

5-21-02

ORDINANCE NO. 24938

An ordinance amending the zoning ordinances of the City of Dallas, as amended, by establishing Historic Overlay District No. 114 (Pioneer Cemetery) comprised of the following described property, to wit:

BEING a tract of land out of the J.H. Grigsby Survey, Abstract No. 495 and the J.N. Bryan Survey, Abstract No. 149, being all of City of Dallas Blocks 66 and 67 in the City of Dallas, Dallas County, Texas, and containing four acres of land, more or less;

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 described herein; and

WHEREAS, the city council finds that the property described herein 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:

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SECTION 1. That the zoning ordinances of the City of Dallas are amended by establishing Historic Overlay District No. 114 comprised of the following described property ("the Property"), to wit:

BEING a tract of land out of the J.H. Grigsby Survey, Abstract No. 495 and the J.N. Bryan Survey, Abstract No. 149, being all of City of Dallas Blocks 66 and 67 in the City of Dallas, Dallas County, Texas, and containing four acres of land, more or less.

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. If there is a conflict, the regulations 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. J-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 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.

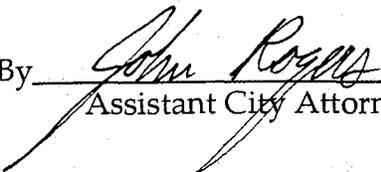
SECTION 7. That the zoning ordinances of the City of Dallas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

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 _____ MAY 22 2002

EXHIBIT A
PRESERVATION CRITERIA
Pioneer Cemetery Historic District
Marilla Street at Young Street

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 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, as amended.
- 1.5 Preservation and restoration materials and methods used must comply with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.

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- 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, as amended, for regulations concerning demolition by neglect.
- 1.7 Consult Article XI, "Development Incentives," of the Dallas Development Code, as amended, for tax incentives that may be available in this district.
- 1.8 The period of historic significance for this district is the period from 1849 to 1921.

2. DEFINITIONS

- 2.1 Unless defined below, the definitions contained in CHAPTER 51A 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 DIRECTOR means the Director of the Department of Planning and Development or the Director's representative.
- 2.5 DIRECTIONAL SIGNS means signs that provides direction and information for locations within the cemetery.
- 2.6 DISTRICT means Historic Overlay District No. 114, the Pioneer Cemetery Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit B.
- 2.7 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.8 FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate. Metal fences that enclose gravesites are considered fences.
- 2.9 GRADE means the degree of inclination of the ground's surface.

- 2.10 GRAVE means the space of ground used for the permanent interment of human remains.
- 2.11 GRAVE MARKER means a marker that identifies the locations of one or more graves. Grave markers may be stone or metal and typically are inscribed with the name and dates of birth and death; these can be located at the head or foot of a single grave or located to mark a group of graves.
- 2.12 MONUMENT means a commemorative marker, pylon, or sculpture that memorializes a person, place, or historic event.
- 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 REINTERMENT means the reburial of human remains.
- 2.15 REMAINS means the body, or parts of the body, of a deceased person.
- 2.16 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.

3. SITE AND LANDSCAPING

- 3.1 New construction is prohibited.
- 3.2 Ground disturbances
- a. Because unmarked graves may be located within Pioneer Cemetery, any disturbance to the ground, including landscaping, must be undertaken with much care and consideration.
 - b. Ground disturbances deeper than six inches require a certificate of appropriateness.
 - c. All archeological studies must have a certificate of appropriateness prior to any ground disturbance.
- 3.3 Walkways
- a. New or replacement walkways must be constructed of pavers, brick, brush-finished concrete, or other appropriate material. Artificial grass, artificially-colored concrete, asphalt, exposed aggregate, and outdoor carpet are not permitted.

- b. Crushed gravel, stone, or stone chips may be used for walkways only if contained within concrete or metal edging.
- c. No walkway may go over a grave.

3.4 Parking areas, driveways, and paved areas are not allowed.

3.5 Landscaping

- a. Outdoor lighting must be appropriate and enhance the monuments, tombs, and cemetery.
- b. Outdoor light poles may not exceed 16 feet in height.
- c. Landscaping must be appropriate, enhance the cemetery and surroundings, and not obscure significant views of protected fences, grave markers, monuments, or tombs.
- d. It is recommended that landscaping reflect the historic landscape design.
- e. Existing trees are protected, except that unhealthy or damaged trees may be removed.
- f. New or replacement shrubs or trees may not be planted on graves.
- g. Ground cover may not be planted over, or allowed to extend over, a grave.
- h. It is recommended that lawnmowers without bumpers and weedwackers with metal blades or wires not be used around grave markers, as these cause irreversible damage. It is recommended that lawnmower bumpers, fabricated from rubber tires or inner tubes, should be attached to lawnmowers to provide a buffer between the machine and the grave marker. Weedwackers with soft nylon whips may be used around grave markers.

