

ORDINANCE NO. 27408

A municipal setting designation ordinance prohibiting the use of designated groundwater from beneath property generally located at 2504, 2506, 2514, 2518, 2522, 2602, 2606, and 2610 Bomar Avenue; 6010 Forest Park Road; and 5919, 5925, and 6102 Maple Avenue 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 Nos. 2162 and 2184 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. H-6 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 Cathy Blyss  
Assistant City Attorney

Passed NOV 10 2008

27408

083114

BEING A 17.310 ACRE TRACT OF LAND LOCATED IN THE MILES BENNETT SURVEY, ABSTRACT NO. 52, DALLAS COUNTY, TEXAS AND BEING ALL OF A TRACT OF LAND DESCRIBED IN DEED TO RCC MAPLE, LTD., RECORDED IN INSTRUMENT NO. 20080127751, DEED RECORDS, DALLAS COUNTY, TEXAS, BEING ALL OF LOT 23-A, BLOCK D/2370, FOREST PARK ADDITION, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 241, PAGE 41, MAP RECORDS, DALLAS COUNTY, TEXAS, BEING A PORTION OF BLOCK 2488, MAPLE VIEW ADDITION, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 3, PAGE 311, MAP RECORDS, DALLAS COUNTY, TEXAS, AND BEING ALL OF A TRACT OF LAND DESCRIBED IN DEED TO TOMAINO PROPERTIES, L.P., RECORDED IN INSTRUMENT NO. 200600227192, DEED RECORDS, DALLAS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FOR CORNER IN THE SOUTHWEST LINE OF FOREST PARK, A 70 FOOT WIDE PUBLIC RIGHT-OF-WAY, SAID POINT ALSO BEING IN THE NORTHEAST LINE OF A TRACT OF LAND DESCRIBED IN DEED TO THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM, ALSO KNOWN AS THE UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL CENTER AT DALLAS, RECORDED IN VOLUME 88039, PAGE 1016, DEED RECORDS, DALLAS COUNTY, TEXAS;

THENCE NORTH 45°00'13" EAST, PASSING OVER AND ACROSS SAID FOREST PARK, AND PASSING AT A DISTANCE OF 70.00 FEET THE COMMON WEST CORNER OF SAID LOT 23-A AND LOT 17A, BLOCK D/2370 OF FOREST PARK ADDITION, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 87109, PAGE 2372, PLAT RECORDS, DALLAS COUNTY, TEXAS, AND CONTINUING FOR A TOTAL DISTANCE OF 1,322.29 FEET TO A POINT FOR CORNER IN THE COMMON LINE OF SAID LOT 17A AND SAID RCC MAPLE, LTD. TRACT, SAID POINT ALSO BEING IN THE SOUTH LINE OF MAPLE AVENUE, A 60 FOOT WIDE PUBLIC RIGHT-OF-WAY, FROM WHICH THE NORTH CORNER OF SAID RCC MAPLE, LTD. TRACT BEARS, NORTH 45°00'13" EAST, A DISTANCE OF 2.00 FEET;

THENCE NORTH 44°43'41" WEST, ALONG THE COMMON LINE OF SAID LOT 17A AND SAID MAPLE AVENUE, A DISTANCE OF 471.87 FEET TO A POINT FOR CORNER IN THE COMMON LINE OF SAID LOT 17A AND SAID MAPLE AVENUE;

THENCE NORTH 45°09'01" EAST, PASSING OVER AND ACROSS SAID MAPLE AVENUE, AND CONTINUING ALONG THE COMMON LINE OF LOTS 1-4, BLOCK 2/2499 OF MAPLE VIEW ADDITION, SECOND INSTALLMENT, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 4, PAGE 81, MAP RECORDS, DALLAS COUNTY, TEXAS AND BOMAR AVENUE, A 50 FOOT WIDE PUBLIC RIGHT-OF-WAY, A DISTANCE OF 616.41 FEET TO A POINT IN THE COMMON LINE OF SAID BOMAR AVENUE AND BLOCK 2/2499, MAPLE VIEW ADDITION, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 3, PAGE 311, MAP RECORDS, DALLAS COUNTY, TEXAS, SAID POINT ALSO BEING THE COMMON SOUTH CORNER OF LOTS 9 AND 10 OF SAID BLOCK 2/2499, MAPLE VIEW ADDITION;

THENCE SOUTH 44°50'59" EAST, PASSING OVER AND ACROSS SAID BOMAR AVENUE, A DISTANCE OF 176.05 FEET, TO A POINT IN THE COMMON LINE OF SAID BLOCK 2488, MAPLE VIEW ADDITION AND A TRACT OF LAND DESCRIBED IN DEED TO ROD MAR CORP, INC., RECORDED IN VOLUME 88237, PAGE 2258, DEED RECORDS, DALLAS COUNTY, TEXAS, SAID POINT ALSO BEING THE COMMON SOUTH CORNER OF SAID LOTS 9 AND 10 OF SAID BLOCK 2488, MAPLE VIEW ADDITION;

