcoholic beverages or setups for alcoholic beverages for consumption on or off the premises.
- To enable the existing general merchandise or food store to sell beer and wine the applicant is proposing to change the D Liquor Control Overlay District into a D-1 Liquor Control Overlay District. In a “D-1” Liquor Control Overlay District, a person shall not sell or serve alcoholic beverages, or setups for alcoholic beverages, for consumption on or off the premises, unless the sale or service is part of the operation of a use for which a specific use permit has been granted by the City Council.
- The applicant is also requesting a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet.
- On April 27, 2018, a Certificate of Occupancy was issued for the general merchandise or food store greater than 3,500 square feet.

Zoning History:

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

- 1. Z167-234** On February 14, 2018, the City Council approved the renewal of Specific Use Permit No. 1718 for a tower/antenna for cellular communication, on property zoned a CR Community Retail District, and located on the northwest corner of Midway Road and Northwest Highway. (on the subject property)
- 2. Z167-363** On November 8, 2017, the City Council approved the amendment of Planned Development District No. 70, on property located on the northeast corner of West Northwest Highway and Midway Road.

Thoroughfares/Streets:

Thoroughfares/Street	Type	Existing ROW
Midway Road	Minor Arterial	100 ft.
West Northwest Highway	Principal Arterial	100 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 which can serve as a framework for assisting in evaluating the applicant's request. The request is consistent with the following Plan recommendations.

URBAN DESIGN ELEMENT

GOAL 5.3 ESTABLISHING WALK-TO CONVENIENCE

Policy 5.3.1 Encourage a balance of land uses within walking distance of each other.

LAND USE ELEMENT

GOAL 1.1 ALIGN LAND USE STRATEGIES WITH ECONOMIC DEVELOPMENT PRIORITIES

Policy 1.1.5 Strengthen existing neighborhoods and promote neighborhoods' unique characteristics. Acknowledge the importance of neighborhoods to the city's long-term health and vitality.

1.1.5.3 Encourage neighborhood-serving office, retail, or other non-residential uses to be located in residential community areas, primarily on significant roadways or at key intersections.

STAFF ANALYSIS

Surrounding Land Uses:

	Zoning	Land Use
Site	CR-D with SUP No. 1718	General merchandise or food store greater than 3,500 square feet
North	CR with SUP No. 1718	General merchandise or food store greater than 3,500 square feet (same property)
East	PD No.70	Retail, personal service, restaurant
South	CR-D-1	Gas station
West	CR with DR [Z801-128] with SUP No. 1718	General merchandise or food store greater than 3,500 square feet (same property)

Land Use Compatibility:

The 0.33-acre request site is a portion of a larger lot that is 1.15 acres in area and that contains a 11,418-square-foot building. The property is used for a pharmacy and general merchandise or food store with a drive-through.

The area of request is zoned a CR, Commercial Retail District with a D Liquor Control Overlay, and with Specific Use Permit No. 1718 for a tower / antenna for cellular communication. The tower is located on the southern property line and is 65 feet in height.

The remainder of the property does not have a Liquor Control Overlay and is zoned CR, thus alcohol sales being allowed by right.

The existing D Liquor Control Overlay on the 0.33-acre portion of the property prohibits the sales or serving alcoholic beverages or setups for alcoholic beverages for consumption on or off the premises. The D Overlay covers only a 1,960 square-foot-portion of the existing building, the portion with the main entrance and cashier. To enable the existing store to sell beer and wine, the applicant is proposing to rezone the D Liquor Control Overlay into a D-1 Liquor Control Overlay. In a D-1 Liquor Control Overlay district, a person shall not sell or serve alcoholic beverages, or setups for alcoholic beverages, for consumption on or off the premises, unless the sale or service is part of the operation of a use for which a specific use permit has been granted by the city council.

With this request, the applicant is also requesting a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet.

Both requests are for the 0.33-acre portion of the property that is covering the front of the existing building. The request does not affect the existing deed restrictions or SUP No. 1718.

The property that contains the request site is adjacent to single family dwellings to the north, larger shopping centers to the east and west, a gas station to the south and a church further south.

Older aerial views of the site from 2011 to present indicate that the property was developed with a retail strip with multiple suites spanning over the entire property fronting Midway Road. The suite on the north side was occupied with a liquor store until 2016, when the site started the redeveloped with the existing store.

