

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Jon Niermann, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 13, 2015

Mr. David Whitten, Legal Counsel for North O'Connor, Ltd.  
Guida, Slavich & Flores  
750 North St. Paul Street, Suite 200  
Dallas, Texas 75201

Re: Municipal Setting Designation (MSD) Certificate for The Shops at North O'Connor located at 2800 North O'Connor Road, Irving, Dallas County, TX; Voluntary Cleanup Program (VCP) No. 2728; Municipal Setting Designation (MSD) No. 297; Customer No. CN604766188; Regulated Entity No. RN102270246

Dear Mr. Whitten:

The Texas Commission on Environmental Quality (TCEQ) received the above referenced Municipal Setting Designation (MSD) application on August 7, 2015 and additional information supporting this MSD application on October 20, 2015. Based on our review, the application contains the required information as outlined in Texas Health and Safety Code (THSC) §361.804. Enclosed is the Municipal Setting Designation Certification for your site. If you have any questions, please do not hesitate to contact me at (512) 239-2241 or via e-mail ([chrisswidorski@tceq.texas.gov](mailto:chrisswidorski@tceq.texas.gov)).

Sincerely,

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

Chris Swiderski, Project Manager  
VCP-CA Section  
Remediation Division

CS/eja

cc: Mr. Sam Barrett, Waste Section Manager, TCEQ Dallas/Fort Worth Region Office, R-4  
Mr. Kenneth Tramm, Modern Geosciences, 1904 Industrial Boulevard, Suite 107,  
Colleyville, TX 76034

Enclosure: MSD Certificate

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



MUNICIPAL SETTINGS DESIGNATION CERTIFICATE

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

I, Beth Seaton, Director, Remediation Division, TCEQ, certify the Municipal Setting Designation (MSD) for MSD No. 297, in the City of Irving, 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 ordinance or restrictive covenant required by Texas Health and Safety Code §361.8065 remains 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 6<sup>th</sup> day of November, 2015

Beth Seaton

Beth Seaton, Director  
Remediation Division  
Texas Commission on Environmental Quality

SURVEY PLAT

TO ALL PARTIES INTERESTED IN PREMISES SURVEYED:

This is to certify that I have, this date, made a careful and accurate survey on the ground of property described as follows:

BEING all that certain lot, tract or parcel of land situated in the City of Irving, Dallas County, Texas, and being part of the Jane Iken Survey, Abstract No. 144, the McKinley & Williams Survey, Abstract No. 162, and the A. E. Rubin Survey, Abstract No. 218, and being the lot as shown on the plat of O'Connor Square, an addition to the City of Irving, Dallas County, Texas recorded at Volume 42623, Page 287, of the Deed Records of Dallas County, Texas, and being more particularly described by metes and bounds as follows:

**BEGINNING** at an iron rod in the West line of a 17.8 foot alley of Northgate Addition as recorded by plat in Volume 36, Page 218 of the Deed Records of Dallas County, Texas, at its intersection with the North right of way of Rochelle Boulevard as 25.7 foot right of way as recorded in Volume 4211, Page 148, of the Deed Records of Dallas County, Texas; said point being North 87° 45' West a distance of 17.8 feet from the southwest corner of Lot 34, Block 2 of said Northgate Addition;

**THENCE** North 87° 45' West along the North right of way line of Rochelle Boulevard a distance of 335.81 feet (plus 230.82) to the beginning of a curve to the right having a central angle of 85° 27' 00" and a radius of 90.8 feet, and following a street dedication line for O'Connor Road;

**THENCE** along said curve to the right a distance of 42.51 feet to an iron rod for corner in the East right of way line of O'Connor Road (variable width right of way as recorded in Volume 214, Page 123 of the Deed Records of Dallas County, Texas);

**THENCE** along the East right of way line of O'Connor Road the following:

North 12° 45' West a distance of 18.27 feet to the beginning of a curve to the right having a central angle of 35° 00' 00" and a radius of 452.28 feet;

Northwesterly along said curve to the right a distance of 258.61 feet to an iron rod for corner;

North 24° 45' East a distance of 117.41 feet to an iron rod for corner and the beginning of a curve to the left having a central angle of 17° 12' 15" and a radius of 574.37 feet;

Northwesterly along said curve to the left a distance of 134.38 feet to an iron rod for corner;

**THENCE** North 89° 18' 19" East, and leaving the East right of way line of O'Connor Road a distance of 126.17 feet East 238.173) to an iron rod for corner in the West line of a 17.8 foot alley of said Northgate Addition;

**THENCE** along the West line of said Northgate Addition the following:

South 88° 00' 00" East, a distance of 85.88 feet to an iron rod for corner;

South 44° 45' 00" West, a distance of 28.28 feet to an "x" in concrete for corner;

South 89° 18' 00" West, a distance of 47.38 feet to an iron rod for corner;

South 52° 38' 00" West, a distance of 193.28 feet to an iron rod for corner;

South 87° 00' 00" West, a distance of 314.78 feet to the PLACE OF BEGINNING and CONTAINING 2.7393 ACRES OF LAND more or less.

