

ORDINANCE NO. 28276

An ordinance amending Ordinance No. 27909, passed by the Dallas City Council on June 9, 2010, which established a municipal setting designation on property generally located at 11344 Plano Road; providing a new Exhibit A to reflect the expansion of the municipal setting designation to include DART right-of-way abutting the existing municipal setting designation; providing a new completion date; changing all references to the director of sustainable development and construction to the managing director of the office of environmental quality; deleting Section 19; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

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 amendment to Ordinance No. 27909; and

WHEREAS, the city council finds that it is in the public interest to amend Ordinance No. 27909; Now, Therefore,

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

SECTION 1. That Section 6 of Ordinance No. 27909 is amended to read as follows:

“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. 1839 must receive a certificate of completion from the Texas Commission on Environmental Quality Voluntary Cleanup Program by no later than June 22, 2015 [~~June 9, 2014~~].”

SECTION 2. That Section 9 of Ordinance No. 27909 is amended to read as follows:

“SECTION 9. That a state or federal program must address the entire non-ingestion protective concentration level exceedance zone, if any, originating from sources on the designated property or migrating from the designated property no later than June 22, 2015 [~~June 9, 2014~~]. That within this time period, the applicant shall provide the managing director of the office of environmental quality [~~director of sustainable development and construction~~] documentation, including a certificate of completion from the Texas Commission on Environmental Quality, that it has been addressed to the satisfaction of the agency administering the program. If it has not been addressed, the managing director of the office of environmental quality [~~director of sustainable development and construction~~] may, for good cause, take any of the following actions:

- (1) allow additional time to address the non-ingestion protective concentration level exceedance zone;
- (2) request a review by the Texas Commission on Environmental Quality or the agency administering the program;
- (3) recommend to the city council that this municipal setting designation ordinance be repealed;
- (4) request additional information or documentation from the applicant; or
- (5) pursue other actions that the managing director of the office of environmental quality [~~director of sustainable development and construction~~] believes may be warranted.”

SECTION 3. That Section 11 of Ordinance No. 27909 is amended to read as follows:

“SECTION 11. 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 ground water for potable purposes or failure to provide the managing director of the office of environmental quality [~~director of sustainable development and construction~~] 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 4. That Section 13 of Ordinance No. 27909 is amended to read as follows:

“SECTION 13. That within 30 days after adoption of this municipal setting designation ordinance, the applicant shall provide the managing director of the office of environmental quality [~~director of sustainable development and construction~~] 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 5. That Section 14 of Ordinance No. 27909 is amended to read as follows:

“SECTION 14. That within 60 days after adoption of this municipal setting designation ordinance, the managing director of the office of environmental quality [~~director of sustainable development and construction~~] 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 6. That Section 15 of Ordinance No. 27909 is amended to read as follows:

“SECTION 15. That within 60 days after adoption of this municipal setting designation ordinance, the managing director of the office of environmental quality [~~director of sustainable development and construction~~] shall send a certified copy of this municipal setting designation ordinance to the applicant and the Texas Commission on Environmental Quality, and that the managing director of the office of environmental quality [~~director of sustainable development and construction~~] shall notify the Texas Commission on Environmental Quality 60 days prior to any amendment or repeal of this municipal setting designation ordinance.”

SECTION 7. That Section 16 of Ordinance No. 27909 is amended to read as follows:

“SECTION 16. That the applicant shall provide the managing director of the office of environmental quality [~~director of sustainable development and construction~~] 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 8. That Section 17 of Ordinance No. 27909 is amended to read as follows:

“SECTION 17. That the applicant shall provide the managing director of the office of environmental quality [~~director of sustainable development and construction~~] 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 managing director of the office of environmental quality [~~director of sustainable development and construction~~] may, for good cause, extend the time for submitting the documentation.”

SECTION 9. That Section 18 of Ordinance No. 27909 is amended to read as follows:

“SECTION 18. That the applicant shall notify the managing director of the office of environmental quality ~~[director of sustainable development and construction]~~ 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 10. That Section 19 of Ordinance No. 27909 is deleted to read as follows:

~~“[SECTION 19. That the director of sustainable development and construction shall correct Zoning District Map No. E 10 in the offices of the city secretary, the building official, and the department of sustainable development and construction to reflect the imposition of this municipal setting designation ordinance on the designated property and the designated groundwater.]”~~

SECTION 11. That Exhibit A attached to Ordinance No. 27909 is replaced by Exhibit A attached to this ordinance.