THENCE SOUTH 45°56'52" WEST, ALONG THE COMMON LINE OF SAID BLOCK 2488, MAPLE VIEW ADDITION AND SAID ROD MAR CORP, INC. TRACT, A DISTANCE OF 60.66 FEET TO A POINT AT THE COMMON CORNER OF LOTS 8 AND 9 OF SAID BLOCK 2488, MAPLE VIEW ADDITION, SAID ROD MAR CORP, INC. TRACT, AND SAID TOMAINO PROPERTIES, L.P. TRACT;

THENCE SOUTH 44°50'59" EAST, ALONG THE COMMON LINE OF SAID ROD MAR CORP, INC. TRACT AND SAID TOMAINO PROPERTIES, L.P. TRACT, A DISTANCE OF 228.69 FEET TO A POINT AT THE COMMON SOUTH CORNER OF SAID ROD MAR CORP, INC. TRACT AND SAID TOMAINO PROPERTIES, L.P. TRACT, SAID POINT ALSO BEING IN THE NORTH LINE OF A TRACT OF LAND DESCRIBED IN DEED TO JLB MAPLE PARTNERS, L.P., RECORDED IN INSTRUMENT NO. 20080018681, DEED RECORDS, DALLAS COUNTY, TEXAS;

THENCE SOUTH 45°11'18" WEST, ALONG THE COMMON LINE OF SAID TOMAINO PROPERTIES, L.P. TRACT AND SAID JLB MAPLE PARTNERS, L.P. TRACT, A DISTANCE OF 494.62 FEET TO A POINT AT THE COMMON SOUTH CORNER OF SAID TOMAINO PROPERTIES, L.P. TRACT AND SAID JLB MAPLE PARTNERS, L.P. TRACT, SAID POINT ALSO BEING IN THE NORTHEAST LINE OF SAID MAPLE AVENUE;

THENCE SOUTH 44°43'41" EAST, ALONG THE COMMON LINE OF SAID JLB MAPLE PARTNERS, L.P. TRACT AND SAID MAPLE AVENUE, A DISTANCE OF 567.06 FEET TO A POINT FOR CORNER AT THE INTERSECTION OF SAID MAPLE AVENUE WITH THE APPROXIMATE CENTERLINE OF KIMSEY AVENUE, A 50 FOOT WIDE PUBLIC RIGHT-OF-WAY;

THENCE SOUTH 45°00'13" WEST, PASSING OVER AND ACROSS SAID MAPLE AVENUE, AND ALSO PASSING AT A DISTANCE OF 60.00 FEET, THE EAST CORNER OF SAID RCC MAPLE, LTD. TRACT, AND CONTINUING FOR A TOTAL DISTANCE OF 623.62 FEET, TO A POINT AT THE MOST SOUTHERLY CORNER OF SAID RCC MAPLE, LTD. TRACT, SAID POINT BEING IN THE WESTERLY LINE OF A TRACT OF LAND DESCRIBED IN DEED TO OPEN ARMS, INC., RECORDED IN VOLUME 99097, PAGE 4667, DEED RECORDS, DALLAS COUNTY, TEXAS;

THENCE NORTH 43°51'51" WEST, ALONG THE COMMON LINE OF SAID RCC MAPLE, LTD. TRACT AND SAID OPEN ARMS, INC. TRACT, A DISTANCE OF 250.03 FEET TO A POINT AT THE COMMON CORNER OF SAID RCC MAPLE, LTD. TRACT AND SAID OPEN ARMS, INC. TRACT;

THENCE SOUTH 45°00'13" WEST, CONTINUING ALONG THE COMMON LINE OF SAID RCC MAPLE, LTD. TRACT AND SAID OPEN ARMS, INC. TRACT, PASSING AT A DISTANCE OF 119.88 FEET THE COMMON CORNER OF SAID RCC MAPLE, LTD. TRACT AND SAID LOT 23-A, PASSING AGAIN AT A DISTANCE OF 631.28 FEET THE COMMON SOUTH CORNER OF SAID LOT 23-A AND SAID OPEN ARMS, INC. TRACT, AND CONTINUING FOR A TOTAL DISTANCE OF 701.28 FEET TO A POINT FOR CORNER IN THE COMMON LINE OF SAID BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM TRACT AND SAID FOREST PARK;

THENCE NORTH 44°59'47" WEST, ALONG THE COMMON LINE OF SAID BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM TRACT AND SAID FOREST PARK, A DISTANCE OF 248.94 FEET TO THE POINT OF BEGINNING AND CONTAINING 754,038 ACRES OR 17.310 ACRES OF LAND.

