

02/06/92

ORDINANCE NO. 21203

An ordinance amending CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, by establishing Historic Overlay District No. 54 (Freedman's Cemetery) comprised of the following described property ("the Property"), to wit:

Being an irregularly shaped tract of land in City Blocks C/633 and 634 1/4 at the southwest corner of North Central Expressway and Lemmon Avenue, and containing approximately 4.97 acres of land;

establishing four subdistricts within this district; providing procedures, regulations, and preservation criteria for structures and property in the district; providing a penalty not to exceed \$2000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, Freedman's Cemetery was the first African American cemetery in Dallas County;

WHEREAS, the remains of African Americans were interred in Freedman's Cemetery from at least 1861 to 1925;

WHEREAS, archeologists have found more than 1,100 graves to date in the district established by this ordinance and estimate that hundreds more are in the district;

WHEREAS, Freedman's Cemetery is one of the few historic and cultural resources remaining in the area where for more than

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100 years existed the largest segregated African American community in Dallas and one of the largest in the country;

WHEREAS, the city council establishes and regulates the district described in this ordinance in accordance with the city's home-rule authority under the Texas Constitution, the Charter of the City of Dallas, and Chapter 211 of the Texas Local Government Code;

WHEREAS, the city council designates the Property as an area of historic and cultural importance and significance;

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the applicable ordinances of the city, have given the required notices and have held the required public hearings regarding the rezoning of the Property; and

WHEREAS, the city council finds that it is in the public interest to establish this historic overlay district; Now, Therefore,

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

SECTION 1. That CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, is amended by establishing Historic Overlay District No. 54 (Freedman's Cemetery) comprised of the following described property ("the Property"), to wit:

ALL that certain lot, tract or parcel of land lying and being situated in the City and County of Dallas, Texas, and being more particularly described as follows:

BEING in the John Grigsby Survey, Abstract 495, Dallas County, Texas, and being all of a one acre tract of land conveyed to Sam Eakins by deed dated April 29, 1869, and recorded in Volume L, Page 240 of the Deed Records of Dallas County, Texas, and all of a three acre tract of land conveyed to the Trustees for the Freedmen's Grave Yard by deed dated April 12, 1879, and recorded in Volume 66, Page 475 of said Deed Records, and a part of Calvary Street, and a part of Campbell Street, and a part of Lots 18, 19, 20, 21, 24, 25, and 26 and all of Lots 22 and 23 of Block C/633 of Campbell's Addition to the City of Dallas according to the map or plat thereof recorded in Volume 95, Page 476 of said Deed Records, and part of an alley known as Duff Street in said block abandoned by City Ordinance No. 16570, and lying in Blocks C/633 and 634 1/4, and being more particularly described as follows:

BEGINNING at the north corner of said Eakins one acre tract;

THENCE in a southwesterly direction along the northwest line of said Eakins tract and said Freedmen's Grave Yard tract, a distance of 388.5 feet to the west corner of a tract conveyed to Congregation Emanu-El by deed dated July 10, 1947, and recorded in Volume 2848, Page 1 of the Map Records of said County;

THENCE in a southeasterly direction along the southwest line of said Congregation Emanu-El tract, a distance of 390.97 feet;

THENCE angle right 90°00'00" and in a southwesterly direction, a distance of 25.02 feet;

THENCE angle left 30°41'26" and in a southerly direction, a distance of 280.01 feet;

THENCE angle left 122°23'17" and in a northeasterly direction, a distance of 220.11 feet;

THENCE angle left 17°29'55" and in a northeasterly direction, a distance of 14.49 feet to a point on the west line of North Central Expressway (variable width);

THENCE angle left 36°08'30" and in a northerly direction along said west line of North Central Expressway, a distance of 38.81 feet;

THENCE angle left 3°12'24" and in a northerly direction along said west line of North Central Expressway, a distance of 23.80 feet to a point on the northeast line of old Calvary Avenue;

21203

THENCE in a southeasterly direction along said northeast line of old Calvary Avenue, a distance of 108.9 feet to the southeast corner of said three acre tract;

THENCE in a northerly direction along the east line of said three acre tract, a distance of 250.0 feet;

THENCE in a northwesterly direction along the northeast line of said three acre tract, a distance of 486.39 feet to the POINT OF BEGINNING.

SECTION 2. That this district is hereby divided into four subdistricts, which shall be known as "Tract A," "Tract B," "Tract C," and "Tract D." Property descriptions and a map of these subdistricts are attached to and made a part of this ordinance as Exhibit B.

SECTION 3. That the establishment of this historic overlay district shall not affect the existing underlying zoning classification of the Property, which shall remain subject to the regulations of the underlying zoning district. If there is a conflict, the regulations contained in this ordinance control over the regulations of the underlying zoning district.

SECTION 4. That all alterations to the Property must comply with the preservation criteria attached to and made a part of this ordinance as Exhibit A. A person shall not, unless the preservation criteria otherwise provide, alter the Property or any portion of the exterior of a structure on the Property, or place, construct, maintain, expand, or remove any structure on the Property without first obtaining a certificate of appropriateness in accordance with the Dallas Development Code, as amended, and this ordinance.

SECTION 5. That the building official shall not issue a building permit or a certificate of occupancy for a use on the Property until there has been full compliance with this ordinance, the Dallas Development Code, the construction codes, and all other applicable ordinances, rules, and regulations of the City of Dallas.

SECTION 6. That the director of planning and development shall correct Zoning District Map No. I-7 in the offices of the city secretary, the building official, and the department of planning and development to reflect the changes in zoning made by this ordinance.

SECTION 7. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2000. In addition to punishment by fine, the City may, in accordance with state law, provide civil penalties for a violation of this ordinance, and institute any appropriate action or proceedings to prevent, restrain, correct, or abate the unlawful erection, construction, reconstruction, alteration, repair, conversion, or maintenance of the Property or of a building or structure on the Property.

SECTION 8. That CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 9. 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.

SECTION 10. That this 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:
SAM LINDSAY, Acting City Attorney

By Chris Bowers
Assistant City Attorney

Passed FEB 26 1992

Zoning File No. Z912-110/6558-N

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EXHIBIT A

PRESERVATION CRITERIA

FREEDMAN'S CEMETERY

Except as otherwise provided in these Preservation Criteria, all public and private right-of-way improvements, renovation, repairs, demolition, maintenance, site work, and new construction in this district must conform to the following guidelines and a certificate of appropriateness must be obtained for such work prior to its commencement. The explicit requirement to obtain a certificate of appropriateness in these Preservation Criteria does not imply that no certificate is needed for other improvements, renovation, repairs, demolition, maintenance, site work, or new construction.

Except as otherwise provided in these Preservation Criteria, any such alterations to the property must conform to the regulations contained in CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended. In the event of a conflict, these Preservation Criteria control.

Unless otherwise specified, preservation and restoration materials and methods used must conform to those defined in the Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.

SECTION 1. DEFINITIONS.

Unless provided below or the context clearly indicates otherwise, the definitions contained in Sections 51A-2.102 and 51A-7.102 of the Dallas City Code, as amended, apply.

- 1.1 APPLICANT means one or more owners of property within the district, or the owners' duly authorized agent.
- 1.2 CERTIFICATE OF APPROPRIATENESS means a certificate issued by the city in accordance with Section 51A-4.501 of the Dallas City Code, as amended, to authorize the alteration of the physical character of real property in the district or any portion of the exterior of a structure in the district, or the placement, construction, maintenance, expansion, or removal of any structure in or from the district.
- 1.3 COMMISSION means the landmark commission of the City of Dallas.

- 1.4 DIRECTOR means the director of the department of planning and development or that person's representative.
- 1.5 DISTRICT means the Freedman's Cemetery Historic Overlay District. This district contains the property described in Section 1 of this ordinance, and includes the original Freedman's Cemetery as well as nearby areas that have graves containing remains.
- 1.6 ERECT means to build, attach, hang, place, suspend, fasten, affix, maintain, paint, draw, or otherwise construct.
- 1.7 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 1.8 FREEDMAN'S CEMETERY means the two real properties comprising the original cemetery in this district. One of the properties is described in a deed recorded on April 29, 1869, in Volume L, Page 240 of the Deed Records of Dallas County, Texas, and the other is described in a deed recorded on October 26, 1879, in Volume 66, Page 475 of the Deed Records of Dallas County, Texas.
- 1.9 GRADE means the degree of inclination of the ground's surface.
- 1.10 GRAVE means a space of ground used or intended to be used for the permanent interment in the ground of remains.
- 1.11 GRAVE MARKER means a monument that identifies the location of remains in one or more graves.
- 1.12 GROUND COVER means any plant other than a grass.
- 1.13 MEMORANDUM means the Memorandum of Understanding among the State Department of Highways and Public Transportation, the Dallas Park Board, and Black Dallas Remembered, Inc., which is attached to and made a part of this ordinance as Exhibit C.
- 1.14 MINOR EXTERIOR ALTERATION means the installation of or alteration to awnings; fences; gutters and downspouts; lighting fixtures; landscaping that comprises less than 25 percent of the front or side yard; restoration of district or original architectural features; and the removal of immature trees visible from any street.

- 1.15 PRESERVATION CRITERIA means the standards considered by the director and commission in determining whether a certificate of appropriateness should be granted or denied.
- 1.16 REAL ESTATE SIGN means a sign that advertises the sale or lease of an interest in real property.
- 1.17 REMAINS means the body, or parts of the body, of a deceased person.
- 1.18 ROUTINE MAINTENANCE AND REPLACEMENT means the process of cleaning, including water blasting and stripping; stabilizing deteriorated or damaged district or architectural features, including repainting an item the same color; or substituting a duplicate item for an item that is deteriorated or damaged.
- 1.19 TOMB means a house, chamber, vault, or other structure erected partially or entirely above grade, which is used or intended to be used for the permanent interment of remains.
- 1.20 TRACT means one of the four subdistricts of this district, as described in Exhibit B.

SECTION 2. SITE, SITE ELEMENTS AND LANDSCAPING: TRACT A.

- 2.1 Historic remains already interred may not be disinterred. No other remains may be interred.
- 2.2 All landscaping must be appropriate and compatible, enhance the district and its surroundings, and not obscure significant views of or from the district.
- 2.3 All trees, except those planted after the date of this ordinance's passage without a certificate of appropriateness authorizing the planting, must be maintained and preserved.
- 2.4 No new or replacement tree may be planted on a grave. A certificate of appropriateness must be obtained before a tree is planted to ensure that the location and species of the tree are appropriate.
- 2.5 When a tree dies, an archeological study of the area where the tree was located should be conducted to identify the locations of remains near or below the tree. This study must conform to and compliment the

- study done by the Texas Department of Transportation in 1990. No tree may be planted where the dead tree was located until a study is done in accordance with this subsection.
- 2.6 No ground cover may be planted on or allowed to extend over a grave.
 - 2.7 Except for disinterments, the grade of any place in this tract may not be changed. After the disinterment is completed, the original grade of that grave must be restored.
 - 2.8 The marking and identification of graves is encouraged. A grave marker must consist of stone or another durable material. A certificate of appropriateness must be obtained before a grave marker is erected.
 - 2.9 No path or walkway may be located on a grave.
 - 2.10 Paths must be constructed of gravel, pavers, stone, brick, wood, or stone chips. Concrete containment edges for gravel, wood, or stone chip paths are permitted, if a certificate of appropriateness is obtained prior to the commencement of the work. Concrete paths and walkways are prohibited.
 - 2.11 A certificate of appropriateness must be obtained before a fence is erected. Fences are permitted only along the boundaries of Freedman's Cemetery and along public right-of-way lines. Fences must be constructed of metal, stone, brick, wood, or a similar material. Fences of stone, wood, brick, or similar materials may not exceed 42 inches in height and must have an "open" design, with a solid-to-void ratio of 1:1 or less. Fences of metal or similar materials may not exceed five feet in height. Fences consisting of chain links or similar materials are prohibited. The foundation or footing for any fence post may not be erected on a grave.
 - 2.12 Outdoor light poles may not exceed 14 feet in height.
 - 2.13 Outdoor lighting must consist of low or bollard lighting and must not exceed 36 feet in height.
 - 2.14 Except as otherwise provided in this section, structures, parking areas, drives, paths, and other concrete, asphalt, and hard surface areas are prohibited.

- 2.15 A certificate of appropriateness must be obtained to erect all site elements not addressed in Section 2 to ensure that the design, location, and materials are appropriate.

SECTION 3. SITE, SIDE ELEMENTS, AND LANDSCAPING: TRACT B.

- 3.1 North Central Expressway excavation. No certificate of appropriateness is required for any excavation in the right-of-way of North Central Expressway. Any remains found during an excavation must be disinterred and reinterred in Tract D in accordance with the Memorandum. No certificate of appropriateness is required for a disinterment and reinterment done in accordance with this subsection.
- 3.2 Lemmon Avenue excavation. A certificate of appropriateness is required for any excavation in the right-of-way of Lemmon Avenue. Any remains found during an excavation must be disinterred and reinterred in Tract D in accordance with the Memorandum. A certificate of appropriateness is required for a disinterment and reinterment.
- 3.3 All landscaping must be appropriate and compatible, must enhance the district, and must not obscure significant views of or from the district.
- 3.4 No ground cover may be planted on or allowed to extend over a grave.
- 3.5 Other than public streets, no structures, parking areas, paths, or other concrete, asphalt, and hard surface areas are permitted.
- 3.6 A certificate of appropriateness must be obtained to erect all site elements not addressed in Section 3 to ensure that the design, location, and materials are appropriate.

SECTION 4. SITE, SITE ELEMENTS, AND LANDSCAPING: TRACT C.

- 4.1 Disinterment and reinterment.
- a. Notification of court hearing required. Any person seeking to remove remains from Tract C in accordance with Section 711.004 of the Texas Health and Safety Code, as amended, shall notify

the director in writing at least 15 days prior to the date an application is made to a court for the removal. The notification must contain a copy of any documents submitted to the court.

- b. Certificate of appropriateness required. Remains in Tract C may be disinterred and reinterred after a certificate of appropriateness is obtained.
- c. Information required in application. Any person seeking to disinter remains in Tract C shall submit an application for a certificate of appropriateness to the director. The following information must be supplied to the director by the applicant before the application is complete:
- (1) The exact location of the remains that the applicant proposes to disinter;
 - (2) The condition of the grave, the remains, and the surrounding area;
 - (3) Records indicating the historic and cultural nature and character of the grave, the remains, and the surrounding area (if known);
 - (4) Drawings and a statement indicating the proposed use of the grave;
 - (5) The estimated fair market value of the grave on the date the application is submitted (For purposes of this paragraph, "fair market value" means the price the property would bring when offered for sale by one who desires to sell but is not obliged to sell, and is bought by one who desires to buy, but is under no necessity of buying, taking into consideration all those uses to which it is reasonably adaptable and for which it either is or in all reasonable probability will become available within the reasonable future.);
 - (6) Conditions, if any, proposed to be voluntarily placed on the new use or improvements that would mitigate the loss of the remains;

- (7) The exact location of the proposed reinterment with an explanation of why that site would be appropriate for the reinterment; and
 - (8) Any other information that the applicant or the Commission finds appropriate.
- d. Method of disinterment and reinterment. A disinterment and reinterment must be conducted in the manner described in the Memorandum.
 - e. Permitted locations for reinterment. Remains disinterred from Tract C may be reinterred in accordance with this section in Tract D or elsewhere in Tract C. Any certificate of appropriateness issued must specify the location of the reinterment grave. The Park Board of the City must approve any reinterment in Tract D. If it is not possible to reinter in Tract C or D, a certificate of appropriateness may be issued to authorize a reinterment on property adjacent to this district.

4.2 Improvements.

- a. In general. It is encouraged that site and landscaping improvements be done in accordance with the site and landscaping criteria in Section 3.
- b. Non-permanent improvements. No certificate of appropriateness is required to erect gravel or wood walks or paths, ground cover, landscaping, identification plaques, movement control signs, and other similar non-permanent improvements.
- c. Burials. No certificate of appropriateness is required to inter remains in a grave or erect a grave marker on that grave; however, no remains may be interred in a grave that contains remains.
- d. Other permanent improvements. Except as provided in Subsections 4.2(b) and 4.2(c) and Section 6, a certificate of appropriateness is required to erect a fence, wall, light fixture, tomb, concrete paving, structure, or improvement that requires digging or trenching more than three feet below grade; however, none of these improvements may be erected on an existing

grave. The form, materials, and general exterior appearance of any new construction or addition must be compatible with the district.

4.3 Preservation methods.

Preservation and restoration materials and methods used need not conform to those defined in the Preservation Briefs published by the U.S. Department of the Interior, although such conformity is encouraged.

4.4 Construction of section.

Nothing within Subsections 4.1 through 4.3 shall be construed to prevent an owner of real property within Tract C from conducting or regulating cemetery activities, such as burials, interments, ceremonies, and visits.

SECTION 5. SITE, SITE ELEMENTS, AND LANDSCAPING: TRACT D.

- 5.1 Remains already interred may not be disinterred, but must be preserved and protected.
- 5.2 A certificate of appropriateness is required for any excavation.
- 5.3 Remains interred in the district may be reinterred in this tract in accordance with the Memorandum and these Preservation Criteria.
- 5.4 All landscaping must be appropriate and compatible, must enhance the district and surroundings, and must not obscure significant views of or from the district. It is recommended that all landscaping be typical of North Texas cemetery landscaping from 1870 to 1920.
- 5.5 All trees, except those planted after the date of this ordinance's passage without a certificate of appropriateness authorizing the planting, must be maintained and preserved.
- 5.6 No new or replacement tree may be planted on a grave. A certificate of appropriateness must be obtained before a tree is planted to ensure that the location and species of the tree are appropriate.

- 5.7 No ground cover may be planted on or allowed to extend over a grave.
- 5.8 Except for disinterments and reinterments, the grade of any place in this tract may not be changed. After the disinterment or reinterment is completed, the original grade of that grave must be restored.
- 5.9 The marking and identification of graves is encouraged. A grave marker must consist of stone or another durable material. A certificate of appropriateness must be obtained before a grave marker is erected.
- 5.10 No path or walkway may be located on a grave.
- 5.11 Paths must be constructed of gravel, pavers, stone, brick, wood, or stone chips. Concrete containment edges for gravel, wood, or stone chip paths are permitted if a certificate of appropriateness is obtained prior to the commencement of the work. Concrete paths and walkways are prohibited.
- 5.12 A certificate of appropriateness must be obtained before a fence is erected. Fences along the boundaries of Freedman's Cemetery, right-of-way lines, and the boundaries of this tract must be constructed of metal, stone, brick, wood, or a similar material. Fences at other locations must compliment the fences described above in material and design. The foundation or footing for any fence post may not be erected on a grave.
- 5.13 Outdoor light poles may not exceed 14 feet in height.
- 5.14 A certificate of appropriateness is required to construct a parking area, drive, concrete path, or other concrete, asphalt or hard surface area. Exposed aggregate, artificial grass, carpet, asphalt, or artificially-colored monolithic concrete paving are prohibited.
- 5.15 A certificate of appropriateness is required before erecting any structure or addition. Except for grave markers, new structures or additions may not be erected on graves. The form, materials, and general exterior appearance of any new construction or addition must be compatible with the district.

- 5.16 A certificate of appropriateness must be obtained to erect all site elements not addressed in Section 5 to ensure that the design, location, and materials are appropriate.

SECTION 6. SIGNS.

- 6.1 No certificate of appropriateness is required to erect temporary political campaign signs (as defined in Chapter 15A of the Dallas City Code, as amended), real estate signs, and grave markers on Tract C.
- 6.2 Except as provided in Subsection 6.1, only cemetery identification signs, street signs, protective signs, movement control signs, and historical markers may be erected. A certificate of appropriateness is required to erect one of these signs to ensure that the sign is sensitive and compatible with the district.
- 6.3 All signs must conform with all applicable provisions of the Dallas City Code, as amended.

SECTION 7. EXCAVATIONS.

Unless a disinterment has been authorized in accordance with these Preservation Criteria, a person discovering a grave in the district while excavating shall:

- (a) stop excavating the grave;
- (b) restore the original grade of the grave;
- (c) mark the location of the grave with an object; and
- (d) notify the director of the location of the grave within five days of the discovery.

SECTION 8. REVIEW PROCEDURES FOR CERTIFICATES OF APPROPRIATENESS.

- 8.1 Unless otherwise specified in this section, the standard review procedure outlined in Section 51A-4.501 of the Dallas City Code, as amended, applies to this district when a certificate of appropriateness is required.

- 8.2 Upon receipt of an application for a certificate of appropriateness, the director shall categorize the application as one of the following: routine maintenance and replacement, minor exterior alteration, or work requiring review by the commission.
- 8.3 The director shall review and grant or deny certificates of appropriateness for applications categorized as routine maintenance and replacement or minor exterior alteration within 10 days of receipt of a completed application. To be considered complete, an application must include any exhibits or attachments deemed necessary by the director.

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EXHIBIT B

TRACT A

ALL that certain lot, tract or parcel of land lying and being situated in the City and County of Dallas, Texas, and being more particularly described as follows:

BEING a part of a three acre tract of land conveyed to the Trustees for the Freedmen's Grave Yard by deed dated April 12, 1879, and recorded in Volume 66, Page 475 of the Deed Records of Dallas County, Texas, and lying in the John Grigsby Survey, Abstract 495, Dallas County, Texas, and being in Block 634 1/4, official City numbers, and being more particularly described as follows:

BEGINNING at the intersection of the present southwest line of Lemmon Avenue (variable width) and the present west line of North Central Expressway (variable width);

THENCE in a southerly direction along said west line of North Central Expressway, a distance of 117.46 feet;

THENCE angle right 1°57'53" and continuing in a southerly direction along said west line of North Central Expressway, a distance of 159.27 feet to the intersection of same and the northeast line of old Calvary Avenue as abandoned by City Ordinance No. 20869;

THENCE angle right 120°55'11" and in a northwesterly direction with said northeast line of old Calvary Avenue, a distance of 190.53 feet, more or less, to the east line of a tract of land conveyed to Temple Emanu-El by deed dated November 3, 1969, and recorded in Volume 69214, Page 1374 of said Deed Records;

THENCE angle right 61°04'03" and in a northerly direction along the east line of said Temple Emanu-El tract and the northerly projection of same being the west line of a tract of land conveyed to the City of Dallas by deed dated July 19, 1967, and recorded in Volume 67190, Page 0595 of said Deed Records, a distance of 289.49 feet to the said southwest line of Lemmon Avenue;

THENCE angle right 118°35'40" and in a southeasterly direction along said southwest line of Lemmon Avenue, a distance of 46.46 feet to the beginning of a curve to the right having a central angle of 15°49'59" and a radius of 506.91 feet;

THENCE in a southeasterly direction along said curving southwest line, an arc distance of 140.08 feet to the POINT OF BEGINNING.

TRACT B

ALL that certain lot, tract or parcel of land lying and being situated in the City and County of Dallas, Texas, and being more particularly described as follows:

BEING a part of Lemmon Avenue and North Central Expressway, lying in the John Grigsby Survey, Abstract 495, Dallas County, Texas, and being a part of a one acre tract of land conveyed to Sam Eakins by deed dated April 29, 1869, and recorded in Volume L, Page 240 of the Deed Records of Dallas County, Texas, and part of a three acre tract of land conveyed to the Trustees for the Freedmen's Grave Yard by deed dated April 12, 1879, and recorded in Volume 66, Page 475 of said Deed Records, and being more particularly described as follows:

BEGINNING at the north corner of said Eakins one acre tract;

THENCE in a southwesterly direction along the northwest line of said Eakins tract, a distance of 155.69 feet to the present southwest line of Lemmon Avenue (variable width);

THENCE in a southeasterly direction along said southwest line and along a curve to the right having a central angle of 23°00'00" and a radius of 323.59 feet, an arc distance of 129.90 feet to the end of said curve;

THENCE in a southeasterly direction along said southwest line, a distance of 117.21 feet to the beginning of a curve to the right having a central angle of 15°49'59" and a radius of 506.91 feet;

THENCE in a southeasterly direction along said curving southwest line an arc distance of 140.08 feet to the intersection of same with the west line of said North Central Expressway;

THENCE in a southerly direction along said west line of North Central Expressway, a distance of 118.72 feet;

THENCE angle right 1°27'41" and continuing in a southerly direction along said west line of North Central Expressway, a distance of 160.97 feet to the intersection of same and the southwest line of said Trustees for the Freedmen's Grave Yard three acre tract;

THENCE in a southeasterly direction along said southwest line, a distance of 108.90 feet to the southeast corner of said three acre tract;

THENCE in a northerly direction along the east line of said three acre tract, a distance of 250.00 feet to the northeast corner of said three acre tract;

THENCE in a northwesterly direction along the northeast line of said three acre tract, a distance of 486.39 feet to the PLACE OF BEGINNING.

TRACT C

ALL that certain lot, tract or parcel of land lying and being situated in the City and County of Dallas, Texas, and being more particularly described as follows:

BEING a part of a one acre tract of land conveyed to Sam Eakins by deed dated April 29, 1869, and recorded in Volume L, Page 240 of the Deed Records of Dallas County, Texas, and part of a three acre tract of land conveyed to the Trustees for the Freedmen's Grave Yard by deed dated April 12, 1879, and recorded in Volume 66, Page 475 of said Deed Records, and lying in the John Grigsby Survey, Abstract 495, Dallas County, Texas, and being in Block 634 1/4, official City numbers, and being more particularly described as follows:

COMMENCING at the north corner of said Eakins one acre tract;

THENCE in a southwesterly direction along the northwest line of said Eakins tract, a distance of 155.69 feet to the present southwest line of Lemmon Avenue and the POINT OF BEGINNING of the herein described tract;

THENCE continuing in a southwesterly direction along said northwest line and the northwest line of said Trustees for the Freedmen's Grave Yard three acre tract, a distance of 232.81 feet, more or less, to the east corner of a tract of land conveyed to Congregation Emanu-El by deed dated July 10, 1947, and recorded in Volume 2848, Page 1 of said Deed Records;

THENCE in a southeasterly direction along the southwest line of said Congregation Emanu-El tract at 396.0 feet passing the southwest corner of a tract of land conveyed to the Congregation Emanu-El by deed dated September 15, 1969, and recorded in Volume 69214, Page 1374 of said Deed Records, a total distance of 415.28 feet, more or less, to the southeast corner of said Congregation Emanu-El tract;

THENCE in a northerly direction along the east line of said Temple Emanu-El tract and the northerly projection of same being the west line of a tract of land conveyed to the City of Dallas by deed dated July 19, 1967, and recorded in Volume 67190, Page 0595 of said Deed Records, a distance of 289.49 feet to said southwest line of Lemmon Avenue;

THENCE in a northwesterly direction along said southwest line of Lemmon Avenue, a distance of 70.75 feet to the beginning of a curve to the left having a central angle of 23°00'00" and a radius of 323.59 feet;

THENCE in a northwesterly direction along said curving southwest line of Lemmon Avenue, an arc distance of 129.90 feet to the POINT OF BEGINNING.

TRACT D

ALL that certain lot, tract or parcel of land lying and being situated in the City and County of Dallas, Texas, and being more particularly described as follows:

BEING all of Lots 22 and 23 and part of Lots 18, 19, 20, 21, 24 and 25 of Block C/633, official City numbers, of Campbell's Addition, an addition to the City of Dallas according to the map or plat thereof recorded in Volume 96, Page 476 of the Deed Records, Dallas County, Texas, and part of the alley known as Duff Street abandoned by City Ordinance No. 16570, and part of Campbell Street, and part of Calvary Avenue abandoned by City Ordinance No. 20689, and being more particularly described as follows:

BEGINNING at the intersection of the present west line of North Central Expressway (variable width) with the northeast line of Calvary Avenue as abandoned by said ordinance;

THENCE in a southerly direction along said west line of North Central Expressway, at 22.61 feet passing the southwest line of said Calvary Avenue, a total distance of 23.80 feet;

THENCE angle right $3^{\circ}12'24''$ and in a southerly direction along said west line of North Central Expressway, a distance of 38.81 feet;

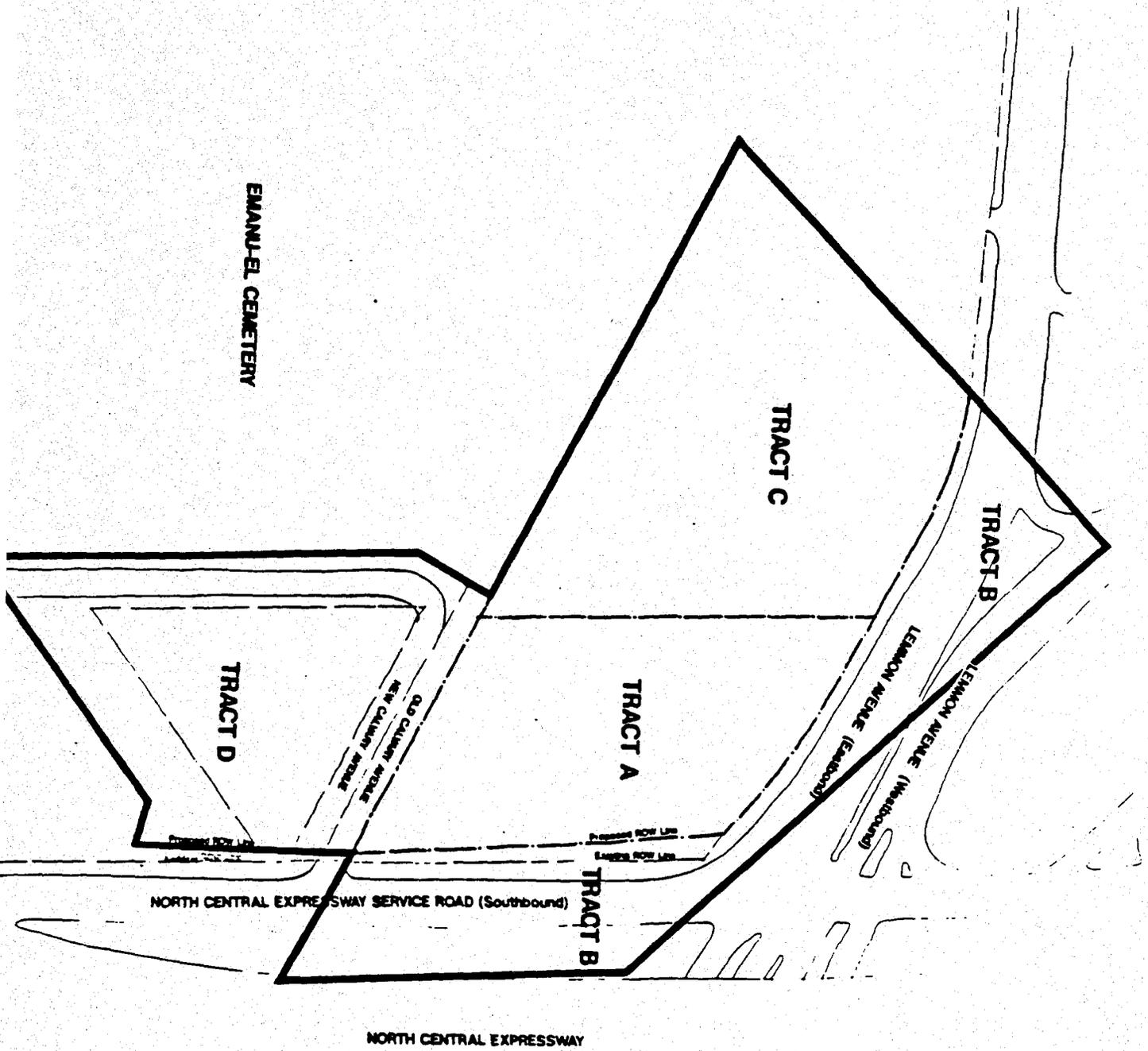
THENCE angle right $36^{\circ}08'30''$ and in a southwesterly direction, a distance of 14.49 feet;

THENCE angle right $17^{\circ}29'25''$ and in a southwesterly direction, a distance of 220.11 feet to a point on the centerline of Campbell Street;

THENCE angle right $122^{\circ}23'17''$ and in a northerly direction along said centerline and the northerly projection of Campbell Street, a distance of 280.01 feet;

THENCE angle right $30^{\circ}41'26''$ and in a northeasterly direction, a distance of 25.02 feet to a point on said northeast line of Calvary Avenue;

THENCE angle right $90^{\circ}00'00''$ and in a southeasterly direction along said northeast line of Calvary Avenue, a distance of 214.84 feet to the POINT OF BEGINNING.



EMANUEL CEMETERY

TRACT C

TRACT B

TRACT A

TRACT D

NORTH CENTRAL EXPRESSWAY SERVICE ROAD (Southbound)

NORTH CENTRAL EXPRESSWAY

LEMMON AVENUE (Eastbound)
LEMMON AVENUE (Westbound)

OLD CALVARY ROAD
NEW CALVARY ROAD

SITE PLAN EXHIBIT B
FREEDMAN'S CEMETERY

EXHIBIT C

MEMORANDUM OF UNDERSTANDING

Among The State Department of Highways and Public Transportation
The Dallas Park Board and Black Dallas Remembered, Inc.

WHEREAS, the proposed improvements to the North Central Expressway (US 75) in the City of Dallas will have an effect upon portions of Freedman's Cemetery; and

WHEREAS, the State Department of Highways and Public Transportation recognizes the historic importance of Freedman's Cemetery to the City of Dallas; and

WHEREAS, the State Department of Highways and Public Transportation recognizes the special importance of Freedman's Cemetery to the families of those who lie buried there and to the local community as a whole; and

WHEREAS, the State Department of Highways and Public Transportation wishes to mitigate the impact of the proposed undertaking to the Freedman's Cemetery in accordance with the wishes of the local community; and

WHEREAS, the State Department of Highways and Public Transportation wishes to insure that any human remains within the Freedman's Cemetery which must be relocated due to the proposed undertaking will be treated with the utmost respect and dignity and in accordance with the expressed wishes of those most closely concerned;

NOW, THEREFORE, the State Department of Highways and Public Transportation, the Dallas Park Board and Black Dallas Remembered, Inc. agree that the undertaking shall be implemented in accordance with the following stipulations.

STIPULATIONS

The State Department of Highways and Public Transportation shall insure that the following measures are carried out:

1. Measures shall be taken to secure the area at all times.

January 2, 1990

2. In order to determine the location of unmarked burials within Freedman's Cemetery and to locate an area free of burials and suitable for reinterments, a blading machine or grader shall be used to scrape small increments of soil (2 in. or so at a time) from the surface. This soil shall be stockpiled at a nearby location.

3. The scraping procedure shall be monitored by the Freedman's Cemetery Project Director to detect any disturbances or anomalies indicating the presence of graves in the deposits. In this manner, burial pit outlines shall be detected before the machine actually intrudes into the graves. Outlines of graves detected in this manner shall be delineated with stakes and string. Exact provenience, both horizontal and vertical, shall be recorded through use of surveying instruments and these readings shall be transferred to a general plat map of the cemetery. Each interment shall be given a unique identification number and any information noted shall be recorded.

4. Locating graves within the area of potential impact shall proceed in much the same manner as the initial exploration of possible reinterment areas. Small vertical increments shall be removed from the surface by a blading machine under the supervision of the Freedman's Cemetery Project Director. All graves shall be delineated with stakes and string, and assigned unique field identification numbers, in order to distinguish them from those in the portion of the cemetery outside of the area of impact. Precise readings for each grave shall be recorded along with the field identification number and a plat map of the cemetery shall be produced. Machine exploration shall continue in areas which appear to be devoid of subsurface disturbances until a depth of 6 ft. is reached, at which time it shall be assumed that no more graves are present. All soil removed from the right-of-way shall be taken off site and stock-piled.

5. The deposits within the Cemetery contain objects which were a part of past funeral activities. Most of these objects can no longer be associated with specific interments, but represent a record of historic burial practices. As these objects are encountered, they will be collected in order to provide a record for future generations. All objects collected in this manner will be transferred to the Museum of African-American Life and Culture where they will become a part of the Museum's permanent collection. All objects which can be identified as coming from within a specific burial casket will be reinterred with the deceased.

January 2, 1990

21203

6. When the grave outlines within the area of impact have been delineated, mechanical investigation shall cease, and excavation and disinterment shall proceed archeologically by hand. All work shall proceed under the supervision of the Freedmen's Cemetery Project Director and shall be observed by a licensed mortician.
7. The human remains shall be exposed and recorded using photographs and anthropometric measurements. A specially trained excavation team osteologist shall perform an inspection of the remains at the grave site in an effort to establish age, sex, stature, obvious pathologies and any other readily identifiable physical characteristics of the deceased.
8. Any material objects observed within the graves, such as jewelry, ornaments, burial offerings and casket hardware shall also be recorded at the grave site.
9. When disinterment of each burial is complete, the remains, including all associated materials as well as a sample of the coffin, shall be carefully removed from the grave by hand and transferred to a reburial container. A temporary identification card cross-referenced by the field identification number shall be placed inside the reburial container with the disinterred remains.
10. Should intact coffins be encountered, the Freedman's Cemetery Project Director shall determine if it is feasible to simply exhume and reinter the original coffin. Every effort shall be made not to intrude into intact coffins, which shall remain closed. In such cases, no observations shall be made of the human remains within.
11. Work shall be scheduled so that no remains will be left exposed in the ground overnight. If a burial is only partially exposed or recorded at the end of a work day, the remains shall be covered with a cloth and a layer of sterile soil until work recommences. Every effort shall be made to minimize this contingency. The Cemetery shall be secured after work hours.
12. At the end of each work day, reinterment containers holding the remains exhumed during that day shall be removed to a mortuary where they will be retained until reinterment. A rust-proof identification plaque containing information for each individual shall be affixed to the outside of each reinterment container. These plaques shall be prepared by the State Department of Highways and Public Transportation based upon information observed at the time of disinterment and shall be affixed to the reburial container at the mortuary.

13. The process of locating and exhuming burials possibly located under existing pavement shall proceed in much the same manner as above. Exhumations must be planned to coincide with construction schedules and accommodate the re-routing of traffic. The same goals and methods described above shall apply.

14. When a substantial number of burials have been exhumed (approximately 50) and removed to the mortuary, the reinterment procedure may begin. A grave or graves of sufficient size to accommodate the reinterment containers shall be excavated in the area designated for the reburials. This area shall be contiguous with existing Freedman's Cemetery. Excavation of the reburial grave(s) shall be conducted in compliance with all legal requirements and the exact reinterment site shall be established by the Freedman's Cemetery Project Director to insure that unmarked and previously unidentified grave localities are avoided. By reinterring individuals in groups of approximately 50 it may be possible to more accurately retain the original burial orientations and any internal organization of the burials noted during exhumation. This procedure should also improve the logistics of transport and storage of individuals after exhumation and before reinterment and will minimize the time any individual remains will remain unburied.

15. Backfilling shall be conducted by the attending mortician and monitored by the Freedman's Cemetery Project Director, and shall be in compliance with all legal requirements.

16. The reinterment area shall be incorporated into existing Freedman's Cemetery, and shall be included in the design plan for future memorial improvements.

17. No investigative studies other than the grave-side observations outlined above shall be performed upon human remains and associated material objects exhumed from interments located within the proposed and existing right-of-way of the North Central Expressway.

21203

SIGNATORIES

STATE DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION

BY: *James M. Huffman* DATE 9-13-91
James M. Huffman, P.E., District Engineer
The Dallas District

THE DALLAS PARK BOARD

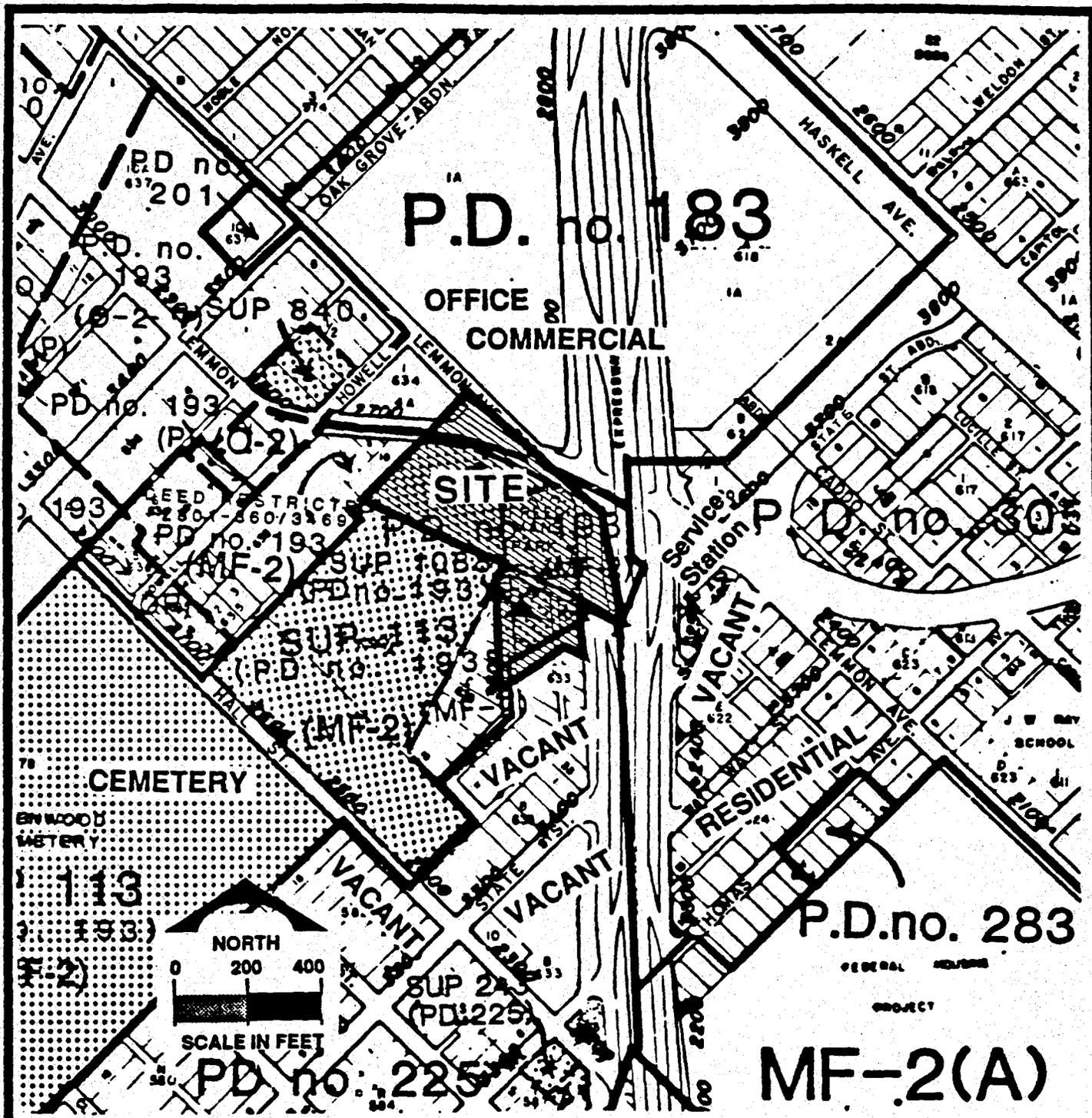
BY: *James P. Graham* DATE 1-31-91
James P. Graham, President

BY: *Vivian Johnson* DATE 1-31-91
Vivian Johnson, Freedmen's Cemetery Committee Chairperson

BLACK DALLAS REMEMBERED, INC.

BY: *Mamie McKnight* DATE 9-16-91
Mamie McKnight, President

* Refer to Park Board Resolution "Freedman's Burial Ground Artifacts" dated 8-2-90; Texas Antiquities Committee letter to TxDOT dated 8-15-91, and results of TxDOT meeting 9/16/91 with Texas Antiquities Committee Staff Archeologist. (See meeting notes). J.M.



ZONING AND LAND USE

Map No. 1-7

Case No. Z912-110/6558-N