

DATE: December 3, 2013
TO: Honorable Mayor & City Council
FROM: Richard Grady, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of December 2, 2013

**AGENDA ITEM NO. 6A - PUBLIC HEARING
ZONING CASE 2013-31
APPLICANT: ACRES OF SUNSHINE, LTD.**

Request for Specific Use Permits for Arcade and Commercial Amusement (Indoor) on 5.1± acres located on the east side of Communications Parkway, 340± feet north of Windhaven Parkway. Zoned Regional Employment/Dallas North Tollway Overlay District.

APPROVED: 6-0 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: **SUPPORT:** 1 **OPPOSE:** 0

LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA: **SUPPORT:** 0 **OPPOSE:** 0

PETITION(s) RECEIVED: N/A **# OF SIGNATURES:** N/A

STIPULATIONS:

Recommended for approval as submitted.

FOR CITY COUNCIL MEETING OF: January 13, 2014 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

RA/av

xc: Owen Haggard, Acres of Sunshine, Ltd.
Sarah Scott, Kimley-Horn and Associates, Inc.

<http://goo.gl/maps/RUIxA>

CITY OF PLANO

PLANNING & ZONING COMMISSION

December 2, 2013

Agenda Item No. 6A

Public Hearing: Zoning Case 2013-31

Applicant: Acres of Sunshine, Ltd.

DESCRIPTION:

Request for Specific Use Permits for Arcade and Commercial Amusement (Indoor) on 5.1± acres located on the east side of Communications Parkway, 340± feet north of Windhaven Parkway. Zoned Regional Employment/Dallas North Tollway Overlay District.

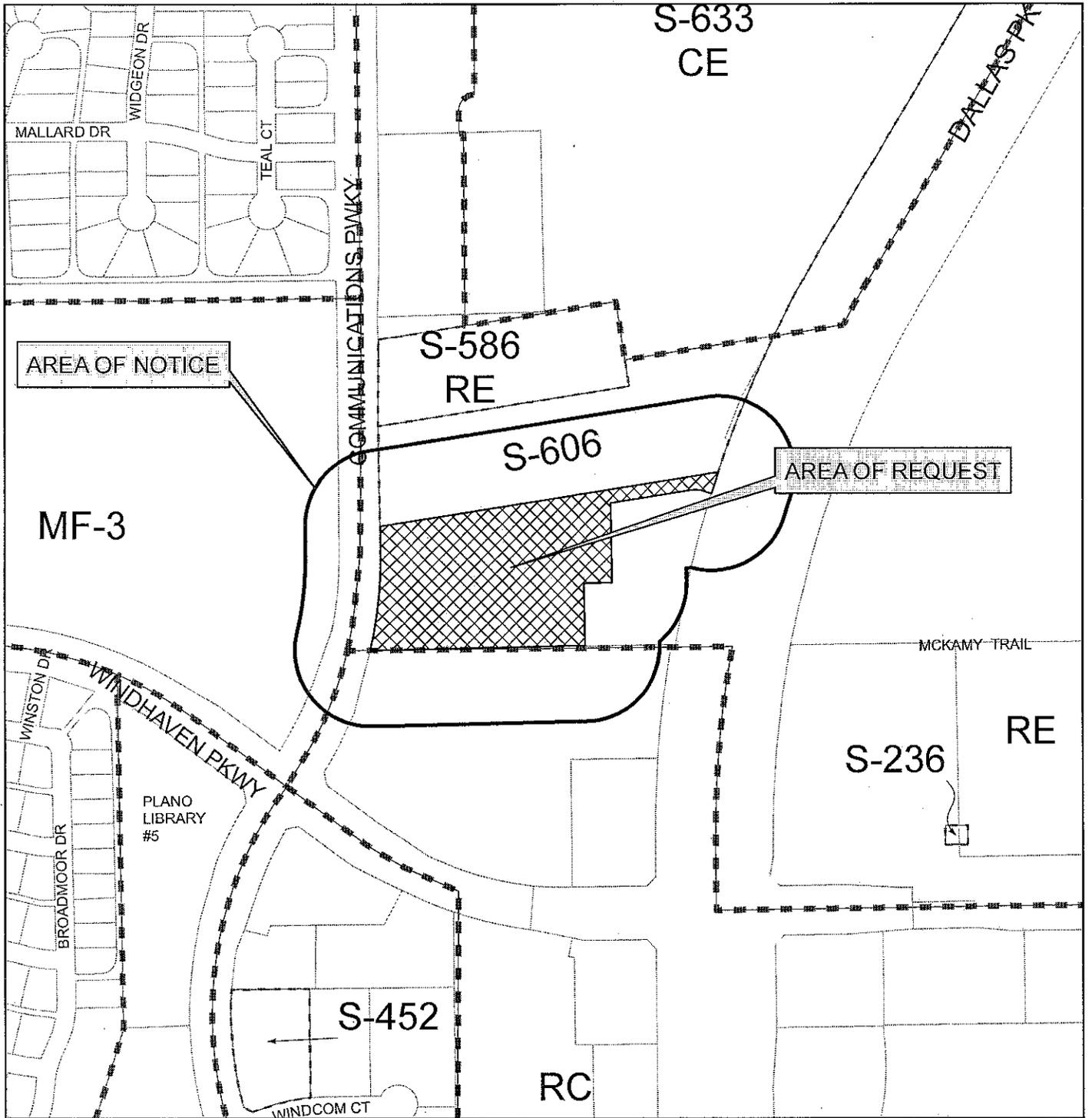
REMARKS:

The requested zoning is Specific Use Permits (SUPs) to allow for Commercial Amusement (Indoor) and Arcade. Commercial amusement (indoor) is defined as an enterprise such as a recreation club, organization, or bingo parlor that provides activities, services, and instruction for entertainment, or arcades. Uses or combinations would typically include bowling alleys, ice or roller skating rinks, bingo parlors, and/or practice areas. An arcade is defined as an establishment with six or more player-operated skill or amusement machines, or a combination of six or more such machines and/or connected control panels that provide access to the machines. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application. The arcade will be operated in conjunction with the commercial amusement (indoor) business.

The Zoning Ordinance prohibits arcades from being located within 300 feet of any religious facility or residential zoning district and within 1,000 feet of any public or parochial school. The distance is measured in a straight line from the front door of the premises to be permitted to the nearest property line of the religious facility, school, or residential property. The closest residential development is a multifamily development 443± feet to the west and the closest school, Brinker Elementary School, is 4,000± feet to the southeast.

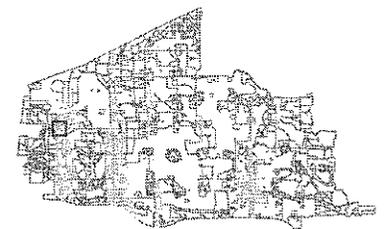
RECOMMENDATIONS:

Recommended for approval as submitted.



Zoning Case #: 2013-31

Existing Zoning: REGIONAL EMPLOYMENT/
DALLAS NORTH TOLLWAY OVERLAY DISTRICT



○ 200' Notification Buffer





Area of Request



Source: City of Plano, Planning Dept.
Date: December, 2013

Zoning Case 2013-31

Zoning Case 2013-31

An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 641 so as to allow for the additional use of Arcade and Specific Use Permit No. 642 so as to allow for the additional use of Commercial Amusement (Indoor) on 5.1± acres of land out of the Henry B. Miller Survey, Abstract No. 614, located on the east side of Communications Parkway, 340± feet north of Windhaven Parkway, in the City of Plano, Collin County, Texas, presently zoned Regional Employment; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 13th day of January, 2014, for the purpose of considering granting Specific Use Permit No. 641 for the additional use of Arcade and Specific Use Permit No. 642 for the additional use of Commercial Amusement (Indoor) on 5.1± acres of land out of the Henry B. Miller Survey, Abstract No. 614, located on the east side of Communications Parkway, 340± feet north of Windhaven Parkway, in the City of Plano, Collin County, Texas, presently zoned Regional Employment; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 13th day of January, 2014; and

WHEREAS, the City Council is of the opinion and finds that the granting of Specific Use Permit No. 641 for the additional use of Arcade and Specific Use Permit No. 642 for the additional use of Commercial Amusement (Indoor) on 5.1± acres of land out of the Henry B. Miller Survey, Abstract No. 614, located on the east side of Communications Parkway, 340± feet north of Windhaven Parkway, in the City of Plano, Collin County, Texas, presently zoned Regional Employment, would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

WHEREAS, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to grant Specific Use Permit No. 641 for the additional use of Arcade and Specific Use Permit No. 642 for the additional use of Commercial Amusement (Indoor) on 5.1± acres of land out of the Henry B. Miller Survey, Abstract No. 614, located on the east side of Communications Parkway, 340± feet north of Windhaven Parkway, in the City of Plano, Collin County, Texas, presently zoned Regional Employment, said property being more fully described on the legal description in Exhibit "A" attached hereto.

