

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 26, 2010

Mr. Ron Berlin, Partner
Bishop Colorado Retail Plaza, Inc.
3906 Lemmon Avenue, Suite 100
Dallas, Texas 75219

RE: Municipal Setting Designation (MSD) Certificate for Bishop Arts Plaza and
Lofts, 1222 North Bishop Street, Dallas, Texas, MSD No. 126

Dear Mr. Berlin:

Enclosed is the Municipal Setting Designation Certification 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 do not hesitate to contact me at (512) 239-2992 or via e-mail (csiegel@tceq.state.tx.us).

Sincerely,

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

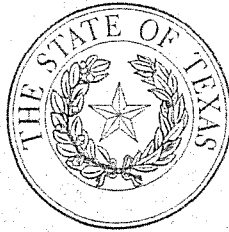
Christopher Siegel, Project Manager
VCP-CA Section
Remediation Division

CS/jdm

Enclosure

cc: Mr. Rick Ciampi, VCP 1936 Project Manager, Remediation Division, MC-221

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



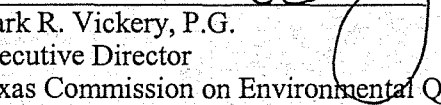
MUNICIPAL SETTING DESIGNATION CERTIFICATE

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

I, Mark R. Vickery, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for MSD No. 126, in the City of Dallas, for 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 the 13th day of April, 2010


Mark R. Vickery, P.G.
Executive Director
Texas Commission on Environmental Quality

ITEM 3

**MUNICIPAL SETTING DESIGNATION APPLICATION
BISHOP ARTS PLAZA AND LOFTS
DALLAS, TEXAS**

LEGAL DESCRIPTION

The Designated Property is described as follows:

Being Lot 1A, in Block M/3363, of BISHOP ARTS RETAIL, an Addition to the City of Dallas, Dallas County, Texas, according to the Plat thereof under cc#20070395948, Real Property Records, Dallas County, Texas.

The total area of the Designated Property is 3.5568 acres.

A professional survey of the Designated Property, including the adjacent public rights-of-way, is provided in this Item of the Application. Coordinates for each corner of the Designated Property are included on the survey drawing, and global positioning satellite (GPS) coordinates for the four principal corners of the Designated Property are provided below.

Northeast Corner: 32° 45' 33.82" N; 96° 49' 33.06" W

Northwest Corner: 32° 45' 30.76" N; 96° 49' 34.47" W

Southwest Corner: 32° 45' 30.18" N; 96° 49' 32.92" W

Southeast Corner: 32° 45' 30.93" N; 96° 49' 30.23" W

M.S.D. SURVEY

Being a tract of land situated in the G.S.C. Leonard, Abstract No. 780 and all of Lot 1A, Block M/3363 of Bishop Arts Retail, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in County Clerk's file No. 20070395948 of the Official Public Records, Dallas County, Texas, and being portions of Bishop Avenue, Colorado Avenue and Ballard Avenue in the City of Dallas, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner, said corner being the Northeast corner of Lot 12, City Block 40/3360 of said Miller & Stemmons Addition, and lying in the Southwest intersection of Bishop Avenue (100 foot right-of-way) and Colorado Avenue (100 foot right-of-way);

THENCE North 01 degrees 06 minutes 06 seconds West, a distance of 100 feet to a point for corner, said corner lying in the South line of Lot 1A, City Block 21/3343 of Methodist Medical Center, an addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 89036, Page 1107 of the Map Records, Dallas County, Texas;

THENCE North 88 degrees 53 minutes 54 seconds East along the South line of said Lot 1A, a distance of 114.51 feet to a point for corner, said corner being the Southwest corner of a tract of land conveyed to Pavilion Properties by Deed recorded in Volume 89202, Page 2214, Deed Records, Dallas County, Texas, said corner lying in a nontangent curve to the Left, having a radius of 60 feet, a delta of 73 degrees 27 minutes 46 seconds and a chord bearing and distance that bears South 47 degrees 40 minutes 13 seconds East, 71.77 feet;

THENCE along said curve to the Left, an arc length of 76.93 feet to a point for corner, said corner lying in the North line of Colorado Boulevard (100 foot right-of-way);

THENCE South 84 degrees 24 minutes 06 seconds East, a distance of 16.23 feet to a point for corner;

THENCE South 29 degrees 53 minutes 56 seconds East, a distance of 336.35 feet to a point for corner, said corner lying in the Northeast line of Ballard Avenue (60 foot right-of-way);

