

11-27-06

ORDINANCE NO. ~~26522~~

An ordinance changing the zoning classification on the following property:

BEING all of Lots 5 through 8 and the western 20 feet of Lots 4 and 9 in City Block 135/96 with a street address of 1704 Main Street, and containing approximately 0.551 acre;

by establishing Historic Overlay District No. 129 (Mercantile National Bank Building); providing procedures, regulations, and preservation criteria for structures and property in the district; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding the rezoning of the Property hereinafter described; and

WHEREAS, the city council finds that the Property is an area of historical, cultural, and architectural importance and significance to the citizens of the city; and

WHEREAS, the city council finds that it is in the public interest to establish this historic overlay district; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the zoning classification is changed by establishing Historic Overlay District No. 129 on the following property ("the Property"):

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BEING all of Lots 5 through 8 and the western 20 feet of Lots 4 and 9 in City Block 135/96 with a street address of 1704 Main Street, and containing approximately 0.551 acre.

SECTION 2. That the establishment of this historic overlay district shall not affect the existing underlying zoning classification of the Property, which shall remain subject to the regulations of the underlying zoning district. If there is a conflict, the regulations in this ordinance control over the regulations of the underlying zoning district.

SECTION 3. That a person shall not alter the Property, or any portion of the exterior of a structure on the Property, or place, construct, maintain, expand, demolish, or remove any structure on the Property without first obtaining a certificate of appropriateness or certificate for demolition or removal in accordance with the Dallas Development Code, as amended, and this ordinance. All alterations to the Property must comply with the preservation criteria attached to and made a part of this ordinance as Exhibit A.

SECTION 4. That the building official shall not issue a building permit or a certificate of occupancy for a use on the Property until there has been full compliance with this ordinance, the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the City of Dallas.

SECTION 5. That the director of development services shall correct Zoning District Map No. J-7 in the offices of the city secretary, the building official, and the department of development services to reflect the changes in zoning made by this ordinance.

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SECTION 6. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000. In addition to punishment by fine, the City may, in accordance with state law, provide civil penalties for a violation of this ordinance, and institute any appropriate action or proceedings to prevent, restrain, correct, or abate the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, demolition, or removal of a building, structure, or land on the Property.

SECTION 7. That the zoning ordinances of the City of Dallas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 9. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By Casey Burgess
Assistant City Attorney

Passed DEC 13 2006

**EXHIBIT A
PRESERVATION CRITERIA
MERCANTILE NATIONAL BANK BUILDING
1704 MAIN STREET**

1. GENERAL.

- 1.1 All demolition, maintenance, new construction, public works, renovations, repairs, and site work in this district must comply with these preservation criteria.
- 1.2 Any alterations to property within this district must comply with the regulations in Chapter 51A of the Dallas City Code, as amended. In the event of a conflict, these preservation criteria control.
- 1.3 Certificate of appropriateness.
 - a. A person may not alter a site within this district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
 - b. The certificate of appropriateness review procedure outlined in Section 51A-4.501 of the Dallas Development Code, as amended, applies to this district.
 - c. Any work done under a certificate of appropriateness must comply with any conditions imposed in the certificate of appropriateness.
 - d. After the work authorized by the certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The Director may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.
- 1.4 A person may not demolish or remove any structure in this district without first obtaining a certificate for demolition or removal in accordance with Section 51A-4.501 of the Dallas Development Code, as amended.
- 1.5 Preservation and restoration materials and methods used must comply with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.

- 1.6 No person shall allow a structure in this district to deteriorate through demolition by neglect. Demolition by neglect is neglect in the maintenance of a structure that results in deterioration of the structure and threatens preservation of the structure. All structures in this district must be preserved against deterioration and kept free from structural defects. See Section 51A-4.501 of the Dallas Development Code, as amended, for regulations concerning demolition by neglect.
- 1.7 Consult Article XI, "Development Incentives," of the Dallas Development Code, as amended, for tax incentives that may be available in this district.
- 1.8 The period of historic significance for this district is the period from 1943 to 1958.

