

ORDINANCE NO. 27407

A municipal setting designation ordinance prohibiting the use of designated groundwater from beneath property generally located at 514 South Central Expressway and 2129 Eureka Street and supporting issuance of a municipal setting designation by the Texas Commission on Environmental Quality; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, Subchapter W, "Municipal Setting Designations," of Chapter 361, "Solid Waste Disposal Act," of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality to create municipal setting designations; and

WHEREAS, Section 51A-6.108, "Municipal Setting Designation Ordinance," of Article VI, "Environmental Performance Standards," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code authorizes municipal setting designation ordinances prohibiting the use of designated groundwater as potable water and thereby enable the Texas Commission on Environmental Quality to certify a municipal setting designation for designated property; and

WHEREAS, the city council finds that:

- (1) the eligibility criteria of Section 361.803 of the Texas Health and Safety Code have been met;
- (2) this municipal setting designation ordinance will not have an adverse effect on the current or future water resource needs or obligations of the city of Dallas;

(3) there is a public drinking water supply system that satisfies the requirements of Chapter 341 of the Texas Health and Safety Code and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of the designated property; and

(4) this municipal setting designation ordinance is necessary because the concentration of contaminants of concern exceed ingestion protective concentration levels for human ingestion; and

WHEREAS, the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the city of Dallas, have given the required notices and have held the required public hearings regarding this municipal setting designation ordinance; Now Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That for purposes of this municipal setting designation ordinance, the “designated property” means the property described in Exhibit A, attached to the ordinance.

SECTION 2. That for purposes of this municipal setting designation ordinance, “designated groundwater” means water below the surface of the designated property to a depth of 200 feet.

SECTION 3. That use of the designated groundwater from beneath the designated property as potable water is prohibited.

SECTION 4. That the use of the designated groundwater from beneath public rights-of-way immediately adjacent to the designated property as potable water is prohibited.

SECTION 5. That the following uses of or contacts with the designated groundwater are prohibited:

- (1) Human consumption or drinking.
- (2) Showering or bathing.
- (3) Cooking.
- (4) Irrigation of crops for human consumption.

SECTION 6. That the following conditions are imposed on the designated property and designated groundwater:

- (1) The potable use of the designated groundwater from beneath the designated property is prohibited.
- (2) The potable use of the designated groundwater from beneath public rights-of-way adjacent to the designated property is prohibited.
- (3) The portion of the designated property assigned VCP No. 2174 must receive a certificate of completion from the Texas Commission on Environmental Quality Voluntary Cleanup Program by no later than November 10, 2010.

SECTION 7. That the city council supports the application to the Texas Commission on Environmental Quality for a municipal setting designation on the designated property, with the following comments: The Texas Commission on Environmental Quality, as the state agency chartered to protect human health and the environment, is requested to thoroughly review the conditions on the designated property and issue a certificate of completion only when all contaminants of concern, through the applicable routes of exposure, have been addressed.

SECTION 8. That the public rights-of-way immediately adjacent to the designated property must be included, at no additional cost to the city of Dallas, in the application to the Texas Commission on Environmental Quality.

SECTION 9. That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal and state laws and regulations; all ordinances, rules, and regulations of the city of Dallas; and all environmental regulations, and that this municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

SECTION 10. That any person owning, operating, or controlling any portion of the designated property is responsible for ensuring compliance with this ordinance with respect to their portion of the designated property. Allowing use of designated groundwater for potable purposes or failure to provide the director of development services with required documentation is a violation of this ordinance and may result in the ordinance being repealed for that portion of the designated property.

SECTION 11. That approval of this municipal setting designation ordinance shall not be construed to subject the city of Dallas to any responsibility or liability for any injury to persons or damages to property caused by any contaminant of concern.

SECTION 12. That within 30 days after adoption of this municipal setting designation ordinance, the applicant shall provide the director of development services with an electronic file showing the location of the designated property and the designated groundwater in a format compatible with the city of Dallas' geographic information system.

SECTION 13. That within 60 days after adoption of this municipal setting designation ordinance, the director of development services shall file a certified copy of this municipal setting designation ordinance in the deed records of the county where the designated property is located.

SECTION 14. That within 60 days after adoption of this municipal setting designation ordinance, the director of development services shall send a certified copy of this municipal setting designation ordinance to the applicant and the Texas Commission on Environmental Quality, and that the director of development services shall notify the Texas Commission on Environmental Quality 60 days prior to any amendment or repeal of this municipal setting designation ordinance.