CERTIFICATION OF COMPLETION SURVEY

I, the undersigned, being a duly licensed and qualified surveyor in and for the State of Texas, do hereby certify that I made an on the ground survey of the above described land and improvements on the 1 day of April, 1992, and that this survey fully and correctly represents the property located at No. 12751-12825 O'Connor Road, including all buildings, structures and improvements thereon; I have shown all recorded assessments and rights of way as described in copies of recorded instruments furnished to me by the insurance company (with reference to recording date) and, unless otherwise shown, the physical evidence and recorded description of such assessments conform. All of said buildings, structures and improvements, including locations and dimensions, are correctly depicted and are fully completed, except as shown hereon. I further certify there are no (i) visible encroachments, (ii) rights-of-way across said property, (iii) party walls, (iv) visible encroachments on adjoining properties or streets by any of said buildings, structures, or improvements, or (v) visible encroachments on said property by buildings, structures or other improvements situated on adjoining property, except as shown hereon; there are no streams, rivers, ponds, or lakes located on or bordering or running through the subject premises, except as shown; there are no gaps, gaps, or overlaps between parcels or roads, highways, streets, or alleys and all parcels which comprise the whole subject premises are contiguous. Except as shown, the subject property does not lie within a special flood hazard area for a 100 year flood as established by the Federal Emergency Management Agency Flood Insurance Rate Map, which map covers all of the subject property. (See note on survey) The Subject Property has access to and from a dedicated public roadway, and all public roads, highways, streets and alleys running adjacent to or upon the subject premises are as shown; all physical evidence of boundary lines and lines of possession or occupancy have been shown and proper notation made where in conflict with the legal description; there are no boundary line discrepancies and no deficiencies in the quantity of the land described in the legal description. Also, this certifies that there are 147 parking spaces in said property.

This survey is made in accordance and conforms with the Texas Surveyors Association Standards and Specifications for category 1A, Condition II Survey.

**NOTE:** EASEMENT TO T.P.L. CO. RECORDED IN VOLUME 42006, PAGE 814 LIES IN THE STREET DEDICATION PORTION OF ROCHELLE BOULEVARD AND NO LONGER AFFECTS SUBJECT PROPERTY.

**NOTE:** PARKING COUNT #144  
HANDICAP SPACES 3  
TOTAL PARKING -147

**NOTE:** THIS PROPERTY DOES NOT LIE WITHIN A DESIGNATED 100 YEAR FLOOD PLAIN ACCORDING TO THE F.H.M. COMMUNITY PANEL NO. 49138-0328, DATED 2-3-1988

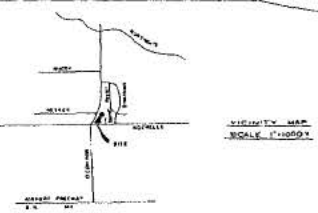
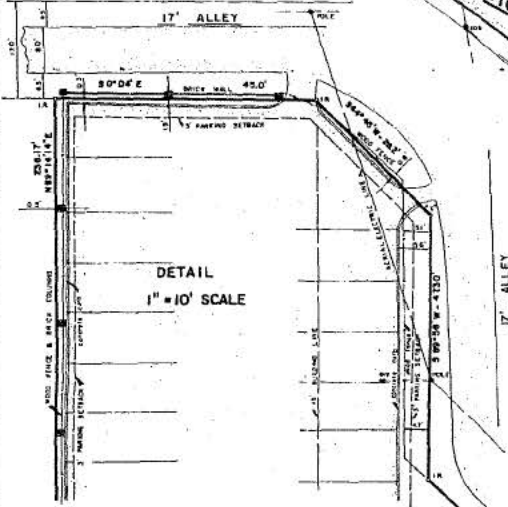
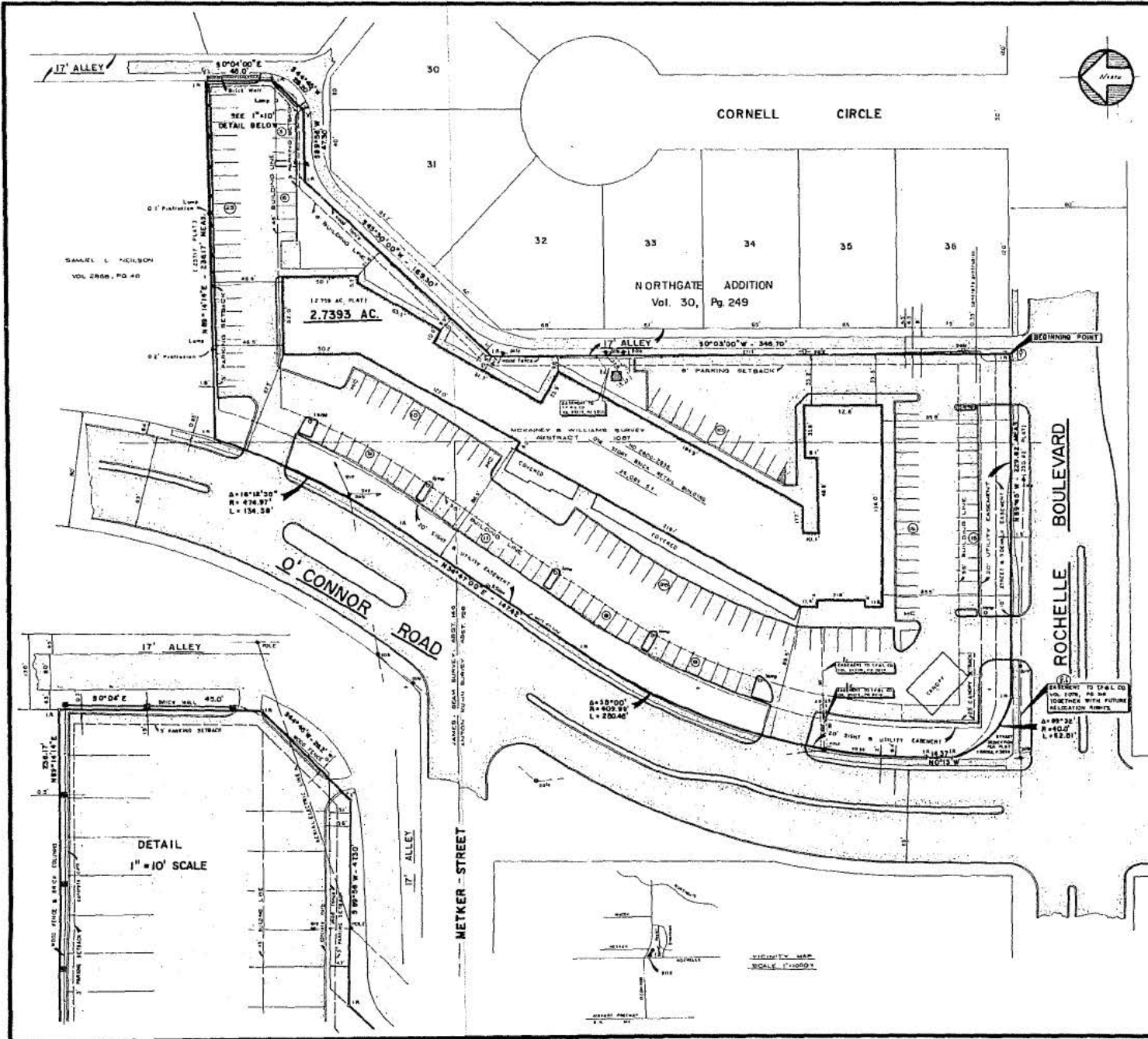
David Petree  
DAVID PETREE REGISTERED PROFESSIONAL LAND SURVEYOR



**IMPROVEMENT SURVEY**  
**O'CONNOR SQUARE**  
**2.751 ACRE TRACT**  
**CITY OF IRVING, DALLAS COUNTY, TEXAS**

BY: DAVID PETREE REGISTERED PUBLIC SURVEYOR DATE: APRIL 8, 1992  
5429 GURLEY AVENUE DALLAS, TEXAS 75223 SCALE: 1" = 30'  
PHONE: 214 / 826-8151 W.O. 0586-242

318-F



**Exhibit B**  
**Municipal Setting Designation**  
**Affidavit of Eligibility**

BEFORE ME, the undersigned authority, on this day personally appeared David E. Whitten, as an authorized representative of North O'Connor, Ltd, 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)

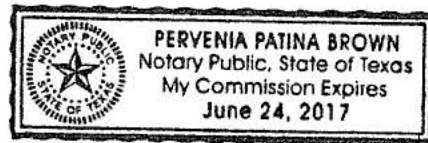
- The MSD eligibility criteria of THSC Section 361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC 361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the 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.

David E. Whitten  
Signature

Date: July 31, 2015

David E. Whitten  
Printed Name

Authorized representative via Power of Attorney  
Title



STATE OF TEXAS  
COUNTY OF DALLAS

July SUBSCRIBED AND SWORN before me on this the 31<sup>st</sup> day of July 2015, to which witness my hand and seal of office.

Pervenia P. Brown  
Notary Public in and for the State of Texas