ORDINANCE NO. _____ File No. Z0717-0011

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, SO AS TO APPROVE A CHANGE OF ZONING FROM LIGHT COMMERCIAL TO PLANNED DEVELOPMENT – LIGHT COMMERCIAL WITH A CONDITIONAL USE PERMIT ON PROPERTY LOCATED AT 16160 AND 16170 IH-635; APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE AND OUTDOOR DISPLAY OF NEW AND USED VEHICLES SUBJECT TO CERTAIN STIPULATIONS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, the Planning and Zoning Commission of the City of Mesquite and the governing body of the City of Mesquite, in compliance with the Charter of the City of Mesquite and State laws with reference to granting of zoning changes under the Zoning Ordinance Regulations and Zoning Map, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to the persons interested and situated in the area, the City of Mesquite is of the opinion that the change of zoning may be granted herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the Mesquite Zoning Ordinance adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended by amending the Zoning Map of the City of Mesquite so as to approve a change of zoning from Light Commercial to Planned Development – Light Commercial with a Conditional Use Permit ("CUP") on property located at 16160 and 16170 IH-635 to allow the sale and outdoor display of new and used vehicles subject to the following stipulations:

- 1. The uses permitted shall be limited to those uses permitted by right in the Light Commercial zoning district provided that a CUP may be granted to allow a motor vehicle dealership with used car sales only.
- 2. A CUP for the sale and outdoor display of new and used cars is hereby approved with the following conditions:
 - a. One hundred percent of the inventory displayed at 16160 IH-635 may be used cars.
 - b. Thirty percent of the inventory displayed at 16170 IH-635 may be used cars.

- c. Display of vehicles shall be limited to the number of display spaces and display areas as noted on the Concept Plan attached hereto as Exhibit "A." Display spaces and customer parking shall comply with the parking and access standards in Section 3-400 of the Mesquite Zoning Ordinance.
- d. Any vehicle for sale shall be operable and maintained in good condition.
- e. No vehicle for sale shall have body damage greater than four inches in diameter.
- f. Painted repairs shall match the paint on the rest of the vehicle.
- g. Any vehicle for sale shall not have broken or cracked windows.
- h. All parking and display surfaces shall be paved except for display surfaces in showroom areas.
- i. Any vehicle not ready for sale and in need of repair or detailing shall be kept in the rear of the property on a paved surface or inside of a structure.
- j. This CUP shall be limited to Fenton Motors, Inc., and is not assignable or transferrable.

That the subject property is described as Oates Corner Retail Addition, Block A, Lots 4R, 5R-2, part of Lot 1R and part of the adjacent tract in the Theophalus Thomas Survey, Abstract No. 1461, located at 16160 and 16170 IH-635 and is more fully described in the approved field notes in Exhibit "B" attached hereto.

- <u>SECTION 2.</u> That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.
- SECTION 3. That the property described in Section 1 of this ordinance shall be used only in the manner and for the purposes provided for by the Mesquite Zoning Ordinance.
- SECTION 4. That the foregoing change shall be, and it is, granted subject to any development of the land herein being developed in conformity with the requirements of current and/or future drainage improvement ordinances of the City of Mesquite, including Ordinance No. 4216, codified in Chapter 11 of the Code of the City of Mesquite.
- SECTION 5. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.
- SECTION 6. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater

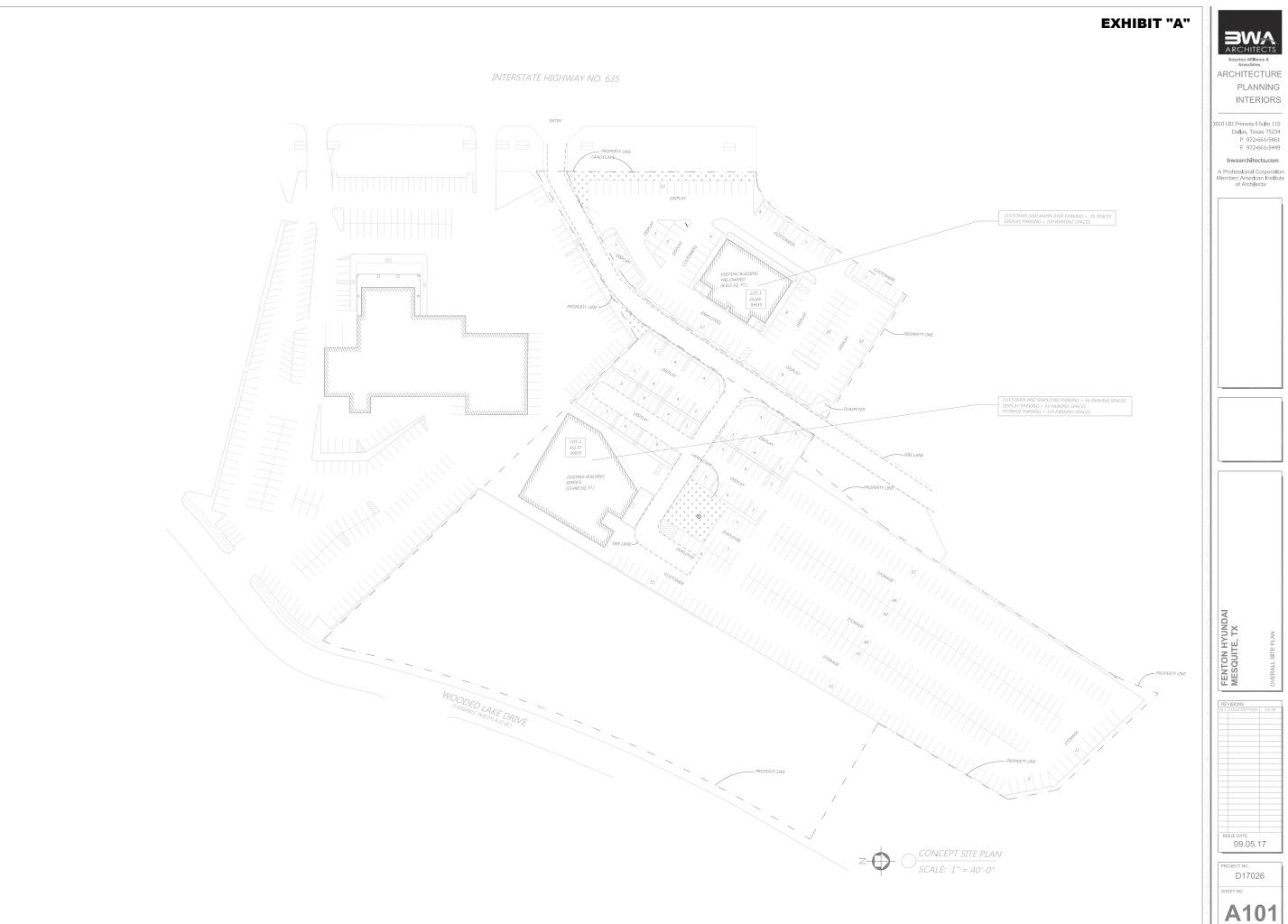
Zoning/File No. Z0717-0011/LC to PD-LC w-CUP/September 18, 2017 Page 3 of 3

than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

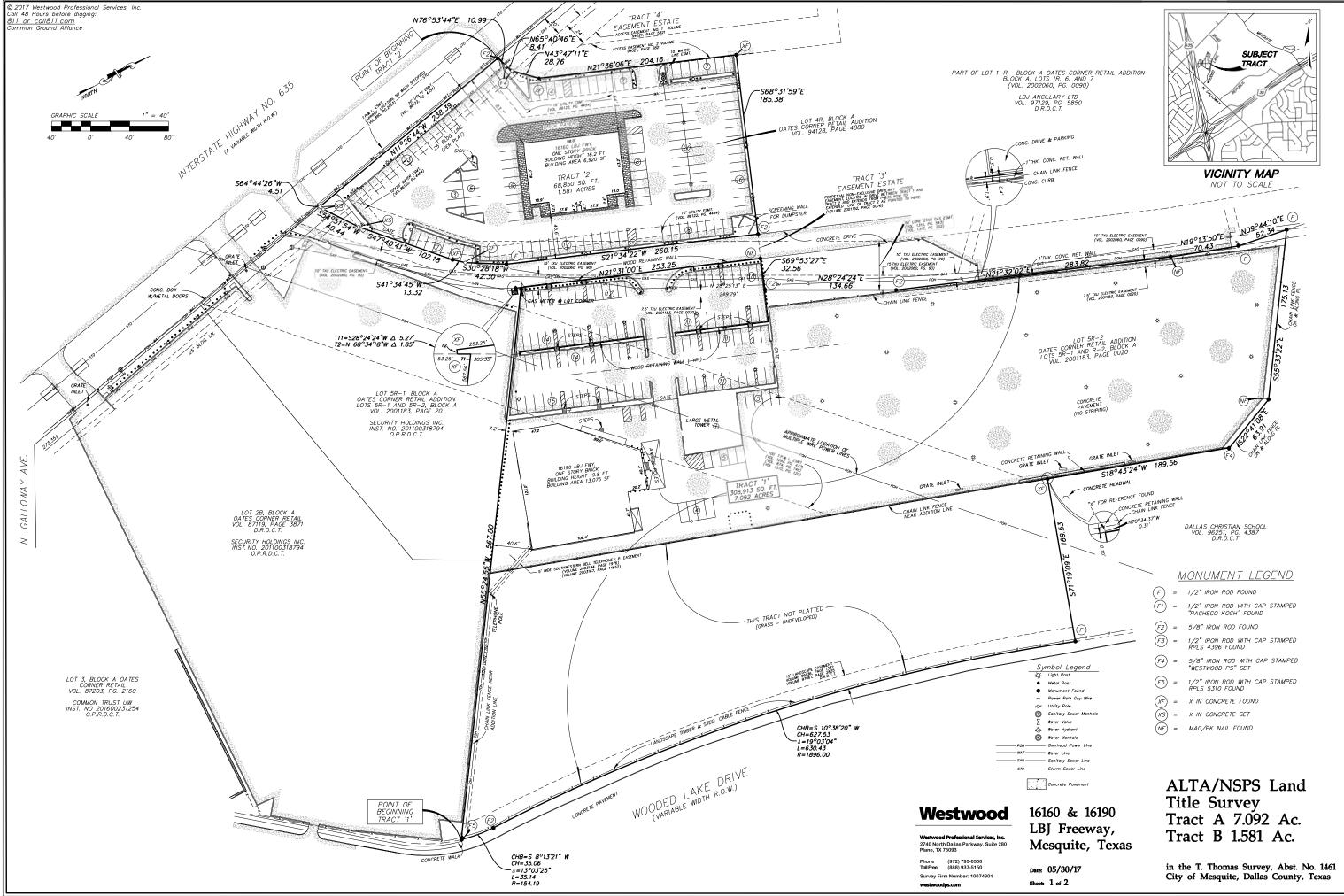
SECTION 7. That the property described in Section 1 of this ordinance requires that it be given the above classification in order to permit its proper development and in order to protect the public interest, comfort and general welfare of the City of Mesquite, creates an urgency and emergency for the preservation of the public health, safety and welfare, and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 18th day of September, 2017.