SECTION 15. That the applicant shall provide the director of development services with a copy of the municipal setting designation certificate issued by the Texas Commission on Environmental Quality pursuant to Section 361.807 of the Texas Health and Safety Code within 30 days after issuance of the certificate.

SECTION 16. That the applicant shall provide the director of development services with a copy of the certificate of completion or other documentation issued by the Texas Commission on Environmental Quality showing that any site investigations and response actions required pursuant to Section 361.808 of the Texas Health and Safety Code have been completed to the satisfaction of the Texas Commission on Environmental Quality within the time period required. The director of development services may, for good cause, extend the time for submitting the documentation.

SECTION 17. That the applicant shall notify the director of development services in writing if the applicant determines that notice is required to be sent to an owner of other property beyond the boundaries of the designated property under Title 30 Texas Administrative Code, Chapter 30, Section 350.55(b), and provide the name of the property owner, the property address, and a copy of the notice sent to the property owner.

SECTION 18. That the director of development services shall correct Zoning District Map No. J-7 in the offices of the city secretary, the building official, and the department of development services to reflect the imposition of this municipal setting designation ordinance on the designated property and the designated groundwater.

SECTION 19. That a person violating a provision of this municipal setting designation ordinance, upon conviction, is punishable by a fine not to exceed \$2,000, and that the Texas Commission on Environmental Quality shall be notified of any violations.

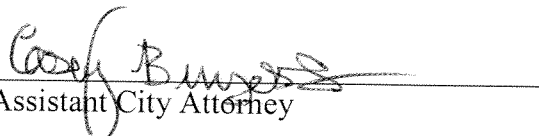
SECTION 20. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this municipal setting designation ordinance.

SECTION 21. That the terms and provisions of this municipal setting designation ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 22. That this municipal setting designation ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By 
Assistant City Attorney

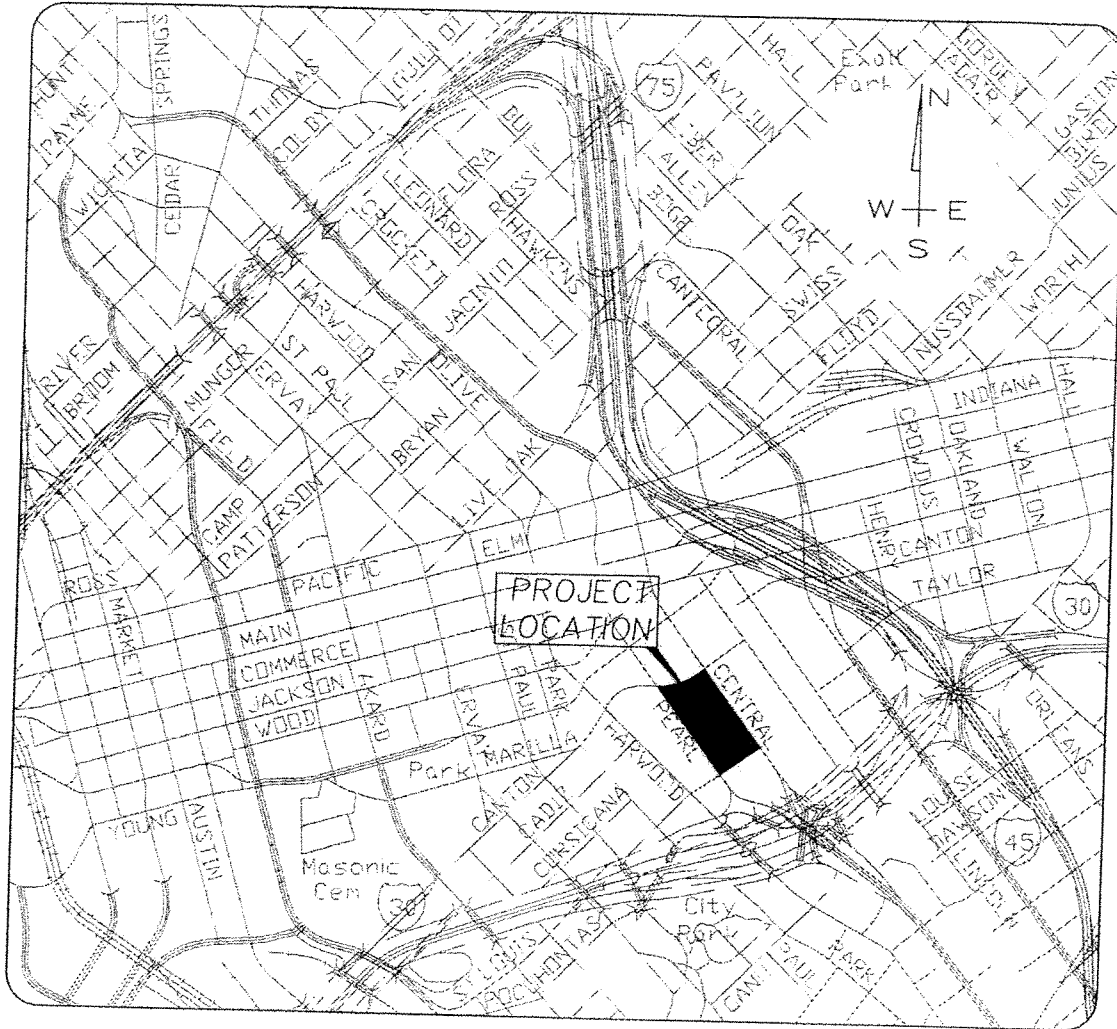
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Exhibit A

SHEET 1 OF 3

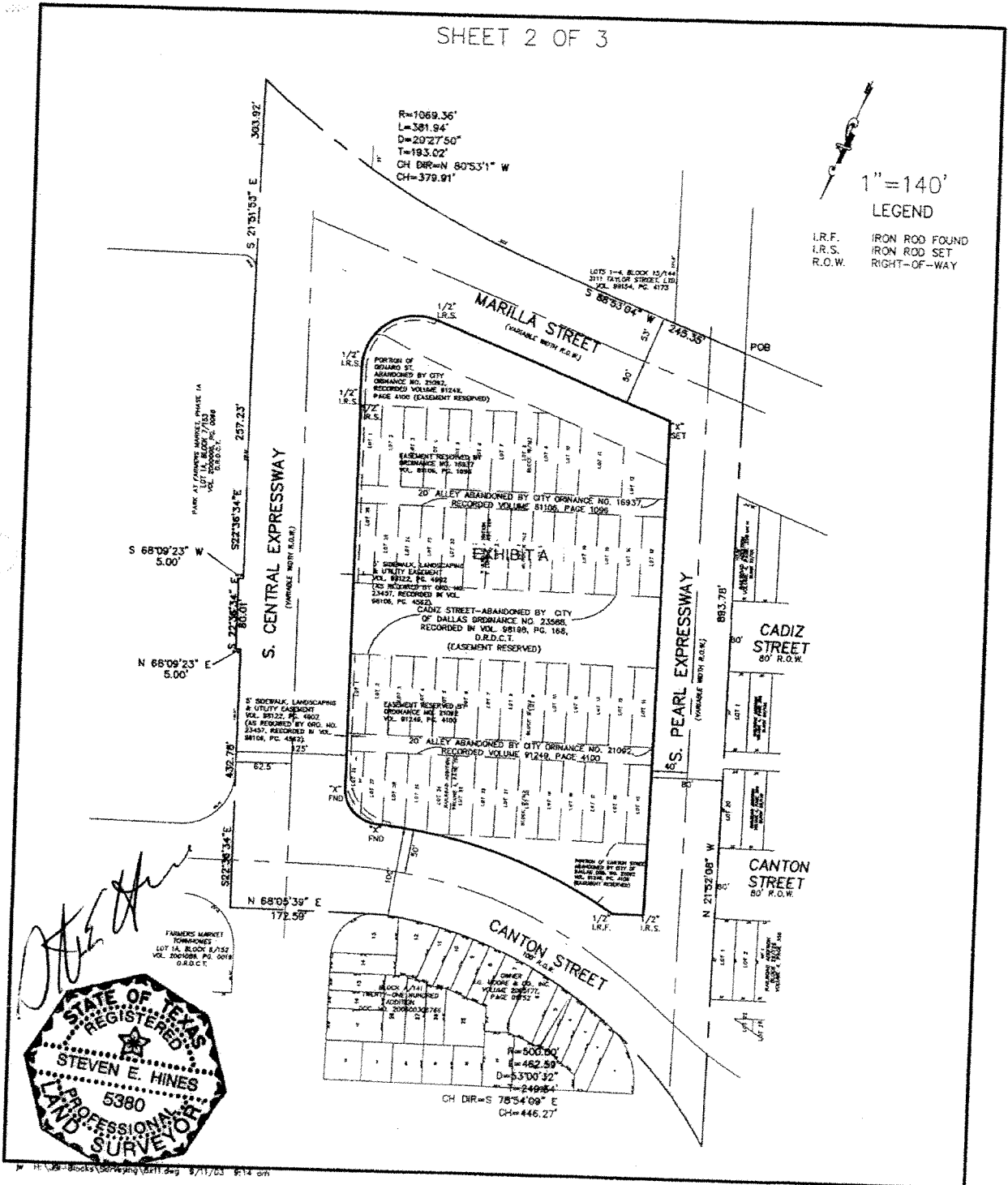


VICINITY MAP

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SHEET 2 OF 3



SHEET 3 OF 3

LEGAL DESCRIPTION

BEING a tract of land situated in the John Grigsby Survey, Abstract No. 495, City of Dallas, Dallas County, Texas, and being all of Lots 1-28, Block 17/142 and Lots 1-26, Block 16/143, Railroad Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat filed for record in Volume 4, Page 350, of the Map Records of Dallas County, Texas, and all of that certain portion of Canton Street, Marilla Street and two 20 foot wide alleys, abandoned by City of Dallas Ordinances recorded in Volume 91249, Page 4100 and Volume 81106, Page 1096 of the Deed Records of Dallas County, Texas, and a portion of Cadiz Street abandoned by City of Dallas Ordinance No. 23588, as recorded in Volume 98198, Page 168, Deed Records, Dallas County, Texas, being all of that called 4.4832 acre tract of land described in Deed to 2100 Downtown Condo, LLC as recorded in Document No. 200600365413, Deed Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at a point at the intersection of the south line of Marilla Street (a variable width right-of-way) and the west line of South Pearl Expressway (a variable width right-of-way);

THENCE North 21 degrees 52 minutes 8 seconds West, along the westerly right-of-way line of said South Pearl Expressway, a distance of 893.78 feet to a point for corner at the intersection of the westerly right-of-way line of said South Pearl Expressway and the norththerly right-of-way line of Canton Street (a 100 foot wide right-of-way).

THENCE along the northerly right-of-way line of said Canton Street as follows:

Southeasterly, 462.59 feet along a non-tangent curve to the left having a radius of 500.00 feet, a central angle of 53 degrees 00 minutes 32 seconds, and a chord bearing and distance of South 78 degrees 54 minutes 09 seconds East, 446.27 feet to a point for corner;

North 68 degrees 05 minutes 39 seconds East, a distance of 172.59 feet to a point for corner in the east line of South Central Expressway (a variable width right of way);

THENCE along said east line of said South Central Expressway as follows:

South 22 degrees 36 minutes 34 seconds East, a distance of 292.47 feet to a point for corner;

North 68 degrees 09 minutes 23 seconds East, a distance of 5.00 feet to a point for corner;

South 22 degrees 36 minutes 34 seconds East, a distance of 80.01 feet to a point for corner;

South 68 degrees 09 minutes 23 seconds West, a distance of 5.00 feet to a point for corner;

South 22 degrees 36 minutes 34 seconds East, a distance of 257.23 feet to a point for corner;

South 21 degrees 51 minutes 53 seconds East, a distance of 303.92 feet to a point for corner at the intersection of the south line of said Marilla Street;

THENCE along the south line of said Marilla Street as follows:

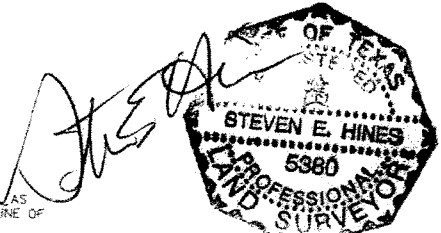
Northwesterly, 381.94 feet along a tangent curve to the left having a radius of 1069.36 feet, a central angle of 20 degrees 27 minutes 50 seconds, and a chord which bears North 80 degrees 53 minutes 01 seconds West, 379.91 feet to a point for corner;

South 88 degrees 53 minutes 04 seconds West, a distance of 245.35 feet to the POINT OF BEGINNING and containing 454,698 square feet or 10.438 acres of land.

"This document was prepared under 22 TAC 663.23, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

NOTES:

1. BEARINGS BASED ON DEED TO 2100 DOWNTOWN CONDOMINIUMS, LLC, AS RECORDED IN DOCUMENT NO. 200600365413, EAST RIGHT-OF-WAY LINE OF PEARL EXPRESSWAY HELD AS N 21°51'56" W.



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