SECTION 12. 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 13. That Chapter 51A of the City of Dallas shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 14. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

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SECTION 15. That this ordinance shall take effect immediately from and after its passage and publication, in accordance with 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

Passed

JUN 22 2011

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FIELD NOTE DESCRIPTION

STATE OF TEXAS
COUNTY OF DALLAS

BEING a tract of land situated in the T. McCRAVE SURVEY, Abstract No. 959 and being a tract of land conveyed to Delta Solvents and being a portion PLANO ROAD (100' Right-of-Way), TURBEVILLE ROAD (60' Right-of-Way) and the DALLAS AREA RAPID TRANSIT RAILWAY (variable width Right-of-Way) and being more particularly described as follows;

BEGINNING at a capped $\frac{1}{2}$ inch iron rod found stamped "5310" at the most southwesterly corner of a tract of land conveyed to "E" Investments, LTD as recorded in Instrument No. 200600456544 of the Deed Records of Dallas County, Texas (DRDCT), said point being found in the northerly Right-of-Way line of the said DALLAS AREA RAPID TRANSIT RAILWAY;

THENCE along the southerly line of said "E" Investments, LTD tract North 69 deg 49 min 38 sec East a distance of 275.03 feet to the most southeasterly corner of said "E" Investments, LTD tract;

THENCE departing the southerly line of said "E" Investments, LTD tract and going across the said DALLAS AREA RAPID TRANSIT RAILWAY South 00 deg 00 min 51 sec East a distance of 149.35 feet to a point for corner in the southerly Right-of-Way line of the said DALLAS AREA RAPID TRANSIT RAILWAY, said point being in the northerly line of a tract of land conveyed to WM. Cameron & Co. as recorded in Volume 91247, Page 5408 (DRDCT);

THENCE along the southerly Right-of-Way line of said DALLAS AREA RAPID TRANSIT RAILWAY South 69 deg 53 min 27 sec West passing through a Metal Pipe found at the most northwesterly corner of said WM. Cameron & Co. tract at a distance of 803.03 feet said point being found in the easterly Right-of-Way line of said PLANO ROAD continuing across said PLANO ROAD a total distance of 909.72 feet to a point for corner in the westerly Right-of-Way line of said PLANO ROAD;

THENCE going across the said DALLAS AREA RAPID TRANSIT RAILWAY North 00 deg 21 min 59 sec East a distance of 116.53 feet to a point for corner in the westerly Right-of-Way line of said PLANO ROAD;

THENCE going across said PLANO ROAD North 74 deg 51 min 58 sec East a distance of 103.79 feet to the most southwesterly corner of a tract of land conveyed to the County of Dallas as recorded in Volume 99124, Page 5464 (DRDCT), said point being the intersection of the easterly Right-of-Way line of said PLANO ROAD and the northerly Right-of-Way line of the said DALLAS AREA RAPID TRANSIT RAILWAY;

THENCE along the southerly line of said County of Dallas tract North 69 deg 58 min 05 sec East a distance of 261.94 feet to the beginning of a non-tangent curve to the left having a radius of 366.98 feet and having a chord bearing of North 28 deg 27 min 13 sec East and having a chord length of 233.00 feet;

THENCE continuing along said non-tangent curve to the left through a central angle of 37 deg 01 min 06 sec and an arc length of 237.10 feet to a point for corner;

THENCE North 00 deg 23 min 24 sec East a distance of 54.34 feet to a $\frac{1}{2}$ inch iron rod found for the most northeasterly corner of LOT 1, BLOCK A/8061 of the Jessie James Addition, an addition to the City of Dallas as recorded in Volume 70076, Page 1024 (DRDCT);



Scale : 1"=200'
Date : 6/8/08
Design : WAI
Drawn : WAI
Dwg. File : 47709MSD.DWG
Project No. : 47708.00

ARCADIS
840 PLAZA DRIVE, STE 130
HIGHLANDS RANCH, CO 80129

EXHIBIT "A"
MSD AREA SURVEY
6.308 ACRES

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THENCE along the northerly line of said LOT 1, BLOCK A/8061 North 89 deg 56 min 36 West passing the easterly Right-of-Way line of said PLANO ROAD at a distance of 355.10 feet continuing across said PLANO ROAD for a total distance of 455.10 feet to a point for corner in the westerly Right-of-Way line of said PLANO ROAD;

THENCE along the westerly Right-of-Way line of said PLANO ROAD North 00 deg 23 min 24 sec East a distance of 244.32 feet to a point for corner;

THENCE going across said PLANO ROAD South 89 deg 36 min 36 sec East a distance of 100.00 feet to a point for corner at the north end of a corner-clip;

THENCE along said corner-clip South 44 deg 47 min 17 sec East a distance of 14.10 feet to the south end of said corner-clip, said point being in the northerly Right-of-Way line of said TURBEVILLE ROAD;

THENCE along the northerly Right-of-Way line of said TURBEVILLE ROAD South 89 deg 57 min 59 sec East a distance of 481.45 feet to a point for corner;

THENCE South 00 deg 02 min 38 sec West across said TURBEVILLE ROAD passing through the most northwesterly corner of said "E" Investments, LTD tract at a distance of 60.00 feet continuing in all a distance of 359.06 feet to the POINT OF BEGINNING;

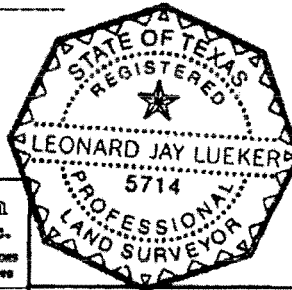
CONTAINING within these metes and bounds 6.308 acres or 274,757 square feet of land more or less. Bearings cited herein are based upon an on the ground survey performed in the field on the 4th day of June, 2009 utilizing a GPS north (WGS84) measurement.

