

3-2-17

ORDINANCE NO. 30430

A municipal setting designation ordinance prohibiting the use of designated groundwater from beneath property generally located at 903 Slocum Street (aka 901 and 905 Slocum Street) and supporting issuance of a municipal setting designation certificate by the Texas Commission on Environmental Quality; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, Subchapter W, “Municipal Setting Designations,” of Chapter 361, “Solid Waste Disposal Act,” of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality to create municipal setting designations; and

WHEREAS, Section 51A-6.108, “Municipal Setting Designation Ordinance,” of Article VI, “Environmental Performance Standards,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code authorizes municipal setting designation ordinances prohibiting the use of designated groundwater as potable water and thereby enable the Texas Commission on Environmental Quality to certify a municipal setting designation for designated property; and

WHEREAS, the city council finds that:

- (1) the eligibility criteria of Section 361.803 of the Texas Health and Safety Code have been met;
- (2) this municipal setting designation ordinance will not have an adverse effect on the current or future water resource needs or obligations of the city of Dallas;
- (3) there is a public drinking water supply system that satisfies the requirements of Chapter 341 of the Texas Health and Safety Code and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of the designated property; and

(4) this municipal setting designation ordinance is necessary because the concentration of contaminants of concern exceed ingestion protective concentration levels for human ingestion; and

WHEREAS, 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 this municipal setting designation ordinance; Now Therefore,

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

SECTION 1. That for purposes of this municipal setting designation ordinance, the “designated property” means the property described in Exhibit A, attached to the ordinance.

SECTION 2. That for purposes of this municipal setting designation ordinance, “designated groundwater” means water below the surface of the designated property to a depth of 200 feet.

SECTION 3. That use of the designated groundwater from beneath the designated property as potable water is prohibited.

SECTION 4. That the use of the designated groundwater from beneath public rights-of-way included in the designated property as potable water is prohibited.

SECTION 5. That the following uses of or contacts with the designated groundwater are prohibited:

- (1) Human consumption or drinking.
- (2) Showering or bathing.
- (3) Cooking.
- (4) Irrigation of crops for human consumption.

SECTION 6. That the following conditions are imposed on the designated property and designated groundwater:

- (1) The potable use of the designated groundwater from beneath the designated property is prohibited.
- (2) The potable use of the designated groundwater from beneath public rights-of-way included in the designated property is prohibited.

- (3) The portion of the designated property assigned VCP No. 2807 must receive a certificate of completion from the Texas Commission on Environmental Quality by no later than April 12, 2019.

SECTION 7. That the city council supports the application to the Texas Commission on Environmental Quality for a municipal setting designation on the designated property, with the following comments:

- (1) The Texas Commission on Environmental Quality, as the state agency chartered to protect human health and the environment, is requested to thoroughly review the conditions of the designated property and issue a certificate of completion only when all contaminants of concern, through the applicable routes of exposure, have been addressed.

SECTION 8. That the public rights-of-way immediately adjacent to the designated property must be included, at no additional cost to the city of Dallas, in the application to the Texas Commission on Environmental Quality.

SECTION 9. That a state or federal program must address the entire non-ingestion protective concentration level exceedence zone originating from sources on the designated property or migrating from the designated property no later than April 12, 2019. That within this time period, the applicant shall provide the managing director of the office of environmental quality documentation, including a certificate of completion from the Texas Commission on Environmental Quality, that it has been addressed to the satisfaction of the agency administering the program. If it has not been addressed, the managing director of the office of environmental quality may, for good cause, take any of the following actions:

- (1) allow additional time to address the non-ingestion protective concentration level exceedence zone;
- (2) request a review by the Texas Commission on Environmental Quality or the agency administering the program;

- (3) recommend to the city council that this municipal setting designation ordinance be repealed;
- (4) request additional information or documentation from the applicant; or
- (5) pursue other actions that the managing director of the office of environmental quality believes may be warranted.

SECTION 10. That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal and state laws and regulations; all ordinances, rules, and regulations of the city of Dallas; and all environmental regulations, and that this municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

SECTION 11. That any person owning, operating, or controlling any portion of the designated property is responsible for ensuring compliance with this ordinance with respect to their portion of the designated property. Allowing use of designated ground water for potable purposes or failure to provide the managing director of the office of environmental quality with required documentation is a violation of this ordinance and may result in the ordinance being repealed for that portion of the designated property.

SECTION 12. That approval of this municipal setting designation ordinance shall not be construed to subject the city of Dallas to any responsibility or liability for any injury to persons or damages to property caused by any contaminant of concern.

SECTION 13. That within 30 days after adoption of this municipal setting designation ordinance, the applicant shall provide the managing director of the office of environmental quality with an electronic file showing the location of the designated property and the designated groundwater in a format compatible with the city of Dallas' geographic information system.

SECTION 14. That within 60 days after adoption of this municipal setting designation ordinance, the managing director of the office of environmental quality shall file a certified copy of this municipal setting designation ordinance in the deed records of the county where the designated property is located.

SECTION 15. That within 60 days after adoption of this municipal setting designation ordinance, the managing director of the office of environmental quality shall send a certified copy of this municipal setting designation ordinance to the applicant and the Texas Commission on Environmental Quality, and that the managing director of the office of environmental quality shall notify the Texas Commission on Environmental Quality 60 days prior to any amendment or repeal of this municipal setting designation ordinance.

SECTION 16. That the applicant shall provide the managing director of the office of environmental quality with a copy of the municipal setting designation certificate issued by the Texas Commission on Environmental Quality pursuant to Section 361.807 of the Texas Health and Safety Code within 30 days after issuance of the certificate.

SECTION 17. That the applicant shall provide the managing director of the office of environmental quality with a copy of the certificate of completion or other documentation issued by the Texas Commission on Environmental Quality showing that any site investigations and response actions required pursuant to Section 361.808 of the Texas Health and Safety Code have been completed to the satisfaction of the Texas Commission on Environmental Quality within the time period required. The managing director of the office of environmental quality may, for good cause, extend the time for submitting the documentation.

SECTION 18. That the applicant shall notify the managing director of the office of environmental quality in writing if the applicant determines that notice is required to be sent to an owner of other property beyond the boundaries of the designated property under Title 30 Texas Administrative Code, Chapter 30, Section 350.55(b), and provide the name of the property owner, the property address, and a copy of the notice sent to the property owner.

SECTION 19. That a person violating a provision of this municipal setting designation ordinance, upon conviction, is punishable by a fine not to exceed \$2,000, and that the Texas Commission on Environmental Quality shall be notified of any violations.


SECTION 20. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this municipal setting designation ordinance.

SECTION 21. That the terms and provisions of this municipal setting designation ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 22. That this municipal setting designation 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:

LARRY E. CASTO, City Attorney

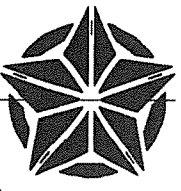
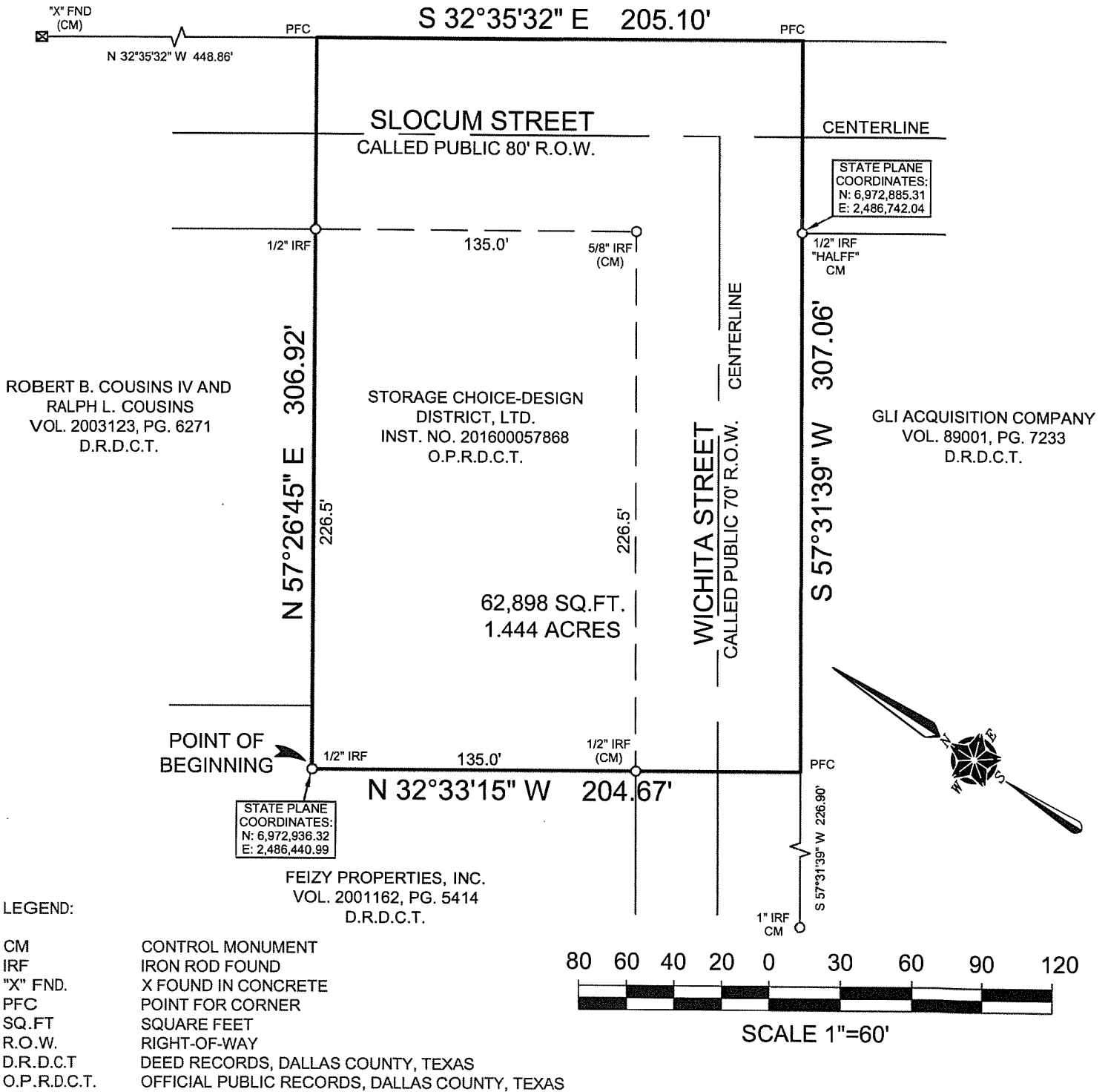
By  _____
Assistant City Attorney

