

ORDINANCE NO. 27816

An ordinance changing the zoning classification on the following property:

BEING a portion of Lot 4 and a portion of Lot 1 of City Block A/2979; fronting on Nonesuch Road between Hillside Drive and Westlake Avenue; and containing approximately 2.9901 acres; by establishing Historic Overlay District No. 137 (Stanley Marcus House); 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 ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding the rezoning of the Property hereinafter described; 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 the zoning classification is changed by establishing Historic Overlay District No. 137 on the property described in Exhibit A, which is attached to and made part of this ordinance (“the Property”).

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 ordinances, rules, and regulations of the City of Dallas.

SECTION 5. That the director of sustainable development and construction shall correct Zoning District Map Nos. H-8 and H-9 in the offices of the city secretary, the building official, and the department of sustainable development and construction 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:

THOMAS P. PERKINS, JR., City Attorney

By  _____
Assistant City Attorney

Passed FEB 24 2010

27816

SURVEY PLAT

TO ALL PARTIES INTERESTED IN PREMISES SURVEYED:

This is to certify that I have, this date, made a careful and accurate survey on the ground of the following described property:

Being all that certain lot, tract or parcel of land situated in the B.F. Andrews Survey, Abstract No. 35, City of Dallas, Dallas County, Texas, same being a portion of Lot 4 and a portion of Lot 1 of Block A/2979 of the STANLEY MARCUS ADDITION, an addition to the City of Dallas according to the plat thereof recorded in Volume 94049, Page 1663 of the Map Records of Dallas County, Texas, and being more particularly described by metes and bounds as follows;

BEGINNING at an "x" cut found for corner at the most Westerly corner of said Lot 4 and the common southwest corner of Lot 1 of Block A/2979 of said STANLEY MARCUS ADDITION, same being on the northeasterly line of said Nonesuch Road;

Thence departing the northeasterly right-of-way line of said Nonesuch Road, and along the common lines of said Lot 4 and Lot 1, the following courses and distances numbered (1) through (4):

- 1) North 38° 04' 31" East, for a distance of 169.45 feet to an "x" cut found in concrete for corner at the beginning of a curve to the right having a radius 87.00 feet, a central angle 65° 54' 32", a chord bearing North 70° 57' 41" East at a distance of 94.65 feet;
- 2) Northeasterly and along arch of said to the right of an arc distance of 100.08 feet to an "x" cut found for corner;
- 3) South 76° 05' 07" East, for a distance of 57.00 feet to an "x" cut found in concrete for corner;
- 4) North 63° 19' 22" East, for a distance of 28.00 feet to an "x" cut set in concrete for corner;

THENCE leaving the common line of aforesaid Lot 4 and Lot 1, the following courses and distances numbered (5) and (9);

- 5) North 26° 40' 38" West, for a distance of 24.02 feet to a 5/8" iron rod set for corner;
- 6) North 40° 50' 58" East, for a distance of 22.33 feet to a 5/8" iron rod set for corner at the beginning of a curve to the right having a radius 46.93 feet, a

27816

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central angle $55^{\circ} 18' 54''$, a chord bearing North $68^{\circ} 30' 25''$ East at a distance of 43.57 feet;

7) Along arc of said curve to the right for an arc distance of 45.30 feet to a $5/8''$ iron rod set for corner at the beginning of a curve to the left having a radius 33.11 feet; a central angle $30^{\circ} 28' 14''$, a chord bearing North $80^{\circ} 55' 44''$ East at a distance of 17.40 feet;

8) Along arc of said curve to the left for an arc distance of 17.61 feet to a $5/8''$ iron rod set for corner;

9) THENCE North $65^{\circ} 41' 37''$ East, for a distance of 22.36 feet to a $5/8''$ iron rod set for corner in the common line of aforesaid Lot 4 and Lot 1;

THENCE North $36^{\circ} 01' 04''$ East, along the common line of said Lot 4 and Lot 1, for a distance of 3.11 feet to a $5/8''$ iron rod found for corner;

THENCE North $55^{\circ} 55' 37''$ East, continuing along the common line of said Lot 4 and Lot 1, for distance of 75.00 feet to a $5/8''$ iron rod found for corner;

THENCE North $30^{\circ} 14' 16''$ West, leaving the common line of said Lot 4 and Lot 1 and across said Lot 1, for a distance of 92.10 feet to a point for corner in the westerly line of Floodway Management & Common Area as shown by plot of said STANLEY MARCUS ADDITION;

THENCE North $80^{\circ} 57' 39''$ East, along the common line of said Lot 1 and westerly line of said Floodway Management & Common Area, for a distance of 75.00 feet to a point for corner;

THENCE South $34^{\circ} 54' 57''$ East, passing at a distance of 60.16 feet the common corner of Lot 4 and Lot 1, and continuing along the common line of said Lot 4 and southwesterly line of said Floodway Management & Common Area, for a total distance of 81.15 feet to a point for corner;

THENCE following the common lines of said Lot 4 and Floodway Management & Common Area, the following courses and distances numbered (10) and (17):

10) South $77^{\circ} 04' 38''$ East, for a distance of 70.50 feet to a floodway monument found for corner;

11) North $79^{\circ} 36' 05''$ East, for a distance of 39.97 feet to a floodway monument found for corner;

12) South $57^{\circ} 55' 33''$ East, for a distance of 82.06 feet to a floodway monument found for corner;

13) South 24° 36' 02" West, for a distance of 101.13 feet to a floodway monument found for corner;

14) South 14° 59' 09" West, for a distance of 123.96 feet to a floodway monument found for corner;

15) South 03° 14' 34" West, for a distance of 52.75 feet to a floodway monument found for corner;

16) South 52° 13' 47" West, for a distance of 160.00 feet to a floodway monument found for corner;

17) South 76° 13' 54" West, for a distance of 57.23 feet to a 5/8" iron rod set for corner;

THENCE North 38° 07' 28" West, departing the common line of said Lot 4 and Floodway Management & Common Area and across said Lot 4, for a distance of 230.21 feet to a 1" iron pipe found for corner in the common line of Lot 3 and Lot 4 of Block A/2979 of the STANLEY MARCUS ADDITION;

THENCE along the common lines of said Lot 3 and Lot 4, the following courses and distances numbered (18) through (21)

18) North 31° 19' 05" West, for a distance of 100.57 feet to a 1" iron pipe found for corner;

19) North 76° 05' 07" West, for a distance of 30.00 feet to a 1" iron pipe found for corner at the beginning of a curve to the left having a radius 67.00 feet, a central angle 65° 54' 53", a chord bearing South 70° 57' 27" West of a distance of 72.90 feet;

20) Southwesterly along arc of said curve to the left, for an arc distance of 77.08 feet to the 1" iron rod found for corner;

21) South 38° 00' 00" West, passing at a distance of 20.00 feet, the common corner of Lot 3 and Lot 2 of Block A/2979 of said STANLEY MARCUS ADDITION, and continuing along the common line of said Lot 4 and Lot 2, for a distance of 163.78 feet to a 5/8" iron rod found for corner;

THENCE South 83° 54' 06" West, continuing along the common line of said Lot 4 and Lot 2, for a distance of 18.20 feet to an "x" cut found in concrete for the common corner of said Lot 4 and Lot 2, same being in the aforementioned northeast right-of-way line of Nonesuch Road, said point being in the arc of a curve to the right having a radius 174.78 feet, a central angle 03° 16' 43", a chord bearing North 07° 42' 45" West at a distance of 10.00 feet;

27816

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Northwesterly along arc of said curve to the right and the northeast right-of-way line of Nonesuch Road, for an arc distance of 10.00 feet to the POINT OF BEGINNING and CONTAINING 2.9901 ACRES OF LAND, more or less.

**EXHIBIT B
PRESERVATION CRITERIA
STANLEY MARCUS HOUSE
10 NONESUCH ROAD**

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 in Chapter 51A of the Dallas City Code, as amended. If there is 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. Except as provided in this paragraph, the certificate of appropriateness review procedure outlined in Section 51A-4.501 of the Dallas Development Code, as amended, applies to this district. Accessory structures, the attached one-story garage, and the covered walkway existing as of February 24, 2010 and shown on Exhibit C.1 are not protected and alternations to these structures, including new construction, may be reviewed under the routine maintenance procedures in Section 51A-4.501(g)(5).
 - 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 Except as provided in this subsection, 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. A certificate of demolition is not required to demolish accessory structures shown on Exhibit C.1.

- 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.
- 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 1938 to 1994.

2. DEFINITIONS.

- 2.1 Unless defined in this section, the definitions 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 COLUMN means the entire column, including the base and capital.
- 2.5 DIRECTOR means the Director of the Department of Sustainable Development and Construction or the Director's representative.
- 2.6 DISTRICT means Historic Overlay District No. 137, Stanley Marcus House Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit C.1.
- 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.
- 2.9 MAIN BUILDING means the primary residential building, as shown on Exhibit C.1.

- 2.10 NO-BUILD ZONE means that part of the lot, shown on Exhibit C.1 with hatch marks, in which no new construction may take place.
- 2.11 ORIGINAL means any portion of the main structure that was built or constructed by 1938.
- 2.12 PROTECTED means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.
- 2.13 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 C.1.
- 3.2 The main building is protected in the locations shown on Exhibits C.2 and B.3.
- 3.3 New driveways, sidewalks, steps, and walkways must be constructed of brick, brush finish concrete, stone, crushed stone or gravel, or other appropriate material.
- 3.4 Artificial grass, artificially-colored or stamped concrete, asphalt, exposed aggregate, and outdoor carpet is not permitted.
- 3.5 Carports, garages, and other accessory buildings are not permitted in the no-build zones shown on Exhibit C.1.
- 3.6 New mechanical equipment may not be erected in the no-build zone 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 must be constructed of brick, cast stone, iron, stone, wood, an appropriate combination of these materials, or other appropriate materials.

4. FACADES.**27816**

- 4.1 Protected facades.
- a. The facades shown on Exhibits C.2 and C.3 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 and may be painted to match existing painted brick.
 - e. Brick, cast stone, and concrete elements on protected facades may not be painted, except that portions of the structure that had been painted before the effective date of this ordinance may remain painted.
- 4.2 Additions to the original house may be removed. If removed, any exposed original facades must be restored as much as practicable.
- 4.3 Reconstruction, renovation, repair, or maintenance of non-protected facades must be compatible with protected features.
- 4.4 Wood siding, trim, and detailing must be restored wherever practicable.
- 4.5 All exposed wood must be painted, stained, or otherwise preserved.
- 4.6 Historic materials must be repaired if possible; they may be replaced only when necessary.
- 4.7 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, copies of which are available at the Dallas Public Library, before refinishing.
- 4.8 Aluminum siding, stucco, and vinyl cladding are not permitted.
- 4.9 Historic color must be maintained wherever practical. Color schemes for non-masonry elements should conform to any available documentation as to historic color.
- 4.10 Exposing and restoring historic finish materials are recommended.

- 4.11 Cleaning of the exterior of a structure must be in accordance 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. Sandblasting and other mechanical abrasive cleaning processes are not permitted.

5. FENESTRATION AND OPENINGS.

- 5.1 Historic doors and windows on protected facades must remain intact except when replacement is necessary due to damage or deterioration.
- 5.2 Replacement of doors and windows, including the front entry door, which have been altered and no longer match the historic appearance, is recommended.
- 5.3 Replacement of historic doors and windows must express profile, muntin and mullion size, light configuration, and material to match the historic.
- 5.4 Replacement of doors and windows on non-protected facades may be approved by routine maintenance certificate of appropriateness.
- 5.5 Storm doors and windows are permitted if they are appropriate and match the existing doors and windows in profile, width, height, proportion, glazing material, and color.
- 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. Insulated glazing may be added to existing units. 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 for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, 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.

27816

- 6.2 The following roofing materials are allowed: built-up, single-ply membrane, or appropriate materials for flat roofs. The following roofing materials are not allowed: clay tiles, composition shingles, slate tiles, terra-cotta tiles, wood shingles, metal, synthetic wood shingle, and synthetic clay tile.
- 6.3 Historic eaves, coping, cornices, dormers, 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 may not be visible from any part of the no-build zone.
- 7. PORCHES AND BALCONIES.**
- 7.1 Historic porches and balconies on protected facades are protected.
- 7.2 Porches and balconies on protected facades may not be enclosed. It is recommended that existing enclosed porches on protected facades be restored to their historic appearance.
- 7.3 Historic columns, detailing, railings, and trim on porches and balconies are protected.
- 7.4 Porch floors must be brick, concrete, stone, or wood. Brick, concrete, and stone porch floors may not be covered with carpet or paint. Wood floors must be painted or stained. A clear sealant is acceptable on porch floors.
- 8. EMBELLISHMENTS AND DETAILING.**
- 8.1 The following architectural elements on protected facades are considered important features and are protected: windows and window openings; original chimney; original materials, whether painted or not; roof overhangs; and entry features.
- 9. NEW CONSTRUCTION AND ADDITIONS.**
- 9.1 Stand-alone new construction is not permitted in the no-build zones shown on Exhibit C.1.
- 9.2 Vertical additions to the main building are not permitted.
- 9.3 Horizontal additions to the main building are not permitted on protected facades. Horizontal additions to the main building on non-protected facades must be located so that they are not visible from the no-build zone, except for a new garage and covered walkway on the north side of the main building.
- 9.4 The color, details, form, materials, and general appearance of new construction and additions must be compatible with the existing historic structure.

- 9.5 New construction and additions must have appropriate color, detailing, fenestration, massing, materials, roof form, shape, and solid-to-void ratios.
- 9.6 The height of new construction and additions must not exceed the height of the historic structure.
- 9.7 Aluminum siding, stucco, and vinyl cladding are not permitted.
- 9.9 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.
- 10. SIGNS.**
- 10.1 Signs may be erected if appropriate.
- 10.2 All signs must comply with the provisions of the Dallas City Code, as amended.
- 10.3 Temporary political campaign signs and temporary real estate signs may be erected without a certificate of appropriateness.
- 11. ENFORCEMENT.**
- 11.1 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.
- 11.2 A person is criminally responsible for a violation of these preservation criteria if:
- a. the person knowingly commits the violation or assists in the commission of the violation;
 - b. the person owns part or all of the property and knowingly allows the violation to exist;
 - c. the person is the agent of the property owner or is an individual employed by the agent or property owner; is in control of the property; knowingly allows the violation to exist; and fails to provide the property owner's name, street address, and telephone number to code enforcement officials; or

- d. the person is the agent of the property owner or is an individual employed by the agent or property owner, knowingly allows the violation to exist, and the citation relates to the construction or development of the property.
- 11.3 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 materials from the structure 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.
- 11.4 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.

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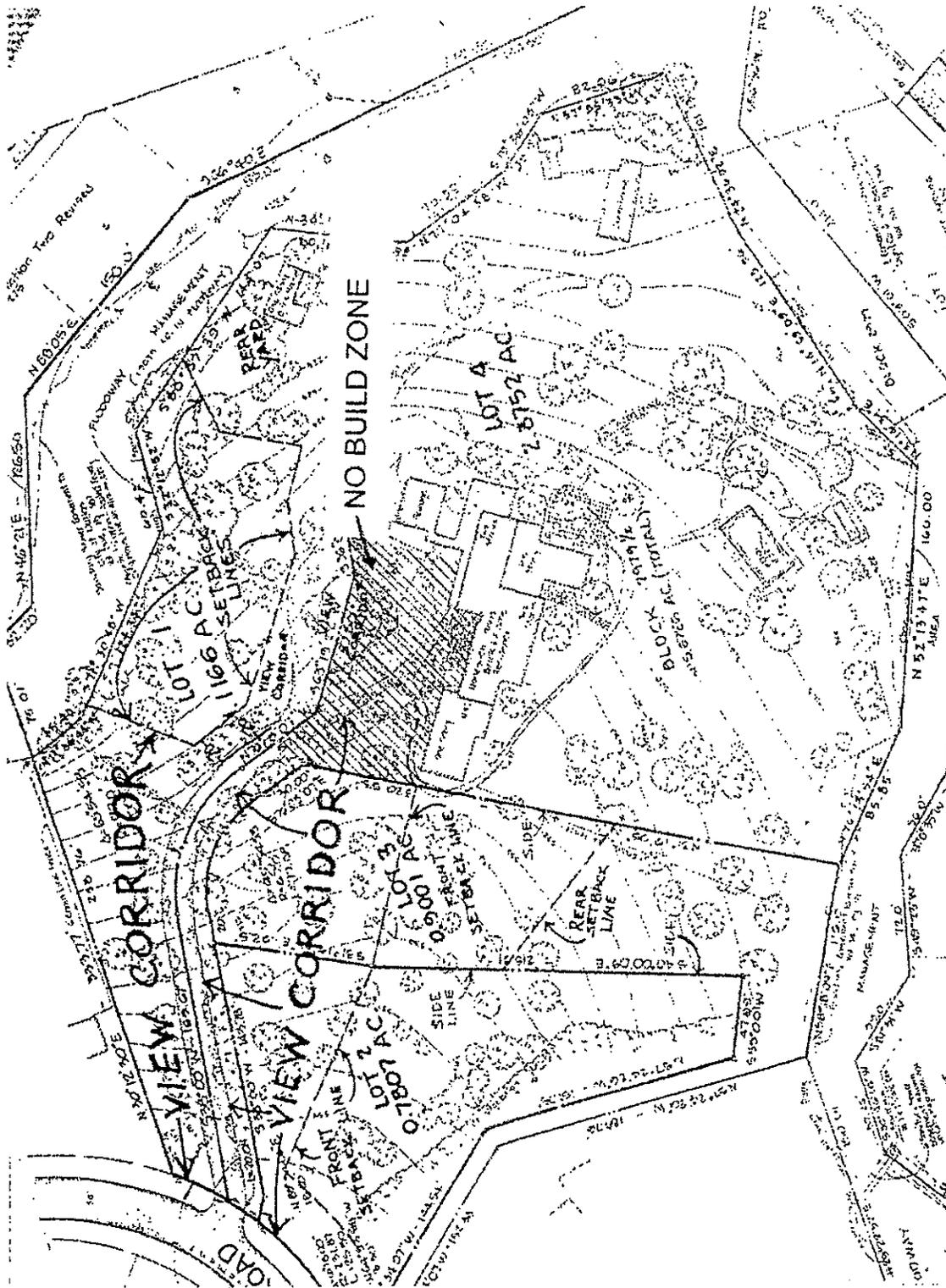
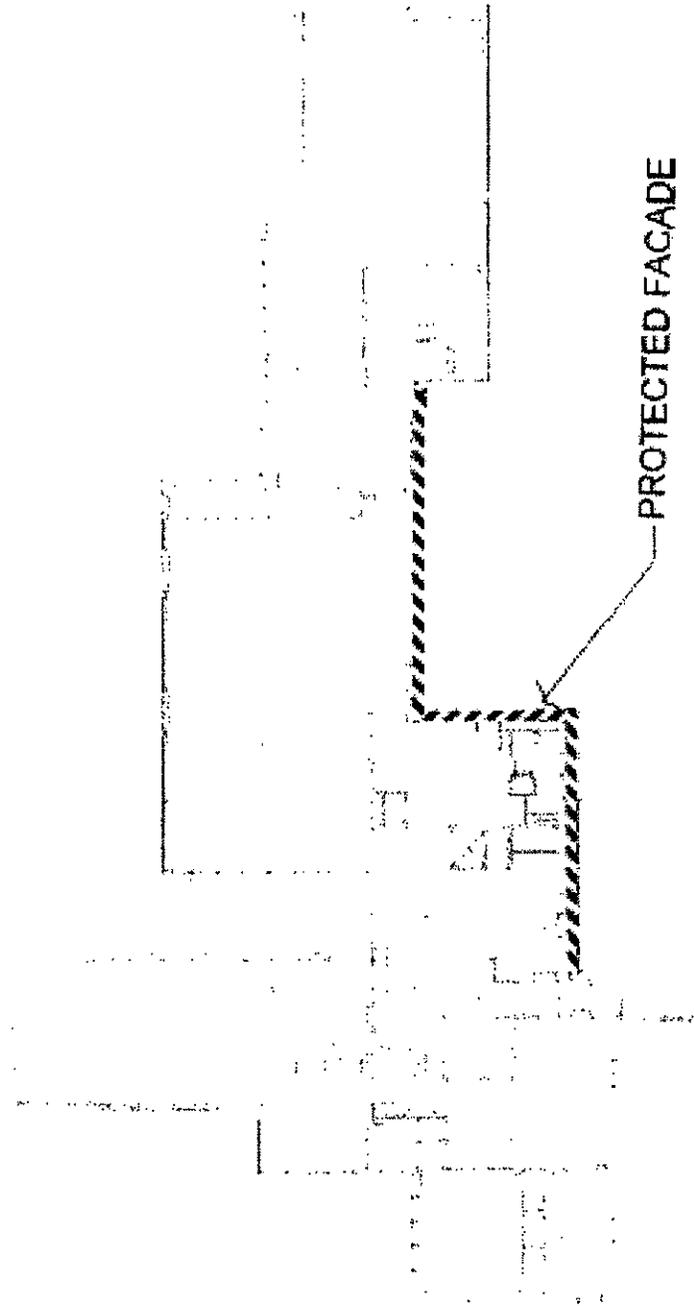
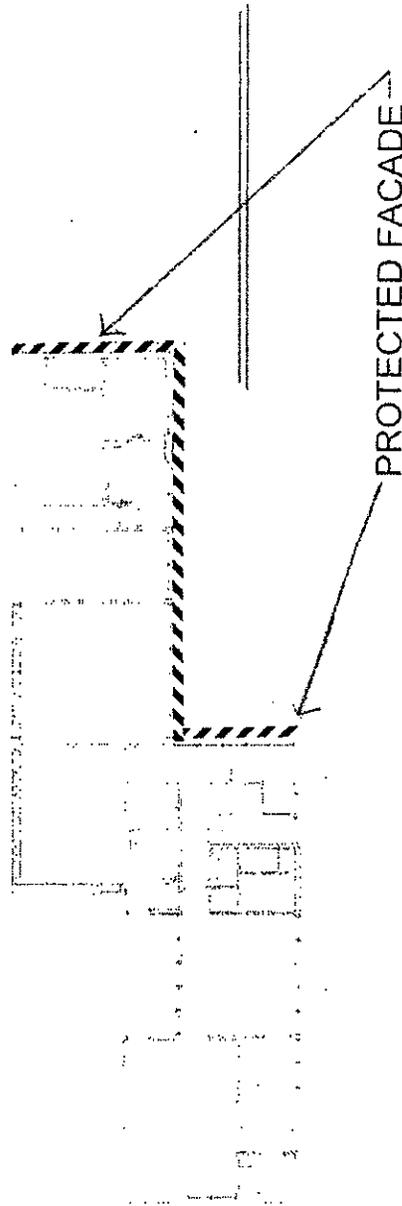


