

09-23-15

ORDINANCE NO. 29903

A municipal setting designation ordinance prohibiting the use of designated groundwater from beneath property generally located at 2913 Fairmount Street, 2401 Cedar Springs Road, and 2811 Maple Avenue and supporting issuance of a municipal setting designation certificate 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 included in 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 included in the designated property is prohibited.
- (3) The portion of the designated property assigned VCP No. 2711 must receive a certificate of completion from the Texas Commission on Environmental Quality by no later than October 14, 2017.

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:

- (1) 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 of 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 a state or federal program must address the entire non-ingestion protective concentration level exceedence zone originating from sources on the designated property or migrating from the designated property no later than October 14, 2017. That within this time period, the applicant shall provide the managing director of the office of environmental quality 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 may, for good cause, take any of the following actions:

- (1) allow additional time to address the non-ingestion protective concentration level exceedence 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 believes may be warranted.

SECTION 10. 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 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 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 12. 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 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 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 14. That within 60 days after adoption of this municipal setting designation ordinance, the managing director of the office of environmental quality 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 15. That within 60 days after adoption of this municipal setting designation ordinance, the managing director of the office of environmental quality 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 shall notify the Texas Commission on Environmental Quality 60 days prior to any amendment or repeal of this municipal setting designation ordinance.

SECTION 16. That the applicant shall provide the managing director of the office of environmental quality 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 17. That the applicant shall provide the managing director of the office of environmental quality 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 may, for good cause, extend the time for submitting the documentation.

SECTION 18. That the applicant shall notify the managing director of the office of environmental quality 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 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.

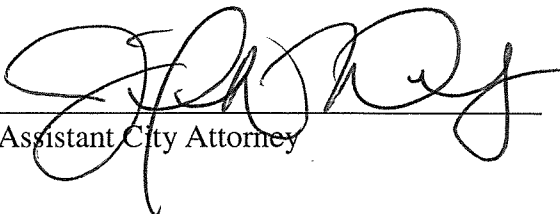
SECTION 20. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this municipal setting designation ordinance.

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:

WARREN M.S. ERNST, City Attorney

By 
Assistant City Attorney

Passed OCT 14 2015

LEGAL DESCRIPTION
DESIGNATED PROPERTY
MUNICIPAL SETTING DESIGNATION BOUNDARY

4.200 Acre Tract Being All of Lot 4A, Block 6/943 of Thomas Maple Addition,
Lot 1A, Block 5/944 of North Dallas Improvement Company Replat and
Lot 2A, Block 7/944 of Pillsbury Peters Fine Art Addition and Portions of
Cedar Springs Road, Maple Avenue, Fairmount Street and an Alley Right of Way
City of Dallas, Callas County, Texas

BEING a tract of land situated in the John Grigsby Survey, Abstract No. 495, City of Dallas, Dallas County, Texas, said tract being all of Lot 4A, Block 6/943 of Thomas Maple Addition, an addition to the City of Dallas, Texas according to the map thereof recorded in Volume 96199, Page 1460, Deed Records of Dallas County, Texas, all of Lot 1A, Block 5/944 of Replat of Part of Lots 1 – 4 and all of Lots 5 - 7, Block 5/944 of North Dallas Improvement Company Addition according to the map recorded in Volume 88143, Page 2123, Deed Records of Dallas County, Texas, all of Lot 2A, Block 7/944 of Pillsbury Peters Fine Art Addition according to the map thereof recorded in Volume 2000180, Page 1705, Deed Records of Dallas County, Texas and portions of Cedar Springs Road, Maple Avenue, Fairmount Street, a portion of 20 foot Alley right of way between Block 6/943 and Block 1/942 and a portion of a 16 foot Alley right of way all created by the map of North Dallas Improvement Company Addition as recorded in Volume 106, Page 258, Deed Records of Dallas County, Texas; said Lot 4A conveyed to Guidestone Financial Resources of The Southern Baptist Convention by Special Warranty Deed recorded in Instrument Number 201400088631, Official Public Records of Dallas County, Texas, said Lot 1A conveyed to Annuity Board of The Southern Baptist Convention by Special Warranty Deed recorded in Volume 91251, Page 4252, Deed Records of Dallas County, Texas, and said Lot 2A conveyed to Guidestone Financial Resources of The Southern Baptist Convention by Special Warranty Deed recorded in Instrument Number 201300350313, Official Public Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a found 5/8 inch iron rod for a corner in the southwest line of Maple Avenue (a 70 foot right of way), said point being the north corner of said Lot 4A and the west corner of Lot 1D, Block 2/933 of Cedar/Maple 2nd Revision as recorded in Volume 2000005, Page 76, deed Records of Dallas county, Texas;