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.

Considering the fact that the existing D Liquor Control Overlay was created for a site layout that is not current and is currently covering a portion of the existing building and the rest of the property does not have a liquor control overlay, thus allowing alcohol sales, staff recognizes the benefit of unifying the development rights on this property

and supports the requested D Liquor Control Overlay with the Specific Use Permit for alcohol sales.

Parking:

Pursuant to §51A-4.210, a general merchandise or food store greater than 3,500 square feet requires one space per 220 square feet of floor area for uses with a floor area of 10,000 square feet or greater, but less than 40,000 square feet of floor area. The existing building is 13,357 square feet in area; thus, it requires 60 spaces. Additionally, for the drive-through facility, a minimum of two stacking spaces must be provided. The proposed site plan for the area of request, that also includes the entire property, for information purposes only, indicated 54 parking spaces, two being stacking spaces for the drive-through portion. The issued CO indicated the 54 required parking spaces.

Landscaping:

Landscaping of any development will be in accordance with Article X, as amended. However, the applicant's request will not trigger any Article X requirements, as no new construction is proposed on the site.

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). While the request site is uncategorized, properties located further north and northwest are located within an "B" MVA cluster, further northeast are within an "A" MVA cluster, and further southwest are within an "C" MVA cluster.

LIST OF OFFICERS

Constance Midway, LTD

E.T.B, Inc., - permit holder for alcohol sales

Jeffrey C. Neason – Secretary

Thomas S. Moffatt – President / Director

Carol A. DeNale – Senior Vice president, Treasurer, Director

Melanie K. Luker – Assistant Secretary

Jeffery E. Clark – Assistant Treasurer

Linda M. Cimbron – Assistant Secretary

Sheelagh M. Beaulieu – Assistant Treasurer

Kimberley M. DeSousa – Assistant Secretary

CVC Pharmacy Inc.

Kimberley Marie DeSousa – Assistant Secretary

Carol Ann DeNale – President, Treasurer, Director

Linda Marie Cimbron – Assistant Secretary

Jeffrey Edward Clark – Assistant Treasurer

Thomas Swift Moffat – Vice president, Secretary, Director

Sheelagh Mary Beaulieu – Assistant Treasurer

Melanie Kathleen Luker – Assistant Secretary

CPC Action
October 1, 2020

Motion: In considering an application for a D-1 Liquor Control Overlay and a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned a CR Commercial Retail District with a D Liquor Control Overlay, Specific Use Permit No. 1718 for a tower/antenna for cellular communication, on the west line of Midway Road, north of West Northwest Highway, it was moved to **hold** this case under advisement until October 15, 2020.

Maker: Carpenter

Second: Schwope

Result: Carried: 13 to 0

For: 13 - MacGregor, Stinson, Johnson, Shidid,
Carpenter, Jackson, Blair, Jung, Myers,
Schwope, Murphy, Garcia, Rubin

Against: 0

Absent: 1 - Hampton

Vacancy: 1 - District 11

Notices: Area: 200 Mailed: 10

Replies: For: 0 Against: 0

Speakers: For: Kendra Larach, 3904 Elm St., Dallas, TX, 75226

For (Did not speak): Santos Martinez, 12 Tanager Terrace, Angel Fire, NM, 87710

Against: None

CPC Action
October 15, 2020

Motion: It was moved to recommend **approval** of a D-1 Liquor Control Overlay; and **approval** of a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet for a two-year period with eligibility for automatic renewals for additional three-year periods, subject to a site plan and conditions on property zoned a CR Commercial Retail District with a D Liquor Control Overlay, Specific Use Permit No. 1718 for a tower/antenna for cellular communication, on the west line of Midway Road, north of West Northwest Highway.

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

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

Against: 0
Absent: 0
Vacancy: 1 - District 11

Notices: Area: 200 Mailed: 10
Replies: For: 1 Against: 0

Speakers: For: Kendra Larach, 3904 Elm St., Dallas, TX, 75226
Against: None

**CITY PLAN COMMISSION RECOMMENDED
SUP CONDITIONS**

1. USE: The only use authorized by this specific use permit is the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet.
2. SITE PLAN: Use and development of the Property must comply with the attached site plan.