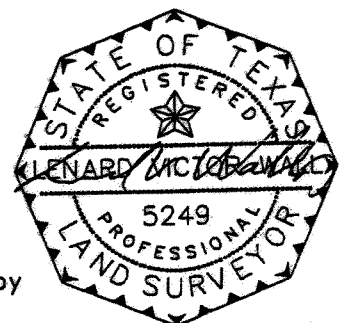
**EXHIBIT A**  
**Municipal Setting**  
**Designation**

SHEET 1 OF 2

**p i a r s**  
**ENGINEERING**  
738 E. Park Blvd., Suite 218 Plano, TX 75074  
(972) 422-9077 Fax (972) 422-9075

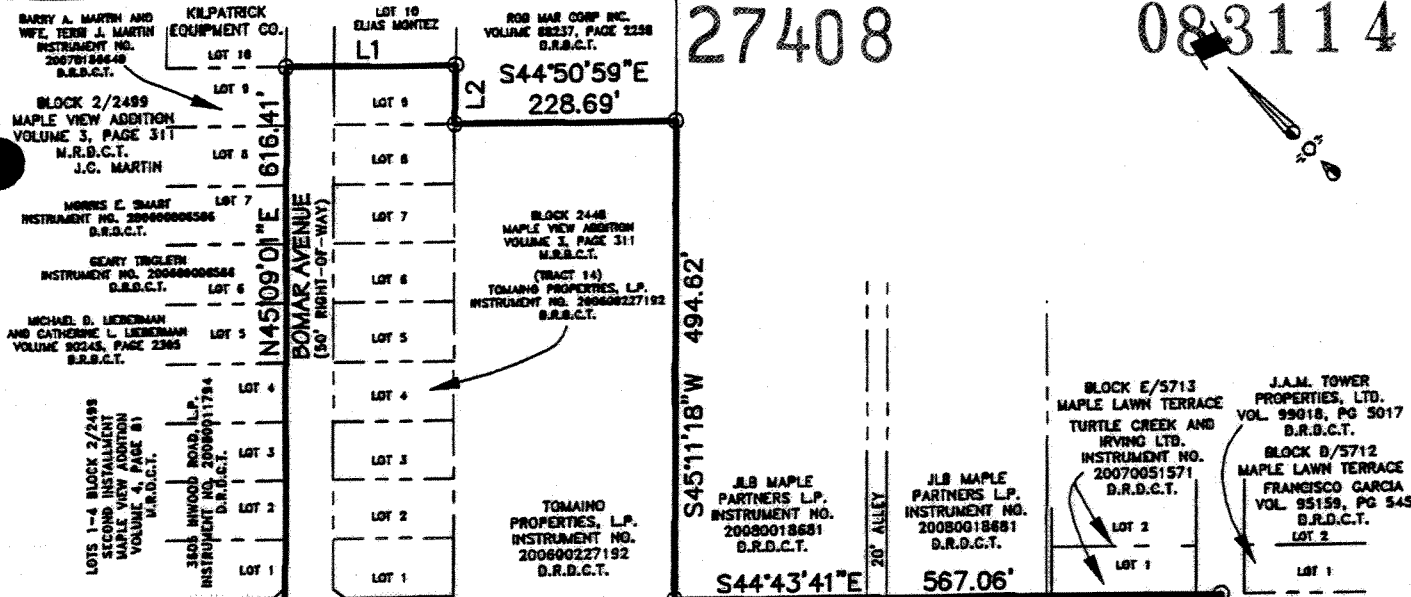
DRAWN BY	CHECKED BY	SCALE	DATE	JOB NO.
MP	LWV	1"=200'	17JUNE08	08-011

A Survey plat of even date hereby accompanies this description.



27408

083114



N44°43'41"W 471.87'

MAPLE AVENUE (60' RIGHT-OF-WAY)

LOT 17A, BLOCK D/2370  
FOREST PARK ADDITION REPLAT  
VOL. 87109, PG. 2372  
P.R.D.C.T.

17.310 ACRES OF LAND  
(754,038 SQUARE FEET)

N45°00'13"E 1,322.29'

N43°51'51"W 250.03'

OPEN ARMS INC.  
VOL. 99097, PG. 4667  
D.R.D.C.T.

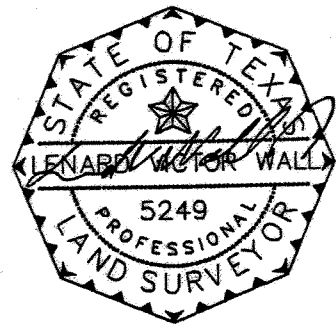
LOT 23-A, BLOCK D/2370  
FOREST PARK ADDITION  
VOL. 241, PG. 41  
M.R.D.C.T.

S45°00'13"W 701.28'

POINT OF BEGINNING

N44°59'47"W 248.94'

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM  
(THE UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL CENTER AT DALLAS)  
VOLUME 88039, PAGE 1018  
D.R.D.C.T.



A legal description of even date herby accompanies this Plat.

BOUNDARY LINE TABLE

L1	S44°50'59"E	176.05'
L2	S45°56'52"W	60.66'

EXHIBIT A  
Municipal Setting  
Designation

SHEET 2 OF 2

**piars**  
ENGINEERING

738 E. Park Blvd., Suite 210 Plano, TX 75074  
(972) 422-0077 Fax (972) 422-0075

DRAWN BY	CHECKED BY	SCALE	DATE	JOB NO.
MP	LWV	1"=200'	17JUNE08	08-011