

4-10-01

ORDINANCE NO. 24579

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. 109 (Bama Pie Company Building) comprised of the following described property ("the Property"), to wit:

BEING a part of City of Dallas Block 1381, Dallas County, Texas and being more particularly described as follows:

BEGINNING at the point of intersection of the northeast line of Trunk Avenue (40 feet wide) and the southeast line of Pennsylvania Avenue (50 feet wide);

THENCE North 42°20'30" East, along the southeast line of Pennsylvania Avenue, a distance of 342.77 feet to a point for a corner in the southwest line of Fourth Avenue;

THENCE South 45°00' West, along the southwest line of Fourth Avenue, a distance of 82.50 feet to a point for a corner;

THENCE South 43°20'30" West, a distance of 338.84 feet to a point for a corner in the northeast line of Trunk Avenue;

THENCE North 47°46'30" West, a distance of 76.50 feet, along the northeast line of Trunk Avenue to the POINT OF BEGINNING, and containing 37,083.03 square feet or 0.622 acres of land;

providing procedures, regulations, and preservation criteria for structures and property in the district; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

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 the Property is an area of historical, cultural, and architectural importance and significance to the citizens of the city; 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. 109 comprised of the following described property ("the Property"), to wit:

BEING a part of City of Dallas Block 1381, Dallas County, Texas and being more particularly described as follows:

BEGINNING at the point of intersection of the northeast line of Trunk Avenue (40 feet wide) and the southeast line of Pennsylvania Avenue (50 feet wide);

THENCE North $42^{\circ}20'30''$ East, along the southeast line of Pennsylvania Avenue, a distance of 342.77 feet to a point for a corner in the southwest line of Fourth Avenue;

THENCE South $45^{\circ}00'$ West, along the southwest line of Fourth Avenue, a distance of 82.50 feet to a point for a corner;

THENCE South $43^{\circ}20'30''$ West, a distance of 338.84 feet to a point for a corner in the northeast line of Trunk Avenue;

THENCE North $47^{\circ}46'30''$ West, a distance of 76.50 feet, along the northeast line of Trunk Avenue to the POINT OF BEGINNING, and containing 37,083.03 square feet or 0.622 acres of land.

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SECTION 2. 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, except that the following additional uses are permitted by right: vehicle or engine repair or maintenance for race cars. If there is a conflict, the regulations contained in this ordinance control over the regulations of the underlying zoning district.

SECTION 3. That a person shall not alter the Property, or any portion of the exterior of a structure on the Property, or place, construct, maintain, expand, demolish, or remove any structure on the Property without first obtaining a certificate of appropriateness or certificate for demolition or removal in accordance with the Dallas Development Code, as amended, and this ordinance. All alterations to the Property must comply with the preservation criteria attached to and made a part of this ordinance as Exhibit A.

SECTION 4. 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 5. That the director of planning and development shall correct Zoning District Map No. K-8 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.

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SECTION 6. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000. 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, maintenance, demolition, or removal of a building, structure, or land on the Property.

SECTION 7. 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.

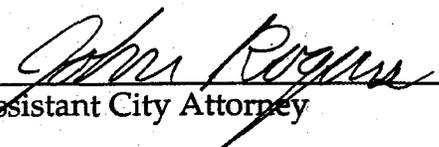
SECTION 8. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 9. 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:

MADELEINE B. JOHNSON, City Attorney

By


Assistant City Attorney

Passed APR 11 2001

Exhibit A

PRESERVATION CRITERIA

Bama Pie Company Building

1701 Fourth Avenue a.k.a. 3216-24 Pennsylvania Avenue

1. GENERAL

- 1.1 All demolition, maintenance, new construction, public works, renovations, repairs, and site work in this district must comply with these preservation criteria.
- 1.2 Any alterations to property within this district must comply with 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.
- 1.3 Certificate of appropriateness
 - a. A person may not alter a site within this district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
 - b. The certificate of appropriateness review procedure outlined in Section 51A-4.501 of the Dallas Development Code, as amended, applies to this district.
 - c. Any work done under a certificate of appropriateness must comply with any conditions imposed in the certificate of appropriateness.
 - d. After the work authorized by the certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The Director may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.
- 1.4 A person may not demolish or remove any structure in this district without first obtaining a certificate for demolition or removal in accordance with Section 51A-4.501 of the Dallas Development Code.