2. DEFINITIONS.

- 2.1 Unless defined below, the definitions contained in Chapter 51A of the Dallas City Code, as amended, apply.
- 2.2 APPROPRIATE means typical of the historic architectural style, compatible with the character of this district, and consistent with these preservation criteria.
- 2.3 CERTIFICATE OF APPROPRIATENESS means a certificate required by Section 51A-4.501 of the Dallas Development Code, as amended, and these preservation criteria.
- 2.4 DIRECTOR means the Director of the Department of Development Services or the Director's representative.
- 2.5 DISTRICT means Historic Overlay District No. 129, the Mercantile National Bank Building Historic Overlay District. This district contains the property described in Section 1 of this ordinance and as shown on Exhibit B1.
- 2.6 ERECT means to attach, build, draw, fasten, fix, hang, maintain, paint, place, suspend, or otherwise construct.
- 2.7 MAIN BUILDING means the Mercantile National Bank Building, as shown on Exhibit B2.
- 2.8 PROTECTED means an architectural or landscaping feature that must be retained and maintain its historic appearance, as near as practical, in all aspects.

- 2.9 REAL ESTATE SIGN means a sign that advertises the sale or lease of an interest in real property.
- 2.10 STOREFRONT means an exterior street level door and wall system composed of glass and extruded aluminum typical of the building type.

3. EXHIBITS.

- 3.1 The following exhibits are attached:

- B1 Site Plan.
- B2 Site Isometric.
- C1 North Facade.
- C2 West Facade.
- C3 South Facade.
- C4 East Facade.

- 3.2 In the event of a conflict between the exhibits and the text of the preservation criteria, the text of the preservation criteria controls.

4. BUILDING SITE AND LANDSCAPING.

- 4.1 The main building is protected.
- 4.2 New driveways, sidewalks, steps, and walkways must be constructed of brick, brush finish concrete, or other appropriate material. Artificially-colored concrete and asphalt are not permitted.
- 4.3 Outdoor lighting and landscaping must be appropriate and enhance the structure.

5. FACADES.

- 5.1 Protected facades.
- a. The facades shown on Exhibits C1, C2, and C3 are protected with the following exceptions:
 - 1. New storefront doors may be added at street level.
 - 2. Windows may be converted to doors at rooftop terraces.

3. Glass may be removed from the center bay of the window wall on the 31st floor of the west facade to create a recessed terrace if the existing window framing remains intact, thereby maintaining the historic window wall framing pattern. See Exhibit C2.
- b. Portions of the facade shown on Exhibits B2 and C4 are protected, except that balconies may be added at the locations shown on Exhibit C4, provided the placement, scale, materials, and design of the balconies; fenestration; door design; and window design are compatible with the building.
 - c. Reconstruction, renovation, repair, or maintenance of protected facades must be appropriate and must employ materials similar to the historic materials in texture, color, pattern, grain, and module size.
 - d. Except as provided in Item 5.1(a), historic solid-to-void ratios of protected facades must be maintained.
 - e. Brick added to protected facades must match in color, texture, module size, bond pattern, and mortar color.
 - f. Brick, cast stone, and concrete elements on protected facades may not be painted, except that portions of the structure that had been painted prior to the effective date of this ordinance may remain painted.
- 5.2 Nonprotected facades.
- a. Reconstruction, renovation, repair, or maintenance of nonprotected facades must be compatible with protected features.
 - b. New balconies, door, and window openings on nonprotected facades must be compatible with the historic building. See Exhibits B2 and C4.
- 5.3 Historic materials must be repaired if possible; they may be replaced only when necessary.
- 5.4 Paint must be removed in accordance with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, prior to refinishing.

- 5.5 Exposing and restoring historic finish materials is recommended.
- 5.6 When the circa 1964-65 continuous aluminum frame and spandrel are removed, the second, third, and fourth floors of the north, west, and south facades must be rehabilitated in accordance with historic documentation and the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.
- 5.7 Cleaning of the exterior of a structure must be in accordance with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library. Sandblasting and other mechanical abrasive cleaning processes are not permitted.
- 5.8 Satellite dishes are not permitted on the facades of the main building. Satellite dishes must be located on the roofs in accordance with Item 7.3.

6. FENESTRATION AND OPENINGS.

- 6.1 Except as provided in Item 5.1(a) and Item 6.3, historic windows must remain intact except when replacement is necessary due to significant damage, deterioration, alteration, or building code requirements.
- 6.2 Replacement of windows which have been altered and no longer match the historic appearance is recommended.
- 6.3 Replacement windows must express profile, muntin and mullion size, light configuration, and material to match the historic. Aluminum frame windows on floors 28 through 31 may be replaced with compatible windows.
- 6.4 New ground floor storefronts and entrances are permitted on the north, west, and south facades, provided they are compatible with the building in design and materials.
- 6.5 Decorative ironwork is not permitted over doors or windows of protected facades.
- 6.6 Glass and glazing must match historic materials as much as practical. Films and tinted or reflective glazings are not permitted on glass.