SURVEYORS CERTIFICATE

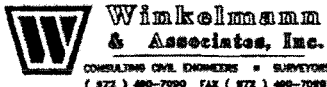
The undersigned hereby certifies the above field note description was prepared from an on the ground survey performed in the field 4th day of July, 2009 under the supervision of the undersigned and that the field note description forms a mathematical figure of 1:15,000.

DATE:

8/4/10



Leonard J. Lueker
Registered Professional Land Surveyor
Texas Registration No. 5714
Winkelmann & Associates, Inc.
6750 Hillcrest Plaza Drive, Suite 325
Dallas, Texas 75230
(972) 490-7090



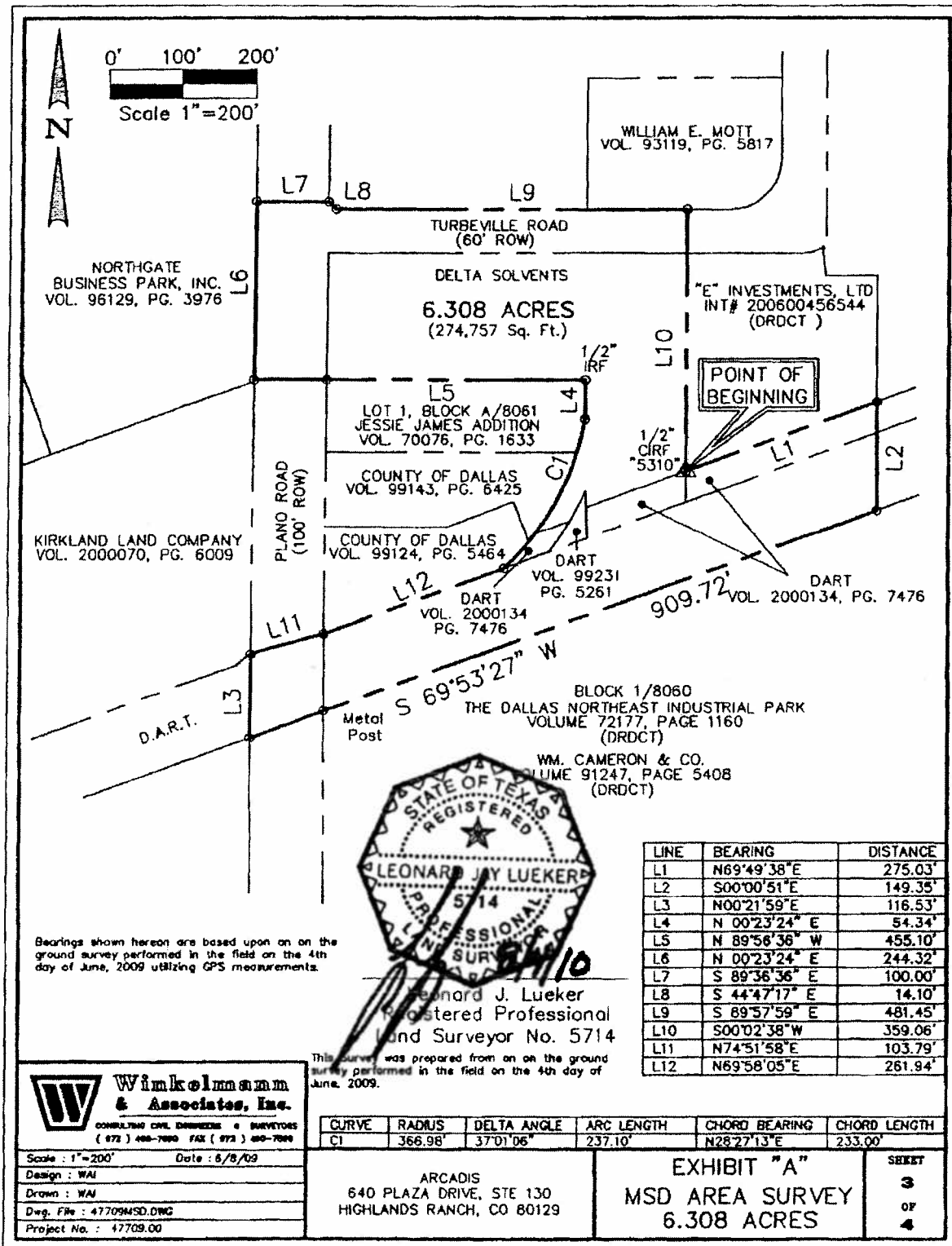
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EXHIBIT "A"
MSD AREA SURVEY
6.308 ACRES

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