THENCE, S 44°20'00" W, departing the southwest line of Maple Avenue and with the common line of said Lots 4A and 1D, passing at a distance of 190.20 feet the north corner of Lot 1C, Block 2/933 of the said Cedar/Maple 2nd Revision, passing at a distance of 256.00 feet the south corner of said Lot 4A, continuing in all a distance of 276.00 feet to a point for a corner in the northeast line of the above said 20 foot Alley right of way;

THENCE, N 45°40'00" W, crossing the said Alley right of way, passing at a distance of 20 feet the east corner of Lot 1A, Block 1/942 of Crescent West Addition as recorded in Volume 2004118, Page 42, Deed Records of Dallas County, Texas, continuing in all a distance of 120.00 feet to a point for a corner;

LEGAL DESCRIPTION (continued)
DESIGNATED PROPERTY
MUNICIPAL SETTING DESIGNATION BOUNDARY
4.200 Acre Tract Being All of Lot 4A, Block 6/943 of Thomas Maple Addition,
Lot 1A, Block 5/944 of North Dallas Improvement Company Replat and
Lot 2A, Block 7/944 of Pillsbury Peters Fine Art Addition and Portions of
Cedar Springs Road, Maple Avenue, Fairmount Street and an Alley Right of Way
City of Dallas, Callas County, Texas

THENCE, N 44°20'00" E, crossing the said Alley right of way, passing at a distance of 20 feet the west corner of said Lot 4A, said point being the south corner of Lot 7, Block 6/943 of North Dallas Improvement Company Addition as recorded in Volume 106, Page 258, Deed Records of Dallas County, Texas, continuing in all a distance of 276.00 feet to a found 3 inch monument for a corner in the southwest line of Maple Avenue, said point being the north corner of said Lot 4A and the east corner of said Lot 7;

THENCE, N 45°40'00" W, with the southwest line of Maple Avenue, passing at a distance of 90.0 feet a found 3 inch monument at the east corner of a right of way corner clip at the intersection of the southwest line of Maple Avenue with the southeast line of Randall Street (a 40 foot right of way), continuing with the projection of the southwest line of Maple Avenue, in all a distance of 126.51 feet to a point for a corner;

THENCE, N 44°20'00" E, crossing Maple Avenue, passing at a distance of 70.00 feet the northeast line of Maple Avenue and the west corner of said Lot 1A, Block 5/944, continuing in all a distance of 224.40 feet to a point for a corner in the southwest line of a 16 foot Alley right of way, said point being the north corner of said Lot 1A;

THENCE, N 45°40'00" W, with the southwest line of the said Alley right of way, a distance of 175.38 feet to a point for a corner, said point being the east corner of Lot 9, Block 7/944 of the said North Dallas Improvement Company Addition;

THENCE, N 44°20'00" E, crossing the said Alley right of way, passing at a distance of 16 feet the northeast line of the said Alley right of way, said point being the west corner of said Lot 2A, passing at a distance of 170.40 feet a found 1 inch iron pipe in the southwest line of Fairmount Street (a 50 foot right of way), said point being the west corner of said Lot 2A, continuing across the right of way of Fairmount Street in all a distance of 220.40 feet to a point for a corner in the northeast line of Fairmount Street, said point being in the southwest line of Block 11/946;

THENCE, S 45°40'00" E, with the northeast line of Fairmount Street, passing the west line of Cedar Springs Road (an 80 foot right of way) and continuing with the projection of Fairmount into the right of way Cedar Springs Road, a distance of 200.00 feet to a point for a corner;

LEGAL DESCRIPTION (continued)
 DESIGNATED PROPERTY
 MUNICIPAL SETTING DESIGNATION BOUNDARY
 4.200 Acre Tract Being All of Lot 4A, Block 6/943 of Thomas Maple Addition,
 Lot 1A, Block 5/944 of North Dallas Improvement Company Replat and
 Lot 2A, Block 7/944 of Pillsbury Peters Fine Art Addition and Portions of
 Cedar Springs Road, Maple Avenue, Fairmount Street and an Alley Right of Way
 City of Dallas, Callas County, Texas

THENCE, S 44°20'00" W, passing at a distance of 73.3 feet a found 3/4 inch iron pipe in the west line of Cedar Springs Road, said point being the most southerly east corner of said Lot 2A, continuing in all a distance 204.40 feet to a found 5/8 inch iron rod for a corner in the northeast line of the said 16 foot Alley right of way, said point being the south corner of said Lot 2A and the west corner of Lot 10, Block 7/944 of the said North Dallas Improvement Company Addition;

THENCE, S 45°40'00" E, with the northeast line of the said Alley right of way, passing at a distance of 152.88 feet the intersection of the northeast line of the Alley right of way with the southwest line of Cedar Springs Road, continuing across the right of way of Cedar Springs Road in all a distance of 275.81 feet to a point for a corner in the northeast line of Cedar Springs Road, said point being in the southwest line of Block 981 of the said North Dallas Improvement Company Addition;

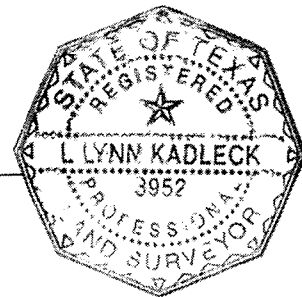
THENCE, S 05°03'55" E, with the northeast line of Cedar Springs Road, a distance of 369.40 feet to a point for a corner at the intersection of the northeast line of Cedar Springs Road with the projected southwest line of Maple Avenue;

THENCE, N 45°40'00" W, with the projected southwest line Maple Avenue and crossing the right of way of Cedar Springs Road, passing at a distance of 135.73 feet the intersection of the southwest line of Maple Avenue with the southwest line of Cedar Springs Road, said point being the east corner of said Lot 1D, continuing in all a distance of 334.39 feet to the Point of Beginning and Containing 182,742 square feet or 4.200 acre of land.

Date: February 13, 2015



L. Lynn Kadleck
 Registered Professional
 Land Surveyor No. 3952



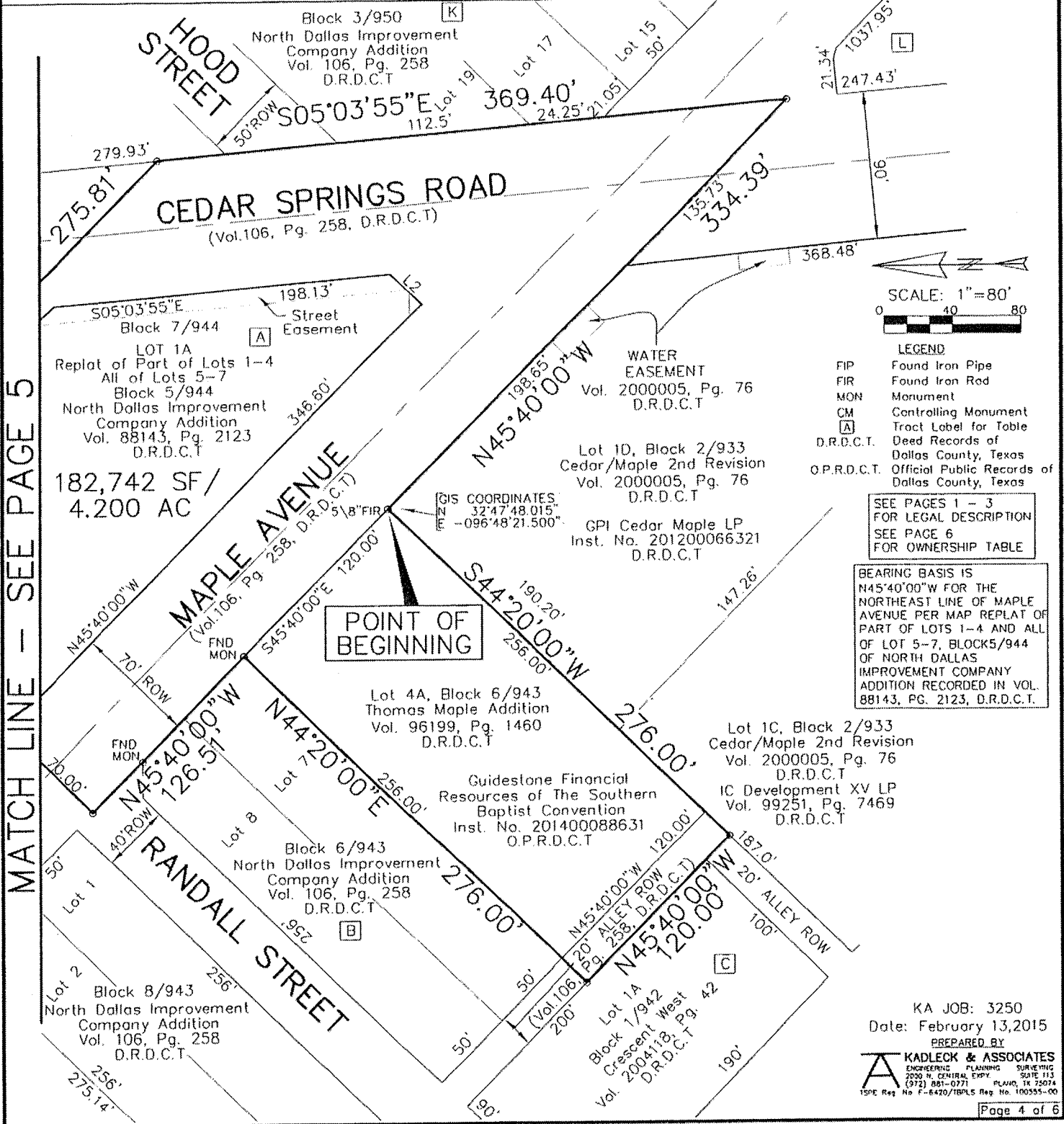
Basis of Bearing:

The bearing basis for this description is a bearing of N 45°40'00" W for the northeast line of Maple Avenue as shown on the map of Replat of Part of Lots 1 – 4 and al of Lots 5 – 7, Block 5/944 of North Dallas Improvement Company Addition recorded in Volume 88143, Page 2123, Deed Records of Dallas County, Texas.

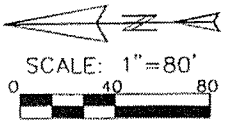
DESIGNATED PROPERTY

MUNICIPAL SETTING DESIGNATION BOUNDARY

4.200 Acre Being All of City Lot 4A, City Block 6/943 of Thomas Maple Avenue Addition, Lot 1A, City Block 5/944 Replat of North Dallas Improvements Company and Lot 2A, City Block 7/944 of Pillsbury Peters Fine Art Addition and Portions of Cedar Springs Road, Maple Avenue, Fairmount Avenue and Alley Rights of Way City of Dallas, Dallas County, Texas