6.7 Awnings are permitted only when based on documentary, physical, or photographic evidence. Awnings must be designed in accordance with the Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.

6.8 The Secretary of the Interior's Standards for Rehabilitation and Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library, should be referred to for acceptable techniques to improve the energy efficiency of historic fenestration.

7. ROOFS.

7.1 The historic massing and configuration of the roofs must be preserved and maintained.

7.2 Historic coping must be retained, and should be repaired with material matching in size, finish, module, and color.

7.3 Mechanical equipment, skylights, satellite dishes, and railings on roofs must be set back or screened so that they are not visible to a person standing at ground level on the opposite side of any adjacent right-of-way.

8. EMBELLISHMENTS AND DETAILING.

8.1 The following architectural elements are considered important features and are protected:

- a. The building massing, particularly the base and midlevel setbacks.
- b. The exterior elevations of the penthouse floors and tower base above the 31st floor.
- c. The rhythm of windows above the fifth floor.
- d. The clock tower, spire, and its lighting.
- e. Steel, one-over-one windows at floors five through 31, except as provided in Item 5.1(a) and Item 6.3.
- f. Brick cladding and spandrels.
- g. Stone cladding and coping.

9. NEW CONSTRUCTION AND ADDITIONS.

9.1 Vertical additions are not permitted.

10. SIGNS.

10.1 Signs may be erected if appropriate.

10.2 All signs must comply with the provisions of the Dallas City Code, as amended.

10.3 Temporary political campaign signs and temporary real estate signs may be erected without a certificate of appropriateness.

11. ENFORCEMENT.

11.1 A person who violates these preservation criteria is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

11.2 A person is criminally responsible for a violation of these preservation criteria if:

- a. the person owns part or all of the property and knowingly allows the violation to exist;
- b. the person is the agent of the property owner or is an individual employed by the agent or property owner; is in control of the property; knowingly allows the violation to exist; and fails to provide the property owner's name, street address, and telephone number to code enforcement officials;
- c. the person is the agent of the property owner or is an individual employed by the agent or property owner, knowingly allows the violation to exist, and the citation relates to the construction or development of the property; or
- d. the person knowingly commits the violation or assists in the commission of the violation.

- 11.3 Any person who adversely affects or demolishes a structure in this district in violation of these preservation criteria is liable pursuant to Section 315.006 of the Texas Local Government Code for damages to restore or replicate, using as many of the original materials as possible, the structure to its appearance and setting prior to the violation. No certificates of appropriateness or building permits will be issued for construction on the site except to restore or replicate the structure. When these restrictions become applicable to a site, the Director shall cause to be filed a verified notice in the county deed records and these restrictions shall be binding on future owners of the property. These restrictions are in addition to any fines imposed.
- 11.4 Prosecution in municipal court for a violation of these preservation criteria does not prevent the use of other enforcement remedies or procedures provided by other city ordinances or state or federal laws applicable to the person charged with or the conduct involved in the offense.

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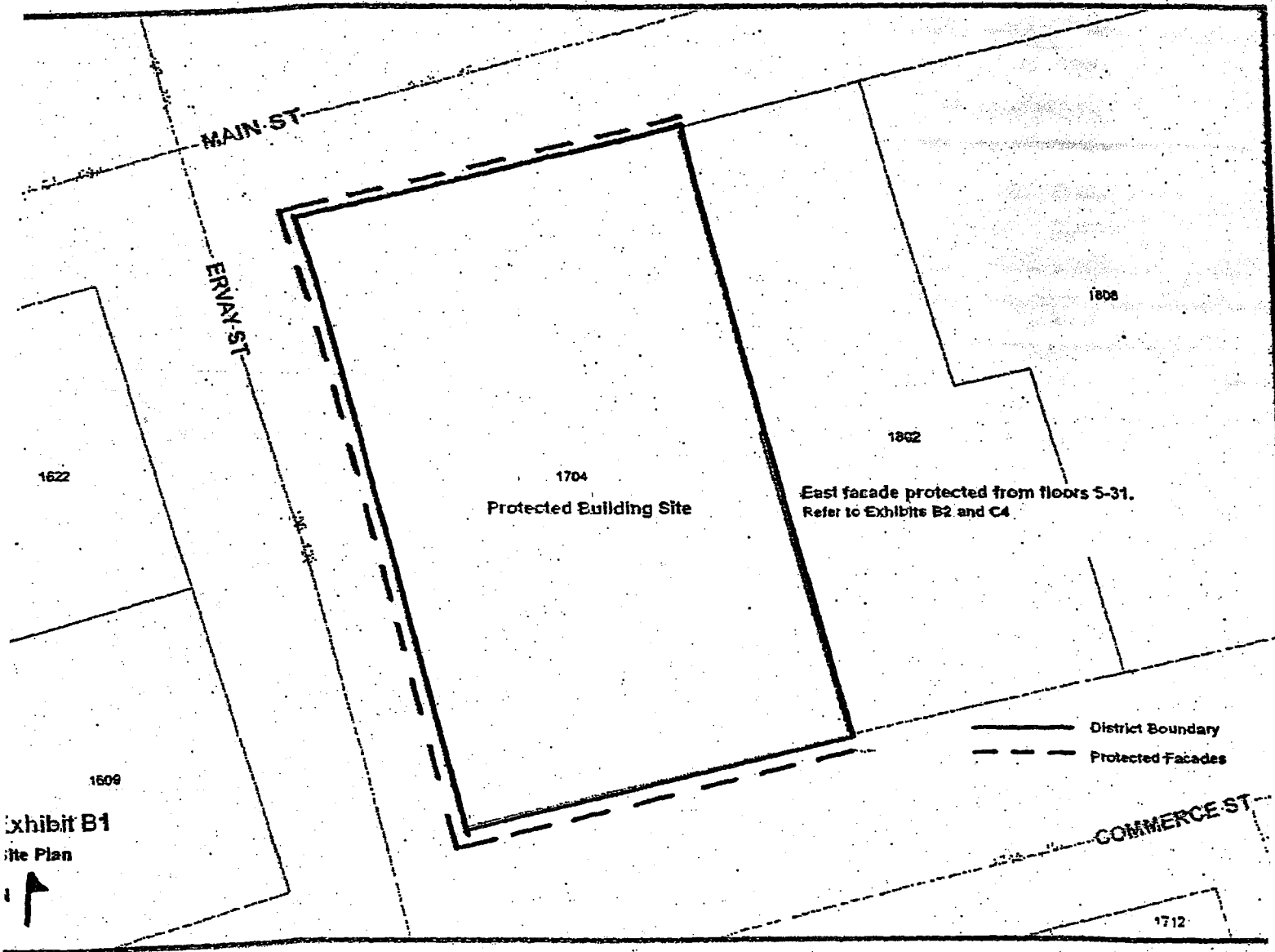


Exhibit B1
Site Plan



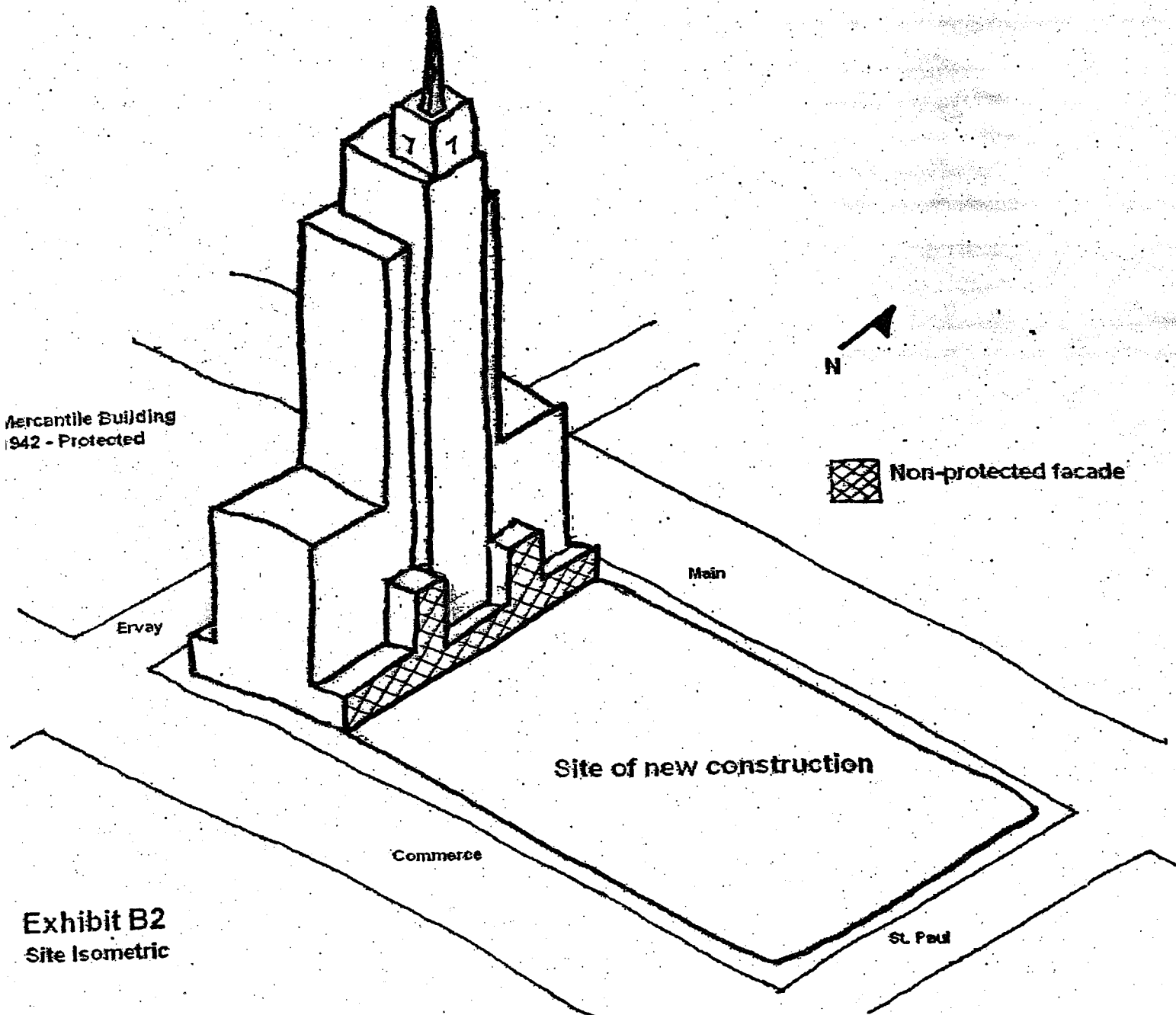


Exhibit B2
Site Isometric

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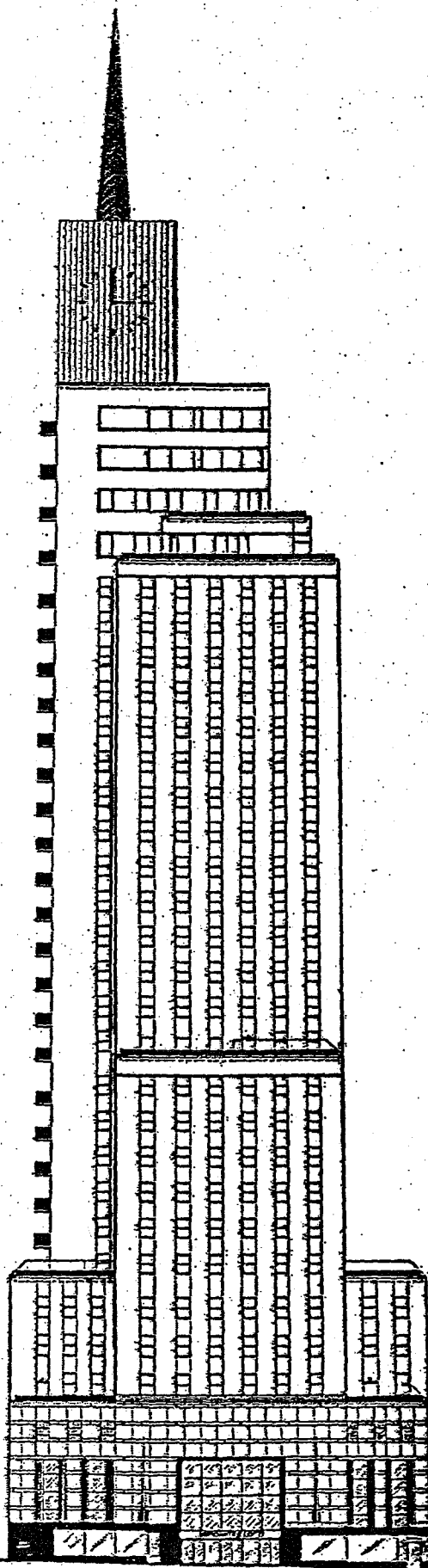


Exhibit C1

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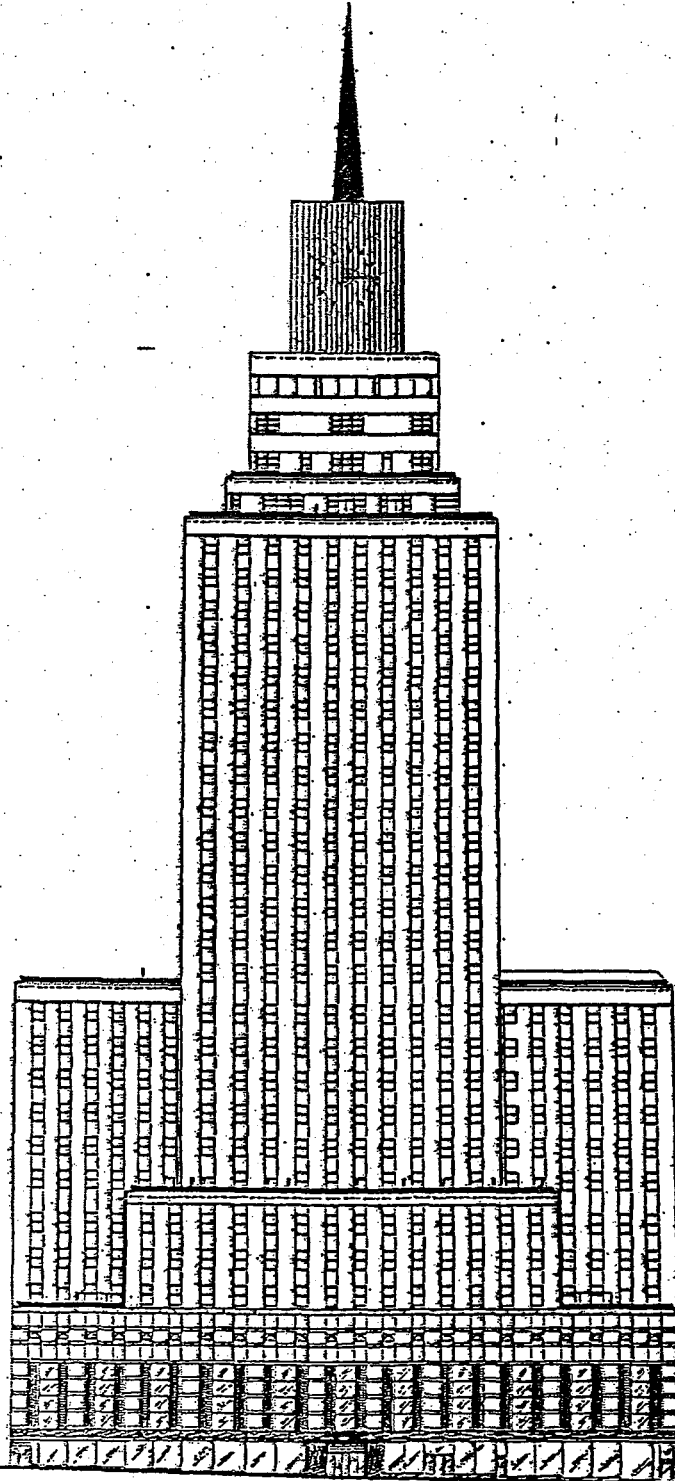


Exhibit C2
West Facade - Ervay Street - Protected

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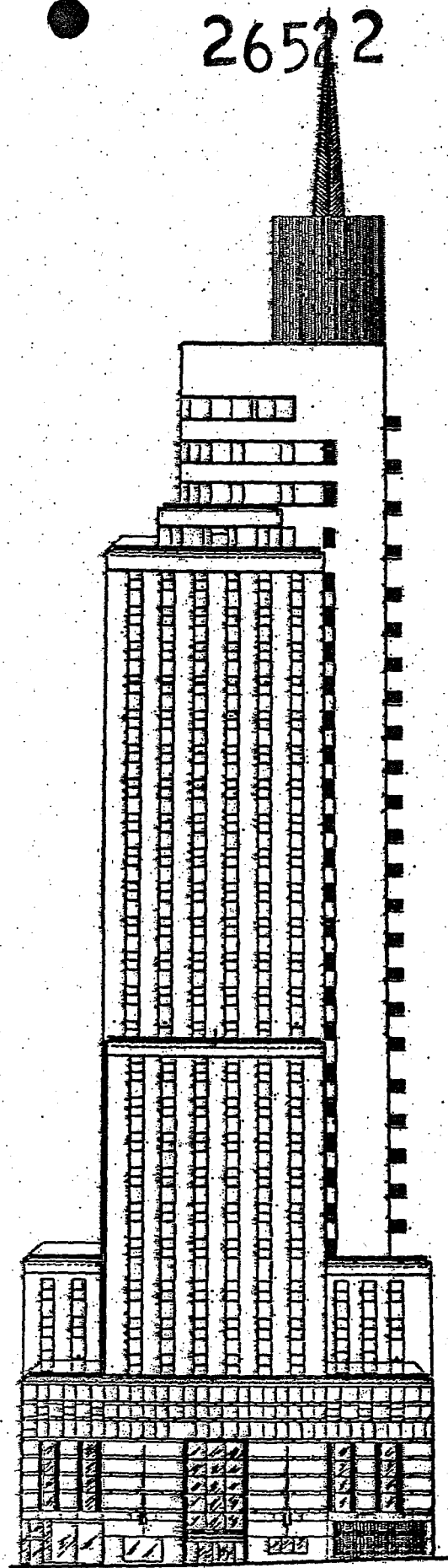