CPC recommendation:

3. TIME LIMIT: This specific use permit expires on, (two-year period from the passage of this ordinance) but is eligible for automatic renewal for additional three-year periods pursuant to Section 51A-4.219 of Chapter 51A of the Dallas City Code, as amended. For automatic renewal to occur, the Property owner must file a complete application for automatic renewal with the director before the expiration of the current period. Failure to timely file a complete application will render this specific use permit ineligible for automatic renewal. (Note: The Code currently provides that applications for automatic renewal must be filed after the 180th but before the 120th day before the expiration of the current specific use permit period. The Property owner is responsible for checking the Code for possible revisions to this provision. The deadline for applications for automatic renewal is strictly enforced).

Staff recommendation:

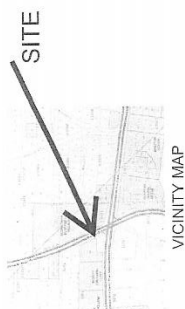
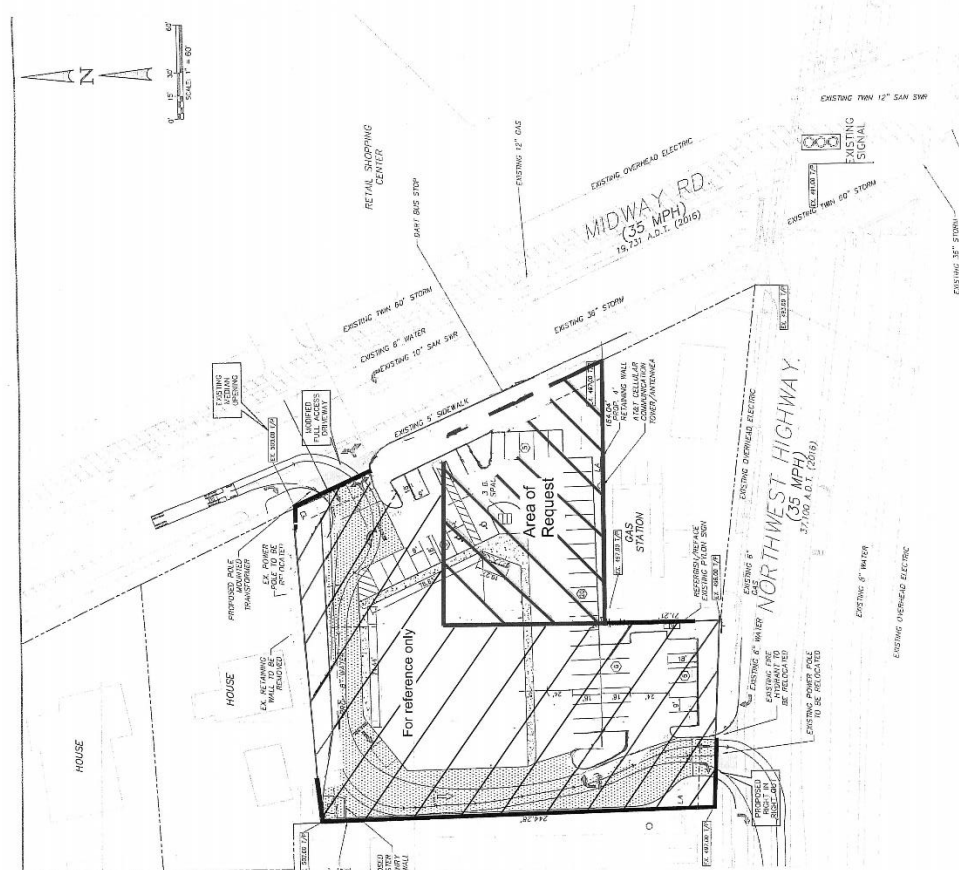
3. TIME LIMIT: This specific use permit expires on, (two-year period from the passage of this ordinance) but is eligible for automatic renewal for additional five-year periods pursuant to Section 51A-4.219 of Chapter 51A of the Dallas City Code, as amended. For automatic renewal to occur, the Property owner must file a complete application for automatic renewal with the director before the expiration of the current period. Failure to timely file a complete application will render this specific use permit ineligible for automatic renewal. (Note: The Code currently provides that applications for automatic renewal must be filed after the 180th but before the 120th day before the expiration of the current specific use permit period. The Property owner is responsible for checking the Code for possible revisions to this provision. The deadline for applications for automatic renewal is strictly enforced).

4. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.

5. 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.

CITY PLAN COMMISSION RECOMMENDED SITE PLAN

SITE PLAN
Z190-247



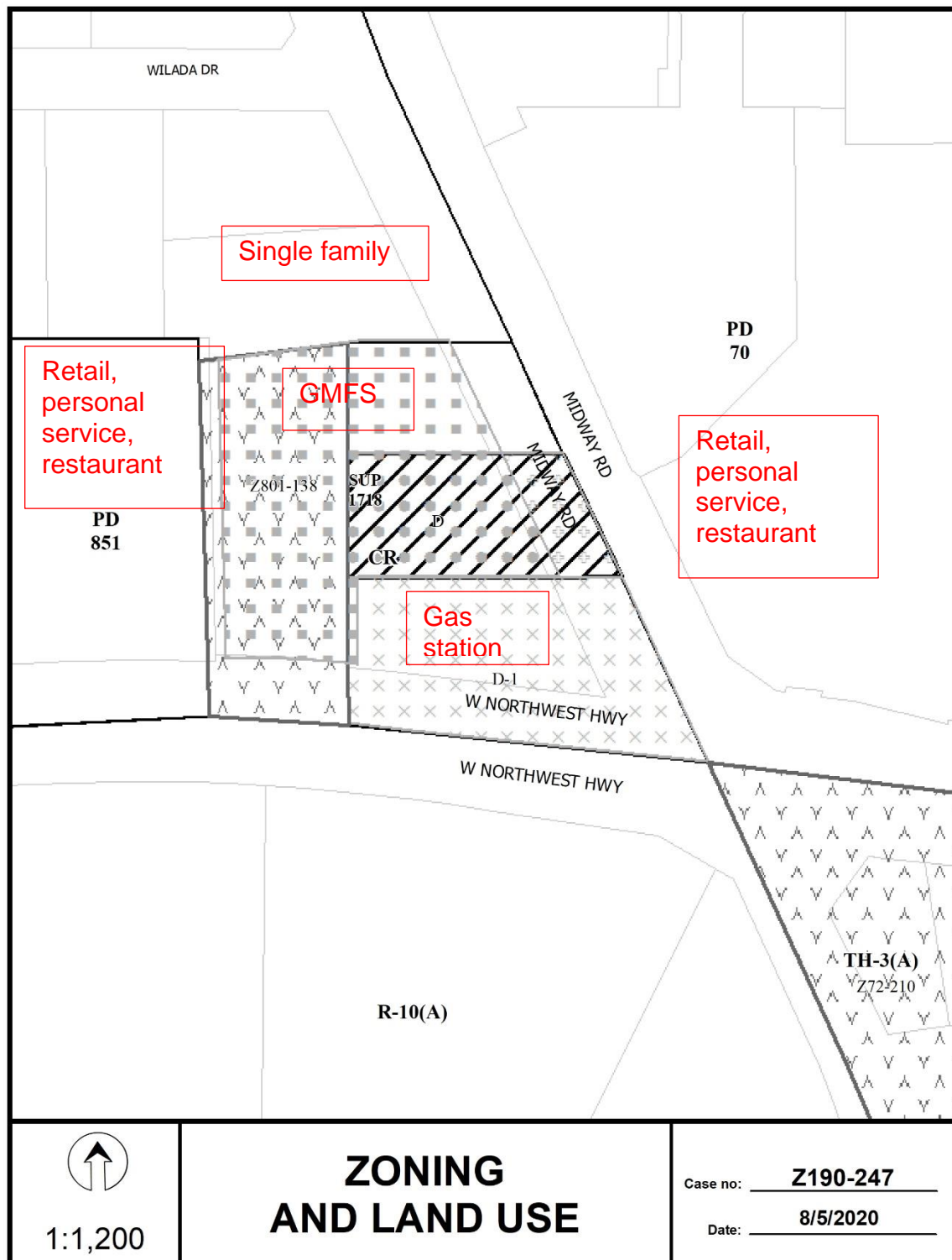
SITE SUMMARY

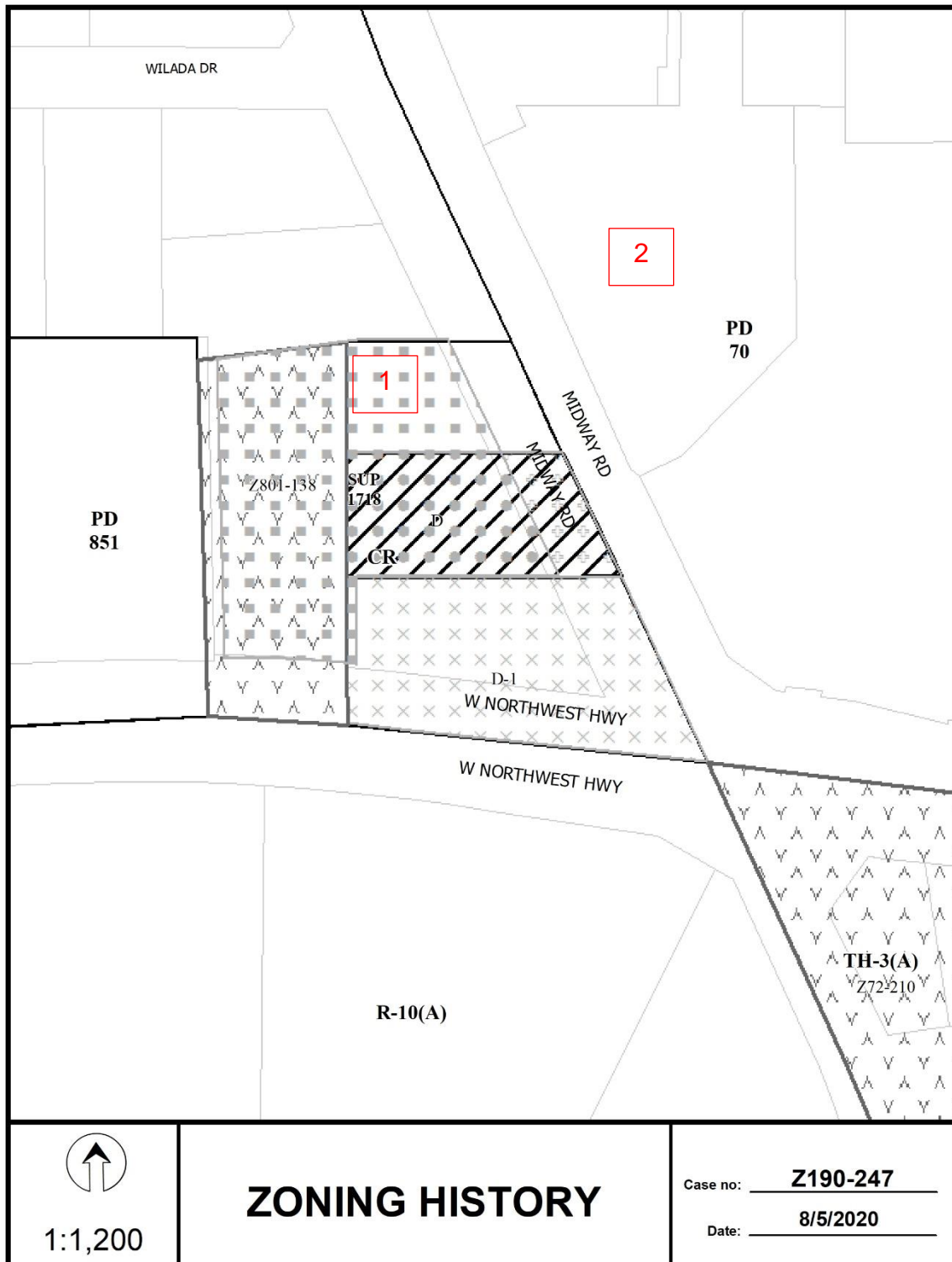
Existing Zoning: CR - D
Proposed Zoning: SUP for alcohol sales
Area of request: 19,980 sq. ft.
Building area: 1,968 sq. ft.