MATCH LINE - SEE PAGE 5

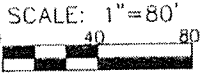
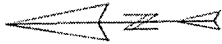


- LEGEND**
- FIP Found Iron Pipe
 - FIR Found Iron Rod
 - MON Monument
 - CM Controlling Monument
 - [A] Tract Label for Table
 - D.R.D.C.T. Deed Records of Dallas County, Texas
 - O.P.R.D.C.T. Official Public Records of Dallas County, Texas

SEE PAGES 1 - 3 FOR LEGAL DESCRIPTION SEE PAGE 6 FOR OWNERSHIP TABLE

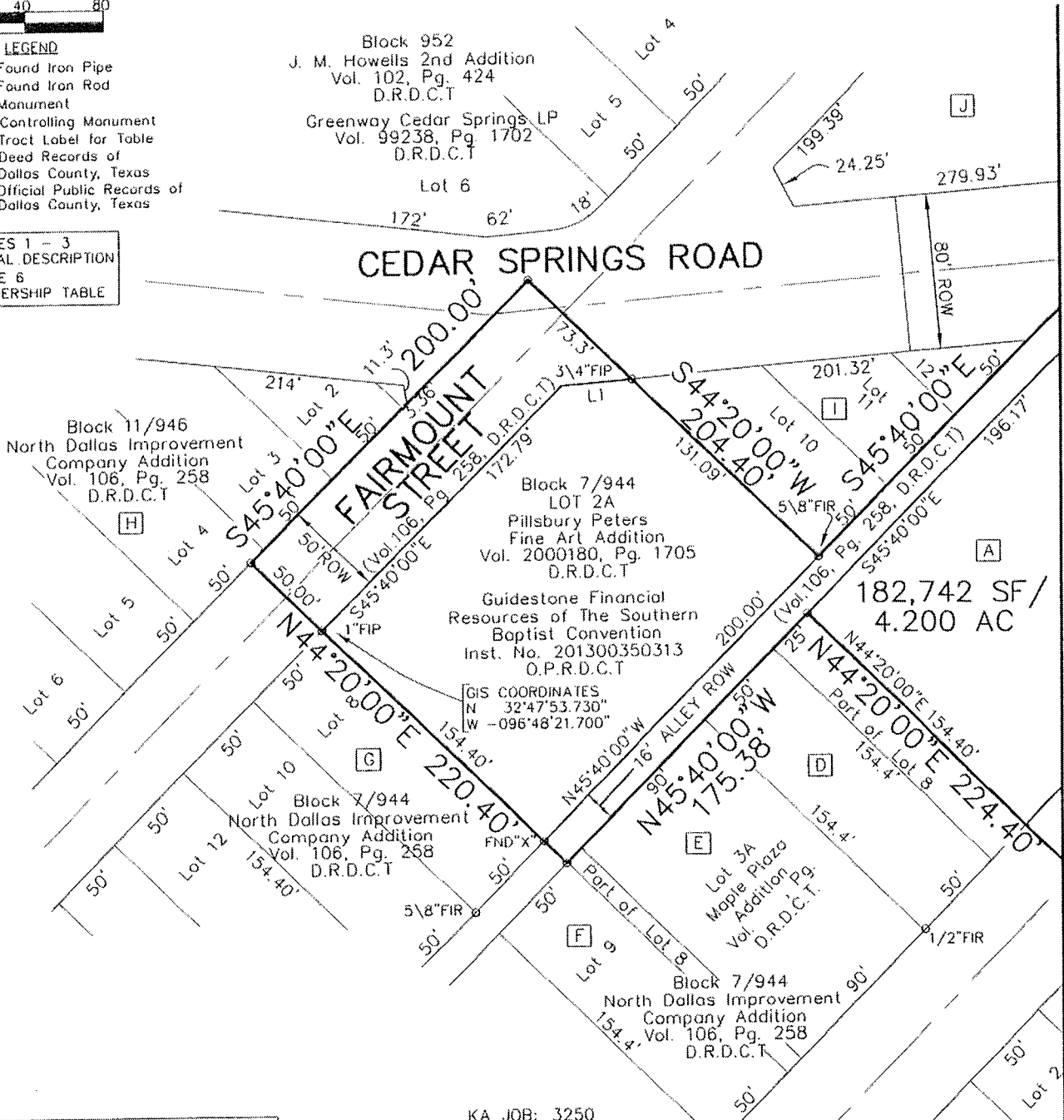
BEARING BASIS IS N45°40'00"W FOR THE NORTHEAST LINE OF MAPLE AVENUE PER MAP REPLAT OF PART OF LOTS 1-4 AND ALL OF LOT 5-7, BLOCK 5/944 OF NORTH DALLAS IMPROVEMENT COMPANY ADDITION RECORDED IN VOL. 88143, PG. 2123, D.R.D.C.T.

