

DC-16-07983

Cause No.:

Tonya Pointer

CITY OF DALLAS,	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
V.	§	
	§	
HINGA MBOGO, HINGA	§	
AUTOMOTIVE CO., d/b/a	§	DALLAS COUNTY, TEXAS
HINGA AUTO REPAIR,	§	
and 3516 ROSS AVENUE,	§	
DALLAS, TEXAS, <i>in rem</i> ,	§	
Defendants.	§	_____ JUDICIAL DISTRICT

**CITY OF DALLAS' ORIGINAL PETITION, APPLICATION FOR TEMPORARY AND  
PERMANENT INJUNCTION, AND REQUESTS FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, the City of Dallas (the "City"), files this Petition, Application for Temporary Injunction and Permanent Injunction, and Request for Disclosure against Defendants Hinga Mbogo, Hinga Automotive Co., doing business as Hinga Auto Repair, and the real property located at Block 513 Tract 4, 1.8921 acres, Dallas County, Dallas Texas, also known as 3516 Ross Avenue, Dallas, Texas 75204, *in rem*, (the "Property"), (collectively, "Defendants"), and in support thereof would show unto the Court the following:

**I. DISCOVERY CONTROL PLAN AND REQUESTS FOR DISCLOSURE**

1. Discovery is intended to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.
2. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, each defendant is requested to disclose the information or material described in Rule 194.2 of the Texas Rules of Civil Procedure.

## **II. PARTIES**

3. Plaintiff, the City of Dallas (“City”), is a home rule municipal corporation situated primarily in Dallas County, Texas, incorporated and operating under the laws of the State of Texas.

4. Defendant Hinga Mbogo is individual Texas resident who owns the property and owns and operates the business that is the subject of this suit. Mr. Mbogo may be served with process at his place of business, Hinga Auto Repair, located at 3516 Ross Avenue, Dallas, Texas 75204, or wherever he may be found.

5. Defendant Hinga Automotive Co. doing business as Hinga Auto Repair, (“Hinga Auto”) is a Texas corporation doing business in Dallas County. Service of process may be made upon Hinga Auto through its registered agent, Mr. Hinga Mbogo, at 3516 Ross Avenue, Dallas, Texas 75204, or wherever he may be found.

6. The *in rem* Defendant, Block 513 Tract 4, 1.8921 acres, Dallas County, Dallas Texas, also known as 3516 Ross Avenue, Dallas, Texas 75204, is the real property that is the subject of this lawsuit and may be served with citation through its owner, Mr. Hinga Mbogo, at 3516 Ross Avenue, Dallas, Texas 75204, or wherever he may be found.

## **III. JURISDICTION AND VENUE**

7. The City brings this cause of action to obtain temporary and permanent injunctive relief and to recover civil penalties against Defendants pursuant to both Chapter 211 and Chapter 54 of the Texas Local Government Code.

8. This Court has jurisdiction and venue is proper pursuant to Section 54.013 and Section 211.011 of the Texas Local Government Code.

9. This cause of action is brought *in personam* as well as *in rem* pursuant to Section 54.013 of the Texas Local Government Code.

#### IV. FACTS

10. The City re-alleges paragraphs 2-9 above.

11. Prior to April 27, 2005, and continuously to the present, Defendant Hinga has owned, controlled, and operated a vehicle or engine repair or maintenance facility at the Property without a Specific Use Permit (“SUP”), in violation of the zoning ordinance that applies to the Property.

12. On April 27, 2005, the City enacted a zoning change affecting the Property via ordinance entitled Ordinance No. 25960, which was codified (now including subsequent amendments) as Dallas Development Code chapter 51P-298 (also referred to as “PD298”).

13. The Property was located within subarea 1 of PD298.

14. Upon the enactment of PD298, Defendants’ use of the Property as a vehicle or engine repair or maintenance facility became a nonconforming use, i.e., a legal use prior to the zoning change which use, subsequent to the zoning change, no longer conformed to the regulations of the zoning district.

15. PD298, codified in relevant part in Dallas Development Code section 51P-298.108(b), provided as follows regarding nonconforming uses:

In Subarea 1, all nonconforming uses must be brought to conformance no later than April 26, 2008, except that those uses that became nonconforming as a result of city council action on April 27, 2005 must be brought to conformance no later than April 26, 2010. The owner of a nonconforming use in Subarea 1 may appeal to the board of adjustment for a later compliance date at any time up to the conformance date set forth in this subsection if the owner will not be able to recover his investment in the use (up to the date of nonconformance) by the conformance date set forth in this subsection.

16. Defendants' use of the Property was made nonconforming by council action on April 27, 2005, therefore Defendants were required to bring the use of the Property into conformance with PD298's zoning requirements on or before April 26, 2010.

17. On or about April 10, 2010, Defendants filed an appeal to the City's Board of Adjustments requesting a later compliance date for ending its nonconforming use at the Property. The Board of Adjustments granted Defendant's appeal and issued a new compliance date of April 13, 2013. Defendants did not appeal the Board of Adjustments' order.

18. Prior to Defendants' new compliance date, on December 24, 2012, Defendants filed a zoning change application with the City to: (i) create a subarea (which subarea was the Property) within PD298 in which a vehicle or engine repair or maintenance use would be permitted by SUP; and (ii) obtain an SUP for that use at the Property for a ten-year period.

19. In response to Defendants' zoning change application, on or about August 14, 2013, the Council enacted: (i) an ordinance entitled Ordinance No. 29099, which created Subarea 1B within PD298, allowing a vehicle or engine repair or maintenance use by SUP; and (ii) an ordinance entitled Ordinance No. 29101, which granted to Defendants SUP No. 2043 allowing a vehicle or engine repair or maintenance use at the Property for a two-year period ending August 14, 2015. Defendants did not appeal this action. A true and correct copy of Ordinance No. 29099 is attached as Exhibit 1.

20. On August 14, 2015, Defendants' SUP expired.

21. On or about November 10, 2015, Defendants submitted an application for a new SUP to operate a vehicle or engine repair or maintenance use at the Property for a five-year period.



22. On or about February 4, 2016, the City's Plan Commission ("CPC") recommended denial of the Defendants' new SUP application.

23. On or about February 12, 2016, Defendants filed an appeal to the City Council of the CPC's recommendation.

24. On or about April 13, 2016, Council considered and denied Defendants' appeal.

25. Since April 13, 2016, Defendants have continued their use of the Property as a vehicle or engine repair or maintenance facility without an SUP, in violation of PD298, specifically, Dallas Development Code section 51P-298.107(a).

26. Defendants were actually notified of the provisions of Ordinance No. 29099, codified in Dallas Development Code section 51P-298.107(a), by letter (enclosing the ordinance) dated February 20, 2014, and have operated a vehicle or engine repair or maintenance facility at the Property without an SUP in violation of the ordinance continuously since August 15, 2015.

## V. CAUSES OF ACTION

### **Injunctive Relief Pursuant to Chapter 211 of the Texas Local Government Code**

27. The City re-alleges paragraphs 2-26 above.

28. Chapter 211 of the Texas Local Government Code provides:

[I]f a building, other structure, or land is ... maintained or if a building, other structure or land is used in violation of [a zoning] ordinance ..., the appropriate municipal authority ... may institute appropriate action to: (1) prevent the unlawful ... maintenance, or use; (2) *restrain*, correct, or abate the violation; (3) prevent the occupancy of the building, structure, or land; or (4) *prevent any illegal* act, conduct, business, or *use* on or about the premises.

TEX. LOC. GOV'T CODE ANN. § 211.012(c) (emphasis added).

29. A city that seeks to enjoin a violation of a zoning ordinance does not need to prove that the violation of the ordinance would damage it or its residents; instead, proof of the

violation of the ordinance makes out a sufficient case for injunctive relief. *Hollingsworth v. City of Dallas*, 931 S.W.2d 699, 703 (Tex. App. - Dallas 1996, writ denied).

30. Pursuant to section 211.012(c) of the Texas Local Government Code, the City requests, upon notice and hearing, the issuance of a temporary injunction and, upon final trial, a permanent injunction, enjoining Defendants, their employees, servants, contractors, successors and assignees, and any persons in active concert or active participation with Defendants from operating at the Property a vehicle or engine repair or maintenance facility without an SUP in violation of Dallas Development Code section 51P-298.107(a).

**Civil Penalties Pursuant to Chapter 54 of the Texas Local Government Code**

31. The City re-alleges paragraphs 2-30 above.

32. Section 54.017 of the Texas Local Government Code provides that:

(a) In a suit against the owner or the owner's representative with control over the premises, the municipality may recover a civil penalty if it proves that:

(1) the defendant was actually notified of the provisions of the ordinance; and

(2) after the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.

(b) A civil penalty under this section may not exceed \$1,000 a day ... .

33. Pursuant to Section 54.017 of the Local Government Code, the City requests civil penalties of up to \$1,000 per violation for each day that Defendants have operated a vehicle engine repair or maintenance facility without an SUP at the Property in violation of Ordinance No. 29099, codified as Dallas Development Code section 51P-298.107(a).

## VI. REQUEST FOR JURY TRIAL

34. The City respectfully requests a trial by jury on all issues so triable.

### PRAYER FOR RELIEF

WHEREFORE PREMISES CONSIDERED, the City respectfully requests that the Court grant the following relief in the City's favor:

- (a) Temporary and permanent injunctions against Defendants prohibiting Defendants from operating a vehicle the illegal land use on the Property in violation of Chapter 54 and Chapter 211 of the Texas Local Government Code, as requested herein;
- (b) A judgment against the Defendants, jointly and severally, for civil penalties of up to \$1,000 per day for each day that Defendants have operated a vehicle engine repair or maintenance facility without an SUP in violation of Ordinance No. 29099, codified in Dallas Development Code section 51P-298.107(a);
- (c) That if final judgment be in favor of the City, such judgment would be a judgment *in rem* against the Property as well as a judgment against Defendants;
- (d) Award the City costs of court;
- (e) Award the City post judgment interest at the maximum rate allowed by law; and

- (f) Any and all other relief, general or special, at law or in equity, to which the City is justly entitled.

Respectfully submitted,

CITY ATTORNEY OF THE CITY OF DALLAS

Christopher D. Bowers  
Interim City Attorney

\s\ Melissa A. Miles  
MELISSA A. MILES  
Executive Assistant City Attorney  
Texas State Bar No. 90001277  
melissa.miles@dallascityhall.com

JASON L. HORNSBY  
Senior Assistant City Attorney  
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7DN Dallas City Hall  
1500 Marilla Street  
Dallas, Texas 75201  
Telephone: 214-670-3519  
Facsimile: 214-670-0622  
ATTORNEYS FOR PLAINTIFF  
CITY OF DALLAS

## VERIFICATION

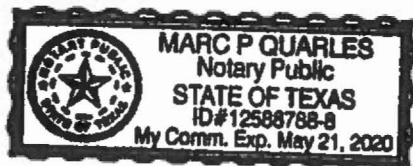
STATE OF TEXAS  
COUNTY OF DALLAS

I, Hope Covington, a Code Inspector with the City of Dallas, after being duly sworn, hereby certify that I am qualified and authorized to make this affidavit, and that I have read the factual allegations contained within paragraph 25 of this petition and said factual allegations are within my personal knowledge and are true and correct.

Hope Covington  
Hope Covington

Subscribed and sworn to before me this 5<sup>th</sup> day of July 2016.


Marc Quarles  
Notary Public



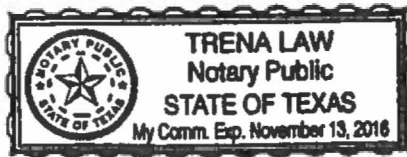
## VERIFICATION

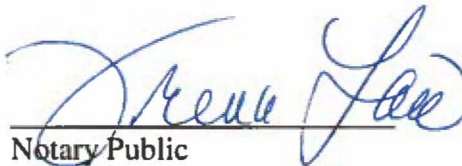
STATE OF TEXAS  
COUNTY OF DALLAS

I, Neva Dean, the Interim Assistant Director with the City of Dallas Sustainable Development and Construction Department, after being duly sworn, hereby certify that I am qualified and authorized to make this affidavit, and that I have read the factual allegations contained within paragraphs 11-26 of this petition and said factual allegations are within my personal knowledge and are true and correct.

  
Neva Dean

Subscribed and sworn to before me this 5th day of July 2016.



  
Notary Public

# **EXHIBIT 1**

ORDINANCE NO. 29099

An ordinance changing the zoning classification on the following property:

BEING a tract of land in City Block 513; fronting approximately 136 feet on the southeast line of Ross Avenue; fronting approximately 127.50 feet on the southwest line of Villars Street; and containing approximately 17,340 square feet of land,

from Subarea 1 within Planned Development District No. 298 to Subarea 1B within Planned Development District No. 298 (the Bryan Area Special Purpose District); amending Article 298, "PD 298," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code to reflect the creation of a new subarea within the planned development district; amending the creation of subareas, maximum heights, setbacks, maximum coverage, and floor area ratio and floor area regulations in Sections 51P-298.104, 51P-298.110, 51P-298.112, 51P-298.113, 51P-298.116 of Article 298; deleting the zoning map regulations in Section 51P-298.123 of Article 298; providing a new Exhibit 298A (subarea boundary map); providing a new Exhibit 298E (use chart); 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 described in this ordinance and this amendment to the Dallas City Code; and

WHEREAS, the city council finds that it is in the public interest to change the zoning classification and amend Article 298 as specified in this ordinance; Now, Therefore,



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

SECTION 1. That the zoning classification is changed from Subarea 1 within Planned Development District No. 298 to Subarea 1B within Planned Development District No. 298 on the property described in Exhibit A, which is attached to and made a part of this ordinance ("the Property").

SECTION 2. That Section 51P-298.104, "Creation of Subareas," of Article 298, "PD 298," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended to read as follows:

**"SEC. 51P-298.104 CREATION OF SUBAREAS.**

A map showing the boundaries of the 17 [46] subareas of the Bryan Area SPD is provided as Exhibit 298A."

SECTION 3. That Section 51P-298.110, "Maximum Heights," of Article 298, "PD 298," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended to read as follows:

**"SEC. 51P-298.110. MAXIMUM HEIGHTS.**

Unless further restricted under Section 51P-298.107(b) and 51P-298.109, maximum structure heights for each subarea within the Bryan Area SPD are as follows:

<u>Subarea</u>	<u>Maximum Structure Height</u> <u>(in feet)</u>
1, <del>and</del> 1A, and 1B	120
3	160
4	54
5	270
6	36-40
7	39
8	100
10 and 10A	100
11 and 11A	100
12 and 12 A	160
13	54"

29099

SECTION 4. That Section 51P-298.112, "Setbacks," of Article 298, "PD 298," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended to read as follows:

**"SEC. 51P-298.112. SETBACKS.**

(1) Front yard.

(A) Except as provided in this paragraph, the minimum front yard setback is five feet in all subareas.

(B) No minimum front yard setback is required in Subareas 1A and 1B for structures in existence on November 10, 2010.

(C) Except as provided in this paragraph, the maximum [feet] front yard setback is 15 feet in Subareas 1, 1A, 1B, 3, 4, 5, 8, 10, 10A, 12 and 13 in front yards fronting on Pedestrian Linkage Streets as shown on Exhibit 298C.

(D) No maximum front yard setback is required in Subareas 1A and 1B for structures in existence on November 10, 2010.

(E) Maximum front yard setback is 25 feet in Subareas 6 and 7.

(F) No maximum front yard setback is required in Subareas 11A and 12A.

(2) Side yard.

(A) Except as provided in this paragraph, no side yard setback is required in Subareas 1, 1A, 1B, 3, 4, 5, 7, 8, 10, 11, 12, and 13; however, if a side yard setback is provided, it must be a minimum of 10 feet.

(B) No side yard setback is required in Subarea 6; however, if a side yard setback is provided, it must be a minimum of five feet.

(C) No side yard setback is required in Subareas 10A, 11A, and 12A.

(D) No side yard setback is required in Subareas 1A and 1B for structures in existence on November 10, 2010.

(3) Rear yard. The minimum rear setback is five feet in all subareas."

SECTION 5. That Section 51P-298.113, "Maximum Coverage," of Article 298, "PD 298," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended to read as follows:

**"SEC. 51P-298.113. MAXIMUM COVERAGE.**

Unless further restricted under Section 51P-298.107(b), maximum lot coverages in each subarea within the Bryan Area SPD is as follows:

<u>Subarea</u>	<u>Maximum Lot Coverage (percent)</u>
1, <del>and</del> 1A, and 1B	90
3	70*
	80***
4	90
5	90
6	80
7	70*
	90**
8	70*
	80***
10 and 10A	90
11 and 11A	70*
	80***
12 and 12A	90
13	90

\*Applies if less than one-half of the floor area of the structure is occupied by residential uses.

\*\*Applies if at least one-half of the floor area of the structure is occupied by residential use.

\*\*\*Applies if at least 10 percent of the floor area of the structure is occupied by residential uses."

SECTION 6. That Section 51P-298.116, "Floor Area Ratio and Floor Area," of Article 298, "PD 298," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended to read as follows:

**"SEC. 51P-298.116. FLOOR AREA RATIO AND FLOOR AREA.**

(a) Maximum floor area ratios in each subarea within the Bryan Area SPD are as follows:

<u>Subarea</u>	<u>Maximum Floor Area Ratio</u>
1, <del>[and] 1A, and 1B</del>	4:1
3	4:1
4	2:1
5	4:1
6	None
7	3:1*
	2:1**
8	2.5:1
10 and 10A	3:1
11 and 11A	2.5:1
12 and 12A	4:1
13	2:1

\*Applies if at least one-half of the floor area of the structure is occupied by residential uses.

\*\*Applies in all other cases.

(b) The maximum total floor area permitted in Subarea 12A is 1,334,848 square feet."

SECTION 7. That Section 51P-298.123, "Zoning Map," of Article 298, "PD 298," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is deleted as follows:

~~"[SEC. 51P-298.123. ZONING MAP.~~

~~PD 298 is located on Zoning Map Nos. 1-7, 1-8, J-7, and J-8.]"~~

29099

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SECTION 8. That, pursuant to Section 51A-4.701 of Chapter 51A of the Dallas City Code, as amended, the property description in Section 1 of this ordinance shall be construed as including the area to the centerline of all adjacent streets and alleys.

SECTION 9. That the subarea boundary map, Exhibit 298A, and the use chart, Exhibit 298E, of Article 298, "PD 298," of Chapter 51P of the Dallas City Code, are replaced by the Exhibit 298A and Exhibit 298E attached to this ordinance.

SECTION 10. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

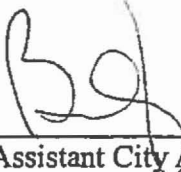
SECTION 11. That Chapter 51P of the Dallas City Code, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 12. 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 13. That this ordinance shall take effect immediately from and after its passage and publication, in accordance with 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 AUG 14 2013

**SUBAREA 1:**

BEING an area of land located within the following City Blocks 595, A/595, 596, A/596, 597, A/597, 598, A/598, 599, 1/599, 2/600, 4/601, 4/649, 3/649, 287, 504, 3/506, 512, 513, 514, 641, 1/642, 2/642, 15/646 and further described as follows:

BEGINNING at the intersection of the southwesterly projection of the centerline of Flora Street and the centerline of North Central Expressway for a point for corner;

THENCE in a northeasterly direction along the centerline of Flora Street, a distance of approximately 1075 feet to the point of intersection with the centerline of Hall Street to a point for corner;

THENCE in a southeasterly direction along the centerline of Hall Street, a distance of approximately 35 feet to the point of intersection with the centerline of Roseland Avenue to a point for corner;

THENCE in a northeasterly direction along the centerline of Roseland Avenue, a distance of approximately 3022 feet; crossing McCoy Street, North Washington Avenue, Caddo Street, North Haskell Avenue and Ripley Street to the point of intersection with the centerline of Peak Avenue to a point for corner;

THENCE in a southeasterly direction along the centerline of Peak Avenue to the point of intersection with the centerline of San Jacinto Street (southeast offset) to a point for corner;

THENCE in a southwesterly direction along the centerline of San Jacinto Street (southeast offset) to the point of intersection with the centerline of North Haskell Avenue to a point for corner;

THENCE in a northwesterly direction along the centerline of North Haskell Avenue to the point of intersection with the northeasterly projection of the common diving line between the originally platted north and south Lots in City Blocks 2/642, 1/641 and 641, crossing Caddo Street said line also being approximately 143 feet south and parallel to the southeast line of Ross Avenue, said line being projected to the centerline of North Washington Avenue, to a point for corner;

THENCE in a southeasterly direction along the centerline of North Washington Avenue to the point of intersection with the centerline of San Jacinto Street (southeast offset) to a point for corner;

THENCE in a southwesterly direction along the centerline of San Jacinto Street (southeast offset) approximately 290 feet to the point of intersection with the northwesterly projection of the common line between Lots 1 and 2 (as originally Platted) in City Block 511, said line also being approximately 260 feet southeast of the southeast corner of Block 514 (at the intersection of the west line of Washington Avenue and the north line of San Jacinto Street) for a point for

corner on a line, said line will be running through the of a 3.30 acre Tract of DISD land in Block 514;

THENCE in a northwesterly direction along said line approximately 200 feet to the point of intersection with the northeasterly projection of the south line of a (14,674.86 square foot) DISD tract of land in same Block 514, said line being approximately 169 feet south of and parallel to Ross Avenue to a point for corner on a line;

THENCE in a southwesterly direction along said line approximately 253 feet projected to the centerline of Villars Street to a point for corner;

THENCE in a northwesterly direction along the centerline of Villars Street ~~approximately 25.31 feet to the point for corner on a line, said point being the intersection with the northeasterly projection of the common line between Tracts 3 through 5 (Mbogo Tracts) and Tract 8 (DISD Tract) in City Block 513, said line being approximately 127.50 feet south and parallel to the south line of Ross Avenue to a point for corner on said line;~~ to the point of intersection with the centerline of Ross Avenue to a point for corner;

THENCE in a southwesterly direction ~~along said centerline of Ross Avenue to the point of intersection with the southeasterly projection of the common line between City Blocks 597 and 598 to a point for corner; the said common line of said Mbogo tract, and said Dallas Independent School District tract, a distance of 136.00 feet to a point for the south corner of said Mbogo tract, same being a northwest corner of said Tract 8 (DISD Tract) in City Block 513 to a point for corner on a line;~~

THENCE in a southeasterly direction ~~approximately 18 feet along said line that is the common line between the west line of Tract 8 and the east line of Tract 1 in City Block 513 to its point of intersection with the common line between Tract 1 and Tract 9 in City Block 513 to a point for corner;~~

THENCE in a southwesterly direction ~~along the said common line extended to the centerline of McCoy Street to a point for corner;~~

THENCE North 45 deg. 48 min. 00 sec. West, a distance of 295.04 feet to a point for the east corner of said Woodard tract, to a point for corner;

THENCE South 45 deg. 00 min. 00 sec. West, a distance of 261.92 feet to a point for the departing said northwest corner of said Woodard tract to a point for corner at the centerline of McCoy Street;

THENCE in a southeasterly direction approximately ~~18509~~ feet along the centerline of McCoy Street to the point of intersection with the northeasterly projection of the common line between Tracts N and Lot H in City Block 512 to a point for corner;

THENCE in a southwesterly direction approximately 208 feet along the said common line between Tracts N and Lot H in Block 512, continuing along the south line of Lot H to its most

southerly southwest corner, same being the southeast corner of a 35x93 inside Tract of land (VOL 88185 PG 4397) to a point for corner;

THENCE in a northwesterly direction along said common tract line approximately 34.75 feet to the point for corner at the intersection of the most southerly northwest corner of Lot H and the northeast corner of the 35x93 inside Tract in Block 512;

THENCE in a southwesterly direction approximately 89.64 feet along the north line of the called 35x93 foot inside Tract in Block 512 for the point of intersection with the east line of the Lots in BRYAN PLACE PH VII SEC III-REPLAT ADDTION to a point for corner;

THENCE northwesterly approximately 5.19 feet following the east line of the Lots in the BRYAN PLACE PH VII SEC III-REPLAT ADDTION to the point of intersection of the common line that is the north line of said Addition with the south line of a 95.85x129.7 foot Tract of land at Ross Avenue and NorthHall Street to a point for corner;

THENCE in a southwesterly direction approximately 128.53 feet along said line projected to the centerline of North Hall Street to a point for corner;

THENCE in a southeasterly direction along the centerline of North Hall Street to the point of intersection with thenortheasterly projection of the centerline of Vann Court to a point for corner;

THENCE in a southwesterly direction approximately 1059 feet along said centerline of Vann Court, crossing Liberty Street to the point of intersection with the common line in City Block 287 between the south line of Tracts 1 and 2 and the north line of the Condo Tract and in Block 1/287 to a point for corner;

THENCE in a southwesterly, northwesterly and then again in a southwesterly direction along said common Tract lines, crossing Allen Street said line projected to the centerline of North Central Expressway to a point for corner;

THENCE in a northwesterly direction along the centerline of North Central Expressway to the point of intersection with the southwesterly projection of the centerline of Flora Street, THE PLACE OF BEGINNING.

**SUBAREA 1A:-** (North of Ross Avenue)

BEING a 1.4074 acre tract of land situated in the John Grigsby Survey, Abstract No. 495, City of Dallas Block No. 598, Dallas County, Texas, and being all that certain tract described in deed to Bill Woodard as recorded in Volume 75066, Page 987, of the Deed Records, Dallas County, Texas (D.R.D.C.T.), and a portion of those certain tracts of land described to Julia J. Woodard, Trustee of Trust A of the John and Julia Woodard Family Trust as recorded in Volume 2001076, Page 4447, and Page 4482, D.R.D.C.T., and being more particularly described by metes and bounds as follows:



BEGINNING at the intersection of the northwest right-of-way line of Ross Avenue (80 foot right-of-way) and the northeast right-of-way line of McCoy Street (50 feet wide);

THENCE North 44° 14' 00" West with said northeast line of McCoy Street, a distance of 255.04 feet to a point for corner;

THENCE North 45° 00' 00" East, leaving said northeast right-of-way line of McCoy Street, a distance of 236.92 feet to a point for corner;

THENCE South 45° 48'00" East, a distance of 255.04 feet to a point for corner in said northwest line of Ross Avenue;

THENCE South 45° 00'00" West with said northwest line of Ross Avenue, a distance of 243.89 feet to the POINT OF BEGINNING, and containing 61,307 square feet or 1.4074 acres of land.

The basis of bearing for this description is the deed of record to Julia J. Woodard, Trustee of Trust A of the John and Julia Woodard Family Trust as recorded in Volume 2001076, Page 4447, and Page 4482, D.R.D.C.T. and is not based on a survey made on the ground.

**Subarea 1B:**— (South of Ross Avenue)

Being that certain 0.3980 acre tract of land situated in the John Grigsby Survey, Abstract No. 495, City of Dallas Block 513, City of Dallas, Dallas County, Texas, and being all of those three tract of land known as First Tract, Second Tract and Third Tract to Hinga Mbogo, by Warranty Deed recorded in Volume 97126, Page 1782, Deed Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at the north corner of said Mbogo tract, same being the intersection of the southeast right-of-way line of Ross Avenue (a called 80 foot right-of-way) with the southwest right-of-way line of Villars Street;

THENCE South 44 deg. 50 min. 00 sec. East, along the common line of said Mbogo tract, and said Villars Street, a distance of 127.50 feet to a point for the east corner of said Mbogo tract, same being the north corner of Tract 2 to Dallas Independent School District, by Warranty Deed recorded in Volume 84216, Page 1285, said Deed Records;

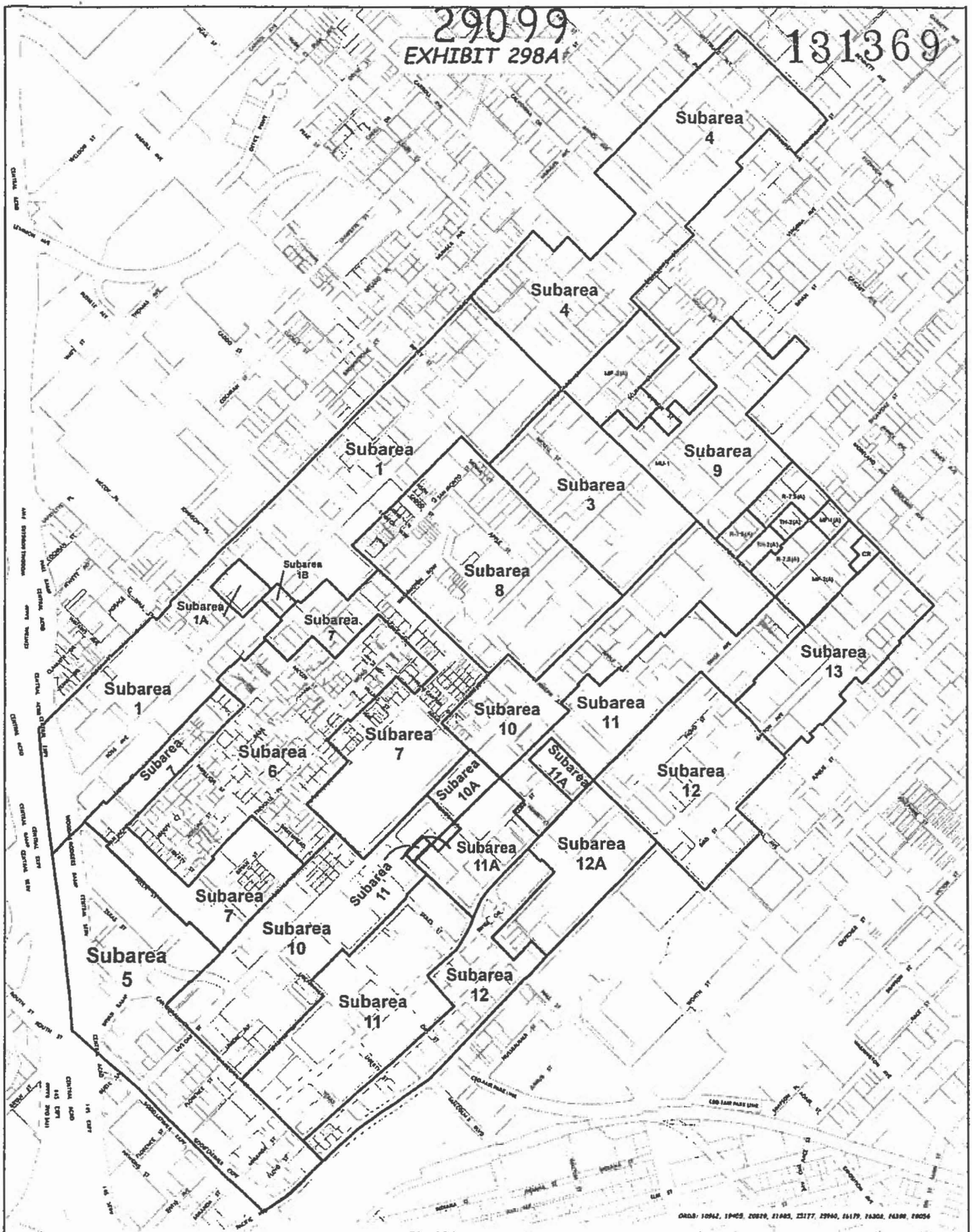
THENCE South 45 deg. 10 min. 00 sec. West, along the common line of said Mbogo tract, and said Dallas Independent School District tract, a distance of 136.00 feet to a point for the south corner of said Mbogo tract, same being a west corner of said Dallas Independent School District tract, same being in the northeast line of that certain tract of land to James B. Parks, Jr., by Warranty Deed with Vendor's Lien recorded in Volume 86022, Page 1389, said Deed Records;

THENCE North 44 deg. 50 min. 00 sec. West, along the common line of said Mbogo tract, and said Parks tract, a distance of 127.50 feet to a point for the west corner of said Mbogo tract, same being the north corner of said Parks tract, same being in the southeast right-of-way line of

aforesaid Ross Avenue;

THENCE North 45 deg. 10 min. 00 sec. East, along the common line of said Mbogo tract, and the southeast right-of-way line of said Ross Avenue, a distance of 136.00 feet to the POINT OF BEGINNING and containing 17,340 square feet or 0.398 acre of computed land, more or less.