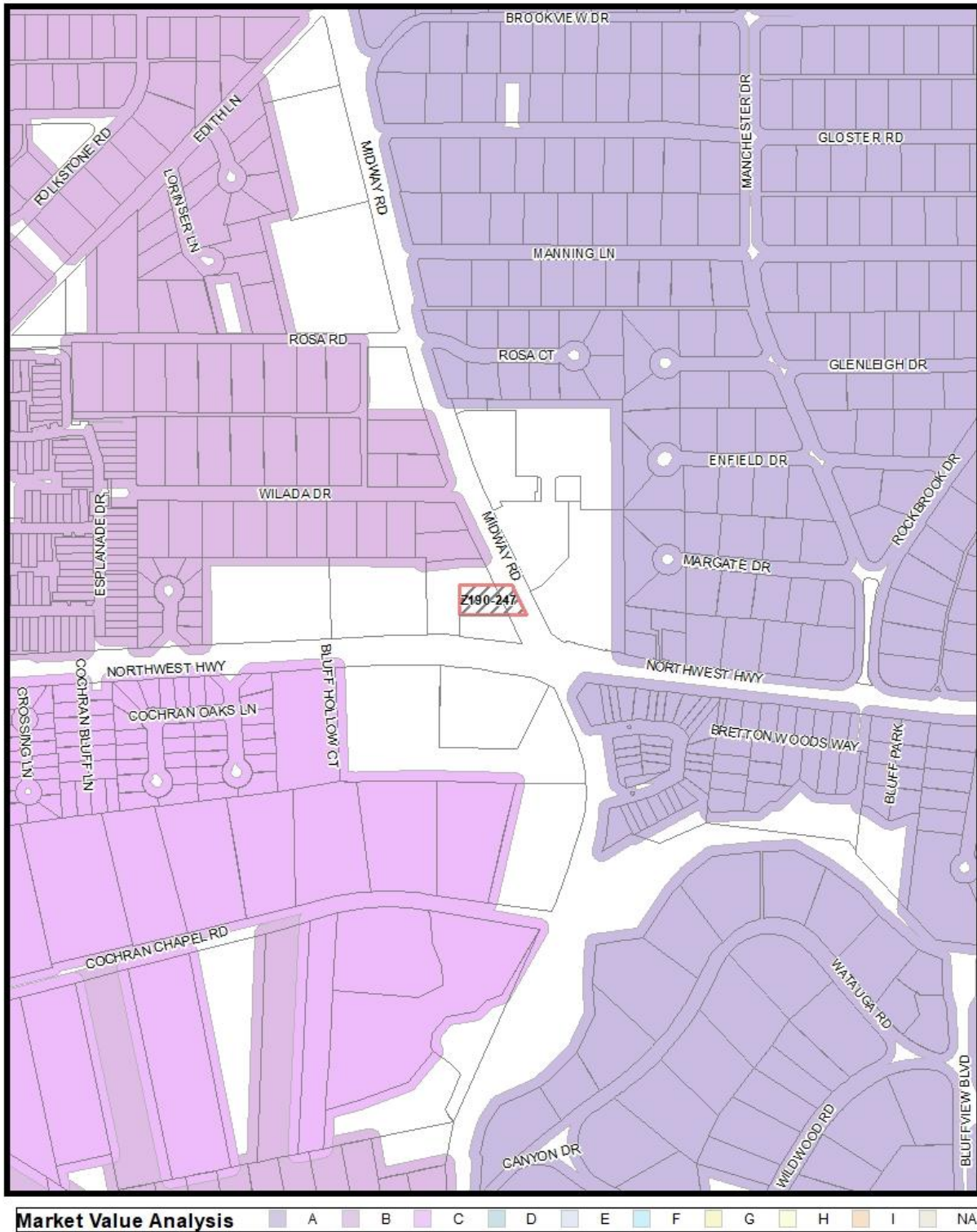
For reference only*
Existing structure: 13,357 sq. ft.
Required Parking: 52
Provided Parking: 52