DESIGNATED PROPERTY
 MUNICIPAL SETTING DESIGNATION BOUNDARY
 4.200 Acre Being All of City Lot 4A, City Block 6/943 of Thomas Maple Avenue Addition,
 Lot 1A, City Block 5/944 Replat of North Dallas Improvements Company and
 Lot 2A, City Block 7/944 of Pillsbury Peters Fine Art Addition and
 Portions of Cedar Springs Road, Maple Avenue, Fairmount Avenue and Alley Rights of Way
 City of Dallas, Dallas County, Texas



- LEGEND**
- FIP Found Iron Pipe
 - FIR Found Iron Rod
 - MON Monument
 - CM Controlling Monument
 - [A] Tract Label for Table
 - D.R.D.C.T. Deed Records of Dallas County, Texas
 - O.P.R.D.C.T. Official Public Records of Dallas County, Texas

SEE PAGES 1 - 3
 FOR LEGAL DESCRIPTION
 SEE PAGE 6
 FOR OWNERSHIP TABLE



MATCH LINE - SEE PAGE 4

BEARING BASIS IS N45°40'00"W FOR THE
 NORTHEAST LINE OF MAPLE AVENUE PER MAP
 REPLAT OF PART OF LOTS 1-4 AND ALL OF
 LOT 5-7, BLOCKS 5/944 OF NORTH DALLAS
 IMPROVEMENT COMPANY ADDITION RECORDED IN
 VOL. 88143, PG. 2123, D.R.D.C.T.

KA JOB: 3250
 Date: February 13, 2015
 PREPARED BY

KADLECK & ASSOCIATES
 ENGINEERING PLANNING SURVEYING
 2000 N. CENTRAL EXPY. SUITE 113
 (972) 841-0771 PLANO, TX 75074
 TSPE Reg. No. F-6420/TBPLS Reg. No. 100555-00

DESIGNATED PROPERTY

MUNICIPAL SETTING DESIGNATION BOUNDARY

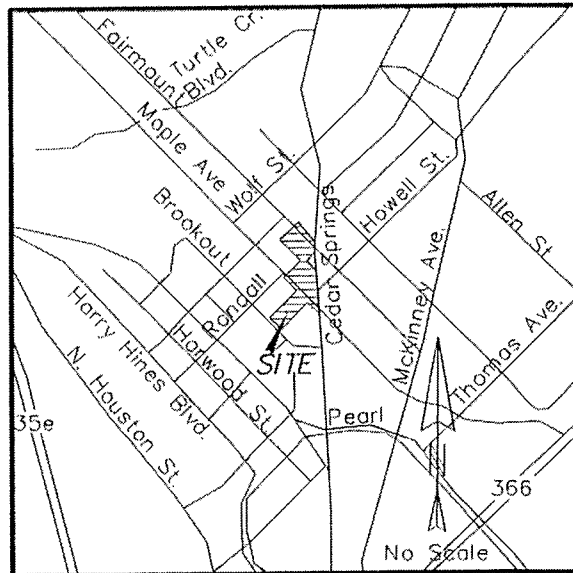
4.200 Acre Being All of City Lot 4A, City Block 6/943 of Thomas Maple Avenue Addition,
 Lot 1A, City Block 5/944 Replat of North Dallas Improvements Company and
 Lot 2A, City Block 7/944 of Pillsbury Peters Fine Art Addition and
 Portions of Cedar Springs Road, Maple Avenue, Fairmount Avenue and Alley Rights of Way
 City of Dallas, Dallas County, Texas