	Stan Pickett	
	Mayor	
ATTEST:	APPROVED:	
	Blick	
Sonja Land	B. J. Smith	
City Secretary	City Attorney	



PLANNING



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LEGAL DESCRIPTION - TRACT 1

BEINC a 7.092 acre tract of land situated in the City of Mesquite, Dalas County Texas, being a part of the T. Thomas Survey, Abstract No. 1461, and being 1) all of Lot 5R-2, Block A, of Oates Corner Retail Addition, an addition to the City of Mesquite, according to the plot of record in Volume 2001183, Page 20, of the Deed Records, Dalas County, Texas and 2) part of Lot 1-R, Block A of Oates Corners Retail Addition, an addition to the City Of Mesquite according to the plot of record in Volume 2002060, Page 90 of said Deed Records and 15 being the same land described as "TRACT 1" in deed to Tee Fore Properties, LLC of record in Instrument No. 201300108953 of the Official Public Records, Dalas County, Texas, said 7.092 acre tract being more particularly described as follows:

BEGINNING at a 1/2 iron rod with cap stamped RPLS 5310 found in the west line of Wooded Lake Drive (variable width right-of-way) for the northeast corner of Lot 2B, Block A, Oates Corner Retail Addition, an addition to the City of Mesquite according to the plot of record in Volume 87119, Page 3871 of said Deed Records, and the southeast corner of said "TRACT 1";

THENCE North 55° 24' 55" West with the north line of soid Lot 28, passing the northwest corner thereof and continuing along the north line of Lot 5R-1, Black A of Oales Corners Relail Addition, an addition to the City of Mesquite, according to the plat of record in Notume 2001183, Page 20, of soid Deed Records, a total distance of 567.80 feet to a 'X' found in concrete in the east line of said Lot 1-R, Black A, for the northwest corner of said Lot 5R-1 and the southwest corner of loth said Lot 5R-2 and "RRCT 1;

THENCE South 28° 24' 24" West with the east line of said Lot 1-R, a distance of 5.27 feet to an "X" found in

THENCE over and across said Lot 1-R and with the west line of said "TRACT 1" the following calls and distances.

North 68° 34' 18" West, a distance of 1.85 feet to an "X" found in concrete for corner: North 21° 31' 00" East, a distance of 253.25 feet to a Mag Nail found for corner;

South 69° 53' 27" East, a distance of 32.56 feet to a 5/8 iron rod found in the common line between said Lot 5R-2, Block A and Lot 1-R, Block A;

THENCE along said common line the following calls and distances:

North 28° 24' 24" East, a distance of 134.66 feet to a 5/8" iron rod found for corner;

North 21° 32' 02" East, a distance of 283.82 feet to a Mag Nail in concrete found for corner:

North 19° 13° 50° East, a distance of 70.43 feet to a $1/2^{\circ}$ iron rod with cap stamped Pacheco Koch" found for corner;

North 09° 44' 10" East, a distance of 52.34 feet to a 1/2" iron rod with cop stamped "Pocheco Koch" found for the northwest corner of both said Lot 5R-2, Block A and "TRACT 1";
THENCE along the northerly line of said Lot 5R-2, Block A the following calls and distances:

South 55° 33' 22" East, a distance of 175.13 feet to a PK nail in top of metal fence post for corner; South 22° 41° 08" East, a distance of 63.91 feet to a 5/8 iron rod with cap stamped 'Westwood PS' set for the northeast corner of said Lot 5R-2;

THENCE South 71° 19° 09" East, a distance of 169.53 feet to a 1/2" iron rod with cap stamped "Pacheco Koch" found in the west right-of-way line of said Wooded Creek Drive for the northeast corner of said "TRACT 1;

THENCE along said west right-of-way line, the following calls and distances: Along a non-tangent curve to the left having a radius of 1,896.00 feet and an arc distance of 630.43 feet (chard bears South 10° 38' 20° West, 627.53 feet) to a 5/8" iron rad found for corner;

Along a non-langent curve to the right having a radius of 154.19 feet and an arc distance of 35.14 feet (chard bears South 08° 13' 21" W, 35.06 feet) to the PONT-OF-BEGINNING and containing 308,913 Square Feet or 7.092 acres of land.