Exhibit C.1



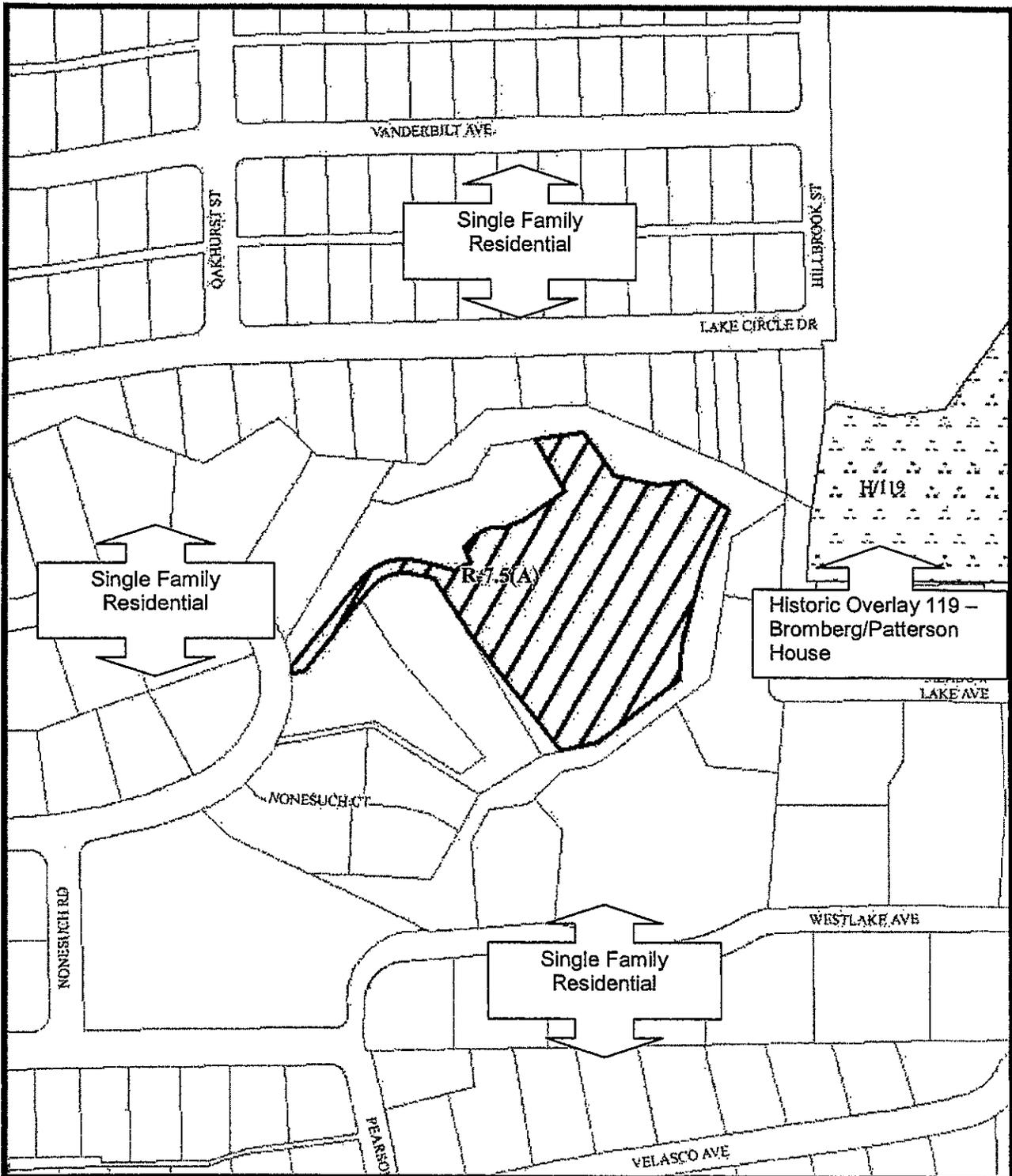
EXISTING FIRST FLOOR

Exhibit C.2



EXISTING SECOND FLOOR

Exhibit C.3



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ZONING AND LAND USE

Map no: H-8, H-9

Case no: Z089-280 MD

DATE: December 17, 2009

GIS Tech: KRua