

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 12, 2013

Ms. Toni A. Motta
CVS Pharmacy, Inc.
One CVS Drive
Woonsocket, Rhode Island 02895

RE: Municipal Setting Designation (MSD) Certificate for CVS Pharmacy, 301 Andrews Highway (Formerly 2410 W. Illinois Avenue), Midland, Midland County, Texas, MSD No. 233

Dear Ms. Motta:

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.

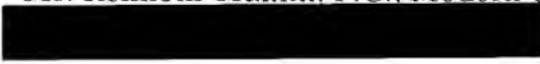
If I can be of any further assistance, please do not hesitate to contact me at (512) 239-3737 or via e-mail (Joanna.manning@TCEQ.Texas.gov).

Sincerely,

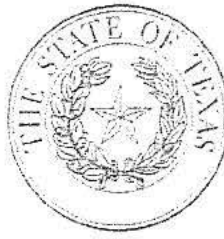

Joanna Manning, Project Manager
VCP-CA Section
Remediation Division

JAM/jdm

Enclosure

cc: Mr. Kenneth Tramm, P.G., Modern Geosciences,


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, Zak Covar, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation (MSD) for MSD No. 233, in the City of Midland, 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 8th day of July, 2013

A handwritten signature in black ink, appearing to read "Zak Covar", written over a horizontal line.

Zak Covar
Executive Director
Texas Commission on Environmental Quality

LEGAL DESCRIPTION

Lot 1A, Block 1, PERMIAN SHOPPING CENTER, SECTION 2, being a part of all of block 1 Permian Shopping Center, an Addition to the City of Midland, Midland County, Texas, according to the map and plat thereof in Volume 74, Page 26, Plat Records, Midland County, Texas.

SCHEDULE 'B' EXCEPTIONS

- 1. The following restrictive covenants of record remain in full force and effect: Recorded in Volume 113, Page 35, Deed Records, and Plat C-6011, H, Page 28, Plat Records, Midland County. (This item affects this property but does not affect this survey.)
2. Any encroachments, easements, or other interests in or on the property, or any improvements or structures, or any encroachments of improvements. (This item affects this property but does not affect this survey.)
3. Information or commonly property or easement rights, if any, or any appurtenant or appurtenant rights to the property. (This item affects this property but does not affect this survey.)

- 4. Any title or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
5. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
6. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.

- 7. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
8. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
9. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.

- 10. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
11. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
12. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.

- 13. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
14. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
15. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.

- 16. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
17. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
18. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.

- 19. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
20. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
21. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.

- 22. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
23. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.
24. Any easements or rights asserted by anyone, including but not limited to, persons, the public, corporations, governments or other entities.

UTILITIES AND SERVICES

- 1. Utilities shown hereon are based on City of Midland Sanitary #1211, SANITARY, located near the northeast corner of the intersection of W. 1st Street and S. Garland Street.
2. Survey reflects title commitments issued by Fidelity National Title Insurance Company of Austin.
3. Utilities shown are located by observable evidence only. Record information should be considered approximate.
4. Record boundaries and distances are based off of Permian Shopping Center, Section 2, being a part of all of block 1, Permian Shopping Center, City and County of Midland, Texas, as recorded in Plat C-6011, H, Page 28, Plat Records of Midland County, Texas.

WELLS AND BOUNDARY DESCRIPTION

BEGINNING at a "X" in concrete set to replace a 1/2 inch iron rod on the north right-of-way of Wanda Avenue, for the southeast corner corner hereon, from which the occupied common corner of Section 28, 37, 31, 33, Block 28, Township 1 South, 1 & P. R. Co. Survey, as recorded in Exhibit F, Page 174 of the Plat Records of Midland County, Texas, under South 1515'00" East, 48.48 feet and North 73'00'00" East, 36.08 feet.

THENCE along the east right-of-way of the said Dodson Street, the following three (3) courses and distances:
1. North 14°42'34" West, at a distance of 58.80 feet to a "X" in concrete set for a corner of a Public Utility Easement as recorded in Exhibit H, Page 26, of the Plat Records, and at a distance of 85.13 feet past a 1/2 inch iron rod set for a corner of the said Public Utility Easement, in a distance of 91.71 feet to a 1/2 inch iron rod with cap marked "MFC INC" set to replace a 1/2 inch iron pipe, for a corner hereon.

2. North 14°23'11" West, at a distance of 26.98 feet to a 1/2 inch iron rod with cap marked "MFC INC" set for a corner hereon, for a corner hereon.
3. North 14°19'00" West, at a distance of 53.71 feet to a "X" in concrete set to replace a 1/2 inch iron rod, for the southeast corner of a right-of-way dedication as recorded in Exhibit H, Page 28, of the said Plat Records, for a corner hereon.