SURVEYORS CERTIFICATE

To: TEE FORE PROPERTIES, LLC, BANCFIRST, FIRST COUGAR MANAGEMENT COMPANY REPUBLIC TITLE COMPANY, FIRST AMERICAN TITLE INSURANCE Company as follows:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Lond Title Surveys, pintly established and adopted ALTA and NSPS and includes tiems 1, 2, 3, 4, 6 (a and b-building setback lines and height restrictions per recorded map and restrictions and per zoning ordinance only, 7(a), 7(b)/(1), 7(c), 8, 9, 11(see Notes), 13 and 14 of Toole A thereof. The fieldwork was completed on May 12, 2017.



LEGAL DESCRIPTION - TRACT 2

BEING a 1.581 acre tract of land situated in the City of Mesquite, Dalias County Texas, being a part of the T. Thomas Survey, Abstract No. 1461, and being a partian of Lot 4R, Black A of Dales Corner Retail Addition, an addition to the City of Mesquite, Texas according to the plot of record in Volume 9412R, Page 4880 of the Deed Records, Dalias County, Texas, and being the same land described as "TRACT 2" in deed to Tee Fare Properties, LLC of record in Instrument No. 2013/00/16953 of the Official Public Records, Dalias County, Texas, said 1.581 acre text being more particularly described as folioses:

BEGINNING at a 5/8" iron rad found in the northeasterly right-of-way line of Interstate Highway No. 635 for the most westerly northwest corner of said Lot 4R, Block A;

THENCE doing the common lines of said Lot 4R, Block A with Lot 1-R, Block A of Oates Corner Retail Addition, on addition to the City of Mesquite according to the plot of record in Volume 2002060, Page 90, of said Deed Records, the following colls and distances:

North 76° 53' 44" East, a distance of 10.99 feet to a 5/8" iron rod with a cap stamped 'Westwood PS' found for corner;

North 65° 40° 46° East, a distance of 8.41 feet to a 5/8° iron rod with a cap stamped "Westwood PS" found for corner:

North 43° 47' 11" East, a distance of 28.76 feet to an "X" cut in concrete found for corner; North 21° 36' 06" East, a distance of 204.16 feet to an "X" cut in concrete found for the most northerly northwest corner of soid Lot 4R, Block A;

South 68° 31' 59" East, a distance of 185.38 feet to a 5/8" iron rod found for corner;

South 21° 34' 22" West, a distance of 260.15 feet to a 1/2" iron rod with cap found for corner;

South 30° 28' 18" West, a distance of 42.30 feet to an "X" cut in concrete found for corner;

South 41° 34' 45" West, a distance of 13.32 feet to an "X" cut in concrete found for corner South 47° 40' 41" West, a distance of 102.18 feet to an "X" cut in concrete set for corner:

South 54° 51' 54" W, a distance of 40.44 feet to an "X" cut in concrete set for corner;

South 64° 44' 26" West, a distance of 4.51 feet to an "X" cut in concrete set in said northeasterly right-of-way line for the southeast corner of said Lot 4R;

THENCE North 11 $^{\circ}$ 26 $^{\circ}$ 44 $^{\circ}$ West, along soid northeosterly right-of-way line, a distance of 238.39 feet to the POINT-OF-BEGINNING and containing 68,850 square feet or 1.581 acres of land.

LEGAL DESCRIPTION - TRACT 3
EASEMENT ESTATE

Non-exclusive easement rights created pursuant to that Perpetual Non-Exclusive Driveway Access Easement from LBJ Ancillary, Ltd. to BGB investments, Ltd. by instrument dated 8/3/2001, filed 8/6/2001, recorded in Volume 2001152, Page 76, Real Property Records, Dollas County, Teos.

LEGAL DESCRIPTION - TRACT 4
EASEMENT ESTATE

Non-exclusive easement rights created in Special Warranty Deed from Oates Summit Associates, Ltd., a Texas limited portnership, to BGB investments, Ltd., a Texas limited portnership dated 1/26/94, filed 2/1/94 recorded in Valume 94021, Page 5821, Real Property Records, Dallos County, Texas.

- This survey was prepared using First American Title Insurance Company Title Commitment Number 1002-221580-RTT having an effective date of April 09, 2017.
- Subject property appears to be classified as Zone "X" Area determined to be outside the 500 Year Floodplain when scaled from Flood Insurance Rate Map Community Panel Number 48113C0360L dated July 7.
- Zoning: LC Light Commercial per the City of Mesquite Zoning Ordinance website (https://www.cityofmesquite.com/1250/Zoning-Ordinance).

Setbocks:
Building: Front = 25 Feet Side = 25 Feet Rear = 0 Feet
Maximum Lot Coverage: 50%
Maximum Building Height: 75 Feet

- 4) Subject property contains 244 total parking stalls, including 5 handicapped stalls.
- 5) The underground utilities shown have been located from field survey information and existing drawings. The surveyor makes no guarantees that the underground utilities shown comprise oil such utilities in the area, either in service or abondoned. The surveyor further does not worrant that the underground utilities shown or in the exact location indicated although the does certify that they are located as occurately as possible from interaction available. The surveyor has not physically located the underground utilities. (Digless Ticket No. 1702/18/18/28).
- Bearings based on State Plane Coordinates North American Datum of 1983 North Texas Zone (4202) using a combined scale factor of 1.00012.

The following notes correspond to the numbering system of Schedule B of the above mentioned title commitment.

e. The following easements and/or building lines, as shown on plot recorded in Volume 2002060, Page 90, Map Records, Dallas County, Texas: 15° TXU Electric easement.

(Affects Tract 1 - As shown)

The following easements and/or building lines, as shown on plat recorded in Valume 2001183, Page 20, Map Records, Dallas County, Texas:

7.5° TXU Electric easement.

(Affects Tract 1 - As shown)

- g. The following easements and/or building lines, as shown on plot recorded in Volume 94128, Page 4880, Map Records, Dollas County, Texas:
 - 10' water line easement:
 - 15' utility easement;

 - 25' building line; Portion of a 20' utility easement; 10' x 29' water easement; 10' utility easement.

(Affects Tract 2 - As shown)

N. Eosement granted by P. D. Oales, et ux to Texas Power & Light Company, filed 02/16/1926, recorded in Volume 1282, Page 477, Real Property Records, Dallas County, Texas. Affected by Agreement recorded in Volume 84073, Page 1199 and Encroomment on Eosement recorded in Volume 8171, Page 408, Real Property Records, Dallas County, Texas. Amendment to Eosement recorded in Volume 874, Page 148, Real Property Records, Dallas County, Texas. Also shown on plot recorded in Volume 2001183, Page 20, Map Records, Dallas County, Texas.

(Affects Tract 1 - As shown)

Ecsement granted by P. D. Ooles, et ux to Lone Star Gas Company, filed 06/14/1926, recorded in Volume 1316, Page 454, Real Property Records, Dallas County, Texas. As affected by Portial Releases recorded in Volume 74008, Page 779 and Volume 87183, Page 1705, Real Property Records, Dallas County, Texas. Also shown on plats recorded in Volume 94128, Page 4880 and Volume 2002060, Page 90, Map Records, Dallas County, Texas.

(Affects Tracts 1 and 2 - As shown)

j. Easement granted by W. W. Roberson, et ux to Lone Star Gas Company, filed 06/14/1926, recorded in Volume 1317, Page 202, Real Property Records, Dalias County, Texas. As affected by Partial Release recorded in Volume 415, Page 811 and Volume 81183, Page 1703, Real Property Records, Dalias County, Texas on plats recorded in Volume 94128, Page 4860 and Volume 2002060, Page 90, Map Records, Dalias County, Texas

(Affects Tracts 1 and 2 - As shown)

k. Eosement granted by P.D. Ootes, et ux to Texas Power & Light Company, fied 12/14/1926, recorded in Volume 1372, Page 120, Real Property Records, Dallos County, Texas. Affected by Agreement recorded in Volume 84073, Page 1199, Real Property Records, Dallos County, Texas. Also shown on plat recorded in 2001183, Page 20, Mag Records, Dallos County, Texas. (Affects Tract 1)

Easement granted by R. Guy Carter, et al. to. Texas Power & Light Company, filed 08/22/1966, recorded in Volume 890, Page 2053, Real Property Records, Dallas County, Texas. Also shown on plat recorded in Volume 94128, Page 4880, Map Records, Dallas County, Texas.

(Affects Tract 2)

- m. Easement granted by J. M. Branch, et ux to Lone Star Gas Company, filed 11/26/1948, recorded in Volume 3062, Page 436, Real Property Records, Dallas County, Texas. (Affects Tracts 1 and 2)
- n. Terms, provisions, conditions, and easements contained in Perpetual, Non-Exclusive Driveway Access Easement, filed 08/06/2001, recorded in Volume 2001152, Page 76, Real Property Records, Dallas County, Texas.
- Easement granted by Hancock Land, L.P. to Southwestern Bell Telephone, L.P. d/b/a SBC, filed 08/23/2003, recorded in Volume 2003167, Page 14652, Real Property Records, Dallas County, Texas. (Affects Tracts 1 - As shown)
- P. Eosement granted by Hancock Lond, L.P. to Southwestern Bell Telephone, L.P. d/b/o SBC, Ried 09/29/2003, recorded in Volume 2003194, Page 1976, Real Property Records, Dallos County, Texas. (Affects Tracts I and 2), Terms, provisions, and conditions of lease between Besson-Stone John Venture, as Lessor, and Safeway Stores, Incorporated, as Lessoe, as evidenced by Lease Ried 05/23/1985, recorded in Volume 85102, Page 3613, Real Property Records, Dallos County, Texas.

(Affects Tracts 1 - As shown)

- r. Limited or lock of access to road or highway abutting subject property as set forth in instrument filed 03/18/1966, recorded in Volume 781, Page 28, Real Property Records, Dallas County, Texas. (Affects Tracts 1 and 2)
- Terms, provisions, and conditions of Agreement filed 08/06/2001, recorded in Volume 2001152, Page 99, Real Property Records, Dollos County, Texas. Amendment filed 10/22/2001, recorded in Volume 2001207, Page 1572, Real Property Records, Dollos County, Texas.

u. Terms, provisions, conditions, and easements contained in Reciprocal Easement Agreement and Declaration of Restrictive Covenants, filed 03/31/1989, recorded in Volume 89064, Page 1369, Real Property Records, Dallas

Reservation of Easement by Auduban Partners, Ltd., in Special Worranty Deed filed 07/13/1995, recorded in Volume 35136, Page 1332, Real Property Records, Dallos County, Texas. Affected by Transfer of Easement Rights Red 03/26/1997, recorded in Volume 97061, Page 2825, Real Property Records, Dallos County, Texas (Affects Tract 1 - As Shown)

EXHIBIT "B"

Westwood

2740 North Dallas Parkway, Suite 280

Survey Firm Number: 10074301

Checked:	
Drawn:	
Record Drawing by/date:	
Revisions:	
Revisions: 5/30/17 - Client Comments	

Prepared for:

First Cougar Management Co.

201 Robert S. Kerr Ave. Oklahoma City, OK 73102

ALTA/NSPS Land Title Survey Tract A 7.092 Ac. Tract B 1.581 Ac.

in the T. Thomas Survey, Abst. No. 1461 City of Mesquite, Dallas County, Texas

> 16160 & 16190 LBJ Freeway, Mesquite, Texas

> > Date: 05/30/17 Sheet: 2 of 2

N: \0012269.00\dwg\Survey\0012269AS.dwg