Section II. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

Section III. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section IV. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section V. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VI. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 13TH DAY OF JANUARY, 2014.

Harry LaRosiliere, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Zoning Case 2013-31

BEING a tract of land situated in the Henry B. Miller Survey, Abstract No. 614, in the City of Plano, Collin County, Texas, and being part of Lot 1, Block A, Acres of Sunshine Addition, an addition to the City of Plano, Texas, according to the plat recorded in Volume 2010, Page 370 of the Land Records of Collin County, Texas.

BEGINNING at a point in the east right-of-way line of Communications Parkway (a 110-foot wide right-of-way) and being the northwest corner of Lot 2, Block 1, Windhaven Park, an addition to the City of Plano, Texas, according to the plat recorded in Volume 2008, Page 574 of said Land Records, said point also being the beginning of a curve to the left having a central angle of $13^{\circ} 39' 25''$, a radius of 1,055.00 feet, a chord bearing and distance of North $06^{\circ} 20' 49''$ East, 250.87 feet;

THENCE in a northeasterly direction, with said east right-of-way line of Communications Parkway and said curve to the left, an arc distance of 251.47 feet to a point at the end of said curve;

THENCE continuing with said east right-of-way line of Communications Parkway, North, $00^{\circ} 28' 53''$ West, a distance of 75.45 feet to the southwest corner of Lot 2, Block A, Acres of Sunshine Addition, an addition to the City of Plano, Texas, according to the plat recorded in Volume 2013, Page 304 of said Land Records;

THENCE departing said east right-of-way line of Communications Parkway, with the south line of said Lot 2, Block A, North, $81^{\circ} 04' 31''$ East, a distance of 907.06 feet to the southeast corner of said Lot 2, Block A and being in the west right-of-way line of Dallas North Tollway (a variable width right-of-way); said point also being the beginning of a non-tangent curve to the left having a central angle of $01^{\circ} 08' 19''$, a radius of 3,014.79 feet, a chord bearing and distance of South, $18^{\circ} 02' 40''$ West, 59.91 feet;

THENCE in a southwesterly direction, with said west right-of-way line of Dallas North Tollway and said curve to the left, an arc distance of 59.91 feet to a point at the end of said curve;

THENCE departing said west right-of-way line of Dallas North Tollway, North, $72^{\circ} 17' 49''$ West, a distance of 29.20 feet to a point at the beginning of a tangent curve to the left having a central angle of $26^{\circ} 37' 40''$, a radius of 50.00 feet, a chord bearing and a distance of North, $85^{\circ} 36' 39''$ West, 23.03 feet'

THENCE in a northwesterly direction, with said curve to the left, an arc distance of 23.24 feet to a point at the end of said curve;

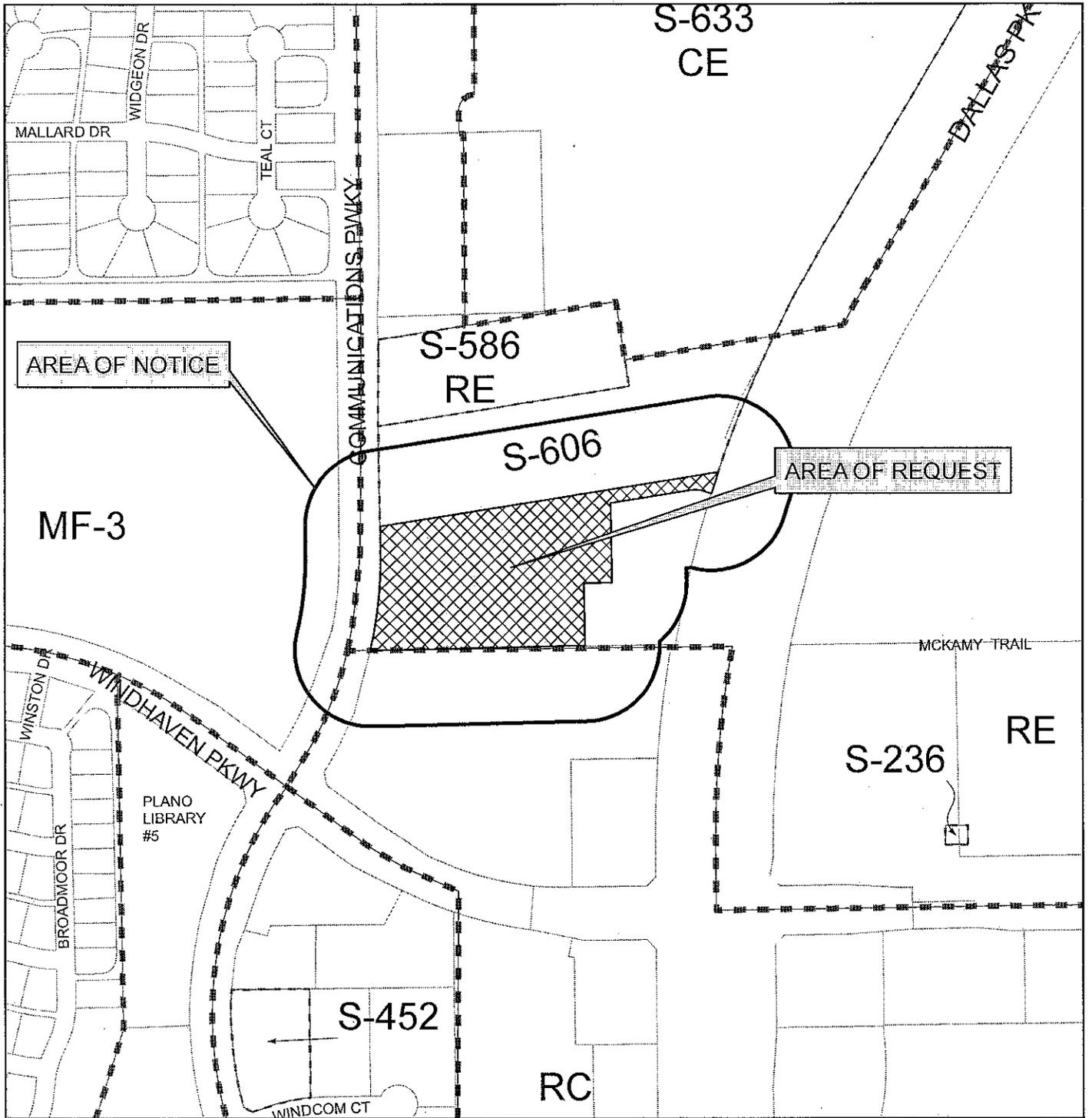
THENCE South, $81^{\circ} 04' 31''$ West, a distance of 221.78 feet to a point for corner;

THENCE South, $01^{\circ} 04' 30''$ East, a distance of 209.79 feet to a point for corner;

THENCE, South, 88° 55' 30" West, a distance of 75.00 feet to a point for corner;

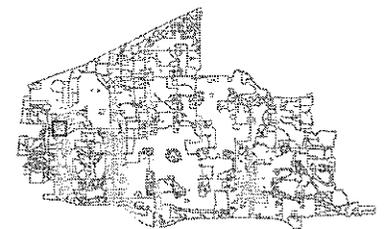
THENCE South, 01° 04' 30" East, a distance of 163.00 feet to a point for corner; said point being in the north line of said Lot 2, Block 1;

THENCE with said north line of Lot 2, Block 1, South, 88° 55' 30" West, a distance of 566.85 feet to the POINT OF BEGINNING and CONTAINING 5.144 acres of land or 224.093 square feet of land.



Zoning Case #: 2013-31

Existing Zoning: REGIONAL EMPLOYMENT/
DALLAS NORTH TOLLWAY OVERLAY DISTRICT



○ 200' Notification Buffer