THENCE along the east right-of-way of the said Dodson Street, the following three (3) courses and distances:
1. North 13°15'55" East, at a distance of 18.81 feet to a "X" in concrete set for an interior corner hereon.
2. North 14°55'05" West, at a distance of 63.79 feet to a "X" in concrete set for an interior corner hereon.

3. North 61°48'27" West, at a distance of 5.42 feet to a "X" in concrete set in the southwest corner of the intersection of the said Dodson Street and Andrea Highway, for the northeast corner of the east right-of-way dedication, and the northeast corner hereon, also being the beginning of a curve to the right having a radius of 20.00 feet.

THENCE along said curve to the right and continuing along the south right-of-way line of the said Andrea Highway, and in a southerly direction, through a delta angle of 84°51'41", an arc length of 22.10 feet, having a long chord which bears North 85°19'20" East, and a chord length of 31.32 feet, to a "X" in concrete set to replace a 1/2 inch iron rod on the south right-of-way line of said Andrea Highway, for a corner hereon.

THENCE along the south right-of-way line of the said Andrea Highway, South 85°19'20" East, at a distance of 117.72 feet to a "X" in concrete set to replace a 1/2 inch iron rod for a corner hereon, also being the beginning of a curve to the right having a radius of 108.28 feet.

THENCE along said curve to the right and continuing along the south right-of-way line of the said Andrea Highway, and in a southerly direction, through a delta angle of 187°20'00", an arc length of 334.42 feet, having a long chord which bears South 58°40'40" East, and a chord length of 348.07 feet, to a "X" in concrete set on the south right-of-way line of said Andrea Highway, for the most northerly east corner hereon.

THENCE along said curve to the right and continuing along the south right-of-way line of the said Andrea Highway, and in a southerly direction, through a delta angle of 187°20'00", an arc length of 334.42 feet, having a long chord which bears South 58°40'40" East, and a chord length of 348.07 feet, to a "X" in concrete set on the south right-of-way line of said Andrea Highway, for the most northerly east corner hereon.

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THENCE along the south right-of-way line of the said Andrea Highway, South 85°19'20" East, at a distance of 117.72 feet to a "X" in concrete set to replace a 1/2 inch iron rod for a corner hereon, also being the beginning of a curve to the right having a radius of 108.28 feet.

THE UNDERSIGNED CERTIFIES TO CVS CARMARK CORPORATION, ITS AFFILIATES AND SUCCESSORS, HEIRS, SUCCESSORS, ASSIGNEES AND AGENTS, CHICAGO TITLE INSURANCE COMPANY AND TITLE, LEVIT, CORP, FIDELIS, GLOVNY, AND PUPPO, P.C., AS OF THE DATE OF THIS SURVEY, THAT TO THE BEST OF THE UNDERSIGNED'S PERSONAL KNOWLEDGE, INFORMATION AND BELIEF:

- 1. A BRS SURVEY SHOWS, ON THE BASIS OF A FIELD INSTRUMENT SURVEY WHICH MEETS THE STANDARDS, IF ANY, ESTABLISHED BY THE STATE IN WHICH THE PROPERTY IS LOCATED AND IN THE EVENT THAT NO SUCH STANDARDS HAVE BEEN ESTABLISHED, THE CURRENT MICHIGAN STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS' JUDICIALLY ESTABLISHED AND ADOPTED BY THE AMERICAN LAND TITLE ASSOCIATION AND THE AMERICAN COLLEGE OF SURVEYORS AND MAPPING IN 2005 (AS DEFINED THEREIN).
2. A FIELD AND DETERMINABLE POSITION AND LOCATION OF THE LAND (THE PROPERTY) DESCRIBED ON THIS SURVEY (INCLUDING THE POSITION OF THE POINT OF COMMENCEMENT (IF ANY) AND THE POINT OF BEGINNING).
3. THE LOCATION OF ALL BUILDINGS, VISIBLE STRUCTURES, AND OTHER WORKS, ABOVE-GROUND IMPROVEMENTS SITUATED ON THE PROPERTY; AND
4. ALL DRIVEWAYS OR OTHER CUTS IN THE CURBS ALONG ANY STREET UPON WHICH THE PROPERTY ADJUTS; AND THAT
5. NO EASEMENTS OR RIGHTS-OF-WAY OVER ADJUTING PROPERTIES ARE REQUIRED FOR (a) ACCESS TO AND EGRESS FROM THE PREMISES, (b) DRAINAGE OR SURFACE OR OTHER WATER OFF THE PROPERTY, (c) ANY UTILITIES WHICH SERVE THE PROPERTY AND (d) SEWER SEWER AND SANITARY SEWER FACILITIES SERVING THE PROPERTY, OR IF SUCH OFF-SITE EASEMENTS ARE REQUIRED, THEY ARE SHOWN ON THE SURVEY AND DUTY REQUIRED EASEMENTS HAVE BEEN OBTAINED FROM ALL LAND OWNERS WHOSE PROPERTY ARE AFFECTED.