Exhibit C3

South Facade - Commerce Street - Protected

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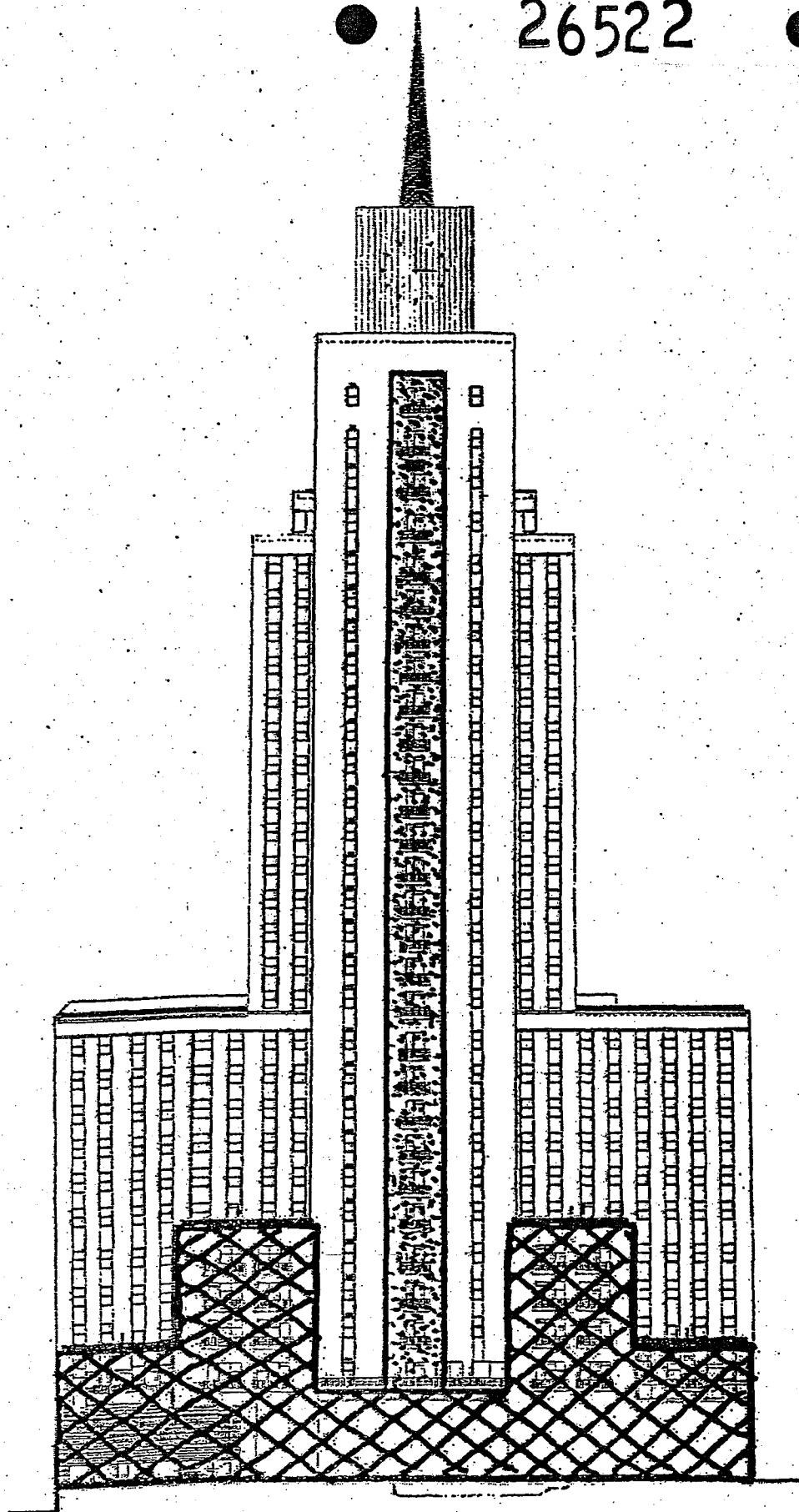


Exhibit C4
East Facade - St. Paul Street



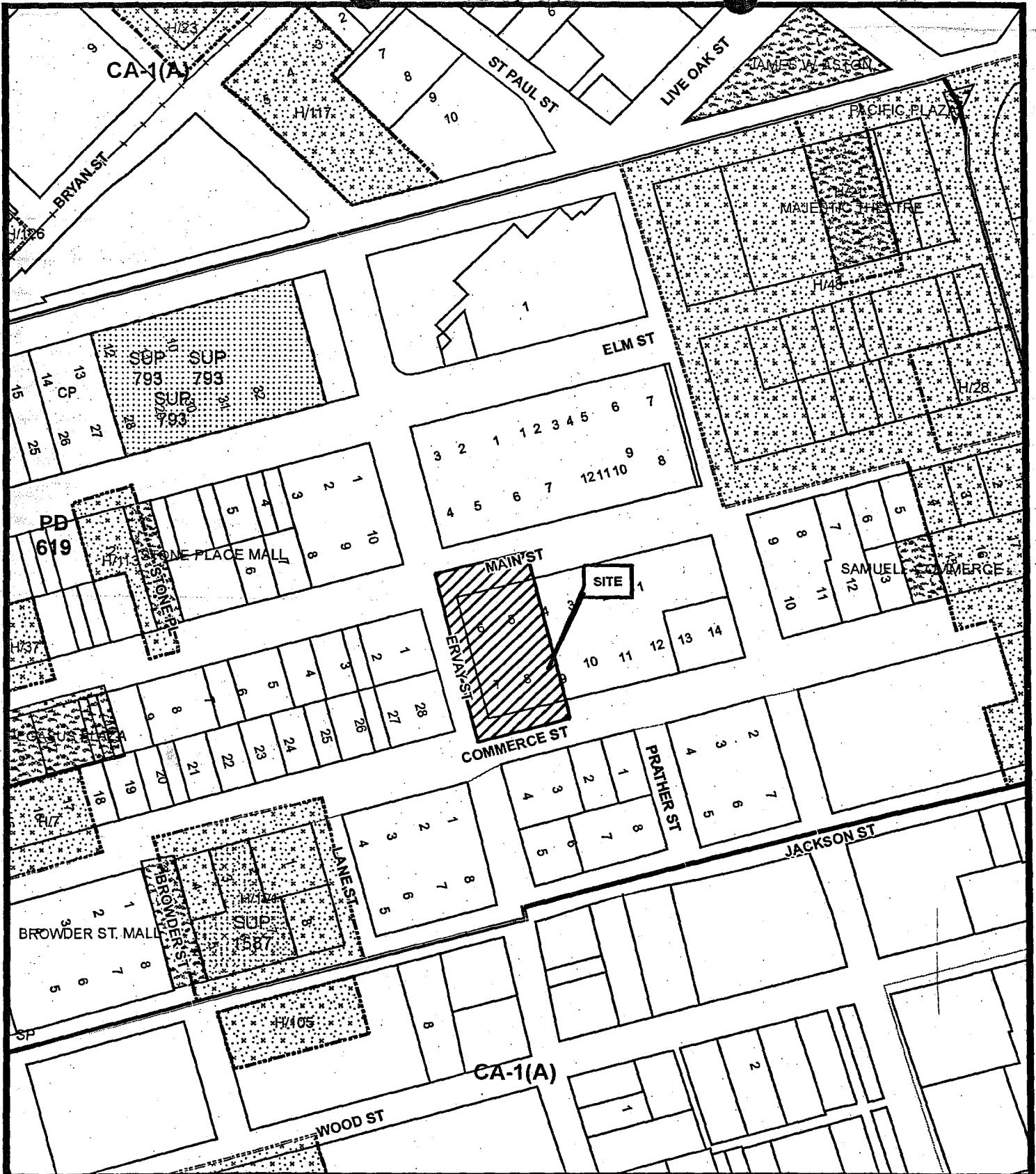
Non-protected facade



Balconies allowed on facade
at these locations.

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ZONING HISTORY

Map no: J-7
 Case no: Z067-104(JA)