Passed _____ APR 12 2017

30430

MUNICIPAL SETTING DESIGNATION SURVEY GARRETT FOX SURVEY, ABSTRACT NO. 1679 170645 CITY OF DALLAS BLOCK NO. 409, DALLAS COUNTY, TEXAS

COUNTY OF DALLAS, STATE OF TEXAS
VOL. 85001, PG. 2592
D.R.D.C.T.



TEXAS HERITAGE SURVEYING, INC.
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Office 214-340-9700 Fax 214-340-9710
txheritage.com
Firm No. 10169300

Bearings are based upon the Texas State
Plane Coordinate System, North Central
Zone, North American Datum of 1983, (2011)

JOB# 1601154-1
DATE: 04/27/16
Page 1 of 2
Scale: 1" - 60'
Drawn by: MC

**MUNICIPAL SETTING DESIGNATION SURVEY
GARRETT FOX SURVEY, ABSTRACT NO. 1679
CITY OF DALLAS BLOCK NO. 409, DALLAS COUNTY, TEXAS**

GIS_Approved

Being a 62,898 square foot (1.444 acre) tract of land situated in the Garrett Fox Survey, Abstract No. 1679, in the City of Dallas Block No. 409, Dallas County, Texas, and being all that tract of land conveyed to Storage Choice-Design District, Ltd, a Texas limited partnership by Special Warranty Deed recorded in Instrument No. 201600057868, Official Public Records, Dallas County, Texas and a part of Slocum Street (called 80' right-of-way) and Wichita Street (called 70' right-of-way), and being more particularly described by metes and bounds as follows:

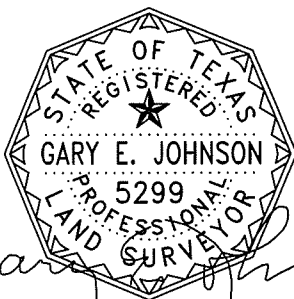
Beginning at a 1/2 inch iron rod found at the West corner of said Storage Choice-Design District, Ltd tract, said point being an ell corner of a tract of land conveyed to Feizy Properties, Inc. by Deed recorded in Volume 2001162, Page 5414, Deed Records, Dallas County, Texas;

Thence North 57 degrees 26 minutes 45 seconds East, along the West line of said Storage Choice-Design District, Ltd tract, passing, at a distance of 226.50 feet, a 1/2 inch iron rod found at the common East corner of a tract of land conveyed to Robert B. Cousins IV and Ralph L. Cousins by Deed recorded in Volume 2003123, Page 6271, Deed Records, Dallas County, Texas, and the North corner of said Storage Choice-Design District, Ltd, and laying on the Southwest right-of-way of said Slocum Street, and continuing across said Slocum Street a total distance of 306.92 feet to a point for corner in the common Northeast right-of-way line of said Slocum Street and the Southwest line of a tract of land conveyed to the County of Dallas, State of Texas by Deed recorded in Volume 85001, Page 2592, Deed Records, Dallas County, Texas;

Thence South 32 degrees 35 minutes 32 seconds East, along the common Southwest line of said County of Dallas, State of Texas tract and the Northeast right-of-way line of said Slocum Street, a distance of 205.10 feet to a point for corner;

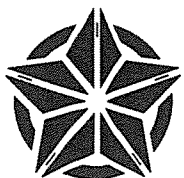
Thence South 57 degrees 31 minutes 39 seconds West, leaving the common Northeast right-of-way line of said Slocum Street and the Southwest line of said County of Dallas, State of Texas tract, a distance of 307.06 feet to a point for corner in the common Southeast right-of-way line of said Wichita Street and the Northwest line of a tract of land conveyed to GLI Acquisition Company by Deed recorded in Volume 89001, Page 7233, Deed Records, Dallas County, Texas;

Thence North 32 degrees 33 minutes 15 seconds West, leaving the common Southeast right-of-way line of said Wichita Street and the Northwest line of said GLI Acquisition Company tract, a distance of 204.67 feet to the Point of Beginning and containing 62,898 square feet or 1.444 acres of land.



Gary E. Johnson

Gary E. Johnson, R.P.L.S.# 5299



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Page 2 of 2
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PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL APR 12 2017

ORDINANCE NUMBER 30430

DATE PUBLISHED APR 15 2017

ATTESTED BY: