

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 22, 2007

Mr. Michael Lowder
Kelly, Hart & Hallman, L.L.P.
201 Main Street, Suite 2500
Fort Worth, TX 76102

Re: Certification of Municipal Setting Designation (MSD) Application for Houston Street Acquisitions, L.P., 505 North Houston Street, Fort Worth, TX; (MSDAPP030, MSD028)

Dear Mr. Lowder:

Enclosed is the MSD for your site. You can use this certification as the basis to avail of the groundwater assessment and remediation flexibility offered in accordance with Texas Health and Safety Code §361.808, consistent with the site-specific circumstances.

If I can be of any further assistance, please contact me at 512/239-5872 or via e-mail (mfrew@tceq.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "mfrew".

Mike Frew, P.G., Project Manager
Environmental Cleanup Section II
Remediation Division

Enclosure

Texas Commission on Environmental Quality



Municipal Setting Designation Certificate 028

As provided for in §361.807, Subchapter W, Texas Health and Safety Code (Solid Waste Disposal Act):

I, Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for Houston Street Acquisitions, L.P., 505 N. Houston Street, Fort Worth, the tract of land described in Exhibit "A". The eligibility requirements of Texas Health and Safety Code §361.803 are satisfied as attested to by the affidavit in Exhibit "B" provided pursuant to Texas Health and Safety Code §361.804(b)(2)(D). This certificate shall continue in effect so long as the institutional control required by Texas Health and Safety Code §361.8065 is maintained in effect.

Any person addressing environmental impacts for a property located in the certified municipal setting designation shall complete any necessary investigation and response action requirements in accordance with Texas Health and Safety Code §361.808, in conjunction with the applicable Texas Commission on Environmental Quality environmental remediation regulation, as modified by Texas Health and Safety Code §361.808.

EXECUTED this 30th day of April, 2007.

Handwritten signature of Glenn Shankle in black ink.

Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

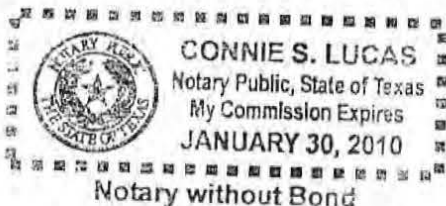
STATE OF TEXAS
TRAVIS COUNTY

BEFORE ME, on this the 30th day of April, 2007, personally appeared Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality, known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 30th day of April, 2007.

Handwritten signature of Connie S. Lucas in black ink.

Notary Public in and for the State of Texas



Lot B, C, D, & E Block 8
North Fort Worth
Fort Worth, Tarrant County, Texas

Plat Recorded Vol 63 Page 149 DRTCT
Amended by Cause 11490-A as Recorded in Book C-12, Page 213,
District Court Minutes, Tarrant County, Texas

Field Notes:

Being all of Lots B, C, D, and E as described in a Judgement of Partition in a suit styled Samuel Baker Robinson, et al vs. Mrs. Ann Gerard Lines et al, Cause No. 11490-A, Judicial District Court of Tarrant County, 96th District, Texas as recorded in Book C-12, Pages 213 et seq. and Book C-14, Pages 337 et seq., Minutes of District Court, Tarrant County, Texas, described as follows:

Beginning in the west line of Houston Street at an iron pin with a yellow cap marked "Brittain & Crawford" N 30° W 137.7 feet northwest of the southeast corner of Block 8, North Fort Worth, Tarrant County, Texas, for the southeast corner of Lot B and the southeast corner of this tract;

