ORDINANCE NO. <u>4749</u>

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THE NECESSITY OF ACQUIRING REAL PROPERTY LOCATED AT 2101 U.S. HIGHWAY 80, MESQUITE, TEXAS FOR A PUBLIC TRAIL EASEMENT; AUTHORIZING APPROPRIATION OF THE REAL PROPERTY AND/OR THE USE OF THE POWER OF EMINENT DOMAIN TO CONDEMN THE REAL PROPERTY FOR PUBLIC USE; AND DELEGATING AUTHORITY TO INITIATE CONDEMNATION PROCEEDINGS TO THE CITY MANAGER.

WHEREAS, the City Council of the City of Mesquite, Texas (the "City Council"), upon consideration of this matter, has determined that there is a public need and necessity for the health, safety and welfare of the City of Mesquite ("City") and the public at large to acquire a public trail easement on parcels of real property generally described as 0.088 acres of property (the "Tract 1 Easement"), and 0.203 acres of property (the "Tract 2 Easement") both having a street address of 2101 U.S. Highway 80, Mesquite, Texas, both situated in the Daniel Tanner Survey, Abstract Number 1462, in the City of Mesquite, Dallas County, Texas, with the Tract 1 Easement being a part of Lot 2, Block 1 of the Replat of The Baron's Addition Phase One and Phase Two and with the Tract 2 Easement being a part of Lot 1RA, Block 1 of the Replat of The Baron's Addition Phase One and Phase Two, both recorded in Volume 2002194, Page 92 of the Deed Records of Dallas County, Texas, and both more particularly described and depicted in Exhibits "A" and "B" attached hereto and made a part hereof for all purposes (the Tract 1 Easement and Tract 2 Easement are collectively referenced herein as the "Easement"); and

WHEREAS, the City Council finds acquisition of the Easement is necessary for constructing, using, maintaining and operating a municipal hike and bike trail and related public improvements as a part of the Mesquite Heritage Trail, Phase 2 (the "**Project**"), also a part of the North Central Texas Council of Governments 2045 Regional Veloweb and the City of Mesquite Trails Master Plan for use by the citizens of the City of Mesquite and the general public (the "**Public Uses**"); and

WHEREAS, the City Council has investigated and determined that the Project constitutes a public use for a public purpose; and

WHEREAS, the City Council finds that the description of the Easement to be acquired by eminent domain for the Project complies with applicable law in that the same provides the property owners in and around the area reasonable notice that the owner's property may be subject to condemnation proceedings during the planning or construction of the Project; and

WHEREAS, the City is required to make bona fide offer, as defined by and in compliance with Texas Property Code § 21.0113, to acquire the Easement for the Public Use, voluntarily, from the subject landowners prior to moving forward with the acquisition by eminent domain; and

Public Works/Authorizing Condemnation/Mesquite Heritage Trail, Phase 2/December 16, 2019 Page 2 of 3

WHEREAS, the City Council now deems it necessary to authorize the City Manager or his designee (hereinafter collectively referred to as the "City Manager") to initiate condemnation proceedings in order to acquire the necessary Easement in the event negotiations are unsuccessful.

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

- SECTION 1. The City Council hereby finds and determines that the recitals made in the preamble of this Ordinance are true and correct, and incorporates such recitals in the body of this Ordinance as if copied in their entirety.
- SECTION 2. The City Council hereby finds and determines that a public use and necessity exists for the Public Uses and authorizes acquisition of the necessary Easement for such purposes, as allowed by law, together with all necessary appurtenances, additions and improvements on, over, under and through those certain lots, tracts or parcels of lands comprising the Easement.
- SECTION 3. The City Council authorizes the City Manager to negotiate for and to acquire the required Easement for the City, and to acquire said rights in compliance with State and any other applicable law, including Chapter 21 of the Texas Property Code. Moreover, the City Manager is specifically authorized and directed to do each and every act necessary to acquire the needed Easement including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser to determine the just compensation for the acquisition of the Easement being acquired, as well as any other experts or consultants the City Manager deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.
- SECTION 4. That the City Manager is appointed as negotiator for the acquisition of the needed property interests and, as such, the City Manager is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the City Council for such purpose. Additionally, if the City Manager determines that an agreement as to damages or compensation cannot be reached after making a bona fide offer, then the City Attorney is hereby authorized and directed to file or cause to be filed, against the owner(s) and interested parties of the needed Easement, proceedings in eminent domain to acquire the above-stated Easement.
- <u>SECTION 5</u>. 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.
- <u>SECTION 6</u>. This ordinance shall take effect immediately from and after its passage, and it is accordingly so passed and approved.

Public Works/Authorizing Condemnation/Mesquite Heritage Trail, Phase 2/December 16, 2019 Page 3 of 3

DULY PASSED AND APPROVED by the	City Council of the City of Mesquite, Texas,
on the 16th day of December 2019.	BI
	Bruce Archer
	Mayor
A TTPOT.	APPROVED AS TO LEGAL FORM:
ATTEST:	San Sulla Harris Riving
Sonja Land	David L. Paschall
	City Attorney
City Secretary	City Attorney

EXHIBIT 'A'

TRACT 1 LEGAL DESCRIPTION

BEING a 0.088 acre tract or parcel of land situated in the Daniel Tanner Survey, Abstract Number 1462, in the City of Mesquite, Dallas County, Texas, and said tract being part of Lot 2, Block 1 of the Replat of The Baron's Addition Phase One and Phase Two, an addition to the City of Mesquite as recorded in Volume 2002194, Page 92, Deed Records, Dallas County, Texas, and said tract being part of a tract of land described to Ocean Barons LP as recorded in Instrument Number 201500011686, Official Public Records, Dallas County, Texas, and said tract being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch capped iron rod found for a southwest corner of said Lot 2, Block 1 and the north corner of Lot 1, Block A of Apple Grove Villas, an addition to the City of Mesquite as recorded in Instrument Number 20150033354, Official Public Records, Dallas County, Texas, and said point being in the southeast line of a tract of land described to Dallas Power & Light Company in a deed as recorded in Volume 5529, Page 630, Deed Records, Dallas County, Texas;

THENCE North 44° 07' 24" East following the common line of said Lot 2, Block 1 and said Dallas Power & Light Company tract for a distance of 971.58 feet to a 5/8-inch iron rod found for a northwest corner of said Lot 2, Block 1 and the southeast corner of a tract of land described to Dallas Power & Light Company in a deed as recorded in 5547, Page 38, Deed Records, Dallas County, Texas;

THENCE North 74° 25' 44" East following the common line of said Lot 2, Block 1 and said Dallas Power & Light Company tract for a distance of 300.24 feet to the POINT OF BEGINNING;

THENCE North 74° 25' 44" East continuing along the common line of said Lot 2, Block 1 and said Dallas Power & Light Company tract for a distance of 23.70 feet to a point for corner;

THENCE departing the common line of said Lot 2, Block 1 and said Dallas Power & Light Company tract the following courses and distances:

South 07° 57' 43" East for a distance of 11.44 feet to a point for corner;

South 81° 31' 07" West for a distance of 21.19 feet to a point for corner;

South 08° 28' 53" East for a distance of 316.01 feet to a point for corner at the beginning of a tangent curve to the right whose chord bears South 07° 50' 50" East . 332.24 feet;

In a southeasterly direction along said curve to the right having a central angle of 01° 16' 06", a radius of 15010.00 feet, and an arc length of 332.24 feet to a point for corner;

South 07° 12' 47" East for a distance of 191.44 feet to a point for corner;

South 82° 47' 13" West for a distance of 2.00 feet to a point for corner;

North 07° 57' 43" West for a distance of 848.13 feet to the POINT OF BEGINNING and containing an area of 3,847 Square Feet or 0.088 Acres of land, more or less.

TRACT 1

0.088 ACRES (3,847 SQ. FT.)
LOT 2, BLOCK 1, REPLAT OF BARON'S ADDITION
IN THE DANIEL TANNER SURVEY, ABST. NO. 1462
CITY OF MESQUITE, DALLAS COUNTY, TEXAS
APRIL 2018

BEARING BASIS:

BEARINGS ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202, NORTH AMERICAN DATUM OF 1983, (2011).



Brown & Gay Engineers, Inc. 2595 Dallas Pkwy., Suite 204, Frisco, TX 75034 Tel: 972-464-4800 ● www.bgeinc.com TBPLS Registration No. 10193953

JOB No. 2163-01

DFM/SPR

SHEET 1 OF 7

EXHIBIT 'A'

TRACT 2 LEGAL DESCRIPTION

BEING a 0.203 acre tract or parcel of land situated in the Daniel Tanner Survey, Abstract Number 1462, in the City of Mesquite, Dallas County, Texas, and said tract being part of Lot 1RA, Block 1 of the Replat of The Baron's Addition Phase One and Phase Two, an addition to the City of Mesquite as recorded in Volume 2002194, Page 92, Deed Records, Dallas County, Texas, and said tract being part of a tract of land described to Ocean Barons LP as recorded in Instrument Number 201500011686, Official Public Records, Dallas County, Texas, and said tract being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch capped iron rod found for the east corner of said Lot 1RA and the south corner of Lot 1, Block A, Mesquite Commons, an addition to the City of Mesquite as recorded in Volume 2002079, Page 4, Deed Records, Dallas County, Texas, said point being in the northwest line of U.S. Highway 80, and from said point a 1/2-inch capped iron rod found for a common corner of said Lot 1RA and said Lot 1, Block A bears North 43° 06' 17" West, 108.51 feet;

THENCE South 64° 00' 53" West following the common line of said Lot 1RA and said U.S. Highway 80 for a distance of 145.01 feet to the POINT OF BEGINNING;

THENCE South 64° 00' 53" West continuing along the common line of said Lot 1RA and said U.S. Highway 80 for a distance of 24.81 feet to a point for corner at the beginning of a nontangent curve to the left whose whose chord bears North 51° 11' 14" West , 222.09 feet:

THENCE departing the common line of said Lot 1RA and said U.S. Highway 80, over and across said Lot 1RA the following courses and distances:

In a northwesterly direction along said curve to the left having a central angle of 20° 24' 07", a radius of 627.00 feet, and an arc length of 223.26 feet to a point for corner at the beginning of a reverse curve to the right whose chord bears North 58° 44' 48" West, 53.65 feet;

In a northwesterly direction along said curve to the right having a central angle of 05° 17' 00", a radius of 582.00 feet, and an arc length of 53.67 feet to a point for corner;

North 39° 54' 53" West for a distance of 301.63 feet to a point for corner at the beginning of a curve to the right whose chord bears North 33° 15' 38" West , 115.98 feet;

In a northwesterly direction along said curve to the right having a central angle of 13° 19' 28", a radius of 499.84 feet, and an arc length of 116.24 feet to a point for corner;

North 65° 59' 56" East for a distance of 2.41 feet to a point for corner at the beginning of a curve to the left whose chord bears South 32° 59' 23" East . 97.62 feet:

In a southeasterly direction along said curve to the left having a central angle of 11° 31' 40", a radius of 486.00 feet, and an arc length of 97.78 feet to a point for corner;

South 38° 45' 13" East for a distance of 145.71 feet to a point for corner at the beginning of a tangent curve to the left whose chord bears South 50° 04' 16" East , 219.01 feet;

In a southeasterly direction along said curve to the left having a central angle of 22° 38' 05", a radius of 558.00 feet, and an arc length of 220.44 feet to a point for corner at the beginning of a reverse curve to the right whose chord bears South 50° 54' 17" East , 236.90 feet:

In a southeasterly direction along said curve to the right having a central angle of 20° 58' 02", a radius of 651.00 feet, and an arc length of 238.23 feet to the POINT OF BEGINNING and containing an area of 8,827 Square Feet or 0.203 Acres of land, more or less.

David F. McCullah,

Texas Registered Professional Land Surveyor No. 4023

4-4-18

BEARING BASIS:

BEARINGS ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202, NORTH AMERICAN DATUM OF 1983, (2011).



TRACT 2

0.203 ACRES (8,827 SQ. FT.)

LOT 1RA, BLOCK 1, REPLAT OF BARON'S ADDITION IN THE DANIEL TANNER SURVEY, ABST. NO. 1462 CITY OF MESQUITE, DALLAS COUNTY, TEXAS APRIL 2018



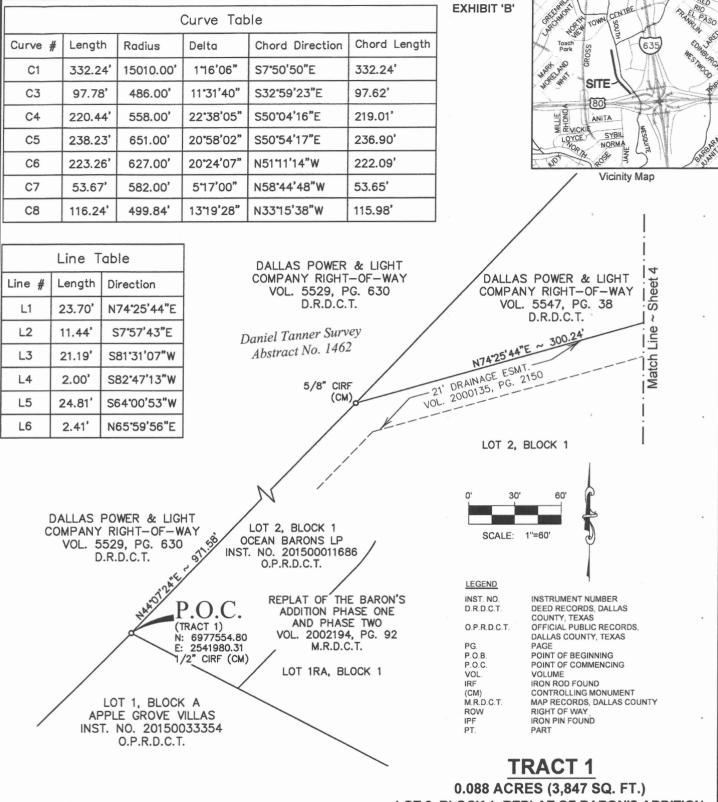
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SHEET 2 OF 7



BEARING BASIS:

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FLOOD NOTE:

ALL FLOODPLAIN INFORMATION ON THIS SURVEY IS FOR GRAPHICAL DEPICTION ONLY, AS SCALED OFF OF FEMA FIRM PANEL NO. 48113C03705, EFFECTIVE JULY 7, 2014. INHERENT INACCURACIES OF THESE MAPS PRECLUDE A SURVEYOR FROM CERTIFYING TO THE ACCURACIES OF LOCATIONS BASED ON SUCH MAPS.

LOT 2, BLOCK 1, REPLAT OF BARON'S ADDITION
IN THE DANIEL TANNER SURVEY, ABST. NO. 1462
CITY OF MESQUITE, DALLAS COUNTY, TEXAS
APRIL 2018



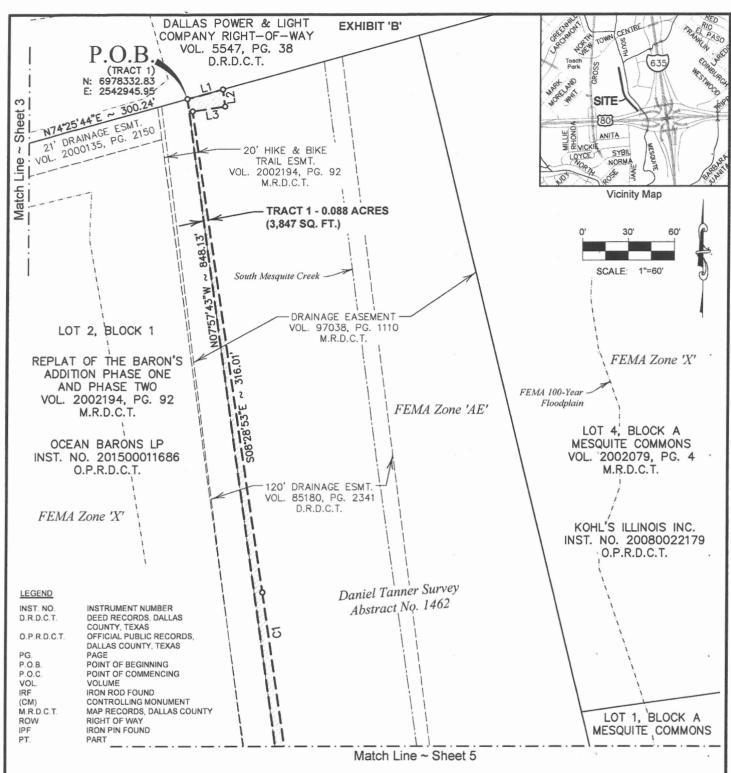
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JOB No. 2163-01

DFM/SPR

SHEET 3 OF 7



BEARING BASIS:

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FLOOD NOTE:

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TRACT 1

0.088 ACRES (3,847 SQ. FT.)
LOT 2, BLOCK 1, REPLAT OF BARON'S ADDITION
IN THE DANIEL TANNER SURVEY, ABST. NO. 1462
CITY OF MESQUITE, DALLAS COUNTY, TEXAS
APRIL 2018



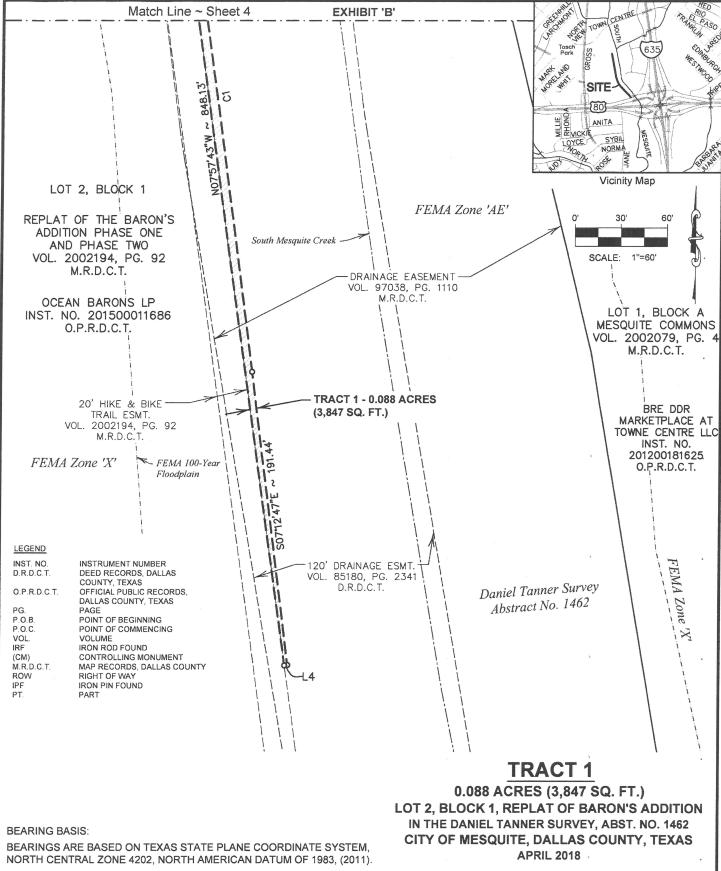
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SHEET 4 OF 7



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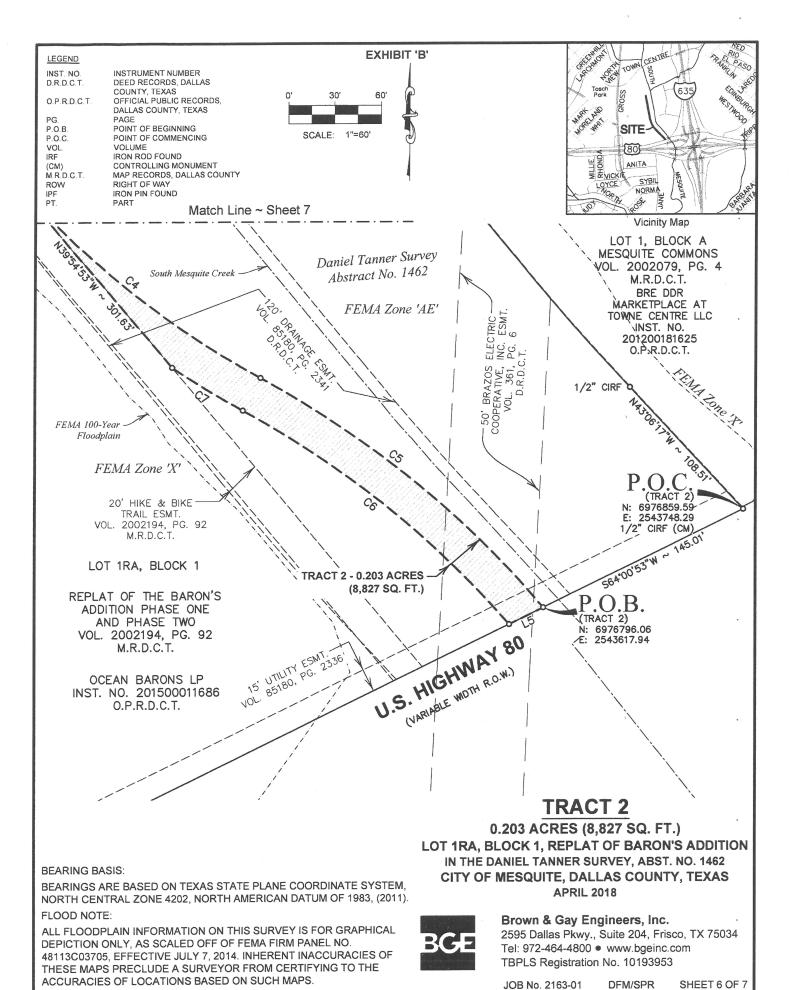
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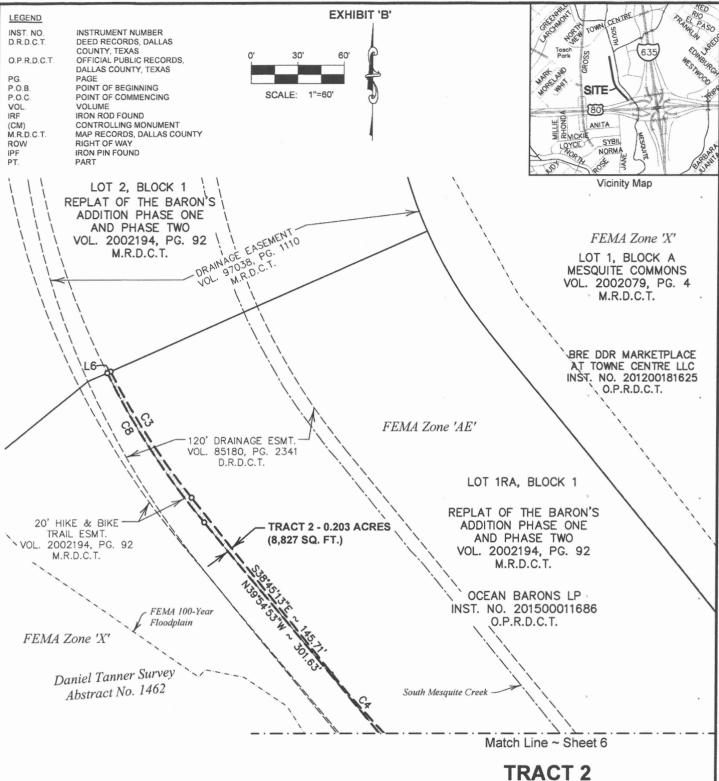
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SHEET 5 OF 7



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BEARING BASIS:

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0.203 ACRES (8,827 SQ. FT.)

LOT 1RA, BLOCK 1, REPLAT OF BARON'S ADDITION IN THE DANIEL TANNER SURVEY, ABST. NO. 1462 CITY OF MESQUITE, DALLAS COUNTY, TEXAS **APRIL 2018**



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SHEET 7 OF 7