131369



**Contains 17 Subareas**

1, 1A, 1B, 3, 4, 5, 6, 7, 8, 9, 10, 10A, 11, 11A, 12, 12A  
No longer contains a Subarea 2



**1:4,450**

• **WORLDWIDE** 2171-200

ORDS: 10942, 19405, 20829, 21483, 23177, 23940, 26179, 26302, 26388, 28054

Final Date: 12/4/2013

Exhibit 298E  
29099

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7

10, 10A

4, 13

5, 12, 12A

8, 11, 11A

3

1, 1A, 1B

131369

		SUB DISTRICTS							
		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.201	AGRICULTURAL USES								
1	Animal production								
2	Commercial stable								
3	Crop production								

29099

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10, 10A

4, 13

5, 12, 12A

8, 11, 11A

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1, 1A, 1B

131369

		SUB DISTRICTS							
		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.202	COMMERCIAL AND BUSINESS SERVICE USES								
1	Building repair and maintenance shop				®		®		
2	Bus or rail transit vehicle maintenance or storage facility								
3	Catering service		Ⓛ	●	●	●	●	●	●
4	Commercial cleaning or laundry plant			●	●				●
5	Custom business services		Ⓛ	●	●	●	●	●	●
6	Custom woodworking, furniture construction, or repair			●	●				●
7	Electronics service center		Ⓛ	●	●	●	●	●	●
8	Job or lithographic printing			●	●	●	●		●
9	Machine or welding shop								
10	Machinery, heavy equipment, or truck sales and services								
11	Medical or scientific laboratory			●	●	●	●	●	●
12	Technical school			®	®	®	®		®
13	Tool or equipment rental				●				
14	Vehicle or engine repair or maintenance			®	®				(1A & 1B - S)

29099

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10,10A

4,13

5, 12, 12A

8, 11, 11A

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1, 1A, 1B

131369

SUB DISTRICTS		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.203	INDUSTRIAL USES								
1	Industrial (inside) without high risk or hazardous uses								
1A	Industrial (inside) with high risk or hazardous uses								
2	Industrial (outside) without high risk or hazardous uses								
2A	Industrial (outside) with high risk or hazardous uses								
3	Metal salvage facility								
4	Mining								
5	Outside salvage or reclamation								
6	Temporary concrete or asphalt batching plant								

29099<sub>6</sub> 7

10, 10A

4, 13

5, 12, 12A

8, 11, 11A

3

1, 1A, 1B

131369

SUB DISTRICTS		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.204	INSTITUTIONAL AND COMMUNITY SERVICE USES								
1	Adult day care facility		S	S	S	●	●		S
2	Cemetery or mausoleum								
3	Child-care facility		S	S	S	●	●		S
4	Church	S	●	●	●	●	●	●	●
5	College, university, or seminary			●	●	●	●		●
6	Community home for disabled persons		S	●	●	●	●		●
7	Community service center				S	S	S	S	S
8	Convalescent and nursing homes and related institutions	S	S	●	●	●	●	S	S
9	Convent or monastery		●	●	●	●	●		
10	Establishments for the care of alcoholic narcotic, or psychiatric patients					S	S		
11	Foster home		S			●	●		
12	Group homes or shelters for disabled, indigent, or abused persons				S	S	S		
13	Halfway house				S		S		
14	Hospital			(10A - ●)		●	●	●	
15	Institution for special education			(R)	(R)	(R)	(R)	(R)	(R)
16	Library, art gallery or museum			●	●	●	●	●	●
17	Public or private school			(R)	(R)	(R)	(R)	(R)	(R)
18	Day home			(10A - S)		(12A - ●)	(11A - ●)		

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10, 10A

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8, 11, 11A

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1, 1A, 1B

131369

		SUB DISTRICTS							
		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.205	LODGING USES								
1	Hotel or motel			●	●	●	●	●	●
2	Lodging or boarding house			●	●	●	●	●	●
3	Residential hotel			S	S	S	S	S	S
4	Extended stay hotel			(10A - S)		(12A - S)	(11A - S)		



29099<sub>8</sub><sub>7</sub>

10, 10A

4, 13

5, 12, 12A

8, 11, 11A

3

1, 1A, 1B

131369

		SUB DISTRICTS							
		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.206	MISCELLANEOUS USES								
1	Carnival or circus (temporary)								
2	Temporary construction or sales office	●	●	●	●	●	●	●	●

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10, 10A

4, 13

5, 12, 12A

8, 11, 11A

3

1, 1A, 1B

131369

		SUB DISTRICTS							
		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.207	OFFICE USES								
1	Ambulatory surgical center			●	●	●	●	●	●
2A	Financial institution without drive-in window		(L)	●	●	●	●	●	●
2B	Financial institution with drive-in window			(R) (10A - not allowed)	(R)	(12A - ●) (12-S)		(R)	(R)
3	Medical clinic			●	●	●	●	●	●
4	Office		●	●	●	●	●	●	●
5	Labor Agency						S	S	

29099<sub>6</sub><sub>7</sub>

10, 10A

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5, 12, 12A

8, 11, 11A

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1, 1A, 1B

131369

		SUB DISTRICTS							
		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.208	RECREATION USES								
1	Country club with private membership								
2	Private recreation center, club, or area		S	●	●	●	●	●	●
3	Public park, playground, or golf course		●	●	●	●	●	●	●

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10, 10A

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1, 1A, 1B

131369

		SUB DISTRICTS							
		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.209	RESIDENTIAL USES								
1	College dormitory, fraternity or sorority house		S	●	●	●	●	●	●
2	Duplex	●	●	●	●	●	●	●	●
3	Retirement Housing		●	●	●	●	●	●	●
4	Mobile home park or subdivision								
5	Multifamily		●	●	●	●	●	●	●
6	Single family	●	●						
7	Commercial compatible single family			●	●	●	●	●	●

Exhibit 298E  
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10, 10A

4, 13

5, 12, 12A

8, 11, 11A

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1, 1A, 1B

131369

SUB DISTRICTS		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.210	RETAIL AND PERSONAL SERVICE USE								
1	Ambulance service			(R)	(R)	(R)	(R)		(R)
2	Animal shelter or clinic without outside run				(R)				
3	Animal shelter or clinic with outside run								
3A	Auto service center				(R)				
4	Bar, lounge, or tavern			S (10A – not allowed)	S	S (12A – not allowed)	S (11A – not allowed)	S	S
5	Business school			(R)	(R)	(R)	(R)	(R)	(R)
6	Car wash				(R)				
7	Commercial amusement (inside)								
8	Commercial amusement (outside)								
9	Commercial parking lot or garage			(R)	(R)	(R)	(R)	(R)	(R)
10	Drive-in theater								
11	Dry cleaning or laundry store		(L)	●	●	●	●	●	●
12	Furniture store		(L)	●	●	●	●	●	●
13	General merchandise or food store 3,500 square feet or less		(L)	●	●	●	●	●	●
14	General merchandise or food store greater than 3,500 square feet			●	●	●	●	●	●
15	Home improvement center, lumber, brick or building materials sales yard				●	S	S		
16	Household equipment and appliance repair		(L)	●	●	●	●		●
17	Liquor store			S (10A – not allowed)	S	S (12A – not allowed)	S (11A – not allowed)		S

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Exhibit 298E

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10, 10A

4, 13

5, 12, 12A

8, 11, 11A

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1, 1A, 1B

131369

SUB DISTRICTS		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.210	RETAIL AND PERSONAL SERVICE USE								
18	Mortuary, funeral home, or commercial wedding chapel			●	●				
19	Motor vehicle fueling station			●	●				
20	Nursery, garden shop, or plant sales		(L)	●	●	●	●	●	●
21	Outside sales								
22	Pawn shop								
23	Personal service uses		●	●	●	●	●	●	●
24	Restaurant without drive-in or drive-through service		(L)	●	●	●	●	●	●
25	Restaurant with drive-in or drive-through service			S	●	S	S	S	S
26	Surface parking			(R)	(R)	(R)	(R)	(R)	(R)
27	Taxidermist								
28	Temporary retail use				●			●	
29	Theater			●	●	●	●	●	●
30	Vehicle display, sales, and service				●				

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1, 1A, 1B

131369

		SUB DISTRICTS							
		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.211	TRANSPORTATION USES								
1	Airport or landing field								
2	Commercial bus station and terminal								
3	Heliport								
4	Helistop								
5	Railroad passenger station			S	S	S	S	S	S
6	Railroad yard, roundhouse, or shops								
7	STOL (short takeoff or landing) port								
8	Transit passenger shelter	S	S	●	●	●	●	●	●

29099

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10, 10A

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8, 11, 11A

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1, 1A, 1B

131369

		SUB DISTRICTS							
		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.212	UTILITY AND PUBLIC SERVICE USES								
1	Commercial radio or television transmitting station			●	●	●	●	●	●
2	Electrical generating plant								
3	Electrical substation			S	S	S	S		S
4	Local utilities	●	●	●	●	●	●	●	●
5	Police or fire station		S	●	●	●	●	●	●
6	Post office		●	●	●	●	●	●	●
7	Radio, television, or microwave tower			S	S	S			S
8	Refuse transfer station								
9	Sanitary landfill								
10	Sewage treatment plant								
11	Utility or government installation other than listed				S	S	S	S	S
12	Water treatment plant								



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10, 10A

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8, 11, 11A

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1, 1A, 1B

131369

		SUB DISTRICTS							
		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.213	WHOLESALE, DISTRIBUTION, AND STORAGE USES								
1	Auto auction								
2	Building mover's temporary storage yard								
3	Contractor's maintenance yard								
4	Freight terminal								
5	Livestock auction pens or sheds								
6	Mini-warehouse				●	S	S		
7	Office showroom/warehouse				●	●	●		
8A	Outside storage (with visual screening)								
8B	Outside storage (without visual screening)								
9	Petroleum product storage and wholesale								
10	Recycling collection center								
11	Sand, gravel, or earth sales and storage								
12	Trade center					●		●	●
13	Vehicle storage lot								
14	Warehouse			●	●	●	●		●

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10, 10A

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8, 11, 11A

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1, 1A, 1B

13369

SUB DISTRICTS		BRY PLACE	BRY PL RING	COMM COR HI	COMM COR MED	MX HI	MX MED	VILLAGE CTR	LOWER ROSS
4.217	ACCESSORY USES								
1	Accessory community center (private)	S	S	●	●	●	●	●	●
2	Accessory game court (private)	●	●	●	●	●	●	●	●
3	Accessory helistop			S (10A – not allowed)		S (12A – ●)			S
4	Accessory outside display of merchandise			●	●			●	●
5	Accessory outside sales							S	
6	Accessory outside storage	●	●	●	●	●	●	●	●
7	Amateur communication tower	S	S	●	●	●	●	●	●
8	Home occupation	●	●	●	●	●	●	●	●
9	Occasional sales (garage sales)	●	●	●	●	●	●	●	●
10	Private stable								
11	Swimming pool (private)	●	●	●	●	●	●	●	●