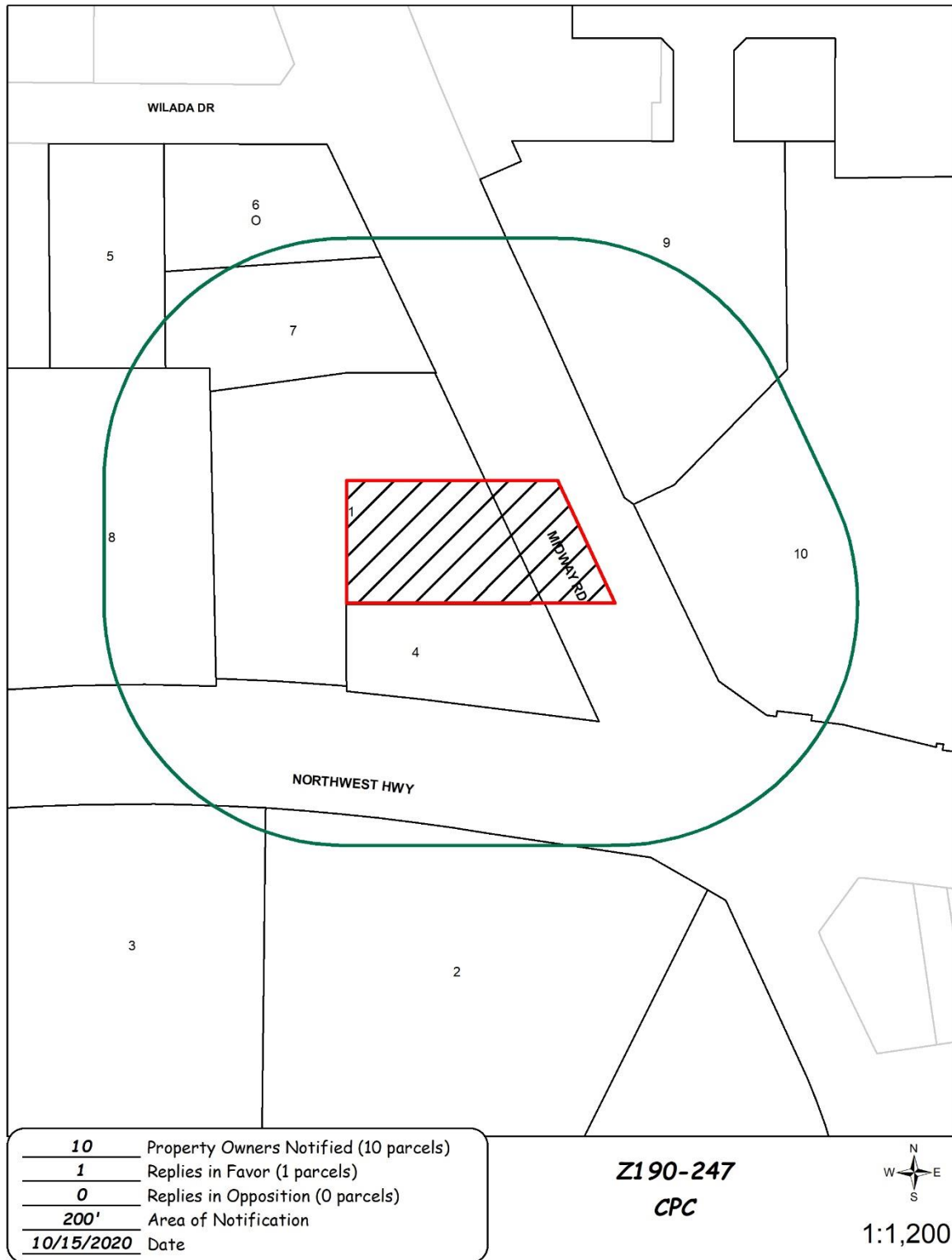


1:4,800

Market Value Analysis

Printed Date: 8/5/2020

CPC RESPONSES



10/14/2020

Reply List of Property Owners

Z190-247

10 Property Owners Notified 1 Property Owners in Favor 0 Property Owners Opposed

<i>Reply</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
	1	9215 MIDWAY RD	CONSTANCE MIDWAY LTD
	2	9101 MIDWAY RD	COCHRAN CHAPEL
	3	9027 MIDWAY RD	COCHRAN CHAPEL METHODIST
	4	4275 W NORTHWEST HWY	AIRPORT FREEWAY FUEL CENTER LP
	5	4194 WILADA DR	MORADI MASOUD &
O	6	9241 MIDWAY RD	ARNOLD H DAVID
	7	9227 MIDWAY RD	MCGILL MANDY
	8	4235 W NORTHWEST HWY	MIDWAY NORTHWEST HIGHWAY SHOPPING CENTER LLC
	9	4343 W NORTHWEST HWY	HEB GROCERY COMPANY LP
	10	4343 W NORTHWEST HWY	PRESTON HOLLOW INDIAN SCHOOL &