- 1.5 Preservation and restoration materials and methods used must comply with the Secretary of the Interior's Standards and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.
- 1.6 No person shall allow a structure in this district to deteriorate through demolition by neglect. Demolition by neglect is neglect in the maintenance of a structure that results in deterioration of the structure and threatens preservation of the structure. All structures in this district must be preserved against deterioration and kept free from structural defects. See Section 51A-4.501 of the Dallas Development Code for regulations concerning demolition by neglect.
- 1.7 Consult Article XI, "Development Incentives," of the Dallas Development Code for tax incentives that may be available in this district.
- 1.8 The period of historic significance for this district is the period from 1936 to 1950.

2. DEFINITIONS

- 2.1 Unless defined below, the definitions contained in CHAPTER 51A "PART II OF THE DALLAS DEVELOPMENT CODE" of the Dallas City Code, as amended, apply.
- 2.2 APPROPRIATE means typical of the historic architectural style, compatible with the character of this district, and consistent with these preservation criteria.
- 2.3 CERTIFICATE OF APPROPRIATENESS means a certificate required by Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
- 2.4 CORNERSIDE FENCE means a fence adjacent to a side street.
- 2.5 CORNERSIDE YARD means a side yard abutting a street.
- 2.6 DIRECTOR means the director of the Department of Planning and Development or the Director's representative.
- 2.7 DISTRICT means Historic Overlay District No. 109, the Bama Pie Company Building Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit B.
- 2.8 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.

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- 2.9 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
- 2.10 INTERIOR SIDE FENCE means a fence not adjacent to a street or alley.
- 2.11 MAIN BUILDING means the Bama Pie Company Building, as shown on Exhibit B.
- 2.12 NO-BUILD ZONE means that part this district in which no new construction may take place.
- 2.13 PROTECTED means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.14 REAL ESTATE SIGN means a sign that advertises the sale or lease of an interest in real property.

3. BUILDING SITE AND LANDSCAPING

- 3.1 New construction is prohibited in the no-build zone shown on Exhibit B.
- 3.2 The main building is protected.
- 3.3 New driveways, sidewalks, steps, and walkways must be constructed of brush finish concrete, stone, or other appropriate material. Artificial grass, artificially-colored concrete, asphalt, exposed aggregate, and outdoor carpet are not permitted.
- 3.4 Circular driveways and parking areas are not permitted in a front yard.
- 3.5 Carports or garages are not permitted in the no-build zone.
- 3.6 Any new mechanical equipment must be erected in the side or rear yards, and must be screened.
- 3.7 Landscaping
 - a. Outdoor lighting must be appropriate and enhance the structure.
 - b. Landscaping must be appropriate, enhance the structure and surroundings, and not obscure significant views of protected facades.
 - c. It is recommended that landscaping reflect the historic landscape design.

- d. Existing trees are protected, except that unhealthy or damaged trees may be removed.

3.8 Fences

- a. Fences are not permitted in the front yard.
- b. Fences in side yards must be located a minimum of five feet back from the front facade of the structure.
- c. Cornerside fences are permitted only if the fence is in the rear 50 percent of the cornerside yard, and screening is necessary to ensure privacy due to unusually high pedestrian or vehicular traffic.

- 3.9 Interior side fences and fences in rear yards may not exceed eight feet in height. Cornerside fences may not exceed six feet in height.

- 3.10 Fences must be constructed of brick, cast stone, iron, stone, wood, a combination of these materials, or other appropriate materials.

4. FACADES

4.1 Protected facades

- a. The facades shown on Exhibit B are protected.
- b. Reconstruction, renovation, repair, or maintenance of protected facades must be appropriate and must employ materials similar to the historic materials in texture, color, pattern, grain, and module size.
- c. Historic solid-to-void ratios of protected facades must be maintained.
- d. Brick added to protected facades must match in color, texture, module size, bond pattern, and mortar color.
- e. Brick, cast stone, and concrete elements on protected facades may not be painted, except that portions of the structure that had been painted prior to the effective date of this ordinance may remain painted.

- 4.2 Reconstruction, renovation, repair, or maintenance of nonprotected facades must be compatible with protected features.

- 4.3 Existing trim and detailing must be restored wherever practical.

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- 4.4 All exposed wood must be painted, stained, or otherwise preserved.
- 4.5 Historic materials must be repaired if possible; they may be replaced only when necessary.
- 4.6 Paint must be removed in accordance with the Secretary of the Interior's Standards and Preservation Briefs published by the United States Department of the Interior prior to refinishing.
- 4.7 Aluminum siding, stucco, and vinyl cladding are not permitted.
- 4.8 Historic color must be maintained wherever practical. Color schemes for non-masonry elements should conform to any available documentation as to historic color.
- 4.9 Exposing and restoring historic finish materials is recommended.
- 4.10 Cleaning of the exterior of a structure must be in accordance with the Secretary of the Interior's Standards and Preservation Briefs published by the United States Department of the Interior. Sandblasting and other mechanical abrasive cleaning processes are not permitted.

5. FENESTRATION AND OPENINGS

- 5.1 Historic doors and windows must remain intact except when replacement is necessary due to damage or deterioration.
- 5.2 Replacement of doors and windows which have been altered and no longer match the historic appearance is recommended.
- 5.3 Replacement doors and windows must express profile, muntin and mullion size, light configuration, and material to match the historic.
- 5.4 Storm doors are permitted if they are appropriate and match the existing doors in profile, width, height, proportion, glazing material, and color.
- 5.5 Storm windows are not permitted over existing windows.
- 5.6 Decorative ironwork and burglar bars are not permitted over doors or windows of protected facades. Interior mounted burglar bars are permitted if appropriate.
- 5.7 Glass and glazing must match historic materials as much as practical. Films and tinted or reflective glazings are not permitted on glass.

- 5.8 New door and window openings in protected facades are permitted only where there is evidence that historic openings have been filled or the safety of life is threatened.
- 5.9 The Secretary of the Interior's Standards and Preservation Briefs published by the United States Department of the Interior should be referred to for acceptable techniques to improve the energy efficiency of historic fenestration.

6. ROOFS

- 6.1 The historic slope, massing, configuration, and materials of the roof must be preserved and maintained.
- 6.2 The following roofing materials are allowed: built-up, metal, single-ply membrane.
- 6.3 Historic coping, parapets, and roof trim must be retained, and should be repaired with material matching in size, finish, module, and color.
- 6.4 Mechanical equipment, skylights, and solar panels on the roof must be set back or screened so that they are not visible to a person standing at ground level on the opposite side of any adjacent right-of-way.

7. EMBELLISHMENTS AND DETAILING

- 7.1 The following architectural elements are considered important features and are protected:
 - a. Stone trim surrounding door and window openings.
 - b. Brick facades at Pennsylvania and Fourth Streets.
 - c. "Bama Pie Company" and "BPC" cast-stone signs.

8. NEW CONSTRUCTION AND ADDITIONS

- 8.1 Stand-alone new construction is permitted only in the areas shown on Exhibit B.
- 8.2 Vertical additions to the main building are permitted if appropriate.
- 8.3 Horizontal additions to the main building are permitted only in the areas shown on Exhibit B.

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- 8.4 The color, details, form, materials, and general appearance of new construction and additions must be compatible with the existing historic structure.
- 8.5 New construction and additions must have appropriate color, detailing, fenestration, massing, materials, roof form, shape, and solid-to-void ratios.
- 8.6 The height of new construction and horizontal additions must not exceed the height of the historic structure.
- 8.7 Aluminum siding, wood siding, stucco, and vinyl cladding are not permitted.
- 8.8 The setback of new construction and additions must conform to the setback of adjacent historic structures.
- 8.9 New construction and additions must be designed so that connections between new construction or additions and the historic structure are clearly discernible as suggested by the Secretary of the Interior in Preservation Brief No. 14. A clear definition of the transition between new construction or additions and the historic structure must be established and maintained. Historic details in the coping, eaves and parapet of the historic structure must be preserved and maintained at the point where the historic structure abuts new construction or additions.

9. SIGNS

- 9.1 Signs may be erected if appropriate.
- 9.2 All signs must comply with the provisions of the Dallas City Code, as amended.
- 9.3 Temporary political campaign signs as defined in Chapter 15A of the Dallas City Code, as amended, and temporary real estate signs may be erected without a certificate of appropriateness.

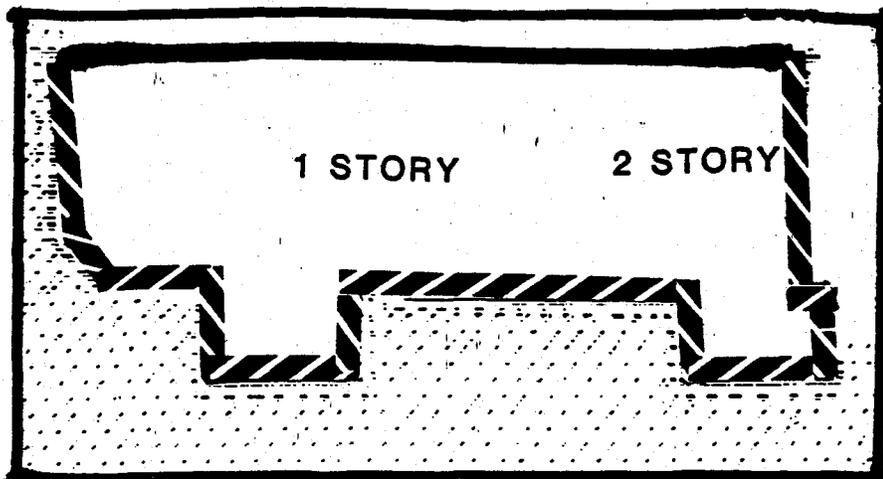
10. ENFORCEMENT

- 10.1 A person who violates these preservation criteria is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

- 10.2 A person is criminally responsible for a violation of these preservation criteria if the person owns part or all of the property where the violation occurs, the person is the agent of the owner of the property and is in control of the property, or the person commits the violation or assists in the commission of the violation.
- 10.3 Any person who adversely affects or demolishes a structure in this district in violation of these preservation criteria is liable pursuant to Section 315.006 of the Texas Local Government Code for damages to restore or replicate, using as many of the original materials as possible, the structure to its appearance and setting prior to the violation. No certificates of appropriateness or building permits will be issued for construction on the site except to restore or replicate the structure. When these restrictions become applicable to a site, the Director shall cause to be filed a verified notice in the county deed records and these restrictions shall be binding on future owners of the property. These restrictions are in addition to any fines imposed.
- 10.4 Prosecution in municipal court for a violation of these preservation criteria does not prevent the use of other enforcement remedies or procedures provided by other city ordinances or state or federal laws applicable to the person charged with or the conduct involved in the offense.

