

City of Houston, Texas, Ordinance No. 2022- 7

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 145.935 ACRES COMMONLY KNOWN AS 12000 BISSONNET STREET, HOUSTON, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AT THE REQUEST OF BISSONNET 136, LLC; CONTAINING OTHER PROVISIONS RELATED TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

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 ("TCEQ") to create municipal setting designations; and

WHEREAS, on August 22, 2007, by Ordinance No. 2007-959, the City Council adopted Article XIII, of Chapter 47, Code of Ordinances, Houston, Texas, to provide a process for establishing municipal setting designation ordinances and amended that process on July 14, 2010, by Ordinance No. 2010-556; and

WHEREAS, Sections 47-765(c) and 47-767(a) of the Code of Ordinances, Houston, Texas, authorize municipal setting designation ordinances that prohibit the use of designated groundwater as potable water and thereby enable the TCEQ to certify a municipal setting designation for designated property; and

WHEREAS, on December 14, 2020, **Bissonnet 136, LLC** ("Applicant") applied to the Director of Houston Public Works, requesting that the City Council support a municipal setting designation ordinance for property that is located generally at 12000 Bissonnet Street (145.935 acres), Houston, Harris County, Texas 77099; and

WHEREAS, on August 11, 2021, the Director of Houston Public Works conducted a public meeting via Microsoft Teams, as required by Section 47-764 of the Code of Ordinances, and notified the community when the City Council public hearing would occur; and

WHEREAS, the Regulatory and Neighborhood Affairs Council Committee, designated by the Mayor, conducted a public hearing on October 12, 2021; and

WHEREAS, the City Council finds that:

(1) the application meets the eligibility criteria of Section 361.803 of the Texas Health and Safety Code;

(2) the municipal setting designation will not have an adverse effect on the current or future water resource needs or obligations of the City of Houston;

(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 designated property; and

(4) this Municipal Setting Designation Ordinance is necessary because the concentrations of contaminants of concern exceed human ingestion protective concentration levels, and the establishment of a municipal setting designation will allow the property to be brought back into productive use; and

WHEREAS, City Council finds that the Director of Houston Public Works on behalf of City Council, in accordance with the Charter of the City of Houston, state law, and the ordinances of the City of Houston, has given the required notices, the Regulatory and Neighborhood Affairs Council Committee has held the required public hearing regarding

this Municipal Setting Designation Ordinance and all procedural requirements have been satisfied; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That for purposes of this Municipal Setting Designation Ordinance, the "designated property" means the property as described in **Exhibit A**, attached to this Ordinance and incorporated by reference herein.

Section 2. That for purposes of this Municipal Setting Designation Ordinance, "designated groundwater" means groundwater beneath the designated property to a depth not to exceed 200 feet that is prohibited from use as potable water by this Ordinance.

Section 3. That use of the designated groundwater from beneath the designated property as potable water, as that term is defined in Section 47-761 of the Code of Ordinances, Houston, Texas, is prohibited.

Section 4. That the designated property must receive a certificate of completion or other analogous documentation issued by the TCEQ or the United States Environmental Protection Agency ("EPA") 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 TCEQ or EPA within the time period required by them.

Section 5. That the City Council supports the application to the TCEQ for a municipal setting designation on the designated property, with the following comment:

The TCEQ and the EPA, as agencies charged to protect human health and the environment, are requested to thoroughly review the conditions on 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 6. That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal and state laws and regulations and all ordinances, rules, and regulations of the City of Houston. The City Council's approval of a municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

Section 7. That approval of this Municipal Setting Designation Ordinance shall not be construed to subject the City of Houston to any responsibility or liability for any injury to persons or damages to property caused by any contaminant of concern.

Section 8. That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Applicant shall provide the Director of Houston Public Works with an electronic file showing the location of the designated property and the designated groundwater in a format compatible with the City's geographic information system and its integrated land management system, and shall provide an electronic file showing the location of the designated property and the designated groundwater to the Harris County Appraisal District in a format compatible with its system.

Section 9. That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Director of Houston Public Works shall send a certified copy of this ordinance to the Applicant, the TCEQ, and the EPA.

Section 10. That the Applicant shall provide the Director of Houston Public Works with a copy of the municipal setting designation certificate issued by the TCEQ pursuant

to Section 361.807 of the Texas Health and Safety Code within 30 days after issuance of the certificate.

Section 11. That within 30 days after receipt of the municipal setting designation certificate from the TCEQ, the Director of Houston Public Works shall file a certified copy of this Municipal Setting Designation Ordinance in the deed records of Harris County.

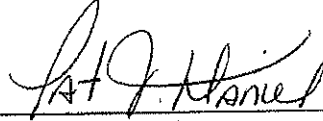
Section 12. That if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 13. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on that date and shall take effect immediately upon its passage and approval by the mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 5th day of January, 2022
APPROVED this _____ day of _____, 2022.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JAN 1 1 2022.



City Secretary

(Prepared by Legal Department
(WC/jb 12/20/2021
(Requested by Carol Ellinger Haddock, P.E., Director, Houston Public Works)
(L.D. File No. 063-2100955-001)



Senior Assistant City Attorney

Meeting 1/05/2022

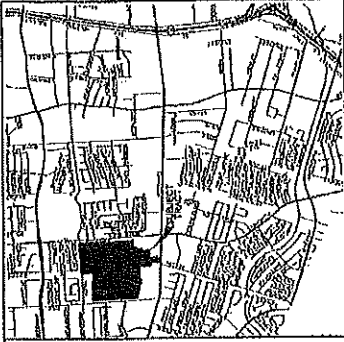
Aye	No	
✓		Mayor Turner
....	Council Members
✓		Peck
✓		Jackson
✓		Kamin
✓		Evans-Shabazz
✓		Martin
✓		Thomas
✓		Travis
✓		Cisneros
✓		Gallegos
✓		Pollard
✓		Castex-Tatum
✓		Knox
✓		Robinson
✓		Kubosh
✓		Plummer
✓		Alcorn
Caption	Adopted	

Captions Published in DAILY COURT REVIEW

Date: 1/11/2022

EXHIBIT "A"

Survey of Designated Property

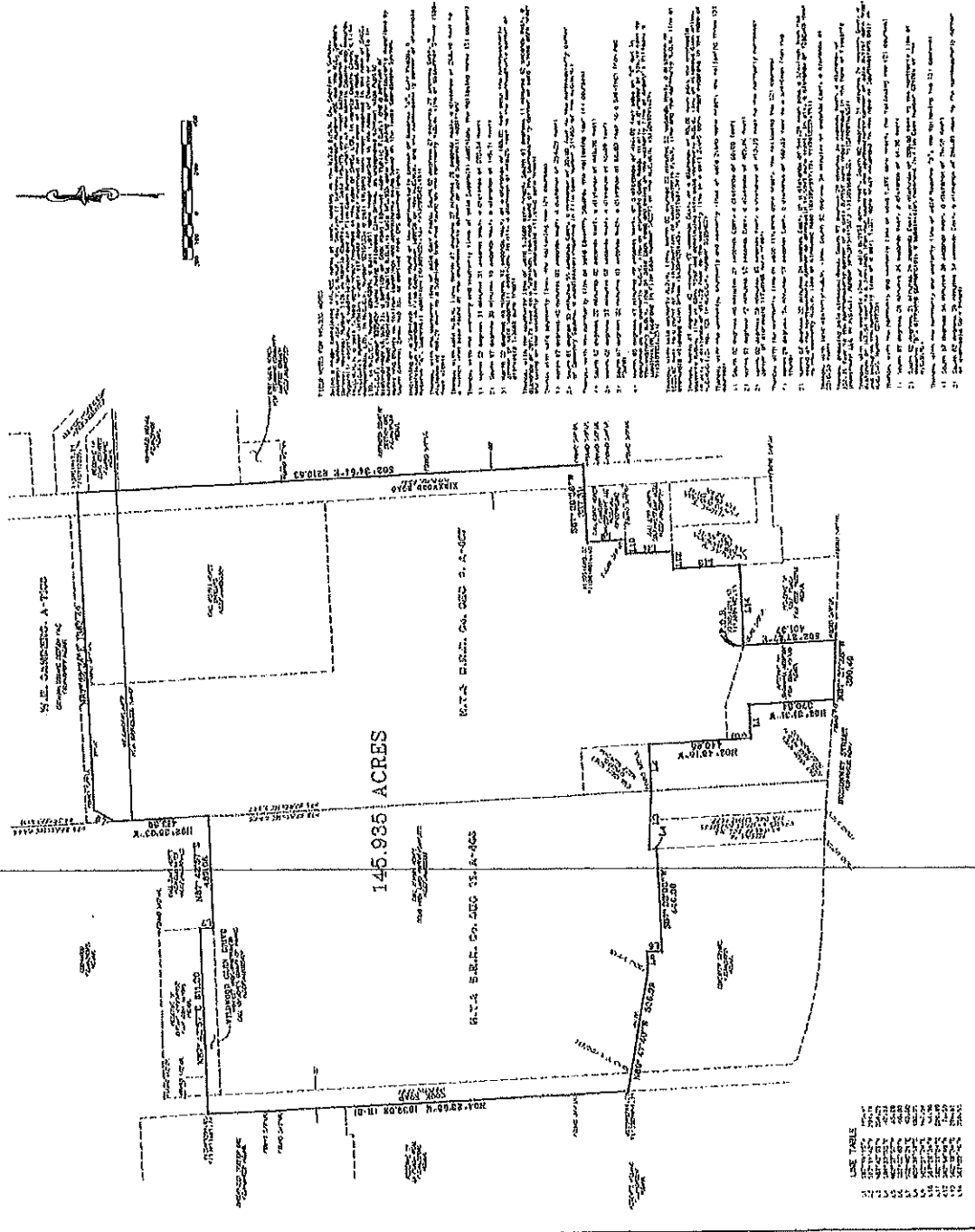
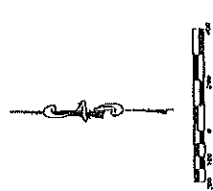


NOTE: THIS TRACT IS BEING OFFERED FOR SALE AS A TRACT OF LAND AND NOT AS A TRACT OF REAL ESTATE. THE BUYER SHALL BE RESPONSIBLE FOR THE TITLE AND THE CONDITION OF THE TRACT AND FOR THE ACCURACY OF THE SURVEY. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE TRACT AND HAS FOUND THAT THE TRACT IS AS SHOWN ON THIS SURVEY. THE SURVEYOR HAS NOT CONDUCTED A SURVEY OF THE TRACT AND HAS NOT MEASURED THE TRACT. THE SURVEYOR HAS NOT CONDUCTED A SURVEY OF THE TRACT AND HAS NOT MEASURED THE TRACT.



TRACT EXHIBIT
145.935 ACRES
 R.T.A. B.E.R. CO. SEC. 9 SURVEY A-407
 R.T.A. B.E.R. CO. SEC. 9 SURVEY A-408
 HARRIS COUNTY, TEXAS

GBY PARTNERS
 LAND SURVEYING CONSULTANTS
 1100 WEST 17TH STREET, SUITE 100
 HOUSTON, TEXAS 77058
 PHONE: 713-865-1100
 FAX: 713-865-1101



County: Harris
Project: Bissonnet Street
Job No. 195547
MBS No. 20-445

FIELD NOTES FOR 145.935 ACRES

Being a tract containing 145.935 acres of land, located in the H.T. & B.R.R. Co. Section 9 Survey, Abstract Number 407, the H.T. & B.R.R. Co. Section 11 Survey, Abstract Number 406 and the W.E. Sanders Survey, Abstract Number 1138 in Harris County, Texas; Said 145.935 acre tract being Reserve "A", Sugarhill Addition, a subdivision recorded in Film Code Number 450135 of the Harris County Map Records (H.C.M.R.), a call 1.3688 acre tract recorded in the name of SHGC, LTD. in Harris County Clerk's File (H.C.C.F.) Number U419454, a call 117.8988 acre tract recorded in the name of Solid Rock Land Partnership, LTD. in H.C.C.F. Number U215133, a call 18.5993 acre tract recorded in the name of SHGC, LTD. in H.C.C.F. Number U065389, a call 1.011 acre tract recorded in the name of County of Harris in H.C.C.F. Number D305424 (same being Wildwood Glen Drive, an unimproved 60-foot wide Public Right-of-Way (R.O.W.)), a portion of Cook Road (80-foot wide Public R.O.W.) and a portion of Kirkwood Road (100-foot wide Public R.O.W.); Said 145.935 acre tract being more particularly described by metes and bounds as follows (bearings and coordinates being based on the Texas Coordinate System, South Central Zone, NAD 83, as derived from GPS observations):

Beginning at a 5/8-inch iron rod found at the northwesterly corner of Reserve "A", Golf Plaza, a subdivision recorded in Film Code Number 580258 of the H.C.M.R. and the northeasterly corner of aforesaid Reserve "A", Sugarhill Addition (X:3051221.13, Y:13809342.13);

Thence, with the westerly line of said Golf Plaza, South 02 degrees 27 minutes 27 seconds East, a distance of 401.37 feet to a 5/8-inch iron rod found on the northerly R.O.W. line of Bissonnet Street (100-foot wide);

Thence, with said R.O.W. line, North 87 degrees 27 minutes 28 seconds West, a distance of 260.40 feet to a 1-inch iron pipe found at the southwest corner of said Sugarhill Addition;

Thence, with the westerly and southerly lines of said Sugarhill Addition, the following three (3) courses:

- 1) North 02 degrees 31 minutes 31 seconds West, a distance of 370.34 feet;
- 2) South 87 degrees 39 minutes 15 seconds West, a distance of 145.91 feet;
- 3) North 02 degrees 48 minutes 18 seconds West, at a distance of 100.03 feet pass the northwesterly corner of said Sugarhill Addition, in all, a distance of 440.25 feet to the southeasterly corner of aforesaid 1.3688 acre tract;

Thence, with the southerly line of said 1.3688 acre tract, South 87 degrees 11 minutes 42 seconds West, a distance of 201.78 feet to a 5/8-inch iron rod found at the southwest corner of said 1.3688 acre tract and being on the southerly line of aforesaid 117.8988 acre tract;

Thence with said southerly line, the following two (2) courses:

- 1) North 87 degrees 43 minutes 03 seconds West, a distance of 254.29 feet;
- 2) South 01 degree 33 minutes 55 seconds East, a distance of 32.03 feet to the northeasterly corner of Coventry Square, a subdivision recorded in Film Code Number 311055 of the H.C.M.R.;

Thence, with the northerly line of said Coventry Square, the following four (4) courses:

- 1) South 87 degrees 22 minutes 03 seconds West, a distance of 446.00 feet;
- 2) North 02 degrees 37 minutes 57 seconds West, a distance of 65.00 feet;
- 3) South 87 degrees 22 minutes 03 seconds West, a distance of 80.00 feet to a 5/8-inch iron rod found;
- 4) North 80 degrees 47 minutes 40 seconds West, at a distance of 456.00 feet pass an "X" cut in concrete on the easterly R.O.W. line of aforesaid Cook Road, in all, a distance of 536.99 feet to the westerly R.O.W. line of said Cook road and being on the easterly line of Regent's Village, a subdivision recorded in Film Code Number 542277 of the H.C.M.R. (X:3049281.29, Y:13809851.33);

Thence, with said westerly R.O.W. line, North 02 degrees 23 minutes 52 seconds West, a distance of 1832.02 feet to a point at the intersection of said westerly R.O.W. line and the northerly R.O.W. line of aforesaid Wildwood Glen Drive (X:3049204.65, Y:13811681.74);

Thence, North 87 degrees 42 minutes 57 seconds East, at a distance of 80.00 feet pass the aforesaid easterly R.O.W. line of Cook Road and continuing with said northerly R.O.W. line of Wildwood Glen drive, in all, a distance of 811.20 feet to the westerly line of a call 2.645 acre tract recorded in the name of H.C.W.C.I.D. No. 123 in H.C.C.F. Number D305422;

Thence, with the westerly, southerly and easterly lines of said 2.645 acre tract, the following three (3) courses:

- 1) South 02 degrees 40 minutes 21 seconds East, a distance of 60.00 feet;
- 2) North 87 degrees 42 minutes 57 seconds East, a distance of 489.06 feet;
- 3) North 02 degrees 38 minutes 03 seconds West, a distance of 413.39 feet to the northerly north-west corner of aforesaid 117.8988 acre tract;

Thence, with the northerly line of said 117.8988 acre tract, the following two (2) courses:

- 1) North 28 degrees 36 minutes 57 seconds East, a distance of 102.35 feet to a 5/8-inch iron rod found;
- 2) North 87 degrees 22 minutes 24 seconds East, at a distance of 544.38 feet pass a 3/4-inch iron rod found at the northwesterly corner of aforesaid 18.5993 acre tract, in all, a distance of 1382.49 feet to the easterly R.O.W. line of Kirkwood Road (X:3051917.73, Y:13812239.79);

Thence, with said easterly R.O.W. line, South 02 degrees 34 minutes 54 seconds East, a distance of 2210.53 feet;

Thence, crossing said Kirkwood Road, South 87 degrees 28 minutes 36 seconds West, a distance of 337.31 feet to the northwesterly corner of a call 0.9157 acre tract recorded in the name of Flagship Investment LLC in H.C.C.F. Number RP-2019-113813 (X:3051680.32, Y:13810016.65);

Thence, with the westerly line of said 0.9157 acre tract, South 02 degrees 31 minutes 24 seconds East, a distance of 167.54 feet to a 3/4-inch iron rod found at the southwesterly corner of said 0.9157 acre tract and being on the northerly line of a call 1.377 acre tract recorded in the name of Southwestern Bell in H.C.C.P. Number C287739;

Thence, with the northerly and westerly line of said 1.377 acre tract, the following two (2) courses:

- 1) South 87 degrees 28 minutes 36 seconds West, a distance of 61.90 feet;
- 2) South 02 degrees 31 minutes 24 seconds East, a distance of 200.00 feet to the northerly line of Reserve "B", Kirkwood Commercial, a subdivision recorded in Film Code Number 679786 of the H.C.M.R.;

Thence, with the northerly and westerly line of said Reserve "B", the following two (2) courses:

- 1) South 87 degrees 54 minutes 08 seconds West, a distance of 76.59 feet;
- 2) South 02 degrees 38 minutes 34 seconds East, a distance of 286.03 feet to the northeasterly corner of aforesaid Golf Plaza;

Thence, with said northerly line, South 87 degrees 22 minutes 16 seconds West, a distance of 350.55 feet the Point of Beginning and containing 145.935 acres of land.

THIS DESCRIPTION WAS PREPARED IN CONNECTION WITH A TRACT EXHIBIT FILED IN JOB NUMBER 195547 AT GBI PARTNERS.

GBI PARTNERS
TBPELS Firm No. 10130300
Ph: 281.499.4539
September 11, 2020



Jon P. Bordovsky
9/11/2020

LEGEND

- SUBJECT PROPERTY BOUNDARY
- DESIGNATED PROPERTY BOUNDARY
- LOT BOUNDARY
- APPROXIMATE LANDFILL WASTE BOUNDARY
- ON-SITE BUILDING
- WOODEN FENCE
- METAL FENCE
- GROUNDWATER MONITORING WELL
- HOVED STORMWATER CHANNEL
- HOVED BAK CULVER
- ARSENIC GROUNDWATER POLE ZONE

NOTES

1. THIS MAP REPRESENTS HOUSTON COUNTY RECORDS SERVICES, ASSISTED BY SIA CONSULTING, LP, AND DOES NOT REPRESENT THE LANDLORD'S RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON.

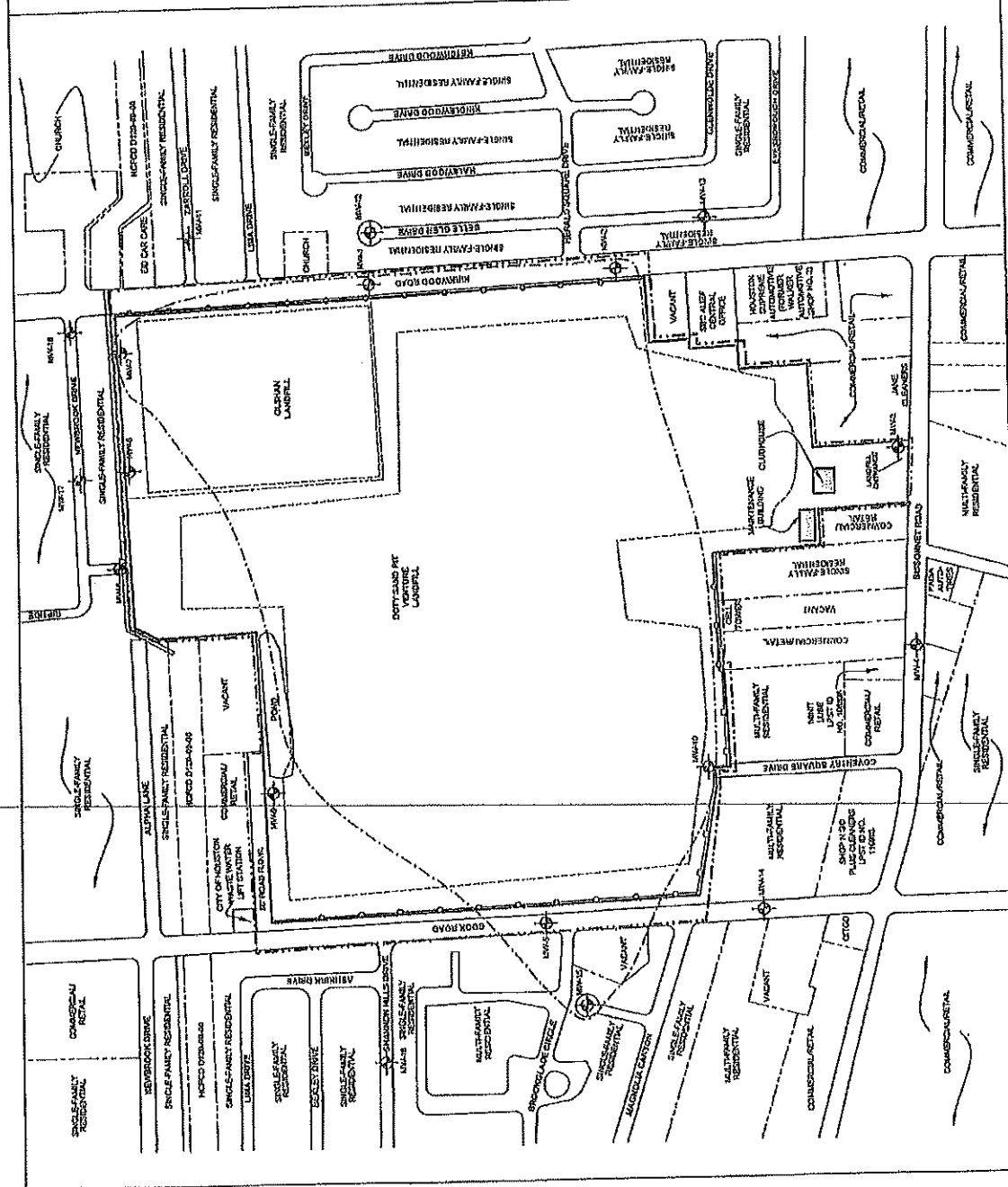
2. "TOWN" REPRESENTS THE CITY OF HOUSTON, TEXAS.

3. "TRAIL" REPRESENTS THE HOUSTON METRO RAIL SYSTEM.

4. "THE CRITICAL ASSASSIN OF THIS DRAWING IS IN COLOR, BLACK AND WHITE COPIES MAY NOT ACCURATELY REFLECT THE ORIGINAL DESIGN OR INTENT OF THE ORIGINAL ENGINEER OR GEODETICIST. DO NOT ALTER THIS DOCUMENT IN ANY WAY WITHOUT THE WRITTEN CONSENT OF SIA CONSULTING, LP."

skA SIA CONSULTING, LP
 10000 GREENBERRY ROAD, SUITE 100
 HOUSTON, TEXAS 77036
 LICENSE NO. 68765
 PAUL MICHAEL SCHULTZ
 LICENSED PROFESSIONAL ENGINEER
 STATE OF TEXAS
 7/15/2020

FIGURE C.8B
 ARSENIC GROUNDWATER POLE ZONE MAP
 JULY, 2020
 CITY OF HOUSTON MUNICIPAL SETTING
 DESIGNATION APPLICATION
 DOTY SAND PIT VENTURE LANDFILL
 AND OLSHAN LANDFILL PROPERTY
 7000 BISSONNET AVENUE, HOUSTON, TEXAS
 HOUSTON PERMIT NO. 1227
 DATE SET (OCTOBER 2020) PER PER. 0519-0101 | WORKAS SHOWN
 1. DESIGNATION APPLICATION
 2. DESIGNATION APPLICATION
 3. DESIGNATION APPLICATION
 4. DESIGNATION APPLICATION



CS 3015 0015-0001 V001 V001 C08B

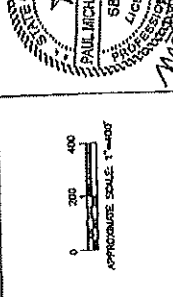
LEGEND

- SUBJECT PROPERTY BOUNDARY
- DESIGNATED PROPERTY BOUNDARY
- LIT BOUNDARY
- APPROXIMATE LANDFILL WASTE BOUNDARY
- ON-SITE BUILDING
- WOODEN FENCE
- METAL FENCE
- GROUNDWATER MONITORING WELL
- GROUNDWATER CONTOUR (FEET HAS)
- GROUNDWATER FLOW DIRECTION
- GROUNDWATER ELEVATION (FEET HAS)
- ANCHOR
- HOOD/STORMWATER CHANNE
- HOOD BOX/CLAVIER

NOTES

- 1. THIS DRAWING REPRESENTS HARRIS COUNTY FLOOD CONTROL DISTRICT.
- 2. GROUNDWATER ELEVATIONS WITHIN THE LANDFILL ARE INFERRED FROM SURROUNDING VISIBLE ELEVATION OF WAYS.
- 3. HAS REPRESENTS LOCAL SCALE.
- 4. HAS REPRESENTS METROPOLITAN SCALE.
- 5. THIS DRAWING IS A PRELIMINARY DESIGN. CERTAIN INFORMATION MAY BE SUBJECT TO CHANGE WITHOUT THE WRITTEN CONSENT OF SKA CONSULTING, L.P.

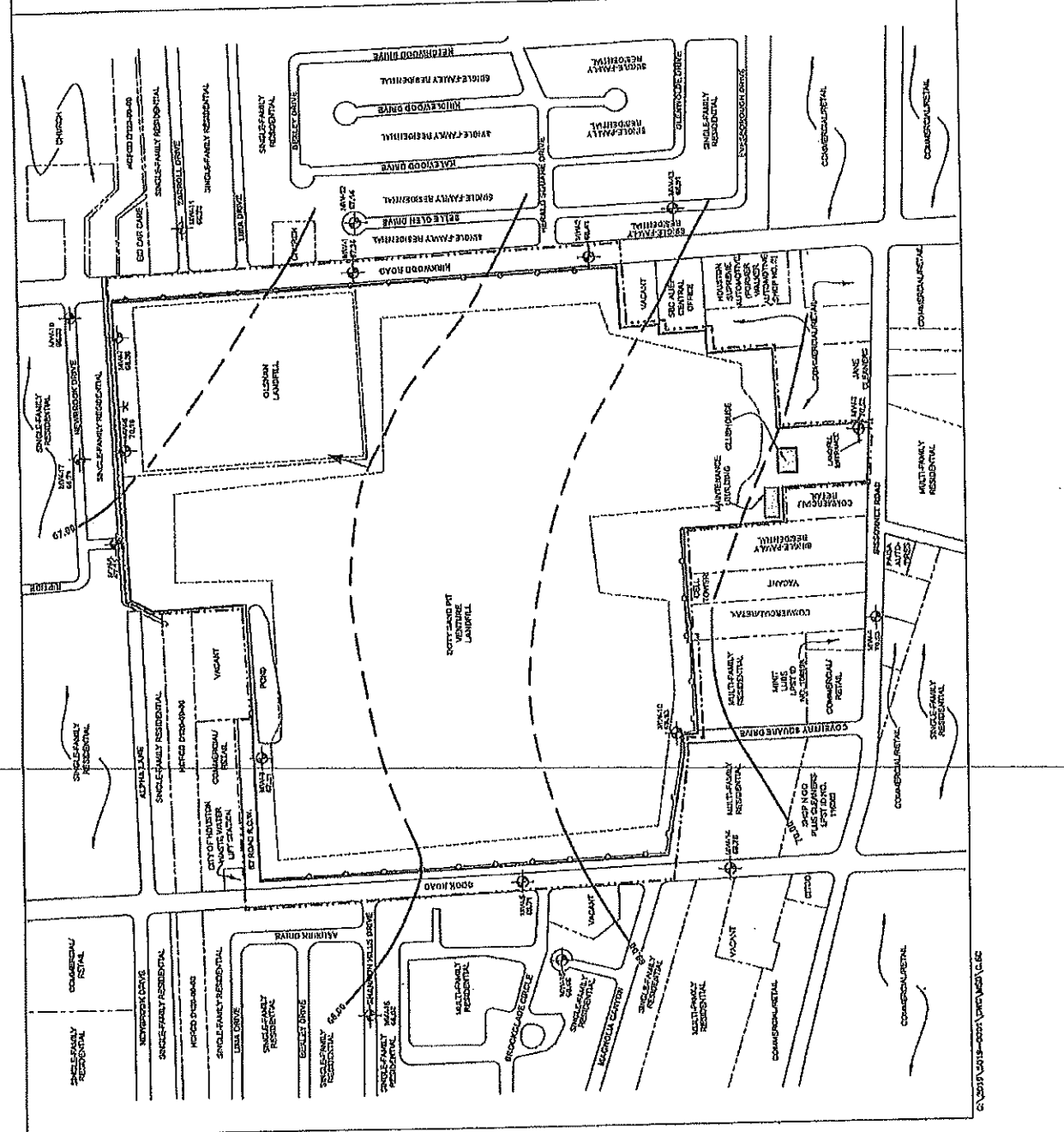
0 200 400
 APPROXIMATE SCALE 1"=400'



SKA
 SKA CONSULTING, L.P.
 1800 WEST LOOP SOUTH, SUITE 1000
 HOUSTON, TEXAS 77056
 Texas Registered Engineering Firm F-05099
 Texas Registered Geotechnical Firm 50711

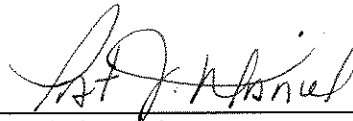
FIGURE
C.6C

DATE: SEPTEMBER 2020
 DRAWING NO.: 2019-0001
 PROJECT: DOTTY SAND PIT VENTURE LANDFILL AND CULMINS LANDFILL
 SHEET: 1 OF 2
 SCALE: AS SHOWN



I, PAT J. DANIEL, City Secretary of the City of Houston, Texas, do hereby certify that the within and foregoing is a true and correct copy of Ordinance 2022-7 passed and adopted by the City Council of said City on the 5th day of January, 2022, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 15th day of February, 2022.

A handwritten signature in cursive script, appearing to read "Pat J. Daniel", written in black ink.

Pat J. Daniel
City Secretary