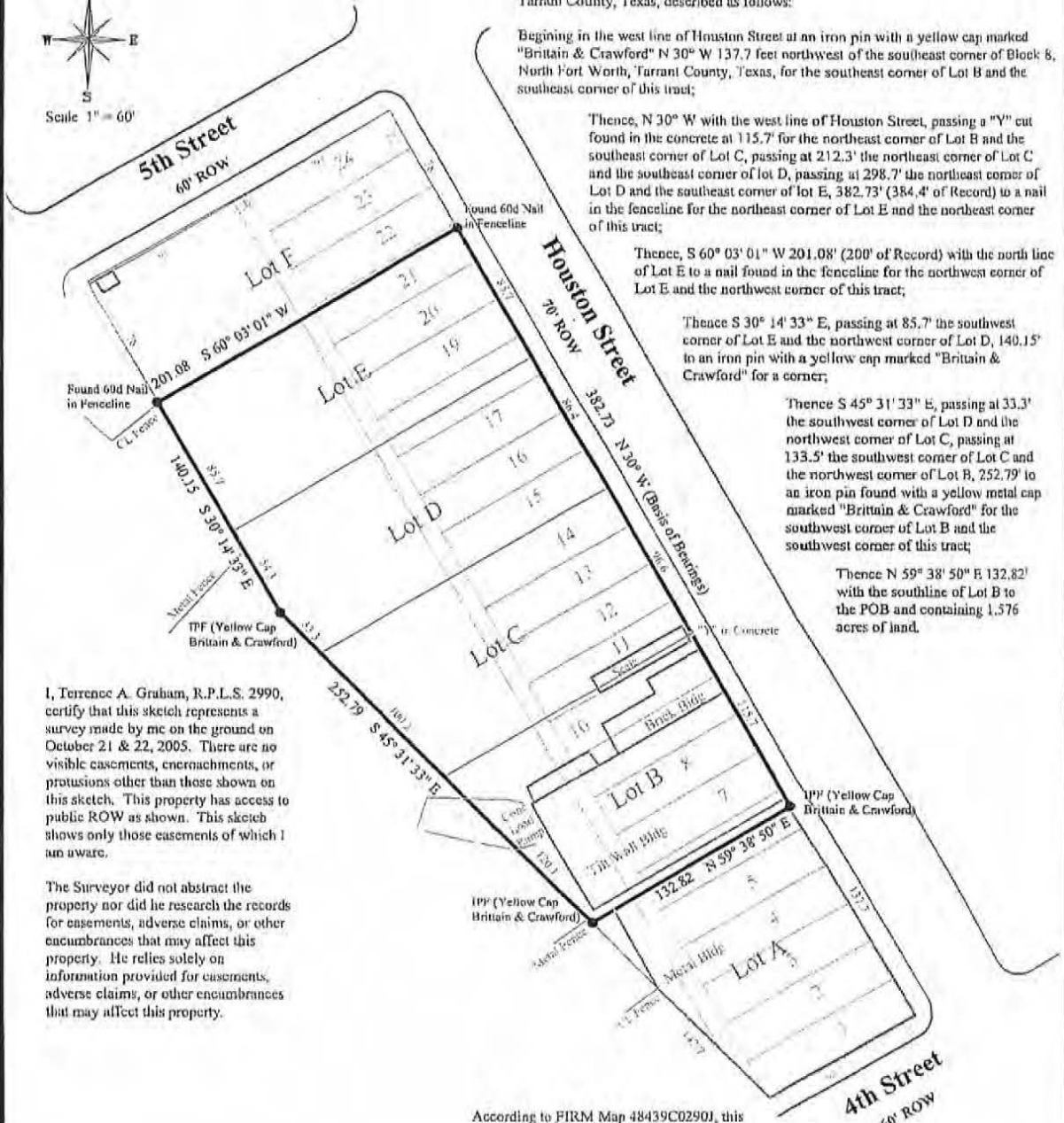
Thence, N 30° W with the west line of Houston Street, passing a "Y" cut found in the concrete at 115.7' for the northeast corner of Lot B and the southeast corner of Lot C, passing at 212.3' the northeast corner of Lot C and the southeast corner of Lot D, passing at 298.7' the northeast corner of Lot D and the southeast corner of Lot E, 382.73' (384.4' of Record) to a nail in the fence line for the northeast corner of Lot E and the northeast corner of this tract;

Thence, S 60° 03' 01" W 201.08' (200' of Record) with the north line of Lot E to a nail found in the fence line for the northwest corner of Lot E and the northwest corner of this tract;

Thence S 30° 14' 33" E, passing at 85.7' the southwest corner of Lot E and the northwest corner of Lot D, 140.15' to an iron pin with a yellow cap marked "Brittain & Crawford" for a corner;

Thence S 45° 31' 33" E, passing at 33.3' the southwest corner of Lot D and the northwest corner of Lot C, passing at 133.5' the southwest corner of Lot C and the northwest corner of Lot B, 252.79' to an iron pin found with a yellow metal cap marked "Brittain & Crawford" for the southwest corner of Lot B and the southwest corner of this tract;

Thence N 59° 38' 50" E 132.82' with the southline of Lot B to the POB and containing 1.376 acres of land.



I, Terrence A. Graham, R.P.L.S. 2990, certify that this sketch represents a survey made by me on the ground on October 21 & 22, 2005. There are no visible easements, encroachments, or protrusions other than those shown on this sketch. This property has access to public ROW as shown. This sketch shows only those easements of which I am aware.

The Surveyor did not abstract the property nor did he research the records for easements, adverse claims, or other encumbrances that may affect this property. He relies solely on information provided for easements, adverse claims, or other encumbrances that may affect this property.

According to FIRM Map 48439C02901, this property is located Zone X. While this map does show this property to be above the defined Base Flood Elevation, all property is subject to flooding under the right conditions.

Abaxial, Inc.
Engineers - Surveyors

1251 West Magnolia Avenue
Fort Worth, Texas 76104

Property Survey

Lots B, C, D, E, Block 8, North Fort Worth,
Tarrant County, Texas

Drawing
050130.03-01

November 2005

B'



Municipal Setting Designation Application Form

TCEQ Office Use Only:	Date Add. Info Req. 3/16/2007 + 3/29/2007
Application No:	Date Add. Info Rec'd 3/22/2007 + 4/2/2007
Date Received: 2/29/06	Date Certified: / /
	Date Denied: / /

Reset Form

Municipal Setting Designation Eligibility Criteria:

Is the proposed municipal setting designation (MSD) within the corporate limits of a municipality authorized by statute that has a population of at least 20,000? (See most recent <i>place</i> population estimate reported at http://txsdc.utsa.edu/tpepp/txpopest.php .)	<input checked="" type="radio"/> Yes	<input type="radio"/> No ¹
Is the proposed municipal setting designation (MSD) within the extraterritorial jurisdiction of a municipality authorized by statute that has a population of at least 20,000? (See most recent <i>place</i> population estimate reported at http://txsdc.utsa.edu/tpepp/txpopest.php .)	<input checked="" type="radio"/> Yes	<input type="radio"/> No ¹
Municipality name: City of Fort Worth	Population: 638,102	
Is there a public drinking water supply system that satisfies the requirements of THSC Chapter 341 and supplies or is capable of supplying drinking water to: a) the proposed MSD property, and b) each property within 0.5 miles beyond the boundary of the proposed MSD?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ¹
¹ If No, the eligibility criteria are not met. Do not submit an application.		

Applicant and Fee Payment Information:

Contact Person: <input checked="" type="radio"/> Mr. <input type="radio"/> Ms. Michael Lowder		
Title: Attorney		
Company: Houston Street Acquisitions, L.P. c/o Kelly, Hart & Hallman, L.L.P.		
Mailing Address: 201 Main Street, Suite 2500		
City: Fort Worth	State: TX	Zip: 76102
Telephone: 817 / 878 - 3526	Telefax: 817 / 878-9726	
E-mail Address: [REDACTED]		
Is the required \$1,000 application being submitted to TCEQ in advance or at the same time the MSD application is being submitted to TCEQ?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ²
² Do not submit application.		

MSD Property Address:

Street Address: 505 N. Houston Street	
City: Fort Worth	Zip: 76106
County: Tarrant	Acres: 1.576
If multiple properties provide an attachment to the application providing the above information for each property.	

Notice Information:

On or before the date of submission of the application to TCEQ, was notice provided to:		
a) each municipality:		
1) where the proposed MSD is located?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ⁴
2) with a border within 0.5 miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
3) that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
b) each current owner of a private well registered with the commission and located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴

c) each retail public utility, as defined by Texas Water Code, §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ³	<input type="radio"/> NA ⁴
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³ Do not submit application.

⁴ NA only when no such municipality, private well owner, or retail public utility exists

MSD Information:

List all existing TCEQ and US Environmental Protection Agency registration, permit, identification numbers (e.g., SWR No., VCP No., LPST ID No., UIC Registration No., PWS ID. No.), if any, that apply to the groundwater contamination situation within the proposed MSD boundary. State "none" if none applicable.
None

Is the proposed designated groundwater contaminated in excess of an applicable potable water ⁵ use standard (i.e., 30 TAC 350, ^{GW} GW _{ing})?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ⁶
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 th Legislature.)	<input type="radio"/> Yes, when? / /	<input checked="" type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses the designated groundwater as source water?	<input type="radio"/> Yes ⁶	<input checked="" type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses a deeper groundwater zone for the source water that is not properly sealed off from the designated groundwater?	<input type="radio"/> Yes ⁶	<input checked="" type="radio"/> No
Is the applicant aware of any non-consumptive use of the groundwater or other human health or ecological exposure pathways that are of concern? If yes, specify:	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has each municipality and retail public utility identified in §361.8065 provided firm commitment to adopt an ordinance or resolution in support of the application?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ⁶
Is a copy of the ordinance or restrictive covenant that restricts consumptive use and appropriately restricts other uses of and contact with the designated groundwater, and any required resolutions provided with this application?	<input checked="" type="radio"/> Yes	<input type="radio"/> No

⁵ "Potable water" means water that is used for irrigating crops intended for human consumption, drinking, showering, bathing, or cooking purposes [THSC §361.801(2)].

⁶ Do not submit an application.

I affirmatively state that (place an X in all applicable blanks):

- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed MSD property is included with the application.
- Notice was provided in accordance with THSC §361.805.
- A copy of an ordinance or restrictive covenant and any required resolutions are provided in this application or will be provided before the executive director certifies this application.

[Signature]
Applicant Signature

12/26/06
Date

Before me Stacy Davenport the undersigned authority, on this day personally appeared
Michael C. Lowder Name of Notary and signed this Municipal Setting Designation Application.
Name of Applicant

Sworn, subscribed and signed before me in the County of Tarrant, State of Texas, on the 26th day of December, 2006.