BAMA PIE 24579
EXHIBIT B

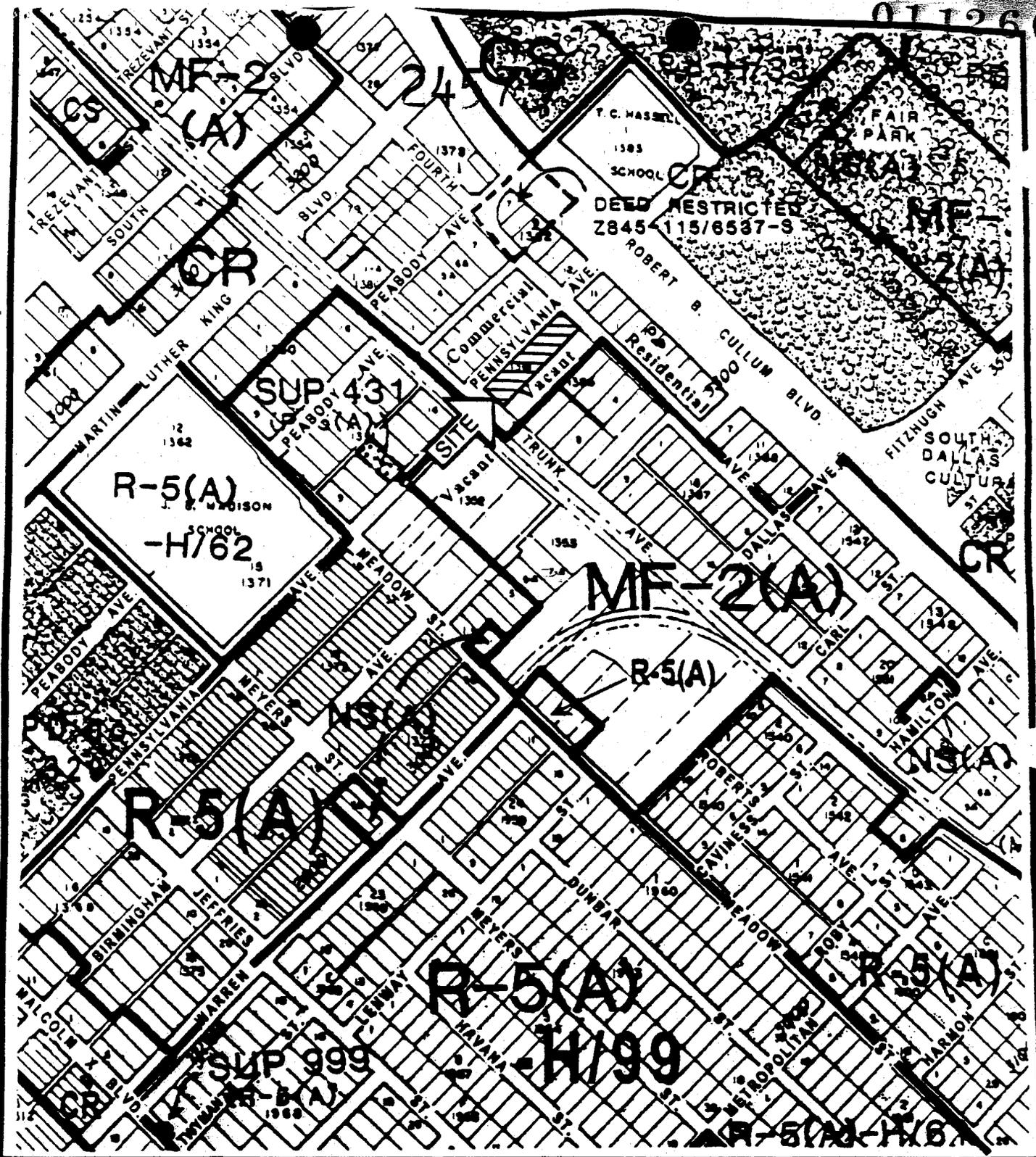
FOURTH STREET



PENNSYLVANIA AVENUE

 PROTECTED FACADE

 NO BUILD ZONE



0 200 400



SCALE IN FEET

ZONING AND LAND USE

MAP NO. K-8

CASE NO. Z001-151/11367-SE(JA)