THENCE South 35 degrees 53 minutes 17 seconds West, a distance of 172.85 feet to a point found for corner;

THENCE North 51 degrees 02 minutes 37 seconds West, a distance of 80.66 feet to a point for corner;

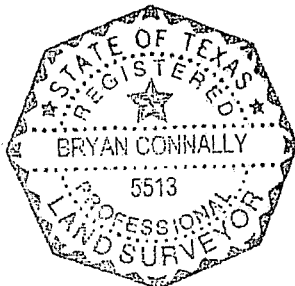
THENCE South 31 degrees 33 minutes 03 seconds West, a distance of 100.84 feet to a point for corner;

THENCE North 51 degrees 07 minutes 28 seconds West, a distance of 74.04 feet to a point for corner;

THENCE North 32 degrees 30 minutes 50 seconds East, a distance of 1.30 feet to a point for corner;

THENCE North 56 degrees 00 minutes 32 seconds West, a distance of 317.75 feet to a point for corner, said corner lying in the Northwest line of said Bishop Avenue and being in a nontangent curve to the Right, having a radius of 433.00 feet, a delta of 35 degrees 52 minutes 11 seconds and a chord bearing and distance that bears North 44 degrees 45 minutes 22 seconds East, 266.67 feet;

THENCE along the Northwest line of said Bishop Avenue, and along said curve to the Right, an arc length of 271.08 feet to the POINT OF BEGINNING and containing 154,936.03 square feet or 3.5568 acres of land.



Bryan Connally
BRYAN CONNALLY
R.P.L.S. NO. 5513

DC&A


DOUG CONNALLY & ASSOCIATES, INC.
ENGINEERING • PLANNING • SURVEYING
11545 Pagemill Road • Suite 200 • Dallas, Texas 75243
P 214.349.9485 • F 214.349.2216
www.dcadfw.com

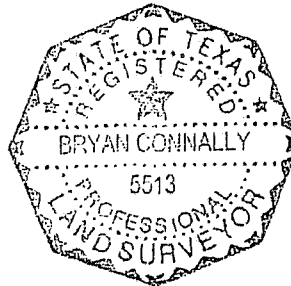
SHEET 1 OF 3
JOB NO. 0607191-4
DATE: 12-22-08
DRAWN BY: R.G.

M.S.D. SURVEY

The undersigned Registered Professional Land Surveyor (Bryan Connally) hereby certifies that, (a) this survey and the property description set forth hereon were prepared from an actual on-the-ground survey; (b) such survey was conducted by the Surveyor, or under his direction; (c) all monuments shown hereon actually existed on the date of the survey, and the location, size and type of material thereof are correctly shown; Use of this survey by any other parties and/or for other purposes shall be at User's own risk and any loss resulting from other use shall not be the responsibility of the undersigned. The plat hereon is a correct and accurate representation of the property lines and dimensions are as indicated.

Executed this 22nd day of December, 2008


Bryan Connally
Registered Professional Land Surveyor No. 5513



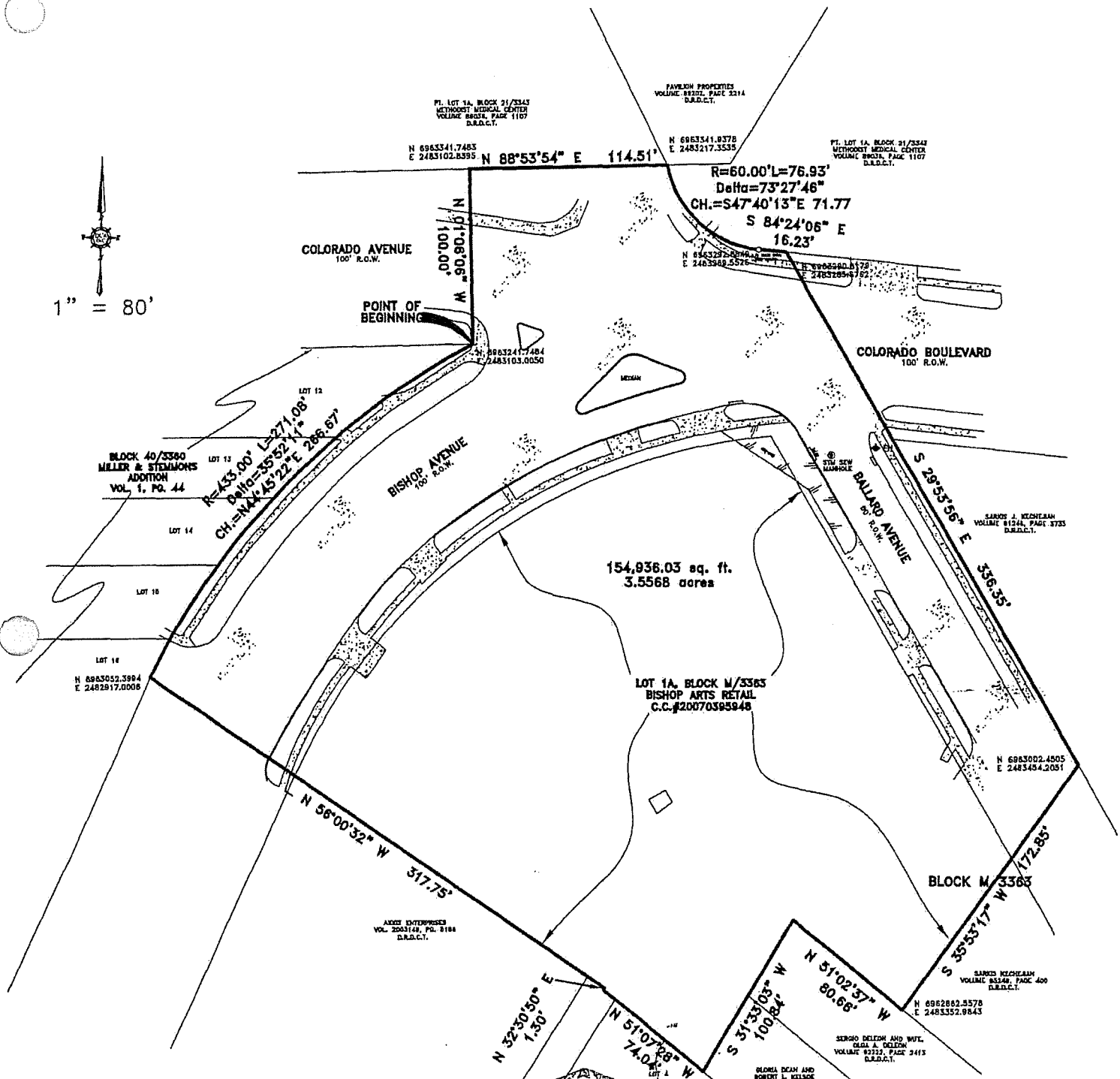
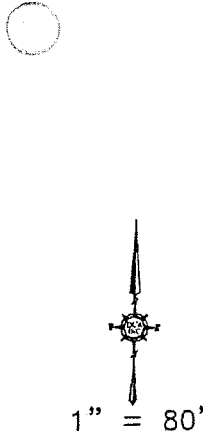
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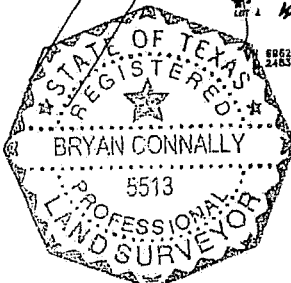
SHEET 2 OF 3
JOB NO. 0607191-4
DATE: 12-22-08
DRAWN BY: R.G.

M.S.D. SURVEY



GENERAL NOTES:

BEARINGS ARE BASED ON DEED RECORDED IN VOL. 83207, PG. 1035, D.R.D.C.T.



Bryan Connally
BRYAN CONNALLY
 R.P.L.S. NO. 5513

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SHEET 3 OF 3
 JOB NO. 0607191-4
 DATE: 12-22-08
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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
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.

VCP 1936

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 checked="" type="radio"/> Yes, when? 06 / 02 / 06	<input 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)].

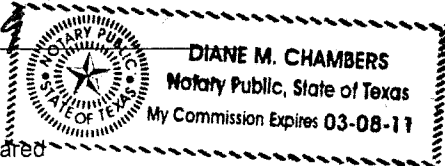
⁶ Do not submit an application.

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.

Ronald P. Berlin
Applicant Signature

10/25/09
Date



Before me Diane M. Chambers the undersigned authority, on this day personally appeared

Ronald P. Berlin Name of Notary
Name of Applicant and signed this Municipal Setting Designation Application.

Sworn, subscribed and signed before me in the County of Dallas, State of TX, on the _____ day of October, this month of October, 2009.