3.6 The grade of any area within Pioneer Cemetery may not be changed.

3.7 Fences

- a. New fences are not allowed at graves.
- b. Replacement fences are allowed if evidence exists that there was a fence at the location, and adequate documentation exists to guide replication. Replacement fences must match the original fence in material, design, style, and height.

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- c. Fences are not allowed along public right-of-ways or public walkways.
 - d. Fences may not exceed 36 inches in height.
- 3.8 Replacement curbs are allowed around a collection of graves if the replacement curbs match the original curb in material, design, style, and height. Pink granite may not be used as curb material.

4. GRAVE MARKERS, MONUMENTS, AND TOMBS

- 4.1 Existing grave markers, monuments, and tombs are protected.
- 4.2 Damaged grave markers, monuments, and tombs should be restored to their historic appearance.
- 4.3 Replacement grave markers
 - a. Grave markers that are missing or damaged beyond repair should be replaced with grave markers that match the historic grave marker in design, material, color, and size.
 - b. The identification of unidentified graves is encouraged. Following research to determine the identity of the deceased and other pertinent information, marking of unidentified graves is encouraged.
 - c. If the design of the original grave marker is not known, new flat grave markers may be used as shown in Exhibit C.
 - d. Texas Historical Commission standard grave markers may be placed at grave markers as shown in Exhibit C. New grave markers must be constructed of marble, granite, stone, or other natural stone. Pink or black granite markers are not permitted.
 - e. New replacement family grave markers may be used as shown in Exhibit C.
- 4.4 No new monuments or tombs may be erected. This does not prohibit informational signs or plaques associated with the history of Pioneer Cemetery or the individuals buried there.

- 4.5 Conservation, repair, and maintenance of grave markers, monuments, and tombs
- a. Grave markers, monuments, and tombs in good condition:
 1. Existing grave markers, monuments, and tombs should be cleaned regularly, but not more than once every 18 months.
 2. Routine cleaning of grave markers, monuments, and tombs is done by scrubbing with soft brushes using water with mild detergent, followed by a thorough rinsing with water.
 3. Lichen or algae should be removed from grave markers, monuments, and tombs by thoroughly soaking the stone with water and then using a wood scraper to gently remove the lichen or algae. It may be necessary to repeat the process several times.
 - b. Grave markers that have a friable surface or that are delicate, brittle, or easily damaged should not be cleaned.
 - c. Bronze sculptures should periodically be washed, recoated with lacquer (if applicable), or waxed, but not more than once every 6 months.
 - d. Abrasives, acids, bases, household cleaners, wire brushes, soap, and pressure blasting may not be used to clean bronze or stone.
 - e. If a grave marker must be removed for repairs, a temporary grave marker should be installed before the damaged grave marker is removed.
 - f. Grave markers which have broken into two or more pieces must be repaired using standards accepted by the Association for Grave Stone Studies, 278 Main Street, Suite 207, Greenfield, Massachusetts 01301 (413-772-0836 or <http://www.gravestonestudies.org>) or as detailed in *A Graveyard Preservation Primer* by Lynette Stranstad.
 - g. Fallen or broken grave markers may not be repaired by embedding them in concrete or using metal splints; both methods are detrimental to the integrity of the stone.

5. BURIALS AND REINTERMENTS

- 5.1 Pioneer Cemetery may contain unmarked graves. In the event that remains or artifacts suggestive of the presence of a grave are encountered, the site must be secured, the city's historic preservation officer notified, and all activities at the site cease. A certificate of appropriateness to restore the site or relocate the grave must be obtained before activities may resume.
- 5.2 Relocation of marked or unmarked graves must be conducted in accordance with Texas Council of Archaeologists guidelines.
- 5.3 New burials are not allowed.
- 5.4 Reinterments must be reviewed through the certificate of appropriateness process.
- 5.5 After a reinterment is completed, the original grade of that area must be restored.
- 5.6 Archeological excavations may be allowed through the certificate of appropriateness process.

6. PROTECTED FEATURES

- 6.1 The following elements are considered important features and are protected:
 - a. Grave markers
 - b. Monuments
 - c. Tombs
 - d. Historic fences
 - e. Historic walkways
 - f. Grade and topography

7. NEW CONSTRUCTION

- 7.1 Stand-alone new construction is not permitted.

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8. SIGNS

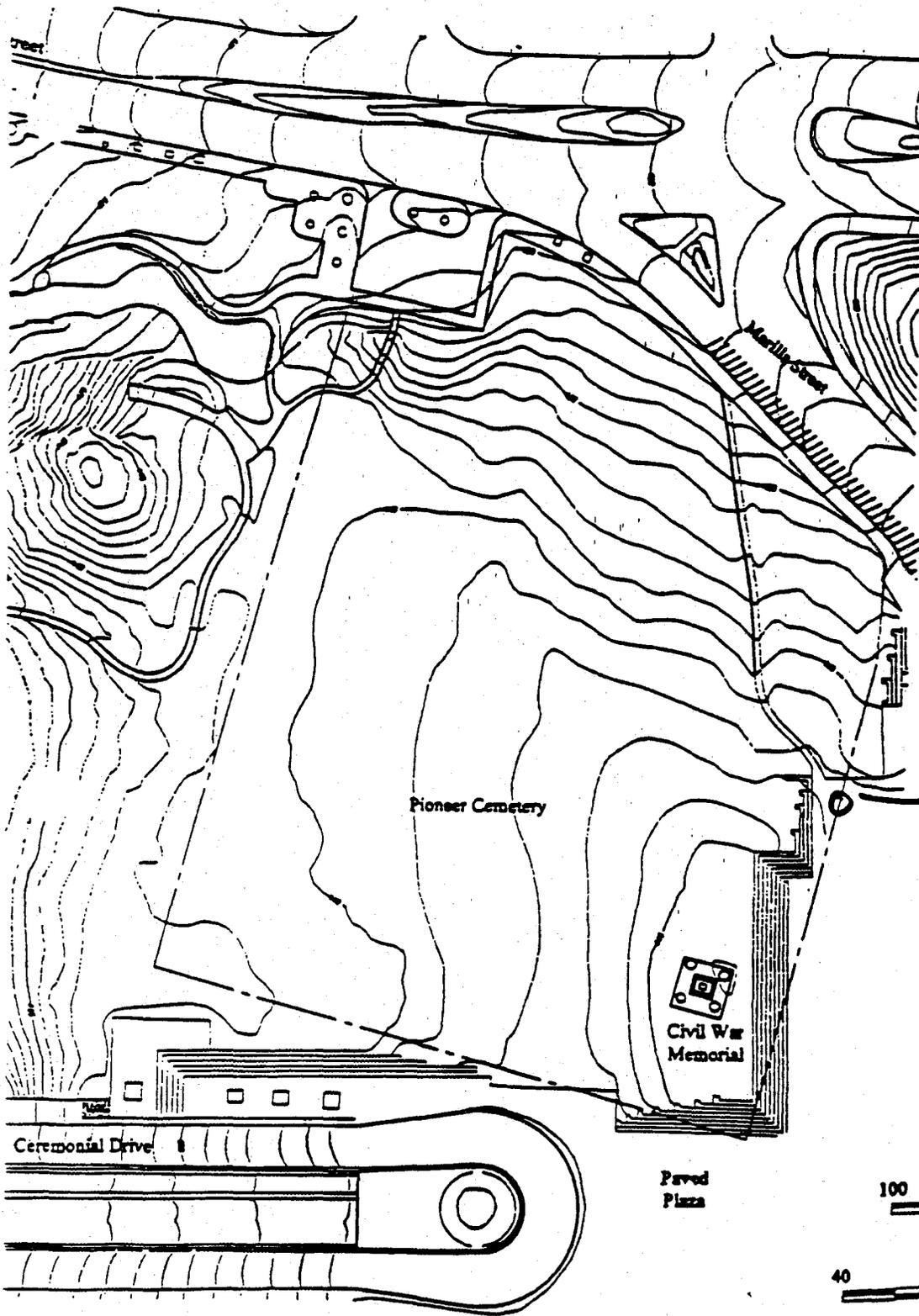
- 8.1 Identification, interpretative, and directional signs may be erected if appropriate.
- 8.2 All signs must comply with the provisions of the Dallas City Code, as amended.

9. RESOURCES

- 9.1 The following resources should be consulted when evaluating the appropriateness of maintenance, repairs, and alterations:
 - a. *"Conservation of Cemetery Structures"* Dennis, John R.; article included in *Preservation Plan for Plano Historic Cemeteries*.
 - b. *Conservation of Buildings and Decorative Stone*, Volumes 1 and 2, John Ashurst and Francis G. Dimes, Editors. London, Butterworth-Heinemann, 1990.
 - c. *"Maintenance of Outdoor Sculpture: Whose Job Is It?"* Program at the 20th Annual Meeting of the American Institute of Conservation (AIC), June 2-3, 1992, Buffalo, NY.
 - d. *Metals in America's Historic Buildings: Uses and Preservation Treatments*, Margot Gayle, David W. Look, AIA, and John G. Waite. Washington DC, National Park Service, 1980.
 - e. *"Keeping it Clean, Removing Exterior Dirt, Paint, Stains, and Graffiti from Historic Masonry Buildings,"* Anne E. Grimmer, Washington DC, National Park Service, 1990.
 - f. *Ancient and Historic Metals, Conservation and Scientific Research*, David A. Scott, Jerry Podany, and Brian B. Considine, Editors. Proceedings from a Symposium by the J. Paul Getty Museum, November 1991. Getty Trust Publications, Getty Conservation Institute, 1995.
 - g. *Sculpture Conservation, Preservation or Interference?* Phillip Lindley, Editor. Aldershot, 1997.
 - h. *"Repointing Mortar Joints in Historic Brick Buildings,"* Robert C. Mack, Washington DC, National Park Service, 1976.
 - i. *"Conserving Outdoor Bronze Sculpture: The Thaddeus Kosciuszko Monument, Washington DC,"* Dennis R. Montagna, *Preservation Tech Notes*, Washington DC, National Park Service, 1989.

- j. *Guide to Maintenance of Outdoor Sculpture*, Virginia N. Naude and Glenn Wharton, American Institute of Conservation of Historic and Artistic Works (AIC), Washington DC, 1993.
- k. The Association for Grave Stone Studies, 278 Main Street, Suite 207 Greenfield, MA 01303, <http://www.gravestonestudies.org>.
- l. *The Texas Ten: Preserving the State's Historic Outdoor Sculpture*, Texas Historic Commission, Austin, Texas 1999.
- m. *Preservation Plan for Plano Historic Cemeteries*, Angela Tine and John R. Dennis, (Geo-Marine, Inc.), report for City of Plano, Texas, September 2000.

Exhibit B
Pioneer Cemetery



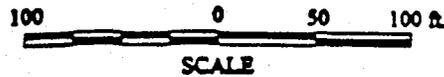
Pioneer Cemetery

Civil War Memorial

Paved Plaza

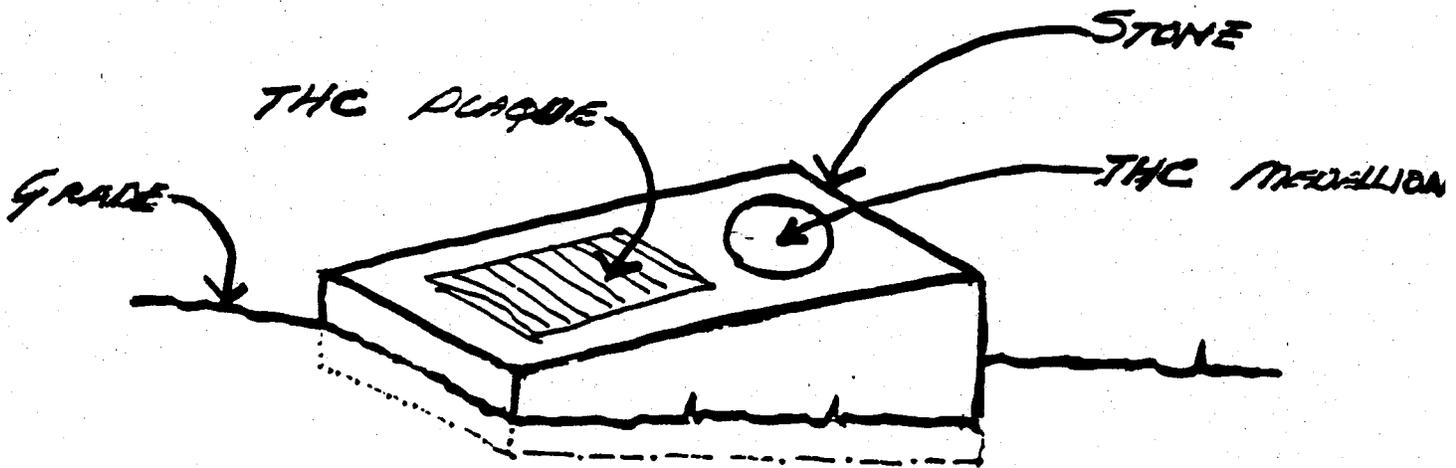
Ceremonial Drive

HISTORIC DISTRICT BOUNDARY



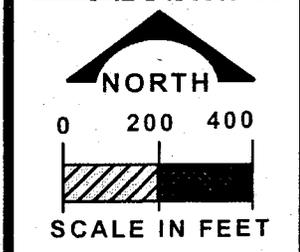
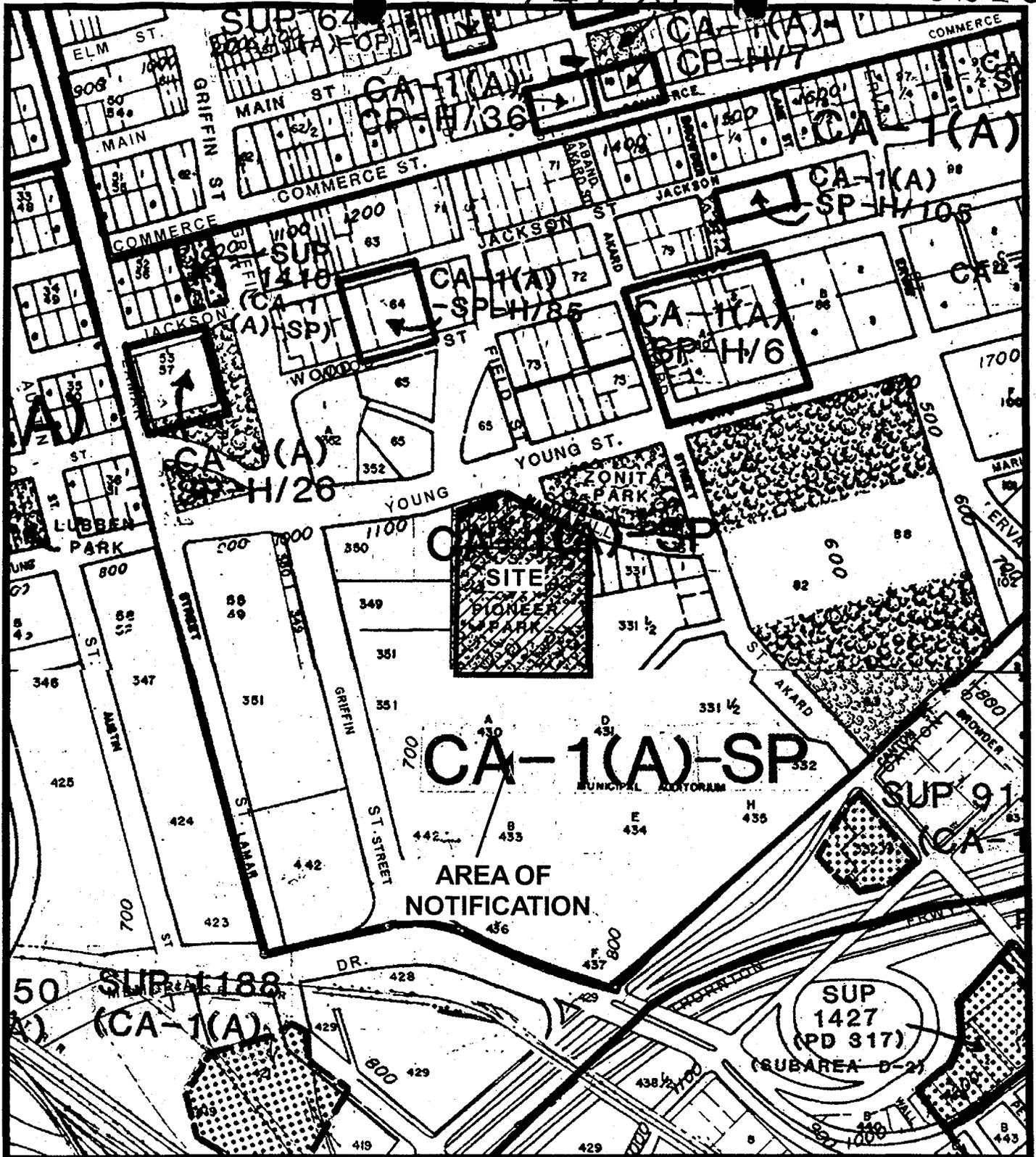
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RECOMMENDED DESIGN FOR GRAVE MARKER WITH
TEXAS HISTORICAL COMMISSION PLAQUE

EXHIBIT C



ZONING

 AREA OF REQUEST

MAP NO. J-7

CASE NO. Z012-184/11637(JA)