- 6. NO ENCROACHMENTS, PROTRUSIONS, OVERLAYS, OR OVERHANGS OF ANY IMPROVEMENTS LOCATED ON THE PROPERTY EXIST UPON ANY EASEMENTS OR RIGHTS-OF-WAY ENCUMBERING OR APPURTENANT TO THE PROPERTY OR ADJACENT LAND.
7. THE ONLY REFLECTS BOUNDARY LINES OF THE PROPERTY WHICH CLOSE BY CALCULATION.
8. THE ONLY EXCEPTIONS TO THE FACTS CERTIFIED BY THIS SURVEY ARE AS FOLLOWS: REFER TO EASEMENTS IN SCHEDULE 'B' LISTED IN THE TITLE COMMITMENT NOTES.

- 9. WITHOUT INTENDING TO LIMIT ANY OF THE FOREGOING CERTIFICATIONS, THE UNDERSIGNED MADE A SPECIFIC EXAMINATION WITH RESPECT TO THE FOLLOWING ITEMS AND REPORTS AS FOLLOWS (INDICATE NONE OR RELEVANT SPECIFIC MATTERS, AS APPROPRIATE):
(a) NO JOINT DRIVEWAYS OR WALKWAYS AND PARTY WALLS OR RIGHTS OF EGRESS AFFECTING THE PROPERTY.
(b) NO VISIBLE, ABOVE-GROUND SPRINGS, STREAMS, RIVERS, PONDS, LAKES, SWAMPS OR DRAINAGE DITCHES LOCATED, CENTERING ON OR RUNNING THROUGH THE PROPERTY.

- (c) NO VISIBLE, ABOVE-GROUND TELEPHONE, TELEGRAPH, ELECTRIC POWER OR OTHER UTILITY LINES, WITH THE EXCEPT OF TRANSMISSIONS OVERHEAD OR UNDERGROUND, LOCATED ON THE PROPERTY AS SHOWN HEREON.
(d) PHYSICAL EVIDENCE OF BOUNDARY LINES OF THE PROPERTY AS SHOWN HEREON.
(e) NO KNOWN PROPOSED CHANGES IN STREET LINES.
(f) NO DISPUTED BOUNDARIES.

- (g) CURBING AND CURB CUTS AS SHOWN HEREON.
ALL OF THE SAME FOUND TO EXIST ARE SHOWN UPON THE SURVEY IN THE LOCATIONS DESCRIBED ABOVE;
2. THE SUBJECT PROPERTY CURRENTLY LIES IN ZONE LR2, LOCAL RETAIL, DISTRICT, UNDER THE APPLICABLE ZONING ORDINANCE OF THE CITY/TOWN OF MIDLAND, TEXAS.
3. THE FOLLOWING PROVISIONS OF THE ZONE LR2, LOCAL RETAIL, DISTRICT ORDINANCE APPLY TO THE PREMISES:
1. MINIMUM HEIGHT: 3-1/2 STORIES
2. MINIMUM LOT SIZE: ONLY FOR RESIDENTIAL USES



VICINITY MAP NOT TO SCALE

THE UNDERSIGNED HAS EXAMINED THE ABOVE PREMISES AND ALL OTHER APPLICABLE MATERIALS RELATING TO THESE RESTRICTIONS AND REQUIREMENTS SOME OF WHICH REFERRED TO AS USE, ENCUMBRANCE, BULK AND PARKING RESTRICTIONS AND IMPROVEMENTS WHICH RELATE TO THE PREMISES AND HAS DETERMINED THAT THE SURVEY AND THE EXISTING IMPROVEMENTS SHOWN THEREON CONFORM TO ALL OF THE RESTRICTIONS AND IMPROVEMENTS WHICH ARE APPLICABLE TO THE PREMISES UNDER THE TERMS OF THE APPLICABLE ZONING ORDINANCE.

K. THE PREMISES SHOWN ON THE SURVEY HAS ACCESS TO AND FROM A DEDICATED PUBLIC HIGHWAY CONTIGUOUS TO THE PREMISES, WHICH ACCESS BETWEEN THE PREMISES AND SAID HIGHWAY AS SHOWN UPON SAID SURVEY EXISTS WITHOUT RESTRICTION AND IS SUFFICIENT TO MEET THE REASONABLE NEEDS OF THE CURRENT USE, AS THE CASE MAY BE, OF THE PREMISES AND ALL APPLICABLE REQUIREMENTS OF PUBLIC AUTHORITIES.

L. TO THE BEST OF MY KNOWLEDGE THE WATER SUPPLY, SANITARY WATER, SANITARY SEWER, SEWER OVERFLOW, ELECTRICITY, GAS AND OTHER UTILITIES ARE AVAILABLE IN ADEQUATE QUANTITIES AT THE LOT LINES OF THE PREMISES AT THE LOCATION SHOWN ON THE FOREGOING SURVEY, AND THE RELEVANT IMPROVEMENTS ARE CONNECTED AND TIED TO THE SAME.

M. ALL EASEMENTS AND OTHER RIGHTS IN THE PREMISES APPEARING IN THE TITLE REPORT SUBMITTED TO THE UNDERSIGNED WHICH ARE CAPABLE OF LOCATION ON A SURVEY HAVE BEEN LOCATED ON THE SURVEY AND THE UNDERSIGNED HAS NOT BEEN ADVISED OF ANY OTHER EASEMENTS OR RIGHTS-OF-WAY AFFECTING THE PROPERTY, NOR IS THERE ANY VISIBLE EVIDENCE OF POSSIBLE UNRECORDED EASEMENTS OR RIGHTS-OF-WAY AFFECTING THE PROPERTY. UNLESS OTHERWISE SHOWN AND DETAILED ON THE SURVEY, NO EASEMENTS OVER LAND OF OTHERS ARE REQUIRED FOR:
(a) ACCESS TO AND EGRESS FROM THE PREMISES.
(b) DRAINAGE OF SURFACE OR OTHER WATER OFF THE PREMISES.
(c) ANY UTILITIES WHICH SERVE THE PREMISES AND SAID IMPROVEMENTS, SUCH AS WATER, ELECTRICITY, GAS AND TELEPHONE, OR
(d) SEWER SEWER AND SANITARY SEWER FACILITIES SERVING THE PREMISES AND SAID IMPROVEMENTS.

N. AS OF THE DATE OF THE SURVEY, THE PREMISES DOES NOT LIE WITHIN ANY FLOOD PLAIN OR FLOOD-PRONE AREA, OR A FLOOD PLAIN AREA HAVING SPECIAL FLOOD HAZARDS IDENTIFIED AS SUCH UNDER THE FLOOD DISASTER PROTECTION ACT OF 1973.

O. THE UNDERSIGNED HAS REVIEWED THE MOST RECENT FLOOD INSURANCE RATE MAP ISSUED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY UNDER THE NATIONAL FLOOD INSURANCE PROGRAM APPLICABLE TO THE PREMISES AND HAS DETERMINED THAT THE PREMISES IS IN ZONE A, AN AREA THAT IS OUTSIDE THE 0.2 ANNUAL CHANCE FLOODPLAIN, AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP PANEL #1828200700, EFFECTIVE SEPTEMBER 16, 2005.

I, THE UNDERSIGNED, BEING A NATURAL PERSON AND OVER THE AGE OF 18 YEARS, HEREBY CERTIFY THAT THIS SURVEY IS MY OWN WORK AND THAT I AM NOT EMPLOYED BY ANY OTHER PERSON OR ENTITY IN CONNECTION WITH THIS SURVEY, AND THAT I AM NOT EMPLOYED BY ANY OTHER PERSON OR ENTITY IN CONNECTION WITH THIS SURVEY, AND THAT I AM NOT EMPLOYED BY ANY OTHER PERSON OR ENTITY IN CONNECTION WITH THIS SURVEY.

Signature and Notary Public information for the surveyor.

Water Professional Group Inc. logo and contact information.

AUG. 11, 2010

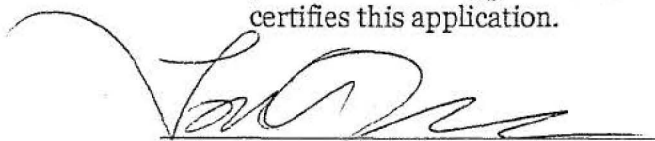
Exhibit B
Municipal Setting Designation
Affidavit of Eligibility

BEFORE ME, the undersigned authority, on this day personally appeared Toni A. Motta, as an authorized representative of CVS Pharmacy, Inc., known to me to be the person whose name is subscribed below who being by me first duly sworn, upon their oath, stated as follows:

I am over the age of 18 and legally competent to make this affidavit. I have personal knowledge of the facts stated herein.

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

- The MSD eligibility criteria of THSC Section 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 has been 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.



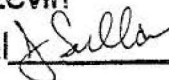
Signature

Date: 6/2/13

Toni A. Motta

Printed Name
Assistant Secretary, CVS Pharmacy, Inc.

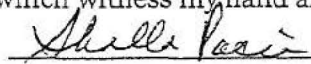
Title

Mintz Levin
Legal Approval 

STATE OF RHODE ISLAND

COUNTY OF PROVIDENCE

SUBSCRIBED AND SWORN before me on this the 2nd day of June 2013, to which witness my hand and seal of office.



Notary Public in and for the State of Rhode Island