ADDITION/OWNERSHIP TABLE

- [A] LOT 1A
 Replat of Part of Lots 1-4
 All of Lots 5-7
 Block 5/944
 North Dallas Improvement
 Company Addition
 Vol. 88143, Pg. 2123
 D.R.D.C.T
 Annuity Board of
 The Southern
 Baptist Convention
 Vol. 91251, Pg. 4252
 D.R.D.C.T
- [B] Highland Capital Management LP
 Inst. No. 200600024964
 O.P.R.D.C.T
- [C] Windsor At Trainon LP
 Inst. No. 20070234775
 O.P.R.D.C.T
- [D] 2902 Maple LP
 Inst. No. 20080016375
 O.P.R.D.C.T
- [E] 2906 Maple Ave LLC
 Inst. No. 201200169887
 O.P.R.D.C.T
- [F] 2912 Maple LLC
 Inst. No. 201300220623
 O.P.R.D.C.T
- [G] Calbaza Holding, Inc.
 Inst. No. 201000038139
 O.P.R.D.C.T
- [H] GH Cedar Springs, Inc.
 Inst. No. 201300327892
 O.P.R.D.C.T
- [I] North Dallas Improvement
 Company Addition
 Vol. 106, Pg. 258
 D.R.D.C.T
 MDB Capital Group LLC
 Inst. No. 201200337705
 O.P.R.D.C.T
- [J] Block 951
 North Dallas Improvement
 Company Addition
 Vol. 106, Pg. 258
 D.R.D.C.T
 Greenway Maple LP
 Vol. 2001052, Pg. 6686
 D.R.D.C.T
- [K] Greenway Maple LP
 Vol. 2001052, Pg. 6686
 D.R.D.C.T
- [L] Lot 1A, Block 2/948
 The Crescent Addition
 Vol. 83134, Pg. 5645
 D.R.D.C.T
 Crescent TC Investments LP
 Vol. 2004220, Pg. 2008
 D.R.D.C.T

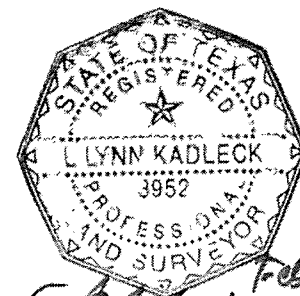
LINE TABLE

NUM	BEARING	DISTANCE
L1	S5°04'40"E	35.83'
L2	N44°20'10"E	25.46'



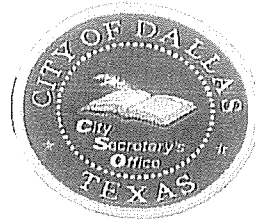
VICINITY MAP

NO SCALE



Feb 13, 2011

KA JOB: 3250
 Date: February 13, 2015
 PREPARED BY
A KADLECK & ASSOCIATES
 ENGINEERING PLANNING SURVEYING
 2022 N. CENTRAL, SUITE 113
 DALLAS, TEXAS 75201
 (214) 881-0771 PLANO, TX 75074
 ISPE Reg. No. F-6420/IBPLS Reg. No. 100555-00



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

OCT 14 2015

DATE ADOPTED BY CITY COUNCIL _____

29903

ORDINANCE NUMBER _____

OCT 17 2015

DATE PUBLISHED _____

ATTESTED BY: