

6-26-19

ORDINANCE NO. 31266

A municipal setting designation ordinance prohibiting the use of designated groundwater from beneath property generally located at 2410 and 2440 Walnut Hill Lane 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. 2914 must receive a certificate of completion from the Texas Commission on Environmental Quality by no later than June 26, 2021.

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 June 26, 2021. 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.

31266

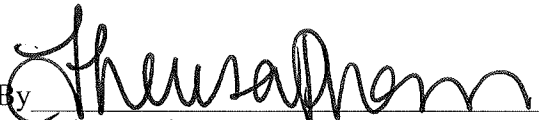
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SECTION 21. That the terms and provisions of this municipal setting designation ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

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:

CHRISTOPHER J. CASO, Interim City Attorney

By 
Assistant City Attorney

Passed JUN 26 2019

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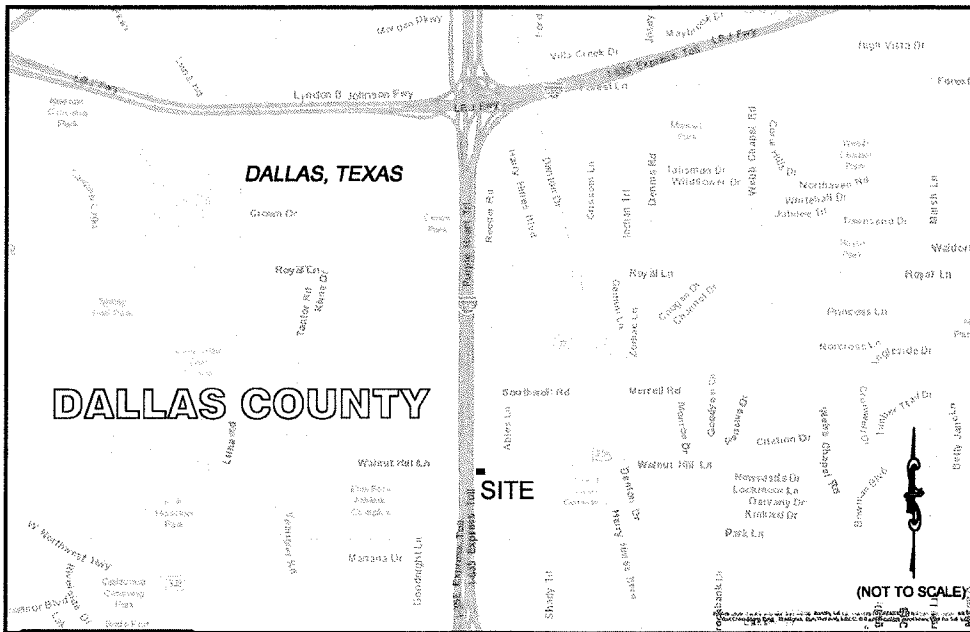
"Exhibit A"
BOUNDARY SURVEY

GIS_Approved

FOR
MUNICIPAL SETTING DESIGNATION

AT

2410-2440 WALNUT HILL LANE
DALLAS, TX 75229



LOCATION MAP

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**BOUNDARY SURVEY FOR
MUNICIPAL SETTING DESIGNATION**

**2410-2440 WALNUT HILL LANE
DALLAS, TX 75229**

DWG FILE 180259.dwg

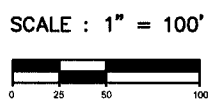
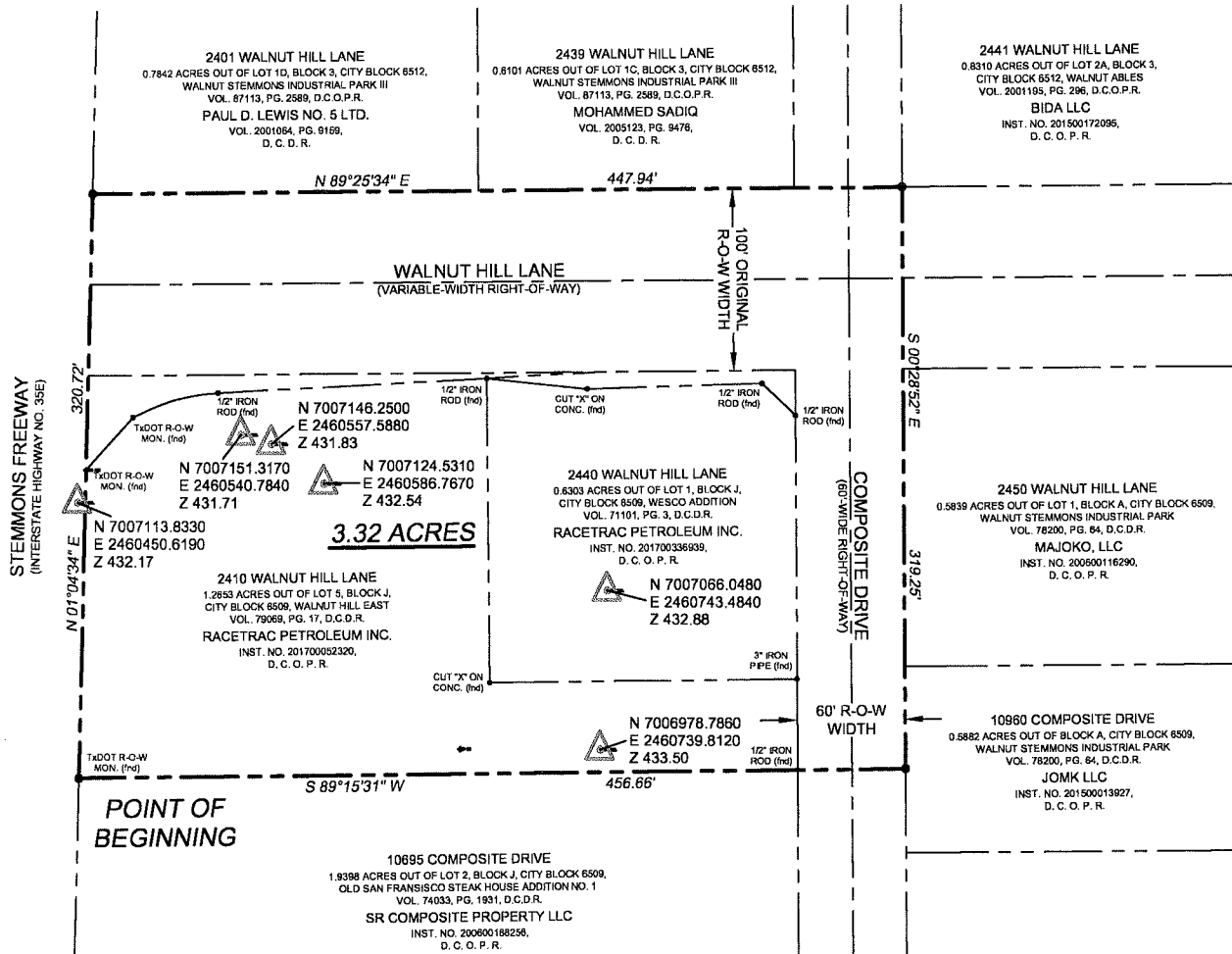
DWG SCALE 1=100

SHEET 1 OF 4

TBPE FIRM F-12715
TBPLS FIRM 10181300

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FORT WORTH, TX 76244-7786
(866) 723-9009 Tel (866) 723-9003 Fax
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SHEET 2 OF 4

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LEGAL DESCRIPTION

A 3.32-acre tract out of the J. Hunt Survey, Abstract No. 588, Dallas County, Texas, in and adjacent to Dallas City Block No. 6509, being all of Lot 1, Block J, Wesco Addition, an addition to the City of Dallas, Texas, as shown on that certain map or plat thereof recorded in Volume 71101, Page 3, Dallas County Deed Records, a portion of Lot 5, Block J, Walnut Hill East, an addition to the City of Dallas, Texas, as shown on that certain map or plat thereof recorded in Volume 79069, Page 17, Dallas County Deed Records, and all of the adjacent rights-of-way of Walnut Hill Lane and Composite Drive, both dedicated public roads, said 3.32-acre tract being more specifically described by metes and bounds as follows:

BEGINNING at a TxDOT highway right-of-way monument found at the point of intersection of the east right-of-way line of Interstate Highway No. 35E, a dedicated state highway right-of-way commonly known as Stemmons Freeway, with the south line of said Lot 5, Block J, Walnut Hill East, lying SOUTH 89°15'31" WEST 396.66 feet from a 1/2-inch iron rod found at the southeast corner of said Lot 5, Block J, for the southwest corner and POINT OF BEGINNING of this tract;

THENCE NORTH 01°04'34" EAST along the east right-of-way line of said Stemmons Freeway and west line of said Lot 5, Block J, Walnut Hill East, at 169.31 feet pass a TxDOT highway right-of-way monument found at the point of intersection of the east right-of-way line of said Stemmons Freeway with the south right-of-way line of Walnut Hill Lane, a dedicated city street, and continuing for a total distance of 320.72 feet to a point being the point of intersection of said east right-of-way line with the north right-of-way line of said Walnut Hill Lane for the northwest corner of this tract;

THENCE leaving the east right-of-way line of said Stemmons Freeway, NORTH 89°25'34" EAST 447.94 feet along the north right-of-way line of said Walnut Hill Lane and along the south lines of Block 3, Walnut Stemmons Industrial Park No. 3, an addition to the City of Dallas, Texas, as shown on that certain map or plat thereof recorded in Volume 87113, Page 2589, Dallas County Deed Records, to a point being the point of intersection of said north right-of-way line with the east right-of-way line of Composite Drive, a dedicated city street, for the northeast corner of this tract;

THENCE leaving the north right-of-way line of said Walnut Hill Lane, SOUTH 00°28'52" EAST 319.25 feet along the east right-of-way line of said Composite Drive and the west line of Block A, Walnut Stemmons Industrial Park, an addition to the City of Dallas, Texas, as shown on that certain map or plat thereof recorded in Volume 78200, Page 64, Dallas County Deed Records, to a point for the southeast corner of this tract;

THENCE leaving the east right-of-way line of said Composite Drive, SOUTH 89°15'31" WEST, at 60.00 feet pass a 1/2-inch iron rod found on the west right-of-way line of said Composite Drive being the southeast corner of said Lot 5, Block J, and the northeast corner of Lot 2, Block J, Walnut Hill East, and continuing for a total distance of 456.66 feet along the south line of said Lot 5, Block J, and along the north line of said Lot 2, Block J, to the POINT OF BEGINNING, and containing 3.32 acres, more or less.

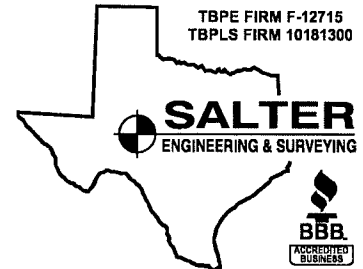
**BOUNDARY SURVEY FOR
MUNICIPAL SETTING DESIGNATION**

**2410-2440 WALNUT HILL LANE
DALLAS, TX 75229**

DWG FILE 180259.dwg

DWG SCALE 1=100

SHEET 3 OF 4



11401 PHEASANT CREEK DRIVE
FORT WORTH, TX 76244-7796
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LEGEND

	BLDG. HEIGHT MEASUREMENT		FLAG POLE		PROPERTY LINE
	M.S. MONUMENT SIGN		LIGHT POLE		PRIVACY FENCE
	TRAFFIC FLOW		PIPE BOLLARD		OTHER FENCE
	UNDERGROUND UTILITY BOX		UTILITY POLE		OVERHEAD UTILITY
	CABLE PEDESTAL		UTIL. POLE W/ GUY ANCHOR		UNDERGROUND UTILITY
	TELEPHONE PEDESTAL		ELECTRICITY METER		CONC. CURB & GUTTER
	WATER VALVE		WATER METER		BUILDING
	FIRE HYDRANT		MONITORING WELL		COVERED AREA
	IRRIGATION CONTROL VALVE		SIGN		CONCRETE SURFACE
	STORM SEWER MANHOLE		HANDICAP PARKING SPACE		ASPHALT SURFACE
	SANITARY SEWER MANHOLE		REGULAR PARKING SPACES		GRAVEL SURFACE
	TEL-COM MANHOLE		R.P.R. REAL PROPERTY RECORDS		STONE SURFACE
	SANITARY SEWER CLEAN-OUT		C.M.R. COUNTY MAP RECORDS		WOODEN SURFACE
	POWER TRANSFORMER		C.D.R. COUNTY DEED RECORDS		WATER SURFACE

BASIS OF BEARINGS

S 89°15'31" W FOR THE SOUTH LINE OF SUBJECT PROPERTY PER PLAT OF RECORD...

SURVEYOR'S CERTIFICATION

To: THE VERTEX COMPANIES, INC.

I, Brian Salter, Registered Professional Land Surveyor, hereby certify that this survey of the property located at: 2410-2440 WALNUT HILL LANE
DALLAS, TX 75229 and legally described hereon was made on the ground on this, the 28TH day of JUNE, 2018, by me or under my supervision and correctly shows the boundary lines, dimensions, and area of the land, and all alleys, streets, rights-of-way, easements, and other matters of record which, to my knowledge, affect the property. The undersigned further certifies that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, protrusions, overlapping of improvements, easements, or rights-of-way except as shown hereon.

BRIAN SALTER, PROFESSIONAL LAND SURVEYOR NO. 5597



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BOUNDARY SURVEY FOR MUNICIPAL SETTING DESIGNATION	
2410-2440 WALNUT HILL LANE DALLAS, TX 75229	
DWG FILE <u>180259.dwg</u>	SHEET <u>4</u> OF <u>4</u>
DWG SCALE <u>1=100</u>	

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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.

DATE ADOPTED BY CITY COUNCIL JUN 26 2019

ORDINANCE NUMBER 31266

DATE PUBLISHED JUN 29 2019

ATTESTED BY: